



U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT
Office of Fair Housing and Equal Opportunity
Midwest Regional Office, Region V
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard – Room 2101
Chicago, Illinois 60604-3507

June 20, 2017

Amy Nelson, Executive Director
Fair Housing Center of Central Indiana, Inc.
445 N. Pennsylvania Street
Suite 811
Indianapolis, IN 46204

Dear Complainant:

SUBJECT: Housing Discrimination Complaint
Case Name: Fair Housing Center of Central Indiana v. Hamilton County, IN
Title VI Case No.: 05-17-0001-6
Inquiry No.: 531313
HUD Date Filed: June 20, 2017

The subject housing discrimination complaint was filed with this Department on June 20, 2017 pursuant to Title VI of the Civil Rights Act of 1964, 24 C.F.R. Part 1, as amended. The complaint has been accepted for processing under this statute. Enclosed is a copy of the complaint. Please retain it for your records. All correspondence and information requests concerning the complaint should reference these complaint numbers.

Title VI states:

No person in the United States shall, on the ground 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 receiving Federal financial assistance.

The purpose of this letter is to inform you of: 1) the rights respondent has in responding to this complaint, 2) the rights each complainant has, and 3) the steps the U.S. Department of Housing and Urban Development (the Department) will take to determine whether the complaint has merit.

In order to insure that the Department informs you properly of the law's requirements, this notification letter contains language required by the law. A similar letter is used to notify all parties whenever a formal complaint has been filed with the Department under the Federal Fair Housing Law.

We are governed by federal law, which sets out what steps we must take when a formal complaint is filed. The law also includes steps that respondent can take to answer or refute the allegations of this complaint.

Under federal law, any answer from respondent to this complaint can be filed within 10 calendar days of their receipt of this letter or receipt of a letter notifying respondent of any amendments to this complaint. Respondent's answer must be signed and must affirm that a truthful response has been given by including the statement "I declare under penalty of perjury that the foregoing is true and correct." Respondent will be allowed to amend their statement at any time, if our investigation shows that it is reasonable and fair to do so.

Our responsibility under the law is to undertake an impartial investigation and, at the same time, encourage both sides to resolve the matter through a negotiated settlement agreement where appropriate. If the case is not settled, we will complete the investigation and decide whether or not the evidence indicates that respondent is operating in noncompliance with the requirements of Title VI. The investigation will include a review of respondent's pertinent practices and policies, the circumstances under which the possible noncompliance occurred and any other relevant factors. At the completion of the investigation, the Department will issue a Letter of Determination detailing its findings and conclusions.

If the investigation indicates a failure on respondent's part to comply with Title VI, the Department will so inform respondent and the matter will be resolved by informal means if possible. If the noncompliance cannot be corrected by informal means, compliance may be effected by the suspension or termination of or refusal to grant or to continue federal financial assistance to respondent or by any other means authorized by law. Such other means may include but are not limited to: (1) referral to the Department of Justice and (2) any applicable proceeding under State or local law. If the investigation indicates that respondent is operating their programs in compliance with Title VI, the complaint will be dismissed. In either event, all parties will be notified of the outcome in writing.

The law also requires us to notify respondent that retaliation is prohibited under Title VI [24 C.F.R Part 1.7]. This law states it is unlawful for respondent, or anyone acting on respondent's behalf to coerce, intimidate, threaten, or interfere with any person who has filed a complaint under the foregoing.

If you have any questions regarding this case, please contact our office at (312) 353-7776 or (800) 765-9372. Please refer to the case number at the top of this letter in those contacts, and keep this office advised of any change of your address or telephone number. We hope this information has been helpful to you.

Sincerely,



Maurice J. McGough, Director
Office of Fair Housing and Equal Opportunity
Region V

Enclosures

Housing Discrimination Complaint

HUD Inquiry Number: 531313
TITLE VI Case Number: 05-17-0001-6
HUD Date Filed: June 20, 2017

1. Complainants:

Amy Nelson, Executive Director
Fair Housing Center of Central Indiana, Inc.
445 N. Pennsylvania Street
Suite 811
Indianapolis, IN 46204

Represented By: Brancart and Brancart

2. Complainant Representatives:

Christopher Brancart
Brancart and Brancart
P.O. Box 686
Pescadero, CA 94060

Representing: Fair Housing Center of Central Indiana, Inc.

