**Compelling Responsibility: A Summary of Litigation Establishing the Federal Government's Liability for Racially Segregated Housing Patterns**

compiled by
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This study is intended to provide a brief overview summary of litigation brought against HUD alleging constitutional or statutory violations for the creation and/or maintenance of racially segregated housing. While over the past several years, lawyers and social scientists have taken an in-depth look at the impact of certain cases, there has not been any study that has attempted to provide a summary of all of the cases. This study begins to fill that void.

The information provided on the listed cases includes: the allegations of the plaintiffs; the published decisions; the resolution of the case; the relief awarded or included in a settlement; and the effect of that relief (to the extent it has been implemented). This information is intended to provide a general sense of the alleged violations in the case and the remedy sought. There is, of course, a wealth of information not collected here.[1]

Because of the limited scope of this study, there are several caveats. First, the cases included here are primarily those that succeeded in obtaining relief, whether through settlement or judgment. Many other cases were dismissed at some stage in the proceedings. Those cases are not included here.

Second, the cases included here are primarily those that were brought against HUD. Claims against localities are discussed to the extent that they were joined with claims against HUD, but cases brought solely against localities are not included here. Obviously, many of the cases against localities included compelling evidence of segregation and resulted in relief. Compilation and summarization of those cases would constitute an important addition to this research project.

There are also probably cases brought against HUD that are not included here. Many of these cases have no published opinions, because they were settled prior to

[1]The National Clearinghouse for Legal Services is a good source for detailed information on these cases.

published disposition. The cases here were compiled by talking to the lawyers who brought them.

Finally, these summaries are intended to be only snapshot summaries and cannot thoroughly examine the details of each case. In some of the cases, for instance, the settlement agreements are hundreds of pages. A one-page summary of that relief cannot include many of the details of the settlement, but is intended to provide the major provisions as well as a general sense of the relief. Finally, some of these cases have not yet been finally resolved, so they will need to be updated. That too would be an important element for further research.

Three clear lessons emerge from this study of the U.S. Department of Housing and Urban Development's liability for (and to a lesser extent, local government liability for) creating and maintaining segregated housing patterns. First, there is a clear pattern of policies and practices by the federal government and local governments which has led to segregated housing patterns that persist to this day. Second, the harm caused by the federal government's policies would be much more severe were it not for the activity of civil rights lawyers over the years. Finally, the segregated housing patterns grew over a number of years and cannot be undone overnight.

1. Creation of Segregated Housing Patterns

It is clear, both from the evidence collected by the lawyers in the cases summarized below and by the findings made by the courts, that multiple levels of government (federal and local) played a part in creating and maintaining segregated housing. All of the cases included in this study resulted in some form of relief for the plaintiffs, either through a settlement or upon order of the court. While many of the consent decrees specify that HUD denies liability, the evidence in the cases is, on the whole, well-documented and compelling.

The cases listed here do not begin to reflect the full history of governmental segregation across the country. There have been many cases against localities and state governments that are not included here, because they did not involve HUD as a defendant.

Moreover, some cases brought against governmental entities over the years have been dismissed for procedural or other reasons, despite fairly well-documented evidence of racial segregation. It is also important to note that issues of timing impact the resolution of these cases. For instance, cases settled in one political climate may afford substantially less relief than similar cases settled in a different political climate. Perhaps most importantly, these cases are extremely labor-intensive, and require a great deal of time and energy on the part of the lawyers. Many localities simply do not have lawyers with the resources to bring and successfully pursue such cases.

2. Preventive and Remedial Role of Litigation

HUD liability for racially segregated housing has stemmed primarily from its approval of sites for public and assisted housing and from its approval of tenant selection and assignment policies. In many localities, public housing was built in areas of minority concentration. HUD approval of those sites was generally granted, and there were no standards with respect to racial concentration governing that approval. In addition, local housing authorities with HUD approval often designed tenant selection and assignment plans to maintain racially segregated public and assisted housing. Finally, maintenance and upkeep of public and assisted housing located in areas of minority concentration often falls well below the conditions in public and assisted housing in non-minority areas.

The cases documented here have provided tens of thousands of housing opportunities in the individual cities in which they were brought. The impact of the desegregated housing opportunities and modernized units resulting from these cases is difficult to measure, but the social science research indicates that families who have been able to use these opportunities have not only received better housing, but have been able to use the opportunity to improve their children's schooling and employment opportunities as well.

These cases and the social science research that has developed out of the implemented remedies have also led to systemic changes at HUD. For instance, as a result of litigation, HUD was forced to adopt site and neighborhood standards that include

poverty and racial concentration factors. While application of the site and neighborhood standards has not prevented new public and assisted housing from being built in areas of racial or poverty concentration, it does give housing advocates a tool to challenge the site for new public or assisted housing development. HUD has also recently funded mobility counseling for the Section 8 programs in several cities. That mobility counseling is modeled after the programs set up as relief in cases such as Gautreaux. Similarly, the Moving to Opportunities program is studying mobility strategies in the Section 8 program. These programs would not have been implemented had litigation and the social science research that has developed out of that litigation not paved the way for them.

3. Effects of Segregated Housing Patterns

Many of these cases are based on very long histories of segregation in public and assisted housing programs. (These are detailed in the accompanying reports by Arnold Hirsch and Raymond Mohl). The impact of that history is now being felt in neighborhoods and schools across the country. The challenge of these cases has been to formulate relief to undo the impact of years of segregation and discrimination.

Most of the cases have used a dual approach to reduce the effects of historical segregation and discrimination: first, mobility strategies designed to provide integrated housing opportunities to people living in neighborhoods with low-income or minority concentration; and second, economic/neighborhood improvement for the impacted areas.

These strategies have been implemented in different ways, and there is no comprehensive study evaluating the effect of that relief. The studies that do exist indicate that, in many areas, the relief takes significant steps towards integrating neighborhoods.[2] These studies also suggest, however, that segregated housing patterns that took decades to create do not disappear overnight.

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[2]For a very interesting study of the impact of mobility programs from these cases, see George Peterson & Kale Williams, Housing Mobility: What Has It Accomplished and What Is Its Promise? *in* Housing Mobility: Promise or Illusion? (Alexander Polikoff, ed., 1995).

In conclusion, the cases studied here suggest that litigation has taken steps towards disestablishing the segregated housing patterns that the government created. The process of dismantling the harm caused by those housing patterns will, however, take many more years and probably many more lawsuits.

## Cases Summarized

1. Project B.A.S.I.C. v. Kemp et. al.
2. Comer v. Kemp
3. NAACP, City of Commerce Branch v. Housing Authority of the City of Commerce, et. al.
4. Hale v. HUD, et. al.
5. Hawkins v. Cisneros
6. Hollman v. Cisneros
7. Huntley v. Cincinnati Metropolitan Housing Authority, et. al.
8. Hutchins v. Cincinnati Metropolitan Housing Authority, et. al.
9. Christian Community Action v. Cisneros, et. al.
10. Newark Coalition for Low Income Housing v. Newark Redev. Authority
11. Sanders v. HUD
12. Thompson, et. al. v. HUD
13. Tinsley v. Cisneros
14. Clients' Council v. Kemp
15. Young v. Pierce
16. Jaimes v. Toledo Metropolitan Housing Authority, et. al.
17. NAACP, Boston Chapter v. Kemp
18. Gautreaux v. Chicago Housing Authority
19. Walker v. HUD
20. Resident Advisory Board v. Rizzo

**Project B.A.S.I.C. v. Kemp et.al.** — Providence. R.I.

**Published Opinions:**

721 F. Supp. 1501 (D.R.I. 1989)(denying plaintiffs' motion to enjoin demolition of development and establish a timetable for replacement housing);

776 F.Supp. 637 (D.R.I. 1991)(denying HUD's motion to dismiss under the Administrative Procedure Act);

No. 89-0248/P, 1991 WL 329756 (D.R.I. 1991)(approving settlement).

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**Factual Background**

Plaintiffs filed this action in 1989 against HUD, the Housing Authority of the City of Providence, and the City of Providence. Plaintiffs allegations stemmed from the replacement sites selected for 240 demolished units of public housing. Plaintiffs claimed that HUD's decision to allow the housing authority to site 50% of the replacement units in areas of minority concentration violated its duty to affirmatively further fair housing. HUD claimed that its approval of the selected sites was based on its determination that there were sufficient comparable housing opportunities outside of areas of minority concentration.

In 1991, the court denied HUD's motion to dismiss under the Administrative Procedure Act (the standard under which agency action taken pursuant to agency regulations is evaluated). The court held that the plaintiffs had raised a genuine issue of material fact concerning whether HUD acted arbitrarily and capriciously when it determined that there were sufficient comparable housing opportunities outside of areas of minority concentration.[1]

Two weeks after that decision, the court approved a settlement.[2]

**Relief (Provisions of Settlement with HUD and the Housing Authority):**

A total of 240 units were demolished and needed to be replaced. At the time that the settlement was reached, sites for 131 of those units had already been selected and construction had already begun on some of those. Plaintiffs agreed to let construction go ahead on those 131 units (58 in non-minority concentrated areas; 73 in areas of minority concentration).

The remaining 109 units were all to be placed in census tracts which did not have minority concentrations. The housing authority agreed to try to construct all 109 units within 36 months of the date of the consent decree.

[1]776 F.Supp. 637 (D.R.I. 1991).
[2]No. 89-0248/P, 1991 WL 329756 (D.R.I. 1991).

**Effect of Relief**

Five years after the entry of the consent decree, the replacement units still have not been finished.[3] Of the 109 units subject to the requirements of the settlement, 54 units have been built.[4] Site selection for the remaining units is currently ongoing, and the housing authority is set to sign contracts for another 22 units. The housing authority projects that it will finish site selection of the remaining units sometime in early 1997.

[3]Conversation with Paul Stockman of the Providence Housing Authority, 11/8/96.

[4]According to Stockman, 66 units have been built, but it is not clear whether 12 of those units will be designated replacement housing, so they are not currently included in the total count.

**Comer v. Kemp** — Buffalo, NY

**Published Opinions:**

824 F.Supp. 1113 (W.D.N.Y. 1993)(granting summary judgment to defendants on grounds that plaintiffs lacked standing and that their claims were moot), *rev'd by*

37 F.3d 775 (2d. Cir. 1994)(holding that plaintiffs had standing, could be certified as a class, and claims were not moot).

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**Factual Background**

Plaintiffs are low income, minority residents of the city of Buffalo, New York. Plaintiffs filed this action in December 1989 against HUD, the City of Buffalo, the New York State Division of Housing and Community Renewal, the Buffalo Municipal Housing Authority (BMHA), the Rental Assistance Corporation of Buffalo (RAC), the Town of Amherst, and the Belmont Shelter Corporation (Belmont). By order of the court, the plaintiffs split their complaint into three separate complaints.

