

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-31087

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STREUBY L. DRUMM, JR.; D & A LIMITED  
PARTNERSHIP II; SHARLO LIMITED PARTNERSHIP;  
DRUMM REAL ESTATE MANAGEMENT, INC.,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT, SECRETARY; BEAL BANK, S.S.B.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
(97-CV-530)

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January 4, 2000

Before JOLLY, EMILIO M. GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Appellants Streuby L. Drumm, Jr., D & A Limited Partnership II, Sharlo Limited Partnership, and Drumm Real Estate Management appeal from the district court's dismissal of their case against appellees United States Department of Housing and Urban Development ("HUD") and Beal Bank, S.S.B. ("Beal"). The district court found that appellants lacked standing to press their claims and that appellee HUD had not waived sovereign immunity.

After careful review of the parties' briefs and the record,

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\* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

we conclude that no reversible error occurred. The statutory provision appellants claim HUD violated, 12 U.S.C. § 1701z-11(k)(4), contains no free-standing waiver of sovereign immunity. Moreover, because § 1701z-11(k)(4) commits to HUD's discretion the decision of which mortgages to sell, the Administrative Procedures Act, 5 U.S.C. § 702, does not waive sovereign immunity, either. Therefore, sovereign immunity barred the district court's consideration of appellants' claims against HUD. The district court did not err, therefore, when it dismissed those claims, or the claims against Beal, which hinged on the former. We therefore affirm.

AFFIRMED.