3. Other Aggrieved Parties: None.

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

- Otherwise deny or make housing unavailable
- Other discriminatory acts
- Discriminatory terms, conditions, privileges, or services and facilities
- Using ordinances to discriminate in zoning and land use

5. The alleged violation occurred because of:

- Race
- National Origin
- Color

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

Hamilton County, Indiana

7. **Respondents:**

Hamilton County
c/o Christine Altman, President, Hamilton County Board of Commissioners
1 Hamilton County Square
Suite 157
Noblesville, IN 46060

8. **The following is a brief and concise statement of the facts regarding the alleged violation:**

The mission of Complainant Fair Housing Center of Central Indiana, Inc. (FHCCI) is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. The FHCCI has diverted its resources to identify and investigate the violations by Respondent Hamilton County as outlined below, and as a result its mission of ensuring equal housing opportunities in the Central Indiana area has been frustrated.

Respondent Hamilton County is part of the Indianapolis-Carmel Metropolitan Statistical Area (MSA) for the United States Census Bureau. Located just north of Indianapolis/Marion County, it is the fastest growing county in Indiana and the wealthiest county in the state.

According to the U.S. Census Bureau's 2015 population estimates, the Indianapolis suburban "doughnut" counties make up four of the top five fastest-growing counties in the state. Those estimates, released in May 2016, show that Hamilton County leads the state's growth with an almost 13 percent population increase since 2010. Hamilton County is also the wealthiest county in the state. Municipalities in the county include Arcadia, Atlanta, Carmel, Cicero, Fishers, Noblesville, Sheridan, and Westfield. Within Hamilton County, the southern cities are incredibly affluent and growing. Noblesville has grown 13 percent since 2010. The County is also overwhelmingly white.

The 2010-2014 American Community Survey 5-Year Estimates put Hamilton County's population at 289,722 broken down as follows:

87% White
3.5% African American
3.6% Hispanic

5.1% Asian

In contrast, during the same time period the population of the City of Indianapolis/Marion County, located directly south of Hamilton County, was 835,097 broken down as follows:

62.0% White
27.9% African American
9.6% Hispanic
2.4% Asian

Hamilton County's racial composition as it relates to the white population and that of African Americans is even less diverse than that of the State of Indiana as a whole which is:

84.3% White
9.1% African American
1.6% Asian
5% All Other Races Combined

Hamilton County has 272 reported Section 8/Housing Choice Voucher users. While 163 of those users reside in Noblesville, only 6 reside in Carmel. Of the 272 reported Section 8/HCV users in Hamilton County, 33% are African American. Of the 163 reported Section 8/HCV users in Noblesville, 31% are African American.

Hamilton County has a total of 330 reported units of Project Based Section 8 housing; 15% of those residents are African American. While 325 units are in Noblesville, none are in Carmel. Sixteen percent of the Project Based Section 8 housing residents in Noblesville are African American. In contrast, African Americans make up 89% of the Section 8/Housing Choice Voucher holders in the City of Indianapolis and 69% of the residents of Project Based Section 8 housing there. Eighty-three percent of households on the waiting list for HUD-subsidized housing in Indianapolis are African American.

There is an extensively documented need for, and a short supply of, affordable housing in Hamilton County, especially in Noblesville and Carmel. Less than two percent (less than 2,000 units) of Hamilton County's housing stock is subsidized affordable housing. According to the Hamilton County Community Profile (2013) prepared by the Indiana Association for Community Economic Development, only 1.7% of all housing units in the County had been developed with the intent of providing affordable housing through public programs such as the Low Income Housing Tax Credit or HUD Section 8 housing (p. 56). However, the number of eligible households in the County, earning less than 60% or less of Area Median Income ("AMI"), is nearly 25% of the population.

This need for affordable housing has continued to increase and escalate despite a

building boom in the cities of Carmel and Noblesville. “Since 2011, more than 11,000 housing units have been developed in Hamilton County, about the same amount as built in Marion, Lake and Allen counties combined, according to data from Hamilton County Area Neighborhood Development (HAND). In that time frame, those counties received low-income housing tax credits for nearly 3,000 units total. Hamilton County has been awarded none.” The lack of tax credit awards is widely viewed as due to the lack of support for such development by Hamilton County, Carmel, and Noblesville government officials, regardless of identified and documented need. In conducting interviews and gathering information related to this investigation, the FHCCI was told by developers and others active in multi-family and affordable housing that there was no incentive for developers to attempt to develop affordable housing projects: Knowing that these projects will not receive Hamilton County, Carmel, and Noblesville government approval or endorsement, it is not worth the cost of even developing architectural plans or consulting costs.

The need for affordable housing choices is well-organized. In its 2016 study, the Indianapolis-based consultant Greenstreet Ltd. estimates that demand for affordable housing in Hamilton County exceeds supply by more than 10,000 units. Greenstreet Ltd. also found:

- For every one subsidized housing unit in Hamilton County, there are six cost-burdened low-income households.
- At the current rate of construction – about 100 units a year – it would take a century for supply to catch up with demand, which is expected to double by 2040. Developers would need to build 300-400 units each year to address the need.