**1. BMHA complaint:**

Plaintiffs alleged that the City of Buffalo, BMHA, HUD, and the New York State Division of Housing and Community Renewal (which administers state funds for housing programs) operated Buffalo's public housing (both federal and state developments) in a discriminatory way. Plaintiffs alleged that the defendants discriminated through the site selection, funding and administration of public housing. Buffalo had, at the time of litigation, 29 public housing developments (25 federal and 4 state developments). Plaintiffs alleged that, as a result of defendants' actions, 25 of the 29 developments were almost exclusively occupied by either minority or white residents. The plaintiffs claimed violations of their constitutional rights, as well as federal statutory rights (guaranteed by the Fair Housing Act). In addition, plaintiffs claimed that the state and city defendants had violated obligations imposed by the Community Development Block Grant Program and had violated various state laws.

**2. RAC complaint:**

Plaintiffs alleged that RAC (which had a contract to operate Buffalo's Section 8 program) administered the Section 8 program in a discriminatory way, by limiting minority Section 8 recipients from Buffalo to using their certificates in Buffalo and by failing to conduct adequate outreach to landlords in nonracially segregated areas of Buffalo and Erie County.

**3. Belmont complaint:**

Forty-one municipalities ringing the city of Buffalo formed the Erie County consortium and authorized the Town of Amherst to operate a Section 8 program for the consortium. In turn, Amherst contracted with Belmont to administer the Section 8 program. This Section 8 program operated with a residency preference overlay on top of the required federal preferences. The residency preference essentially meant that any resident of one of the 41 participating municipalities would be put ahead of all similarly situated non-residents (with respect to federal preferences) on the Section 8 wait list, regardless of application date. Plaintiffs alleged that this residency preference system violated their statutory and constitutional rights, because it operated to prevent minorities from receiving Section 8 certificates. In

addition, plaintiffs claimed that Belmont's lack of outreach to eligible minority residents of Buffalo constituted a violation of their rights.

In February 1990, plaintiffs filed a motion for class certification. In June 1993, the district court dismissed the RAC and Belmont complaints on the grounds that the plaintiffs lacked standing. The court refused to certify the class in the BMHA complaint, and held that plaintiffs only had standing to pursue compensatory (rather than prospective injunctive) relief against the BMHA defendants.

On appeal, the Second Circuit held that: 1) the plaintiffs had alleged facts sufficient to find standing with respect to the RAC and Belmont defendants; 2) the class should have been certified; 3) the claims of the certified class were not moot; and 4) the court lacked jurisdiction with respect to the appeal of the BMHA claim.[1]

In September 1996, the court approved two consent decrees to which the parties had agreed: one settled the Section 8 complaints, the other covered the public housing complaints.

**Relief (Provisions of Consent Decrees):**

**1. Public Housing Decree** (against HUD, the City of Buffalo, and BMHA):

Essentially, the parties agreed that 500 units of public housing would be demolished (or reconfigured into larger units). As replacement, 50 new units would be constructed and 450 units would be replaced with Section 8 certificates (to receive highest funding priority for fifteen years). Moreover, HUD provided an additional 300 "Equal Opportunity" Section 8 Certificates for minority BMHA residents who live in projects which are located in racially segregated areas of Buffalo.

Funding for demolition and new construction was supposed to come from HUD's HOPE VI grant program. The City agreed to apply for funding for two HOPE VI projects: 1) demolition of the Perry development (a 300-unit development -- reputed to be one of the worst in the city); and 2) demolition of 100 units of the 600-unit Lakeview development. The 50 units of replacement housing covered by the decree were in the Lakeview HOPE VI application. These 50 units were to be built in nonconcentrated sites in Buffalo. In addition, major improvements were to be made to the Lakeview Project in conjunction with the demolition of the 100 units.

HUD had included additional points related to the settlement of lawsuits in its review of the Hope VI applications. Plaintiffs reserved the right to declare the decree null and void if the projects were not funded.

The Perry HOPE VI application was funded by HUD, but the Lakeview application was not. Plaintiffs are now in the process of renegotiating the Consent Decree to provide for the future funding of the Lakeview project. If no agreement is reached, plaintiffs will have to decide whether to void the Decree and reinstate their litigation.[2]

The remaining portions of the public housing consent decree establish a clearinghouse, provide funding for a mobility counseling center, require community development funds to be used for a state development (Frederick Douglas), and require neighborhood revitalization efforts. If the entire consent decree is voided, these provisions will also be forfeited unless and until they are renegotiated.

**2. Section 8 Decree** (against HUD, Belmont, RAC, the City of Buffalo, and the town of Amherst):

a. Provision of Remedial Certificates: Defendants will provide 800 remedial certificates as part of the consent decree. These certificates will be broken into two categories:
   i. Unrestricted Certificates: 720 of the certificates will be distributed with no use restrictions. These certificates will have mobility counseling attached to them, but they can be used anywhere.

[1]37 F.3d 775 (2d Cir. 1994).

[2]Conversation with Mike Hanley, 11/8/96

ii. Special Opportunity Certificates: 80 (10%) of the certificates will be targeted for use outside of areas of poverty and minority concentration.

b. Wait-list provisions:

i. Belmont and RAC will cross-list their waiting lists for a specified period of time (so that anyone who signs up for either list will be placed on both lists).

ii. Remedial wait list:

As mentioned above, 800 remedial certificates have been allocated. The wait list for those certificates, as well as for specified proportions of RAC's and Belmont's certificates and vouchers, will be comprised of minorities on both the RAC and Belmont lists who can show that they were "passed over." This means that they would have received a certificate from Belmont if they had been placed on Belmont's list at the same time they were put on RAC's list. In addition, all plaintiffs who applied for a Section 8 subsidy before the Consent Decree was entered will be placed on the remedial list. Applicants on the remedial list who are willing to accept the Special Opportunity Certificates will receive those certificates if they are available, even if they are not at the top of the remedial list.

c. Residency Preference Policy:

Belmont agreed to extend its residency preference to Erie County in its entirety for at least four years (with the exception of 25%, and then 50%, of its turnover subsidies upon which Belmont can opt to impose a local residency preference). For the next four years, if Belmont wants to reinstate the local residency preference, it must apply to HUD for permission, and the plaintiffs must be notified. If HUD approves the residency preference, plaintiffs may return to court to challenge the preference, which will not take effect unless the court approves its reinstatement.

d. Mobility Counseling Center:

In conjunction with the BMHA Consent Decree, HUD will fund a mobility counseling center to be operated by a not-for-profit organization. The center will provide counseling and support services for plaintiffs who receive Section 8 subsidies as a result of the Consent Decrees, and who are interested in moving to areas outside of racial and poverty concentration within Erie County.

e. Jurisdiction of the Court:

The court will retain jurisdiction for four and a half years. At the end of that time period, the case will be dismissed officially, but the court will retain jurisdiction for an additional four years over a challenge, if any, to the use of a local residency preference by Belmont.

**Effect of Relief**

Because the decrees were recently entered, it is impossible to judge the effects of the relief. Already, however, the plaintiffs face a difficult dilemma with respect to the public housing decree, because they must decide how to proceed if future funding of the Lakeview project cannot be negotiated.

**NAACP, City of Commerce Branch v. Housing Authority of the City of Commerce, et.al.** — Commerce, TX

**Case Number:** — No. 3-88-0154-R (N.D. Tex.)

**Plaintiffs' Lawyer:** — Michael Daniel
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**Factual Background:**

Plaintiffs filed this action against HUD, the City of Commerce, and the Commerce Housing Authority in 1988. The City of Commerce operates approximately 200 units of public housing, and plaintiffs alleged racial segregation of that public housing. Plaintiffs alleged that defendants used tenant selection and assignment plans to perpetuate segregation in the city's 4 public housing developments.

In 1993, the court found the defendants liable for intentional segregation of public housing. The court also found that HUD's first-come, first-served tenant selection and assignment plan, which had the effect of perpetuating segregation, was racially motivated.[1]

The court ordered mobility transfer plans, provision of new units in white areas, and plans for equalization of units in Black and white developments. The court also ordered the City to apply for community development block grant funds to make improvements in the neighborhood around the Black project. A final order should be entered within the next month.[2]

[1]Case Update, 27 Clearinghouse Review 918.
[2]Conversation with Mike Daniel, 11/8/96.

**Hale v. HUD, et. al.** Memphis, Tennessee

**Opinion:** No. C-73-410, 1985 WL 11179 (W.D. Tenn. 1985) (approving settlement)

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**Factual Background:**

Class action filed against HUD, the city of Memphis, the Memphis City Council, the Memphis Housing Authority (MHA) and the Tennessee Housing Development Agency (THDA) in 1973. Plaintiffs alleged that defendants refused to allow or refused to approve low-rent subsidized housing in white residential areas and that defendants located the housing primarily in black residential areas. Trial commenced in 1981. In 1985, trial was still not completed and the parties entered into a settlement.

**Relief Awarded (Provisions of Settlement)[1]:**

1. Tenant Selection and Assignment Modifications:

Those on MHA's wait list for public housing must be offered unit where their race does not predominate -- if no such unit exists, the applicant must have the option of refusing the offered unit without losing place on wait list.

For six years, MHA must permit at least 50 voluntary integrative transfers/year.

MHA must transfer over- and under-housed families.

MHA and HUD will develop an affirmative marketing plan for public housing to seek applications from those racial groups least likely to apply.

2. Section 8

MHA and HUD will establish a Special Mobility Program (SMP) with a total of 540 Section 8 certificates (90 certificates upon entry of Order; 180 certificates/year in 1986 and 1987; and 90 certificates in 1988). When a Section 8 applicant reaches top of list, s/he will be offered the option of getting a SMP Certificate or a regular Section 8 certificate. Those who take SMP certificates will receive counseling, assistance finding a unit and assistance finding a desegregated housing opportunity. SMP certificates can only be used in areas that are not minority-concentrated.

3. Equal Opportunity Plan:

MHA will do outreach to landlords to open up desegregated housing opportunities for Section 8 program.

4. Site Selection for public housing and Section 8 Moderate Rehab development:

At least 50% of units developed must be built in cesus tracts where less than 40% of residents are black and less than 15% of units are subsidized. At least 1/3 of Section 8 Moderate Rehabilitation units must be in such census tracts.

MHA will not develop (for at least six years) any family public housing developments with more than 150 units on a site or more than three stories per building.

