

# Hurricane Survivor Recovery Rights, Principles and Initiatives

## FOUR BASIC RECOVERY RIGHTS OF DISASTER SURVIVORS

Government should guarantee disaster survivors four basic rights through the recovery. These four rights should guide all programmatic and oversight considerations.

1. ***The Right to Choose.*** Disaster survivors must have the right to choose where they will live. Homeowners and renters must have the right to relocate to where they feel it is best for their families to live—where it is safe, accessible and affordable and where there are opportunities for their children and themselves. Survivors must be informed of all housing opportunities and options available to them. Survivors with disabilities must have accessible housing opportunities and not be directed or forced into more restrictive housing or institutions. The recovery process must provide for the housing needs of survivors who were homeless at the time disaster struck.
2. ***The Right to Stay*** means that disaster survivors must have the right to stay or return home to neighborhoods that have adequate storm protection and other essential public infrastructure that provides protection from future disasters. Tenants of subsidized housing must have a right to stay in subsidized housing that is safe and accessible in an inclusive neighborhood that meets the needs of their families. Tenants of damaged subsidized housing should be presented the option of a Housing Choice Voucher with assistance in finding an apartment in a neighborhood or community that, in their judgment, meets the needs of their families. Tenants who chose to remain in a subsidized housing development must be offered choices of safe, quality subsidized housing located in a range of neighborhoods.
3. ***The Right to Equal Treatment*** means survivors must be treated equally and fairly by government in the recovery process. Many lower-income neighborhoods, especially neighborhoods of people of color, have historically lacked essential public infrastructure including protection from flooding. Hurricane Harvey demonstrated that many majority white neighborhoods also lack adequate flood protection at the neighborhood or regional levels. Through this recovery, every neighborhood—regardless of the race, ethnicity, economic status, or disability of the residents—must be provided quality, equal levels of flood protection and equal access to essential public infrastructure.
4. ***The Right to Have a Say*** is at the core of our democracy. Being listened to and being able to have a say in how one's home and neighborhood are repaired is essential for disaster survivors who have everything at stake. Survivors must play an integral role in designing and implementing disaster recovery plans and programs. Their needs, interests and perspectives must be central to all local, state and federal response efforts. Survivors must be permitted to help design the recovery, understand what is in store for them in the process, know where they are at all points in the process and be empowered to speak out and be listened to, in the language that they can understand and communicate in.

## **SEVEN PRINCIPLES FOR DISASTER RECOVERY**

1. Securing help from government of all levels is accessible, understandable and timely.
2. Everyone in need receives safe, temporary, accessible housing where they can reconnect with family and community.
3. Displaced people have access to all the resources they need to recover housing, personal property and transportation; disaster rebuilding jobs and contracts are locally sourced and provide fair wages.
4. Everyone is fairly assisted to recover fully and promptly through transparent and accountable programs and compliance with civil rights laws, with survivors having a say in the way assistance is provided.
5. All homeowners are able to quickly repair or rebuild in safe, quality neighborhoods of their choice that fit the needs of their families.
6. Renters quickly get quality, affordable, accessible rental housing in safe, quality neighborhoods of their choice that fits the needs of their families.
7. All neighborhoods are free from environmental hazards, have equal quality public infrastructure and are safe and resilient.

## **RECOMMENDED GOVERNMENT ACTIONS TO IMPLEMENT THE 7 PRINCIPLES**

1. **Securing help from government of all levels is accessible, understandable and timely.**
  - a. Designate a permanent lead state agency for disaster recovery; establish statutory protocols and oversight for recovery efforts.<sup>1</sup>
  - b. Support the coordination of government-funded recovery efforts with faith-based and community groups.<sup>2</sup>
  - c. Undertake outreach and communications efforts to reach all survivors; include door-to-door canvassing and special outreach efforts to hard-to-reach populations; distribute easily understandable multilingual materials.<sup>3</sup>
  - d. Federal and state authorities provide technical assistance and support to all local governmental entities implementing disaster recovery programs.<sup>4</sup>
  - e. Expand the role of case managers to assist survivors to navigate the recovery process from shelter and temporary housing to permanent housing.<sup>5</sup>
  - f. Operate a tracking system to keep survivors informed where they stand in processes related to application and program benefits for short-term and long-term recovery.<sup>6</sup>
  - g. Fund legal aid organizations and their coordination with pro bono attorneys to help survivors access recovery assistance and handle appeals.<sup>7</sup>
  - h. All communications and meetings must be accessible to people in their primary languages and program staff able to communicate with survivors in the relevant language.<sup>8</sup>

- i. Ensure accommodations are made for people with disabilities and the process for survivors requesting accommodations is publicized and easily accessible and usable by people with disabilities.<sup>9</sup>

**2. Everyone in need receives safe, temporary, accessible housing where they can reconnect with family and community.**

- a. Provide temporary housing through a FEMA/HUD disaster voucher program (DVP).<sup>10</sup>
- b. Fund the disaster voucher program adequately to allow tenants to access safe, quality, accessible housing.<sup>11</sup>
- c. Fund a regional tenants' council to help survivors who rent understand their rights and responsibilities under Texas law.<sup>12</sup>
- d. Enact local short-term rent stabilization policies to prevent landlord rent gouging.<sup>13</sup>
- e. Permit local municipalities and state agencies to suspend housing evictions during the months immediately following a disaster.<sup>14</sup>
- f. Enact state laws and policies to prevent landlord housing discrimination against survivors using Disaster Recovery Vouchers and Housing Choice Vouchers; step up HUD's Fair Housing investigation and enforcement efforts.<sup>15</sup>

**3. Displaced people have access to all the resources they need to recover housing, personal property and transportation; disaster rebuilding jobs and contracts are locally sourced and provide fair wages.**

- a. Ensure disaster survivors have access to food, education, health care, mental health services, and other critical resources they need to recover.<sup>16</sup>
- b. Provide an expedited process for families to access FEMA funds to repair, replace or enter into a short-term lease for a car.<sup>17</sup>
- c. Employ social workers to assist survivors with special social needs.<sup>18</sup>
- d. Maintain and enforce worksite safety standards and prevailing wages.<sup>19</sup>
- e. Support legal aid and fair housing organizations to assist with survivors' legal issues as they go through the recovery process, such as consumer protection matters, mortgage foreclosure problems, and insurance claims.<sup>20</sup>
- f. Establish protocols to maximize the hiring and contracting of unemployed and under-employed local residents and small businesses.<sup>21</sup>
- g. Provide information to survivors, volunteers and workers engaged in the recovery about exposure to environmental, health and safety hazards in the cleanup.<sup>22</sup>

**4. Everyone is fairly assisted to recover fully and promptly through transparent and accountable programs and compliance with civil rights laws, with survivors having a say in the way assistance is provided.**

- a. Make individual renter and homeowner recovery the highest priority.<sup>23</sup>
- b. If Congress fails to appropriate enough CDBG-DR funds to fully cover all housing needs, use 80% of CDBG-DR assistance for low- and moderate-income families., including those making less than 30% of the median family income.<sup>24</sup>
- c. Use small-area aggregated FEMA claims data to fairly allocate funds across jurisdictions and neighborhoods to serve survivors in proportion to need.<sup>25</sup>

- d. Establish binding program performance goals and timelines for all public and private agencies administering government recovery funds.<sup>26</sup>
- e. Set up an independent state public commission with staff, reporting to the Governor and Texas Legislature, to oversee and advise on all aspects of the recovery.<sup>27</sup>
- f. Appoint a state inspector general for disaster recovery reporting to the independent recovery commission to audit, investigate and oversee recovery programs.<sup>28</sup>
- g. Provide effective public participation in design and oversight of disaster recovery.<sup>29</sup>
- h. Extend the Hurricane Ike/Dolly fair housing agreement into the Hurricane Harvey program to ensure that disaster recovery actions further fair housing; provide training and ongoing review of program design and administration to ensure compliance with fair housing, Section 504 and Title VI laws.<sup>30</sup>
- i. Assist immigrants to recover homes, personal property and to rebuild their lives; prevent predatory and exploitative practices; suspend enforcement of SB 4.<sup>31</sup>
- j. Require apartment developments funded with CDBG-DR or Low Income Housing Tax Credits to provide apartments affordable for extremely low income households; require new apartments to be located in quality neighborhoods that do not flood and have access to good schools and services.<sup>32</sup>
- k. FEMA, HUD and state and local government should ensure that people who were homeless at the time of the disaster are eligible for benefits.<sup>33</sup>

**5. All homeowners are able to quickly repair or rebuild in safe, quality neighborhoods of their choice that fit the needs of their families.**

