Supreme Court, U.S.
FILED
AUG 10 2020
OFFICE OF THE CLERK

No. 20-160

IN THE

SUPREME COURT OF THE UNITED STATES

AHMED HALIM **PETITIONER**

V.

UNITED STATES **RESPONDENT**

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Federal Circuit

PETITION FOR A WRIT OF CERTIORARI

Ahmed Halim

8338 Governor Grayson way

Ellicott City, MD 21043

Phone # (601) 227 2000

ORIGINAL

Questions Presented

I What are the limits on due diligence?
This question can be asked by each citizen in the United States. The Court of Appeals for the federal circuit extended the due diligence far Beyond reasonableness and said the petitioner should have the knowledge and experience of a real estate lawyer. all the experience the petitioner has was in Academia.

II Do government officials act in good faith all the time?
Any Citizen will be in disbelief.The court of appeals have long upheld the principle that government officials discharge their duties in good faith.

III Can the government punish the petitioner for reasons Beyond his control?
In this petition, the project in Meridian Mississippi where the petitioner was threatened to go to jail if he worked on the project due to stop order Department of Housing and Urban Development (HUD) was aware about it.

IV Can the government apply the same rules differently depending upon which state the project is located?
In this petition, same rules were applied differently between projects in New York Mississippi and Ohio.

V Does the government have the right to keep the petitioner cash money?
The petitioner gave the government $3,617,000.00 cash on the promise that he would get it back.These are not taxes or loans.

VI Can the Department of Housing and Urban Development bid kits considered valid agreements?
These agreements were applied differently , in different states depending upon your property manager you can get 6 years or 12 years extension/

PARTIES TO THE PROCEEDING

The parties are as named on the front cover

RELATED PROCEEDINGS

The United States Court of appeals for the federal circuit, No. 2019-1478 Ahmed Halim v. United States, (Judgment entered May 12, 2020).

The United States court of federal claims, No. 12-05C, Ahmed Halim v. The United States of America, (Judgment entered November 19, 2018).

TABLES OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page**

Rules and Regulations

PETITION FOR A WRIT OF CERTIORARI

Petitioner Ahmed Halim respectfully submits this petition for a writ of certiorari to review the judgment of the United States court of appeals for the federal circuit. The court of appeals for the federal circuit issued its opinion and judgement on May 12th 2020 this court has jurisdiction under 28 USC section 125 for 1

OPINIONS AND ORDERS BELOW

The United States court of appeals for the federal circuit panel opinion affirming the court of federal claims judgement (App. 1a-22a). The opinion of the federal claims court (App. 23a-54a) .

STATEMENT OF JURISDICTION

The court of appeals for the federal circuit issued its opinion and judgement on May 12th 2020. This court has jurisdiction under title 28 U. S. C. @ 1254(1).

STATUTORY PROVISIONS INVOLVED

Title 28 U. S. C.section 13468 (Tucker act provision giving the Court of federal claims exclusive jurisdiction over claims against the United States that seek more than $10,000 in damages .

Doctrine of Impossibility

STATEMENT

Petitioner purchased 5 Apartments complexes from HUD at foreclosure sales. These are Schenectady 40 in New York, Meadowbrooks in Mississippi, Highland Village in Alabama, Beacon lights in North Carolina and the Nicolos townhomes in Ohio.

Issues arose from the government refusal of returning the $3,617,000.00 given to it on the promise it will give it back to the petitioner. The government shouldn't take cash from the petitioner , as stated in the bid kit, HUD should ask for a letter of credit (LOC). The petitioner entered into agreement with the government regarding housing assistance payment known as (HAP) for the New York complex and Mississippi complex ,the payments under this agreement given on behalf of the qualified tenants, the petitioner met the uniform physical condition standards (UPCS) for the 40 units in New York and 6 buildings in Mississippi. Once the inspector certified that unit passed inspection as he did.
The petitioner met his legal burden, (App 104a) and once a tenant moved into an apartment , inspection can pass in morning and fail in afternoon. The notation that this apartment should be passing UPCS inspection all times doesn't make sense, for example if the tenant remove smoke detector on the wall, unit will fail inspection not because the petitioner action, but due to the tenant action, The assertion of the united states court of appeals that the units must comply with UPCS all times is impossible unless you do inspection every hour 24/7, 7 days a week all year round.
The assertion of the court of appeals that the units In New York and in Mississippi Not habitable, too far from the reality, we have had these Apartments since 2006 and we are now in 2020 , 6 years away from the HUD end of the agreement. We have tenants, the apartments pass inspection every year as we have evidence to this court from the local authorities. (App 99a,114a-127a,80a-88a)

It is immoral and illegal for this government to use nonsense reasons as means to take the money. The petitioner and his children put their life at risk to make it. Again this money is not taxas or loans taken from the government.

I
OHIO COMPLEX

The first of five properties addressed in this petition was a 24 unit in Flushing Ohio. HUD advertised the sale through a bid kit. In the first sale the petitioner was the highest bidder with a bid of $266,000,00. The petitioner paid $50,000.00 in cash in earnest money deposit with the understanding that he will close on the property. Petitioner submitted the required papers for self-management as he did for the projects in New York and in Mississippi. All these papers were identical (App 106a-113a), petitioner was approved for self-management in New York and Mississippi but not in OHIO. HUD acted arbitrarily, capricious and in bad faith when refused to return the $50,000. HUD argument is self defeating since it's the same HUD approved self management in New York and Mississippi assuming for the sake of argument that they wanted the petitioner to have a management company they threatened the petitioner to find a management company in 3 days or he would lose his money. Who will be able to find a management company in 3 days. Finally HUD sold the same property in the second foreclosure sale for $500,000 almost $300,000 in profit. Where are the losses for HUD in dealing with the petitioner?

