



# Legal Aid of NorthWest Texas

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April 25, 2016

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## **Re: Complaint under Title VI of the Civil Rights Act of 1964**

Dear Environmental Protection Agency/Department of Housing and Urban  
Development/Department of Education Title VI Program Coordinator:

On behalf of (b) (6) Privacy, (b) (7)(C) Enforcement Privacy and (b) (6) Privacy, (b) (7)(C) Enforcement residents of Dallas, Texas, we file this complaint under Title VI of the Civil Rights Act of 1964 (Title VI).

### **I. Introduction**

For the reasons stated below, we request that the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), and the Department of Education (DEPED) undertake a Title VI compliance investigation of the City of Dallas, Texas (Dallas).

Dallas took discriminatory action on October 28, 2015 when the Dallas City Council approved public assistance funds in the amount of \$2.5 million to subsidize infrastructure for development of a private real estate transaction between Argos Ready Mix South Central (Argos) and West Dallas Investments, L.P. (WDI). The transaction results in a land swap deal and the

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relocation of the Argos existing ready mix concrete plant from (b) (6) Privacy, (b) (7)(C) Enforcement Privacy (land then owned by Argos) to (b) (6) Privacy, (b) (7)(C) Enforcement Privacy (land then owned by WDI).<sup>1</sup>

This complaint is timely under 40 C.F.R. § 7.120(b)(2), 24 C.F.R. § 1.7(b), 34 C.F.R. §100.7(b).

We request you review Dallas's actions in facilitating the relocation of the Argos batch plant to a National Priorities List Superfund Site (Superfund site) located in a majority Hispanic and African American neighborhood. The relocation site is less than 500 feet from a public middle school and within a mile of a 196 unit public housing property and private residences.<sup>2</sup> We request that the EPA, HUD, and DEPED take all appropriate measures to ensure Dallas's compliance with Title VI.

Dallas's decisions and procedures violate its duty to administer all programs and activities in a nondiscriminatory manner. These violations include both actions that have caused and will cause significant adverse impact on the basis of race, color, and ethnicity, as well as acts that constitute intentional discrimination based on these protected classes, which are prohibited by Title VI.

Complainants allege Dallas violated Title VI's prohibition on discrimination as follows:

1. Subsidizing the relocation of the Argos batch plant, without adequate consultation with and mitigation for minority residents of these neighborhoods, will continue to perpetuate discriminatory and significant adverse impacts on African American and Latino residents in West Dallas.
2. Subsidizing the relocation of the Argos batch plant without adequate consideration of the residents' concerns perpetuates past discrimination against African American and Latino residents in West Dallas who have historically borne disproportionate environmental impacts as a result of prior zoning and siting of heavy industries, including the RSR lead smelter which is now a Superfund site.
3. Subsidizing the relocation of the Argos batch plant to a location less than 500 feet from a public middle school, whose students are 98.2% Latino and African American,<sup>3</sup> is discriminatory of equal education opportunities. Dallas's failure to adequately consider the effects of the plant relocation on the students' access to, quality of and level of educational experiences and programs is a violation of their obligation to ensure Title VI compliance.
4. Subsidizing the relocation of the Argos batch plant within a mile of Kingsbridge Crossing, home to primarily low income African American and Latino residents of West Dallas, discriminates against and forces West Dallas residents to bear the brunt of environmental and health impacts of the Argos batch plant operation.

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<sup>1</sup> See Exhibit A at 6-8.

<sup>2</sup> See Exhibit B

<sup>3</sup> <https://mydata.dallasisd.org/docs/CILT2016/DP74.pdf>

5. Dallas intentionally discriminated against African American and Latino residents in West Dallas implementing discriminatory procedures by prioritizing and subsidizing commercial and industrial development over the rights and needs of West Dallas residents through development agreements which resulted in the selection of the current site to be used for the relocation of the batch plant, by failing to adequately consider the impact of the relocation on the residents of West Dallas, by failing to adequately provide and allow for meaningful public participation of residents, and by ignoring the input and concerns of residents.

