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**Address to  
The Cleveland City Club**

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**NOTE: Assistant Attorney General Acosta  
frequently deviates from his prepared remarks**

Thank you very much for that introduction. I am honored by the opportunity to speak here today. I have been on the job about 18 months now but am still humbled every day by the opportunity to serve as the head of the Civil Rights Division.

The City Club has a proud tradition of hosting speakers. Since 1912, it has provided a forum for discussion and debate. The list of great statesmen who have appeared here is truly impressive.

As I reviewed this list, I was struck in particular by the name of one prior speaker: Robert F. Kennedy.

Robert Kennedy appeared here on April 5, 1968. He was, I presume, scheduled to speak as a candidate for office. Fate and circumstance, however, intervened. The day before, April 4, 1968, the Reverend Doctor Martin Luther King was assassinated. And so Robert Kennedy's speech here became a eulogy to a great man.

The assassination of Dr. King serves to remind us in stark terms that the civil rights struggle was exactly that – a struggle. The 1950s and 1960s saw some of the most bitter, divisive, hate-filled episodes this country has ever known.

It would be wrong, however, to believe that the struggle for civil rights is a new struggle. Our nation was forged in the crucible of a struggle for the most basic of rights.

On July 4<sup>th</sup>, 1776, the Framers affirmed their independence from the King of England – and undertook their own great struggle.

As the Declaration of Independence makes clear, that was a struggle for basic rights. Look to its second, and best known, sentence:

“We hold these truths to be SELF-EVIDENT, that all men are created EQUAL, that they are endowed by their creator with certain UNALIENABLE RIGHTS, that among these are LIFE, LIBERTY, and the PURSUIT OF HAPPINESS.

That sentiment was no flash-in-the-pan. Nearly 90 years later, President Lincoln reaffirmed it at Gettysburg.<sup>1</sup> His first two sentences are similarly striking:

“Four score and seven years ago our fathers brought forth, upon this continent, a new nation, conceived in Liberty, and dedicated to the proposition that ALL men are created EQUAL

“Now we are engaged in a great civil war, testing whether that nation, or any nation, so conceived, and so dedicated, can long endure.”

And 90 years after that, in 1954, Chief Justice Earl Warren wrote:

“We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even if the physical facilities

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<sup>1</sup> (Nov. 19, 1863)

and other tangible factors may be equal, deprive the children of the minority group of equal educational opportunities. WE BELIVE THAT IT DOES.

“We conclude that, in the field of public education, the doctrine of “separate but equal” HAS NO PLACE. Separate educational facilities are INHERENTLY unequal.”

And thus began what we today think of as the modern civil rights movement.

Our history is a history deriving from shared principles:

- that a king can never consider himself better than a common man;
- that slavery can never be tolerated; and
- that separate can never be equal.

President George W. Bush reaffirmed this unfolding American story in his first inaugural address. The American Story, he said, is:

[A] story of flawed and fallible people, united across the generations by grand and enduring ideals. The grandest of these ideals is an unfolding American promise that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born.

This has held true from the framers to the Reverend Dr. Martin Luther King to today.

Since the death of Dr. King, we have come far.

America today, just 36 years later, is a fundamentally different place than it was in the age of segregation.

The struggles of that era, however, are not entirely in the past. As President Bush observed last year standing in front of the Monroe School:

“[S]egregation is a living memory, and many still carry its scars. The habits of racism in America have not all been broken.”

Yet, at the very least, today we can recognize that “a line ha[s] been crossed in American history. The system of racial oppression in our country ha[s] lost its claim to legitimacy....”<sup>2</sup>

Thus, our challenge today is to determine how to cement and secure these gains for future generations.

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<sup>2</sup> President George W. Bush, Remarks at the Grand Opening of the Brown v Board of Education National Historic Site, Topeka, KS (May 17, 2004).

President Bush speaks often about the imperative of developing an “ownership society.” The President recognizes that a great force for equal access and social leveling is economic independence.

Americans with little inheritance but their character need access to capital and the chance to own and build for the future.

Individuals of any race are more secure in their rights and property when they own their home, enjoy access to credit markets, benefit from a secure job and direct their own financial future.

