U.S. Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Ave. NW, Rm. 7215
Washington, DC 20530

Tel: (202) 514-0718

February 21, 2020

VIA CM/ECF

Patricia S. Connor, Clerk of Court
U.S. Court of Appeals for the Fourth Circuit
1100 East Main Street, Suite 501
Richmond, VA 23219

RE: *CASA de Maryland, Inc. v. Trump*, No. 19-2222 (4th Cir.)

Dear Ms. Connor:

In their recent 28(j) letter, plaintiffs identify as "new authority and information" articles published by the Immigration and Naturalization Service in 1949 and 1950. *See* Pls. Letter, Exs. A & B. Plaintiffs do not explain how the articles "undermine Appellants' reliance on *Matter of B-* for the proposition that the term 'public charge' does not mean primarily dependent on the government for subsistence," Pls. Letter, and they plainly do not. Indeed, the 1949 article emphasizes *Matter of B-*'s statement that the alien would have been deportable as a "public charge" if her family had not reimbursed the government for the "cost of clothing, transportation, and other incidental expenses," Ex. A at 118, underscoring that, under *Matter of B-*, an individual's receipt of modest, temporary, and noncash benefits could render an individual a "public charge."

The 1949 article also emphasizes that the public-charge inadmissibility "statute's terms are highly ambiguous" and that "[n]o fixed standard thus can be established to determine whether an alien is likely to become a public charge." Ex. A. at 116. Those statements further undermine plaintiffs' claim that "public charge" has a longstanding, fixed meaning that Congress implicitly adopted.

Plaintiffs also wrongly assert that the U.S. Citizenship and Immigration Service's updated guidance altered the Rule. The Rule specified that an "alien's prospective immigration status and expected period of admission" were factors DHS would consider in making public-determinations, 84 Fed. Reg. at 41,504, and common sense dictates that an individual applying for permanent residency is differently situated for public-charge purposes from an individual visiting the United States on a two-week vacation. The guidance's statement that noncitizens must establish "clearly and beyond doubt" that they are admissible is a basic tenet of immigration law. *See Matter of Bett*, 26 I&N Dec. 437 (BIA 2014) (citing cases). Plaintiffs are likewise mistaken in suggesting that, under the Rule, "every [LPR] applicant" will find it "difficult" to meet that burden. The Rule provides examples of individuals who will meet that standard, and nothing in the Rule or guidance suggests that applicants will be denied adjustment of status simply because they seek LPR status.

Sincerely,

s/ Gerard Sinzdak
Gerard Sinzdak
Attorney for the United States

cc (via CM/ECF): Counsel of Record