II

NEW YORK COMPLEX

The second property addressed in this petition was a 40 in Schenectady known as Schenectady 40. Sale was held on May 31st 2006, the successful bidder is expected to do the necessary work within 24 months. however it added such time can be extended. The assertion by the appeals court that the work must be completed in 24 months is far from what is written in
the bid kit, far from reality, that the work can be done in 24 months, especially in Schenectady when the severe freezing can be extended for 7 month, for that reason, bid kits stated such time can be extended. Time was extended and work was

completed as evidenced by the letter from the city of Schenectady(App 99a). In 2009 the units are habitable and in 2020 are habitable as evidenced by inspections shown in the App 99a, 114a-127a, Depending upon what state the project is located, the time can be

extended as many years as necessary to finish the work. Both the petitioner and HUD know some owners can get extension up to 12 years.
The point the petitioner is making is the 24 months is not rigid as the appeals court thinks.
Another agreement entered with HUD was the housing assistance payment(HAP). It is one of Section 8 programs offered to assist qualified tenants with their rent,As a rule for the tenant to receive assistance the unit should pass UCPS inspection, which is mainly related to smoke detectors, outlets, faucets, toilets and making sure the floor can be mopped. The petitioner met his legal burden when all the apartments passed inspection (App 104a)before tenants moved in. After a tenant moves in the tenant is in control of the unit till he is moved out or removed by the sheriff. Not only HUD is doing this type of inspection, but also the local housing authority and city inspectors. A scenario is set in motion the night of inspection, the unit is in compliance with UCPS inspection in the evening, the tenant decides to remove the smoke detector cause he or she smokes most of our tenants smoke especially our complex in urban areas very close to downtown so the apartment will fail inspection in the morning. Where is the owner's fault? Some of our tenants from 2009 came back to the apartment through Section 8 offered by the housing authority and it passed the same UCPS inspection conducted by HUD. HUD determination of the petitioner agreement for the housing assistant payment for reasons beyond his control. HUD acted in bad faith, arbitrarily and capriciously, for reasons beyond any person's control which mounts to punishment. (App114a-124a)

III

Mississippi Complex

The petitioner was the highest bidder for this complex and closed in January 2007. When the petitioner arrived at the complex also known as Meadpwbrook, there were tenants already there, the previous owner left them with no one taking care of them The petitioner took care of them till the end of 2007. To the petitioner's surprise, HUD paid the ex owner almost $50,000.00, and did not pay a penny for the petitioner (the owner) who served tenants for a whole year. Meadowbrook is a

51 units in Meridian Mississippi. According to the HUD inspector, 94% of the work was completed. Petitioner was a couple months away from finishing the remainder 6%, the city manager issued a stop working order and said that the petitioner will go to jail if he put one nail in the complex. Here is the federal government which has power over the local governments and did nothing to let the petitioner finish the

work. After almost 10 months, the city manager physically hit the chief of the Meridian Police which resulted in his termination. The new city manager cooperated and lifted the stop order and allowed the petitioner to finish the work. Instead of HUD cooperating with the petitioner as the city did , HUD acted in the same manner as it did in the Schenectady project and took the cash balance of the escrow. Proof of the work completed is shown in the certificates of occupancy issued by Meridian for buildings 2 through 12. The court of appeals stated that there were only three certificates of occupancy but they are nine certificates which contradicted the Court of Appeals. Building number 4 was demolished per HUD instructions. Buildings 1, 8 and 13 were in operation and Meridian did not condemn them. There was no reason for a new certificate of occupancy to be issued for these three buildings,because it was finished and among the 94% work completed per HUD inspection.To justify HUD apparent reason for default. The inspector came for the last time to do the final inspection and failed the units without getting inside. This is the same inspector who passed them before, he simply was cooking the report for HUD.

As in Schenectady there was an agreement for HAP which assists qualified tenants. These apartments were passing the UCPS inspection before the stop order, especially the units in buildings 1, 2, 8, 9, 12 and 13. The tenants were receiving re assistance before the stop order issued by violent city manager at the time.As a result the petitioner was unable to get the rest of the units ready UCPS inspection because he was threatened to go to jail, if HUD did not act in bad faith, and cooperated with the petitioner as the city did, all the units would passed the UCPS inspection but chose to punish the petitioner for reasons beyond his control.

IV
NORTH CAROLINA COMPLEX

The fourth project was a complex located in Henderson. HUD announced the sale and asked the bidders to do their due diligence before buying the project, at the same time asking them to repair the units, in all the buildings and which consisted of 108 units to be repaired. HUD never

said a word about demolishing any building. According to Henderson, HUD knew that the project cannot be developed especially for the buildings close to the community housing because it did not meet their set back requirements. Someone offered you a building to repair, what any buyer will think about the seller advertisement, especially when the seller