As noted in its Hamilton County, Indiana 2016 Impediments to Fair Housing, “Hamilton County enjoys a significant level of homeownership, coupled with very low vacancy rate compared to other counties both in the state, and in the country. There is significant pressure to move into the county, which is one of the reasons that the median sales price continues to grow. The laws of supply and demand are in full force within the county. In addition, there is a fairly low number of renter households, at 21% of total households, which places it only 4% from being the lowest county in the state. The statewide average for household rental is 31%.”

In Hamilton County, the median home costs \$230,000. Hamilton County remains the strongest market in Central Indiana, outpacing other Indianapolis’ suburbs in the number of listings, pending and closed sales and median sales price. According to the Indianapolis Star, “Homes under \$200,000 are increasingly difficult to find, stymieing some would-be first-time buyers. Hamilton County continues to lead the way in homebuilding as well, accounting for 41 percent of the total new housing market in the metro region. The average price of new homes, though, is \$370,334, an inventory that agents say will do little to meet demand of buyers seeking lower prices.”

The median rent in Hamilton County is \$920. A minimum-wage worker would need to

spend 77% of his/her total income to pay the rent on a market-rate one-bedroom apartment. The United Way of Central Indiana says 22 percent of Hamilton County households cannot afford the basics: housing, food, health care, child care and transportation, despite working full time. In its 2014 ALICE (Asset Limited, Income Constrained, Employed) Report, the United Way identified housing affordability in Hamilton County as “poor.” Very few units are available to persons of lower incomes in Hamilton County, especially in the cities of Carmel and Noblesville.

Hamilton County has received CDBG funding since 2004. In fiscal year 2015, Hamilton County received \$634,848 in CDBG funding. The Noblesville Housing Authority acts on behalf of Hamilton County for the administration of CDBG dollars. Hamilton County, as a recipient of CDBG funding, is responsible for compliance with numerous State and Federal laws. The City of Noblesville, along with Cities of Carmel, Fishers, and Westfield often receive the lion’s share of the grant funding. In fiscal year 2015, Hamilton County awarded the City of Noblesville \$95,334 in CDBG funds for public infrastructure improvements, namely 2,575 linear feet of sidewalk on Pleasant and Walnut Streets.

Pursuant to federal regulations, Hamilton County “is responsible for ensuring that CDBG funds are used in accordance with all program requirements.” 24 C.F.R. § 570.501(b). To the extent Hamilton County chooses to share its CDBG funds with other entitlement jurisdictions, it is required to enter into written agreements with those municipalities to ensure that they comply with all program requirements. 24 C.F.R. § 570.501(a) In particular, “any such agreement shall require the subrecipient to carry out each activity in compliance with all Federal laws and regulations in Subpart K of these regulations.” 24 C.F.R. § 570.501(b)(5). Subpart K refers, among other things, to the obligation to comply with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act and Section 109 of the Housing and Community Development Act of 1974.

The Hamilton County 2015 Action Plan Draft identifies barriers to affordable housing, including:

- The marketability of affordable housing and increasing support from local civil leaders and the community for this type of development.
- Like many communities, “Not In My Back Yard” sentiments from the community present challenges with developers seeking re-zoning and/or support for financial assistance/grantors. (2015 Action Plan Draft at 47.)

The 2015 Acton Plan Draft goes on to state:

“To help the community as a whole overcome the barriers to affordable housing development, and also maximize the impact in the community, Hamilton County will strive to achieve the following priorities:

1. Expand the supply of safe, decent affordable housing.

In order for this type development to occur, Hamilton County must partner with local governments in the community and become advocates for affordable housing. Otherwise, the market for affluent housing will continue to drive development, squeezing more affordable housing to the surrounding counties.

While this does not mean a goal for direct development of affordable housing, the indirect effect of advocacy can open the minds of leaders in the community that believe affordable housing is not necessary in Hamilton County.

Through consultations, Hamilton County faces an uphill battle when it comes to the development or need for development of affordable housing when it has the reputation as the wealthiest county in Indiana. Having an advocate on behalf of grassroots developers, such as the Hamilton County Area Neighborhood Development Inc. (HAND) and Habitat for Humanity, will help with the financing and development of affordable housing in the future.” (2015 Action Plan Draft at p. 47-48.)

Barriers to affordable housing identified in Hamilton County’s draft Consolidated Plan include: “High costs of property acquisition near amenities in the more developed communities of Hamilton County, such as Carmel, Fishers, Noblesville and Westfield,” and “[t]he marketability of affordable housing and increasing support from local civil leaders for this type of development.” (Hamilton County 2014-2018 Consolidated Plan – Draft - July 2, 2014 - at p. 75.)