- a. Fund a rapid repair program to quickly repair and stabilize the homes of the most vulnerable homeowners within the first three months.<sup>34</sup>
- b. Continue the Texas Homeowner Opportunity Program (HOP) in the current recovery, permitting all homeowners to choose to: 1) rebuild on site; 2) rebuild in a safer neighborhood; or 3) purchase an existing home in a less vulnerable neighborhood.<sup>35</sup>
- c. Establish procedures to use recovery funds in a way that does not reinforce racial/ethnic segregation and allows homeowners to rebuild in neighborhoods with adequate public infrastructure and no hazardous environmental exposure.<sup>36</sup>
- d. Apply and enforce accessibility and “visitability” standards for persons with disabilities to all housing constructed under the disaster recovery.<sup>37</sup>
- e. Fund and support the operation of RAPIDO (rapid temporary-to-permanent homeowner rebuilding) programs as large-scale demonstrations across the disaster area.<sup>38</sup>
- f. Adopt terms of Senate Bill 1673 (2017 Regular Session) for advance local disaster rebuilding preparation with Texas A&M’s Hazard Reduction and Recovery Center.<sup>39</sup>
- g. Provide property tax breaks for the reconstructed homes of low-income families.<sup>40</sup>
- h. Continue the Texas Title Project to assist lower-income homeowners with clouded titles to clear their home property titles.<sup>41</sup>

**6. Renters quickly get quality, affordable, accessible rental housing in safe, quality neighborhoods of their choice that fits the needs of their families.**

- a. Provide renters with counseling on options to move to safer neighborhoods.<sup>42</sup>

- b. All tenants in damaged or destroyed subsidized housing must be provided the option of choosing between a home in a subsidized apartment development or receiving a Housing Choice Voucher to rent privately-owned housing; vouchers must be portable to allow survivors to move to other cities and regions if they choose to move.<sup>43</sup>
- c. A dedicated portion of CDBG-DR funds and Low Income Housing Tax Credits should be set aside to reconstruct HUD-subsidized apartments in appropriate locations.<sup>44</sup>
- d. Assess survivor incomes and target funding to address their rental housing needs.<sup>45</sup>
- e. Rebuild (without a loss of units as mixed-income developments) HUD-subsidized and affordable, privately-owned rental housing in quality, safe, diverse neighborhoods; relocate all publicly-funded housing out of 100-year floodplains.<sup>46</sup>
- f. Provide for the replacement of scattered-site, single-family rental housing in quality, neighborhoods that are not vulnerable to future disasters.<sup>47</sup>
- g. Secure a federal allocation of Housing Choice Vouchers to achieve within disaster areas per capita parity of federally subsidized housing with other large US cities.<sup>48</sup>
- h. Prohibit landlords receiving recovery assistance from discriminating against tenants with housing vouchers or income derived by persons with a disability; expand landlord participation in voucher programs in safe, diverse neighborhoods.<sup>49</sup>

**7. All neighborhoods are free from environmental hazards, have equal quality public infrastructure and are safe and resilient.**

- a. Update FEMA flood maps and Flood Insurance Rate Maps to accurately assess where floodplains are located and to reflect the reality of current flood risk.<sup>50</sup>
- b. Assess the impacted areas and produce a disaster and social neighborhood vulnerability index used to target public infrastructure and environmental programs and provide information to survivors to use to choose where they want to live.<sup>51</sup>
- c. Invest in local drainage infrastructure and other infrastructure needed to meet a base-level standard of flood protection and safety for all residents; eliminate the racial and ethnic disparities that exist in residents' access to flood protection.<sup>52</sup>
- d. Develop a comprehensive, voluntary neighborhood buyout program in areas of major environmental risk near industrial facilities, refineries and rail and port facilities.<sup>53</sup>
- e. Provide voluntary individual buyouts to permit survivors to relocate away from flood hazards, environmental hazards, segregated areas and other unsafe conditions.<sup>54</sup>
- f. Fully remediate EPA Superfund and other high priority environmental hazard sites near residential and flood hazard areas.<sup>55</sup>
- g. Build resilient, flood-safe homes that will survive future disasters.<sup>56</sup>
- h. Support comprehensive and coordinated testing of water, soil and air quality in the impacted areas and create a portal to publicly share test results.<sup>57</sup>
- i. Establish an advisory network to oversee, coordinate and provide technical assistance during the recovery, comprised of university and other subject matter experts on environmental and fair housing law, engineering, urban planning, housing, disaster recovery, floodplain management and disaster impacted citizens.<sup>58</sup>
- j. Ensure the safe and proper testing, classification and disposal of cleanup waste.<sup>59</sup>
- k. Rebuild damaged public schools to be models of excellence and innovation.<sup>60</sup>

**ENDNOTES:** These endnotes provide more detail and background in the proposed initiatives.

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<sup>1</sup> Over the past twelve years, responsibility at the state level for long-term disaster recovery has shifted among three different state agencies: the Texas Department of Housing and Community Affairs, the Texas Office of Rural Affairs and the Texas General Land Office. Legislation proposed by Senator Eddie Lucio, Jr. (SB 1673, 2017 Regular Session), considered during the past three sessions of the Texas Legislature designating a state agency to lead disaster recovery has failed to pass. The result is a lack of formal institutional capacity over time to design and administer disaster recovery programs, contributing to long startup times and delays in beginning long-term recovery programs (i.e., CDBG-DR funded) each time a disaster strikes.

The solution is to statutorily designate the state agency for disaster recovery and to develop programs in the time period between disasters so that those programs can be deployed immediately when a disaster strikes.

<sup>2</sup> Volunteer- and faith-based organizations are an essential part of disaster recovery. The state needs to designate a formal liaison through the Texas Faith-Based and Community Initiative for organizations that are engaged in disaster recovery work and build protocols to ensure that their work seamlessly integrates into the rebuilding programs funded by the state. The experience in past disasters has been that too often volunteer and faith-based organizations undertake intermediate levels of repairs to homes which are later demolished and rebuilt with government long-term disaster recovery funds. This is a waste of valuable resources and labor which should be addressed in this disaster.

The formal liaison should promote collaborations between these voluntary efforts and government programs. A summit should be scheduled immediately for the major volunteer and faith-based groups and the state leaders of disaster recovery to coordinate their work. Government agencies also need to provide logistical support and reimbursement for the cost of materials incurred by volunteer and faith-based organizations in order to permit them to assist more survivors.

The governor should also direct the Texas National Guard to cooperate and assist faith-based organizations doing disaster recovery with both personnel and logistical support.

One of the great things that comes out of disaster recovery efforts in our state is the outpouring of voluntary donations and labor. It is vital that government agencies recognize and support the desire of individuals and organizations to contribute and to help. To support individuals' and organizations' interests in donating time and money to the recovery process, the Texas Faith-Based and Community Initiative should help identify the most effective ways donors can help survivors at the different phases of the recovery process. In doing so, the Initiative must not be prescriptive or restrict individual voluntary initiatives. But the Initiative can and should point people to voluntary activities and funds where they can be most effective. A website should be created listing volunteer opportunities, dates and places along with qualifications for volunteers. It is vitally important that these voluntary activities also be appropriately coordinated with FEMA and CDBG-DR program requirements in order that the volunteers' contributions are effective in the recovery process. To oversee these cross-sector collaborations, a special advisory board should be created, composed of major voluntary and faith-based organizations, the Texas National Guard, key representatives of FEMA and the administering agencies of the state's CDBG-DR program.

<sup>3</sup> The comprehensive outreach and communications strategy should identify hard-to-reach populations including language minorities. It should develop linguistically and culturally appropriate messaging strategies. The government entities involved in recovery should coordinate the production of materials and the process for ongoing communications to keep disaster survivors fully informed of where they stand in the short- and long-term application and recovery program process. The outreach and communications strategy should incorporate door-to-door outreach to low-income communities and vulnerable populations. From prior disaster recovery efforts, we know that door-to-door outreach to low-income impacted communities is essential to ensure that persons who are not staying in shelters are able to access the resources available to them. This one-on-one outreach is especially critical for serving

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vulnerable populations including seniors and persons with severe disabilities who either do not have information about the resources available or are unable to apply for the resources.

<sup>4</sup> An important lesson from Hurricane Ike is that local governmental entities designated by the state to take charge of disaster recovery efforts did not, from the onset of the process, have the technical expertise needed to effectively design and implement disaster rebuilding programs. There has historically been a large reliance on consultants in large engineering firms to step in to provide the capacity that local governments lack to administer programs. The services of these entities is very expensive and the process of contracting and putting them in place is time-consuming. Steps should be taken to maximize the ability of local governments to undertake these tasks of rebuilding while minimizing their reliance on these expensive third-party consultants.

To the extent local governmental entities are put in charge of disaster recovery efforts after Harvey, it is critical that they are also provided with extensive, on-going technical assistance before they begin their work as well as throughout the duration of the recovery programs. Technical assistance should include civil rights concerns identified in other disaster recovery situations.

