



**Statement from William R. Tisdale, President and CEO
Metropolitan Milwaukee Fair Housing Council
January 23, 2015**

Dear friends of fair housing,

This week, in his State of the Union speech, we heard President Obama tell the nation: ***“I want our actions to tell every child, in every neighborhood: your life matters, and we are as committed to improving your life chances as we are for our own kids.”***

Do our actions do this? In our private and public sectors, do our policies and practices tell **every** neighborhood’s residents that their lives are equally valuable and worthy of respect? Tragically, the answer is: not yet.

As it happens, a couple of days ago the U.S. Supreme Court heard arguments in a fair housing case that relates directly to the President’s statement. This case, *Texas Department of Housing and Community Affairs v. The Inclusive Community Project*, will provide the Court with an opportunity to weigh whether 'disparate impact' claims are jurisdictional under the federal Fair Housing Act. Fair housing complaints based on the concept of disparate impact allege that policies that appear neutral on paper can have a discriminatory effect in practice because they create a disproportionately harmful impact based on race, ethnicity, disability or other protected classes defined by fair housing laws. In the case at hand, the Texas Department of Housing and Community Affairs is alleged to have allocated tax credits to rental housing providers who provide housing for families with low income in a manner that perpetuates racial and ethnic segregation and denies racial and ethnic minorities equal opportunities to reside in predominately white areas of metropolitan Dallas.

For decades, fair housing organizations and other civil rights groups have used the concept of disparate impact to successfully challenge institutional discrimination in the housing market. Success in such cases has depended on demonstrating discriminatory **effect**, whether or not evidence of discriminatory **intent** is available or exposed.

For example, in the first decade of this century, the Metropolitan Milwaukee Fair Housing Council and other fair housing organizations conducted investigations in the homeowners insurance market, and uncovered a range of policies that had an extremely harmful impact on minority neighborhoods. These policies appeared race-neutral, especially if viewed out of the geographic context in which they were applied. One large homeowners insurance company, for instance, had underwriting

requirements that excluded older homes and homes with lower market values from qualifying for their more comprehensive insurance policies. These age and value restrictions appeared facially neutral, but had a disparate impact on homeowners and homes in African American and Latino neighborhoods. In metropolitan Milwaukee, this age restriction policy prevented 82% of homes in predominantly minority neighborhoods from receiving comprehensive coverage, but did so for only 52% of homes in white neighborhoods. Value restrictions excluded 99% of homes in predominantly minority neighborhoods but only 43% of homes in predominantly white neighborhoods.

These practices cause a lack of insurance or under-insurance for minority neighborhoods and the consequences are substantial and tragic. If homeowners have inadequate insurance coverage and damage or loss of the home occurs, the wealth of the household is depleted and the home cannot be repaired. The home may be boarded up and torn down, and the entire neighborhood suffers. As some neighborhoods benefit from access to comprehensive insurance coverage, others see their property values and safety diminish, and this, in turn, reinforces the racial segregation that scars our region and marginalizes entire communities from full participation in our economy.

The Fair Housing Council and other civil rights organizations across the nation filed federal complaints against major insurance companies for enacting policies like the ones described above, and we prevailed. As a result of our investigations and our complaints based on the concept of disparate impact, the insurance industry has made significant changes in order to make its products available in a more equitable manner.

If the U.S. Supreme Court decides that groups such as the Fair Housing Council can no longer bring disparate impact claims against businesses whose practices discriminated against our most vulnerable neighborhoods and housing consumers, we will lose one of the most important tools we have to effectuate the goals of the federal Fair Housing Act. The Act has two linked purposes: to eliminate discrimination based on race, ethnicity, religion, disability and other protected classes, **and** to promote integration for the benefit of all Americans.

Do we tell all children, regardless of where they reside, that their life chances matter? Do we do the hard work to ensure that opportunities are available to all, no matter what neighborhood someone lives in? Do we think critically, in every possible instance, how our actions and decisions affect different communities in different ways?

Until the answer to each of those questions is an unequivocal **YES**, civil rights organizations need the ability to use disparate impact claims in fair housing enforcement. I join with other civil rights leaders across our nation to say: our work is not done. This is not the time to shrink back, to congratulate ourselves and say we've come so far that we can lay our tools down.

It's time to work harder than ever - for our children, and for every American.