

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.04-61212/05-60687 (Lenard/Klein)

United States

Plaintiff,

vs.

City of Hollywood

Defendant.

(CONSOLIDATED)

Case No.04-61212 (Lenard/Klein)

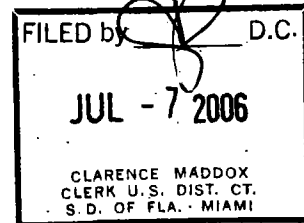
Hollywood Community
Synagogue, Inc.,

Plaintiff,

vs.

City of Hollywood, et al.,

Defendants.



CONSENT ORDER

I. INTRODUCTION

A. Background

1. This consent decree is entered between the United States ("Plaintiff") and Defendant City of Hollywood ("the City" or "Defendant").
2. This action is brought by the United States to enforce provisions of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc, et seq.



287/12

Specifically, the United States alleges that the Defendant City of Hollywood has:

(a) treated the Hollywood Community Synagogue ("HCS") on less than equal terms with nonreligious institutions and assemblies in violation of Section 2(b)(1) of RLUIPA; and
(b) discriminated against HCS on the basis of religion or religious denomination, in violation of Section 2(b)(2) of RLUIPA, by denying HCS a permanent special exception to operate a house of worship on the real property located at 2215 and 2221 North 46th Avenue, Hollywood, Florida. The City filed an answer denying the United States' allegations.

3. HCS is currently located at 2215 and 2221 North 46th Avenue, one block south of Sheridan Street in Hollywood, Florida. Both of these properties are located in a single-family residential district. HCS holds prayer services every morning and evening at 2215 North 46th Avenue.
4. Each prayer service described in paragraph 3, above, requires the presence of a minyan, or a quorum of ten males over the age of thirteen. Approximately twenty to thirty individuals attend the Friday and Saturday evening services. Approximately fifty to sixty individuals attend the Saturday morning service.
5. Defendant's Zoning and Land Use Regulations provide that a house of worship may not operate in an area zoned for residential use without a special exception.
6. In or around February 2001, Defendant informed HCS that it would have to obtain a special exception if it wished to operate a house of worship at 2215 and 2221 North 46th Avenue.

7. On May 10, 2001, the City of Hollywood Board of Adjustment and Appeals ("BAA") granted HCS a conditional special exception. In granting the special exception, the BAA found that HCS's special-exception application satisfied the City's criteria for the granting of a special exception.
8. On May 21, 2001, City Commissioner Sal Oliveri appealed the BAA's decision. The City Commission heard the appeal on September 12, 2001.
9. After a meeting that lasted through the night, the City Commission granted HCS a limited special exception on September 13, 2001. The limited special exception included numerous conditions, including a one-year time limit, a maximum of six parking spaces on the property, and a statement that the special exception would be revoked if a Special Master found a violation of any provision of a City Ordinance if the violation were not cured within 60 days.
10. HCS applied for a second special exception on August 1, 2002. The application requested that its earlier special exception be "renewed."
11. On September 12, 2002, the City of Hollywood Development and Review Board ("DRB"), a successor body to the BAA, approved HCS's "renewed" special-exception application with conditions.
12. City Commissioner Oliveri again appealed the DRB's decision to the City Commission. The City Commission conducted a hearing on Commissioner Oliveri's request for review on October 16, 2002. After a hearing, the City Commission denied the request for review.

13. HCS applied for a third special exception on February 10, 2003, asking that its special exception be renewed or made permanent.
14. On March 13, 2003, the DRB heard HCS's request for a third special exception. The DRB granted the special exception and imposed several conditions relating to, among other things, parking and construction.
15. On March 17, 2003, Commissioner Oliveri filed a request for review of the DRB decision. The City Commission granted the request for review.
16. On June 4, 2003, the City Commission heard HCS's third application for a special exception. After a public hearing, the Commission reversed the DRB's decision and denied HCS's petition for a third special exception.
17. Defendant had never previously denied a request by a place of worship to operate in either a single-family or multiple-family residential zone until it denied HCS's special exception application.
18. Defendant currently permits other religious and nonreligious assemblies and institutions to operate in residential districts.
19. On October 16, 2003, Defendant sent HCS a letter notifying the congregation that it "must desist holding services and other related activities" at 2215 and 2221 North 46th Avenue as of October 20, 2003.
20. On July 7, 2004 the City Commission directed the City Attorney to file a lawsuit to stop further organized religious services from taking place at 2215 and 2221 North 46th Avenue.

