

March 19, 2013

Via Email: Sandy.Recovery@dca.state.nj.us.

Richard Constable
Commissioner
Department of Community Affairs
State of New Jersey
PO Box 800
Trenton, NJ 08625-0800

Re: Comments on the March 13, 2013, NJDCA CDBG-DR Action Plan

Dear Commissioner Constable:

We are writing to submit comments on the State of New Jersey's Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plan (Draft Plan), which describes how the state proposes to spend the \$1.83 billion that is the first installment of federal funding for Sandy recovery. The following broad coalition of civil rights, community development, housing, labor, religious, special needs, smart growth, and other groups and individuals calls on the Department of Community Affairs (DCA) to amend the Draft Plan, prior to submission to HUD, to build upon the positive aspects of the plan and to address several significant concerns with the Plan in the following areas: (1) fairly analyzing housing needs and allocating of resources between renters and owners, (2) addressing barriers to fair housing; (3) fairly including people with special needs and supportive housing; (4) planning and building resilient and sustainable communities; (5) making sure lower-income people and communities have the resources they need to plan and rebuild; (6) ensuring everyone has a true choice about how and where to rebuild; and (7) ensuring transparency and public participation.

(1) Fairly analyzing housing needs and allocating resources between renters and owners. The Draft Plan severely underestimates the impact of Superstorm Sandy on renters, particularly lower-income renters and African-American and Latino renters, in New Jersey. It then uses that underestimate to justify allocating housing funds using those same percentages. The result is a Draft Plan that proposes programs that would assist only 5,000 renters while assisting 26,000 homeowners – significantly favoring helping homeowners over helping renters. This is based on a faulty analysis in the Draft Plan (pp. 2-3 to 2-5) that only considers the aggregate number of damage reports from FEMA, without explaining that many of the owners counted have all of their damage covered by insurance, or differentiating needs by income levels or geographies at all. That analysis contradicts another laudable analysis in the Draft Plan that describes the severe shortage of rental housing, but which does not factor that shortage into the Draft Plan's program funding allocation formula. The Draft Plan rightfully points out that many of the lowest-income people impacted by Sandy have been invisible in much of the media coverage of the storm, but should not make them invisible in how the Draft Plan allocates funds.

A recent study by Enterprise Community Partners found that 43% of New Jersey households registering for FEMA assistance as a result of Sandy are renters – and 80% of the most impacted

and vulnerable households, those earning less than \$30,000 per year, are renters. Also, according to this analysis, renters are much more likely to be African-American and Latino than homeowners.

The allocation of funds should be changed to recognize the needs of renters and serve all communities fairly. Rental programs should receive more funding than homeownership programs given the disproportionate number of the most vulnerable households who are renters. Specifically, the shortage of rental housing well-described in the Draft Plan suggests the highest priority should be construction of new rental housing that is affordable over the long term. The Fund for Large Multi-Family (4.2.1) should receive an allocation of at least \$450 million as the primary strategy for bolstering the housing stock. The Small Rental Properties allocation of \$70 million (4.2.2) is appropriate but the State should clarify that there will be a long-term affordability requirement of at least 30 years. Because the Incentives for Landlords program (4.2.4.1), only provides affordable housing for four years, it is an ineffective use of scarce funds and should be deemphasized.

More broadly, HUD's Notice on the CDBG-DR funding in response to Sandy also requires that "Grantees must pay special attention to neighborhoods with high percentages of damaged homes and provide a demographic analysis (*e.g.*, race, ethnicity, disability, age, tenure, income, home value, structure type) in those neighborhoods to identify any special needs that will need to be addressed" and that "[i]mpacts must be described by type at the lowest geographic level practicable." (Notice p.13-14). The Draft Plan neither includes such a demographic analysis nor explains, for any of the proposed programs, how it will focus on serving these communities; in fact, for most of the programs, the eligibility criterion is "first come first served" without any sense that lower-income people, people with disabilities, seniors, particularly seniors who are lower-income, and people of color often may not have as much information or resources to quickly prepare applications. It is thus likely that most or all of the proposed programs will be carried out in a way that does not fairly address the needs across all communities, due to the lack of the required neighborhood-level analyses. The Draft Plan should be revised to include proper neighborhood-level assessments and show how they will be used in the various programs for targeted approaches to varied and specific recovery needs, in the funding targeted towards both impacted areas and elsewhere in the state.

