

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

VOLUNTARY COMPLIANCE AGREEMENT

UNDER

Title VI of the Civil Rights Act of 1964

between

The United States Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

and

Boston Redevelopment Agency d/b/a Boston Planning and Development Agency

and

City of Boston
acting through its Department of Neighborhood Development

Approved by the FHEO Regional Director on behalf of the United States Department of Housing
and Urban Development

FHEO CASE NUMBER:

01-20-0001-6

I. PARTIES

The parties to this Agreement are the U.S. Department of Housing and Urban Development (HUD), Boston Redevelopment Authority d/b/a Boston Planning and Development Agency (BRA), and City of Boston (City) acting through its Department of Neighborhood Development.¹ The BRA's statutory authority is set forth in Massachusetts General Laws, Chapter 121B, sections 46 through 57 and Chapter 652 of the Acts of 1960.

The City of Boston through the Department of Neighborhood Development receives funds from HUD through the Community Development Block Grant (CDBG) program, the HOME program, Housing for Persons with AIDS program, the Emergency Solutions Grant program, Continuum of Care program, Lead Hazard Reduction, Fair Housing Assistance Program, and Section 108.

BRA is listed in the Federal Audit Clearinghouse because it receives repayments under the Urban Development Action Grant (UDAG).

II. SUMMARY OF ALLEGATIONS/ BACKGROUND

BRA and the City must comply with various Federal civil rights laws and regulations, including but not limited to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d-1, and its implementing regulations at 24 C.F.R. Part 1 (Title VI) and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50121 (August 16, 2000) (Limited English Proficiency, or LEP). Title VI provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Executive Order 13166 directs every federal agency that provides financial assistance to non-federal entities to publish guidance on how their recipients can provide meaningful access to LEP individuals and thus comply with Title VI regulations forbidding funding recipients from restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.

Complainants GreenRoots, Inc. and City Life/Vida Urbana, filed a complaint with HUD on February 24, 2020, alleging BRA and the City failed to provide meaningful access to its review of the Suffolk Downs development project for individuals with limited English proficiency.

Complainants allege BRA denied their opportunity to participate in public redevelopment meetings and utilized methods of administration which had the effect of subjecting Complainants to discrimination because of their National Origin.

¹ BRA is an independent body politic and corporate, not an agency of the City of Boston. The Massachusetts legislature created the BRA in 1957. In 1960 the City Planning Board was abolished and its powers were transferred to the BRA. As the planning board for the City of Boston, the BRA comments on zoning and design review matters. The BRA approves urban renewal projects under M.G.L. Chapter 121B, and monitors development under M.G.L. Chapter 121A.

Complainants alleged that BRA refused to provide them meaningful access to critical rights or services by failing to provide adequate language access services for LEP individuals, including critical notices provided exclusively in English and the denial of adequate language services for various communications with BRA staff.

BRA and the City deny having discriminated against Complainants and admitted no liability with respect to any of the allegations or claims in the complaint.

Prior to the issuance of a Letter of Findings HUD sought informal resolution of the complaint and the Parties agreed.

Nothing in this Agreement should be interpreted or considered as a waiver by any Party of any right or obligation set-forth or required by Title VI and the regulations promulgated for its enforcement. The failure of any Party to insist upon compliance with any of the provisions of Title VI or the regulations promulgated for its enforcement or the waiver thereof, in any instance, shall not be construed as a general waiver or relinquishment by such Party of any right or obligation set-forth or required by Title VI. It is understood and agreed that this Agreement and the performance of the obligations herein are for the sole purpose of compromising the claims made herein.

III. Definitions

This Agreement incorporates by reference all definitions under HUD's Title VI regulations at 24 C.F.R. part 1, the Fair Housing Act and its implementing regulations at 24 C.F.R. part 100, as well as 24 C.F.R. §5.105, as such definitions exist as of the effective date of the Agreement and as amended.

The following terms shall have the meaning set out herein:

Days - means and refers to calendar days.

Effective Date – means and refers to the date of the last signature in Section VIII.

Limited English Proficient (LEP) Individual – means and refers to an individual who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English may be LEP individuals. LEP individuals may be entitled to language assistance pursuant to Title VI.

IV. Term of Agreement

This Agreement shall govern the conduct of the Parties for a period of 5 years from the Effective Date of this Agreement.

