

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States )  
Department of Housing and Urban )  
Development, on behalf of )  
Richard Hucker and )  
the estate of Charles R. McInturf )  
 )  
Charging Party, )  
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 )  
v. )  
 )  
Lake County Board of Commissioners and )  
Lake County Redevelopment Commission, )  
 )  
Respondents. )  
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FHEO Case Numbers:  
05-01-0394-8  
05-01-0603-8

CHARGE OF DISCRIMINATION

**I. JURISDICTION**

On or about November 30, 2000 and March 6, 2001, respectively, Complainants Richard Hucker and Charles R. McInturf<sup>1</sup> filed complaints of discrimination with the United States Department of Housing and Urban Development (HUD) alleging that the Lake County Board of Commissioners (Board of Commissioners) and the Lake County Redevelopment Commission (Redevelopment Commission) violated the Fair Housing Act (the Act) 42 U.S.C. §§ 3601 *et seq.*, by discriminating against them in violation of 42 U.S.C. § 3617.

The Act authorizes the issuance of a Charge of Discrimination (Charge) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegate to the Assistant General Counsel for Fair Housing Enforcement (67 Fed.Reg 44234), the authority to issue such a Charge, following a

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<sup>1</sup> Since filing the complaint of discrimination, Complainant McInturf is deceased, and his estate has continued to pursue this complaint of discrimination.

determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

By determination of reasonable cause, of August 18, 2004, the Director of the Office of Fair Housing and Equal Opportunity for the Midwest HUB, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on race, and has authorized and directed the issuance of this Charge of Discrimination.

## **II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE OF DISCRIMINATION**

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Lake County Board of Commissioners and Lake County Redevelopment Commission are charged with discriminating against Complainants Richard Hucker and Charles R. McInturf in violation of 42 U.S.C. § 3617 of the Act as follows:

1. The city of Lake Station, Indiana is located within Lake County, Indiana,<sup>2</sup> approximately 7.6 miles from the city of Gary, Indiana. The 1990 United States Census data indicates that Gary, Indiana had a population of 116,646, (93,982 of whom were African American). In 2000, the United States Census data indicates that Gary, Indiana had a population of 102,746, (86,340 of whom were African American). The 1990 United States Census data indicates that the city of Lake Station, Indiana had a population of 13,899, (31 of whom were African American). In 2000, the United States Census data indicates that Lake Station, Indiana had a population of 13,948, (107 of whom were African American).
2. Lake County, Indiana and its citizenry have a history of engaging in activities to maintain segregated schools and housing within the County, including the renaming of the city of East Gary to Lake Station, following the 1967 election of an African American mayor in Gary, Indiana.<sup>3</sup>

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<sup>2</sup> The 1990 United States Census data indicates that Lake County, Indiana had a population of 450,891, (116,688 of whom were African American). In 2000, the United States Census data indicates that Lake County, Indiana had a population of 484,564, (122,723 of whom were African American).

<sup>3</sup> See, Robert Catlin, Racial Politics and Urban Planning 24, 40 (University of Kentucky Press, 1993) and Raymond Mohl and Neil Betten, Steel City 50 (Holmes & Meier, 1986).

3. The Respondent county Board of Commissioners is comprised of three elected commissioners, Frances DuPey, Gerry Scheub;<sup>4</sup> and Rudolph Clay. The Respondent county Board of Commissioners have authority to appoint the five members of the Respondent county Redevelopment Commission.
4. Respondent county Redevelopment Commission oversees the Lake County Community Economic Development Department (Development Department), approves spending and projects, and appoints and renews the contract of the Executive Director of the Development Department.
5. The Respondent county Redevelopment Commission is comprised of one County Board Commissioner, one county councilman, and three residents of the county. At the time of Complainants Hucker and McInturf's terminations, the county Redevelopment Commissioners included Scheub, Larry Blanchard, John Brezik, A.F. "Pete" Harrigan, and Joseph Krnich.
6. Complainant Hucker began working for the Lake County, Indiana government in 1982 and became the director of the Development Department in 1984.
7. In 1986, Complainant Hucker formed the Lake County Economic Development Corporation (Development Corporation), a non-profit organization created to pursue development projects and educational and charitable activities designed to alleviate unemployment, blight, and deterioration. Complainant Hucker concurrently worked for the county and the nonprofit Development Corporation.
8. Complainant McInturf began his employment with the Development Department in 1991. He served as the Deputy Director of the county Development Department under Complainant Hucker.
9. In 1992, as president of the non-profit Development Corporation, Complainant Hucker conceptualized Timbercreek Estates (Timbercreek), a planned subdivision of 160 affordable, owner-occupied, single-family homes. Complainant McInturf participated in the development of Timbercreek, i.e., selecting the location, choosing the housing models and price range, and determining the viability of the development.
10. In 1994, the nonprofit Development Corporation purchased 107 acres of property in the city of Lake Station on which to develop Timbercreek. The nonprofit Development Corporation planned to use federal HUD Community Development Block Grant (CDBG) funds that flowed through the county