5. Single Family Housing Opportunities:

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[1] Hale v. HUD. No. C-73-410, 1985 WL 11179 (W.D. Tenn. 1985).

THDA will attempt to establish single-family housing program with owner-built "sweat equity" project. Developer of these units will advertise to attract minorities to the program.

6. Order to last for six years, at which time action will be dismissed with prejudice.

**Effect of Relief:**

The main piece of implementation involved the Section 8 mobility program. No new public housing was built, so nothing was done with site selection. Also, TDHA did not develop much/any single family units. It took approximately three years to fully implement the Section 8 mobility program (until about 1988).[2] As of June 30, 1994, a total of 2,569 families had been invited to participate in the SMP program. A total of 513 families had agreed to participate, and as of that date, 373 SMP certificates were under contract.[3] The Housing Opportunities Council ran the program until 1994 (when the action was dismissed), and the Memphis Housing Authority has run it since 1994. As of November 1, 1996, 466 SMP certificates were under contract with the MHA.[4]

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[2]Conversation with Richard Fields, 10/2/96.

[3]George Peterson & Kale Williams, Housing Mobility: What Has It Accomplished and What Is Its Promise? *in* Housing Mobility: Promise or Illusion? 52-55 (Alexander Polikoff ed., 1995).

[4]Conversation with Anna Champion of the Memphis Housing Authority, 11/8/96.

**Hawkins v. Cisneros** Omaha, NE

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**Case Number:** No. 90-0-55

**Factual Background[1]:**

Plaintiffs filed a class action in 1990 against HUD, the City of Omaha, and the Omaha Housing Authority (OHA) alleging a fifty year history of racial discrimination in the siting and administration of public housing developments and in the administration of the Section 8 program. Plaintiffs also challenged special applicant criteria that OHA had imposed for scattered site replacement public housing (these special criteria required, among other things, that the head of household have been employed for at least one year, be earning at least $15,000, and have a special interview with the head of the housing authority).

Plaintiffs requested a preliminary injunction preventing enforcement of these special criteria, and the court granted the injunction on statutory grounds. After the injunction was granted, Congress changed the statute so that housing authorities are now permitted to impose special applicant criteria. OHA then set up a homeownership program with special criteria.

In 1994, the parties entered into a consent decree.

**Relief Awarded (Provisions of Consent Decree):**

1. Tenant Selection Provisions:

OHA agreed to give families displaced by demolition first priority for scattered-site replacement housing. Residents of OHA multi-family housing get second preference. OHA retained some of their special criteria for their homeownership program, but agreed to consider public assistance a steady source of income.

2. Provisions for demolition and replacement of public housing:

a. The consent decree establishes a timetable for demolition of the worst developments;

b. Defendants will set up a Section 8 mobility program (100 certificates) with first priority for displaced families;

c. Seventy-five percent of replacement housing (including the first 25% built) will be located in census tracts with less than 35% minority population.

3. Section 8 Program:

Defendants agreed to set up a mobility/counseling program for displacees and Section 8 recipients. HUD is to conduct Housing Quality Standards inspection of 5% of the Section 8 housing stock for three years, from 1994-1996.

**Effect of Relief[2]:**

1. Public Housing Demolition:

[1]George Peterson & Kale Williams, Housing Mobility: What Has It Accomplished and What Is Its Promise? *in* Housing Mobility: Promise or Illusion? 89-90 (Alexander Polikoff ed., 1995).
[2]Conversation with Mary Clarkson, 11/13/96.

Demolition of 705 units of public housing has now been completed (190 units at Logan North; 190 units at Logan South; 100 units at Pleasant View high rise buildings; and 225 units at Hilltop).

2. Replacement of Demolished Units:

All 190 of the Logan North units have now been replaced with scattered site units (basically single family units, with a couple of duplexes). All of these units are located in census tracts that are less than 35% minority.

Replacement units have not yet been built for the rest of the demolished units. The process of replacing these units will probably be time-consuming. Defendants have six years to complete this replacement housing.

3. Provisions for Displaced Families and Section 8 Mobility:

Family Housing Advisory Services (FHAS) received the contract to set up a mobility counseling program. The program, Project Jericho, provides mobility counseling to all Section 8 certificate recipients.

Five hundred ninety-four families were displaced by public housing demolition. Some went to project-based Section 8 housing or to other public housing developments, but many got Section 8 certificates. Some of those families moved out of impacted areas with those certificates, but many remained in the neighborhood. In particular, FHAS reported that displacees from Hilltop were reluctant to move out of the neighborhood. Of the displacees who participated in mobility counseling, the following proportions of each group moved to non-impacted neighborhoods:

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|---|---|
| Logan North | 48% |
| Logan South | 47% |
| Hilltop | 42% |
| Pleasantview | 42% |

One potential difficulty with the sudden influx of Section 8 certificates is that there may be a shortage of affordable housing in Omaha, so that those with the certificates are moving into substandard units. In 1996, HUD inspected 226 units. To analyze the results, three categories of failures were used: "Single Fail" - units which had minor problems, repairable in a few hours; "Double Fail" - units needing extensive, structural repairs; and "Remove Fail" - units which are so bad that the inspector has recommended total removal from the program.

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|---|---|---|
| Total Units Inspected | 226 | |
| Number Passed | 40 | 18% |
| Number Single Fail | 102 | 45% |
| Number Double Fail | 78 | 35% |
| Number Remove Fail | 6 | 3% |

| | | |
|---|---|---|
| Total Former Hilltop Residents Who Moved to Section 8 | | 111 |
| Total Former Hilltop Residents Whose Units Inspected | | 11 |
| Number Hilltop Passed | 2 | 18% |
| Number Hilltop Single Fail | 3 | 27% |
| Number Hilltop Double Fail | 4 | 36% |
| Number Hilltop Remove Fail | 2 | 18% |

Eighty-three percent (83%) of the Total Units failed. Thirty-eight percent (38%) of the Total Units were Double Fail or Remove Fail. Eighty-one percent (81%) of the Hilltop subgroup failed, but the percentage of minor failures was significantly smaller, and the percentage of very serious failures was significantly larger: fifty-four percent (54%) of the Hilltop subgroup were Double Fail or Remove Fail, a 16 point difference.

With respect to a comparison of housing quality disparities between impacted and non-impacted neighborhoods, all six of the units which have been recommended to be removed from

the program are inside the impacted area. A preliminary count of the Double Fail Units shows that 53 of the seriously deficient units (70%) are in the impacted area, and the four former Hilltop residents in this Double Fail group are all residing in impacted neighborhoods.

**Hollman v. Cisneros** Minneapolis/St. Paul, MN

**Case Number:** No. 4-92-712 (D.Minn.)
Clearinghouse No. 48,294

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**Factual Background:**

Class action filed in July 1992 against HUD and the Minneapolis Public Housing Authority (MPHA) alleging concentration of low-income minorities through operation and site selection of public housing and through operation of the Section 8 program. Plaintiffs alleged that HUD administered the public housing program in a way that perpetuated existing patterns of racial segregation and that the MPHA managed the Section 8 program in a discriminatory way. The case was settled by consent decree in April 1995.

**Relief (Provisions of Consent Decree)[1]:**

1. HUD and the MPHA will demolish and replace 770 units of public housing. Of those demolished/replaced units, at least 80 will be in Minneapolis and most of the remaining units will be targeted toward placement in suburbs (and will be earmarked for Minneapolis residents wanting relocation). The replacement units will be subject to strict site and neighborhood standard requirements, so that they will not be located in areas with high poverty or minority concentrations (with the exception of a small number of units likely to be rebuilt on-site as part of a mixed-income project).

2. HUD will provide funding for a total of 900 Section 8 certificates/vouchers, which will have mobility counseling attached to them. Approximately 400-450 of these certificates will be used to relocate residents of the public housing undergoing demolition until those units are replaced. The relocation certificates do not have use restrictions attached to them. The rest of the certificates are designated mobility certificates, and must be used for at least one year in a non-concentrated area (as defined by both racial and economic indicators).

3. The local defendants will create and enact a plan for redevelopment of the vacated public housing site, based upon the recommendations of a community planning process. The plan must meet certain standards set out in the Decree to insure that the neighborhood is redeveloped so as to serve the needs of the local residents.

4. MPHA will set up a metro-wide clearinghouse, which will list all available subsidized and Section 8 units in the metropolitan area and will eventually provide for a standardized application system permitting the applicant to apply for housing through the clearinghouse. Through the clearinghouse, applicants for housing assistance can get "one-stop shopping" for all available units throughout the metro area.

5. The court will retain jurisdiction for at least seven years and until the defendants fulfill their obligations.

**Effect of Relief:**

1. Demolition has not yet begun, but it is set to begin within the next six months.

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[1]Conversation with Tim Thompson, 11/12/96.

2. Approximately 250 relocation certificates have been distributed to public housing residents. In spite of the fact that these certificates do not have use restrictions, about half of them have been used in non-concentrated areas (using both race and economic indicators).

3. Suburban communities have to date made commitments for approximately 170 of the public housing units earmarked for Minneapolis residents, out of a total of the perhaps 600 targeted for suburban locations.

**Huntley v. Cincinnati Metropolitan Housing Auth., et.al.** — Cincinnati, OH

**Plaintiffs' Lawyer:**

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**Factual Background:**

Plaintiffs filed this action in 1995 against the Cincinnati Metropolitan Housing Authority (CMHA). CMHA planned to demolish a public housing development (144 units) in a racially integrated, moderate income area of the city. The complaint originally challenged CMHA's relocation of displaced families (most of whom are minority), because CMHA was relocating them from an integrated neighborhood to large public housing developments in census tracts that are predominately minority. Plaintiffs also challenge CMHA's plans concerning replacement of these units.

Plaintiffs are also joining HUD as a defendant.

**Hutchins v. Cincinnati Metropolitan Housing Auth., et.al.** — Cincinnati, OH

**Case Number:** — No. C1-79-131 (S.D.Ohio)
Clearinghouse No. 35,010

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**Factual Background:**

Class action filed in 1979 alleged that CMHA's programs were segregated on the basis of race and resulted from the deliberate policies and practices of the defendants. The suit resulted in a consent decree in 1984, which established a Special Mobility Program (described below). The consent decree lasted for twelve years, but CMHA and HUD were required to fund the Special Mobility Program for only six years. The CMHA has voluntarily continued the Special Mobility Program since then. In 1996, HUD awarded funding for five years.

**Provisions of Consent Decree[1]:**

1. Special Mobility Program:

HUD agreed to provide 40 Section 8 certificates per year (in addition to the regular allocation) to the CMHA for the Special Mobility Program (SMP). Half of the Special Mobility certificates were to be distributed by lottery to residents of CMHA public housing and applicants on the Section 8 wait list. The remaining certificates were to be distributed to those at the top of the Section 8 waiting list.

