



**REMARKS OF KEITH E. GOTTFRIED
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**PRESENTED AT THE
HOUSING AND DEVELOPMENT LAW INSTITUTE
2005 GENERAL COUNSEL FORUM
FRIDAY, JANUARY 20, 2006,
12:00 P.M., LOCAL TIME
THE QUORUM-WESTSHORE HOTEL AND CONFERENCE CENTER
TAMPA, FLORIDA
[as prepared for delivery]**

Good afternoon.

Judge Diaz, thank you very much for that generous and very kind introduction and for your wonderful and very thoughtful remarks. I am always honored to be joined at an event by Judge Diaz, a man who has honored this country with his lifetime of dedicated public service, including, as you all know, serving as General Counsel, of HUD during the first term of the Clinton Administration.

And thank you to Lisa Walker and the Housing and Development Law Institute for organizing and hosting today's forum and for providing me with the privilege of addressing you all this afternoon. Today's General Counsel Forum is a wonderful opportunity for all of us to network and share ideas on how to more effectively and efficiently advise and serve our clients and, ultimately, how to better provide our communities with access to affordable housing.

I want to also say thank you to Ricardo Gilmore and his lovely wife for so generously opening his beautiful home last evening and to his law firm, Saxon and Gilmore for hosting what was a very delightful welcome cocktail reception. It was a great opportunity for me to get acquainted with a number of you.

I am very pleased to be here today with all of you. I am also very pleased to have the opportunity to get away from the cold and dreary weather that we are currently experiencing in Washington.

I am pleased to be here with a number of our country's leading housing professionals. I look forward to having a chance to meet each of you and I look forward to working with each of you over the next few years. In particular, I appreciate Ricardo Morales, the General Counsel of the New York City Housing Authority (NYCHA), for being here. I visited HUD's New York office earlier this month and got the chance to meet with Ricardo who was very gracious and very generous with his time. He has done a great job at NYCHA and, as with all of you, I am looking forward to learning from him.

Secretary Jackson asked that I communicate to each of you his best regards and his best wishes for a successful meeting. You may be interested to know that he is also in Florida today, I believe near Orlando. As some of you may know, the Sanford Housing Authority has been in receivership. Tomorrow, the Secretary, who will be joined by former HUD Secretary and now U.S. Senator Mel Martinez, will turn back over the Sanford Housing Authority to the City of Sanford.

We are very fortunate to have at HUD's helm two leaders who understood public housing long before they came to HUD. As many of you know, Secretary Jackson is the first HUD Secretary to ever run a public housing authority. Secretary Jackson knows public housing. He managed the Housing Authorities in St. Louis, Washington, DC and Dallas and brings a unique perspective to HUD. As many of you may also know, Deputy Secretary Bernardi is the former Mayor of Syracuse, New York where he worked tirelessly to make Syracuse a more vibrant urban center and to draw families back into that City through home-ownership programs. When it comes to public housing they both understand the complexities and the flexibility that is required. But most importantly, the Secretary and Deputy Secretary, along with everyone else at HUD, realize that the residents whom public housing serves are our greatest concern.

In addition to the Secretary and Deputy Secretary, we have a great team of Assistant Secretaries confirmed and on-board and I feel very

privileged to be able to serve alongside them. In particular, we are very fortunate at HUD to have someone like Orlando Cabrera as our new Assistant Secretary for Public and Indian Housing. As the former Executive Director of the Florida Housing Finance Corporation, Assistant Secretary Cabrera brings to HUD a significant amount of public housing experience. As Florida Housing's Executive Director, Assistant Secretary Cabrera spearheaded their technology modernization and the upgrading of data systems, maintained and improved Florida Housing's financial condition, and led its efforts to better serve low income Floridians. I believe he will do great things for HUD and public housing and I encourage each of you to get to know him.

As for myself, I am extremely honored to be able to serve as General Counsel at HUD and am very grateful to President Bush and Secretary Jackson for the trust and confidence they have placed in me in choosing me to be General Counsel of HUD.

Going back to 1947, eighteen men and women have come before me and very honorably served as General Counsel at HUD and its predecessor agencies so I am aware of and respectful of this office's heritage and legacy. Previous General Counsels continued to distinguish themselves long after they left HUD. Obviously, my good friend, Judge Nelson Diaz, is one case in point. After leaving HUD, Judge Diaz went on to become City Solicitor or Chief Legal Officer of Philadelphia, the 5th largest city in the United States, from 1991 to 2004, and is now a Partner with the Philadelphia law firm of Blank Rome LLP. Another great example of a HUD General Counsel continuing to distinguish himself is Frank Keating, who served as General Counsel from 1989 to 1993, and went on to become a two-term Governor of the State of Oklahoma from 1995 to 2003. As many of you may recall, Mr. Keating was Governor of Oklahoma when the Alfred P. Murrah Federal Building in Oklahoma City was bombed, a bombing that included among its victims all the HUD employees in the Oklahoma office of HUD's Office of General Counsel. He provided the people of his state and the nation with much needed and inspiring leadership, dedication and compassion during that period.

