



THURGOOD MARSHALL
CIVIL RIGHTS CENTER
HOWARD UNIVERSITY SCHOOL OF LAW



March 22, 2021

Mayor Stephen H. Hagerty &
Members of Evanston City Council
% Alderman Robin Rue Simmons

Re: Constitutionality of Redressing Harms in Evanston, Illinois

Dear Mayor Hagerty and Members of the Evanston City Council:

I write on behalf of Howard University School of Law's Thurgood Marshall Civil Rights Center, Columbia University's Institute for the Study of Human Rights, and the African American Redress Network. It came to our attention that on March 18, 2021, the law firm Boyden Gray & Associates sent a letter to Mayor Stephen H. Hagerty and the members of the Evanston City Council entitled *Re: Proposal to unconstitutionally condition housing program funds on applicant race* (hereinafter the "Boyden Gray letter") in anticipation of the city council hearing today, Monday, March 22, 2021.

The Thurgood Marshall Civil Rights Center at Howard University School of Law has offered to provide pro bono legal support, with the assistance of our staff attorneys and national law firm partners. Our mission is to promote civil rights, human rights, and racial justice advocacy, and the fight for reparations is central to the fulfillment of our mission. Between our staff attorneys, affiliated faculty, law firm partners, and student attorneys, we anticipate that our efforts will help lighten the economic burden of defending the reparations ordinance against legal challenges.

Efforts to provide reparatory justice have consistently been successfully upheld in cities and municipalities across the United States for decades when properly administered. For example, the Florida House of Representatives awarded \$7.2 million in damages resulting from the destruction of Rosewood, FL, with the Rosewood Compensation Act of 1995, House Bill 591.¹ The successful application of the program included a cash payment of \$150,000 to direct survivors of the identified harms and another pool of funds made available to descendants of those directly harmed. Although the Boyden Gray letter suggested otherwise, other remedial efforts such as those in Rosewood (which is most similar to this effort) were not found to be unconstitutional for lack of specific evidence, narrow tailoring, or for any other reason.²

Additionally, in January, 2021, President Joseph R. Biden himself acknowledged the “the effects of [housing policy] decisions continue to be felt today,”³ contradicting the Boyden Gray letter’s assertion that it is “entirely unclear whether . . .” there are lingering effects of housing discrimination that have impacted current conditions and deserve to be remedied. Reparations efforts such as those implemented through the Rosewood Compensation Act and Evanston’s housing reparations ordinance are directly relevant and constitutional government actions aimed at beginning the process of reparatory justice, correcting the lingering effects of harms, beginning with attaining accountability from the institutions that gave rise to the underlying justice grievance to begin with, specifically, local government.

Finally, the robust community effort that led to this moment of national leadership for the Evanston community was misrepresented in the Boyden Gray letter as a “proposal,” ignoring

¹ See also, Fla. H.R. 591 Special Master’s Final Report (March 21, 1994), available at <http://edocs.dlis.state.fl.us/fldocs/leg/hr/pubs/rosewood1994.pdf>.

² See generally, Government Redress, African American Redress Network, <https://redressnetwork.org/government-redress/> (last visited Mar. 21, 2021).

³ Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies, The White House, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/> (last visited Mar. 21, 2020) (The White House memo directs the Secretary of Housing and Urban Development (HUD) to examine and implement the Fair Housing Act in order to prevent practices that result in an unjustified discriminatory effect).

that, in November 2019, the Evanston City Council adopted Resolution 58-R-19⁴ and further adopted Resolution 126-R-19 committing funds for local housing and economic development programs.⁵ The official adoption of the resolution was followed by months of reparations subcommittee meetings and preparatory work conducted by the Evanston city legal department to ensure that the program will be administered in a way that is both effective, equitable, and constitutional and to get the matter approved. The Boyden Gray letter, released days before an important city council meeting addressing the ordinance, clearly seems designed to sway the independent deliberations of the city council at the eleventh hour, when the constituents of this great American city have already spoken through the vessel of its elected leaders.

At the Howard University Thurgood Marshall Civil Rights Center, the African American Redress Network, and the Columbia University Human Rights Institute, we continue to have confidence in your process, while standing ready to provide any support necessary in order to ensure the fulfillment of this historic process that the city of Evanston has undertaken to right decades of wrongs, providing a model for the nation for years to come.

Sincerely,



Justin Hansford
Executive Director, Thurgood Marshall Civil Rights Center
Howard University School of Law

⁴ *Evanston Local Reparations*, City of Evanston, <https://www.cityofevanston.org/government/city-council/reparations#:~:text=In%20November%2C%20a%20Reparations%20Fund,of%20the%202020%20Budget%2C%20Ald> (last visited Mar. 21, 2021).

⁵*Id.*