<sup>5</sup> Past disasters have shown that navigators dedicated to assisting people through the bureaucratic aspects of the recovery process are essential to disaster survivors being able to successfully apply for and receive FEMA assistance. A problem that arose in prior disasters is that the role of these “navigators” has been limited to the FEMA process. The second phase of disaster rebuilding—the long-term disaster recovery work in which homeowners interact with government agencies utilizing federal Community Development Block Grant-Disaster Recovery (CDBG-DR) funds—has also been frustrating and very difficult for survivors to navigate. To help families progress more quickly through the different phases of recovery programs, case managers, or “navigators,” should be assigned permanently to disaster survivors to navigate them through the entire recovery process, from the shelters to obtaining permanent housing, including: (1) the process of getting out of the shelters; (2) applications for FEMA assistance; (3) FEMA appeals, (4) resolving problems that develop over time regarding FEMA assistance and temporary housing; and (5) applying for and receiving repairs or rebuilding assistance through CDBG-DR funded programs.

The navigators should also connect survivors with the other resources they need to recover, for example, helping children enroll in school; connecting survivors to mental health and other trauma-informed care, ensuring continuity of access to health care and medication, and helping survivors address employment and financial issues that arise out of the disaster.

The navigators should be fluent in the primary language of their clients. Our experience from prior disasters with the RAPIDO program has taught us that it is best to have also persons who are native language speakers working with survivors. It is also a best practice to recruit and train as navigators residents from affected communities, who the survivors can more easily communicate with and relate to.

<sup>6</sup> One of the most effective things that can be done to reduce the trauma and uncertainty that disaster survivors experience is to help them understand the stages of the disaster recovery process and where they stand in terms of the process and accessing assistance. This task is made complex because of the lack of coordination between FEMA temporary assistance programs and long-term disaster recovery programs administered by state and local governments.

Jurisdictions need to quickly set up the policies, procedures, and qualifications for the jurisdiction’s long-term rebuilding programs in order to inform survivors of the rebuilding process in its entirety. An essential role of navigators assigned to survivors (see recommendation 1.5. above) should be to provide survivors a timeline of the key steps for disaster recovery and to keep survivors up-to-date regarding where they currently are on that timeline and to help them anticipate the requirements they face in order to take the next step.

The state and jurisdictions should work with communications experts to develop a simple, easy-to-understand document that presents this timeline to survivors. Government administrators should also

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identify key decision points for survivors on the timeline to give them enough time to consider in advance the decisions they will be asked to make.

<sup>7</sup> Legal assistance is a critical component of disaster recovery. Thousands of low-income families impacted by large-scale disasters need legal services provided by legal aid organizations and their *pro bono* partners in order to access rebuilding resources, meet their basic survival needs, and land back on their feet.

Immediate legal needs include: (1) education on how to avoid exploitation and consumer scams; (2) help replacing important legal documents and filing insurance claims; (3) assistance navigating complex programmatic requirements embedded in disaster recovery programs such as drafting documents that FEMA often requires to prove up ownership or a person's rental status; and (4) assistance with the appeals processes for claims denials. A report issued after Hurricane Katrina found that legal aid organizations in Louisiana did not have the capacity to handle anywhere from 66 to 80 percent of calls for assistance. Texas legal aid organizations will face similar capacity limits without additional funding and one of those organizations, Lone Star Legal Aid in Houston, lost its Houston offices from a fire from the Harvey flooding.

<sup>8</sup> The communities impacted by Hurricane Harvey are linguistically very diverse, and thousands of survivors speak a primary language other than English. In Texas Congressional District 27, for example, which includes Refugio, Nueces, and Matagorda counties, more than 200,000 households speak a language other than English at home, and more than 60,000 households are not proficient in English. Students in the Houston Independent School District speak around 100 different languages. Since communication is a vital element in rapid disaster recovery, it is vital that recovery programs provide written communication in the primary language of the survivor and employ staff who can speak fluently in the primary language of the survivor. A report on recovery from Sandy found that affected families were unable to access assistance because of lack of language access, and HUD required disaster recovery programs to reopen so that language minorities could benefit from the programs.

Recipients of federal financial assistance have a legal obligation to reduce language barriers that can preclude meaningful access by Limited English Proficiency (LEP) persons to important government services. In certain circumstances, the failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities violates Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and federal agencies' Title VI regulations against national origin discrimination.

<sup>9</sup> Persons with disabilities often have special needs with regards to housing, transportation and services. The Fair Housing Act, Section 504, the Housing and Community Development Act of 1987 and the Americans with Disabilities Act ensure that persons with disabilities may request and obtain accommodations for their needs, including structural accessibility where needed. These laws cannot legally, nor should they be, waived. Leadership of the recovery process must clearly communicate to all parties in the disaster recovery the provisions of these laws and enforce the mandate that they are complied with and enforced.

<sup>10</sup> During the Hurricane Ike recovery program (as well as other subsequent natural disasters such as Superstorm Sandy), FEMA and HUD entered into a joint agreement for HUD to administer a FEMA-funded temporary housing assistance program called the Disaster Housing Assistance Program (DHAP), which is now called the Disaster Voucher Program, or DVP. DVP uses vouchers to provide temporary rental housing for disaster survivors, utilizing the administrative infrastructure of local public housing authorities, which already administer vouchers under HUD's Housing Choice Voucher Program. DHAP was a significant improvement over previous hotel-motel programs and the approach in Houston after Hurricane Katrina. During the recovery from Hurricane Katrina, the City of Houston took on the task of block leasing apartments from landlords to house Katrina evacuees who resettled in Houston. While there were positive elements of this city-initiated program, the end results were not optimal. Many of the apartments block leased by the city were of marginal quality and were heavily concentrated in deteriorating, lower-income neighborhoods with large blocks of dilapidated apartment projects. The result was an overconcentration of extremely low-income households, racial isolation, and other problems

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associated with the forced concentration of the evacuees in vulnerable neighborhoods and unsafe apartments. Additionally, the handoff of the program from the City to FEMA and later to HUD was problematic.

For these reasons, we urge the approach FEMA and HUD developed under Hurricane Ike in Texas through the DHAP program. It will be important that the program is administered in a manner that does not overly concentrate families with extremely low incomes in existing high poverty areas or in apartment developments where all of the tenants have low incomes. In order to provide adequate housing opportunities for survivors with vouchers, DVP will need to incorporate robust outreach to landlords in higher opportunity areas as well as policies to combat discrimination by landlords (see below).

<sup>11</sup> In order to ensure that disaster survivors can return to housing close to their jobs, schools and families, and that the economic recovery of communities is not delayed by the inability of its workforce to return home, HUD and FEMA will need to increase the level of housing assistance in many areas to a level above the pre-set HUD Fair Market Rents. After Sandy, FEMA increased the amount of rental assistance to disaster survivors in New York and New Jersey by an additional 25 percent after determining that there was not an adequate supply of rental units available at the Fair Market Rents.

Low-income survivors in rural areas struck by Hurricane Harvey face particular challenges in returning to their jobs and communities. In Victoria, where the closest FEMA-approved hotel is 100 miles away, displaced residents face extraordinarily long commutes or the loss of their jobs. And because of the destruction of most of the affordable rental housing that existed in small towns like Refugio, returning long-term will not be possible for many low-income residents unless funding is provided to rebuild affordable rental housing.

<sup>12</sup> More than 40% of households in Beaumont, Port Arthur and Corpus Christi are renters. In Houston alone, more than 1.4 million people are renters, along with another 800,000 people in Harris County. Tenants living in homes that were destroyed or damaged by Hurricane Harvey face new challenges in navigating complex state laws and lease provisions to understand their rights and responsibilities regarding repairs, rental payments, and other issues arising out of the disaster.

Both Austin and Dallas have nonprofit organizations that are focused on assisting tenants with rental housing issues, and the Austin nonprofit (the Austin Tenants Council) also helps landlords and tenants mediate disputes and investigates fair housing complaints. By offering similar services, a new regional tenants' council serving the areas impacted by Harvey would educate tenants and landlords about their rights and responsibilities under the law, reduce disputes between landlords and tenants that end up in court, and help protect the health and safety of tenants whose rental units are dangerous and uninhabitable.

<sup>13</sup> Major natural disasters on the scale of Hurricane Harvey result in rental housing shortages and rent hikes due to the restricted supply of housing. For example, after Hurricane Katrina, the price of a rental unit went up an average of 40 percent, and after Superstorm Sandy the median rent increased 20 percent, making it impossible for many impacted families to return to their communities and pushing many families into homelessness. To protect renters in the areas impacted by Hurricane Harvey from similar price increases, the city councils of cities and towns facing a rental housing shortage should utilize their authority under Texas law (Local Government Code, Section 214.902), to each adopt an ordinance placing a cap on residential rents in their jurisdiction, and Governor Abbott should approve the ordinances (under the Local Government Code. Ordinances restricting rents are not effective until approved by the Governor).