Recipients of the special certificates were required to look for a "SMP-eligible unit" (a unit in an area with less than 40% Black residents). Recipients received assistance with the search from a mobility counseling program (run by Housing Opportunities Made Equal). If the recipient did not find an eligible unit after searching for one, s/he was permitted to use the certificate anywhere. After the recipient of the special certificate took a unit, however, any move within one year had to be to an eligible unit.

Recipients of the SMP certificates were permitted to seek housing at 110% of Fair Market Rent (and CMHA agreed to assist recipients with obtaining 120% FMR exceptions, if needed).

2. Integrative Transfers:

Defendants agreed to facilitate integrative transfers within existing public housing.

3. Additional Integrated Housing Opportunities:

Defendants agreed to try to locate scattered-site public housing and Section 8 moderate rehabilitated housing in non-impacted census tracts.

**Voluntary Special Mobility Program:**

Since the expiration of the consent decree, CMHA has continued to run the SMP with the following modifications: all of the certificates now go to applicants on the Section 8 waiting list; an SMP-eligible unit is now defined as one in an area with less than 30% Black population; and there is no longer a restriction on moves after initial placement.

In addition, Hamilton County (the county in which Cincinnati is located), which operates a separate Section 8 program for county residents, established a Special Mobility Program in 1992.

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[1]Most of the facts in this section are taken from Kale Williams & George Peterson, Housing Mobility: What Has It Accomplished and What Is Its Promise? *in* Housing Mobility: Promise or Illusion? 35-40 (Alexander Polikoff, ed.1995).

**Effect of Relief:**

1. Special Mobility Program[2]:

HOME has provided extensive tenant counseling and landlord outreach services to facilitate integrative moves. The success of the SMP depends almost entirely on that counseling, because the certificates themselves do not have significant use restrictions.

The SMP has resulted in a number of racially integrative moves: from 1984-1994, approximately 510 different families moved into "eligible neighborhoods" (an eligible neighborhood for a white family is defined as a census tract that is 40% or more Black; an eligible neighborhood for a Black family is a census tract with less than 40% Black population). Over 90% of the families served are Black.

Because eligible neighborhoods have not been defined with respect to economically impacted areas, however, fewer families have made economically integrative moves: from 1991-1994, the average Section 8 household moved to a census tract having a 22% poverty rate.

2. Scattered Site Public Housing[3]:

CMHA has built or acquired and rehabilitated approximately 500 units of scattered-site public housing. Most of these units are single-family homes, and all are in eligible census tracts (defined as census tracts with less than 20% African-American population).

The large majority of the residents of those units were formerly residents of one of CMHA's large public housing developments (located in minority impacted census tracts), so most of these moves have been integrative.

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[2]Id.

[3]Conversation with John Schrider, 11/14/96.

**Christian Community Action v. Cisneros, et.al.** New Haven, CT

**Case Number:** No. 3: 91CV00296 (D. Conn.)
Clearinghouse No. 46-852

**Plaintiffs' Attorneys**

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**Factual Background**

Plaintiffs filed a class action in 1991 against HUD, the Housing Authority of New Haven (HANH) and the City of New Haven. Plaintiffs alleged that the defendants deliberately created and perpetuated racial segregation by repeatedly delaying or abandoning construction or acquisition of public housing in white neighborhoods. In particular, plaintiffs challenged the efforts of the defendants to replace 366 demolished public housing units with scattered-site development in racially impacted areas.

The claims against HUD and the housing authority were settled in a consent decree approved in July 1995. Claims against the City defendants have not yet been settled, and there is still a pending class action against the City defendants.

**Relief (Provisions of Consent Decree with HUD and the Housing Authority):**

1. Placement of scattered-site units:

HUD and HANH agreed to site the remaining units of replacement public housing (approximately 200 units) outside of areas of minority concentration. As a result of the litigation, virtually all of the 366 scattered site units were located outside areas of minority concentration.

2. Project Based Section 8:

Defendants agreed to publish RFP's (Requests for Proposals) seeking private developers to develop 54 units of project based Section 8 housing in the suburbs surrounding New Haven.

3. Section 8 Certificates:

Defendant HUD agreed to issue 450 Section 8 certificates earmarked for use by public housing tenants and families on the public housing and Section 8 waiting lists wishing to relocate to the suburbs and non racially-concentrated areas of the City.

4. Mobility Counseling:

Defendants agreed to set up a mobility counseling to accompany the Section 8 certificates. This program will assist the 450 families receiving the earmarked Section 8 certificates to locate housing and receive information and support in connection with their move.

5. HUD agreed to monitor surrounding suburban jurisdictions' public housing and Section 8 programs to insure that the programs are not operated in a discriminatory way.

**Effect of Relief**

1. Replacement Units:

The placement of the remaining scattered-site units outside of minority concentration has been largely completed.

2. Project-based Section 8:

Plaintiffs solicited proposals during the summer (1996) for developers to build project-based Section 8 developments in the suburbs. That effort was unsuccessful, so plaintiffs are now in the process of meeting with local non-profit developers to determine why they did not submit proposals and to find out what would make them submit proposals in the next round. A second RFP for this contract will come out in November 1996.

3. Mobility Counseling and Release of Section 8 Certificates:

A local non-profit has been selected to operate the mobility counseling program (in October 1996), and the mobility counseling center is set to open. As soon as the counseling program is in place, the first 100 of the mobility certificates will be released for distribution. Those certificates are projected to be released by December 1996.

**Newark Coalition for Low Income Housing v. Newark Redevelopment Auth.** Newark, N.J.

**Case Number:** No. 89-1303 (D.N.J.)
Clearinghouse #44-491

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**Factual Background:**

Plaintiffs filed a class action in 1989 challenging the proposed demolition of Columbus Homes, a large public housing development with 1506 units (1200 of which were vacant). Plaintiffs also challenged vacancy rates at other public housing developments operated by Newark Housing Authority (NHA), claiming that the vacancy rates constituted de facto demolition. Plaintiffs claimed that the proposed demolition of Columbus Homes and de facto demolition of other developments violated National Housing Act and also had a disparate impact on minorities (since most of NHA's residents and applicants are minority).

In 1989, the parties settled the suit with a consent decree.

In August 1992, the plaintiffs filed a motion to enforce the consent decree.

In 1993, the court found that the defendants had violated the consent decree and ordered them to comply with the settlement.[1]

**Relief Awarded (Provisions of 1989 Consent Decree)[2]:**

1. Columbus Homes:

The consent decree provides for one for one replacement of all 1506 units in Columbus Homes. Demolition was permitted to proceed in stages, as the replacement housing was built. The replacement units are subject to HUD's site and neighborhood standards.

2. Repair of Existing Vacant Public Housing:

NHA agreed to renovate 2 buildings in a second development (with $600,000 grant from HUD).

NHA agreed to repair and reoccupy 136 units of public housing throughout Newark per month for 12 months. HUD agreed to provide $1.8 million for the renovation of those 1,632 units.

After the initial 12 months, NHA agreed to renovate 68 units per month until substantially all vacant public housing units requiring moderate repair (repair of less than $3,000) have been repaired and occupied.

NHA required to develop a long-term comprehensive modernization and rehabilitation plan (HUD granted $500,000 to develop this plan).

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[1]Case Update, 27 Clearinghouse Review 48.

[2]Case Update, 23 Clearinghouse Review 902.

3. Racial and Ethnic Imbalance:

NHA agreed to develop a plan to remedy racial and ethnic imbalance in the NHA.

4. 1993 Court Order

In 1993, the court ordered the defendants to comply with the settlement. The court ordered the defendants to repair and occupy 1158 vacant units; repair and occupy all units vacant due to attrition; and provide the court and the plaintiffs with regular updates.[3]

5. 1996 Court Ordered Amended Settlement Agreement

NHA consents to a court ordered agreement to repair and occupy 763 long term vacancies, retroactive to October 1994, and to keep up with attrition units.

A second revised Tenant Selection and Assignment Plan was negotiated and ordered by the Court.

A revised construction schedule for the new units is part of the agreement.

**Effect of Relief[4]:**

1. Columbus Homes:

NHA has built 659 replacement units (out of a total of 1777) and has secured land from the City of Newark, which has received HUD Final Site Approval for the construction of the balance. Demolition of Columbus Homes has occurred.

2. Other developments:

NHA has repaired the 763 long-term vacancies, but it is failing to keep up with attrition units.

3. NHA management has improved.

4. A court-ordered special master has initial oversight responsibility for the enforcement of the awarded settlement agreement.

5. Racial/Ethnic Imbalance:

NHA did change its tenant selection and assignment plan in order to reduce racial and ethnic imbalance.

[3]No. 89-1303 (D.N.J. Feb. 18, 1993)(Clearinghouse No. 44,491J).

[4]Conversation with Harris David, 11/14/96.

**Sanders v. HUD** Allegheny County, Pennsylvania

**Published Opinions:** 872 F.Supp. 216 (W.D. Pa. 1994)(approval of consent decree)

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**Factual Background:**

Plaintiffs filed suit in 1988 (class certified in 1992) against HUD, Allegheny County Housing Authority (ACHA), the Redevelopment Authority of Allegheny County (RAAC), and Allegheny County. Plaintiffs alleged that: 1) establishment of de jure racial segregation in public and other federally assisted housing; and 2) perpetuation of and failure to disestablish segregation. In 1993, HUD admitted liability for failure to affirmatively further fair housing from 1984-1991 in violation of Title VIII. The parties entered into a consent decree in 1994.

**Relief (Provisions of Consent Decree)[1]:**

Relief in this consent decree was extensive: it included a dual approach of increasing desegregated housing opportunities for class members and improving the quality of life in the developments in racially impacted areas through physical improvement and economic development in those developments and in the neighborhoods in which they are located.

Major provisions are the following:

**1. Replacement units and new housing units:**

All new and replacement public housing units are to be scattered-site. Talbot Towers (a large development) was demolished, and the 100 replacement units are supposed to be located in non-impacted areas. Additional units may result from demolition called for by the decree.

**2. Equalization through improvements to public housing and surrounding community:**

HUD is required to do tenant survey to determine what would make public housing a more attractive option and to develop a list of amenities needed in existing public housing. ACHA is then required to make these physical improvements (using existing funding or by obtaining additional funding). Also, ACHA is required to insure that all housing meets HUD's housing quality and accessibility standards.

