

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERIDREAM, INCORPORATED;	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 07-1752 (PLF)
	)	
HON. ALPHONSO JACKSON	)	
SECRETARY OF THE UNITED	)	
STATES DEPARTMENT OF	)	
HOUSING AND URBAN	)	
DEVELOPMENT,	)	
	)	
Defendant.	)	

**AFFIDAVIT OF KEVIN SMITH**

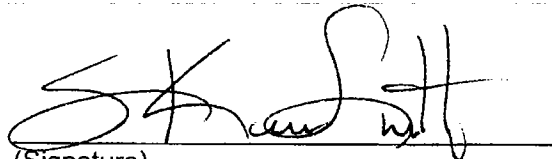
BEFORE ME, the undersigned authority, personally appeared Kevin Smith, who, being by me duly sworn, deposed and stated as follows:

1. "My name is Kevin Smith. I am over the age of twenty-one and fully competent to make this Affidavit. I have never been convicted of a felony or crime involving moral turpitude. The facts stated in my affidavit are true and correct and within my personal knowledge.
2. Freedom Home Baptist Church, Inc. ("Baptist Church") is a non-profit religious organization. The Baptist Church's congregation is predominately African-American and has served the east Austin, Texas, community since 1982. Attached to my affidavit as Exhibit A is a true and correct copy of the Baptist Church's Articles of Incorporation.
3. The Baptist Church provides community services, including participating in down payment assistance (DPA) programs privately funded in large measure by real estate sellers and developers. I am the program director of Freedom Home Baptist Church, Inc.'s down payment assistance programs. In that regard, the Baptist Church's down payment assistant programs do business as Genesis Housing Development Corp. The Baptist Church has participated in DPA programs since early 2000.
4. Since 2000, the Baptist Church has assisted over 30,000 individuals and families achieve the dream of homeownership through down payment assistance. Substantial funding for the Baptist Church's DPA programs comes from contributions from sellers and others in the real estate industry.
5. In 1998, the U.S. Department of Housing and Urban Development ("HUD") reached an agreement with Nehemiah Home Ownership 2000 ("Nehemiah") —another non-

profit organization with faith based heritage providing seller funded down payment assistance— that, in the event it changed its policies regarding DPA programs or the source of borrower down payment funds, "the changes will become applicable to Nehemiah and all other similarly situated down payment assistance programs six months after the final promulgation and issuance of any such changes." (emphasis added). A copy of the HUD agreement is attached to my Affidavit as Exhibit B.

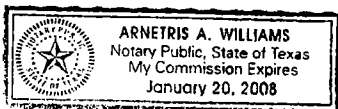
6. Counsel for the Baptist Church communicated with HUD's counsel to inquire as to whether HUD opposed intervention in this case by the Baptist Church and as to whether HUD would stay enforcement of the regulation for six months. HUD's counsel stated that HUD would not consider the request until the Baptist Church intervened in the case.
7. Because the vast majority of the funding for the Baptist Church's DPA programs comes from sellers and other in the real estate industry, the regulation will decimate the Baptist Church's housing assistance programs and lead to the termination of personnel involved in the assistance programs. The regulation will also significantly prevent the Baptist Church from providing down payment assistance to new homebuyers, interfering with a core practice of this faith based organization in providing housing to the less fortunate.
8. The Court has set an expedited briefing schedule to which the Baptist Church can and will agree.
9. The facts stated in the Application for Preliminary Injunction with regard to Freedom Home Baptist Church, Inc., dba Genesis Housing Development Corp. are true and correct."

FURTHER, Affiant sayeth not.

  
(Signature)  
S. Kevin Smith  
(Print name)

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

SUBSCRIBED AND SWORN TO BEFORE ME on October 26, 2007.



(SEAL)

*Arnetris A. Williams*  
\_\_\_\_\_  
Notary Public, State of Texas

ARTICLES OF INCORPORATION

OF

FREEDOM HOME BAPTIST CHURCH, INC.

We, the undersigned natural persons of the age of eighteen (18) years or more, at least two (2) of whom are citizens of the state of Texas, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

NAME

The name of the corporation is Freedom Home Baptist Church, Inc.

ARTICLE TWO

NON-PROFIT CORPORATION

The Corporation is a non-profit corporation.

ARTICLE THREE

DURATION

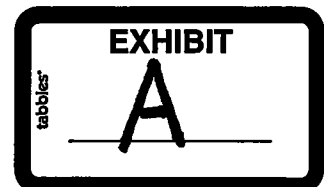
The period of its duration is perpetual.

