

**Testimony of Matthew Colangelo
Director of the Economic Justice Group,
NAACP Legal Defense & Educational Fund, Inc.**

Presented to the Subcommittee on Housing and Community Opportunity of the
House Committee on Financial Services

August 20, 2009

Chairwoman Waters, Ranking Member Capito, and members of the subcommittee, thank you for inviting me to testify today on behalf of the NAACP Legal Defense & Educational Fund (LDF). My name is Matthew Colangelo, and I am the Director of LDF's Economic Justice Group. LDF is the nation's oldest civil rights law firm and has served as legal counsel for African Americans and other people of color in many of the country's major fair housing and other civil rights lawsuits.

As we approach the fourth anniversary of Hurricanes Katrina and Rita, displaced residents of the Gulf Coast continue to display tremendous courage, resolve, and dignity as they attempt to return home and restore their communities. Yet, with well over 100,000 individuals still displaced from Louisiana alone, the path home has been slow. Unfortunately, for many African American homeowners in New Orleans, their efforts to return to their communities have been hampered by racial disparities that were built into the very design and operation of the federally-funded Road Home Program.

Congress appropriated billions of dollars in federal Community Development Block Grant (CDBG) Disaster Recovery Grant funds with the goal of assisting thousands of families in the Gulf Region to repair their damaged and destroyed homes.¹ Using these funds, the Louisiana Recovery Authority (LRA)

¹ See Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, Pub. L. No. 109-148, 119 Stat. 2680, 2779-81 (Dec. 30, 2005); Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. No. 109-234, 120 Stat. 418, 472-73 (June 15, 2006); Department of Defense Appropriations Act,

and the Department of Housing and Urban Development (HUD) designed the Road Home Program, which aims to restore storm-devastated communities in Louisiana by providing grants to help families rebuild.²

With an \$11 billion budget, the Road Home Program is the single largest housing recovery program in American history.³ Sadly, for African American families, the reality of the Road Home program has fallen far short of its promise, due to a fundamental flaw in the program design: HUD and the LRA created a recovery program that links housing assistance to the depressed values of black families' pre-storm segregated housing.

Under the terms of the Road Home Program, rebuilding grants are calculated based on the *lower* of two figures: the pre-storm market value of the home, or the cost of storm damage to the home.⁴ Therefore, by definition, homeowners either receive enough assistance to rebuild (if the cost of damage was less than the pre-storm value), or they receive insufficient funds to rebuild (if the pre-storm value was less than the actual cost of damage). Under this formula, the owners of nearly identical homes with similar storm damage and repair estimates can receive wildly different grant awards, based on where they happen to live and how much the market says their homes were worth before the hurricanes.

This formula has had a discriminatory impact on African Americans, because homes in predominantly African American communities had lower values than those in predominantly white communities, even when the condition, style, and quality of the homes were comparable. This is largely due to decades of racial discrimination in the Louisiana housing market that has caused and reinforced segregation in residential housing. As a result, Road Home grants for African American homeowners are more likely to be based on the depressed pre-storm value of their homes, rather than on the cost of damage. This leaves African

2008, Pub. L. No. 110-116, 121 Stat. 1295, 1343-44 (Nov. 13, 2007). These three statutes appropriated a combined \$19.7 billion to the five affected states—Louisiana, Mississippi, Texas, Florida, and Alabama—for housing and housing-related redevelopment. Louisiana received \$13.41 billion of this total for disaster recovery expenses. See 71 Fed. Reg. 7666, 7666 (Feb. 13, 2006); 71 Fed. Reg. 63,337, 63,338 (Oct. 30, 2006); 121 Stat. at 1343-44.

² The stated purpose of the Road Home program is to rebuild communities in Louisiana affected by Hurricanes Katrina and Rita. See Louisiana Recovery Authority, *Action Plan Amendment 14 (First Allocation) – Road Home Homeowner Compensation Plan 2* (2007); Louisiana Recovery Authority, *The Road Home Housing Programs, Action Plan Amendment for Disaster Recovery Funds 5* (2006).

³ See The Road Home Program, “About Us,” at <http://www.road2la.org/about-us>.