21. The United States and the City (together "the Parties") agree that the City is a "government," and that HCS is a "religious assembly or institution" within the meaning of RLUIPA. 42 U.S.C. §§ 2000cc(2)(b)(1), cc-5(4)(A)(i). The Parties further agree that HCS's use of the property located at 2215 and 2221 North 46th Avenue as a house of worship constitutes "religious exercise," id. at § 2000cc-5(7)(A)-(B), and that the Defendant's processes and requirements regarding the grant or denial of a special exception constitute "land use regulation[s]." Id. at § 2000cc-5(5).
 22. The parties further agree that the City's denial of the HCS's special exception application constitutes an "individualized assessment" undertaken in a system of "land use regulations." Id. at § 2000cc(a)(2)(C); id. at § 2000cc-5(5).
 23. The parties further agree that the City of Hollywood has authority under Florida state law and the City of Hollywood Code to regulate and restrict the use of certain land and structures within City of Hollywood's borders, including the authority to grant the special exception sought by HCS.
- B. Consent of the Parties to Entry of This Order**
24. The Parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 2000cc-2. The Parties further agree that the controversy should be resolved without further proceedings or an evidentiary hearing.
 25. As indicated by the signatures below, all parties agree to the entry of this Consent Order.

Therefore, it is hereby **ORDERED, ADJUDGED and DECREED:**

II. GENERAL INJUNCTION

26. For the term of this Order, Defendant shall not:
- a. Impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution;
 - b. Impose or implement a land use regulation in a manner that discriminates against any assembly or institution on the basis of religion or religious denomination;
 - c. Otherwise engage in any conduct that violates RLUIPA; or
 - d. Coerce, intimidate, threaten, interfere with or retaliate against any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by RLUIPA.

III. SPECIAL EXCEPTION APPLICATION PROCESS

27. The Commission may adopt new special exception procedures governing land-use applications for residential zones or for houses of worship and other similar uses. Those procedures must comply with the United States Constitution and with RLUIPA. Within 15 days after the City adopts such procedures, it shall provide a copy of those procedures to the Department of Justice. If the City adopts new special exception procedures, among the new procedures will be the following:

- a. Special Exception Application or Inquiry. Upon receipt of an application or inquiry about the special-exception application process, the Planning Division shall provide to the applicant or the person inquiring about the application process a document that describes the application process and the criteria under which the Planning Division will accept, and the City will decide the application. The Planning Division will provide to the applicant or the person inquiring a form describing an applicant's rights under RLUIPA. The language of the form shall conform to Appendix A.
- b. Planning Division Report. The Planning Division shall issue a report concerning all special exception applications. The report shall evaluate the applicant's proposed special-exception use and any impacts associated with that use in light of (i) as-of-right uses and their potential impacts; and (ii) uses permitted by special exception on similarly situated land, including uses proffered as similarly situated by the applicant or an intervenor. Whenever the applicant is a religious institution or assembly, or whenever the applicant proposes that the property or properties at issue in the application be used, in any way, for religious purposes, the report shall evaluate the proposed use in light of RLUIPA. In light of these and other appropriate evaluations, the report shall recommend to grant, deny, or take other appropriate action on the proposed use, whether or not the proposed use is contested or a hearing is scheduled before any City board or before the City Commission.