In order to improve quality of life in surrounding community, ACHA must demolish unneeded buildings that it owns and that are currently contributing to urban problems. Also, ACHA must require that all municipalities which operate public housing through cooperation agreements provide adequate services to the public housing and community. A Task Force will study necessary economic and community development needed in communities in which predominately African American public and Section 8

[1] 872 F. Supp. 216 (W.D. Pa. 1994).

housing is located. Twenty-five percent of Allegheny County's entitlement Community Development Block Grant (CDBG) funding for the next seven years has been set aside for this purpose.

ACHA will apply for available state and federal money (including CDBG and modernization money) to spur economic and community development. HUD will ask Port Authority to examine feasibility of providing public transportation to all developments. HUD and ACHA will work with police to improve safety and will develop anti-crime program. Finally, ACHA and HUD will demolish and replace all dilapidated public housing.

**3. Waiting List:**

ACHA will cross-list and then merge public housing and Section 8 lists into one community-wide waiting list. Applicants will also be told of other PHA lists (in the area) for which they can apply. Once an applicant reaches the top of the list, ACHA will offer a desegregative housing opportunity. If one does not exist at that time: class members must be offered a Special Section 8 certificate (if any still available); non-class members must be given the option of waiting for a desegregated housing opportunity to open up without losing their place on the list.

ACHA is required to develop procedures to transfer families who are over- or under-housed in a desegregative way and to allow voluntary desegregative transfers.

**4. Housing Mobility Program:**

HUD will provide $200,000 per year to establish a Fair Housing Service Center. The FHSC will be responsible for: making the actual housing offer to all applicants who obtain housing through ACHA; providing mobility counseling and support services; administering special Section 8 mobility certificates; encouraging desegregative moves by counseling applicants and by encouraging landlords to participate in Section 8 program. The county has joint responsibility for funding the Center. It must allocate up to $500,000 per year for this purpose from its CDBG funding.

*Section 8*: HUD will allocate a maximum of 450 special Section 8 mobility certificates (up to 200 in first year; 50 each year thereafter). These will be used to offer desegregative moves to class members living in racially identifiable African American developments and to provide desegregated housing opportunities to class-member applicants to public housing who cannot obtain a desegregated housing offer when they get to the top of the applicant list.

*HUD Assisted Housing*: HUD will require new Affirmative Fair Housing Marketing Plans for all owners and managers of federally assisted housing in Allegheny County to recruit class members as tenants

**5. Housing Opportunities Analysis:**

HUD will conduct a study of all assisted housing in Allegheny County to determine the most effective means of deconcentrating assisted housing and doing scattered-site.

**6. Enforcement:**

The court will retain jurisdiction for at least seven years; if at that time defendants have not performed obligations, the Court shall extend its jurisdiction.

**Effect of Relief:**

In the almost two years since the decree was entered, some of the steps have taken place, but implementation has been slow. Part of the difficulty has been that the decree requires coordination among different government agencies (at the local and federal levels)

and the plaintiff class (which has 5000 members). Plaintiffs have had to go back to court to force compliance.[2]

Implementation of relief is proceeding in stages as follows:
1. The defendants have merged the Section 8 and public housing waiting lists;

2. Some of the replacement housing for Talbot Towers has been built, and the families have begun to move into that housing. Sites are still being worked out for the remaining replacement units;

3. The Section 8 Special certificate/Mobility Counseling phase should be started within the next several weeks. Selecting the nonprofit group to administer the mobility certificates and provide the counseling was a very time-consuming process, but a group has been selected and distribution of certificates and counseling should be starting very soon;

4. Economic development initiatives laid out in the decree went through a planning stage for the first year of the decree, so the time frame for that will be one-year behind schedule (Year 7 of CDBG money will be in Year 8 of the consent decree).

[2]Conversation with Don Driscoll, 10/6/96.

**Thompson, et.al. v. HUD** Baltimore, MD

**Case Number:** MJG 309-95

**Plaintiffs' Attorneys**

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**Factual Background**

Plaintiffs filed this class action against HUD, the city of Baltimore, and the Housing Authority of Baltimore City (HABC) in January 1995. The complaint alleged intentional discrimination by the defendants in their siting of public housing and in their administration of public housing.

Public housing built in Baltimore prior to 1954 was de jure segregated and was used to keep the city segregated. The plaintiffs alleged that federal and local defendants had failed to dismantle that segregation and continued to build public housing in racially impacted areas.[1]

A partial settlement was reached by the parties on March 29, 1996 and approved by the court on June 25, 1996. The settlement focused on the demolition and replacement of five family developments, all of which were located in racially concentrated areas: Flag House Courts, Lafayette Courts, Lexington Terrace, Murphy Homes, and Fairfield Homes (which had been unoccupied and closed since 1989). These five developments have approximately 3000 of HABC's total 14,000 family units. Lafayette Courts was demolished before the partial consent decree was reached, and Lexington Terrace was demolished shortly thereafter. The outstanding issues to be resolved primarily concern tenant selection plans, overall equalization issues (improving conditions in the projects and the surrounding neighborhoods), and desegregation of the remaining 11,000 public housing units.[2] A global settlement of these issues has not yet been reached by the parties.

**Relief (Provisions of Partial Consent Decree):**

1. Scope

The partial consent decree involves only the outcome of the demolition of the five buildings discussed above. The future plans for the rest of HABC's public housing has not yet been resolved.

2. Replacement for the 3000 demolished units:

a. Hard unit replacement: Approximately 50% of the 3,000 demolished units (or 1,500 units) will be replaced with hard units of the following types:

i. On-site replacement: HABC will be permitted to build 800 units of public housing back on the sites of the former buildings.

ii. Approximately 400 units will be built back on site, but will be homeownership or "market-rate units," rather than public housing units.

iii. Off-site development: Approximately 300 units will be built off-site with state money. These units will be a combination of "scattered-site" rowhouses and larger "mixed

[1]Florence Roisman, Unpublished Article.

[2]Conversation with Barbara Samuels, 11/8/96.

developments" (larger apartment buildings which combine public housing and moderate income units that do not receive deep subsidies). Approximately 200 of these units will be located in racially or economically impacted areas, including 123 as part of the Sandtown-Winchester Neighborhood Transformation Project. The other 100 units will be developed in areas that are more racially and/or economically integrated.

b. Section 8 Replacement: The remaining units will be replaced with Section 8 certificates of the following two types:

i. "Special Certificates": Approximately 1342 certificates will be distributed as "special certificates" and will be tied to mobility counseling. They are targeted for desegregation, and therefore must be used in areas where percentages of poverty, black population, and assisted housing are below the average for the metropolitan area. To prevent reconcentration, the mobility counseling agency must develop a plan that distributes the use of certificates throughout the metropolitan area and not just the older, inner-ring suburb areas of Baltimore City and Baltimore County. (The distribution includes use of 360 of the 1342 certificates in Baltimore County, 200 in Baltimore City, and the balance in Anne Arundel, Howard, Harford and Carroll Counties.)

ii. Project-Based Certificates: Approximately 800 certificates will be used for a Section 8 homeownership demonstration in non-impacted areas for public housing families.

**Effect of Relief**

The partial settlement was only reached several months ago, and implementation is just beginning. The resolution of the remaining system-wide issues that are still pending in the ongoing litigation also impact on the effect of the partial settlement.

**Tinsley v. Cisneros** — Kansas City, MO

**Published Opinion:** 750 F.Supp. 1001 (W.D. Mo 1990)(holding that plaintiffs had established a prima facie case of Title VIII violations by HUD and Housing Authority of Kansas City).

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## Factual Background

Plaintiffs filed a class action in 1989 against the Housing Authority of Kansas City (HAKC) and HUD. Plaintiffs challenged HAKC's and HUD's de facto demolition of T.B. Watkins Homes, a public housing development operated by HAKC with HUD funds. The majority of people on HAKC's public housing wait list is minority, and 99% of the occupants of Watkins Homes are nonwhite. Plaintiffs alleged that HAKC, with HUD approval, essentially abandoned Watkins Homes and allowed it to become uninhabitable. Watkins Homes originally had over 400 units, but with HUD approval, gradual demolition reduced this to 288 units. By the time this suit was filed, 118 of the remaining 288 units were vacant and completely unmanaged, so that they were vermin-infested, open to trespassers and drug dealers, and full of trash and waste.

Plaintiffs claimed that this de facto demolition violated the Housing Act and Title VIII. The district court held that plaintiff's had made a prima facie Title VIII showing, because inaction by HAKC and HUD had a disparate impact on minorities.[1]

The parties entered into a consent decree. The defendants agreed: 1) to undertake comprehensive modernization and rehabilitation of Watkins Homes; 2) to provide the plaintiffs with quarterly reports on modernization efforts; 3) to try to increase occupancy in Watkins Homes through, among other things, advertising campaigns; and 4) to not seek to demolish Watkins Homes for twenty years.

In 1992, plaintiffs filed a motion for contempt against HUD and HAKC. In 1993, the district court granted plaintiffs' motion, holding that HUD and HAKC had violated the consent decree by, among other things, refusing to provide plaintiffs with required reports on progress. The court ordered the defendants to comply with the consent decree and to pay attorney's fees.

In July 1993, after HAKC's continued refusal to comply with the consent decree, the district court ordered that the HAKC be placed in receivorship.

## Effect of Relief[2]:

The 288 units in Watkins Homes are undergoing modernization repairs. While the units are being modernized, residents are being temporarily relocated, but they retain the right to return to the renovated Watkins Homes units.

In addition, the Court-appointed receiver (Jeffrey Lines) has undertaken modernization repairs in other developments and has worked to reduce vacancies and efficient administration of the housing authority. Four of the seven HAKC housing developments have undergone extensive modernization renovations recently: the 288 units in Watkins Homes are being renovated; 232 units in Riverview (the subject of Boles litigation) are being renovated; Guinette Manor, which has 412 units, received a HOPE VI grant for modernization; and Penway Plaza was demolished and will be replaced with 160 scattered-site units and 60 units rebuilt on site.

[1] 750 F.Supp. 1001 (W.D. Mo 1990).
[2] Conversation with Julie Levin, 11/14/96.

**Additional Litigation**[3]

In 1992, plaintiffs filed a class action (Boles v. Cisneros) against the same defendants challenging de facto demolition of Riverview, a 232 unit public housing development operated by HAKC. The allegations were essentially the same as those in Tinsley, except that the plaintiffs did not allege a cause of action under Title VIII.

Boles was settled by consent decree in 1993. Under the consent decree, HAKC was required to completely modernize Riverview. HUD agreed to provide $10.5 million for the renovations from the Major Reconstruction of Obsolete Property grant program. Riverview has now been renovated and is occupied.

[3]Id.