(2) Furthering fair housing and addressing the historic pattern of the exclusion of lower-income families and persons of color from impacted communities. The HUD Notice requires that the State certify that it will "conduct an analysis to identify impediments to fair housing choice within its jurisdiction and take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard ...[and] that agreements with subrecipients will meet all civil rights related requirements [of federal law]." (Notice p.69) In one of the most racially and economically segregated states in the union, such a certification must be matched, in the revised Action Plan, with concrete requirements and actions that make it clear to counties, municipalities, subgrantees and private contractors, that the State will do everything in its power to remove barriers to creating homes for all residents of our state. The only place the Draft Plan mentions a mix of incomes is in the context of gentrifying urban areas (4.2.3.2). The Draft Plan should be revised to

clarify how all of its housing programs will address exclusionary land use practices and patterns that have long been a challenge for similar housing programs in the impacted areas and how the State will ensure that all funding, including infrastructure funding, is connected to commitments to allow all of the housing to be funded by the Plan to be built. The Draft Plan needs to be revised to make it clear that racial and economic diversity should be a part of rebuilding in all communities. In accord with HUD guidance, the state should prioritize the list of impediments to fair housing choice identified in its post-disaster Analysis of Impediments and develop a set of measurable outcomes, containing specific milestones and timetables, against which success may be judged.

(3) Ensuring that the needs of people with special needs and the homeless are met. As the Draft Plan correctly states, “households with special needs are often times more vulnerable to natural disasters due to damaged or displaced support networks, accessibility issues or increased costs of living” and “damage caused by Superstorm Sandy drastically limited housing options available for New Jersey’s homeless population.” The inclusion of specific funding to provide supportive housing and the necessary supportive services along with the rental housing focus is a significant and positive step. However, it is only a first step and more needs to be done to ensure that those with special needs and the homeless can have a place to call home.

The Sandy Special Needs Housing Fund (SSNHF) needs to be implemented using the guidelines for the Special Needs Housing Trust Fund (SNHTF) which successfully leveraged resources and created 1,510 permanent supportive housing units, though the cap of \$100,000 per unit should be removed for hard-to-serve populations and to leverage funds immediately. Due to the more than two-year delay since funding for the SNHTF ended, it is important to use not only the first round of funding but both of the next two phases to build an effective pipeline of projects. To achieve this goal we request that a commitment of funding for the next two rounds be stated now in the revised Plan and that the funding levels should be: (a) \$25 million in the first round; (b) \$37.5 million in the second round; and (c) \$50 million in the third round.

Supportive services are the other crucial component to ensure that supportive housing can be built. The first priority for, and majority of the funding from, the Supportive Services Program should be to provide services for the supportive housing units that will be developed by the SSNHF.

Furthermore, these funds must augment, rather than replace, the funds already committed by the State to resolve Olmstead litigation. More generally, they should be part of a comprehensive, long-term strategy for supportive housing and services. (See 42 U.S.C. §5301).

(4) Emphasizing resiliency and sustainability. Both Congress (P.L. 113-2) and HUD (Notice pp.16-17) laudably are challenging grantees to think and act with vision, daring and commitment to building sustainable communities. The Draft Plan adopts positive green, energy efficient and storm resistant building standards, including incorporation of FEMA’s new advisory base flood elevation maps (6.1 and 6.2). But the Draft Plan lacks a vision and specific implementation programs that fully embrace truly sustainable and resilient planning and the

Livability Principles of the federal Partnership for Sustainable Communities, as stressed in the HUD Notice (Notice p.16).