- c. Development Review Board Hearing. The Development Review Board shall conduct a de novo review of the proposed special-exception use, including a de novo review of all applicable facts and laws. The Board's review shall take account of, among other things: (i) the Planning Division report, (ii) any submissions made by the applicant or any intervenors; (iii) stipulated evidence; (iv) the parties' exceptions to and support of the special-exception application; and (v) any other relevant materials. Whenever the applicant is a religious institution or assembly, or whenever the applicant proposes that the property or properties at issue in the application be used, in any way, for religious purposes, the Development Review Board shall evaluate the proposed use in light of RLUIPA.
- d. City Commission Hearing. If the City Commission elects to hold a hearing on any application for a special exception, or to hear an appeal from any decision of the Development Review Board with respect to any application for a special exception, the City Commission will conduct a de novo review of the proposed special-exception use, including a de novo review of all applicable facts and laws. The Commission's review shall take account of, among other things: (i) the Planning Division report, (ii) any submissions made by the applicant or any intervenors; (iii) stipulated evidence; (iv) the parties' exceptions to and support of the special-exception application; and (v) any other relevant materials. Whenever the applicant is a religious institution or assembly, or whenever the applicant proposes that the property or properties at issue in the application be used, in any

way, for religious purposes, the City Commission shall evaluate the proposed use in light of RLUIPA.

IV. NOTICE

28. Within 60 days of the date of entry of this Order, the City shall implement the following procedures to ensure notice to the public of this Order and its effects:

- a. Signage. The Planning Division shall post and maintain a printed sign within sight of each public entrance to the Planning Division offices. The sign shall state in bold, block letters, at least one-inch high, that the City of Hollywood does not discriminate against religious exercise in violation of RLUIPA, and shall state that the City has entered into this Order and will provide a copy of it to any person upon request. The text of this sign will conform to Appendix A.
- b. Internet Posting. Both the Planning Division and the City of Hollywood shall post and maintain on the first page of their respective Internet home pages a notice stating that the City of Hollywood does not discriminate against religious exercise in violation of RLUIPA. The notice will state that the City has entered into this Order and will provide a copy of this Order to any person upon request. The text of this posting is provided in Appendix B.
- c. Newspaper Publication. The City shall purchase advertising in the Miami Herald and the Ft. Lauderdale Sun Sentinel, for fourteen consecutive days, stating that the City does not discriminate against religious exercise in violation of RLUIPA. The notice will be of a size equivalent to at least one-quarter-page, shall be printed in.

at least 12-point font, and shall state that the City has entered into this Order and will provide a copy of it to any person upon request. The text of this publication is provided in Appendix A.

- d. Notice to Past Religious Use Applicants. Within 90 days of the date of entry of this Order, the City shall provide notice of this Order to every person, religious assembly, or institution, since January 1, 2001, who or which had applied for and was denied a special exception, or other individualized land use determination, concerning the religious use of property. The notice shall explain why the Commission is contacting them and shall indicate that the Commission will provide a copy of this Order upon request. A copy of the form for this notice is provided in Appendix A.

V. TRAINING

29. Within ninety (90) days after the entry of this Order, the City shall provide training on the requirements of RLUIPA to: (i) all City Commissioners; (ii) all managerial employees of the City, including but not limited to, the City Manager, the Assistant City Manager, the City Attorney, and the Chief of Police; (iii) all Code Enforcement officers or employees, excluding clerical staff; (iv) all employees, excluding clerical staff, of the City Attorney's Office; and (v) all Planning Division officers or employees, excluding clerical staff. The training shall be conducted by a qualified person or organization approved by the United States. The City shall pay all training costs. Within one-hundred twenty (120) days after the entry of this Order, the City shall secure and deliver to counsel for the United States a

written certification of each employee's attendance at the RLUIPA training, together with a copy of all training materials, including but not limited to a course syllabus, if any.