## **II. Complainants**

Complainants [REDACTED] and [REDACTED] are African American residents of West Dallas.

[REDACTED] and [REDACTED] are concerned about the health and safety issues posed by the relocation of the Argos batch plant, further transformation of West Dallas into a heavy industrial area, increase in industrial traffic on roads that are adjacent to a public school and family public housing property, and the reduction of property values in the neighborhood.

The exclusion of West Dallas residents from meaningful participation in the decision making process regarding the allocation of public assistance to Argos and the zoning and siting of heavy industry in their neighborhood exacerbate and perpetuate past discrimination against African American and Latino residents in West Dallas.

## **III. Dallas must comply with Title VI as a recipient of federal funding**

Dallas is a past and current recipient of federal funding. These include grants from the EPA, HUD, and DEPED.<sup>4</sup>

As a recipient of federal funding, Dallas is required to provide assurances of compliance with Title VI.<sup>5</sup> Additionally, Dallas is required to assure “nondiscrimination in all of its programs, activities, and services, [regardless of] whether those programs, activities, and services are federally funded or not” by its own Title VI Nondiscrimination Policy.<sup>6</sup> Furthermore, that same policy requires Dallas to assure compliance with Executive Order 12898 and address environmental justice issues in minority populations and low income populations.<sup>7</sup>

Accordingly, Dallas’s actions in facilitating the relocation of the batch plant are subject to the requirements of Title VI.

## **IV. Factual and Historical Background**

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<sup>4</sup> The City of Dallas received federal grants from the EPA, HUD, and DEPED in fiscal years 2013, 2014, 2015, and 2016. *See* Exhibits C, D, and E.

<sup>5</sup> *See* 40 C.F.R. part 7 (EPA), 24 C.F.R. §1.5 (HUD), 34 C.F.R. §100.4 (DEPED)

<sup>6</sup> *See* Exhibit F

<sup>7</sup> *Id.*

The neighborhoods of La Bajada, Los Altos, Homestead, Gilmore, Muncie, Victory Gardens, Kingsbridge Crossing, Bickers Park, Ledbetter Gardens, Westmoreland Gardens, Eagle Ford, La Loma, La Estrella, and Westmoreland Heights, collectively, (West Dallas) will be negatively impacted by the relocation of the batch plant.

Dallas has a history of regulating land use throughout the city.<sup>8</sup> West Dallas contains 12 brownfields sites, and one Superfund site.<sup>9</sup> The one-mile radius of the Superfund site—which is adjacent to the relocation site—has an approximately 97 percent minority population.<sup>10</sup> In comparison, Dallas County has a 47 percent minority population.<sup>11</sup>

The area where the concrete batch plant will be relocated to is currently designated as a “racially/ethnically-concentrated area of poverty” by HUD.<sup>12</sup> As such, it is clear that there is a long history of Dallas government approval for siting industrial activities near low income and minority neighborhoods in West Dallas.

### **A. History of the Superfund Site**

A large lead smelter was operated by RSR and/or its predecessors from 1936 to 1984 near the intersection of (b)(6) Privacy, (b)(7)(C) Enf. Privacy.<sup>13</sup> The primary activities of the site were “the preparation of scrap lead batteries, hard and soft lead refining process, alloying, and fabrication.”<sup>14</sup> The smelter and a large area surrounding it were added to the National Priorities List as a Superfund site in the early 1990s.<sup>15</sup> This site is immediately adjacent to the relocation site for the batch plant.<sup>16</sup>

Air emissions were virtually uncontrolled for over 30 years, until the City of Dallas enacted a lead control ordinance in 1968.<sup>17</sup> Ordinance violations immediately followed, and the 1970s brought various enforcement actions and compliance efforts by both Texas and federal agencies.<sup>18</sup> Various investigations have found dangerous environmental contaminants including lead, arsenic, and cadmium.<sup>19</sup> Such contaminants were released as air emissions from the smelter, the use of

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<sup>8</sup> *Dallas City Code* Ch. 51P, Pre.51P-1.102.