A necessary requisite to such a society is the elimination of hurdles based on race, sex, national origin, religion, and disability – the elimination of the fault-lines that divide us.

And, that is where the Civil Rights Division comes in. We are charged with enforcing laws prohibiting discrimination in a broad range of areas including housing, hiring, public accommodations, and elsewhere.

And that is precisely what we have done, aggressively and vigorously.

Fiscal year 2004 was a record-setting year for the Civil Rights Division. Under the leadership of President Bush, we:

- Achieved our highest success rate ever in the courts of appeals;

- Launched an investigation of the 1955 murder of Emmett Till – the fourteen year old boy from Chicago who was tortured and brutally murdered in Mississippi for allegedly whistling at a white woman;
- Prosecuted 96 new criminal civil rights cases, the most ever filed in a single year;
- In another record, prosecuted 59 new defendants for human trafficking or modern-day slavery violations, a dramatic increase from the 5 prosecuted in 2000;
- Prosecuted 46 color of law of official misconduct criminal cases – just three fewer than the all-time high, achieving a 77 percent conviction rate;
- Mounted the Division’s largest election-monitoring program ever, deploying 1,996 federal observers and monitors to watch 163 elections in 29 states;
- Filed and successfully resolved as many language minority ballot access cases as had been filed in the previous 8 years combined;
- Conducted extensive outreach efforts with state election officials to ensure compliance with federal election laws and with civil rights groups to ensure their concerns were heard during the Presidential Election;
- Increased by 85% the number of lawsuits challenging a pattern or practice of discrimination in housing;

- In another record, won the largest jury verdict ever obtained by the Division in a Fair Housing Act case;
- Brought, for the first time ever, multiple fair lending "redlining" cases in the same year, including – in another first – fair lending case concerning small business loans;
- Filed more pattern or practice employment discrimination cases than in any year since the mid-1990s;
- Concluded the 100<sup>th</sup> agreement under Project Civic Access, promoting accessibility in municipal services and facilities;
- Filed and resolved a landmark design and construction suit under the FHA and ADA that covers over 4,000 housing units and affects 34 apartment complexes in 6 states;
- Settled the Division's first case against a public housing authority to enforce HUD's Rehabilitation Act regulations, providing more than 2,000 new housing opportunities for individuals with disabilities;
- Received more than 30 million hits – the most ever – on our ADA assistance website;
- Served more than 100,000 callers on our ADA Information Hotline, including 48,000 who were personally assisted by specialists;
- Brought the first Title IV education discrimination case since 1990;
- Hosted our first ever conference on Limited English Proficiency Issues;



- Successfully resolved 6 pattern or practice investigations of police departments, more than in any previous year;
- Authorized 14 new Civil Rights of Institutionalized Persons Act (“CRIPA”) investigations and entered into 15 CRIPA agreements, the most agreements reached ever in a single year in; and,
- Filed the Division’s first contested lawsuit to protect the rights of juveniles in state institutions since the early 1990s.

Clearly I do not have time to discuss all these areas in detail. My goal in listing these points was simply to provide an overview of what we do.

Rather, let me focus on a small subset of what we do, and talk about those cases that most directly support “ownership.”

Ownership is about being secure in your person and your property. This includes security in housing, in lending, and in employment.

Ownership is about the ability for self-betterment. Ultimately, ownership is about our ability to leave our children a better life and higher standard of living than we enjoy. Let me take these themes in order.

## **Housing**

Nothing is more essential to self-sustenance and self-improvement than a roof over one’s head. Most of us take such a comfort for granted. Yet, some do not and cannot.

Some Americans are denied a fair and equal opportunity to rent or buy housing because of sex or race. That cannot be permitted.

Let me give you an example of the type of cases we bring.

Consider *United States v. Habersham Properties*. There, we pursued allegations that an apartment complex was treating rental applicants differently on the basis of race. An African-American woman complained that she had been told that no apartments were available when she went to the apartment complex in person, but was informed of availabilities when she called back by phone.

We confirmed this allegation through our testing program. Through our testing program, we send individuals of different races to apply for apartments while controlling for other variables. During the testing, the rental agent consistently allowed white testers to inspect available apartments and gave them the opportunity to rent, while falsely telling black testers that no apartments were available.

