

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARTIN LUTHER KING, JR.  
COUNTY, et al.,

Plaintiffs,

v.

SCOTT TURNER in his official capacity  
as Secretary of the U.S. Department of  
Housing and Urban Development, et al.,

Defendants.

No. 2:25-cv-00814-BJR

DECLARATION OF ANDREA L.  
SPENCER

I, ANDREA SPENCER, declare as follows:

1. I am over the age of eighteen, competent to testify, and make this declaration based on my personal knowledge and on my review of relevant business records.

**PERSONAL INFORMATION**

2. I am the Director of Community Development for the City of Bremerton (“Bremerton”). As the Director, my duties include managing the administration of the Community Development Block Grant (“CDBG”) funds and coordination with the Kitsap County HOME Consortium for the use of HOME Program funds. I have held this position since October 2006 and served as Interim Director from September 2006 through my appointment.

3. Prior to being appointed the Director, I served as the Planning Manager for Bremerton for a year. During that time I also directly oversaw the administration of CDBG funds

1 and HOME Program funds.

2 4. In total I have over 27 years of experience in city planning and community  
3 development experience.

4 5. I have a Masters in Regional Planning from Washington State University and have  
5 been certified by the American Institute of Certified Planners (AICP) since 2002.  
6

7 **COMMUNITY DEVELOPMENT FUNDING**

8 6. Since beginning my employment with Bremerton in 2005, Bremerton has received  
9 a direct CDBG allocation and has been part of the Kitsap County HOME Consortium, receiving  
10 its share of HOME Investment Partnership (HOME) funds based on a percentage allocation  
11 determined by HUD. Throughout the years these funds have been used for a variety of different  
12 projects and programs including providing home weatherization to low income individuals,  
13 creation of housing, capital improvement projects for Bremerton infrastructure including upgrades  
14 for pedestrian use and compliance with the Americans with Disabilities Act, capital improvements  
15 for community centers and park facilities, small business training and support, and support for  
16 various capital improvements for Bremerton's non-profits.  
17

18 7. In order to provide these critical services to the low-income residents of Bremerton,  
19 Bremerton relies on the these CDBG and HOME funds that have been appropriated by Congress.  
20 Bremerton has been receiving CDBG funds for over 50 years, and has participated in the Kitsap  
21 County HOME consortium since the 1990's.  
22

23 8. Bremerton has requested an extension to August 16, 2025 to submit its CDBG and  
24 HOME Program Action Plan, Grantee SF-424, SF-424B, and Certification for Fiscal Year 2025.  
25

26 **CDBG FUNDS**

27 9. The application process for Bremerton begins when U.S. Department of Housing

1 and Urban Development (“HUD”) notifies Bremerton that it is an entitlement community and  
2 identifies the amount of funds that Congress has allocated to Bremerton that year. The calculations  
3 for how much funding Bremerton will receive under CDBG is based on a prescribed formula and  
4 is not subject to the discretion of HUD.

5  
6 10. Bremerton works in partnership with Kitsap County to develop a 5-year  
7 Consolidated Plan, a prerequisite to receiving federal HUD funding. Our most recently adopted  
8 Consolidated Plan covers plan years 2021 – 2025, and we are currently working on the 2026-2030  
9 update. This guiding document establishes how Bremerton will appropriate our HUD funds during  
10 the established plan period. The plan contains statistical information, vision statements, policies  
11 and strategies that guide each year’s decision making for our annual entitlement. During plan  
12 development there are many opportunities for public participation and engagement with  
13 community partners and Bremerton shares its HUD-funded project success stories.

14  
15 11. Annually Bremerton adopts a Policy Plan that implements the specific policies and  
16 strategies from the Consolidated Plan that have been prioritized by Bremerton City Council, and a  
17 notice of funding availability (NOFA) is issued consistent with those policies. Bremerton then  
18 conducts a coordinated grant application process with Kitsap County. The annual Policy Plan is  
19 widely advertised and public participation in the project prioritization is encouraged.

