

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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**ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW;
ACORN INSTITUTE, INC.;**
and **MHANY MANAGEMENT, INC.,**
**f/k/a NEW YORK ACORN HOUSING
COMPANY, INC.,**

Plaintiffs,

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAR 10 2010 ★

BROOKLYN OFFICE

**DECLARATORY JUDGMENT
and PERMANENT
INJUNCTION**
09-CV-4888 (NG)

-against-

UNITED STATES OF AMERICA;
SHAUN DONOVAN, Secretary of the
Department of Housing and Urban Development;
PETER ORSZAG, Director,
Office of Management and Budget;
TIMOTHY GEITHNER, Secretary of the
Department of Treasury of the United States;
LISA P. JACKSON, Administrator
of the Environmental Protection Agency;
GARY LOCKE, Secretary of Commerce; and
ROBERT GATES, Secretary of Defense.

Defendants.

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GERSHON, United States District Judge:

The court having granted the plaintiffs' motion for declaratory relief and a permanent injunction and having denied defendants' "cross-motion to dismiss and for summary judgment" in the accompanying opinion and order dated March 10, 2010, the court enters the following

Declaratory Judgment:

It is hereby

DECLARED that, pursuant to Article I, Section 9, of the United States Constitution, the following Acts of Congress are unconstitutional: The Continuing

Appropriations Resolution, 2010, Public Law 111-68, Division B, Section 163; the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2010, Public Law 111-88, Division A, Section 427; Consolidated Appropriations Act of 2010, Public Law 111-117, Division A, Section 418; Consolidated Appropriations Act of 2010, Public Law 111-117, Division B, Section 534; Consolidated Appropriations Act of 2010, Public Law 111-117, Division E, Section 511; and the Department of Defense Appropriations Act of 2010, Public Law 111-118, Division A, Section 8123.

In addition, the court enters the following **Permanent Injunction**:

Defendants the **UNITED STATES OF AMERICA; SHAUN DONOVAN**, in his official capacity as Secretary of the Department of Housing and Urban Development; **PETER ORSZAG**, in his official capacity as Director of the Office of Management and Budget; **TIMOTHY GEITHNER**, in his official capacity as Secretary of the Department of Treasury of the United States; **LISA P. JACKSON**, in her official capacity as Administrator of the Environmental Protection Agency; **GARY LOCKE**, in his official capacity as Secretary of Commerce; and **ROBERT GATES**, in his official capacity as Secretary of Defense; and all those acting in concert with them, are hereby permanently

ENJOINED from enforcing the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2010, Public Law 111-88, Division A, Section 427; Consolidated Appropriations Act of 2010, Public Law 111-117, Division A, Section 418; Consolidated Appropriations Act of 2010, Public Law 111-117, Division B, Section 534; Consolidated Appropriations Act of 2010, Public Law 111-117, Division E, Section 511; and the Department of Defense Appropriations Act of 2010, Public Law 111-118, Division A, Section 8123; and

Defendant **PETER ORSZAG**, in his official capacity as Director of the Office of Management and Budget, is hereby permanently

- (1) **ENJOINED** from instructing or advising federal agencies to enforce any of the legislative provisions declared unconstitutional by this court;
- (2) **ENJOINED** to officially rescind the October 7, 2009 OMB memorandum entitled "Memorandum for the Heads of Executive Departments and Agencies" providing "[g]uidance on [S]ection 163 of the Continuing Resolution regarding the Association of Community Organizations for Reform Now (ACORN)" ("the OMB Memorandum");
- (3) **ENJOINED** (a) to advise all federal agencies to whom he or his agents sent the OMB Memorandum that the legislative provisions which are the subject of this injunction have been declared unconstitutional; and (b) to instruct all federal agencies that they

should advise their contractors or grantees that those legislative provisions have been declared unconstitutional by this court.

SO ORDERED.

s/NG

NINA GERSHON
United States District Judge

Dated: March 10, 2010
Brooklyn, New York