is the government of the united states, the buyer would assume the building can be repaired otherwise it should not sell it in the first place. At the foreclosure sale, the petitioner was the only bidder and HUD accepted his bid of $55,000.00, and took in cash ($1,295,000,00) in violation for the escrow requirements in the bid kit, which stated the escrow should be LOC or a bond. Petitioner paid all these cash on the belief that he bought buildings to be repaired to learn later it must be demolished. Due diligence in this case would be physical inspection of the buildings to see how much it will cost and what repairs needs to be done. Petitioner started contacting Henderson to get permits to start the repairs, at that time the city hired a new city manager who was racist and told the petitioner that he is going to get this complex off the plate, not only he said that but he told the local newspaper that this complex looks like Beirut, Lebanon. he could not find a place in the U. S. to compare with except going to the middle east, where the petitioner came from which was a direct assault on the petitioner religion and national origin. Petitioner submitted a plan to HUD for renovation and applied for a request of invariance to be able to get the permits and start the process of renovation Invariance was rejected and Henderson told the petitioner that HUD knew about the fact that buildings must be demolished. Under these circumstances the petitioner met HUD officials at the headquarters in Washington DC. Petitioner complained about the Henderson actions and the problems he has with it. In the meeting HUD officials represented by Mr. Wilson and Mr. Mayfield offered the petitioner that HUD will take back the complex and in return will refund all the money HUD took from him including ($1,295,000.00) in cash for the deposit plus the price he paid for it which was $55,000. The petitioner accepted their offer and he was waiting for his $1,350,000.00 in cash, instead HUD informed him that the department will keep the cash for them. HUD sells a project that cannot be developed which is completely misrepresentation and they take ($1,350,000.00) in cash. Nobody would believe what the government of the United states will do. The government did not lose a penny in dealing with the petitioner.

V
ALABAMA COMPLEX

The fifth project the petitioner purchased from the Department of Housing and Urban Development was an apartment complex known as

Highland Village Apartments located in Montgomery Alabama of 300 units. The petitioner will not go in details because the circumstances were exactly the same as the North Carolina complex. HUD held the sale of this project twice, the first one in 2006 and the second one in 2007, the two bid kits were identical, The first sale didn't go through and the second sale went on. The petitioner purchased The Project based upon HUD presentation. At the time of the first sale, the project was operating and the tenants living in it for example when somebody looks at it, you can see windows, Air Condition Units, electric meters etc. In the second sale the complex was completely 100% different from the bid kits. The petitioner gave HUD one million four hundred five thousands dollars in cash ($1,405,000.00)$5,000 based upon HUD presentation to know later that the amount of repairs are five times or more than what was written in the bid kits. The petitioner could not go inside the complex for the second sale fearing for his life because HUD as stated in the bid kits can not schedule pre inspection. did not guarantee an access to see the project. The ex-owner was angry with HUD and was scaring people to get in, maybe physically hurting them. In this situation, petitioner took HUD word to be correct HUD was aware of the condition of the project at the time of the second sale, instead of sending their inspector to the project to prepare a new list of repairs and prepare a different bid kit for the second sale, chose to use the bid kit from the first sale and deceive the petitioner. If HUD told the truth, the petitioner would not buy the project.

As in the North Carolina project using the same trick of due diligence to take ($1,405,000,00) cash.

REASONS FOR GRANTING A WRIT OF CERTIORARI

The petitioner presents his reasons to the distinguished justices of this Court as the last resort, No one knows the pain the petitioner and his children went through to make this ($3,616,000.00). This is not taxpayers money, not a grant from the government.

This petition presents many interrelated issues important to every citizen in the United States .In its ruling, the federal circuit court of appeal deviated from this Court standards and other circuits as well. This Court should grant a writ of certiorari to resolve all these issues.

This Court should grant review to resolve the deviation of the federal circuit court of appeals ruling from the authorities decided by this Court regarding due diligence, impossibilities, inequalities of application of same rules in different states and the right of the government to take citizens money other than taxes.

1 OHIO PROPERTY NICHOLS TOWNHOMES

A. Petitioner is entitled to summary judgment for Nicolas because HUD decision to deny his request for self management was arbitrary

HUD acted arbitrary in denying the request to self manage Nicolas. HUD decisions must be set aside. (citing Darwin Const. Co.,Inc v. United States, 811 F2d

593,598(Fed. Cir. 1987); Knotts v. United States, 128 Ct. C1. 489,491 (1954)). Significantly, the government does not dispute that an arbitrary decision by a federal agency must be set aside if challenged. Instead the government argues that the HUD decision was not arbitrary. The court of appeals erred in holding that government officials act in good faith and the little guy acted in bad faith.

HUD had approved the petitioner to self manage five other projects. (hearing transcripts, App 57a-58a, 106a-113a)

The lower courts and the government have both misapprehended the requirements under rule 56. As stated by this Court, the non moving party may oppose summary judgment "by any of the kinds of evidentiary material listed in rule 56(c)." Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986) (emphasis added); see also Goodyear Tire and Rubber Co. v, Rekeaseomers, inc., 824 F2d 953, 957 n.2 (Fed. Cir. 1987) ("The law is clear, however, that a party may oppose summary judgment by **any** of the kinds of evidentiary materials listed in [Fed.R.Civ.P.] 56(c),except the mere pleadings themselves.') (citations and internal quotes omitted) (emphasis added). Moreover, "The Court will not weigh the evidence" when considering a motion for summary judgment. Travelers Cas. & Sur. Co. of Amer. v. United States, 75 Fed. C1. 696, 703 (2007) (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986)).

