

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE HAMILTON SECURITIES GROUP, INC.,))
et al.,))
) Plaintiffs,))
vs.)) Case No. CA 98-0036
THE UNITED STATES DEPARTMENT OF)) Judge Sporkin
HOUSING AND URBAN DEVELOPMENT,))
et al.))
451 7th Street, S.W.))
Washington, D.C. 20410))
) Defendants.))

HUD DEFENDANTS' MOTION TO DISMISS COMPLAINT

Defendants United States Department of Housing and Urban Development ("HUD"); Andrew M. Cuomo, Secretary of HUD, in his official capacity; and Nicolas P. Retsinas, Assistant Secretary for Housing - Federal Housing Commissioner, in his official capacity (collectively, the "HUD Defendants"),^{1/} hereby move to dismiss Counts 1, 2, 5, 6, 7, and 8 of Plaintiffs' Complaint. In support, the HUD Defendants state:

The HUD Defendants have filed herewith their Statement of Points and Authorities in Support of this Motion. For the reasons set forth therein, Count I of Plaintiffs' Complaint should be dismissed, pursuant to Fed.R.Civ.P. ("Rules") 12(b)(1),

^{1/} Defendant Susan M. Gaffney, Inspector General of HUD, is represented separately in this case by the Office of the United States Attorney for the District of Columbia, for reasons set forth in the papers filed by that office in opposition to Plaintiffs' Motion for a Preliminary Injunction.

for lack of subject matter jurisdiction, or alternatively, under Rule 12(b)(6), for failure to state a claim upon which relief can be granted. Counts 2, 5, 6, 7, and 8 should be dismissed under Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

WHEREFORE, the HUD Defendants move that this Court enter an order dismissing Counts 2, 5, 6, 7, and 8 of Plaintiffs' Complaint.

Respectfully submitted,

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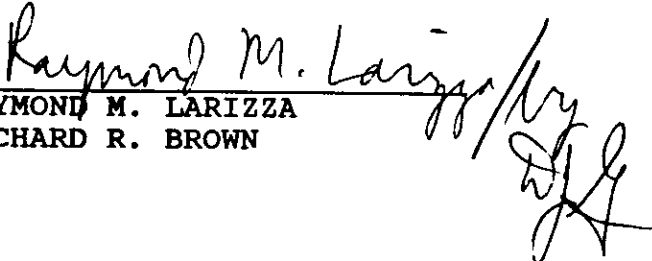
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Secretary of HUD, in his
Official Capacity; and
NICOLAS P. RETSINAS, in his
official capacity

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above HUD DEFENDANTS' MOTION TO DISMISS was served upon the following counsel of record by sending a copy thereof by first-class U.S. mail on this 27th day of January, 1998:

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