<sup>14</sup> After a disaster, many impacted families are unable to make their monthly housing payment for the next one to three months until they can land on their feet, access their mail, and resume employment. Recognizing the barriers that disaster survivors face in making their housing payments after a large-scale disaster strikes, Freddie Mac and FHA have enacted a 90-day moratorium on evictions and foreclosures for homeowners impacted by Hurricane Harvey with Freddie Mac and FHA-insured home mortgages. Texas should extend similar relief to renters by enacting legislation suspending rental housing evictions in

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the impacted areas for a three-month period. New York City placed a similar moratorium on evictions in areas impacted by Superstorm Sandy.

<sup>15</sup> To provide displaced persons, including persons with disabilities, with access to housing in low-poverty areas and with access to jobs and transportation, it is critical to enact laws and policies prohibiting landlords from discriminating against tenants who have received rental housing assistance. After Hurricane Katrina, a study found that 82% of landlords in the greater New Orleans region refused to rent to tenants with vouchers. African-American tenants were impacted the hardest by these discriminatory policies. Without interventions to protect low-income, minority tenants with housing assistance, their housing options will be largely restricted to high poverty, racially segregated neighborhoods and to apartment developments with high concentrations of poverty, impacting their ability to recover from Harvey as well as their long-term life outcomes.

Policy interventions to expand housing options for renters should include: (1) a state law prohibiting landlords from discriminating against tenants with Disaster Recovery and Housing Choice Vouchers; (2) the elimination of the state law (Tex. Local Government Code Section 250.007) barring cities from enacting ordinances that protect tenants with vouchers from discrimination and other sources of housing assistance (the state law exempts only ordinances that protect veterans with vouchers); and (3) a policy requiring all apartment owners receiving any rebuilding assistance to accept a certain percentage of tenants with housing vouchers and to bar the owners from discriminating against tenants on the basis of having a voucher or other source of housing assistance.

In addition to voucher discrimination, other potential types of housing discrimination—including discrimination against survivors based on race, national origin, disability, and familial status be combatted as thousands of vulnerable families find themselves seeking to find rental housing. HUD's Office of Fair Housing and Equal Opportunity (FHEO) should immediately make available substantial financial, educational, technical and training resources to ramp up an aggressive fair housing enforcement program in the areas impacted by Hurricane Harvey. This should include the widespread use of matched pair fair housing testing to root out and enforce against violations of fair housing law. FHEO should also assign investigators and attorneys under the supervision of the FHEO systemic investigations unit in Washington DC to monitor CDBG-DR programs and to examine patterns and practices and complaints against local governments over failures to comply with Title VI, Fair Housing and the requirement to Affirmatively Further fair Housing. These issues must be handled in DC so coordination with headquarters CDBG is possible.

<sup>16</sup> This is particularly critical for special needs populations including persons with disabilities, children in foster care, and homeless youth.

<sup>17</sup> Regrettably, public transportation infrastructure in the disaster areas is generally insufficient to serve many of the impacted neighborhoods. Most workers in the impacted areas of Texas must rely upon private transportation (e.g. car or truck) to travel to work, transport their children to school and doctor's appointments, and shop for goods and services. The quick restoration of private vehicles for disaster survivors is therefore essential.

In past disasters, FEMA has at times made available funds for up to \$5000 to repair or replace a single vehicle for each affected household. Given the flooding impacts from Harvey, this level of assistance will simply be inadequate to allow most disaster survivors to replace their personal vehicles. FEMA should increase the maximum to \$10,000. Alternatively, FEMA should permit disaster survivors to enter into reimbursable short-term auto leases. FEMA should also change its policies to allow for an additional increase in the level of personal transportation assistance in cases where a household can demonstrate that it has two or more working adults who both need replacement vehicles to access employment. FEMA should also waive existing program restrictions that exclude many families from accessing FEMA assistance for auto replacement.

<sup>18</sup> Research and evaluation following Hurricane Katrina identified that a significant number of the impacted families affected faced significant social service needs. Problems included domestic violence

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issues, unresolved mental health challenges, social isolation, and child neglect and abuse. These problems are not inherent among survivors, but in any large-scale natural disaster affecting hundreds of thousands of households, it is inevitable that many families will face such challenges. The research literature indicates that the trauma and displacement of the disaster exacerbates many of these problems. Therefore, it is essential that trained social workers be available to assist families as necessary with these problems.

<sup>19</sup> The economic disruption associated with this disaster is on an epic scale. It is vital that disaster recovery activities produce employment opportunities and economic stimulus for workers whose regular work has been disrupted by the disaster. In past disasters there have been calls for the repeal or temporary suspension of workplace safety and prevailing wage rules. Those waiver requests have wisely been universally rejected. The economic stimulus to the area would be reduced if wages are reduced, and prevailing wages will ensure that disaster recovery programs are able to fill positions. Further, much of the recovery work that will be done will involve workers being placed in contaminated and potentially hazardous environments. To protect the health and lives of these workers, it is critical that workplace safety rules be strictly enforced.

<sup>20</sup> In addition to needing immediate assistance with accessing disaster recovery programs (see Recommendation 1.g.) thousands of impacted families will need critical, longer-term legal aid to recover from Harvey, such as assistance with clearing clouded titles on homes, representation in mortgage foreclosures, and protection against disaster-related fraud and scams. Funding is also needed to support wide scale legal education programs to inform victims about their legal rights and to help them avoid scammers who prey on the most vulnerable disaster victims (especially seniors and immigrants). The resources of legal aid organizations in Texas were already stretched extremely thin prior to Hurricane Harvey, and, without additional funding, the organizations will be unable to meet the critical legal needs arising out of this disaster.

<sup>21</sup> As noted earlier, the economic displacement of the workforce in the affected regions is a significant problem that needs to be overcome to recover from this disaster. The large expenditures for public infrastructure and repairing and replacing homes and businesses offer significant job opportunities that should be made available on a priority basis to disaster survivors. The hiring of local low-income residents should be a core operating principle in disaster-recovery contracts.

Existing rules for the HUD Section 3 program should be enforced and also be modified to prioritize extending contracting opportunities and employment opportunities to disaster survivors. The federal and state government should retain experts in outreach and communications to develop and distribute multilingual marketing of contracting and job opportunities for disaster survivors. The agencies should also establish protocols for setting contracting and hiring goals and for publicly reporting progress towards those goals.

<sup>22</sup> As OSHA and other government agencies have identified, homeowners, renters, volunteers and paid workers engaged in clean-up work after a flood are exposed to a host of health and safety hazards. Hazards include contamination from chemicals, dangerous levels of mold, human sewage, spilled gasoline storage tanks, unsafe drinking water, live electrical wires, toxic air, and much more. Many of those returning to their homes or assisting with recovery efforts are unaware of these hazards. Community education should raise public awareness of these hazards and inform residents and workers about the actions they need to take to protect their health and safety.

<sup>23</sup> Ideally, federal long-term disaster recovery funds should be sufficient to address the needs of both infrastructure and individual household recovery. However, that has not been the case in recent major disasters impacting Texas. Therefore, there will be a need for state and local governments to set funding priorities.

Federal, state and local governments should establish a clear policy that the housing recovery of individuals and families takes precedence in the allocation of public funds for disaster recovery. The State of Texas established such a priority in the administration of Hurricane Ike/Dolly disaster recovery funds by

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setting a requirement that 55% of all funds be expended to address the housing needs of hurricane survivors. For Hurricane Harvey disaster recovery funds, a minimum of 55% of the funds should likewise be designated to address the housing needs of the survivors. The percentage of funding that is allocated towards assisting renters versus homeowners should be made in proportion to their respective worst case housing needs.

<sup>24</sup> In assisting survivors with securing rental housing, it is essential that rental units funded with disaster recovery funds are priced at a range of rent levels to meet the needs of all impacted families. **Overall, at least 80% of individual long-term disaster recovery assistance should be dedicated towards serving households making less than 80% of the median family income, with a priority on serving the rental housing needs of the most vulnerable populations, including those making less than 30% of the median family income.** To generate a more accurate assessment of the disaster recovery needs of the rental population affected by Hurricane Harvey and to guide funding allocations to produce housing at various rent levels, the State of Texas should utilize the FEMA claims data, in conjunction with the U.S. Census data utilized by HUD to report “worst-case housing needs” to Congress.

In past disaster rebuilding programs, governmental entities have failed to designate the rent levels that are to be served through the rental housing assistance programs. This has resulted in a disproportionate number of housing units provided to households with incomes above 50% of median family income and an inadequate number of units affordable to households with incomes below 50% and 30% of median family income. As a result, the housing needs of extremely low income families—families who often have the most dire housing needs—have been largely underserved. These discrepancies have been due in large part to the historical reliance upon federal Low Income Housing Tax Credits (LIHTC) as a layered subsidy to supplement the disaster recovery funds. LIHTC projects should be prioritized and enhanced with additional equity (such as through an additional National Housing Trust Fund allocation), CDBG-DR or rent vouchers to produce rents affordable below 50% and 30% of median family income.