It cost the Defendants \$180,000 to settle the case, in addition to agreeing to abide by the law and to pay for continued testing.

It is hard to believe that such naked discrimination continues today. BUT IT DOES. And such discrimination is not limited to race.

Consider, for example, the facts of a case we took to trial last year, *United States v. Veal*. In that case, we sued two Kansas City landlords who systematically sought sexual favors from female tenants.

One victim was a young woman – 19 years old. She had been living in her car with her two children, when she moved into the top floor of a duplex owned by the defendants. On two separate occasions, one defendant came to her home, let himself in unannounced, and forced her to have sex with him. After this, she used the medicine she was receiving to treat her sickle cell disease to try to kill herself.

Another victim was similarly homeless and separated from her children when she rented a home from the defendants. She too considered suicide after several incidents where a defendant fondled her and refused to stop.

We secured a jury award of \$1.1 million in this case, the largest Fair Housing Act award in the Division’s history.

We recently concluded a similar case in Nebraska, *United States v. Koch*. After trial, the Court had this to say:

“[T]he information contained in [the] ‘FACTUAL STATEMENT’ . . . lacks the specificity that can more accurately picture the self gratifying, debasing, and pitiless acts of sexual indulgence practiced by the defendant on the financially strapped women who rented or sought to rent houses from him.

“For example, [one victim] rented from him for six or seven months in 1999, during which he propositioned her several times by saying that if she would have sex with him one or two times a week, she would have to pay only one-half of the regular rent. He threatened to evict her and ultimately did, after being told that she wasn't . . . having sex with him.

“When [another victim] was trying to rent a house from him, he exposed [himself] to her for about five minutes.

“[A third victim], a mentally disabled women, testified that the defendant coerced her into having oral sex with him multiple times, and then evicted her after she refused to let him urinate on her.”

This should go without saying, but apparently in some quarters it needs to be said. Sexual acquiescence should not, and cannot, be the price of a roof over one's head. Nor should the color of one's skin determine property rental or purchase.

Discrimination in housing, unfortunately, is not limited to private housing providers.

Let me tell you about one particularly disturbing case, a lawsuit that we filed against the Borough of Boundbrook, New Jersey, alleging race discrimination in the adoption of the town housing code.

Let me provide some detail. Following a dramatic increase in the Borough's Hispanic population:

- The borough adopted and enforced a housing code and redevelopment plan for the purpose of making housing opportunities unavailable to Hispanic residents of the Borough.
- In fact, Borough officials selectively targeted Hispanic households for inspections
- And, according to our evidence, at least one borough official actually used an Internet chat room to openly solicit addresses where Hispanics might be living as targets for such selective inspections.

We resolved this matter through a consent decree, which required the borough to pay up to \$425,000 in damages, to pay a \$30,000 civil penalty, to revise its code, and of course to abide by the law.

What was even more disturbing about this case was some of the postings that we received following the settlement. Let me read to you some excerpts:

**1748.** betta getta outa towna if you aint a hispania because we will now have to let them live in the squalor the desire

**1753.** Quote by Ana Mendoza

in today's paper the woman states it is too expensive for Latinos here. Well "LOS AMERICANOS" pay extremely high taxes and expect a higher standard of living. We demand a better Bound Brook.....

“Martin Luther King Stated I HAVE A DREAM this statement rings truth for the taxpayers, homeowners, and business owners. We dream of ...a more desirable Bound Brook ... We dream for a better education for our children. This town needs to demand more and not give in to the demands of every ethnic group that comes along.

I THINK THESE EMAILS SPEAK FOR THEMSELVES.

Individuals with disabilities face similar challenges in housing. Major cities typically provide public housing, which is supposed to give people a leg up in getting their lives on track. This is certainly the case for persons with disabilities, and accordingly, public housing providers are required by law to make a certain number of housing units available to persons with disabilities. Yet, some do not do so.

This past year, we sued the Baltimore City public housing authority, the first time ever that we have sued a public housing provider under the Fair Housing Act, to enforce the Department of Housing and Urban Development's rules.

We brought this action after numerous complaints. As an example, one complainant who uses a wheelchair was placed in a 3-story unit in which she was unable to access either of the bathrooms or the bedrooms. She was forced to employ a chamber pot in a public area of the unit.