V. General Provisions

1. BRA and the City shall comply with all provisions of Title VI and HUD's implementing regulations provided that no person in the United States shall, on the ground of race, color, or

national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

2. BRA and the City acknowledge that it is unlawful to intimidate, threaten, coerce, or retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under Title VI pursuant to 24 C.F.R. §1.7(e).
3. This Agreement, after it has been executed by the FHEO Regional Director or her designee, is binding upon BRA and the City, its employees, contractors, agents, successors.
4. This Agreement should not be construed to limit or reduce the obligation of BRA and the City, and BRA and the City's programs, services, and activities, to comply with federal civil rights laws and implementing regulations, including Title VI and its implementing regulations.
5. Upon execution of this Agreement by the FHEO Regional Director or her designee, it is a public document.
6. Upon execution of this Agreement, BRA and the City shall provide notice of the terms of this Agreement to its employees, contractors, and subrecipients, within ten (10) days of the effective date.
7. This Agreement does not diminish the ability of any person or class of persons to exercise their right under Title VI or the Fair Housing Act, or any other Federal, State, or local civil rights statute or authority with respect to any past, current, ongoing, or future actions. This Agreement does not create any private right of action for any persons not a Party to this Agreement.
8. This Agreement does not in any way limit or restrict HUD's authority to investigate any other complaints involving BRA and the City or conduct a compliance review pursuant to Title VI, or investigate allegations pursuant to the Fair Housing Act, or any other authority within HUD's jurisdiction.
9. If applicable laws, regulations, or guidance are changed or clarified in a manner that would affect the provisions of this Agreement, then the parties shall confer in good faith to determine any appropriate modification to this Agreement.
10. This Agreement and any documents incorporated by reference constitute the entire agreement between the Parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either Party shall be enforceable. This Agreement does not remedy any other potential violations of Title VI or other federal law. This Agreement does not relieve BRA and the City of their continuing obligation to comply with all aspects of Title VI.

11. Execution of this Agreement may be accomplished by separate execution of consents to this Agreement, the original executed signature pages to be attached to the body of the Agreement constitute one document.

VI. SPECIFIC PROVISIONS

12. Within sixty (60) days of the Effective Date of this Agreement, BRA and the City shall develop and submit to HUD for review and approval a Non-Discrimination Policy for its programs and activities. HUD will review the policy and provide responsive comments. BRA and the City shall incorporate any comments on the Policy received from HUD and implement the Policy within five (5) days of receiving such comments or confer with HUD to address HUD's comments or concerns in a mutually agreeable manner.
13. The BRA shall require the inclusion of a Non-Discrimination statement in the Suffolk Downs Planned Development Area (PDA) documents.
14. Within sixty (60) days of the Effective Date of this Agreement, BRA and the City shall each develop a written Language Access Plan (LAP) and submit it to the Department for the Department's review. The LAP shall include:
 - a. A Four factor analysis that assesses each neighborhood of Boston individually based on the following factors and in accordance with the HUD LEP Guidance:
 - i. Number or proportion of LEP persons eligible to be served or likely to be encountered by programs supported by census data or other relevant data;
 - ii. Frequency with which LEP persons come into contact with the program;
 - iii. Nature and importance of the program, activity or service; and
 - iv. The resources available to execute the program and the costs.
 - b. Procedures that will be used to identify LEP persons with whom they have contact, the size of LEP populations, and the languages of the LEP populations;
 - c. Points and types of contact they may have with LEP persons;
 - d. Ways in which language assistance will be provided;
 - e. Plan for outreaching to the LEP community;
 - f. Plan for training staff members on the LEP Guidance and the LAP;
 - g. List of vital documents to be translated, the languages into which they will be translated;
 - h. Plan for translating informational materials that detail services and activities provided to beneficiaries;
 - i. Plan for providing appropriately translated notices to LEP persons;
 - j. Plan for providing interpreters for large, medium, small, and one-on-one meetings;
 - k. Plan for developing community resources, partnerships, and other relationships to help