Under the standards enunciated by the Supreme Court and the Federal Circuit, Petitioner was not required to submit the forms into evidence. Rather, as contemplated by Rule 56, Petitioner provided an **undisputed** declaration that HUD dad approved him to self-manage other five projects when HUD denied his request to self manage Nicolos and that the forms he submitted for other projects were essentially the same as the forms he submitted for Nicols. Appx. 1774-1775, 18-20. Moreover even though "[t]he other foreclosure sale[s] involved different properties and determination by others individuals and regional offices," the HUD officials and office making the decision on petitioner request to self-manage Nicolas had constructive knowledge that petitioner had been approved to self manage five other projects. Cf. Griffin & Griffin exploration, LLC v. United States, 116 Fed CI. 163, 175 (2014) (holding that "[w]hile there were a series of miscommunications and mishaps which led [Bureau of land Management] officials not to have actual actual knowe;edge of the existence of the prior lease, [Mineral management services] actual knoweldge may be imputed to BLM because both are agencies within the Department of Interior]"; Mobil Corp. v. United States, 67 Fed. CI. 708, 717 (2005) (holding that to determine whether the commissioner of the IRS has constructive knowledge of an informal claim for a tax refund the evidence relied on "to establish the informal claim must be in possession of an authorized agent of the

Commissioner"). Therefore, the petitioner met his burden under Rule 56. Accordingly, petitioner is entitled to summary judgment on count V since HUD decision to deny his request to self-manage Nicols was arbitrary.

II NEW YORK COMPLEX Known as Schenectady 40

A. The government is not entitled to summary judgment on count I of the complaint because there is a Genuine issue of Material fact in Dispute as to whether the petitioner completed the repairs at Schenectady 40

With respect to Count I of the complaint, the government asserts that petitioner has not provided any credible evidence that he completed the required repairs at any point of time.

As discussed above, the nonmoving party may oppose summary judgment "by **any** of the kinds of evidentiary material listed in Rule 56(c)."Celotex, 477U.S. at 324 (emphasis added). Declarations are included in "the kinds of evidentiary material listed in Rule 56(c)."Fed.R.Civ.P 56(c)(1)(A).

As stated in his declaration, petitioner "completed **all** of the repairs " at Schenectady 40 "by October (2009)." Appx 1776, 30 (emphasis added). There is nothing equivocal about this statement. Therefore consistent with the standards for opposing a motion for summary judgment specified by the Supreme Court in Celotex. The declaration of the Petitioner is sufficient to create s genuine issue of material fact. See also Goodyear 824 F.2d ar 957 n.2 ("The law is clear, however, that a party may oppose summary judgment by **any** of the kinds of evidentiary materials listed in [Fed.R.Civ.P.] 56(c), except the mere pleadings themselves.")(citation and internal quotes emitted) (emphasis added).

As seen from App 99a, 114a-127a), Elisa Wickham, the code enforcement coordinator for the city of Schenectady issued a letter regarding Schenectady 40 on October 9, 2009.

In this letter, Ms. Wickham stated that the units at Schenectady 40: (1) "have no outstanding violations"; (2) "have a rental inspection for all tenants"; and (3) **"every property has passed inspections."** (emphasis added).

The government argues that this letter "in way addressed the specific post-closing repair requirements listed in attachment E in the bid kit, and thus has no bearing on whether petitioner completed the repairs."
The point is that since the units at Schenectady 40 would be occupied by residents of Schenectady, Schenectady has a more vested interest than HUD in ensuring that the units at Schenectady 40were decent, safe and sanitary before it issued a rental inspection certificate.

It is illogical to think that the units at Schenectady 40 would have passed Schenectady inspection of the units and Schenectady would have issued rental certificates for the units, if, as asserted by the government." Petitioner completed only 38% of the repairs required by the bid kit.". Therefore, a valid inference may be drawn from Ms. Wickham letter that petitioner did, in fact, complete the required repairs at Schenectady 40 by the time Ms. Wickham issued her letter, See Anderson, 477 U.S. at 255 (stating that in considering a summary judgment motion"all justifiable inferences are to be drawn" in the non-movant favor).
The Government argues that contrary to petitioner assertion, the deadline to complete the repairs at Schenectady 40 was not extended till November 2009. In support of its argument, the government points to the November 2008 letter from HUD to petitioner in which "HUD notified him that he was in breach of the use agreement requiring him to complete the repairs [at Schenectady 40] by July 2008." According to the government, this letter required that any extension had to be approved by HUD and was contingent on petitioner submission within ten days of the date of the letter a schedule for the completion of the required repairs,

As noted by the government, "[i]n March 2009 HUD inspectors conducted a follow-up inspection of each of the 40 units....." HUD inspector inspected the units again on August 11, 2009. After the inspection, "HUD concluded that petitioner failed to meet his obligation under the use agreement and HAP (housing assistance payment) contract."As a result, HUD " abared the HAP contract and retained the petitioner escrow.

The inspections in March and November 2009 happened after the alleged deadline of July 2008. Clearly, HUD acted as if the deadline had been extended. Therefore the petitioner has raised an inference that the deadline was extended.

The govt. argues even if the deadline was extended, "there is no credible evidence that repairs was completed by October 2009.

The court of appeals in its ruling, App 11a, last paragraph said "Even if Halim had completed the post closing repairs by October 2009, the fact was not material" because it was beyond July 2008 deadline.

It is easy to infer from the Court of appeals for the federal Circuit statement and the Government statement that Petitioner completed the repairs on time. Even HUD deponent (Lisa puglese) conceded that Halim could have comp;eted the repairs by then. In addition, the government asserts that Halim contention that the repairs were completed by October 2009 is belied by HUD inspection reports." Unrealistic does mean impossible, Moreover, as discussed above, the units at Schenectady 40 would not have passed the inspection by the City nor would City

have issued rental certificates for all the tenants at schenectady 40 was as dire as alleged by the Government. Therefore, there is a genuine issue of material fact as to whether Petitioner completed the repairs at Schenectady 40 in a timely manner. Accordingly, the Government is not entitled to summary judgment on count I.