As Secretary Jackson continues to lead HUD in strengthening our nation's communities, promoting affordable housing, dismantling the barriers to home ownership, expanding homeownership opportunities for all Americans, particularly low and moderate income families, meeting President Bush's goal of at least 5.5 million new minority homeowners before the end of the decade, ending chronic homelessness, vigorously enforcing fair housing, civil rights and anti-discrimination laws, and, of course, of course, providing housing and other desperately-needed relief to the victims of Hurricanes Katrina, Rita and Wilma, it is for me the honor of a lifetime to serve as HUD's General Counsel.

The position of General Counsel at HUD is a great honor, a wonderful opportunity and a tremendous challenge, but it is a position I believe that I have been preparing for my whole life. Over the past two decades, I have been in the accounting and auditing business, the legal business and, most recently, the computer software business. Today, when folks ask me what I do for a living I tell them I am in the hope business because that is the "business" of HUD. Having been on the job for a little over three months, I can tell you that this is the most gratifying position I have ever held though certainly not the most financially rewarding.

I plan to be an actively engaged General Counsel. Those of you who already know me know that my style has never been, and never will be, to coast or to continue status quo. I plan to be an agent for transformational change in a number of key areas that I believe should be of great interest to all of you.

My number one priority is to actively lead and manage HUD's Office of General Counsel and effecting lasting transformational change in how the Office of General Counsel does business and, in particular, how we interact with the affordable housing bar.

As you most of you may be aware, the Office of General Counsel is a nationwide organization of close to 400 attorneys and 300 non-attorneys with headquarters in Washington, DC, ten regional offices and close to forty field offices around the country. We are certainly a large organization, but we need to be less bureaucratic and more accessible. We need to be able to move quicker to respond to

questions from our program clients, from the external housing bar and from our program participants. After close to six months on the job, I can tell you that problem is not with our attorneys who are very competent and extremely dedicated to HUD's mission. Rather, the problem lies with the processes and protocols we have in place for interacting and communicating with the outside world.

We need to be more transparent with the housing bar. In almost all situations, all advice, guidance and interpretative letters that we provide to the outside world should be shared with all and made readily available to the public. We need better processes to institutionalize and publicize our guidance whether in the form of interpretative letters, Office of General Counsel opinions, FAQ's, no-action letters or other informal guidance. We need better protocols for determining when our guidance should be issued in the form of an interpretative letter, staff legal bulletin or through rulemaking

As a former securities lawyer, I am intimately familiar with how the U.S. Securities and Exchange Commission interfaces with the securities bar. All filings by issuers with the SEC are publicly available on the Internet almost from the moment they are filed. That process began in 1994 and each year seems to get better. Recently, the SEC went a step further and made publicly available all letters to issuers and issuers' counsel prepared by SEC attorneys commenting on filings. Because there now exists this huge repository of precedent and because it is all publicly available, the securities bar is able to learn from and copy each other.

When the SEC implemented the Sarbanes-Oxley Act of 2002 which required many new disclosures by public companies and was the most significant change to this nation's securities laws since 1934, the securities bar was able to move quickly to implement the requirements since practitioners could see what each other was doing and what the SEC's reactions were to other practitioners' interpretation of the statute's requirements. The SEC also did a great job of interacting with the securities bar and making publicly available additional interpretative guidance when needed.

When I was a securities lawyer, if I had a client that wanted to proceed with a transaction but it was unclear whether such a

transaction was in compliance with the securities law because the law was ambiguous, I had the option as a securities lawyer of preparing a request for a no-action letter to the SEC. The no-action letter would explain to the SEC what my client was seeking to do, what the applicable law provided, what the SEC had said in previous no-action letters and why I thought the proposed transaction was in compliance with applicable law. The letter would seek the SEC's concurrence and their commitment not to recommend enforcement action against the client if it proceeded with the transaction as described in the letter. It may also be the case that, during the course of preparing such a letter, I would discover that there were so many no-action letters almost exactly on point that the I felt comfortable advising my client to proceed with the transaction without the need for seeking a no-action letter.