<sup>9</sup> CIMC Map Tool, Online at

[https://ofmpub.epa.gov/apex/cimc/f?p=CIMC:73::NO:73:P71\\_WELSEARCH:75212%7CZipcode%7C%7C%7C%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7C%7C-1%7Csites%7CN%7Cbasic](https://ofmpub.epa.gov/apex/cimc/f?p=CIMC:73::NO:73:P71_WELSEARCH:75212%7CZipcode%7C%7C%7C%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7Ctrue%7C%7C-1%7Csites%7CN%7Cbasic).

<sup>10</sup> Environmental Protect Agency, Census 2010 1-Mile Report,

<https://ejscreen.epa.gov/mapper/demogreportpdf.aspx?report=census2010sf1&coords=-96.8725%2C32.77694&featype=point&radius=1.0>.

<sup>11</sup> Community Facts – Census 2010, available online at

<http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>.

<sup>12</sup> U.S. Dept. of Housing and Urban Development, Affirmatively Furthering Fair Housing Data and Mapping Tool, online at <http://egis.hud.gov/affht/#>. Accessed April 21, 2016.

<sup>13</sup> CDC Agency for Toxic Substances & Disease Registry, Public Health Assessment – RSR Corporation, August 16, 1995. Available online at <http://www.atsdr.cdc.gov/hac/pha/pha.asp?docid=134&pg=0>.

<sup>14</sup> *Id.*

<sup>15</sup> <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0602297>

<sup>16</sup> See Exhibit B

<sup>17</sup> CDC ATSDR Report, *Supra* Note 13

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

battery chips and slag as residential fill, and the disposal of battery chip and slag materials in landfills and dumps.<sup>20</sup>

In the early 1980s, despite modifications by RSR, the smelter site continued to fail to meet federal air quality standards, causing the Texas Air Control Board to take action.<sup>21</sup> At this same time, blood screening of area children indicated excessive lead exposure.<sup>22</sup> In 1983, the State of Texas and the City of Dallas sued RSR for its violations of city ordinances and the Texas Clean Air Act.<sup>23</sup> The smelter facility was finally forced to cease operations in 1984 when the Dallas Board of Adjustment denied a necessary operating permit.<sup>24</sup>

Nonetheless, the effects of the decades of pollution continued well beyond the closing of the smelter. Remedial work began, as did a public health and medical monitoring program.<sup>25</sup> In 1991, soil samples taken by the Texas Water Commission showed elevated levels of lead, arsenic, and cadmium, resulting in a request that the EPA review the site.<sup>26</sup> The EPA then began a second remedial program, and by 1993, the RSR site had been designated as a “Superfund” site.<sup>27</sup>

As detailed above, the smelter operations negatively affected the health of the community. West Dallas residents recalled “everything being gray” with particulate from the smelter.<sup>28</sup> The residual effects of the smelter’s operation continue to affect West Dallas.<sup>29</sup> This history and the current facilitation of the batch plant’s relocation has led area residents to not trust their elected officials.<sup>30</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> <http://cityhallblog.dallasnews.com/2015/10/dallas-will-spend-2-5-million-to-help-trinity-groves-cement-plant-move-near-middle-school.html/>

<sup>29</sup> <http://www.dallasobserver.com/news/dallas-honored-for-housing-poor-people-on-former-superfund-site-7783908>

<sup>30</sup> <http://dfw.cbslocal.com/2015/10/28/west-dallas-concrete-plant-relocating-aided-by-2-5-million-boost-from-the-city/>; and <http://cityhallblog.dallasnews.com/2015/10/dallas-will-spend-2-5-million-to-help-trinity-groves-cement-plant-move-near-middle-school.html/>

## **V. Dallas's violation of Title VI**

Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.<sup>31</sup>

Dallas, a recipient of federal financial assistance from the EPA, HUD, and the DEPED, has violated Title VI by its October 28, 2015 decision to provide \$2.5 million of public assistance to Argos to facilitate the relocation of its batch plant to a site in the majority minority neighborhood of West Dallas.