B. The GOVERNMENT is not entitled to a summary judgment on count II of the complaint because a genuine issue of material fact in dispute as to whether Petitioner maintated Schenectady 40 in accordance with HUD (UPCS)

With respect to Count II of the complaint, the government asserts that "the letter from [Ms. Wickham] has no bearing on the issues in this case." This is essentially, because the letter does not mention UCPS inspection.
Incidentally Ms. Wickham is now UCPS inspector for HUD schenectady authority And she provided several letters regarding UCPS. If the apartments are passing UCPS from 2008 till 2020(APP 99a,114a-127a) what is the Government Problem?

As discussed above, the city of Schenectady has the most abiding interest to ensure that the units at Schenectady 40 were decent, safe, and sanitary for the residents of Schenectady 40. Therefore the fact that Schenectady issued a rental inspection certificate for all of the units is clearly relevant and creates a genuine issue of material fact regarding whether the units were in compliance with the UPCS. The city certainly would not have issued a rental inspection certificate for each of the units if there had been any issues with respect to the physical conditions of the units. In fact, a project must comply with applicable State and local physical condition standards. See C. F. R. at 5.703(g) ("The physical condition standards in this section do not supersede or preempt State and local codes for building and

maintenance with which HUD housing must comply. HUD housing must continue to adhere to these codes.").

As stated in the Halim decleration **all** the units passed UCPS in 2008 and also from the testimony of Lisa Puglese,(App 104a), and App 60a. Halim stated that **all** units were occupied with income-eligible tenants' ' and Halim "was receiving subsidy payments from HUD for each of the units' ' at the time HUD abated the Schenectady 40 HAP contract. This is significant because "Section 8 payments may be made only for project units which are determined to be decent, safe and sanitary." 24 C. F. R. at 886.304(b).

The government asserts that "Halim's conclusory statement in his decoration does not create a genuine issue of material fact."

Again, the government has misapprehended the requirements under Rule 56. From the evidence discussed above, a valid inference may be drawn that the units at Schenectady 40 were in compliance with UPCS when HUD terminated the HAP contract. Otherwise, HUD would have begun making payments to Halim, the units at Schenectady 40 would not have passed the City inspection of the units, and the City would not have issued a rental certificate for each of the units. See Anderson 477 U.S. at 255 (stating that in considering a summary judgment motion " all justifiable inferences are to be drawn" in the non movant favor).

Therefore, the Government is not entitled to summary judgment on count II of the complaint since there is a genuine issue of material fact in dispute as to whether Petitioner maintained Schenectady 40 apartments in accordance with the UPCS.

III MISSISSIPPI Apartments aka Meadowbrook Apartments.

A. Petitioner Is entitled to summary judgment on Count III of the Complaint Because it was Impossible for Petitioner to complete the required repairs at Meadowbrook After the Stop Work order was Issued.

With respect to count III of the complaint, the Government argues that "the lower court can not rely on impossibility to excuse his failure" to make the required repairs at Meadowbrook. This is because the trial work found that Halim did not introduce any " evidence to establish that it was objectively impossible for him to complete the required repairs or maintain the properties in compliance with UPCS".**The Government is wrong.**

Halim's final deadline for completing the repairs at Meadowbrook was, in accordance with HUD process for declaring a default, extended from January 2011 till January 2, 2012. This process is consistent with the requirements under Meadowbrook use agreement, that Halim be provided with written notice of an alleged violation at Meadowbrook and at least 30 days to remedy the violation

The stop work order issued by Meridian, was in effect during this entire period of time. Moreover, the city manager of Meridian threatened to arrest the petitioner if he did any work at Meadowbrook while the stop work order was in effect. Therefore it was objectively impossible for him or anyone else to complete the repairs during this period.

The government asserts that "[Meridian] issued the stop work order as a consequence of Halim's own failure to meet the imposed deadlines even after they were twice extended by a year. Petitioner has an agreement with the Government not the City regarding the repair. If the government was serious about finishing the remaining repairs (6%) in 2011, why it did not exercise its authority over this locality to force the city to let Halim finish the work, instead the government was silent about the threat and abuse he was experiencing from this abusive city manager, not only he threatened the petitioner but ultimately hit the Police Chief which resulted in his firing by the end of 2011, apparently the government was on the abusive side, Good job Government!!!!!!!!!!!!!!!!!!!! , and this is the same government,for which the United States Court of Appeals for the federal Circuit and the trial court, both held its officials discharge their duties in good faith. Great !!!!!!!!!!!!!!

Still the Government with no shame argues that "Halim can not excuse his performance under the agreement by attempting to evade the consequences of [his] own actions and inactions." However Halim is not attempting to evade the consequences of his actions. Rather, as conceded by the government, Halim completed 94% of the repairs by December 20, 2010. Appx 215 Therefore, the evidence shows that the petitioner was making steady progress in completing the repairs until Meridian issued a stop work order.

The Government also argues that " HUD formal notice of violation did not alter Halim deadline to complete [the] repairs. According to the government, this is because Halimwas not prejudiced by the alleged failure of HUD to provide a formal notice of violation till December 2, 2011.

As discussed above, Halim was entitled to a written notice of an alleged violation of the Meadowbrook agreement and HUD procedures before HUD declared a default, and at least 30 days to correct the violations under the Meadowbrook agreement and HUD procedures before HUD declared a default and pursued any remedy to which HUD may have been entitled.