I ask you – why can't we have a similar process at HUD? If we implemented such a process, I believe that program participants would be able to engage in more transactions and more activities necessary to fulfill your agency's mission but quicker and a substantially lower cost. Isn't that what we all want? It should go without saying that HUD wants local housing authorities to take action, to be entrepreneurial and to spend their subsidies so as to improve their communities and the supply, quality and access to affordable housing. Of course, as lawyers, we also need to be comfortable that our clients' actions are in compliance with applicable law.

That is where I want to go.

Another priority of mine is to be a catalyst for the growth and enhancement of the affordable housing bar. HUD has a vested stake in growing and enhancing this country's housing bar. Do you remember the tech boom of the late 90's? None of that would have been possible without the securities bar that provided the tech community with access to the capital markets. Can you imagine if the IPO process just involved lay people, unadvised by the securities bar, submitting initial public offering documents to the SEC for review? IPO's would never get done and, if they did, the quality of the offering documents would be awful. The investing public would have been at a major disadvantage in being able to make informed investment

decisions. Our capital markets work as well as they do, in part, because of the plethora of securities lawyers in this country, because of the high quality of the securities bar and because of the close partnership between the SEC and the securities bar.

As HUD's General Counsel, I am also committed to recruiting the best and brightest of the legal profession to serve in HUD's Office of General Counsel (OGC). Succession planning is a major priority for me. Accordingly, we need to ensure that we continue to interest law school graduates in careers related to affordable housing.

After graduating law school, many law school graduates seek judicial clerkships since they view the clerkships as prestigious and as a stepping-stone to something bigger and better. Those are usually, though not always, folks who want to be litigators and whom someday may want to serve on the judiciary. For future corporate lawyers, a position at the SEC after law school is viewed as a stepping-stone for careers at blue-chip Wall Street firms. We need to create a similar perception around positions in HUD's Office of General Counsel. This is, you come to HUD's Office of General Counsel after law school because you perceive it as a stepping stone to joining the affordable housing practice groups at prestigious law firms like Blank Rome, Ballard Spahr, Reno & Cavanaugh, Nixon Peabody, etc.

At HUD we have a legal honors intern program under which we brought in 24 new attorneys this past year. The budget permitting, I plan to bring in at least 15 more in each of the next two years. While we would hope that these interns would decide to pursue a long-term career practicing law at HUD, I would be happy if they at least chose to make a career in affordable housing law. The more we are able to grow the numbers of highly qualified lawyers practicing in the area of affordable housing law, the more people we have focused on helping others ultimately get access to affordable housing.

If we want new lawyers to consider pursuing affordable housing careers, we need more law schools to offer courses on affordable housing and community development law. When I was in law school very few law schools offered courses on computer law. Now there are hundreds of courses across the country on topics like computer law, technology licensing, the law of open source, biotechnology law,

life sciences law, etc. We need to convince law schools to offer more classes on Fair Housing Law, Affordable Housing Law, Housing Finance Law, Community Development Law, etc. A good start would be to get some casebooks and treatises written on affordable housing and community development law. We also need more law reviews and other scholarly publications focused on affordable housing and community development law.

It is amazing to me that even though HDLI is the only major organization for attorneys practicing in the affordable housing area many housing authorities are not members. Organizations like HDLI serve a vital purpose in helping us to fulfill the mission of increased access to affordable housing. It is like imagining doctors without the American Medical Association or law firm lawyers without the American Bar Associations. We need to do whatever we can to enhance the status of the affordable housing bar and most respected professions have respected and well organized trade associations through which to network, share ideas, facilitate continuing education opportunities and, through which, its members can purchase over-priced term life insurance. While HUD does not endorse specific organizations, like trade associations, I can ensure you that we will always be pleased and honored to participate in events sponsored by HDLI as well as those of other organizations with a similar charter to facilitate interaction among the affordable housing bar. As many of you know, for a number of years we have actively participated in the ABA Affordable Housing Forum. I plan to continue that kind of active participation and pursue similar opportunities for engagement with the affordable housing bar.

Even outside of these events organized by HUD, HDLI, the ABA or other organizations, we need to find more opportunities to network and exchange ideas. You are all incredibly important partners in what we do every day and we couldn't accomplish HUD's mission without you.

So I am very excited to be serving as General Counsel of HUD and very excited that I will have the opportunity to work with each of you and we work together to meet the challenges ahead and continue to provide more folks with more access to affordable housing.

Thanks again to the Housing and Development Law Institute for organizing and hosting this forum and thanks again to all of you for taking some time from your busy schedules to be here today to discuss and share ideas for how best to serve your housing authority clients and, more broadly, how we as lawyers can play our part in improving public housing within our country.

I look forward to working with all of you in the months and years ahead and we seek to improve the quality of, and access to, affordable housing.