Dallas's actions will benefit Dallas, Argos, and West Dallas Investments, L.P. (WDI) at the expense of West Dallas residents who consist of a substantially higher percentage of African Americans and Latinos than Dallas as a whole.

### **A. Disparate impacts suffered by West Dallas neighborhoods**

The residents of West Dallas will disproportionately bear the harmful impacts of the relocated batch plant. Dallas has failed to properly address and mitigate the impacts that the new batch plant will have in West Dallas, including increased air and noise pollution, threats to area school children and residents from plant operations, and decreased property values.

#### ***1. Increased air pollution***

Relocating the batch plant to (b) (6) Privacy, (b) (7)(C) Enforcement Privacy will expose its residents to increased levels of heavy industrial truck emissions due to the higher traffic flow in these communities.

In its presentation to Dallas's Economic Development Committee (EDC), Argos and WDI represented that the relocated batch plant will be better than the existing facility.<sup>32</sup> They also represented that the public benefits of the relocated batch plant will "potentially" lead to 48 more jobs, eliminate an "eyesore" and reduce plant related traffic at its current location, and will improve air quality as the relocated plant will be LEED certified.<sup>33</sup> In addition, Dallas states that the relocated plant will be LEED certified in its agreement to award Argos \$2.5 million dollars in public assistance.<sup>34</sup>

What is not discussed by Argos/WDI, nor required or requested by Dallas, is the basis for the blanket statement that it will improve air quality. Where will it be improved? How will it be

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<sup>31</sup> 42 U.S.C. § 2000d

<sup>32</sup> See Exhibit A

<sup>33</sup> *Id.* at 7, 9.

<sup>34</sup> See Exhibit G

improved? What is the degree of improvement and is it meaningful? Are these possible rather than attainable results?

Neither the materials provided to the EDC nor the subsequent agreement executed by Dallas provide even cursory attempts at oversight, compliance, or enforcement mechanisms to ensure the representations made by Argos would be fulfilled.

Argos and Dallas do not address the effects the relocation of the batch plant will have on neighborhood traffic, pedestrians, or property values, nor consider how foreseeable negative effects may be ameliorated.

The existing Argos facility at (b) (6) Privacy, (b) (7)(C) Enforcement is serviced by both train and a fleet of heavy trucks.<sup>35</sup> The relocated facility would require construction of an additional railway spur in West Dallas.<sup>36</sup> In addition to new railway traffic, the neighborhoods would also be forced to absorb higher traffic from Argos' fleet of trucks. The chosen relocation site is currently vacant land that has trees, shrubs, and other forms of vegetation that provide a natural barrier between the area residences and middle school, and the other industrial sites in the area.<sup>37</sup> Simply put, the area is not a verdant landscape, but it is undeveloped. As such, the construction of a new railway spur and heavy trucks will necessarily increase air pollution in the area.

Nowhere in its proposal does Argos address these issues, or offer any form of prospective mitigation to ease the burden the plant will have on the residents of West Dallas. In its agreement to grant Argos \$2.5 million dollars of public assistance, Dallas merely required that Argos operate the relocated plant for 5 years and not employ any undocumented workers.

Given the history of the neighborhoods in the area, their minority make-up, and their past exposure to air pollution, Dallas should have taken further measures to ensure the batch plant it agreed to help relocate would not cause the residents of West Dallas to disproportionately suffer harmful air pollution impacts that would accompany placing a batch plant in the middle of their communities.

## ***2. Increased noise pollution***

The increased noise impact from the relocated plant and accompanying traffic will be borne predominately by the low-income and minority population of West Dallas.

As stated above, the relocation site is currently an undeveloped plot of land.<sup>38</sup> Dallas and Argos have agreed to relocate Argos' cement batch plant to the site,<sup>39</sup> thereby transforming the vacant lot to allow for industrial manufacturing.<sup>40</sup> The area will have new construction,<sup>41</sup> new

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<sup>35</sup> See Exhibit A at 7 ("plant's aggregate stone is brought to its current location by rail") and p. 9 ("Argos committed to convert its truck fleet...").