Cf alli v. United States, 83 Fed. CI 250, 253 (2008) (observing that for a default of the HAP contracts at issue, the contracts required HUD to notify the owner of "the nature of the default" "[t]he actions required to be taken" to remedy the default and "[t]he time within which the owner" had to remedy the default). Therefore, whether Halim was prejudiced by HUD failure to provide a notice by December 2, 2011 is irrelevant. The Government cites Philadelphia Regent Builders v. United States, 634 F2d 569 (Ct. CI. 1980) in

support of its argument that the Meadowbrook agreement deadline was not extended because Halim was not prejudiced by HUD failure to provide a notice of violation until December 2, 2011. In that case,the court found that although the termination notice at issue contained several technical defects, the defects gave the plaintiff "no cause to complain" because the defects did not cause the plaintiff any harm.*Id.* at 572-573.

The defects in the notice were: "the notice did not have the proper contract number and date; it did not state that the government reserved all its rights and remedies; it did not state that the Government reserved all its rights and remedies; it did not state that the notice constituted a decision pursuant to the disputes clause; and it was not signed by the contracting officer." *Id* at 572. Despite these defects, the court found that the plaintiff "was not misled by the notice" and that "all essential information was conveyed by the notice" as evidenced by the fact that the plaintiff made "a timely appeal of the contracting officer decision and appeal was tried on the merits before the beteran administration contract appeals board (VACAB).In addition the plaintiff did not "claim that it was harmed in any way by the admitted defects of the notice."

In contrast, in this case it is not the information in the notice, or what information was not on the notice, that is at issue. Rather, it is the fact that Halim was entitled , under the meadowbrook agreement and HUD procedures to receive a written notice of an alleged violation and, in accordance with such a notice, at least thirty days to remedy the violation.

As noted above, Halim had completed 94% of the repairs at Meadowbrook by December 20, 2010. In accordance with HUD process for declaring the default of an agreement with HUD, and as required by the Meadowbrook agreement, Halim would have until at least February 14, 2011

to complete the repairs if HUD had issued the agreement on January 16, 2011, the day after the preliminary January 15, 2011 deadline.It is entirely possible that Halim could have completed the remaining 6% of the repairs by then.Therefore Halim was in fact prejudiced by HUD by HUD failure to provide a notice of violation until December 2 , 2011.

Lastly, the Government argues that "Halim provides no evidence in the record" to support" his claim that he completed the repairs after the stop work order was lifted. In support of his claim, Halim stated in his sworn undisputed declaration that he completed the repairs when the stop work order was lifted. As discussed above, this is sufficient under the standards specified by the US Supreme Court in Celotex.

However, contrary to the government assertion, Halim did provide certificates of occupancy for all buildings (See APPx) issued by the City of Meridian.were issued in 2012 after the stop work order was lifted. The United States Court of Appeals erred when stated Halim provided only 3 certificates (App 21a) contrary to what is in the record(App 80a-88a) which are 9 certificates.

A valid inference may be drawnHalim completed the repairs after the stop work order was lifted, otherwise the city would not have issued the certificates. Anderson, 477 U,S, at 255 stating that in considering a summary judgment motion "all justifiable inferencsare to be drawn" in favor of the non movant favor).

B. The Government is Not Entit;ed to Summary Judgment on Count IV of the Complaint Because a Genuine Issue of Material Fact In Dispute as Whether Petitioner Maintained Meadowbrook in Accordance with HUD UPCS

With respect to count IV of the complaint and the Meadowbrook HAP contract, the Government argues that "Halim conclusory contensions, however are devoid of any support in the record."

One of the inspection reports primarily relied on by the Government to support its argument is the January 12, 2012. However, the January 2012 inspection is not relevant because it was conducted during the time the stop work order was in effect. Nor any other inspection conducted when the stop work order was in effect.

The Government also points to inspection conducted in 2010 to support its argument, However, as conceded by the government, a UPCS inspection is a snapshot in time. Therefore The 2010 inspections are not relevant.What is

relevant is whether Meadowbrook was in compliance with UPCS inspection when HUD bagan iits enforcement action on December 2, 2011.

Since HUD bagan its enforcement actions on December 2, 2011, Halim had until at least January 2, 2012 to make the repairs and do the work necessary to bring the units at Meadowbrook into compliance with the UPCS,

HUD stated in the notice, App (" You must correct the violations specified above within 30 days of the of this Notice."). However, Halim was prohibited, under the threat of arrest, from doing any work at Meadowbrook for almost all of 2011 and part of 2012. App ,Therefore Halim was excused from his performance under the Meadowbrook HAP until the **legal impediment to completing the repairs was lifted.**

The government disputes that a valid inference may be drawn from the certificates issued by the ;local authority for all the buildings at Meadowbrook met UPCS, relaying on the erroneous statements of the trial court and the appeals court that only 3 certificates were issued contrary to the record, Appx

In his undisputed declaration, Halim stated that he completed the repairs supported by the certificates of occupancy. Therefore a valid inference may be drawn from the certificates of occupancy issued by the City that all of the units at Meadowbrook met the UPCS as soon as practicable after **the legal impediment to completing the repairs at Meadowbrook was removed.** Otherwise, the units at Meadowbrook would not have passed the City inspection, nor the City issued certificates of occupancy for all the units, therefore according to the standards of the U.S. Supreme Court in Anderson, 477 U.S. at 255 (stating that in considering a summary judgment motion "all justifiable inference are to be drawn" in the non movant favor).