with the provision of language services; and

- l. Provisions for monitoring and updating the LAP.
15. Within thirty (30) days of receipt of the LAP, HUD shall review each LAP and provide responsive comments. Within thirty (30) days of receiving comments on their LAPs, BRA and the City shall revise their LAPs to reflect those comments and fully implement their LAP plans throughout all their programs or confer with HUD to otherwise address HUD's comments or concerns in a mutually agreeable manner.
16. BRA must require all proponents for Article 80B and 80C projects to create and implement a project-specific LAP. The project-specific LAP should outline the proponents' strategies for community engagement and inclusion and be publicly disseminated prior to or concurrent with the Letter of Intent or PDA Master Plan, as relevant. The BRA must approve the project-specific LAP at the earliest possible stage of the process.
17. Within ninety (90) days of the effective date of the Agreement BRA must conduct three meetings, in regard to the Suffolk Downs development project, in Spanish and Arabic in East Boston, with professional interpreters. These meetings shall include:
 - a. A presentation by the developer or BRA staff;
 - b. Solicitation of feedback and answering of community questions;
 - c. Interpreters shall be provided all presentation materials in advance of the meeting;
 - d. All materials distributed or displayed at these meetings, including agenda, notes, and PowerPoint presentations, shall be provided in Spanish and Arabic simultaneous with any materials provided in English;
 - e. If simultaneous interpretation equipment is used, the BRA shall test the equipment in advance;
 - f. Notice of the meetings shall be provided on Arabic- and Spanish-language radio and television stations, as well as in local newspapers and other publications disseminated in East Boston; and
 - g. The BRA shall make every effort to contact community groups connecting to the Arabic- and Spanish-speaking community of Boston in order to identify additional sites to post notice of the community meetings.
18. Within one hundred and twenty days (120) of the effective date of this Agreement, BRA shall develop community engagement initiatives, such as the planning arm's "Popsicle with a Planner" and "Pupusa with a Planner" to the Article 80B and 80C review process under the BPDA and coordinate community events, forums, and listening sessions with project managers with responsibility for the Article 80B and 80C review process. BRA shall conduct such community engagement at least bi-annually.

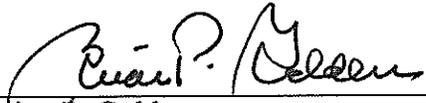
VII. IMPLEMENTATION, MONITORING, AND ENFORCEMENT

19. HUD will monitor BRA and the City's implementation of this Agreement. At its discretion, HUD may convene meetings with BRA's Executive Director, the Mayor's Office or Office of Language and Communications Access or other designated staff or authorized representative, to discuss progress in implementing the Agreement, propose modifications, or conduct other business with respect to this Agreement.
20. BRA and the City shall submit separate quarterly reports to HUD for the first year of the Agreement; thereafter separate bi-annual reports shall be submitted to HUD for the duration of this Agreement. Reports shall contain, at a minimum, details of BRA and the City's progress in complying with the provisions of this Agreement, any changes or updates to the LAP, and the numerical count of all requests for LEP services and a summary of all LEP services that have been provided. The reports also must have evidence and documentation attached or included showing completion of provisions, when appropriate.
21. The required reports and documents of compliance shall be submitted electronically to Susan.M.Forward@hud.gov and Jeffrey.M.Sussman@hud.gov with a hard copy, upon separate request, to:

Susan M. Forward, Region I Director
Office of Fair Housing and Equal Opportunity
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, MA 02222-1092
22. Subject to the procedures specified below in paragraph 23, failure to carry out any term of this Agreement may result in the suspension or termination of, or refusal to grant or to continue federal financial assistance to BRA or the City, or other actions authorized by law, including referral to the Attorney General of the United States to commence a civil action in the appropriate U.S. District Court.
23. Upon learning of non-compliance with this Agreement, HUD will provide written notification to the non-compliant party (the BRA or the City) specifying the facts of the alleged non-compliance and a reasonable opportunity for the non-compliant party to resolve or cure the alleged non-compliance including an opportunity to meet and provide evidence supporting compliance. If after the above process, BRA or the City have not satisfactorily resolved the claims of non-compliance, HUD may take any statutory, administrative or regulatory remedy available to the Department to resolve the outstanding findings of non-compliance by the non-compliant party.
24. The parties agree that this Agreement carries no precedential value and should not be relied upon as evidence of the parties' obligations with respect to subsequent matters involving Title VI compliance which are not covered by the terms of this Agreement.

VIII. SIGNATURES

**BOSTON REDEVELOPMENT AUTHORITY
D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY**



Brian P. Golden

10 SEPT. 2020
Date

Print Name: Brian P. Golden

Print Title: DIRECTOR

**CITY OF BOSTON, through its
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT**

Sheila Dillon

Date

Print Name: Sheila Dillon

Print Title: Director

For the U.S. Department of Housing and Urban Development:

Susan M. Forward
Regional Director, Region 1
Office of Fair Housing and Equal Opportunity

Date

VIII. SIGNATURES

BOSTON REDEVELOPMENT AUTHORITY
D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY

Brian P. Golden

Date

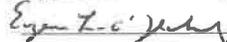
Print Name: Brian P. Golden

Print Title: _____

CITY OF BOSTON, through its
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT



Sheila Dillon

Approved as to Form *CMK*

Eugene L. O'Flaherty
Corporation Counsel

9-9-2020
Date

Print Name: Sheila Dillon

Print Title: Director

For the U.S. Department of Housing and Urban Development:



Susan M. Forward

Regional Director, Region 1
Office of Fair Housing and Equal Opportunity

9/11/2020
Date