The plan identifies no funding that will be dedicated to planning and makes no effort to identify local, nonprofit and for-profit partners that should be part of the process. The plan's only mention of local planning is the light commitment of some state planning staff to assist towns. Given the magnitude of the need, this is inadequate.

We ask that the State specify that its broad allocation of \$84 million on planning, oversight, and monitoring will direct at least 50% of that funding towards funds to impacted communities to help them identify, plan and implement programs that embrace resiliency and sustainability, will mitigate the hazard risk of future major storm surge, flooding and sea level rise, and that targets planning funds to a wide range of impacted communities with different needs and challenges. In this regard, particular attentions should be paid to the environmental impact on vulnerable communities.

We recommend that these funds be directed to local governments and not-for-profit assistance providers for local recovery managers with local knowledge and relevant skills and experience, particularly in towns that have minimal administrative and professional capacity. Such a program should be at the local level and not be consolidated at the state for additional staff or state-managed consultants. Similarly, while the Code Enforcement Grant Program is well intended and serves a pressing need, funds should primarily go to local municipalities to directly support building inspections, instead of going for internal state support and technical assistance.

The public infrastructure improvements funded by the EDA Neighborhood and Community Revitalization program should be required to demonstrate how they are incorporating resiliency and hazard mitigation measures, and not simply replacing infrastructure that will be destroyed again. Additionally, the community should demonstrate how the rebuilt infrastructure will improve the walkability and bikeability of the area for all potential users. The added transportation options are a measure of resiliency.

Finally, the plan does not adequately account for sea level rise. We recommend that the state incorporate sea level rise estimates and analysis into all of its mitigation efforts. The state university now has an on-line tool that makes this information highly accessible.

(5) Making sure lower-income people and communities have the resources they need in rebuilding. In addition to the general challenges in the lack of fair allocations to renters and detailed needs analysis discussed above, lower-income people face a number of particular challenges in rebuilding. The Draft Plan proposes several good programs for addressing those challenges but largely underfunds those programs and/or does not target them towards the greatest needs.

The homebuyer assistance (4.1.3), predevelopment fund (4.2.3.1), blight reduction pilot program (4.2.3.2), and neighborhood and community revitalization program (4.3.3) are all good programs that will help lower-income people and communities rebuild. However, the

predevelopment fund and neighborhood and community revitalization program funds should be increased by at least \$10,000,000 each, perhaps reallocated from the poorly designed incentives for landlords program discussed above. The homebuyer assistance program should also include funds to help build new homes, similar to the HMFA CHOICE program, in addition to existing homes. And all of the programs need further clarification on the processes for awarding funds and how they will respond to the needs in each impacted part of the state consistent with the full housing needs analysis described above.

The Draft Plan mentions housing counseling only once, as part of a long list of potential uses of the Continuation and Enhancement of Essential Public Services (4.4.2). A significant portion of these funds need to be targeted to housing counseling, which is critical to ensuring that lower-income people can address various challenges in finding financing and affording homes.

Finally, the Draft Plan rightfully decries the present and anticipated future of high unemployment in New Jersey. (2.4.2). In response, the Draft Plan needs to be revised to detail how it will operationalize the federal requirement that at a minimum, 30% of workers newly hired with CDBG-DR funding, be low-income residents of the area in which the work is being done and that they contract with local minority (“Section 3 obligations”) and women-owned businesses. For the State to seriously address unemployment it must include specific, aggressive requirements in the Plan together with credible penalties to subgrantees and contractors who fail to comply.