20  
21 12. The applications that are submitted during the Kitsap County coordinated grant  
22 process are reviewed, and the projects that are eligible for Bremerton’s funding are reviewed by  
23 the Project Review Committee (PRC). The PRC is comprised of community volunteers and City  
24 staff, who review the applications, conduct interviews with the applicants, and rank/score the  
25 submittals. The PRC makes a funding recommendation for the Bremerton City Council’s  
26 consideration for approval. The funding recommendations are published and public comment  
27

1 regarding the project is invited. After conducting a public hearing and considering public comment  
2 the Bremerton City Council approves of the projects and funding contingencies, and this approval  
3 is demonstrated by the adoption of an official Resolution, and these approved projects are selected  
4 to appear in Bremerton’s submittal for our annual Action Plan.  
5

6 13. Once Bremerton is notified by HUD of the annual allocation of funding, Bremerton  
7 submits its official Action Plan based on the City Council Resolution, signs a 424B form, and in  
8 coordination with Kitsap County submits both to HUD for review and compliance with program  
9 requirements.

10 14. Once HUD approves the Action Plan, Bremerton notifies recipients of their funding  
11 amounts, executes grant agreements, and authorizes those recipients to proceed. The recipients can  
12 then submit for reimbursement of their eligible expenses and Bremerton pays those  
13 reimbursements from its CDBG funds.  
14

15 15. On May 14, 2025 Bremerton was notified of its CDBG entitlement amount for  
16 Fiscal Year (“FY”) 2025. Bremerton was entitled to \$381,073.00.

### 17 HOME PROGRAM FUNDS

18 16. The HOME Program was created by the National Affordable Housing Act of 1990  
19 (NAHA). The Housing and Community Development Act of 1992 and the Multifamily Property  
20 Disposition Act of 1994 made important changes to the Program. The intent of the HOME Program  
21 is to:  
22

- 23 • Expand the supply of decent, safe, sanitary, and affordable housing;
- 24 • Strengthen the abilities of state and local governments to provide housing;
- 25 • Expand the capacity of nonprofit community based housing development  
26 organizations; and,  
27

- Leverage private sector participation in financing affordable housing.

Beneficiaries of HOME funds – homebuyers, homeowners, or tenants – must have incomes below 80% of the area median income. The HOME program also requires a match of 25% or greater in other non-federal funds for projects.

17. HOME program funds are awarded to Kitsap County who is the administrator for the HOME Consortium, and Bremerton receives a percentage HOME funding on a HUD determined allocation. Although Kitsap County administers the program, the Bremerton City Council has the authority to determine how Bremerton’s allocation is awarded to grantees.

18. Bremerton follows the same process for allocating funds for HOME as is utilized for CDBG (outlined above and summarized again here): The priorities are established in the 5-year Consolidated Plan, prioritized in the annual Policy Plan, an annual NOFA is published, and a grant review committee makes a recommendation regarding which applications should be funded with the entitlement. Bremerton City Council passes a Resolution establishing the official awards and contingencies as necessary. Once HUD notifies Bremerton of the annual award, our Action Plan is submitted in conjunction with Kitsap County.

19. Bremerton contracts with Kitsap County to officially administer Bremerton’s allocation of HOME funds, they execute grantee agreements, notify recipients for the notice to proceed, and reimburse grantees for eligible expenses from the HOME funds, and annually signs the appropriate 424B form. The County performs these duties in close collaboration with Bremerton staff to ensure that Federal requirements are met.

20. On May 14, 2025 Kitsap County was notified of its Fiscal Year (“FY”) 2025 HOME Consortium (Consortium) entitlement award in the amount of \$668,553.08. The Consortium covers all Kitsap County jurisdictions, and pursuant to HUD formula and the

1 conditions of the Consortium agreement Bremerton receives 31.7% of this award, and therefore is  
2 entitled to receive nearly \$212,000 for FY 2025.

