



U.S. Department of Housing and Urban Development
Fair Housing and Equal Opportunity
Office of Special Investigations
451 7th Street, SW, Room 5234
Washington, DC 20410

March 24, 2026

By Certified U.S. Mail and Email

Steve Walker
Executive Director
Washington State Housing Finance Commission
1000 Second Avenue, Suite 2700
Seattle, Washington 98104
steve.walker@wshfc.org

**RE: Secretary-Initiated Investigation of the Washington State
Housing Finance Commission**

Dear Mr. Walker:

I am the Assistant Secretary for Fair Housing and Equal Opportunity, and I am writing to notify you that, pursuant to the Fair Housing Act,¹ the United States Department of Housing and Urban Development is initiating an investigation into the Washington State Housing Finance Commission (the Commission). Under President Trump’s historic leadership, “it is the policy of the United States to protect the civil rights of all Americans.”² That mandate includes ensuring nationwide compliance with the Fair Housing Act and other federal civil rights statutes.

The Fair Housing Act categorically prohibits every entity engaged in “residential real estate-related transactions” from discriminating against “any person” in the availability or “terms or conditions of such a transaction because of race ... or national origin.”³ Residential real estate-related transactions include making loans or “providing other financial assistance” “for purchasing ... or maintaining a dwelling.”⁴

Created by the Washington Legislature in 1983, the Commission offers “home loans and downpayment assistance programs” that “enable thousands of Washington families to become homeowners” every year.⁵ The Commission’s programs were historically open to all qualified Washington residents regardless of race or ethnicity and, therefore, consistent with the Fair Housing Act.

But, in 2023, the Commission began engaging in a peculiar social experiment, announcing a “Racial Equity Strategy Plan” to advance “antiracist priorities.”⁶ One

¹ 42 U.S.C. § 3610(a)(1)(A)(iii).

² Exec. Order No. 14173, 90 C.F.R. 8633 (Jan. 21, 2025) (cleaned up).

³ 42 U.S.C. § 3605(a).

⁴ 42 U.S.C. § 3605(b)(1)(A) (cleaned up).

⁵ Washington State Housing Finance Commission (WSHFC), *Homeownership Programs*, <https://heretohome.org/> (last accessed Mar. 23, 2026).

⁶ WSHFC, *Racial Equity Strategy Plan 2023-2025*,

year later, the Commission launched its first-ever openly race-based housing finance program—the so-called “Covenant Homeownership Program.”⁷

This admittedly “groundbreaking” program is remarkably generous.⁸ It offers downpayment and closing cost assistance for first-time homebuyers through a zero-interest, secondary loan on a home mortgage.⁹ Applicants do not need to be low-income, as the income ceiling is 120% of the area median income.¹⁰ Low-income borrowers qualify for complete loan forgiveness after owning the house for five years.¹¹ The only “application process for the program” is to call a hotline to consult “with a Commission-trained lender to prequalify for a mortgage and establish [one’s] eligibility.”¹²

These munificent terms, however, are not for everyone. In the Commission’s view, it appears that some Washingtonians “are more equal than others.”¹³ This government-sponsored housing experiment appears to dole out spoils based on race and ancestry—“some racial groups [are] eligible and not others.”¹⁴ Only applicants with a black, Hispanic, indigenous, pacific islander, or Asian Indian parent or grandparent can qualify.¹⁵ The Commission, thus, requires “documentation” establishing that the applicant has the correct racial heritage.¹⁶ Washington residents of European, Japanese, Arab, and Jewish ancestry—no matter their income—appear to be ineligible for the program.¹⁷

Let me be clear: Illegal discrimination on the basis of race is morally reprehensible, socially perverse, and destructive of America’s pluralistic polity. The Trump Administration will not tolerate it. Not now. Not ever.

The publicly available information about the Commission’s program strongly suggests that unlawful discrimination is occurring and, therefore, warrants investigation.

<https://www.wshfc.org/admin/2024StrategicPlan.pdf> (last accessed Mar. 23, 2026).

⁷ WSHFC, *Covenant Homeownership Program*, <https://heretohome.org/covenant/> (last accessed Mar. 23, 2026).

⁸ *Id.*

⁹ WSHFC, *Covenant Homeownership Program FAQ*, 4, <https://www.wshfc.org/covenant/CovenantFAQs.pdf> (last accessed Mar. 23, 2026).

¹⁰ *Id.* at 1.

¹¹ *Id.* at 2.

¹² WSHFC, *How do I apply for the Covenant Homeownership Program?*, <https://heretohome.org/covenant/> (last accessed Mar. 23, 2026).

¹³ George Orwell, *Animal Farm* 114 (1951).

¹⁴ WSHFC, *Why are some racial groups eligible and not others?*, <https://heretohome.org/covenant/> (last accessed Mar. 23, 2026).

¹⁵ *Id.*, *Who is eligible for the Covenant program?*. See also National Fair Housing Alliance, *Washington State Covenant Homeownership Program Study* 5-6, 93 (Mar. 22, 2024).

¹⁶ WSHFC, *supra* note 9 at 7.

¹⁷ See WSHFC, *supra* note 15.