(6) Allowing for choice about where and how to rebuild for everyone impacted. The Draft Plan’s housing programs are largely targeted towards people who want to stay in the same home. The biggest amounts of money, the RREM program and Homeowner Resettlement Program, are prioritized just to homeowners who want to rebuild on-site. The Resettlement Program may create a perverse dynamic creating an incentive for homeowners to remain in dangerous situations that may appear cost effective in the short-run, but disastrous in the long-run. People should have the opportunity to rebuild if that is what they want; but other people may want to move elsewhere, consistent with sustainable rebuilding, including moving out of harm’s way or based on personal decisions related to such concerns as employment or education. These programs should also allow for those choices.

Meanwhile, the Draft Plan should also be revised to provide more guarantees to lower-income people that they will not be displaced. While the Draft Plan asserts that the State will minimize displacement and assist those displaced (6.4), the Notice requires “[a] description of how the grantee plans to minimize displacement of persons or entities, and assist any persons or entities displaced.” (Notice p.20). We ask the State to detail how it will minimize involuntary displacement and allow everyone a real choice about how, where or whether to rebuild.

(7) Ensuring transparency, public participation, and expeditious use of funds. Last, but certainly not least, the HUD Notice requires that the State of New Jersey must make easily available, on its public website, its Plan, any amendments to the Draft Plan, the grantee quarterly progress reports and other important information. (Notice p.29) The draft Plan (6.9) specifically

proposes to publish only the Plan and substantial amendments and otherwise to make CDBG-DR information available. Full transparency, to facilitate pro-active public comment and participation, is an issue many of the below signatories raised with HUD and the State prior to the publication of the HUD Notice. We ask the State to comply with both the letter and spirit of the law in public engagement as the Draft Plan is developed, implemented and amended.

As part of this public process, the public should have a clearer understanding of how the State will accomplish its goal and spend the funds within the required two-year timetable. (Notice p.6) Other than in introductory remarks, the sole Draft Plan reference to this two-year limit is a requirement that developers of supportive housing demonstrate how they will spend the funds within that period. (4.5.1). The State should provide a clearer road map to the public on how all of the CDBG-DR funds will be expeditiously and wisely spent.

The Action Plan is our blueprint on how to move from a terrible destructive event to a better, more sustainable future for New Jersey. The CDBG-DR funding brings with it the opportunity and the obligation to properly plan for long-term as well as short-term recovery. We hope the State will use these comments to create an inclusive and effective rebuilding program for everyone impacted by, among other things, amending the proposed Action Plan along the lines urged in this letter.

Thank you for considering these comments.

Sincerely,

Housing & Community Development Network
of New Jersey
Diane Sterner, Executive Director
Staci Berger, Director of Policy & Advocacy

Fair Share Housing Center, Inc.
Kevin D. Walsh, Associate Director

NAACP, New Jersey
James E. Harris, President

Latino Action Network
Chris Estevez

The Affordable Housing Alliance
Donna Blaze, CEO

Monarch Housing Associates
Richard W. Brown, CEO

Catholic Charities, Diocese of Camden, Inc.
Kevin H. Hickey, Executive Director

NewBridge Services, Inc
Robert L. Parker, CEO

NAACP Legal Defense and Educational Fund,
Inc.
ReNika Moore, Director Economic Justice
Group

Lawyers Committee for Civil Rights
Under Law
Joe Rich

Corporation for Supportive Housing
Alison Recca-Ryan

The Affordable Homes Group, Inc.
The Salt and Light Company, Inc.
People First!
A.L.L.Y., Inc.
Homes of Hope, Inc.
Delta Real Estate
Kent R. Pipes, President

Poverty & Race Research Action Council
Megan Haberle, Policy Counsel

CWA Local 1081
David H Weiner, President

NJ Foundation for Aging
Grace Egan, MS, Executive Director

Episcopal Diocese of New Jersey
Keith R. Adams
Disaster Recovery Coordinator

Supportive Housing Association of NJ
Gail Levinson, Executive Director

New Jersey Future
Peter Kasabach, Executive Director

HomeFront
Connie Mercer, President and CEO

Anti-Poverty Network of NJ
Catholic Charities, Diocese of Trenton
Joyce Campbell, MSW, LCSW
Associate Executive Director for
External Affairs