<sup>25</sup> The allocation of disaster recovery resources for the rebuilding and repair of communities and housing must be fair, equitable and based upon an objective assessment of need. This requires good data. The baseline data for making these determinations is the claims data collected by FEMA and certified by FEMA’s field inspectors. In order to allocate the money fairly across the different geographies impacted by the disaster and to ensure that disaster survivors across different income levels, housing tenures and ethnicities are fairly and proportionately assisted with these public funds, the FEMA claims data needs to be quickly made available to local and state government agencies and to public interest organizations. Procedures should be put in place to safeguard individually-identifying claims data from being made public while still providing a granularity of geographic location to permit the assessment of needs at the neighborhoods level. Individual FEMA claims data should also be accessible by outreach workers to use to contact eligible survivors about applications for low-term recovery assistance.

<sup>26</sup> Nine years after Hurricanes Ike and Dolly, state and local governments have still not completed the construction of all of the housing they committed to rebuild with CDBG-DR funds. (This time period includes two separate allocations of federal funds and the implementation of a different set of housing reconstruction programs for each allocation). In response to the slow rate of housing reconstruction following Hurricane Rita, the 2010 Fair Housing Conciliation Agreement negotiated with the State of Texas governing Ike and Dolly funds ([https://archives.hud.gov/news/2010/doc\\_4305.pdf](https://archives.hud.gov/news/2010/doc_4305.pdf)) included a provision that established expenditure and program benchmarks for Round 2 housing programs administered by sub recipients, and provided for regional Council of Governments or the state to take over administration of programs when sub recipients did not meet benchmarks (see Section II.B.1.d of the Conciliation Agreement). Despite this provision in the Agreement and the failure to meet the benchmarks, no transfer of authority away from a low- performing governmental jurisdiction never took place.

It is essential for the Governor and the Legislature to establish a timeline for the reasonable completion of disaster recovery for Hurricane Harvey and to hold the administering government agencies accountable for completion based on that timeline. For owner-occupied housing, the state should

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establish a benchmark that 50% of all the housing units will be completed no later than 18 months from August 26, 2017, and that 100% of the units will be completed within three years. With regards to rental housing, all rehabilitation of rental housing should be completed within 12 months of August 26, 2017, and all newly constructed rental housing should be completed within three years.

<sup>27</sup> The size, scope and complexity of disaster recovery makes both program delivery and program oversight challenging. Two of the three state agencies that have managed disaster recovery in the past in Texas—the Texas Department of Housing and Community Affairs and the Texas Department of Rural Affairs—both had boards of directors that attempted to exercise oversight over their agency’s administration of these programs. The Texas General Land Office is headed by an elected official and the agency lacks an oversight board. Each agency oversaw a program in which disaster recovery extended over lengthy periods of time and far longer than was intended. Independent oversight and accountability would be needed to increase accountability and ensure that programs are fully implemented in an efficient and effective manner.

We propose an independent commission composed of elected officials and subject matter experts independent of the state and local agencies responsible for administering the programs. This commission should be bipartisan and appointed by the governor. It should report to the governor and the legislature on progress in disaster recovery and make recommendations on program priorities, the design of programs, expediting recovery and the cost-effective use of resources. It should also be tasked with making recommendations to better prepare the state to recover from future natural disasters.

<sup>28</sup> To supplement and support the work of the independent oversight commission for disaster recovery, the state should establish an inspector general to oversee disaster recovery program administration at the state and the local level and to report and make recommendations to the commission, the Governor and the legislature regarding the timely and efficient use of public resources to expedite the recovery effort. In past disasters the state auditor’s office has sought to audit and report on disaster recovery. It is apparent that there is a need for continuing and ongoing oversight of the billions of dollars of public funds at a level of the state auditor’s office is not equipped to provide. The independence of the Inspector General’s office will ensure that prompt and honest assessments as to the effectiveness of the recovery effort are available.

<sup>29</sup> First, the opportunity to participate in government is key in a democracy. Second, in order to understand the needs of disaster survivors agencies engaged in post-disaster rebuilding need to hear from the people impacted by the disaster. Third, disaster survivors have experienced the trauma of having their material possessions and home taken away from them by a force (the hurricane) they could not control. It is critical that survivors are afforded the power and agency to take control of their lives in the recovery. This means the ability to participate in shaping the recovery program.

Given the regrettable absence of any pre-existing long-term rebuilding plans in Texas, the planning process must now begin immediately. In past disasters public participation has followed the narrow letter of federal law by posting notices of formal hearings and comment periods early in the recovery when decisions affecting large, general allocations of funds are made. These opportunities for participation, while important to the overall direction for the recovery program, are not the opportunities that will engage most survivors. Survivors are instead more interested in having a voice in how programs directly affect their homes and neighborhoods.

For this reason, there needs to be an emphasis on citizen engagement in: 1) the local allocation of funds to specific infrastructure and flood control; 2) the specifics of owner-occupied housing reconstruction including procedures relating to the homeowner and benefit levels; 3) proposals for any voluntary neighborhood buyouts. There should also be targeted engagement at the community or neighborhood level in the most heavily impacted places. Planners familiar with the parameters and constraints of the recovery program should work with neighborhood leaders in key communities to advance these important public participation opportunities to assist residents in coming up with viable and realistic recommendations.

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When it comes to process, this rapid planning process must seek community-informed recovery decisions through inclusive and participatory methods, using planners and professional community engagement staff that conducts outreach, community engagement, that facilitates citizens in the process of developing and implementing recovery plans for individuals and neighborhoods.

<sup>30</sup> The state's failure to recognize and comply with fair housing laws during the initial phases of the hurricanes Ike and Dolly recovery program resulted in a fair housing complaint being filed and a conciliation agreement being signed ([https://archives.hud.gov/news/2010/doc\\_4305.pdf](https://archives.hud.gov/news/2010/doc_4305.pdf)) The provisions of this agreement served the communities and disaster survivors well over the course of the recovery. The state should incorporate the provisions of the Hurricane Ike/Dolly fair housing agreement into the Hurricane Harvey recovery program.

The State of Texas and many of the local jurisdictions impacted by Hurricane Harvey have submitted to HUD their formal Analysis of Impediments to Fair Housing and action plans. The state and local jurisdictions must comply with their plans in the design and implementation of recovery programs. The state and cities have certified to HUD they will comply with the plans they developed and submitted. Fair Housing laws cannot legally nor should they be waived. Compliance will not slow disaster recovery but must guide a number of key decisions. Jurisdictions simply must ensure that decision makers are informed of fair housing requirements and abide by those requirements before they take actions that would put their governmental jurisdictions in violation of the law.

In administering CDBG-DR funds for hurricanes Ike and Dolly the Texas General Land Office hired staff with expertise in compliance with fair housing laws. These land office staff undertook formal assessments of fair housing compliance with all applications for the construction of rental housing with funds from the disaster recovery program. This internal staff expertise along with a review process for compliance with fair housing laws should be put in place by the administering agency for Hurricane Harvey recovery.

Smaller cities and counties that are not designated CDBG Entitlement Communities have not prepared and submitted to HUD an Assessment of Fair Housing or the now superseded Analysis of Impediments to Fair Housing. To help jurisdictions understand and comply with Fair Housing law, the State of Texas established a expedited fair housing assessment process for Hurricane Ike/Dolly disaster recovery programs. This accelerated assessment and review, known as the Fair Housing Assessment Statement – Texas or FFAST Form) proved highly successful and not burdensome for smaller governments. The existing FFAST process should be carried forward in the Hurricane Harvey recovery process.

<sup>31</sup> Persons without documentation tend to be employed in jobs in the service and construction industries. Texas should recognize that these persons contribute to the economy and have provided critical labor for reconstruction following past disasters. Therefore, the recovery needs of undocumented immigrants should be provided for and the state should suspend enforcement of SB 4.

If a large number of construction workers are stopped from working in disaster impacted areas the result will be that the rebuilding process will be greatly slowed and costs of construction will rise dramatically. The immediate impact will be on non-government funded construction. It is unlikely that government funded rebuilding project would employ undocumented workers. But privately funded homes repairs and the state's service economy will be severely impacted by the impact of SB 4. The loss of a large part of the labor force will have dramatic inflationary impact on the economy as the labor supply shrinks. This will drive up the cost of recovery and reduce the impact of the available federal funds to provide crucial infrastructure and to rebuild homes.

