

July 11, 2016

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Re: State Funding for Housing Occupied by H-2A Workers

Dear Corina and Jason:

Thank you for taking the time to speak with us regarding the use of state funds to house workers brought to Washington under the H-2A program. I believe that we now have a better understanding of your perspective.

Because we represent agricultural workers who lack decent housing, we work to ensure that the limited state funding for farm worker housing is used where it's needed. As we explained in the attached letter to Brian Bonlender, the H-2A program requires that H-2A employers provide housing to workers at his own expense. 20 C.F.R. §655.122(d); 20 C.F.R. §653.501(d)(2)(xv). The employer cannot bring H-2A workers into the U.S. unless he provides an assurance that housing meeting applicable government standards will be provided at no expense to the worker. Given that growers who bring H-2A workers to Washington state must build into their business model the cost of providing housing for these workers, the H-2A workers are not an under housed group for whom housing will not be built absent state subsidies.

In enacting the Housing Assistance Program, the Legislature provided that the Department must use funds from legislative appropriations for housing of persons with "special housing needs." RCW 43.185.050. In making grants, the Department "must give preference" to "[p]rojects which demonstrate serving the greatest need." RCW 43.185.070(5)(h).

You expressed concern as to whether Commerce has legislative authority to exclude funding for projects that house H-2A workers. On the contrary, the Legislature has *mandated* that Commerce fund projects serving the greatest need. Since H-2A workers cannot enter the U.S. unless no-cost housing is guaranteed by the employer, those workers do not have the greatest need.

There is a great need for decent housing for migrant and seasonal Washington farm workers. According to the Washington State Farmworker Housing Trust Survey (2007), about 10% of

farm worker respondents stated that they were living outdoors in a car, or in a tent. More than one-third of respondents cited problems ranging from rodent and insect infestations (15%) to lack of heat (6%), poor water quality (4%) and leaking ceilings (4%). Twenty percent reported living in places not intended to serve as bedrooms.

We understand that you have questions as to Commerce's authority to limit the use of the housing the agency helps to fund. However, the state has a responsibility to ensure that its public spending furthers the policy of housing the neediest, rather than to benefit private business owners. Commerce should clarify that its farmworker housing program does not subsidize private business. It should require that housing that is rented by employers is fully paid for by charging market rent. In addition, the agency should develop program priorities or requirements to ensure that the neediest farmworkers are able to access subsidized housing. Given the language of the Housing Assistance Program statute, such a policy is required to carry out the legislative purpose.

We urge you to consult with counsel concerning Commerce's funding of farm worker housing for those who have no need for subsidized housing.

Thank you for your consideration. We look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel G. Ford".

Daniel G. Ford  
COLUMBIA LEGAL SERVICES

s/Michele Besso

Michele Besso  
NORTHWEST JUSTICE PROJECT

cc: Senator John McCoy  
Director Brian Bonlender