⁴ See Louisiana Recovery Authority, *Substantial Changes & Clarifications to Action Plan Amendment No. 1 for FY 2006 CDBG Disaster Recovery Funds 9-10, 17-20*, available at <http://www.doa.la.gov/cdbg/dr/plans/Amend1-RoadHomeClarification-Approved.pdf>.

American families with just a fraction of the funds needed to rebuild their homes and, for many, extinguishes their hope of returning to their communities. Thus, the program is essentially designed to fail many African American New Orleanians.

Of course, many homeowners—of all backgrounds—have faced significant obstacles in their efforts to return to New Orleans, including shortfalls in rebuilding resources. But because of the Road Home grant formula, African American families have faced far larger shortfalls. To give just one example, data from 2008 shows that homeowners in the Lower Ninth Ward, a predominantly black neighborhood, faced shortfalls of over \$75,000 between the available rebuilding resources and the cost of rebuilding each home. At the same time, homeowners in Lakeview—a predominantly white neighborhood—faced shortfalls of only \$44,000 per home.⁵

This discriminatory disparity in the Road Home grant formula is the subject of a class action lawsuit filed in November 2008 by five African American homeowners and two fair housing organizations—the Greater New Orleans Fair Housing Action Center and the National Fair Housing Alliance.⁶ LDF is serving as counsel along with our co-counsel at the law firm of Cohen Milstein Sellers & Toll. We represent a proposed class of nearly 20,000 African American homeowners who are struggling to return to their homes in New Orleans because their Road Home grant awards were based upon the pre-storm value of their homes.

Our lawsuit alleges that the Road Home Program violates both the Fair Housing Act of 1968 and the Housing and Community Development Act of 1974 (HCDA). The Fair Housing Act requires housing programs to produce equitable results, regardless of their intent.⁷ And both the Fair Housing Act and the HCDA require HUD and the LRA to “affirmatively further fair housing.”⁸ This means much more than simply refraining from active discrimination in housing programs. HUD and the Louisiana Recovery Authority cannot use federal redevelopment funds to perpetuate existing inequalities, and they must affirmatively advance fair housing principles.

⁵ See Kalima Rose, Annie Clark, & Dominique Duval-Diop, *A Long Way Home: The State of Housing Recovery in Louisiana 2008*, at 47, available at <http://www.policylink.info/threeyearslater/>.

⁶ See Complaint, *Greater New Orleans Fair Hous. Action Ctr. v. HUD*, No. 08-cv-01938 (D.D.C. filed Nov. 12, 2008), available at http://www.naacpldf.org/content/pdf/housing_discrimination/road_home_complaint.pdf.

⁷ See 42 U.S.C. §§ 3604(a), 3605(a).

⁸ See 42 U.S.C. §§ 3608(d), 3608(e)(5), 5304(b)(2).

The math is clear. Because of the Road Home Program’s design, African American families are being shortchanged to the tune of about \$1 billion in grant awards. But rather than addressing this unfairness and treating all New Orleans homeowners equally, both HUD and the LRA have opposed making any changes to the Road Home Program.

HUD has argued that it lacks the authority to impose fair housing conditions on CDBG recipients like the LRA once federal funds have been disbursed—a position that is contrary to the legal duty that Congress has imposed on HUD to affirmatively promote fair housing in its programs. The LRA has argued, among other things, that it isn’t even subject to the requirements of the Fair Housing Act. But in enacting the appropriations statutes that funded the CDBG Disaster Recovery Grant program, Congress to its credit refused to allow the waiver of fair housing and non-discrimination requirements.⁹ All grantees thus must agree to comply with the non-discrimination requirements of the Fair Housing Act and the HCDA—and the Louisiana Recovery Authority agreed to do so in exchange for billions of dollars in funds.

Although some of these issues are now before the United States District Court in Washington, D.C., this Subcommittee has its own oversight role over federal housing programs. Congress devoted substantial funds to restoring New Orleans and other storm-damaged communities; now Congress should call on HUD and the LRA to distribute those funds fairly and in compliance with civil rights mandates.

Regardless of what has happened in the past, the Obama Administration and the 111th Congress have a responsibility to ensure that our nation’s largest housing recovery program does not go down in history as a government-sponsored act of housing discrimination. I thank the Subcommittee for this opportunity to testify and I look forward to your questions and comments about this critically important program.

Thank you.

⁹ See 119 Stat. at 2780; 120 Stat. at 472-73.