The FEMA standard for assistance is as follows, "To be considered for assistance, at least one person in the household must be a U.S. citizen or by legal definition a "qualified alien" or "non-citizen national" with a Social Security number. A 'qualified alien' includes, but is not limited to, someone who holds permanent residency, refugee, or asylum status. "non-citizen nationals" are citizens of the U.S. territories. If a parent or guardian registers with FEMA on behalf of a U.S. citizen child living in the

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household, FEMA does not collect information on the immigration status of other household members." <https://www.fema.gov/news-release/2016/06/20/us-citizens-qualified-aliens-non-citizen-nationals-should-register-fem>

<sup>32</sup> The mistakes of past disaster recovery that permitted LIHTC developments to be constructed without producing any units with rents affordable to the renter population displaced by the hurricane must not be repeated. See the comments in endnote 24 for ways to supplement housing tax credits with other funding programs to accommodate a percentage of more affordable rent levels.

<sup>33</sup> Homeless providers working at shelters in the aftermath of Hurricane Harvey reported that at one point FEMA intake workers were informing homeless persons that they needed a residential address to apply for FEMA assistance.

<sup>34</sup> A rapid, large-scale repair and rebuilding program needs to be set up immediately to quickly repair the homes of the most vulnerable homeowners, including seniors, persons with disabilities, and families with children. The program needs to provide a single point of contact for the home repair process and mobilize and coordinate assistance from the private and public sectors.

After prior hurricanes hit Texas, many survivors from those storms lived in hazardous homes for years waiting for them to be repaired. The blue tarps on the roofs of homes across the impacted areas were an all-too-common sign of the failure of government programs to effectively provide relief to homeowners. These delays were unacceptable and must not be repeated with Harvey. Funding should be provided for a repair program that can quickly complete repairs to the homes of the most vulnerable survivors. The National Guard and Americorps volunteers should be deployed to support the repair program.

A model program in this regards is SBP USA, a national nonprofit rebuilding program that was created in response to Katrina and utilizes Americorps volunteers to quickly repair and rebuilt homes. SBP also mobilizes and coordinates the efforts of the private sector to assist with repairs. For a summary of the SBP program, see <http://sbpusa.org/what-we-do/share>, and [https://www.nytimes.com/2017/08/31/nyregion/sandy-harvey-hurricane-recovery-lessons.html?mcubz=0&\\_r=0](https://www.nytimes.com/2017/08/31/nyregion/sandy-harvey-hurricane-recovery-lessons.html?mcubz=0&_r=0).

<sup>35</sup> In its Ike Round 2 housing program, the State of Texas established a first of its kind homeowner mobility program that allowed homeowners participating in the CDBG-DR funded home reconstruction program the option to relocate out of FEMA hazard areas. The program, known as the Homeowner Mobility Program or HOP, provided homeowners whose pre-storm houses were located in a FEMA designated hazard area and an area of highly concentrated poverty with the option of having a replacement home rebuilt on their current lot, the option to rebuild in another safer neighborhood, or the option to use the amount of funds allocated for the reconstruction of their home to purchase a home in a better, safer neighborhood.

This program is a national model. The objective is for recovery programs to extend to survivors the right to choose where to live and to make that option a real one. It is morally and legally wrong for a government funded recovery program to force people to remain in a pre-disaster location against their wishes and interests.

In the Hurricane Harvey recovery process, the state and local governmental jurisdictions have the opportunity to incorporate lessons learned, including the importance of high-quality mobility counseling and of ensuring that choosing relocation did not delay the homeowner's housing recovery longer than rebuilding in place took. The HOP program both mitigated the effect of future disasters by allowing families to move out of FEMA hazard areas, and ensured that the state was in compliance with the Fair Housing Act and other civil rights laws.

<sup>36</sup> Compliance with fair housing law is a requirement for eligibility for housing and community development grant funds, including CDBG-DR. But incorporating fair housing and civil rights into post-disaster programs is also important for complete recovery that increases individual and community resilience. Research has conclusively shown that low-income children who are able to move out of low-opportunity areas into neighborhoods with good schools and safe streets will be demonstrably more economically successful overall. Living in higher opportunity neighborhoods outside areas of

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concentrated poverty provides a bridge to opportunity for adults, making it more likely they will find and keep good jobs, reducing their dependence on public systems. As Justice Kennedy observed in a recent Supreme Court decision on fair housing, continuing segregation gives rise to inequality and racial tension and police misconduct and unrest in many communities. Providing a broader range of residential, educational and employment opportunities will diminish those conditions. That is particularly important as the nation (and Texas) become majority minority in the next couple decades. Communities that have taken active steps to reduce racial/ethnic and income segregation have prospered: Seattle, Portland, Montgomery County (MD), New Jersey, etc. Businesses need an educated and capable workforce in the next generation, and perpetuating segregation reduces those qualities in the workforce. Because it is the law and for all these reasons, the disaster recovery programs must be designed and administered in a manner to dismantle the legacy of residential racial segregation in Texas.

<sup>37</sup> Texas law (Government Code, Section 2306.514) requires that affordable, single family housing assisted with financial support from the State of Texas be “visitable.” These provisions ensure that the house can accommodate the residents of the home, family members and guests as they age and likely experience, at some point in their lives, a mobility disability. The costs associated with these minor accommodations at the time a home is newly constructed—including providing a no step entrance and doors that a wheelchair can get through—are minimal. The administering agencies for disaster rebuilding should ensure awareness and compliance with the existing Texas statute.

<sup>38</sup> In 2013 the Texas Legislature directed funding of a demonstration project for the rapid development of post-disaster replacement housing using a temporary to permanent housing approach. This is a building and design approach in which a smaller housing unit is first built and occupied as temporary housing by the homeowner while a larger, permanent house is constructed around the temporary house.

The RAPIDO demonstration program was pilot tested at the direction of the Texas Legislature with the construction of 20 homes in the Lower Rio Grande Valley for Hurricane Dolly survivors. The results of the demonstration program in the Texas Lower Rio Grande Valley was highly successful. Known as RAPIDO, the model has gone on to win national awards and recognition, including the Smithsonian Institution’s National Design Award and the exhibition of RAPIDO homes in the Smithsonian Cooper-Hewitt National Design Museum.

Key advantages of the program are that it allows the capture of the federal expenditure of funds for temporary housing in the permanent housing. FEMA often expends between \$70,000 and \$100,000 to deploy a trailer as temporary housing. The cost of the temporary housing unit in the RAPIDO housing model is closer to \$20,000 and the cost of the finished completed permanent structure is \$65,000 more, bringing the total replacement house cost to approximately \$85,000. By saving the cost of the FEMA temporary housing, this program would permit significantly more households to be assisted with the available funds. More information on RAPIDO can be found at: <http://www.bcworkshop.org/rapido/>

<sup>39</sup> Over the past two legislative sessions the Texas Senate has nearly unanimously passed legislation authored by State Senator Eddie Lucio, Jr to permit local jurisdictions to develop advanced plans for post-disaster rebuilding of owner-occupied houses for lower income residents. Unfortunately, the legislation has failed to pass over three legislative sessions in the Texas House of Representatives.

The legislation permits local jurisdictions to develop, in conjunction with the Texas A&M University hazard reduction and recovery center, and appropriate local plan for the rapid rebuilding of housing following a natural disaster. The legislation seeks to reduce the amount of time between the onset of a disaster and the start of reconstruction of homes by securing advanced preclearance of local disaster recovery plans by the state agency responsible for long-term disaster recovery. Had the legislation passed there would have been recovery plans in place that would have greatly accelerated the home rebuilding process for lower income households.

<sup>40</sup> As the homes of low-income households are repaired or rebuilt after a disaster, homeowners are often confronted with higher tax appraisals and thus higher tax bills, with the perverse effect that the homeowners are then “taxed out” of their homes.

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The Texas Legislature should adopt a law allowing local governmental entities to adopt a circuit breaker tax program, which would allow for a cap to be placed on the percentage of income that a homeowner contributes towards property taxes, helping protect against the displacement of families and seniors from our communities. Local taxing entities also have the authority under Chapter 312 of the Texas Tax Code to adopt a local property tax abatement policy for reinvestment zones that exempts all or part of the increase in the value of a home for a period of up to ten years.

Utilizing their authority under Chapter 312, local governmental entities in the areas impacted by Harvey should adopt a tax abatement program for apartment owners that agree to include a certain percentage of affordable housing for low-income renters in their rebuilt properties.

<sup>41</sup> After hurricanes Katrina, Dolly, Ike, and Rita, tens of thousands of homeowners faced long delays or denials of assistance because of clouds on their title, which are very prevalent in low-income, minority communities. Several years after Ike, the General Land Office funded a Texas Title Project housed at the University of Texas School of Law to clear land titles of homeowners who applied for rebuilding assistance under the HOP program. This program was very successful, but it was funded by the state many years after Ike hit Texas, extending the delays homeowners confronted to rebuild. A similar program should be funded immediately to identify homeowner survivors with title issues and to start delivering title clearing assistance to them. The project could marshal the resources of pro bono attorneys for “easier” clouded title fixes, while staff attorneys for the project will be needed to tackle the more difficult clouded title issues, which can sometimes take up to two years to remedy. Without title clearing assistance, thousands of homeowners will be unable to repair their homes, and many will have no choice but to abandon their homes, creating a multitude of issues and costs for local governments from code enforcement costs to the loss of property tax revenue from those homes.