<sup>36</sup> *Id.* at 7 ("New location is not currently serviced by rail...").

<sup>37</sup> See Exhibit B

<sup>38</sup> *Id.*

<sup>39</sup> See Exhibit G

<sup>40</sup> See Exhibit H

<sup>41</sup> See Exhibit G at 4 and Exhibit A at 9

train tracks,<sup>42</sup> and more truck and train traffic.<sup>43</sup> These actions are sure to introduce more noise pollution into the area.

Nothing in the materials provided to the EDC or the agreement executed by Dallas mentioned any measures to address and mitigate the noise impacts that would accompany the relocation of the batch plant on the area residents.

### ***3. Harm to children and school staff***

The traffic, air pollution, and noise pollution that will accompany the relocation of the batch plant will affect the students and staff at (b)(6) Privacy, (b)(7)(C) Enf. Privacy

The lead resting in the Superfund site adjacent to the middle school where the batch plant will be relocated was once described as the “largest lead-contaminated site in the United States.”<sup>44</sup>

West Dallas residents are concerned whether constructing and operating the relocated batch plant will disturb the lead-contaminated soil at the site. Dallas has offered the residents no response. Although debate exists regarding standards by which to measure lead exposure in children,<sup>45</sup> it is clear that disturbing lead from its resting place increases the risk of exposure.<sup>46</sup> What is not legitimate about questioning the risk of disturbing a location known to be the largest lead-contaminated site in close proximity of where children learn and play and where families work and live?

(b)(6) Privacy, (b)(7)(C) Enf. Privacy is located less than 500 feet from the relocation site for the batch plant.<sup>47</sup> The roads closest to the middle school are (b) (6) Privacy, (b) (7)(C) Enforcement Privacy. Of these, only (b) (6) Privacy, (b) (7)(C) Enforcement Privacy have more than two lanes in either direction of traffic.<sup>49</sup> The relocation site is located on (b) (6) Privacy, (b) (7)(C) Enforcement Privacy, but traffic would use either (b) (6) Privacy, (b) (7)(C) Enforcement Privacy to access Interstate 30 or Interstate 35, or (b) (6) Privacy, (b) (7)(C) Enforcement Privacy to access State Highway 366 and its connections.<sup>50</sup> Both of these routes would require heavy trucks to regularly run through an area within a quarter mile of the middle school.<sup>51</sup>

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<sup>42</sup> See Exhibit G at 4 and Exhibit A at 9

<sup>43</sup> See Exhibit A at 7-9

<sup>44</sup> See <http://oakcliff.advocatemag.com/2015/11/city-to-move-west-dallas-concrete-plant-next-to-superfund-site/>

<sup>45</sup> See <http://www.dallasnews.com/burdenoflead/20121214-the-burden-of-lead-west-dallas-deals-with-contamination-decades-later.ece>

<sup>46</sup> *Id.*

<sup>47</sup> See Exhibit B

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*



Unfortunately, West Dallas residents recently experienced tragedy when three children were killed in an accident just down [REDACTED] from the middle school.<sup>52</sup> The relocation of the batch plant would cause a fleet of trucks be routed through the area near the middle school.<sup>53</sup> Adding more traffic to an already busy area, without adequate mitigation, is a recipe for disaster.

Dallas plans to gentrify the Trinity Groves neighborhood where the existing Argos site is now posing as an “eyesore” and source of irritation are a foregone conclusion. Argos/WDI are by all accounts the private entities destined to own the development and provide the construction materials that are the means to that end.

What is the true cost of the relocation plan on the lives of West Dallas adults and children? Surely they have the right to obtain substantive answers before their tax dollars go to work for the prosperity of the City of Dallas.

#### ***4. Decreased property values***

Relocation of Argos will cause residential property values to diminish, result in the area’s relapse into an industrial wasteland, and adversely affect the availability of low-income housing Dallas.