In a recent so-called “reverse discrimination” case, Judge Emil Bove took occasion to discuss “the central mandate” of the Constitution’s Equal Protection Clause: “racial neutrality in governmental decisionmaking.”¹⁸ He explained that “one of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities,” and “this logic holds firm even where the rule at issue was established for a beneficial or laudable purpose.”¹⁹ These principles appear to leave no doubt that the Commission’s racial and ethnic spoils system operates in violation of the Equal Protection Clause.²⁰

Like the Equal Protection Clause, the Fair Housing Act does not tolerate racial and ancestral favoritism in housing. Civil rights “are not limited to discrimination against members of any particular race.”²¹ Under the Fair Housing Act, “discrimination based on intentional consideration of race is illegal, even if the defendant was not motivated by personal prejudice or racial animus.”²² As with Title VI of the Civil Rights Act of 1964, the Fair Housing Act “bears independent force beyond the Equal Protection Clause,” and “[n]othing in it endorses racial discrimination to any degree or for any purpose.”²³

Washington claims its new program serves as a remedy to the “state’s history of housing discrimination”—primarily, its tolerance of racially restrictive covenants.²⁴ But those odious private contractual arrangements have been legally unenforceable since 1948,²⁵ legally invalid in Washington since 1969,²⁶ and predate the creation of the Commission in 1983. This is relevant because it does not appear that the Commission issued or denied loans based on race before pioneering the Covenant Homeownership Program in 2024. And, as a general matter, “a governmental agency’s interest in remedying societal discrimination, that is,

¹⁸ *Massey v. Borough of Bergenfield*, No. 24-2761, 2026 WL 631149, at *12 (3d Cir. Mar. 6, 2026) (Bove, J., concurring) (cleaned up).

¹⁹ *Id.* (cleaned up).

²⁰ My office is not the only one to notice. The Pacific Legal Foundation sued the Commission because its “Covenant Homeownership Program discriminates against first-time homebuyers on the basis of race, in violation of the Constitution.” Press Release, Pacific Legal Foundation, Federal lawsuit aims to end racial discrimination in housing assistance (Oct. 29, 2024) <https://pacificlegal.org/press-release/federal-lawsuit-aims-to-end-racial-discrimination-in-housing-assistance/>.

²¹ *McDonald v. Santa Fe Trail Transportation Co.*, 427 U.S. 273, 279-80 (1976).

²² *Hall v. Lowder Realty Co., Inc.*, 160 F. Supp. 2d 1299, 1318 (M.D. Ala. 2001) (cleaned up).

²³ *Students for Fair Admissions, Inc. v. President and Fellows of Harvard Coll.*, 600 U.S. 181, 310 (2023) (Gorsuch, J., concurring).

²⁴ WSHFC, *supra* note 7.

²⁵ *Shelley v. Kraemer*, 334 U.S. 1, 20-22 (1948) (holding racially restrictive covenants unenforceable because the Constitution does not confer a “right to demand action by a State which results in the denial of equal protection of the laws to other individuals”).

²⁶ *May v. Spokane Cnty.*, 481 P.3d 1098, 1106 (Wash. Ct. App. 2021) (Fearing, J., dissenting) (“The Washington State Legislature, in 1969, declared the invalidity of racial restrictive property covenants in this state and proclaimed the insertion of the discriminatory provisions in real estate documents as an unfair practice. RCW 49.60.222.”).

discrimination not traceable to its own actions, cannot be deemed sufficiently compelling to pass constitutional muster.”²⁷

In 2007, Chief Justice John Roberts famously articulated the constitutional principle that informs federal antidiscrimination law: “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”²⁸ Over a decade and a half later, he elaborated: “Eliminating racial discrimination means eliminating all of it.”²⁹ No state or housing agency is immune from these principles because it fancies its race-based schemes benign or a vindication of its vision to elevate for special privileges “beneficiary groups” that “symbolize [its] moral stance.”³⁰

Based on the publicly available information evidencing race-based eligibility criteria for the 2024 Covenant Homeownership Program, I have directed the Office of Special Investigations to investigate the Commission for fair housing violations. Our investigation will determine the extent to which the Commission has violated or intends to violate 42 U.S.C. § 3605 and other relevant statutes.

Upon completion of our investigation, the Office of Fair Housing and Equal Opportunity (FHEO) may file a complaint against the Commission for discrimination based on race or national origin under the applicable statutes. If FHEO finds reasonable cause to believe the Commission has or intends to violate the civil rights of its citizens, we will file charges of discrimination or refer the matter to the United States Department of Justice for further enforcement.

Additionally, this letter serves as a formal demand to preserve all existing and future records and materials related to the Commission’s Covenant Homeownership Program. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to the Department’s investigation. This instruction includes all electronic messages sent using official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

²⁷ *Parents Involved in Cmty. Sch. v. Seattle Sch. Dis. No. 1*, 551 U.S. 701, 731-32 (2007) (cleaned up).

²⁸ *Id.* at 748.

²⁹ *Students for Fair Admissions*, 600 U.S. at 206.

³⁰ Thomas Sowell, *The Vision of the Anointed* 143 (1996).

Within ten (10) business days of this letter's date, FHEO will issue initial requests for information from the Commission. Please reach out to [REDACTED] with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig W. Trainor". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Craig W. Trainor
Assistant Secretary
Fair Housing and Equal Opportunity