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<sup>4</sup> Commissioner Scheub, of the County Board of Commissioners, represents Lake Station, Indiana and was re-elected to that position on November 7, 2000.

Development Department to finance Timbercreek and to obtain plat approval from the city of Lake Station Plan Commission (Plan Commission).

11. In January 1995, the nonprofit Development Corporation filed its first application with the city Plan Commission for preliminary plat approval. At the time that the city Plan Commission was considering approval of Timbercreek, community members expressed racial animus when opposing Timbercreek at the city Plan Commission public hearings.
12. On May 17, 1995, after extensive public hearings, the city Plan Commission denied preliminary plat approval for Timbercreek.<sup>5</sup>
13. In July 1995, in his capacity as Executive Director of the Development Department, Complainant Hucker notified the city of Lake Station that the Development Department was suspending federal funding to the City. He cited the City's "failure to assist the County in undertaking essential community development and housing assistance activities (Timbercreek) pursuant to its certifications and [that the city] may have in fact attempted to block or impede the County's goals by official action and by allowing or condoning adverse action of its citizens." In making his decision to suspend funding, Complainant Hucker relied on CDBG civil rights related program requirements, requiring that the County affirmatively further fair housing.
14. On August 25, 1995, the Northwest Indiana Open Housing Center (NIOHC) filed a race discrimination complaint with HUD, naming the city of Lake Station, Indiana and the Advisory Plan Commission of the city of Lake Station, Indiana as Respondents. On June 4, 1997, the complaint of discrimination filed by NIOHC was transferred to the Department of Justice (DOJ) since it involved the legality of state or local zoning or other land use laws or ordinances.
15. On July 8, 1997, Complainant Hucker wrote a letter to a DOJ attorney handling the HUD referral of NIOHC's complaint. That letter was also received by the mayor of Lake Station, who forwarded the letter to county Redevelopment Commissioner and county Board Commissioner Scheub. In the letter, Complainant Hucker indicated that he thought that the explanation

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<sup>5</sup> The nonprofit Development Corporation amended the plat proposal for Timbercreek and submitted it for rehearing before the city Plan Commission. The city Plan Commission again conducted public hearings, where community members made additional comments indicating fear that African-Americans would move into Timbercreek. On August 28, 1996, the city Plan Commission voted against the nonprofit Development Corporation's amended proposal. On September 25, 1996, the city Plan Commission agreed to hear an appeal of its denial. The city Plan Commission again voted against the nonprofit Development Corporation's proposed plans.

for the delay of Timbercreek, a lack of adequate sewer capacity in the city, was discriminatory pretext for not allowing Timbercreek to be built.

16. On July 29, 1997, county Board Commissioner and county Redevelopment Commissioner Scheub wrote a letter to Complainant Hucker telling him that he should not have written the letter to the DOJ and should not “act as an advocate on the issue of any alleged discrimination. [Complainant Hucker’s] role is to implement a program.”
17. On August 1, 1997, Complainant Hucker wrote back to county Board Commissioner and county Redevelopment Commissioner Scheub explaining that as an administrator of a program receiving federal money, he has an obligation to oversee the administration of that program and all sub-grantees and to ensure compliance with federal laws, including the Federal Fair Housing Act.
18. In December 1998, the DOJ filed a complaint in federal court against the city of Lake Station, Indiana and the Advisory Plan Commission of the city of Lake Station, Indiana. Complainant Hucker continued to assist the DOJ in its investigation of NIOHC’s 1995 complaint of discrimination through 2001.
19. Beginning in 2000, county Board Commissioner and county Redevelopment Commissioner Scheub and other county Redevelopment Commissioners began questioning the feasibility and affordability of Timbercreek. At the request of the county Redevelopment Commission, HUD commissioned a developer to review the feasibility of Timbercreek. The developer found Timbercreek feasible.
20. In 2000, several changes were made to the composition of the county Redevelopment Commission resulting in a majority of commissioners supporting rehabilitation of existing properties rather than the building of Timbercreek.
21. On April 18, 2000, Robert F. Poffenberger, Director of HUD’s Office of Community Planning and Development, wrote a letter to county Board of Commission and county Redevelopment Commissioner Scheub, in response to a letter written by Complainant Hucker expressing the county Redevelopment Commission’s desire to “get out of the housing business.” Until the DOJ investigation was resolved, Poffenberger advised Lake County not to reprogram any CDBG funds previously programmed for Timbercreek and not to sell the land acquired with CDBG funds.
22. On September 1, 2000, a majority of the county Redevelopment Commissioners voted and signed a contract extending Complainant Hucker’s employment with the Development Department for an additional four-year term.