Argos/WDI briefing material to the Dallas Economic Development Committee states that the existing Argos buildings are viewed as an “‘eyesore’ and are incompatible with redevelopment efforts in the area.”<sup>54</sup> As such, relocation would result in converting Argos real estate on Singleton Boulevard into a site that would “include a mixture of hotel, office and/or residential uses with a total estimated investment of \$175M to \$225M.”<sup>55</sup>

Presently, the Dallas Housing Authority operates the Kingbridge Crossing, a development that provides affordable housing to West Dallas residents.<sup>56</sup> The Texas Department of Housing and Community Affairs funds several other properties to provide affordable housing to low income residents of West Dallas, including two properties geared toward low income senior citizens.<sup>57</sup> All of these properties are located with a half mile radius of the relocation site for the batch plant.<sup>58</sup>

Stock of affordable housing for West Dallas residents was devastated the last time the relocation site hosted an industrial plant.<sup>59</sup> For example, Dallas Housing Authority was not able to build new affordable housing in West Dallas until the late 1990s.<sup>60</sup>

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<sup>52</sup>See <http://www.wfaa.com/news/local/dallas-county/one-killed-others-seriously-injured-in-west-dallas-accident/106791887>

<sup>53</sup> See Exhibit A at 9

<sup>54</sup> *Id.* at p. 8.

<sup>55</sup> *Id.* at p. 9.

<sup>56</sup> See Exhibit I

<sup>57</sup> See Exhibit J

<sup>58</sup> See Exhibit B

<sup>59</sup> See <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0602297>

<sup>60</sup> See Exhibit I; and <http://www.dallasobserver.com/news/dallas-honored-for-housing-poor-people-on-former-superfund-site-7783908>

The existing Argos facility has been described as an “eyesore” that needs to be moved so that the area it is currently located in can be developed.<sup>61</sup> As detailed below, Dallas eagerly played an active role in facilitating this move. However, Dallas fails to consider the effect this “eyesore” will have on the property values and development in the neighborhoods of West Dallas where it is being sited.

An “eyesore” for Trinity Groves gentry is apparently perfectly suited for children of (b)(6) Privacy, (b)(7)(C) Enf. Privacy and their West Dallas neighborhood.

Despite its awareness of the disparate and adverse impact to the low income and majority minority neighborhoods of West Dallas, Dallas has not taken any steps at mitigating the foreseeable harm that will be caused by the relocation of the batch plant.

## **B. Inadequate public participation**

Adequate and meaningful public participation is key to complying with the nondiscrimination requirements of Title VI. Dallas has taken multiple steps to assist in the relocation of the batch plant with inadequate procedures in place to assure meaningful public participation by the residents of West Dallas.

### ***1. City’s development deals***

Dallas has regular City Council meetings every Wednesday at 9am in City Hall at 1500 Marilla, in downtown Dallas.<sup>62</sup> Briefing meetings are held on the first and third Wednesdays of each month, and voting meetings are held on the second and fourth Wednesdays.<sup>63</sup> These meetings are always downtown and held during the work week during working hours,<sup>64</sup> which limits the ability of any resident to meaningfully participate.

Here Dallas engaged in a multiyear staggered campaign to relocate the batch plant as part of its larger goal to redevelop the area known locally as “Trinity Groves”<sup>65</sup> as part of the (b)(6) Privacy, (b)(7)(C) Enf. Privacy.<sup>66</sup> The meetings where Dallas approved agreements that resulted in the vote to relocate the batch plant were all held between 9:02am and 5:26pm.<sup>67</sup> Although Dallas’s meetings themselves are broadcast using various media,<sup>68</sup> the meeting agendas are irregularly posted publicly in advance of the meetings.<sup>69</sup> Though the posting of meetings technically complies with the minimum requirements of Texas law,<sup>70</sup> the lack of more advance notice for City meetings effectively prevented residents from discovering Dallas’s plans to relocate the batch plant until the