30. Within 30 days of the date of entry of this Order, the City shall conduct and complete the following program for all persons with responsibilities relating to the implementation and enforcement of all zoning or land use regulations, including all City Commissioners who, ~~at any time, cast a vote against granting a special exception;~~^{or} all Development Review Board members; all Code Enforcement officers or employees; all employees of the City Attorney's Office; and all Planning Division officers or employees. Such program shall include:
- a. Furnishing to each person a copy of this Order, and informing each such person, in person, of the duties of the Planning Division and the Commission under this Order; and
 - b. Securing a signed statement, appearing at Appendix C, from each such person stating that he or she has received, has read, and understands this Order and the policy of nondiscrimination mandated by this Order, and further understands that violation of this Order may result in sanctions against the City.
31. For the duration of this Order, each person with responsibilities relating to the implementation and enforcement of all zoning or land use regulations within the City of Hollywood shall be given a copy of, and be required to read this Order, and shall sign the statement appearing at Appendix C, within 10 days after the date he or she commences membership, employment, or an agency relationship with the City Attorney's Office, the

Planning Division, the Code Enforcement Division, the Development Review Board, or City Commission.

32. The statements prescribed by this section of the Order shall be maintained in the offices of both the Planning Division and the City Attorney for the City of Hollywood for the duration of this Order.

VI. COMPLAINT PROCEDURE

33. Within 90 days of the date of entry of this Court, the Planning Division and Commission shall establish the following procedure to address complaints by any person who believes that the City, either officially or through any one of its officers, employees, or agents, since January 1, 2001, or during the duration of this Order, and in connection with any application for a special exception or other individualized land use determination concerning a religious land use, may have violated or may violate the United States Constitution or federal law. Upon complaint by such person, the City, through one of its officers, employees, or agents, shall offer to provide a written form to the complainant, and shall provide that form upon request. A copy of this form is attached as Appendix D. If the complaint is written, the Planning Division shall accept and maintain the original complaint and any proposed or actual action taken by the City in response to the complaint. If the complaint is oral, the City through one of its officers, employees, or agents, shall prepare a written summary of the complaint along with the name, address, phone number, and other identifying information of the complainant and any proposed or actual action taken by the City in response to the complaint. Upon receiving any

complaint, the City shall offer to provide to the complainant a copy of this Order, and shall provide a copy of this Order to the complainant upon request.

VII. REMEDY FOR PAST ACTIONS

34. In order to remedy past actions in this case, the City ^{has agreed to} ~~shall~~ allow HCS to operate at 2215 and 2221 North 46th Avenue as a house of worship as a matter of right in perpetuity, ^{and} ~~This~~ has made additional zoning concessions contained in Section 1, Subsections ~~Order incorporates by reference paragraphs 1-4, inclusive, of the Consent Decree entered (B), (C), (D), and (E) of Resolution No. R-2004-208 (attached to D.E.#380) between the Hollywood Community Synagogue and the City of Hollywood in Hollywood (see also Order Dismissing Case with Prejudice, Footnote 1, entered on July 7, 2004, Community Synagogue v. City of Hollywood, No. 04-cv-61212 (S.D. Fla. 2004), which~~ ^{Decree is attached as Exhibit 1 to this Order.}
35. Within 15 days of the entry of this Order, the City Attorney shall advise the City Commission on the record of the terms of this Order. The City Commission shall also vacate all stop-work or similar orders prohibiting activity at 2215 and 2221 North 46th Avenue, Hollywood, Florida, and direct the City Attorney to file a motion withdrawing, with prejudice, any legal actions, pending in any court, by the City against HCS or its agent or representative.

VIII. REPORTING, RECORD-KEEPING, AND MONITORING

36. No later than 180 days after the date of entry of this Order, the City shall send a report evidencing its compliance with this Order to counsel for the United States.¹ This report shall consist of the following:

¹ For purposes of this Order, all submissions to the United States or its counsel should be submitted to: Chief, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, Attn: DJ# 210-18-3, Fax: 202-514-1116, or as otherwise directed by the United States.

