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County Executive Jessica Fitzwater
Frederick County Government
12 E. Church St.
Frederick, MD 21701

Dear County Executive Fitzwater:

By going forward with a racially discriminatory minority-owned business loan program, as reported by the Frederick News-Post, you are not only discriminating against the “dominant” segment of the population, based on race, but inviting expensive litigation. The 77.6% of Frederick County, Maryland, that is categorized as white, according to the U.S. Census Bureau, has been excluded from the \$500,000 program and therefore it is illegal and unconstitutional.

The Equal Protection Doctrine, based on the Equal Protection Clause of the Fourteenth Amendment of the Constitution, guarantees that all individuals must be treated equally, without regard to race. Title VII of the Civil Rights Act, as amended, protects employees and job applicants from employment discrimination based on race, color, religion, sex, and national origin.

The News-Post reported that “The Latino Economic Development Center (LEDC), a certified community development financial institution, and the Maryland Department of Housing and Community Development will provide a combined fund of \$500,000 to start the program.”

In fact, LEDC is supported by various government agencies, including the U.S. Department of Health and Human Services and the Department of Treasury, and the Maryland Department of Housing and Community Development is an official state agency supported by taxpayers.

In addition to the Constitutional prohibition on racial discrimination, numerous court rulings have declared race-based policies illegal and unconstitutional.

In the recent case involving Students for Fair Admissions v. Harvard, the Supreme Court specifically ruled that race-based affirmative action in college admissions, including discrimination against whites, violate the Equal Protection Clause of the Fourteenth Amendment and is therefore illegal and unconstitutional.

In a ruling issued on March 6, federal Judge Mark T. Pittman of the U.S. District Court for the Northern District of Texas reaffirmed the race-neutral approach more broadly, ruling that a government agency created to boost minority-owned businesses must serve all business owners, including white people, “without vetting applicants based on race.”

Evidence of racial bias is inherent in the Frederick County program. The News-Post reported that individuals who participated in or completed the county’s EmPOWER Mentorship Program can now apply for loans of up to \$10,000. However, the EmPOWER Mentorship Program ruled out white-owned businesses, saying that “Businesses must be 51% underrepresented” and that “underrepresented” was defined “as identity groups whose percentage of the business community is lower than that of the dominant identity subgroup.”

In the world of Diversity, Equity, and Inclusion (DEI), this term is usually defined as people who are white, male, and heterosexual and are said to benefit from their power, privileges, and social status.

The website declared that “This program considers this [the underrepresented] to include business community members who are: American Indian or Alaska Native, Asian American, Black or African American, Biracial, Hispanic, Latino, Middle Eastern, Native Hawaiian or Pacific Islander, People of Color; People with Disabilities; those who identify as Intersexual, Gender-Fluid, Nonbinary, Transgender, or Women; and those who identify as Asexual, Bisexual, Gay, Lesbian, Queer or Questioning.”

Clearly, people from the “dominant” group with small businesses were prohibited from applying. Such a racist program is not only illegal and unconstitutional, it is morally wrong, divisive and polarizing.

How can you justify using taxpayer dollars for discrimination and bias, in violation of the law and the Constitution?

Also:

- Did lawyers for the county review participation in this illegal and unconstitutional program?
- How much money do you estimate it will cost the taxpayers in the county to defend this program from the inevitable legal challenges?
- Wouldn’t that money be better spent on a loan program that does not discriminate?

Sincerely,

Cliff Kincaid