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<sup>61</sup> See <http://cityhallblog.dallasnews.com/2015/10/concrete-plant-next-to-trinity-groves-finds-a-new-home-paving-the-way-for-long-rumored-hotel.html/>

<sup>62</sup> See Exhibit K

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> See Exhibit L at 16-23; Exhibit M at 79-83; Exhibit G at 1-5

<sup>66</sup> See Exhibit A

<sup>67</sup> See Exhibits N, O, and P

<sup>68</sup> See Exhibit K

<sup>69</sup> *Id.* at 1; Exhibit Q; Exhibit R

<sup>70</sup> *Tex. Gov’t Code* §551.43(a)

last moment.<sup>71</sup> The agenda for the October 28<sup>th</sup> meeting that provided the final nail in the coffin was publicly posted on October 16<sup>th</sup>, a mere 12 days in advance of the vote to subsidize the relocation of the batch plant to West Dallas.<sup>72</sup> Without full insider knowledge of the big picture, it was impossible for residents of West Dallas to be able to participate in any meaningful way in Dallas's public hearings where these deals were considered and voted on.<sup>73</sup> These actions by Dallas discriminated against the residents of West Dallas by effectively making it infeasible for them to meaningfully participate.

## 2. City's rezoning process

Dallas also used its "role in local economic development"<sup>74</sup> to push Argos' general zoning change (GZC) application for the relocation site in order to facilitate the move of the batch plant.

As part of the rezoning process, Dallas's notice procedures were inadequate to provide the residents of West Dallas with any meaningful notice of the proposed change in land use in their neighborhood. Dallas only required that Argos post two signs on an almost 10 acre piece of property only visible from a sparsely populated street ten days in advance of the initial City Planning Commission (CPC) meeting.<sup>75</sup> It's not clear what methods Dallas took to ensure that the posting requirements were actually complied with. However, it is clear that once Argos submitted its application to re-zone the relocation area, the CPC worked closely with it to get their application to the CPC scheduled public hearing.<sup>76</sup>

During the application process, GZC applications are subject to CPC staff review and recommendations.<sup>77</sup> Notably, the CPC staff recommended that the Argos GZC application for the relocation site be *denied*.<sup>78</sup> However, the CPC still held a public meeting to consider the application.<sup>79</sup> CPC meetings are also scheduled during the work week and working hours for the "convenience" of Dallas residents.<sup>80</sup> Here, Argos's application was heard at the CPC meeting on *Thursday*, April 10, 2015 at 1:30 p.m.<sup>81</sup> Months later, the same application was approved by a City Council that was in the midst of changing membership.<sup>82</sup>

A mere 10 days prior to holding either of these hearings, Dallas requires notice to be mailed out to property owners in the notification area.<sup>83</sup> However, given the nature of the batch plant's operations and the history of environmental discrimination faced by the residents of West Dallas,

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<sup>71</sup> See <http://cityhallblog.dallasnews.com/2015/11/residents-urge-city-to-reconsider-moving-west-dallas-cement-plant-near-school.html/>

<sup>72</sup> See Exhibit R

<sup>73</sup> <http://northdallasgazette.com/2015/12/08/west-dallas-residents-plan-to-fight-relocation-of-argos-plant/>

<sup>74</sup> See Exhibit G at 1

<sup>75</sup> See Exhibit S at 8

<sup>76</sup> *Id.* at 3

<sup>77</sup> *Id.* at 2

<sup>78</sup> See Exhibit H

<sup>79</sup> *Id.*

<sup>80</sup> See Exhibit T

<sup>81</sup> See Exhibit H

<sup>82</sup> *Id.*; and <http://cityhallblog.dallasnews.com/2015/10/dallas-will-spend-2-5-million-to-help-trinity-groves-cement-plant-move-near-middle-school.html/>

