

U.S. Department of Housing  
and Urban Development  
Office of Fair Housing  
and Equal Opportunity

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From: Everett Wallace  
General Deputy Assistant Secretary for  
Fair Housing and Equal Opportunity

To

*Shelma Watson*

*11/20* date



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410

OFFICE OF THE  
ASSISTANT SECRETARY FOR FAIR HOUSING  
AND EQUAL OPPORTUNITY

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IN REPLY REFER TO:

MEMORANDUM FOR: Samuel R. Pierce Jr.  
Secretary

FROM : C. Everett Wallace, General Deputy Assistant  
Secretary for Fair Housing and Equal Opportunity

SUBJECT : Woodlands Project--Affirmative Action Problems

In July of this year, Warren Linquist, General Manager of the New Communities Development Corporation (NCDC), asked me to take the lead in attempting to resolve the affirmative action "problems" that exists between NCDC and the Woodlands Development Corporation (WDC). WDC is a subsidiary of the Mitchell Energy and Development Corporation (MEDC) and the developer of "The Woodlands"-- a HUD assisted new community located about 25 miles north of downtown Houston, Texas. Due in part to the financial health of the Woodlands, NCDC has been trying to restructure its relationship with WDC. Unfortunately, WDC's performance in its affirmative action program has proven to be a stumbling block.

I. Background

WDC was originally granted \$50 million in loan guarantees under Title VII of the Urban Growth and New Community Development Act of 1970 (hereinafter referred to as "the Act"). Pursuant to the Act, WDC and HUD entered into a project agreement (hereinafter referred to as "the agreement") that delineated the rights, duties and responsibilities of each of the parties.

One of the major duties accepted by WDC was to comply with all existing and future civil rights laws, regulations and executive orders (see Sec. 5.04 of the agreement). WDC also agreed to comply with the affirmative action plan that was included as part of the project agreement (see Sec. 5.05 of the agreement). Since signing the agreement, WDC has (1) failed to achieve the affirmative action goals it set for itself and (2) more importantly, has failed to document its actions with respect to steps it stated it would take under its affirmative action plan.

After many delays, I was invited to visit the Woodlands on October 27, 1981 and to meet with most of the people responsible for WDC operations including Mr. Edward Lee, President of WDC and Mr. George Mitchell, President of Mitchell Energy and Development Corporation (MEDC). These meetings were extremely helpful in enabling me to isolate the major issues and arrive at my recommendations.

## II. Issues to be Resolved

An analysis of the Woodlands affirmative action "problem" has produced two issues that need resolution. It is my belief that: (1) these are separate and distinct issues; and (2) that any attempt to resolve these issues also must be separate and distinct.

The first involves the restrictions that were placed on Mr. Mitchell's stock in the MEDC. The second involves the failure of WDC to perform adequately in the area of affirmative action.

## III. Summary of Recommendations

### A. The Restrictions on Mr. Mitchell's MEDC Stock Should be Removed

A review of the statute, the agreement and other background material have led me to believe that we have a contractual "right" to continue to restrict alienation of the MEDC stock. However, the purpose for this restriction was to provide additional security for the loan guarantees. There clearly was no expectation on anyone's part that this "right" would be used to force adherence to any social goals set in the agreement. To use this right for any purpose other than that originally agreed to would violate the spirit, if not, the letter of the law.

My visit with Mr. Mitchell convinced me of his personal commitment to the social goals outlined in the statute. He pledged to do whatever was necessary to ensure that these objectives were carried out by all of his employees and outlined some of the steps that he has taken in the last year to improve the affirmative action program at WDC.

### B. A New Affirmative Action Plan and Program Should be Negotiated with WDC

Although WDC has had a defined affirmative action plan since 1972, it has failed to construct a program that was realistic and capable of achieving the goals it set for itself. There is absolutely no doubt that without an aggressive affirmative action program, the Woodlands New Communities Project and its sponsor, the Woodlands Development Corporation, will fail to meet the social objectives for which the loan guarantees were provided originally.

For any affirmative action plan to be successful, it is essential that a program be designed that takes into account the particular strengths and weaknesses of the implementing organization. Also, a successful plan that is to be conducted over a number of years must be flexible enough to allow for changes in projected growth patterns. Finally, a successful plan must be one that is integrated into the regular work flow of the implementing company.

The plan that was proposed in the 1972 project agreement, and the subsequent amendments to that plan have failed to apply the aforementioned principles. In addition, the plan failed to develop a reporting system that would provide all of the needed information for monitoring and technical assistance purposes while attempting to minimize the amount of governmental interference.

My recent conversations with Mr. Lee have led me to believe that such a document can be created through thoughtful negotiations.