<sup>42</sup> The mobility opportunities for homeowners in the HOP program (see Recommendation 5.b.) should be expanded to renters. Survivors from Harvey who are renters should be provided with mobility counseling, apartment location services and financial assistance with deposits and moving expenses to have the option to move to safer neighborhoods or better places for their families. Recommendation 7.b. calls for a disaster and social neighborhood vulnerability index to be developed and publicized. The results of this index should be made available to renters and homeowners to use as they consider where to relocate to avoid future exposure to flooding and other natural disasters and to identify quality neighborhoods.

<sup>43</sup> HUD subsidized apartment developments in many parts of the disaster-impacted region were constructed many years ago. Today most are located in hazardous or otherwise unsafe locations. The disaster recovery program must avoid simply rebuilding these apartments back in their pre-storm locations but instead should: 1) offer the tenants of these development the opportunity to choose to move into private housing with a Housing Choice Voucher; and 2) rebuild developments that are currently in hazardous or otherwise unsafe locations in better places. For survivors who choose a voucher, they should have the option to use their voucher in another city or region (i.e., the vouchers should be “portable”).

When HUD-subsidized apartments are rebuilt, they should fully comply with HUD locational, design, marketing and environmental guidelines. Apartment developments should be developed not as “projects” housing only families below the poverty level, but instead house a mixed-income population and should be marketed using techniques and language that will reach people least likely to know about and apply for the housing, given its location and local demographics, following long-standing HUD guidelines to encourage an ethnically and racially diverse tenant population. The result of the redevelopment process should be to replace unit for unit the same number of subsidized apartments renting to extremely low income tenants, but should do so in a manner that affords the residents access to higher quality neighborhoods and the ability to live in an economically and racially integrated environment.

<sup>44</sup> In previous disasters HUD subsidized apartments were forced to compete with new, privately owned apartment developments and with rehabilitation requests for private, unsubsidized apartments. The HUD housing stock has invaluable rental housing subsidies attached to the developments. These subsidies permits the apartments to be affordable to extremely low income households that private apartments

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cannot serve without deep public subsidy. It is of paramount important that existing HUD-subsidized apartments not be lost because funds are not available to repair those units or to move and rebuild the apartments in safer and better locations. At least four HUD subsidized developments in Houston are located in flood hazard areas and one property is actually located within a floodway. HUD has issued a Title VI finding against the city finding that the city has unlawfully segregated government-subsidized developments over time. This finding must be addressed. The need to do so also makes it imperative that funds are set aside to address the segregation of this existing subsidized housing stock.

<sup>45</sup> Low-income renters, most of whom live paycheck to paycheck, are particularly vulnerable when a disaster strikes. Prior to Hurricane Harvey, Texas already faced a severe shortage of affordable rental housing for low-income households, with a shortage of more than 400,000 affordable rental units in the impacted areas. And many of the apartments that were affordable were substandard and concentrated in distressed neighborhoods. Hurricane Harvey, damaging thousands of affordable units, has dramatically exacerbated the difficulties that low-income renters face in accessing safe housing in safe and quality neighborhoods. Houston alone saw upwards of 100,000 apartment units damaged from the hurricane. Prior disasters have highlighted how access to affordable, quality rental housing is critical to helping impacted low-income families bounce back from the storm and ensuring that communities have the population and workforce they need to recover.

Simply creating rental units is not enough however. The rental housing must be affordable to survivors, many of whom have very low incomes. “Trickle-down” does not work in rental markets in large metropolitan areas experiencing dynamic growth. The recovery process must fund the development of rental housing at specific rent levels. This housing must be in areas with good schools, grocery stores, access to jobs and transportation and generally where renters want and need to live, not simply in locations where developers can access the lowest priced real estate.

<sup>46</sup> Affordable rental housing in many of the impacted areas is highly concentrated in distressed neighborhoods and areas prone to recurring flooding whenever there are heavy rains. In the Greenspoint neighborhood of Houston, for example, where one of every three residents lives below the poverty line, 72% of all multifamily housing is in the 100-year flood plain and some are located in the floodway. Many of the 17 apartment complexes that were heavily damaged during the 2016 Tax Day flood were awaiting repair when Harvey hit. The apartments in this area also flooded in 2001 and 2002. (see [www.houstonchronicle.com/local/gray-matters/article/Greenspoint-poverty-and-flooding-7303300.php](http://www.houstonchronicle.com/local/gray-matters/article/Greenspoint-poverty-and-flooding-7303300.php)).

Among the apartment communities that are the most vulnerable to recurring flooding are a large number of publicly-subsidized apartments. Houston, for example, has at least eight privately-owned, publicly-subsidized apartment complexes that are located within the 100-year floodplain (given the recent recurrence of flooding in these areas, they could be more accurately classified as 5-year floodplains). Instead of repeatedly spending precious disaster recovery resources on rebuilding properties in such vulnerable areas, these properties should be relocated to areas that are not vulnerable to flooding and to locations where residents have access to important neighborhood amenities and safe and stable communities.

<sup>47</sup> At the time Hurricane Harvey struck Texas, there was already a severe shortage of housing affordable in the impacted areas. The shortage of housing for Extremely Low Income (ELI) households (households earning less than 30 percent of the area median family income) was at least 164,000 units, while the shortage of affordable and available rental housing units for households with Very Low Incomes (VLI) (31 to 51 Percent of median family income) was at least 148,000 units. In Texas Congressional District 14, for example, which includes Freeport, parts of Beaumont and many smaller towns impacted by Harvey, there were only 32 affordable rental units available for every 100 ELI household, and in the Houston-Sugar Land area there were only 18 units for every 100 ELI household (for maps of other districts see <http://nlihc.org/sites/default/files/Texas.pdf>). In short, there was a critical shortage of affordable rental units available prior to Hurricane Harvey. The disaster has greatly increased this critical shortage. Housing units that meet minimum building standards and that have rents affordable to households earning 30 percent of median family income and below are largely those that have a government subsidy.

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It is not only multi-family rental housing that is needed. It appears at this early stage of the damage assessment that affordable single family rental housing has been very hard hit. Single family rentals can provide access to some higher quality areas and more appropriate housing than some multifamily housing. Single family housing can also reinforce the neighborhood fabric of neighborhoods where single family housing is the predominant housing type. The process for repairing and reconstructing single family rental housing must be explicitly provided for in the disaster recovery process. Following Hurricane Ike and Dolly, the City of Houston set aside funds to provide the reconstruction of affordable single family rental housing in desirable, rapidly gentrifying near Northside and Eastside neighborhoods. The city's failure to adequately focus on this initiative has resulted in those funds remaining unspent today, nine years after Hurricane Ike. Lessons should be learned from this and applied to Hurricane Harvey recovery.

<sup>48</sup> The Hurricane Harvey disaster-impacted region is home of a large and growing number of extremely low-income households (i.e., households at or below 30% of median family income; the income amount depends on the county and is around \$16,500 for a family of four in the Jefferson County or Refugio County). Many of those households reside in substandard housing located within flood hazard areas that are prone to recurring flooding.

Perversely, the region has a dramatically lower per capita supply of government subsidized housing than most other regions of the country. This is due to historical federal policies governing the allocation of government subsidized housing, the rapid recent growth in the number of low-income households within the disaster-impacted region and the historical reticence of local governmental entities within the region to apply for subsidized housing as it became available from HUD. This deficit of subsidized housing exposes extremely low-income households to greater vulnerability to disasters. As part of a disaster recovery package, state and local governments and HUD should cooperate to document the need of housing for extremely low-income households within the region, and HUD should provide a special appropriation of Housing Choice Vouchers to raise assess to HUD-subsidized housing to a per capita level that is equivalent to the level of vouchers in older major cities in the United States.

<sup>49</sup> See Recommendation 2.f. above and the discussion in the endnote of that recommendation regarding policies opening up housing opportunities for renters with vouchers and other forms of housing assistance. Policy interventions to expand housing options for renters with vouchers and other forms of housing assistance should include: (1) a state law prohibiting landlords from discriminating against tenants with Disaster Recovery (DHAP or DVP) and Housing Choice Vouchers or a source of income derived as a result of being a person with a disability; (2) the elimination of the state law (Tex. Local Government Code Section 250.007) barring cities from enacting ordinances that protect tenants with vouchers or other forms of housing assistance from discrimination (the existing state law exempts ordinances that protect veterans with vouchers); and (3) a policy requiring all apartment owners receiving any rebuilding assistance to accept a certain percentage of tenants with housing vouchers and to bar the owners from discriminating against tenants on the basis of having a voucher or other source of housing assistance.