3 **NEW CONDITIONS AND “CONFORMITY” REQUIREMENTS**

4 21. On June 17, 2025, Bremerton was informed by HUD that an updated 424B form is  
5 required to be submitted in conjunction with Bremerton’s Action Plan. This updated 424B form  
6 requires Bremerton to certify among other things that it “[w]ill not use Federal funding to promote  
7 diversity, equity, and inclusion (DEI) mandates, policies, programs, or activities that violate any  
8 applicable Federal anti-discrimination laws.” This provision was not in the 424B form when  
9 Bremerton was notified of its entitlement for FY 2025.  
10

11 22. Bremerton was also provided by HUD a copy of a letter from HUD General Deputy  
12 Assistant Secretary Claudette Fernandez. Page 2 and 3 of this letter identify that the grant  
13 agreement will “emphasize conformity with applicable Administration priorities and executive  
14 orders.” In the letter, conformity means restrictions on funding related to “gender ideology,” DEI,  
15 immigration verification and enforcement, and not using funding “in a manner that by design or  
16 effect facilitates the subsidization or promotion of illegal immigration or abets policies that seek  
17 to shield illegal aliens from deportation.”  
18

19 23. These new requirements present significant challenges for Bremerton. For  
20 example, the immigration verification condition would require Bremerton to use the Systematic  
21 Alien Verification for Entitlements system or an equivalent approved system. Bremerton’s  
22 Department of Community Development has not been asked to verify immigration in previously  
23 administering the CDBG program and does not have access to such a verification system at this  
24 time. Bremerton would be unable to meet this additional condition at this time.  
25

26 24. The phrase “in a manner that by design or effect facilitates the subsidization or  
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1 promotion of illegal immigration or abets policies that seek to shield illegal aliens from  
2 deportation,” is both broad and vague. I have concerns, for example, that activities such as small  
3 business education programs conducted in the Spanish language would be interpreted as having  
4 the effect of facilitating the subsidization or promotion of illegal immigration. I also have concerns  
5 that funding to support microenterprise childcare providers for affordable childcare could be  
6 viewed as having the effect of facilitating the subsidization or promotion of illegal immigration if  
7 those childcare providers provide care to undocumented children.  
8

9 25. Bremerton has identified its FY 2025 HOME Program Funds for the purchase of  
10 affordable housing and home weatherization. I have concerns that activities such as these could  
11 be viewed as facilitating the subsidization or promotion of illegal immigration if those funds are  
12 used for weatherization of a home where an undocumented individual lives or the rental of that  
13 affordable housing to an undocumented individual.  
14

15 26. Finally, Bremerton’s contracts with its recipients and subrecipients requires that  
16 they do not discriminate based on any protected status. It is important to Bremerton that its  
17 recipients and subrecipients comply with state law that prohibits discrimination based on any  
18 protected status.  
19

### 20 IMPACTS OF LOST FUNDS

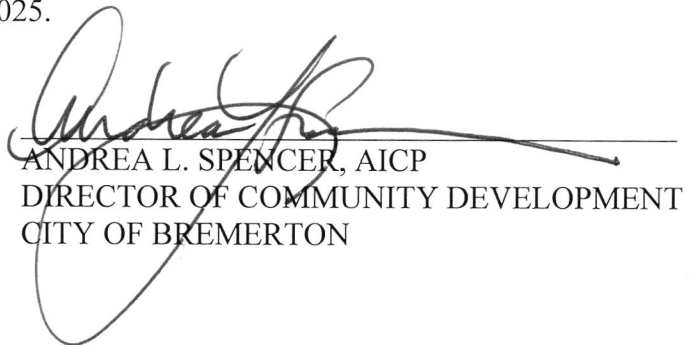
21 27. These “conformity” requirements require Bremerton to either agree to these new  
22 requirements or risk losing access to \$381,073.00. Losing access to CDBG funds would have the  
23 following negative impacts on Bremerton: Vital Americans with Disability Act (ADA) curb ramps  
24 would not be constructed for City sidewalks in an area that serves park and school facilities, capital  
25 improvements to an essential community facility would not be made, weatherization and minor  
26 home repairs that often help control costs for fixed income families would not be accomplished,  
27

1 and important microenterprise job training programs for business development and child care  
2 programs would not occur.