Also as discussed above, Meridian issued by (the hateful abusive city manager, fired after hitting the Police Chief which happened to be black) the stop work order even though Halim was making steady progress in completing the repairs at Meadowbrook as evidenced by the 94% work completion. Again what is the government problem?, today is August 6, 2020, Meadowbrook as a gated community serving the low income good citizens of Meridian with no complaint from no one except the government because of the little guy religion and national origin.(App 80a-88a)

Therefore, Petitioner actions were not the cause for issuance of the stop work order. **Rather the city manager at the time moved the tape as Petitioner was nearing the finish line.**

IV. North Carolina Apartments aka Beacon Light.

A. Petitioner is Entitled to Summary Judgment on Count VI of the Complaint, Because Neither Party knew that Beacon Light Did not Comply with the Density and set back requirements.

The government points to the provision in the bid kit that notified prospective bidders that they were expected to "arrive at their own conclusions as to the physical condition... and any factors bearing upon the valuation of the property

According to the government, "if the bid kit only intended to the physical conditions of the property," as asserted by Halim, "there would be no need to include the final phrase that the bidders should additionally arrive at their own conclusion regarding any other factors bearing upon the property valuations." The provision "any other factors" is extremely broad. The "factors" that might have a bearing on the value of Beacon Light are extensive; almost anything may have a bearing on Beacon Light value. It would be fundamentally unfair to require Halim to try and determine all of the possible factors beyond the physical condition of Beacon Light that might have had a bearing on its value. Beacon Light was operating as a multi family project at the time of the foreclosure sale. Th may have been some vandalierefore, there was no reason for Halim to question whether the project was in compliance with the zoning code. He assumed as any reasonable person, that it was in compliance

The government in another document(App105a) titled "**USE RESTRICTIONS**" highlighted in yellow "**Potential bidders should be aware that building "9" located at 432 Boddie street, was damaged by fire and there may have been some vandalism at the property The high bidder will be required to complete all of the repairs noted in Attachment E post closing Repairs Requirements plus repair to State and local code all fire damage/vandalism that has occured or may occur prior to closing on the sale. This requirement should be factored into the bid**"

As we learned later Building [**9**] was among the buildings in violation of the city code. [T]he United states court of appeals in its ruling page 20 stated "**Purchasers were expected to acquaint themselves with the property, and to arrive at their own conclusion as to physical**

conditions and any other factors bearing upon the valuation of the property.

It is easily inferred from the above two statements that the factor of code violation was not one of the factors to be considered with a reasonable person. The question to the Court, why the government will ask you to repair a building [9] which should be demolished according to the City.

As stated by Justice Sotomayor (writing for the majority), due diligence is **not a silver bullet** in CITGO ASPHALT REFININGCO. V. FRESCATI SHIPPING CO., 589 ,U.S. Supreme Court, March 2020

Justice Sotomayor also stated, But "[w]hen a written contract is ambiguous, its meaning is a question of fact, requiring a determination of the

intent of [the] parties in entering the contract"; that may involve examining "relevant extrinsic evidence of the parties intent and the meaning of the words that they used.. Obviously no one can find more ambiguous agreement than HUD bid kits, specifically North Carolina and Alabama Projects.

Petitioner also argued that Edwards v. United States (Both the appeals and trial courts relied on their rulings) , 19 CI. Ct. 663 (1990) is inapplicable because the sentence quoted by the court from Edward was from the court discussion on the plaintiff misrepresentation claim.The government dispute Halim argument on the basis of the statement that the plaintiff "filed a cross motion for summary judgment based on their misrepresentation claim, contending that the misrepresentation amounts to a mutual mistake of fact of the law."(citing Edwards, 19 CI. Ct. at 669).

Edwards considered the plaintiff misrepresentation claim, 19 CI. Ct. at 669-673, and the "Plaintiff legal authority of mutual mistake of fact or law".at 673-675. The elements of a misrepresentation claim, at 670, are different than the elements of fact claim. Dairyland Power Coop. v. United States, 16F. 3d 1197,1202 (Fed. Cir. 1994). Therefore, any discussion in Edwards of the Plaintiffs mis representation claim including the sentence quoted by the trial court and affirmed by the appeals court, are not relevant.

In finding that there was no mutual of fact or law, the court focused on the fact that the Postal Service used "the open advertising" method to procure a new location for the post office "because it does not require the Postal Service employees to investigate zoning and other requirements pertaining to a proposed site" Edwards 19, 19 CI. Ct. at 665. Instead, "[t}he bid Invitation contained provision warning the bidders of their responsibility for basing their bids on properly zoned property, and for obtaining proper zoning if

necessary." In addition, prospective bidders received an agreement to lease which contained a Permits and Responsibilities "which required the contractor to comply with all applicable federal, state, and local laws and regulations in performing the contract." Therefore, the court found that the Plaintiff bore the risk pertaining to the zoning for the new post office which the "[p]laintiff seemed to concede at oral argument." at 674.

As discussed above, Edwards was clear cut while the bid kit for Beacon Light was ambiguous, it does not contain a provision that addresses zoning or a provision that required Halim to comply with all laws and regulations. Therefore Edwards not relevant but the CITGO decided by the U.S. Supreme Court seems to be relevant and in Petitioner favor so the Government should return the one mi;;ion three hundreds thousands fifty dollars ($1,350,000.00)

based on allegations of deception by the Government officials either intentionally or not intentionally.

B. Petitioner is Entitled to Summary Judgment on counts VIII of the Complaint Because it was Impossible for him to Make the Repairs at Beacon Light.