<sup>50</sup> The FEMA flood maps and Flood Insurance Rate Maps (FIRMs) are woefully out of date and inaccurate for the impacted areas and need to be updated. Communities in the Harvey impacted areas have experienced three "500-year" flood events in the past few years, and many of the areas inside and outside of the 100-year floodplain are subject to frequent flooding. Eighty percent of homeowners affected by Harvey did not have flood insurance. As a result of the inadequate maps, it is very difficult for average consumers to make informed decisions about where to live and to determine their home's risk of flooding. Immediately, before any rebuilding takes place, the cities, counties and state should work with FEMA to revise the flood hazard areas. The failed rollout of the Biggert-Waters Act of 2012 has also meant that flood insurance premiums continue to be based on outdated and inaccurate maps.

<sup>51</sup> In addition to updating the FEMA flood maps (see the above recommendation), maps of the communities along the Texas coast should be generated to include up-to-date information delineating wind, surge, and flood damage, hazardous facilities, and socio-demographic data related to social vulnerability (income, race/ethnicity, gender, education, age, transportation dependence, etc.). These

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maps should be made publicly available to both decision-makers and residents to guide the targeting of public infrastructure, particularly storm water management infrastructure and environmental remediation efforts and so that residents can make informed decisions about the risk of exposure to both natural and chemical hazards when determining where to rebuild.

<sup>52</sup> When spending disaster recovery funds on infrastructure, it is important that governmental entities budget both for regional drainage infrastructure and neighborhood-level drainage infrastructure. It is also critical that investments are made with a focus on eliminating racial and ethnic disparities in the drainage infrastructure that exists in many neighborhoods across the areas impacted by Hurricane Harvey. Infrastructure funds must be allocated in a manner that ensures that all neighborhoods meet minimum standards for local drainage and can sustain without damage at least a 25-year flood event. While these improvements would not protect all neighborhoods from another disaster on the scale of Hurricane Harvey, they would help mitigate damage from future large storms, provide much relief from smaller recurring flooding events, and bring communities into compliance with Title VI of the Civil Rights Act of 1964.

Many of the low-income neighborhoods of color impacted by Hurricane Harvey face recurring flooding as a result of inadequate drainage infrastructure. For example, according to a 2014 engineering study by the City of Houston: 1) 88 percent of the un-engineered open drainage ditches in the city are located in majority minority neighborhoods; and 2) 43% of the city's open drainage ditches provide inadequate storm water protection from a two-year rain event—despite the fact that most of these neighborhoods have been part of the city for more than half a century. (See <https://texashousers.net/2017/08/31/houston-knew-neighborhoods-of-color-were-inadequately-protected-from-even-modest-storm-events/>). Other low-income communities across the areas impacted by Hurricane Harvey face similar inequities in drainage infrastructure. The lack of even basic drainage protection in these communities of color must be remediated to bring cities into compliance with Title VI of the Civil Rights Act of 1964 and should be addressed through the Hurricane Harvey disaster recovery funds.

<sup>53</sup> There are several neighborhoods within the disaster impacted region with extreme exposure to environmental risks that must be addressed. For example, the West Port Arthur neighborhood is a “fence line” community abutting the state's largest refinery and hazardous waste incinerator. In Corpus Christi, the Hillcrest and Washington-Coals neighborhoods are located next to refineries, chemical plants, sewage treatment facilities and the port and are the subject of a limited voluntary buyout program being carried out in conjunction with the construction of the new harbor bridge project. Adjoining the large Exxon refinery in Beaumont and the port facility are a number of low-income, African-American neighborhoods. The Houston Manchester neighborhood is surrounded by chemical plants and refineries and has severe exposure to air emissions and is at risk simply by its close proximity to the plants.

To increase the health and safety of residents living in hazardous neighborhoods, the State of Texas and local jurisdictions should develop neighborhood-wide voluntary buyout programs in neighborhoods exposed to major environmental risk, in consultation with property owners and residents and with the surrounding refineries, ports and industrial developments. The structure of the voluntary buyout program adopted for the Hillcrest neighborhood of Corpus Christi could serve as a model elsewhere. That program uses the buyout standards and process of the federal Uniform Relocation Act to carry out the voluntary sale of homes. This program permits homeowners to receive enough funds to obtain a home that is in good condition in a safe neighborhood based on present market conditions as opposed to receiving simply the assessed (and depressed) value for their home in its environmentally blighted neighborhood.

<sup>54</sup> In instances where remediation or large-scale neighborhood buyouts cannot take place, disaster survivors residing near environmental hazards or in areas that frequently flood should be prioritized for individual voluntary buyouts. A policy should be established that rental housing will not be assisted with disaster recovery funds for reconstruction within 100-year flood hazard areas under any circumstance. Homeowners residing within 100-year flood hazard areas should be informed of the risks and provided the opportunity to rebuild within the hazard area provided that the residential structure and parking areas are reconstructed in a manner that elevates them above the revised 100-year floodplain.

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<sup>55</sup> It has been widely reported that at least 14 Environmental Protection Agency designated Superfund sites within the disaster-affected regions were flooded or were damaged by Harvey and may have been compromised by the hurricane. The long-term presence of Superfund sites within heavily populated areas presents an unacceptable health and safety risk which should be addressed with disaster recovery funds. Many of the Superfund sites have been designated for decades, yet not fully remediated. To clean up the sites, the state should work with the Environmental Protection Agency to secure necessary resources, along with utilizing the funding made available in conjunction with the Hurricane Harvey recovery. Other environmental hazards include exposure to dangerous levels to air pollutants in neighborhoods near refineries and chemical plants, such as the plastics plant in Point Comfort that released about 1.3 million pounds of excess emissions including benzene after the storm, and a chemical plant in Crosby, Texas that exploded after Hurricane Harvey, filling the air with dangerous smoke and triggering an evacuation of the area.

In addition to the Superfund sites, there are a number of lower level environmental dangers within residential neighborhoods on the Gulf Coast. For example, in the Old Spanish Trail neighborhood of Houston, the abandoned CES chemical storage site abuts schools, churches and single-family residences. Floodwaters from Hurricane Harvey left standing water on this site that is heavily contaminated. The storm likely washed contaminants onto the adjoining properties. Cities, counties and the state should conduct an inventory of hazardous sites that are proximate to residential development in flood-prone areas and should utilize disaster recovery funds to clean up, remediate, purchase and appropriately repurpose the sites.

<sup>56</sup> On a recurring basis in Texas, housing units that were rebuilt after a hurricane or storm have subsequently suffered damage in another disaster and have had to be rebuilt again. This is an expensive and frustrating lesson of the need to build in a more resilient manner. To improve the resiliency of homes in the hurricane impacted areas, the state and local governments should set a minimum base level of elevation required for all reconstructed homes in the floodplain. Additional funds should be allocated to sufficiently elevate homes that are repaired but not reconstructed. The state should also adopt the design and construction standards approved by the Texas A&M University Hazard Reduction and Recovery Center to ensure that all homes along the coast that are rebuilt after Hurricane Harvey can survive the winds of a category three hurricane (i.e., 129 m.p.h. wind speeds) and are resilient to flooding.

<sup>57</sup> A number of organizations are currently involved in testing community-level environmental impacts from Hurricane Harvey, but these efforts are not comprehensive and are largely uncoordinated (and may also be duplicative in some areas) because there is no common portal available for sharing the testing data conducted in communities and for facilitating collaborative testing efforts. Funding should be made available to support comprehensive and coordinated testing efforts, including funding for a publicly accessible portal for the sharing of testing data, identifying gaps in testing and identifying environmentally hazardous areas in Texas.

<sup>58</sup> The regional advisory network should include an opportunity for national experts to provide input on topics necessary to an expedited, equitable, just, environmentally-responsible and resilient recovery. Given the great deal of interest from across the nation and world, many researchers will be interested in understanding the causes and consequences of Hurricane Harvey. An advisory network would coordinate and harness the knowledge of these researchers and apply that knowledge to the recovery process of the Texas Coast and the many different issues that have arisen from Hurricane Harvey.

<sup>59</sup> The cleanup from Hurricane Harvey will represent one of the biggest waste-disposal projects in U.S. history. It is essential to the health and safety of Texas residents that a plan is put in place immediately to ensure that the debris from the hurricane is properly tested, classified and disposed of, in a manner that does not expose residents to environmental hazards. Funding should also be provided to support programs to safely reduce and recycle demolition waste when it is safe to do so, as well as funding to support the monitoring and enforcement of disposal violations. After hurricanes Katrina and Sandy, organizations in New Orleans and New York stepped in to reduce demolition waste. Similar efforts should be supported in Texas.

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<sup>60</sup> Dozens of public schools across the Hurricane Harvey impact zone suffered major damage and many will have to be rebuilt. In the rebuilding process, the state, school districts, and cities have the opportunity through community engagement with impacted families and communities and incorporation of national best practices to rebuild the schools as models of excellence, integration and innovation and to be the leaders in 21st Century public education.