Another complainant, similarly wheelchair-bound, was placed in an inaccessible second floor unit, such that if an emergency arose she would be unable to exit her apartment unless she crawled.

Through our intervention, we secured more than 800 accessible units, 2,000 new housing opportunities, and \$1,039,000 in damages.

Looking toward this year, we intend to continue to put resources into prosecuting housing discrimination cases.

As I mentioned, last fiscal year we achieved an 85% increase in the number of lawsuits challenging a pattern or practice of discrimination in housing.

As for this year, this week, I met with the chief of our housing discrimination section, who has told me that we should expect to achieve even greater enforcement and will likely file an all-time record number of lawsuits regarding housing discrimination this year.

## **Fair Lending**

Closely related to access to housing is access to the credit markets. Few can own a home without a loan.

Today, America is making dramatic strides forward in home ownership across the spectrum. For the first time ever, a majority of African Americans are homeowners. To maintain this trend, mortgage lending and other credit services must be kept free from the taint of discrimination.

The Equal Credit Opportunity Act prohibits a practice known as “redlining” – the term employed to describe a lender’s refusal to lend in certain areas based on the race of the area’s residents. This is a shortsighted and offensive practice.

During 2004, we filed and resolved two major redlining cases. In one, we alleged that Old Kent Bank redlined a predominantly African-American city area by failing to provide either small business or residential lending services within city limits. In May, the bank’s successor agreed to open three new branches, to spend \$200,000 for consumer education, and to provide \$3 million for Bank-subsidized loans to the redlined areas.

Our second case was against First American Bank. We alleged that the bank redlined the predominantly African American and Hispanic neighborhoods by failing to provide residential, small business, or consumer lending services. First American has agreed to open four new branch offices, spend \$700,000 on consumer education, and provide \$5 million in Bank-subsidized loans to qualified residents of the redlined areas.



These lawsuits are the first time we challenged redlining not only for residential mortgage loans but also for small business loans.

Most importantly, however, these cases represent the first time that these communities will have an equal opportunity to access the credit markets which allow home ownership, and fuel small business growth, the twin engines of our economy.

Essential to these cases has been mortgage data made public pursuant to the Home Mortgage Disclosure Act. Yesterday, new reporting requirements went into effect. These changes provide new data on mortgage pricing, and identify loans for manufactured homes and other specialized loan types. In addition, lenders must now make this data publicly available.

As HUD made clear, these new rules will allow us to better review and analyze indicators of potentially discriminatory or predatory lending activity in more loan types.

By protecting American's ability to access the financial tools they need to pursue their dreams we promote stability, self-reliance and self-improvement.

## **Employment**

To be an "owner," to participate fully in an ownership society, you, of course, need a job. A job is necessary not only to buy a house, but also to work to improve oneself and one's family.

Fighting employment discrimination ranks among the Division's most longstanding responsibilities.

Let me tell you about some of our cases.

Some, unfortunately, follow all too familiar patterns. In *United States v. City of Baltimore*, we challenged sexual harassment of a female carpenter employed by the public works division. We alleged that she had been subjected to acts of indecent exposure by a harassing supervisor, who:

- prominently displayed pornography in the workplace,
- simulated sexual acts while telling the female carpenter that he wanted to perform those acts on her,
- and encouraged sexually offensive behavior and unwanted touching by coworkers.

Some of our most disturbing cases are those that affect America's firefighters and police. These are individuals willing to rush into burning buildings and stand and protect us every day. We cannot tolerate discrimination in firefighting or in policing.

In the District of Columbia, for example, we filed suit against Fire Department, challenging a policy that allegedly required new female emergency medical technicians to take a pregnancy test. If they tested positive, they had a choice: **ABORT OR RESIGN**. No women should have to make that choice.

We also sued the Pattonville-Bridgeton Fire District, alleging severe racial harassment of its only black firefighter. Our complaint alleges that while employed, he was the target of repeated, offensive racial slurs, which culminated when his car was vandalized with “N-I-G-G-E-R” scratched on its door.