The Government disputes Halim's argument that he wes excused from his performance under the Beacon Light agreement under the doctrine of impossibility . Also it argues that Halim is incorrect in his assertion that the deadline for completing the repairs specified in the Beacon Light agreement was not the final deadline. According to the government, "Halim deadline did not depend on whether HUD timely provided notice of Halim default because Halim received meaningful and repeated notice that his failure to complete the repairs at Beacon Light constituted a violation under the use agreement.

Under the Beacon Light use agreement , and in accordance with the HUD process for declaring a default, Halim was entitled to a written notice of any alleged violation at the Beacon Light agreement, and at least 30 days to correct the violations. This contractual right is substantially different from the technical defects of the notice at issue in Philadelphia Regent Builders specified above that the court deemed insufficient to invalidate the notice. Therefore, HUD failure to comply with the Beacon Light contract, and its own procedures, is not excused by the notices provided by HUD to Halim. None of these notices were formal notices of a violation which specified the alleged violation and provided Halim with at least thirty days to correct the violation. ("I have found no record where we have sent to the owner [of

Beacon Light] a [Notice of violation] or [Notice of default]letters.....I only saw one letter dated March 11, 2009 that could be considered a **possible warning letter**.") (emphasis added).

The government also argues that the "court correctly found that Halim was complicit in any impossibility due to the City of Henderson denial of a Variance." In support of its argument, the government points out to the fact by the time Halim applied for a variance, "There had been fires which had damaged or destroyed several buildings." (citation omitted). The government also points out to the fact that Beacon Light was condemned by Henderson on August 10, 2009 and Henderson denial of Halim

"variance application." Therefore, according to the Government, "to the extent that making repairs without the City Permit was actually impossible, Halim's own actions created the impossibility."

The government point is far beyond a reasonable explanation, in that Halim did not set the fires, it was ignited by some criminals as a result of the City manager racist comments about Halim in the local newspapers, None of the problems created by Henderson were created by an affirmative act of Halim. Therefore Halim's actions did not create the impossibility. Accordingly, Halim was excused from his performance of the Beacon Light contract under the doctrine of impossibility because Henderson refusal to approve the special use permit and zoning variance and the demolition of Beacon Light made it impossible for him to complete the repairs at Beacon Light.

V. Alabama Apartments aka Highland Village Apartments in Montgomery, to recover his $1,555,000.00.

Petitioner is entitled to summary judgment on counts IX, X and XI of the complaint(App 128a)

As stated before, the government held two foreclosure sales for this property. In the first sale, the bid kit was a clear cut, The sake did not go on/ HUD used the same bid kit for the same list of repairs plus ambiguous statements to sell the project to Halim. In the first sale, the project was habitable with tenants living, and in the second sale it was gutted abandoned project. Bidders rely mainly on the list of the required repairs in the bid kit.

The question to the Court, why HUD did not send their inspector and prepare a new list of repairs to reflect the reality rather than using ambiguous statements.
For the same legal reasons, discussed in Beacon Light, Petitioner is entitled to get his **($1,550,000.00) back.**

CONCLUSION

HUD failure to approve Halim to self manage Nichols was arbitrary as demonstrated by the fact that HUD already approved Halim to self manage five other projects when HUD refused to approve him to self manage Nichols.

The arbitrariness of HUD decision is further demonstrated by the fact that HUD approved Halim to self manage other three projects after HUD refused him to self manage Nichols. Therefore, Halim is entitled to summary judgment on count V of the complaint.

There is a genuine issue of material fact in dispute as to whether Halim completed the repairs at Schenectady 40. There is also a genuine issue of material fact in dispute as to whether Halim maintained Schenectady 40 in compliance with HUD UPCS inspection.Therefore, the Government is not entitled to summary judgment on either count I or count II of the complaint.

Halim's obligation to complete the repairs at Meadowbrook was discharged under the doctrine of impossibility when it became impossible for him to complete the repairs after Meridian issued a stop work order. Therefore, Halim is entitled to summary Judgment on count III of the complaint.

Alternatively, as discussed before, Halim's obligation to complete the repairs at Meadowbrook was suspended under the doctrine of impossibility

while the stop work order was in effect. Halim is, therefore entitled to summary judgment on count III since he completed the repairs after the stop work order was lifted.

Under the doctrine of impossibility, Halim was excused from his obligation under the Meadowbrook HAP contract to maintain Meadowbrook in accordance with UPCS until the stop work order was lifted. Since there is a genuine issue of material fact in dispute as to whether Meadowbrook was in compliance with UPCS after the stop worker order was lifted, the Government is not entitled to summary judgment on count IV of the complaint.

Neither Halim nor HUD knew at the time Halim bought Beacon Light that Beacon Light was not in compliance with the applicable zoning laws.

Therefore Halim is entitled to summary on count VI of the complaint because Halim and HUD made a mutual mistake of fact.

Henderson refused to issue the permits or to approve the special use permit and zoning variance that would have enabled Halim to make the repairs he was obligated to make at Beacon Light. Therefore Halim is entitled to summary judgment on count VIII of the complaint. Because it was impossible for him to make the required repairs at Beacon Light. It was also impossible for him to make the repairs because with HUD approval , Henderson demolished Beacon Light

Finally, as discussed above, Halim is entitled to summary judgment on counts IX, X, and XI.

For the forgoing reasons, the little guy prays that his petition for a writ of certiorari should be granted.

Respectfully submitted,
Ahmed Halim
8338 Governor Grayson way
Ellicott City, MD 21043
(601) 227 2000
schenectady40apartments@gmail.com