3 28. Losing access to HOME Program funds would have the following negative impacts  
4 on Bremerton: Bremerton has awarded this year's allocation to Bremerton Housing Authority for  
5 them to acquire 23 new units of affordable housing for low-income families. In Washington State  
6 we are in an affordable housing crisis and it is imperative that more housing is created at an  
7 affordable level to support low-income individuals and families; and without projects like these it  
8 has the potential to make the crisis worse.

9  
10 I declare under penalty of perjury that the foregoing is true and correct.

11  
12 EXECUTED this 8th day of July, 2025.

13  
14   
15 ANDREA L. SPENCER, AICP  
16 DIRECTOR OF COMMUNITY DEVELOPMENT  
17 CITY OF BREMERTON

**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2025, I served a true and correct copy of the foregoing document on the following parties by the method(s) indicated below:

<p>Brian C. Kipnis  Annalisa L. Cravens  Sarah L. Bishop  Rebecca S. Cohen  <i>Assistant United States Attorneys</i>  Office of the United States Attorney  700 Stewart Street, Suite 5220  Seattle, WA 98101-1271  brian.kipnis@usdoj.gov  annalisa.cravens@usdoj.gov  sarah.bishop@usdoj.gov  rebecca.cohen@usdoj.gov    <i>Attorneys for Defendants</i></p>	<p><input checked="" type="checkbox"/> CM/ECF E-service  <input type="checkbox"/> Email  <input type="checkbox"/> U.S. Mail  <input type="checkbox"/> Certified Mail / Return Receipt Requested  <input type="checkbox"/> Hand delivery / Personal service</p>
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I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 14<sup>th</sup> day of July, 2025.

/s/ Gabriela DeGregorio  
Gabriela DeGregorio  
Litigation Assistant  
Pacifica Law Group LLP

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UNITED STATES DISTRICT COURT  
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MARTIN LUTHER KING, JR.  
COUNTY, et al.,  
  
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SCOTT TURNER in his official capacity  
as Secretary of the U.S. Department of  
Housing and Urban Development, et al.,  
  
Defendants.

No. 2:25-cv-00814-BJR

DECLARATION OF GUNNAR  
FRIDRIKSSON

I, GUNNAR FRIDRIKSSON declare as follows:

1. I am over the age of eighteen, competent to testify, and make this declaration based on my personal knowledge and on my review of relevant business records.

**PERSONAL INFORMATION**

2. I am employed by the City of Bremerton (“Bremerton”). My title is Managing Engineer – Transportation.

3. As the managing engineer for transportation, one of my job duties includes tracking and coordinating grant applications and funding that Bremerton receives for transportation capital projects.

4. Bremerton receives federal grant funding from the U.S. Department of Transportation (“DOT”) through programs operated by the Federal Highway Administration

1 (“FHWA”).

2  
3 **FEDERAL DEPARTMENT OF TRANSPORTATION FUNDING**

4 5. Bremerton relies on a variety of Federal Department of Transportation (DOT)  
5 grants to fund various roadway projects within Bremerton. This funding includes, but is not limited  
6 to FHWA formula funding and competitive FHWA discretionary grants. Bremerton is both a direct  
7 recipient of FHWA funds as well as a subrecipient of FHWA grant funds through various agencies  
8 including the Washington State Department of Transportation (“WSDOT”) and the Puget Sound  
9 Regional Council (“PSRC”).

10  
11 6. The amounts of FHWA discretionary grant funding that Bremerton receives varies  
12 from year to year, but through Fiscal Year 2028, Bremerton currently has been awarded \$3.3  
13 million in discretionary FHWA grant funds.

14 7. This year, Bremerton has also applied for a Safe Streets for All Grant from DOT  
15 and anticipates a decision on that grant application in August 2025. This grant is for \$250,000.00  
16 including a 20 percent match from Bremerton.

17  
18 8. Bremerton also receives FHWA formula funds. Bremerton has received an award  
19 of \$2.3 million in FHWA formula funds through the PROTECT program for a culvert to bridge  
20 conversion over Parish Creek.. This project is currently in design and construction is anticipated  
21 in 2027.

