

**Baseline Assessment of Public Housing**

**Desegregation Cases:**

**Case Studies - Volume 2**

**Baseline Assessment of Public  
Housing Desegregation Cases:  
Case Studies  
Volume 2**

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## Preface

### Purpose of the Research

The overall purpose of these Baseline Case Studies of Public Housing Desegregation Cases is to produce an assessment of the impact of using desegregation settlements to address problems of segregation and concentration in public and assisted housing. This study is to serve as a baseline for a planned long-term assessment effort and had three major objectives:

- To document baseline (pre-settlement) conditions; the early desegregation program designs; implementation challenges and successes; and any adjustments in the desegregation mandates or policies since the decrees took effect.
- To assess early implementation progress, and the impact of the consent decrees on the plaintiff class and then to draw implementation lessons.
- To advise HUD on the best methods for conducting a long-term impact evaluation in these eight sites, including identifying requisite historical and future data and procedures for data collection and tracking.

To prepare these case studies, the Urban Institute conducted site visits to each of the eight study sites between August and October of 1998. Prior to the site visits, staff reviewed background materials, including the relevant consent decrees, progress reports, and newspaper articles. During the site visit, staff conducted interviews with housing authority staff, local HUD staff, local government representatives, plaintiffs' attorneys, staff from any mobility or fair housing programs related to the decree, and tenant leaders. We also conducted focus groups with housing authority residents affected by the decrees.

Each case study includes: a historical overview of pre-settlement conditions, current economic conditions, and racial make up of the metropolitan area; a history of the desegregation litigation; an overview of the elements of the desegregation settlement; a thorough review of implementation progress to date, including factors that have facilitated and inhibited implementation; and a summary of the results of focus groups conducted with residents at each site.

These case studies were not intended to serve as an audit of compliance or a final impact analysis, but rather to highlight the early challenges and lessons of attempting to implement these ambitious desegregation decrees. All findings in the case studies represent conditions at the time of the site visit; we recognize that in some case, situations have changed dramatically since the field work was completed. These changes will be reflected in the planned long-term impact assessment. However, we do include a brief discussion of the March 1999 Fifth Circuit Court decision in the *Walker* case in Dallas because it has major implications for the case.

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## **Sanders Case**

### Chronology of Events

Date	Event
1988	<i>Sanders</i> suit filed
1990	Talbot Towers demolished
1993	HUD admits liability for failure to eliminate racial segregation in tenant selection and assignment plan from 1984 to 1991
1994	ACHA is designated a troubled housing authority
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June, 1996	Fair Housing Partnership awarded Fair Housing Services Center contract
Fall, 1996	HUD suggests new acquisition policy for replacement housing because of community opposition
1996	Section 8 and public housing waiting lists merged
1996	HUD completes maintenance and amenities surveys

1996	HUD provides \$1.01 million to ACHA in Drug Elimination grant targeted at Burns Heights, Blair Heights, and Ohioview Acres
1996	Police substations established at <i>Sanders</i> developments and two others
1996-1997	Urban Design Associates (UDA) contracted to begin work on CDBG spending plan; process is delayed by HUD, Task Force
January, 1997	Fair Housing Services Center contract in effect; first Executive Director is Gus Martin
1997	UDA resigns as CDBG spending plan “architect” over dispute of scope of work
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1997	Caldwell Station development in Wilmerding approved by HUD
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March, 1998	HUD approves 20 percent exception rents for South Fayette Township, Bethel Park, and Ross Township and smaller ones for other communities
April, 1998	FHSC Executive Director resigns
July, 1998	New FHSC Executive Director, Lisa Dickerson, hired
Summer, 1998	PMA holds series of public meetings in <i>Sanders</i> communities to get input on plan

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September, 1998	South Fayette Township files lawsuit to issue a temporary order to stop ACHA from buying six townhouse units there
September, 1998	Blawnox, a borough in Allegheny County files suit in U.S. District Court seeking to prevent ACHA from buying townhouse unit for public housing

## **Baseline Case Study: Allegheny County, PA**

**by**

**Malcolm Drewery and George Galster**

### **1.0 Background**

The *Sanders* Consent Decree resulted from a 1988 discrimination suit filed by Cheryl Sanders and six other residents of the Allegheny County Housing Authority's (ACHA) 210-unit Talbot Towers complex.<sup>1</sup> This development was located in the town of Braddock, a low-income, predominantly minority community. ACHA, with concurrence from the United States Department of Housing and Urban Development (HUD), had proposed to replace the demolished units with others in the same town. The *Sanders* suit argued that such replacement would perpetuate the segregated and unequal conditions that ACHA, the county, the Allegheny County Redevelopment Authority, and HUD had established and maintained, not only in and around the Braddock developments but across Allegheny County.

