

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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ROSEMARY LOVE, et al.,)	
)	
	Plaintiffs,)	
)	Case Number: 1:00CV02502
	vs.)	
)	Judge: Walton, R.
THOMAS VILSACK, SECRETARY)	
UNITED STATES DEPARTMENT OF)	
AGRICULTURE,)	
)	
	Defendant.)	
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**PLAINTIFFS’ NOTICE REGARDING LETTER FROM
MINORITY FARM ADVISORY COMMITTEE APPOINTED BY USDA**

Plaintiffs submit this Notice to bring to the Court’s attention a letter posted recently on USDA’s web site concerning the government’s Hispanic and Women Farmers and Ranchers Claims Resolution Process (“Claim Program”). The letter, attached here as Exhibit A and also available at <http://www.outreach.usda.gov/docs/MFAC%20Recommendation%20on%20USDA%20Litigation.pdf>, was drafted by the Minority Farm Advisory Committee, a group of individuals appointed by the Secretary of USDA to “work[] in the interest of the public to ensure socially disadvantaged farmers have equal access to USDA programs.” USDA, “Advisory Committee on Minority Farms,” *available at* <http://www.outreach.usda.gov/sdfr/FAC.htm>.

The Minority Farm Advisory Committee (the “Committee”) was put in place to advise the Secretary on topics including civil rights activities at USDA and methods to maximize the participation of socially disadvantaged farmers and ranchers in USDA programs. *See id.* The Committee is composed of fifteen appointed members, among them farmers and ranchers, civil

rights professionals, and representatives from nonprofit organizations and institutions of higher learning. *See id.* Following a public meeting in September 2015 at which USDA's Office of General Counsel presented a report, the Committee sent Secretary Vilsack a letter outlining its advice related to USDA's efforts to resolve lawsuits regarding past discrimination. Crucially, that letter, dated October 2, 2015, advised Secretary Vilsack to:

Reconsider those claims (more than 18,953) denied in the Hispanic and Womens Discrimination Settlement Process. Moreover, send claimants a detailed explanation of the reasons for their denial and pay the claims of those whose denials were made in error.

Ex. A at 1 (emphasis in original).

Following its analysis and meeting, the Committee stated that it was "very concerned" with the results of the Claim Program, and it questioned whether the program was fair and equitable. *Id.* at 2. The Committee outlined the stark contrast in success rates for claimants in this Claim Program, as opposed to the similar programs that USDA previously put in place for African American and Native American farmers and ranchers (6% success rate versus 60 to 70% success rates). *Id.*

The Committee went on to question the fact that USDA's hired adjudicators denied nearly half of the timely and complete claims submitted in the Claim Program due to supposed "fraud concerns," despite the fact that none of the thousands of denial letters reviewed by Committee members referenced fraud concerns or provided any specific explanations for why claims were denied. *Id.* at 2-3. The Committee stated that claims were apparently denied due to "fraud concerns" simply because many claims were filed from similar geographic areas. *See id.* As the Committee explained to Secretary Vilsack, this is not a valid reason for *per se* denials of claims under the Claim Program Framework, and many farmers are insulted at the suggestion that they may have submitted fraudulent claims without any explanation, investigation, or

prosecution for fraud. *Id.* at 3. Geographic clusters of claims in particular areas may be easily explained, not by fraud, but by: (a) the demographics of Hispanic and female farmers in the United States; (b) the concentration of discrimination in particular USDA and FSA offices over time; and (c) the outreach about the Claim Program, in part *funded by USDA*, that targeted particular communities. *Id.* According to the Committee, clusters of applicants did not exist due to fraudulent conduct, and “[t]hrowing a blanket accusation of fraud over 10,361 hardworking farmer claimants cannot be justified as a fair and impartial judgment.” *Id.* (emphasis added).

The USDA-appointed Committee has flagged the very same issues that Plaintiffs have asked this Court to consider. The Committee urged Secretary Vilsack to:

- “review and reassess the fairness, legitimacy, and equity” of the Claim Program;
- reconsider claims that were denied and, for each claim, either provide specific reasons for the denial or reverse the decision if the claim was denied unfairly and unnecessarily; and
- provide specific information previously requested by the Committee about the Claim Program and its results.

Id. at 4.

The Committee’s findings and letter support Plaintiffs’ Request for Information, Discovery, and a Hearing, filed with this Court on June 11, 2015. Doc. 249. Plaintiffs sought, and continue to seek, similar information and discovery about the Claim Program and a hearing to determine whether it was conducted in accordance with its governing Framework and due process. Having prompted individuals to give up their valuable legal rights to seek relief in Court in return for participation in the Claim Program, USDA was bound to follow the terms of

its Framework. *See* Doc. 249 at 5 (citing April 21, 2015 Hearing Transcript and *Pigford v. Vilsack*, 777 F.3d 509 (D.C. Cir. 2015)). Serious questions exist surrounding whether USDA has done so, and those questions have now been raised, not just by Plaintiffs, but also by a USDA-appointed Committee. Despite requests from Plaintiffs, members of Congress, community groups, and now USDA's own appointed Committee, USDA has thus far refused even to provide the information sought about the results of the Claim Program. Plaintiffs again renew their request for information, discovery, and a hearing, as detailed in their June 11, 2015 filing. *See* Doc. 249. The facts here speak for themselves. Additional information and objective review is required to ensure that individuals who suffered discrimination once in USDA's lending programs are not again forced to endure similar treatment.

Date: December 30, 2015

Respectfully submitted,

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