23. On October 6, 2000, at his first meeting as the county Board of Commission representative to the county Redevelopment Commission, Commissioner Scheub moved to rescind the renewal of Complainant Hucker's contract, to withdraw support for Timbercreek, and to return the HUD CDBG funds slated for Timbercreek.
24. On October 20, 2000, a Consent Order, signed by the parties, was date stamped received by the United States District Court for the Northern District of Indiana, Hammond Division. On March 26, 2001, the court signed the Consent Order.<sup>6</sup> The Consent Order requires the city of Lake Station not to block the building of Timbercreek, by the city Plan Commission granting preliminary and final plat approval for the various phases of construction of Timbercreek, building the necessary sewers, and permitting the helpful tax abatements.
25. In a November 9, 2000 county Redevelopment Commission meeting, Complainant Hucker was placed on administrative leave with pay.
26. After 16 years of employment as the Director of the Development Department, on December 14, 2000, the county Redevelopment Commission voted not to renew Complainant Hucker's contract. Additionally, on December 14, 2000 the county Redevelopment Commission eliminated Complainant McInturf's position and he was not reassigned within the Development Department, despite nine years of service with the County.
27. As of the date of this Charge of Discrimination, Timbercreek has not yet been built, despite it being more than three years after the entry of the 2001 Consent Decree. The CDBG funds designated for Timbercreek are still available.
28. Between 1995 and 2001, the community's racial animus regarding the proposed building of Timbercreek received extensive coverage in the local media. The local media also provided extensive coverage of the changes made to the composition of the county Redevelopment Commission and the termination of Complainant Hucker's employment.
29. By interfering with Complainants Richard Hucker and Charles R. McInturf's employment with Lake County, Indiana, on account of their having promoted

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<sup>6</sup> On May 22, 2001, the DOJ filed a *Motion for Correction of Clerical Mistakes and Memorandum in Support of Motion for Correction of Clerical Errors*. The date upon which Judge Rudy Lozano signed the Consent Order was in error as the year had been pre-typed on the document for signature in 2000. Judge Lozano signed the Consent Order in 2001.

Timbercreek, an affordable housing development of single-family homes that may have brought African Americans to Lake Station, Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners violated 42 U.S.C. § 3617.

30. By retaliating against Complainant Richard Hucker for his participation and cooperation in the DOJ investigation of NIOHC's 1995 complaint, Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners violated 42 U.S.C. § 3617.
31. As a result of Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners' termination of Complainants Richard Hucker and Charles R. McInturf's employment with the county Development Department, Complainants Hucker and McInturf suffered damages, including economic loss, i.e., lost wages, insurance benefits, and pension, and emotional and physical distress.

### **III. CONCLUSION**

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3617, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*;
2. Enjoins Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from discriminating against any person, in violation of the Fair Housing Act;
3. Enjoins Respondents Lake County Redevelopment Commission and Lake County Board of Commissioners, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Act;
4. Awards such damages as will fully compensate Complainants Richard Hucker and the estate of Charles R. McInturf, for their damages, including compensation for economic loss, i.e., lost wages, insurance benefits, and

pension, and emotional and physical distress pursuant to 42 U.S.C. § 3612(g)(3); and

5. Assesses a civil penalty of \$22,000.00 against each of the Respondents, the Lake County Redevelopment Commission and the Lake County Board of Commissioners, for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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