**Clients' Council v. Kemp** — Texarkana

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Elizabeth Julian
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**Reported Decisions:**

532 F.Supp. 563 (1982)(dismissing suit against HUD), *rev'd by*

711 F.2d 1406 (8th Cir. 1983)(finding HUD liable for violation of 5th Amendment and Title VIII).

**Factual Background:**

Class action filed in November 1979 against HUD and the Texarkana Housing Authority (THA) alleging that the THA and HUD built and maintained segregated public housing. THA settled with the plaintiffs prior to trial, so HUD was the only defendant left at trial. Plaintiffs laid out a chronology of events from 1969-1979, which showed that throughout that period, the THA had consistently refused to integrate its public housing. In spite of the fact that HUD knew of THA's non-compliance, it continued to fund the THA.

The district court granted HUD's motion to dismiss, because: 1) HUD did not have an intent to discriminate, and therefore was not liable under the Fifth Amendment; 2) plaintiffs did not have a private cause of action under Title VI; and 3) plaintiffs had failed to show that HUD had breached it duties under Title VIII.[1]

The Eighth Circuit reversed on the Fifth Amendment and Title VIII claims (it declined to reach the Title VI issue).[2] The court found that HUD's lack of action against the THA and its continued funding of the THA in the face of HUD's knowledge of THA's non-compliance "could not reasonably be explained without reference to racial concerns."[3] Therefore, the court found that HUD had intent to discriminate, and was liable under both the Fifth Amendment and Title VIII.

The court remanded to the district court to order a remedy.

**Relief Awarded:**

Essentially, the district court directed HUD to order the THA to desegregate public housing by implementing a desegregative tenant selection and assignment plan. In addition, HUD was supposed to fund and the THA was supposed to undertake improvements to the predominately black public housing developments.[4]

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[1]532 F.Supp. 563 (W.D. Ark. 1982).
[2]711 F.2d 1406 (8th Cir. 1983).
[3]Id. at 1409.
[4]Conversation with Mike Daniel, 11/8/96.

**Young v. Pierce** — East Texas

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**Reported Decisions:**

628 F.Supp. 1037 (E.D.Tex. 1985)(holding HUD liable for knowingly creating and funding segregated housing);

640 F.Supp. 1476 (E.D. Tex. 1986)(ordering interim relief);

822 F.2d 1368 (5th Cir. 1987);

685 F.Supp. 975 (E.D.Tex. 1988).

**Factual Background:**

Plaintiffs filed class action in 1980 against HUD and thirty-six counties in East Texas, challenging the operation of segregated public housing in those counties.

In 1985, the district court found HUD liable for knowingly creating, promoting and funding segregated housing. The court ordered Clarksville (a county with 100 units of public housing) to switch the housing of 25 Black households in public housing with the housing of 25 white households in public housing. The court also ordered HUD to submit individual desegregation plans for each of the 36 PHA's, including things such as Section 8 mobility strategies with mobility counseling, provision of transportation, and increase of Fair Market Rents.

In 1988, the court issued an interim injunction and appointed a special master to oversee the integration of the 36 PHA's.

In March 1995, the district court entered final judgment against HUD and the PHA's and ordered extensive relief to the plaintiffs.

**Relief Awarded:**

The district court ordered broad ranging relief to the plaintiffs, including the following:

1. HUD is permanently enjoined from failing to take action to desegregate the housing at issue;

2. HUD is required to fund any physical improvements to public housing and surrounding neighborhoods called for in any of the individual PHA's desegregation plans;

3. HUD must fund any amenities at historically Black developments that have been or are available at historically white developments (including such amenities as air conditioning, laundry rooms, etc.);

4. HUD must provide 5134 desegregated housing opportunities;

5. HUD required to set up a Fair Housing Service Center to assist class members in making desegregative moves;

6. HUD must take steps to address racially hostile sites;

7. HUD must take steps to insure that PHA's adopt provisions (including race-conscious tenant selection plans) to reduce or eliminate racially identifiable developments.

**Effect of Relief[1]:**

Since the court entered its final judgment, some improvements have been made in the neighborhoods around the Black projects, particularly in the smaller towns.

A substantial number of Black families have used the previous remedy orders to obtain housing at the previously all white HUD assisted projects in the area. The earlier order gave them the same preference as any other tenant, which kept the Black families from being put at the bottom of the list.

Finally, some of the all white and all Black projects have been desegregated, particularly in the smaller towns.

The defendants have not yet agreed on a group to run the Fair Housing Center and mobility program. HUD and the PHA's are working towards agreements on individual desegregation plans for each PHA.

[1]Conversation with Mike Daniel 11/8/96.

**Jaimes v. Toledo Metropolitan Housing Authority, et.al.** Toledo, OH

**Published Opinions:**

758 F.2d 1086 (6th Cir. 1985)(holding, after district court found HUD and PHA liability, that plaintiffs lacked standing with respect to lack of housing opportunities in the suburbs);

833 F.2d 1203 (6th Cir. 1987)(holding that HUD could not be held liable unless it had notice that TMHA was discriminating);

715 F.Supp. 835 (N.D. Ohio 1989)(finding liability of HUD and TMHA and ordering relief).

**Plaintiffs' Attorneys**

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**Factual Background**

Plaintiffs filed a class action in 1974 alleging that the Toledo Metropolitan Housing Authority (TMHA) and HUD had perpetuated de jure segregation of public housing through policies such as the "three refusal rule," which allowed applicants to refuse, without giving a reason, the first two units offered to them. In addition, plaintiffs alleged that the plaintiffs had perpetuated segregation of the city by failing to try to build public housing in the suburbs (which had lower minority percentages).

In 1983, the district found that HUD and TMHA were liable because: 1) operation of the public housing program (including use of three-refusal rule) perpetuated segregation; and 2) site selection of public housing in the city perpetuated segregation. The district court ordered defendants to cease discriminatory policies, to attempt to site public housing in the suburbs, and to prepare a remedial affirmative action plan.[1]

The Sixth Circuit affirmed the district court's factual findings, but found that plaintiffs had no standing with respect to failure to site public housing in the suburbs, because: 1) plaintiffs had not shown an available site where the TMHA could have built public housing in the suburbs; and 2) the suburbs were not party to the litigation and could not be forced to accept public housing.[2]

On remand, the district court again ordered HUD and the TMHA to prepare and implement an affirmative action plan to remedy the segregation of TMHA's public housing.[3]

On appeal, the Sixth Circuit held that HUD could not be held liable without a finding that: 1) HUD had notice that the TMHA was discriminating; and 2) HUD failed to act upon that notice.[4]

On remand, the district court (with a different judge) found that HUD had violated Title VI and Title VIII, because it continued to fund TMHA after it knew that there were "serious racial imbalances" in TMHA.[5]

**Relief Ordered:**

The court ordered TMHA to cease its discriminatory policies (including the three refusal rule) and to adopt an affirmative action transfer plan. It also ordered HUD to provide funds for

[1]Unpublished Opinion.
[2]758 F.2d 1086 (6th Cir. 1985).
[3]Unpublished Opinion.
[4]833 F.2d 1203 (6th Cir. 1987).
[5]715 F.Supp. 835 (N.D. Ohio 1989).

TMHA to hire eight additional staff. Finally, it ordered HUD and TMHA to pay moving expenses for any families undertaking integrative transfers.

**Effect of Relief[6]:**

Fifteen years passed between the filing of the complaint and the order for relief, and during that time period, the racial composition of public housing changed so that all of the developments were "racially concentrated" as defined by the court's order. That demographic shift has made it difficult for the plaintiffs to use the court's order to make more housing available to people of color (which was the original purpose of the lawsuit).

Integrative transfers are no longer really an option, because almost all of the public housing and project-based Section 8 units are predominately minority. The plaintiffs did succeed in having the housing authority centralize the application process for the project based Section 8 and public housing programs. In addition, the housing authority has spent millions of dollars to upgrade the quality of existing public housing, both through physical improvements and through improvements to security.

There is also a local fair housing center which provides mobility counseling for the Section 8 program. The plaintiffs did consider trying to obtain Section 8 certificates for the named plaintiffs, but by the time the case was over, most of them had moved into elderly housing developments and did not want to move.

Interestingly, Section 8 mobility has been successful implemented as a result of an environmental case alleging that Section 8 units rented in the city had lead paint. The consent decree in that case requires mobility counseling to move Section 8 recipients out of the central city to areas where lead paint is not so prevalent.

[6]Conversation with Jeanne Johns, 11/13/96.

**NAACP, Boston Chapter v. Kemp** — Boston, MA

**Published Opinions:**

817 F.2d 149 (1st Cir. 1987)(holding that HUD could be held liable for violating Title VIII if it failed to use its resources to insure adequate desegregated housing opportunities);

721 F.Supp. 361 (D.Mass. 1989)(on remand, finding HUD liable for continuing to provide UDAG and CDBG funds despite its knowledge of "pervasive racial discrimination within the City").

**Plaintiffs' Lawyer:**

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**Factual Background:**

In 1978, plaintiffs sued HUD for its role in the City's failure to make affordable units available to minorities outside areas of minority concentration. Plaintiffs alleged that HUD had granted Community Development Block Grant (CDBG) and Urban Development Action Grant (UDAG) money to Boston without first requiring the city to increase and improve available housing to minorities.

In 1989, the District Court found HUD liable for: 1) its failure to require the City to establish effective fair housing despite HUD's knowledge of racial discrimination in the City; and 2) for its failure to impose conditions on funds granted to the City, despite HUD's knowledge of lack of safe housing for minorities.[1] The court ordered relief for the plaintiffs designed to increase the available stock of housing for minorities. Among other things, the court ordered HUD to: require private landlords of HUD-assisted housing throughout the metropolitan area to do affirmative marketing; impose conditions on grants to Boston requiring the City to enact legislation broadening the scope of the Boston Fair Housing ordinance; strengthen the Fair Housing Commission, so that it would have enforcement power; and develop a remedial plan to redress the range of its Title VIII violations. In 1991, the plaintiffs entered into a consent decree with HUD.

**Relief Awarded (1991 Consent Decree)[2]:**

1. Section 8 Certificates

HUD agreed to provide 300 Project-Based Section 8 housing subsidies and 200 Section 8 certificates (15 year certificates).

2. Metro List Clearinghouse:

HUD agreed to provide a total of $700,000 over fiscal years 1992-1994 to establish a metropolitan-wide clearing house with listings of all subsidized housing opportunities. Subsidized housing providers are required to list open units, so that people seeking subsidized housing units have a central location listing all available units in the metropolitan area.