- a. A signed declaration by each of the member of the City Commission stating that the City has complied with Sections II-VII of this Order;
 - b. Appropriate documentary evidence, including but not limited to the text of all new policies or procedures implemented as a result of this Order, demonstrating the City's compliance with Sections II-VII of this Order; and
 - c. Copies of all signed statements from each person described in paragraphs 29-31 of this Order.
37. Nine months after the date of entry of this Order, and every six months ^{for the} ~~thereafter until~~ *duration of this Order, JV* ~~this matter is dismissed with prejudice against Defendant,~~ Defendant shall send to counsel for the United States a written report evidencing continuing compliance with this Order. This report shall contain the following information:
- a. Copies of all new signed statements at Appendix C from each person described in paragraph 31, above, that have not been previously provided to counsel for the United States;
 - b. Any written or oral complaint described in paragraph 33 of this Order. If the complaint is written, the City shall provide a copy; if the complaint is oral, the City shall provide a copy of the written summary described in Section VI of this Order.
 - c. The Planning Division and the City shall, until this lawsuit is dismissed with prejudice as described in Section IX, below, preserve all records that are the source of or that contain any of the information pertinent to the City's obligations

under this Order. Upon reasonable notice to the City Attorney, representatives of the United States shall be permitted to inspect and copy all pertinent records of the City at any and all reasonable times; provided, however, that the United States shall endeavor to minimize any inconvenience to the Planning Division or City Commission from inspection of such records.

IX. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION

38. This Consent Order shall remain in effect for five (5) years after the date of its entry, or for three (3) years after the date the City's new special exception procedures take effect, whichever is later.
39. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Order, ~~after which time the case shall be dismissed with prejudice.~~⁹² The United States may move the Court to extend the duration of the Order in the interests of justice.
40. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event of a failure by Defendant to perform in a timely manner any act required by this Order or otherwise to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized at law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and costs and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

X. TIME FOR PERFORMANCE

41. Any time limits for performance imposed by this Consent Order may be extended by the

mutual written agreement of the United States and the relevant Defendants.

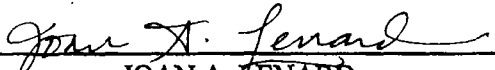
XI. ENFORCEMENT OF THIS ORDER

42. Except as provided in paragraph 43 below, any failure to comply with any or all of the provisions of this Order shall subject Defendant to findings of contempt, and the United States may seek any and all relief from this Court against Defendant for noncompliance.
43. In the event that the City Commission fails to comply with paragraph 35, above, or to allow HCS to operate as a house of worship in compliance with paragraph 34, above, Defendant will be subject to a show cause order as to why it should not be held in contempt of this Court, and the United States may seek any and all relief from this Court against Defendant for a finding of contempt.

XII. COSTS OF LITIGATION

44. Each party to this litigation will bear its own costs and attorneys' fees associated with this litigation.

ENTERED THIS 7 day of July, 2006 in Miami, Florida.

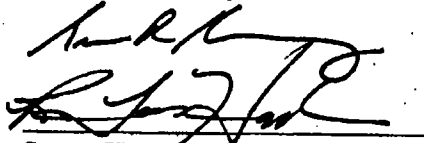

JOAN A. LENARD
UNITED STATES DISTRICT JUDGE

The undersigned apply for and consent to the entry of this Order:

Dated 7/5, 2006

FOR THE UNITED STATES:

Wan J. Kim
Assistant Attorney General



Steven H. Rosenbaum
Chief

Michael S. Maurer
Deputy Chief

Sean R. Keveney

R. Tamar Hagler

Trial Attorneys

Civil Rights Division

United States Department of Justice
Housing and Civil Enforcement Section

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

Tel.: (202) 514-4838

Fax: (202) 514-1116

Email: sean.r.keveney@usdoj.gov

Fla. Bar No. A5500926

Counsel for the United States

R. Alexander Acosta
United States Attorney



Marilynn Lindsey

Assistant U.S. Attorney

Wendy Jacobus

Assistant U.S. Attorney

500 E. Broward Blvd

Ft. Lauderdale, Fl. 33394

Tel: (954) 356-7255

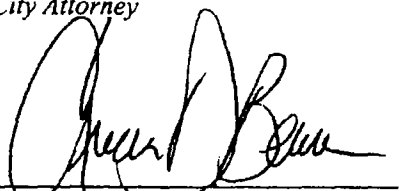
Fax: (954) 356-7336

Counsel for the United States

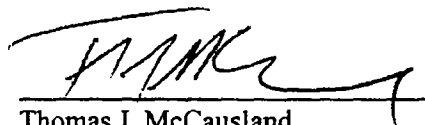
FOR THE CITY OF HOLLYWOOD:



Daniel Abbott
City of Hollywood
2600 Hollywood Boulevard, Room 407
Hollywood, FL 33020
Tel.: (954) 921-3435
Fax: (954) 921-3081
City Attorney



Cameron Benson
City of Hollywood
2600 Hollywood Boulevard, Room 407
Hollywood, FL 33020
City Manager



Thomas J. McCausland
Conroy, Simberg, Ganon, Krevans & Abel, PA
3440 Hollywood Boulevard
Hollywood, FL 33021
Tel.: (954) 961-1400
Fax: (954) 967-8577
Counsel for the City of Hollywood

If you believe that any local government or municipality has discriminated against you in the implementation of its zoning or land use laws, please contact the United States Department of Justice at:

(202) 514-4713

You may also write to:

***United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. -G St
Washington, DC 20530***

If you would like a copy of the Consent Order referenced above and entered in United States v. City of Hollywood, Civ. No. 05-60687 (S.D. Fla.), please contact the office of the City Attorney for the City of Hollywood at (954) 921-3435, and you will be provided with a copy free of charge.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 04-61212/05-60687 (Lenard/Klein)

United States

Plaintiff,

VS.

City of Hollywood

Defendant.

CONSENT ORDER: APPENDIX B

APPENDIX B

NOTICE OF NONDISCRIMINATION POLICY

CONSISTENT WITH THE UNITED STATES CONSTITUTION AND THE RELIGIOUS
LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000, THE CITY OF
HOLLYWOOD DOES NOT DISCRIMINATE ON THE BASIS OF RELIGION IN THE
APPLICATION OF ITS LAWS, POLICIES, OR PROCEDURES, INCLUDING THE
APPLICATION OF ITS LAND USE REGULATIONS AND ZONING LAWS.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 04-61212/05-60687 (Lenard/Klein)

United States

Plaintiff,

vs.

City of Hollywood

Defendant.

CONSENT ORDER: APPENDIX C

APPENDIX C

CERTIFICATION OF RECEIPT OF CONSENT ORDER

I _____, certify that I have received the Consent Order entered in United States v. City of Hollywood, Civ. No. 05-60687 (S.D. Fla.). I further certify that I have read and understand the aforementioned Consent Order, that all my questions were answered concerning it, and that I understand that my violation of this Consent Order may result in sanctions against the City of Hollywood.

(Signature)

(Print name)

(Date)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 04-61212/05-60687 (Lenard/Klein)

United States

Plaintiff,

VS.

City of Hollywood

Defendant.

CONSENT ORDER: APPENDIX D

APPENDIX D

COMPLAINT AGAINST THE CITY OF HOLLYWOOD

Under the terms of a settlement with the United States Department of Justice, the City of Hollywood is required to perform certain actions to ensure that it does not violate RLUIPA, including processing this complaint and providing you with a free copy of the Consent Order entered in United States v. City of Hollywood, Civ. No. 05-60687 (S.D. Fla.).

Name: _____

Address: _____

Telephone: _____

Please state briefly the nature of the service or request that you made of the City of Hollywood (e.g., special exception, variance, etc.). In addition, please include a description of the religious land use or institution at issue in your request:

Please state briefly in what way(s) you believe that the City of Hollywood may have violated your rights under the United States Constitution, federal law, the Florida State Constitution, Florida State law, or the City of Hollywood Code:

If you believe that the City of Hollywood, or any other local government or municipality, has discriminated against you in the implementation of its zoning or land use laws, in addition to completing this complaint, please contact the United States Department of Justice at:

(202) 514-4713

You may also write to:

***United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. -G St
Washington, DC 20530***