From the Draft Plan: “Hamilton County will seek private/public partnerships to help achieve these goals and target communities working together to increase affordable housing options. Both of these key ingredients will help achieve the goals while addressing some of the biggest barriers to affordable housing development, such as educating the public and civil leaders about affordable housing, advocating for transportation options in more rural areas of the community and working together to attract additional subsidy to overcome high cost of property acquisition.” (Hamilton County 2014-2018 Consolidated Plan – Draft (July 2, 2014) at p. 76.)

According to the 2010-2014 American Community Survey 5-Year Estimates, the population of the City of Noblesville was 56,576 broken down as follows:

90.0% White
4.4% African American
4.6% Hispanic
1.9% Asian

The City of Noblesville is an affluent city located in the southeast corner of Hamilton County, mostly consisting of single family homes. According to Christy Langley, Noblesville planning department director, the average square footage of a new home in Noblesville in 2015 was more than 4,300. In 2006, the average was 3,287 square feet.

Twenty-two hundred square feet is the smallest homes the council will likely consider, said Langley. Langley also told the Indiana Business Journal that the Noblesville City Council had imposed some architectural requirements, including the elimination of vinyl siding as an option, in order to keep the price point of new housing at the price they want it to be.

In 2016, the Noblesville City Council approved the construction of hundreds of upscale homes and apartments. The City of Noblesville put conditions on those approvals including adding open space and amenities. Despite requiring developers to make upgrades in order to obtain approval of their market-rate housing projects, the City of Noblesville does not require any developers to set aside any units of affordable housing. While Noblesville does apparently recognize the need for more “diverse” housing – a wider mix of densely built communities, such as townhomes and condos on smaller lots – Noblesville appears only interested in housing diversity to appeal to “empty nesters and millennials.”

Also, the City of Noblesville has passed zoning ordinances that specifically prohibit subsidized housing. On July 9, 2013, the Common Council of the City of Noblesville passed Ordinance 21-06-13 (the “2013 Ordinance”) amending the Unified Development Ordinance for the City of Noblesville. The 2013 Ordinance specifically amended Sections 6.4 and 7.4 of the Noble West PD Ordinance. Section 3 of the 2013 Ordinance provided, in pertinent part:

“Section 7.4 of the Noble West PD Ordinance is hereby amended and restated, with respect only to the real estate described in the attached Exhibit A, in its entirety as follows:

B. No three (3) bedroom units or greater shall be permitted.

C. No rent subsidies shall be sought or accepted from any federal, state or local program. Developer, its assigns, successors, affiliates or subsidiaries will not apply for and will not accept designation from the United States Department of Housing and Urban Development (“HUD”) or any locally administered public housing agency (“PHA”) as a qualified Housing Provider for any rent subsidization program administered by HUD or a PHA now or in the future.”

Complainant FHCCI is informed and believes that the 2013 Ordinance remains in effect. Previously, on July 12, 2008, the Common Council of the City of Noblesville passed Ordinance 32-6-08 (the “2008 Ordinance”) amending the Unified Development Ordinance for the City of Noblesville. The 2008 Ordinance specifically amended the Promenade PD Ordinance with respect to the zoning of 153.25 acres, providing, in pertinent part, as permitted uses in the 32 acre Promenade Landing Area:

(1) All uses allowed in the R5 District shall be permitted.

(2) No rent subsidies shall be sought or accepted from any federal, state or local

program.

Complainant FHCCI is informed and believes that the 2008 Ordinance also remains in effect. Even though these ordinances have been enacted in the City of Noblesville since 2008, in its recent 2016 AI, Hamilton County reported that they “did not find any regulatory impediments to fair housing choice.”

Minority populations living in Hamilton County, including the City of Noblesville, have a disproportionately greater need with housing problems, severe housing problems, and severe cost burdens. African American and Hispanic households are the primary racial groups with a disproportionate amount of these housing issues. The City of Noblesville’s repeated failures to provide funding for affordable housing development and actions to block such development have a disproportionately discriminatory effect on African Americans and Hispanics. These land use policies actually or predictably lead to a disparate impact on African Americans and Hispanics and/or create, increase, reinforce or perpetuate segregated housing patterns because of race, color, or national origin.

As a recipient of CDBG funds, Hamilton County is responsible for assuring that sub-recipients such as the City of Noblesville comply with the requirements of the CDBG program, which including acting in conformity with the requirements of the Fair Housing Act. By failing to monitor the conduct of the City of Noblesville in conformance with the requirements of the CDBG program, Hamilton County is directly or vicariously liable for Noblesville’s discriminatory housing practices.

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

July 09, 2013, and is continuing.

10. Types of Federal Funding Identified:

- CDBG

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

Title VI of the Civil Rights Act of 1964

Please sign and date this form:

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.

Amy Nelson

Amy Nelson, Executive Director

6/20/2017

Date

NOTE : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.