3. Metropolitan Relief:

HUD agreed to require owners/managers of HUD-assisted housing projects within Boston's Metropolitan Statistical area (137 cities and towns) to participate in programs designed to

[1] 721 F.Supp. 361 (D.Mass. 1989).
[2] NAACP Fact Sheet Summarizing Consent Decree.

facilitate access to suburban housing opportunities for low-income minority households now living in Boston.

4. Fair Housing Program:

HUD agreed to use its influence to require the City of Boston to implement a Fair Housing program to be administered by the Boston Fair Housing Commission. The program will: 1) establish the housing Clearinghouse described above; 2) pursue fair housing enforcement; 3) affirmatively market fair housing; and 4) provide fair housing education.

5. Fair Housing Enforcement:

HUD agreed to provide a total of $700,000 ($325,000 in FY 1991 and $125,000/year in the three subsequent years) to be used to subsidize the unreimbursed legal assistance costs incurred by private attorneys pursuing relief for fair housing violations.

**Effect of Relief:**

The 200 Section 8 certificates were administered by two entities: the Metropolitan Boston Housing Partnership administered 100 certificates (the certificates were originally allocated to the Massachusetts Executive Office of Communities and Development, which then contracted with MBHP to administer them) and the Boston Housing Authority administered the remaining 100 certificates. HUD released the certificates to the two entities without imposing any use restrictions or waiting list preferences, so the certificates were merged in with the regular Section 8 Certificate program. The plaintiffs are currently negotiating with HUD to work out a solution in which Section 8 certificates would be used to promote integrative moves.

The 300 project-based Section 8 units have not been sited. Negotiations are continuing to determine where the units will be sited and how the units will be distributed.

The Metro List Clearinghouse has been administered through the Boston Fair Housing Commission. The program was continued for an extra two years beyond those provided in the consent decree, because in the first two years, many subsidized housing providers failed to participate in the listing. In the later years, however, there was almost complete compliance from the entities required to list housing opportunities.

HUD provided the first year of funding ($325,000) for private fair housing enforcement. After that first year, the law changed, and HUD was no longer permitted to fund this provision of the settlement. HUD and the plaintiffs are negotiating comparable relief.

Finally, one part of the consent decree provided that HUD must obtain the consent of the plaintiffs before disposing of HUD-assisted housing, if the disposition reduces housing opportunities. This provision has provided the plaintiffs with means to insure that residents of HUD-assisted housing which is slated for demolition get sufficient assistance to move elsewhere.

**Gautreaux v. Chicago Housing Authority**

Chicago, IL

**Plaintiffs' Lawyers:**

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**Reported Decisions:**
Note: This is not a complete list of all of the published cases.

Gautreaux v. Chicago Housing Authority. 265 F.Supp. 582 (N.D.Ill. 1967)(tenants have the right to maintain an action alleging that housing is being administered in a racially discriminatory manner);

Gautreaux v. Chicago Housing Authority. 296 F.Supp. 907 (N.D.Ill. 1969)(holding CHA liable for intentional racial discrimination in public housing site selection and tenant assignment);

Gautreaux v. Romney. 448 F.2d 731 (7th Cir. 1971)(upholding the claim against HUD on a motion to dismiss);

Gautreaux v. City of Chicago, 480 F.2d 210 (7th Cir. 1973)(finding the City, mayor and aldermen liable);

Hills v. Gautreaux, 425 U.S. 284 (1976)(holding that finding of unconstitutional conduct by CHA and HUD justified ordering the defendants to attempt to create housing alternatives for the respondents in Chicago suburbs);

Gautreaux v. Landrieu, 523 F.Supp. 665 (N.D.Ill. 1981)(approving Consent Decree settling claims against HUD) *aff'd* 690 F.2d 616 (7th Cir. 1982).

**Factual Background:**

Class action filed in 1966, challenging racial segregation by HUD and CHA in administration of Chicago's public housing program. The class was composed of approximately 43,000 Black tenants of and applicants for public housing in Chicago. The court found that CHA deliberately located public housing to perpetuate and intensify racial segregation in Chicago. The court also found that HUD was liable for knowingly acquiescing to CHA's unconstitutional procedures. In 1969, the court entered a Judgment Order awarding relief to the plaintiffs.

In 1973, the City of Chicago was added as a defendant and found liable. The court ordered broad relief, including an interjurisdictional remedy requiring development of housing in the suburbs. The Supreme Court upheld this remedy.

In 1976, HUD entered into a one year Letter of Understanding with the plaintiffs to investigate the possibility of metropolitan-wide relief. As part of that, HUD developed a Section 8 demonstration program for 400 class members in which Section 8 certificate recipients received mobility services through the Leadership Council for Metropolitan Open Communities. The Letter of Understanding was renewed and expanded twice.

In 1981, HUD and the plaintiffs entered into a consent decree.

**Relief (1981 Consent Decree):**[1]

[1]523 F.Supp. 665 (N.D.Ill. 1981).

The consent decree involved a number of strands of relief. The following is a summary of those provisions:

1. Housing Opportunities:

HUD agreed to provide placement for 7,100 eligible persons in assisted units in general areas (defined as having less than 30% minority concentration) or revitalizing areas (defined as areas undergoing significant rehabilitation). The consent decree continues until HUD has provided those placements. Placements made under the Section 8 Demonstration Program prior to the consent decree do not count toward the total.

2. Section 8 Demonstration Program:

HUD agreed to contract with the Leadership Council (or another qualified entity) to continue the demonstration program until the end of the consent decree. The program provides tenant counseling and landlord outreach for the Section 8 program. Participants, who receive special mobility certificates, must use their certificates in neighborhoods that have no more than 30% Black population. Since 1985, participants in the program have been selected through an annual one-day telephone call-in.

HUD also agreed to set aside 150 Section 8 existing housing certificates per year for use in the program (in addition to any turnover or regularly allocated certificates).

3. Section 8 New Construction and Substantial Rehabilitation:

HUD agreed to set aside contract authority for 250 Section 8 new construction or substantial rehabilitation units per year for multifamily projects in general or revitalized areas. The new units were to be occupied by eligible persons. The projects, with some exceptions, were supposed to have less than 30 units each. Contract authority for another 100 Section 8 new construction or substantial rehabilitation units per year was to be set aside for units for large families in general or revitalized areas.

4. Public Housing Tenanting

HUD agreed to reserve no less than 6% and no more than 12% of the units in each public housing project for eligible persons.

5. Community Development Block Grant

HUD agreed to make available $3,000,000 of reallocated Community Development Block Grant money to provide housing opportunities outside of the Limited area (with greater than 30% minority population) for families living in the limited area.

6. Provisions for Large Families:

HUD agreed that 10% of all assisted housing units in each Section 8 new construction project and in each public housing new construction project would be designed for large families.

**Effect of Relief:**[2]

As of 1994, HUD had provided approximately 6,000 placements out of the total of 7,100 that it is obliged to provide.

Through the pre- and post-consent decree Section 8 programs, a total of approximately 5,700 placements had been made as of 1994. The one-day telephone call-in for participation in the program generates thousands of phone calls every year, indicating the interest in participation. All of the placements through the program, by the terms of the consent decree, were in neighborhoods with a Black population of less than 30%. Approximately 3,000 of these families moved to the suburbs with their certificates. The long-term effects of these moves has been the subject of social

[2]George Peterson & Kale Williams, Housing Mobility: What Has It Accomplished and What Is Its Promise? *in* Housing Mobility: Promise or Illusion? 28-34, 84-86 (Alexander Polikoff ed., 1995)

science research, and that research continues to determine the effect of moves to the suburbs on participants' schooling, employment, and sense of security.[3]

In addition to the Section 8 opportunities, Gautreaux has led to the creation of scattered-site public housing throughout the Chicago area. As of 1994, approximately 1050 units of public housing had been built or were in construction. Another 300 units were out for bid. The sites for this public housing have been subject to the same conditions as locations for the Gautreaux Section 8 program. Therefore, all of the units have been built in neighborhoods with less than 30% Black population. The suburbs of Chicago have, however, resisted efforts to locate housing in their jurisdictions, so development has been confined primarily to the City of Chicago. Nonetheless, the poverty rate of the census tracts in which this units have been built is substantially lower than the poverty rate of census tracts where traditional, highly-concentrated public housing was built.

[3]James Rosenbaum and other social scientists have been following the Gautreaux program and have published a number of articles and studies on his results. See e.g. Susan J. Popkin, James E. Rosenbaum, and Patricia M. Meaden, "Labor Market Experiences of Low-income Black Women in Middle-Class Suburbs: Evidence from a Survey of Gautreaux Program Participants," *Journal of Policy Analysis and Management* 12(3) (Summer 1993).

**Walker v. HUD** — Dallas, TX

**Plaintiffs' Lawyers:**

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Elizabeth K. Julian
(Recused from action in this case in 1993 upon appointment to HUD)

**Reported Decisions:**

734 F.Supp. 1231 (N.D. Tex. 1989)(Walker I)(finding that Dallas Housing Authority had violated 1987 consent decree and appointing special master);

734 F.Supp. 1272 (N.D. Tex. 1989)(Walker II)(ordering replacement of demolished public housing units) *rev'd in part by*

916 F.2d 819 (5th Cir. 1990)(overturning the part of District Court's order invalidating Congressional bars on relief)

734 F.Supp. 1289 (N.D. Tex. 1989)(Walker III)(allowing plaintiffs to join the City of Dallas as a defendant and holding the City liable for contributing to the racial segregation in DHA's programs).

**Factual Background:**

Class action filed in 1985 against HUD and the Dallas Housing Authority (DHA) alleging that the public housing and Section 8 programs were being administered to discriminate against minorities. In particular, plaintiffs alleged that public housing developments were sited in segregated areas and that those developments were maintained in substandard conditions.

In 1987, the plaintiffs entered into a consent decree with HUD and the DHA which required, among other things, that DHA: 1) institute a new tenant selection and assignment plan with a single waiting list for all public housing and Section 8; 2) establish a new housing mobility division for Section 8; 3) seek permission from HUD to raise Section 8 rent ceilings (FMR's); and 4) use every effort to place Section 8 recipients in census tracts where there were less than 10 certificates in use (at the end of the first year of the decree, DHA was to have 15% of its Section 8 certificates in use in non-impacted areas). In addition, the consent decree provided for conditional demolition of a 3500 unit West Dallas project.[1]

In 1989, the court found that the DHA had violated almost every provision of the consent decree.[2] The court also ordered DHA and HUD to replace demolished units with Section 8 desegregated housing opportunities and held that two statutes passed by Congress which prohibited the use of HUD money for certain portions of the demolition of the West Dallas development demolition and replacement were unconstitutional.[3] The order of the court finding the

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[1]Florence Wagman Roisman and Philip Tegeler, Improving and Expanding Housing Opportunities for Poor People of Color: Recent Developments in Federal and State Courts, 24 Clearinghouse Review 312, 331-333 (1990).
[2]734 F.Supp. 1231 (N.D. Tex. 1989).
[3]734 F.Supp. 1272 (N.D. Tex. 1989).

statutes unconstitutional was later reversed on appeal.[4] Finally, the district court held that the City of Dallas had played a part in the segregation of public housing, and allowed the plaintiffs to join the city as a defendant.[5] In 1990, the City and the plaintiffs entered into a consent decree.