<sup>83</sup> See Exhibit S at 2

merely mailing notice to property owners within the 400 feet notification area was woefully inadequate.<sup>84</sup> As the relocation site is the same former lead smelter and current Superfund Site, a majority of the property owners within 400 feet are business.<sup>85</sup> Even still, a number of property owners responded in opposition to the CPC to Argos's GZC application.<sup>86</sup> This process repeated itself when Argos' GZC application was considered by City Council.<sup>87</sup>

If these actions were not bad enough, a review of the notification lists for both the CPC and City Council reveals that notice was not sent to the correct address for Dallas Independent School District (DISD), which owns and operates (b)(6) Privacy, (b)(7)(C) Enf. Privacy.<sup>88</sup> The fact that DISD didn't receive adequate notice of the change was driven home by DISD stating that while they were aware of the zoning change generally, it was unaware of the specifics involved with siting a batch plant less than 500 feet from one of its campuses.<sup>89</sup> Moreover, the vote to subsidize the batch plant move came just days before a DISD bond package, that included infrastructure improvements for (b)(6) Privacy, (b)(7)(C) Enf. Privacy, was to be voted on.<sup>90</sup> This has left the middle school in a lurch, with DISD now considering how to move forward with an industrial plant at its back door.<sup>91</sup>

Overall, Dallas's actions perpetuate the government's history of discrimination against the low income majority minority neighborhoods of West Dallas. Rather than provide adequate opportunity for meaningful participation for West Dallas residents, Dallas engaged in a multiyear tact of smoke and mirrors in the name of "development." A long suffering resident of West Dallas put it simply, "what they [Dallas] need to understand is there's a voice here that's not being heard and it's the poor people."<sup>92</sup>

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<sup>84</sup> See Exhibit U

<sup>85</sup> See Exhibit V

<sup>86</sup> See Exhibit W

<sup>87</sup> See Exhibits X and Y

<sup>88</sup> See Exhibit W and X

<sup>89</sup> See <http://cityhallblog.dallasnews.com/2015/10/29/dallas-will-spend-2-5-million-to-help-trinity-groves-cement-plant-move-near-middle-school.html/>

<sup>90</sup> *Id.*

<sup>91</sup> See <http://legacy.wfaa.com/story/news/2015/10/29/disd-weighs-future-of-school-after-concrete-plant-vote/74838030/>

<sup>92</sup> See <http://www.nbcdfw.com/news/local/Concrete-Plant-to-Move-After-Sharply-Divided-Dallas-Council-Vote-338134412.html>

**VI. EPA, HUD, and DEPED should take all necessary steps to correct Dallas's violations of Title VI**

For the reasons set forth above, Dallas is not in compliance with Title VI of the Civil Rights Act of 1964. Accordingly, the EPA, HUD, and DEPED may use any means authorized by law to obtain compliance with Title VI.

As such, complainants on behalf of themselves and all West Dallas residents, request the EPA, HUD, and DEPED take all necessary steps to ensure that Dallas comes into full compliance with the requirements of Title VI regarding this matter.<sup>93</sup> If necessary, such steps should include, but not be limited to, launching an investigation, discontinuing all present and future federal funding to Dallas, requiring Dallas to take any and all necessary steps to comply with Title VI in the future and in this matter and referring the matter to the U.S. Department of Justice for further investigation.<sup>94</sup>

Thank you for your prompt attention to prevent further discrimination related to the relocation of the batch plant into West Dallas. Please let us know if we can provide any additional information to assist the EPA, HUD, or DEPED in addressing these serious concerns.

Sincerely,

LEGAL AID OF NORTHWEST TEXAS

/s/ *Amir Befroui*

Amir Befroui  
Attorney at Law

/s/ *Claudia M. Cano*

Claudia M. Cano  
Attorney at Law

Enclosure

cc:

(b) (5) Privacy, (b) (7)(C) Enforcement Privacy

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<sup>93</sup> See 40 C.F.R. § 7.130; 24 C.F.R. § 1.8; 34 C.F.R. § 100.8

<sup>94</sup> See 40 C.F.R. § 7.130; 24 C.F.R. § 1.8; 34 C.F.R. § 100.8