ARTICLE FOUR

PURPOSES

are: The purposes for which this corporation is formed

- (1) to maintain public worship;
- (2) to exalt Christian standards of living;
- (3) to engage in the preaching of the Gospel;
- (4) to administer the ordinances of the New Testament;
- (5) to provide a place for Christian education and activities;
- (6) to receive and maintain a fund or funds of real or personal property, or both, and, subject to any restrictions and limitations hereinafter set forth, to use and apply the whole or any part or the income and principal thereof exclusively for the furtherance of the purposes stated in these articles or the church's constitution;
- (7) to create a legal entity which is recognizable at law for purposes of holding title to real estate, giving and executing mortgages and the like and performing all secular functions deemed to be necessary and reasonable in conducting



- the civil affairs of the church;
- (8) to restrict the legal liability to the corporation for damages arising out of and in the course of operating and using church property;
  - (9) to protect the individual church member from the potential liability which may exist for members of an incorporated association; and,
  - (10) to facilitate the obtaining of multirisk insurance policies to protect the church and its activities.

The corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit to the members thereof and is organized for non-profit purposes.

ARTICLE FIVE

INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation is 1144 3/4 Gunter Street, Austin, Texas, 78721, and the name of its initial registered agent at such address is Mr. Oscar B. Howard, Sr.

ARTICLE SIX

BOARD OF TRUSTEES

The number of trustees constituting the initial board of trustees of the corporation is three (3), and the names and addresses of the persons who are to serve as the initial trustees are:

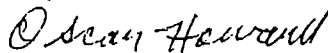
Mr. Oscar B. Howard, Sr.	3109 E. 14 $\frac{1}{2}$ Street Austin, Texas 78702
Mr. Herman F. Christophe	5203 Gladstone Austin, Texas 78723
Mr. Alfred Freeman	13906 Avenue I Round Rock, Texas 78664

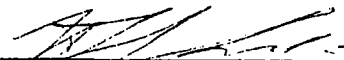
ARTICLE SEVEN  
INCORPORATORS


The Name and street address of each incorporator is:

Mr. Oscar B. Howard, Sr.	3109 E. 14 $\frac{1}{2}$ Street Austin, Texas 78702
Mr. Herman F. Christophe	5203 Gladstone Austin, Texas 78723
Mr. Alfred Freeman	13906 Avenue I Round Rock, Texas 78664

IN WITNESS WHEREOF, we have hereunto set our hands,  
this 10th day of September, 1982.

  
\_\_\_\_\_  
Mr. Oscar B. Howard, Sr.

  
\_\_\_\_\_  
Mr. Herman F. Christophe

  
\_\_\_\_\_  
Mr. Alfred Freeman

STATE OF TEXAS  
COUNTY OF TRAVIS

I, WILMA RANEY a notary public, do hereby certify that on this 19th day of September, 1982, personally appeared before Mr. Oscar B. Howard, Sr., Mr. Herman F. Christophe, and Mr. Alfred Freeman, who, each being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.

Wilma Raney  
Notary Public in and for  
Travis County, Texas

WILMA RANEY

COMM. EXPIRES: 2-28-85



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D. C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR  
HOUSING-FEDERAL HOUSING COMMISSIONER

APR 3 1998

Don F. Harris, Esq.  
Nehemiah Home Ownership 2000  
770 L St. Suite 750  
Sacramento, CA 95814

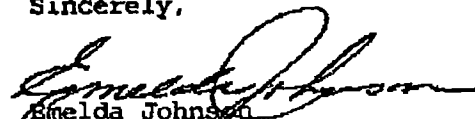
RE: Nehemiah Home Ownership 2000

Dear Mr. Harris:

The United States Department of Housing and Urban Development ("HUD") has received and reviewed the IRS ruling that the non-profit organization which administers the Nehemiah down payment assistance program qualifies for Section 501(c)(3) status. Based upon the program specific information accompanying your submission to the IRS, we find that your program complies with HUD's regulations and guidance pertaining to the source of funds for the borrowers' down payments. Accordingly, HUD will insure eligible mortgages in which home buyers use Nehemiah's program (as set out in the submission to the IRS for Section 501 (c) (3) status) for borrower down payment assistance.

Although HUD has no immediate plans to change its policies regarding down payment assistance programs or regarding the source of borrower down payment funds, HUD reserves the right to do so in the future in accordance with applicable procedures. In the event that there are any such changes regarding the source of borrower down payment funds, the changes will become applicable to Nehemiah (and) all other similarly situated down payment assistance programs six months after the final promulgation and issuance of any such changes.

Sincerely,

  
Emelda Johnson  
Deputy Assistant Secretary  
Single Family Housing Programs