In Delaware, we recently prevailed at trial against the State Police force, which had employed a written test to screen applicants. The cut-off score was set unjustifiably high to eliminate from contention many otherwise qualified minority candidates. In fact, at trial, we introduced evidence of 97 African-Americans who failed the test but who subsequently obtained law enforcement employment elsewhere - including the United States Secret Service.

Cases of this type – challenging patterns or practices of discrimination – are among our most costly and labor intensive. We have dedicated resources to these cases, however, and as a result, this past year we brought more than any year since the mid 1990s.

Finally, speaking of America’s heroes, the Division recently received jurisdiction over another statute – USERRA – the Uniformed Services Employment and Re-employment Rights Act. USERRA protects returning members of the military reserve, by allowing them to return to the same or a comparable job that they held prior to their military service.

As an example, just this week we reached an agreement with Bridgestone / Firestone involving the employment rights of a national guardsman returning from active duty.

The company's policies had been structured so that employees called away to fulfill an active duty commitment to the military lost seniority benefits and the associated salary increases and promotional opportunities.

USERRA demands otherwise. Our agreement with the company will restore the guardsman's seniority and provide him his lost earnings and interest.

The military has long been a path to upward mobility and opportunity for those less advantaged. Indeed, the very promise of the GI Bill was education and an opportunity for self-improvement in exchange for service.

The Civil Rights Division will protect that opportunity, and make sure that those who answer their nation's call do not themselves become victims.

### **Public Accommodations & Public Services**

I could continue talking about our work.

Our work securing equal access to restaurants, hotels and public spaces is critical. The opportunity that comes with ownership means little without the ability to participate openly and fully in civic society. We have brought suit against restaurants, for example, that discriminate against customers on the basis of race.

Our work protecting the rights of individuals with disabilities, likewise, helps foster an ownership society. This month, for example, we filed suit against the City of Detroit, challenging its public transportation system. Complainants in this case are people with disabilities who without adequate public transportation would lose their jobs.

Our Project Civil Access works with cities to ensure that public spaces such as courthouses and libraries are accessible. This past year, I signed the 100th agreement in a program called “Project Civic Access.”

## **Conclusion**

Time is short, and you have questions, so let me conclude with one added observation. These accomplishments, while deserving praise, also serve to remind us of a larger and unpraiseworthy truth. Allow me to explain.

I recently attended a Smithsonian preview of a History Channel documentary entitled “Voices of Civil Rights.” The program recorded the oral histories of average Americans who experienced segregation firsthand. Their stories were moving, to say the least.

One story in particular struck me. It was the story of an African American woman who had been a nurse in a segregated hospital. On the day the hospital desegregated, she was sent to the formerly white floor to treat, for the first time, a white woman, who had undergone surgery that very morning.

As she approached, the patient's husband stepped in the way. "Don't you lay a finger on my wife," he said. But she had to treat the patient, and she tried. At this, the husband reacted violently. "Get your n----r fingers off my wife," he yelled. He picked up the nurse, carried her from the room, and threw her down the hallway. Then, he unplugged his wife from the medical equipment, placed her in a wheelchair, and took her home.

A week later, the nurse was on duty when the man returned to the hospital. She feared another confrontation. But that did not occur. Rather, the man, defeated, said simply: "I had no right to lay my hands on you. If I had not done what I did, I would still have a wife to care for my children."

It is difficult today to imagine such blindly self-destructive behavior. It is also naïve to believe that in a mere 40 years the impulses that drove that man have disappeared entirely from our society. While discrimination may not take all of the same stark forms that it once did, and while the tools to fight it must adapt, it nevertheless persists.

As our President reminded us five Januarys ago:

"We have a place, all of us, in a long story--a story we continue, but whose end we will not see. It is the story of a new world that became a friend and liberator of the old, a story of a slave-holding society that became a servant of freedom, the story of a power that went into the world to

protect but not possess, to defend but not to conquer.

It is the American story--a story of flawed and fallible people, united across the generations by grand and enduring ideals.

The grandest of these ideals is an unfolding American promise that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born.

Americans are called to enact this promise in our lives and in our laws. And though our nation has sometimes halted, and sometimes delayed, we must follow no other course.”

Our efforts at the Civil Rights Division stand testament to these principles and to the efforts of those committed to extending opportunity to Americans of all races.

Thank you.