Second Baptist Church of Atlantic City
Reverend Collins Days

Vantage Health System, Inc.
Vicki Sidrow, MPA
President and CEO

Project Live, Inc.
Sangeeta Prasad Benbow , Director of Housing
& Community Development

Black Ministers Council of New Jersey
Keith Benson

Catholic Charities, Diocese of Trenton
Marlene Laó-Collins

Fellowship of Churches in Atlantic City
Reverend Eric McCoy

Lutheran Office of Governmental Ministry
The Rev. Sara Lilja, Director

American Civil Liberties Union of New
Jersey
Udi Ofer, Executive Director

NJ APA
Dean Boorman, PP/AICP

PlanSmart
Lucy Vandenberg, Executive Director

The Alliance for the Betterment of Citizens
with Disabilities
Daniel J. Keating, PhD, Executive Director

National Housing Institute
Shelterforce Magazine
Harold Simon

Mercer Alliance to End Homelessness
Herb Levine, Executive Director

Coalition for Affordable Housing and
the Environment
Barbara A. Walsh, PP/AICP
Executive Director

Pilgrim Baptist Church
Red Bank Affordable Housing Corporation
Rev. Terrence K. Porter

Civic League of Greater New
Brunswick
Roy Epps

Paterson Habitat for Humanity
Barbara Dunn, Executive Director

Unitarian Universalist Legislation
Ministry of New Jersey
Rev. Craig Hirshberg

Coalition of Mental Health Consumer
Organizations of New Jersey
Wayne Vivian

UAW Region Nine Housing
Dan Antonellis

Planting Seeds of Hope
Emilio Panasci

Kitchen and Associates

Abundant Life Worship Center
Bishop John Gandy

Habitat for Humanity Hudson County
Gregory Strid, Co-Executive Director

Volunteers of America Delaware Valley
Kate Cruz, Public Policy Director

St. John's Lutheran Church
Reverend Bruce H. Davidson

Catholic Charities Diocese of Metuchen
Joan Lorah, Assistant Executive Director

Coastal Habitat for Humanity
Maureen Mulligan, Executive Director

United Way of Northern New Jersey Housing
Alliance
Jodi Miciak, Community Impact Manager

United Vailsburg Services Organization
Robert M. Farley, Executive Director

QMANJ, Inc.
Eugenia Drobot, President & CEO

Project Freedom
Tim Doherty, Executive Director

Saint Joseph's Carpenter Society
Felix Torres-Colon, Director of Operations

Faith Fellowship CDC
Rev. Clarence Bulluck, Vice President

Family Promise of Monmouth County
Tracy Boyer, Executive Director

NJ Statewide Independent Living Council
Cliff Law, Chair

Build With Purpose
Keith Timko, Director & CEO

R.B. Coe Consulting
Rhonda Coe

Future City
Michelle Doran McBean, CEO

Monmouth A-Team
Linda Zucaro, Advocate

Ironbound Community Corporation
Joseph Della-Fave, Executive Director

Bayonne Family Community Center
Peggy Keohane, Executive Director

Occupy Sandy New Jersey
Dylana Dillon

Cynthia Del Rossi

James Cordingley, PP/AICP

La Casa de Don Pedro
Raymond Ocasio, Executive Director

Homeless Solutions
Dr. Elizabeth S. Hall, President

Elizabeth Coalition to House the
Homeless
Linda M. Flores-Tober, Executive
Director

Collaborative Support Programs of NJ
Inc.
Jacob P. Bucher, Executive Director

Easter Seals New Jersey
Charles Parry, Vice President of
Services

Monmouth Long Term Recovery Group

S.T.E.P.S.
Mike McNeil

Morris Habitat for Humanity
Blair Bravo

Cape Counseling Services
Greg Speed, CEO

Brad Kennedy

Steve Schoch