22 9. One of the projects that Bremerton received funding from FHWA through PSRC is  
23 for approximately \$1.2 million for design of Bremerton’s 11th Street corridor improvements. This  
24 funding will allow Bremerton to design the corridor to address safety concerns and provide critical  
25 infrastructure upgrades to the region.

26  
27 10. If the City is unable to receive awarded grant funds, the City would need to

1 immediately stop the projects. The City would also need to seek alternative sources of funding to  
2 complete the projects.

3 11. In addition to the harm caused by immediate loss of funding, there are long term  
4 implications of any new DOT grant conditions.

5 12. Bremerton must maintain a Transportation Improvement Plan (“TIP”). This TIP is  
6 part of the process for regional planning through PSRC as well as state planning. A project must  
7 be in Bremerton’s TIP to be eligible to apply for DOT grant funding and for DOT grant funding  
8 to be obligated to the project. This means that Bremerton must plan years in advance to ensure  
9 projects may be eligible for federal funding.

10 13. This long term planning highlights the importance of these funds and the significant  
11 impacts new terms and conditions would have. If Bremerton cannot receive these funds, it would  
12 need to forego federal grant opportunities and rely on only state and local funding. This would  
13 delay and prevent Bremerton from pursuing projects that enhance safety and provide critical  
14 infrastructure to Bremerton residents and the larger region.

15 14. FHWA has not yet provided Bremerton with the grant agreement for the 11<sup>th</sup> Street  
16 Corridor project. The current FHWA Competitive Grant Program General Terms and Conditions,  
17 April 22, 2025 contain new requirements, such as requirements requiring certification that the  
18 recipient is not operating any “programs promoting diversity, equity, and inclusion (DEI)  
19 initiatives that violate any applicable federal anti-discrimination law” and agree that this  
20 certification is material under the False Claims Act. 2025 FHWA General Terms and Conditions  
21 §18.4. This document also includes provisions that the recipient “will cooperate with Federal  
22 officials in the enforcement of Federal law, including cooperating with and not impeding U.S.  
23 Immigration and Customs Enforcement (ICE) and other Federal offices and components of the  
24  
25  
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1 Department of Homeland Security in the enforcement of Federal immigration law.” 2025 FHWA  
2 Competitive Grant Program General Terms and Conditions §18.2. At this time Bremerton does  
3 not know, but reasonably expects that, it will be required to agree to the same or similar terms to  
4 receive these funds.

5  
6 15. The current FHWA General Terms and Conditions are concerning because, for  
7 example, it is unclear what DEI initiatives would “violate applicable federal anti-discrimination  
8 law” and what policy may constitute that. It is also unclear what it would mean for Bremerton to  
9 “cooperate with and not impede U.S. Immigration and Customs Enforcement and other Federal  
10 offices and components of the Department of Homeland Security in the enforcement of Federal  
11 immigration law.” Bremerton is also required to comply with Washington State laws regarding  
12 immigration and these provisions could be in conflict.

13  
14 I declare under penalty of perjury that the foregoing is true and correct.

15  
16 EXECUTED this 8th day of July, 2025.

Signed by:  
*Gunnar Fridriksson*  
00EBC968501C4A4...

**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2025, I served a true and correct copy of the foregoing document on the following parties by the method(s) indicated below:

<p>Brian C. Kipnis  Annalisa L. Cravens  Sarah L. Bishop  Rebecca S. Cohen  <i>Assistant United States Attorneys</i>  Office of the United States Attorney  700 Stewart Street, Suite 5220  Seattle, WA 98101-1271  brian.kipnis@usdoj.gov  annalisa.cravens@usdoj.gov  sarah.bishop@usdoj.gov  rebecca.cohen@usdoj.gov    <i>Attorneys for Defendants</i></p>	<p><input checked="" type="checkbox"/> CM/ECF E-service  <input type="checkbox"/> Email  <input type="checkbox"/> U.S. Mail  <input type="checkbox"/> Certified Mail / Return Receipt Requested  <input type="checkbox"/> Hand delivery / Personal service</p>
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I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 14<sup>th</sup> day of July, 2025.

/s/ Gabriela DeGregorio  
Gabriela DeGregorio  
Litigation Assistant  
Pacifica Law Group LLP