In 1992, the 1987 consent decree with HUD and DHA was vacated. The only consent decree left was with the City of Dallas, and the case against HUD and the DHA was reopened.

In 1994, the court granted summary judgment to the plaintiffs against HUD and the DHA. The court entered two remedial orders against the defendants: the remedial order against DHA was entered in February 1995, and the remedial order against HUD was entered in April 1996. HUD appealed the order, but the DHA did not. The DHA order has, however, been challenged by two homeowners' associations, who claim that public housing cannot be sited in their areas.

**Relief Awarded:**

1. 1987 Consent Decree
   a. Section 8 Mobility Program
      DHA agreed to have 15% of its Section 8 units in use in non-impacted areas by the end of the first year of the decree. DHA and HUD were required to take the following steps to obtain greater mobility in the Section 8 program:
      - Establish a housing mobility division of DHA to: i) recruit landlords in non-impacted areas for participation in the Section 8 program; ii) assist and counsel Section 8 applicants and recipients; and iii) assist in tenant relocation programs;
      - Enforce Housing Quality Standards in all new and existing Section 8 certificate and voucher units;
      - DHA required to request permission from HUD to raise rent ceilings to 120% of Fair Market Rents.

   b. Conditional Demolition of West Dallas housing project
      The parties agreed to a conditional demolition of part of the 3,500 unit West Dallas housing project. First, 800-900 units were to be modernized and rehabilitated. Of the remaining 2,600 units, no unit could be demolished without funding to replace it with another unit (either through Section 8 or with a new unit of public housing). HUD agreed to provide funding for 100 units of newly constructed low-rent public housing and 900 Section 8 certificates and vouchers as replacement for 1000 units to be demolished. Any additional units demolished had to be replaced with Section 8 certificates or vouchers.

   c. Amended Tenant Selection and Assignment Plan:
      DHA was required to replace its tenant selection and assignment plan with a one-offer, one-refusal plan which used a single waiting list for public housing, Section 8 new construction and Section 8 substantial rehabilitation projects.

2. Consent Decree with the City of Dallas (1990)
   a. Eight years of funding at approximately $300,000 a year for a fair housing organization that would concentrate its efforts on behalf of class members seeking housing in predominately white areas;
   b. Funding of a $22,000,000 Housing Fund to provide housing opportunities for class members in predominately white areas of the suburbs;
   c. Payment of $50,000 per year to landlords as bonus payments for agreeing to provide 3 and 4 bedroom units for Section 8 families in predominately white areas;
   d. The use of City zoning or other legislative efforts to provide approximately 800 units of low income housing on terms substantially equivalent to public housing in predominately white areas of the City of Dallas;

[4] 916 F.2d 819 (5th Cir. 1990).
[5] 734 F.Supp. 1289 (N.D. Tex. 1989).

e. The use of City programs to provide approximately 1,600 units of low income housing on terms substantially equivalent to public housing in predominately minority areas of the City of Dallas;
f. Payment of $3,000,000 in City funds to accomplish the demolition of 2,600 units in the West Dallas project. The units have been replaced on a one-for-one basis;
g. City construction of infrastructure improvements around the Black projects, youth programs, and other City services;
h. City provision of minimum levels of security to predominately black projects;
i. City obligation to use its contracts with the suburbs to negotiate suburb/DHA cooperation agreements;
j. Formation of a fair housing enforcement office with the obligation to test and audit predominately white HUD-assisted projects;
k. Formation of low income housing information clearinghouse; and
l. Monitoring of rent levels and City requests for increase in Section 8 FMR's and payment standards if needed to access housing in white areas.

3. DHA Remedial Order (1995):

The court ordered DHA to demolish 2630 units of public housing in West Dallas and to provide one-for-one replacement. In addition, the court also ordered DHA to construct or acquire 3205 public housing units in predominately white areas where the poverty rate is less than 13% (the county average).

DHA was also ordered to submit a plan within 90 days for achieving and maintaining substantial equality of conditions.

4. HUD Remedial Order (1996):[6]

The following are the major provisions of the Order:

a. Eliminating concentration of public and assisted housing in minority areas of Dallas:
- HUD is required to provide one-for-one replacement of all 2630 units of the West Dallas housing project scheduled for demolition;
- Public housing cannot be built in minority areas of the City;
- HUD must request that the City of Plano and suburbs of Dallas County enter into cooperation agreements with the City of Dallas to develop public housing units in those areas;
- HUD must develop a plan to replace some of Dallas' public housing with Section 8 certificates and vouchers which can be used in the suburbs and predominately white areas;
- HUD must study the feasibility of establishing a metro-wide clearinghouse, which would list available subsidized housing throughout the metropolitan area.

b. Equalization of historically Black and historically white assisted housing
- HUD must submit a plan and a schedule to make conditions at DHA projects substantially equal to conditions at HUD-assisted projects in predominately white areas of Dallas. Conditions to be equalized include public safety, air conditioning, laundry facilities, Headstart programs, convenience stores, and ceiling rents.
- Comprehensive Grant money from HUD to DHA should be used to make these improvements.

c. Provisions for Section 8 mobility
- HUD must provide $3,000,000 per year for ten years for mobility services/counseling in Dallas;

[6]No. 3:85-CV-1210-R (N.D.Tex., April 16, 1996).

- HUD must make provisions to grant exceptions to Fair Market Rents for minority families trying to make integrative moves.

**Effect of Relief:**

1. Consent Decree with HUD and DHA (1987)

While the court found that DHA had violated almost every provision of the 1987 Consent Decree, some progress was made.

The one-hundred units of low rent public housing were built in a white neighborhood of townhouses and single family homes, and the project is now occupied by African American families.

As of 1994, HUD had distributed 1,430 Section 8 certificates/vouchers. Many of the recipients of these Section 8 certificates used them to move out of neighborhoods with high poverty concentrations. While DHA, which was supposed to provide mobility counseling, did not seem to place a high priority on mobility, families nonetheless moved out of concentrated areas. As of 1994, 62.9% of the total Section 8 certificate or voucher holders were using them in non-impacted areas (defined as census tracts containing fewer than 10 Section 8 families in 1987).[7] In addition, 15% of the total were using their certificates/vouchers in the suburbs.

2. Consent Decree with City of Dallas

The City funded the fair housing organization, and funded the $22,000,000 Housing Fund to provide housing opportunities for class members in predominately white areas of the suburbs. Two hundred units have been provided to date. In addition, the City has paid $50,000 per year to landlords as bonus payments for agreeing to provide 3 and 4 bedroom units for Section 8 families in predominately white areas. Several hundred units have been obtained using this bonus plan.

The City has not, however, used zoning or other legislative efforts to provide approximately 800 units of low-income housing on terms substantially equivalent to public housing in predominately white areas of the City of Dallas. The City has provided less than 100 units of "affordable housing," but none on terms substantially equivalent to public housing. HUD has allocated the City 1,300 units of Section 8 vouchers to help the City meet this obligation.

The City has also failed to use City programs to provide approximately 1,600 units of low-income housing on terms substantially equivalent to public housing in predominately minority areas of the City of Dallas. The City has provided only "affordable units."

The City has paid most of the $3,000,000 in City funds to accomplish the demolition of 2,600 units in the West Dallas project. The units have been replaced on a one-for-one basis.

The City has performed infrastructure improvements around the Black projects, set up youth programs, and provided other City services. The City has also provided minimum levels of security to predominately Black projects.

The City has asked the suburbs to negotiate suburban/DHA cooperation agreements, but none of the suburbs have yet agreed.

The fair housing enforcement office was formed, but it has not done much to test and audit predominately white HUD-assisted projects. The low-income housing information clearinghouse was formed, but it exists mainly as a set of files in the City and is not widely used by those seeking housing.

The monitoring of rent levels and City requests for increase in Section 8 FMR's and payment standards may have been useful in obtaining exception rents for Section 8 certificates used in some predominately white areas.

3. Remedial Orders against HUD and DHA

Both Orders are currently being challenged.

[7] In 1994, DHA agreed to change the definition of eligible neighborhoods to those that are "predominately white."

**Resident Advisory Board v. Rizzo**

Philadelphia, PA

**Published Opinions:**

425 F.Supp. 987 (E.D.Pa. 1976)(holding defendants liable for constitutional and statutory violations stemming from failure to develop public housing on site in white area) *aff'd in part, rev'd in part by*

564 F.2d 126 (3rd Cir. 1977)(holding City liable for violating plaintiffs' constitutional rights and housing authority liable for violating Title VIII).

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**Factual Background:**

In 1971, plaintiffs filed class action against HUD, the City of Philadelphia, the Philadelphia Housing Authority (PHA) and the Philadelphia Redevelopment Authority. In 1959-1961, the City undertook urban renewal in a racially integrated neighborhood of South Philadelphia called Whitman. Many of the Black families were moved out of the area during the urban renewal. The PHA obtained a piece of land in Whitman at that time, which it was supposed to develop into public housing. As urban renewal continued, Whitman essentially became all-white.

In 1970, PHA had still not developed public housing on the land, even though it had built another public housing development in a racially impacted area of the city, conditioned on the development of public housing on the Whitman site. A contractor (Multicon) was finally selected to develop the housing (120 townhouse units) in 1970, but almost immediately, a local homeowners group from Whitman (WAIC) began to protest the development of public housing. Multicon obtained an injunction prohibiting WAIC from blocking with construction efforts from the local court, but the City refused to enforce the injunction. HUD refused to intervene. Plaintiffs then filed this action in federal court.

In 1976, the district court found the governmental defendants liable for violating plaintiffs' statutory civil rights under Title VI. The defendants (except HUD) appealed, and the Third Circuit held that the defendants were liable for intentional discrimination under the Constitution and under Title VIII.

**Relief Awarded:**

The court issued an injunction prohibiting the defendants from blocking construction and requiring them to move forward as quickly as possible. In addition, the court ordered the PHA to submit a race-conscious tenant selection plan for the new development.

**Effect of Relief:**

After the injunction was entered, the Philadelphia Housing Authority built 150 subsidized townhouse units on the Whitman site. The units have been occupied by approximately equivalent numbers of minorities and non-minorities since then.