The *Sanders* consent decree was signed in December, 1994, under the oversight of U.S. District Court Senior Judge Gustave Diamond. It was one of the most comprehensive and demanding public housing desegregation decrees in the nation. It required the cross-listing and merging of the public housing waiting list with the Section 8 waiting list. In addition, it required plaintiff class members on this list to

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<sup>1</sup> *Sanders et al. v HUD et al.* 827 F. Supp. 216 (W.D. PA 1994). Note that ACHA does not have jurisdiction over the City of Pittsburgh, which has its own housing authority.

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receive 450 special Section 8 mobility certificates for use only in areas where less than one-third of the population was African-American. A housing mobility program was to be created to facilitate the desegregative movement of applicants and residents. Further, the consent decree directed that 100 units of new, scattered-site public housing be purchased or built in non-impacted areas of the county to replace Talbot Towers, which was torn down in 1990. For all residents displaced by the demolition of Talbot Towers and other public housing developments that were later demolished, 409 additional Section 8 certificates were to be issued. *Sanders* also required the equalization of living conditions through the improvement of facilities (amenities, maintenance, landscape, security, etc.) in ACHA public housing and in seven communities (the *Sanders* communities) surrounding these developments where low-income public housing historically have been concentrated.<sup>2</sup> Funding for the improvement of the *Sanders* communities was to be supplied through a dedicated portion of Community Development Block Grant (CDBG) funds,<sup>3</sup> with \$25 - 30 million to be allocated to this community redevelopment effort through the year 2002. Finally, *Sanders* mandated that the plan for using these funds, selection of sites for replacement housing, and other implementation assignments be undertaken by a task force (*Sanders* Task Force or STF) made up of plaintiffs and defendants in the case, ACHA residents, and other non-profit organizations to be invited by HUD and the plaintiffs.

This case study was based on interviews with key informants, focus groups with ACHA tenants and applicants, document review, and other data sources. On-site interviews and focus groups were conducted from July to September, 1998, and the conclusions presented later are based on the progress made through that time. It first provides an overview of the Allegheny County region, ACHA, and the history of the *Sanders*. It then describes in detail the main elements of the consent decree, assesses early implementation progress to date (up to the time of data collection), and identifies inhibitors to that progress. Finally, it presents the initial impacts of the decree on members of the plaintiff class, as revealed both by statistical data and in discussions with tenants themselves.

## 1.1 Characteristics of Allegheny County

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<sup>2</sup> The seven *Sanders* communities are Braddock, Clairton, Duquesne, Homestead, McKees Rocks, Rankin, and Wilkinsburg.

<sup>3</sup> The CDBG program is used to fund off-site public housing improvements and the Comprehensive Grant Program is used to fund on-site public housing improvements.

### **1.1.1 Economic, Demographic, and Housing Profile**

Located where the Allegheny and Monongahela Rivers merge to form the Ohio River, the southwest region of Pennsylvania in its early days was known as the “Gateway to the West.” Pittsburgh, the largest city in Allegheny County, became an important river port and later a rail center (See Figure 1).<sup>4</sup> Because of its access to those transportation modes and its abundant natural resources, the region became a center of the Industrial Revolution in America. The 1950s saw the region’s traditional industrial base decline, with over 100,000 jobs lost in the steel industry alone. Three decades later, old industries had been largely supplanted with more high- technology and service-oriented firms, although many major corporations continue to be headquartered in the region.<sup>5</sup>

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<sup>4</sup> Other major municipalities in the county include: Penn Hills, Bethel Park, Ross Township, Shaler, Mt. Lebanon, McKeesport, and Monroeville.

<sup>5</sup> Allegheny County Department of Planning & Development information packet, July, 1996].

Insert Figure 1

**Table 1. Statistical Profile of Allegheny County**

<b>1990 Population</b>	<b>Allegheny County</b>	<b>United States</b>
White	1,169,452 (87.5%)	-
African-American	149,550 (11.2)%	-
Hispanic	8,732 (0.6%)	-
American Indian	1,452 (0.1%)	-
Asian	13,469 (1.0%)	-
<b>1980 Income and Poverty Status</b>		
Median Household Income	\$28,136 <sup>1</sup>	\$30,056
Per capita income	\$15,115	\$14,420
Family poverty rate	8.7% <sup>2</sup>	10%
<b>1990 Labor Force Status</b>		
White	-	-
In labor force	60.3%	65.4%
Unemployed	5.2%	5.2%

<b>1990 Population</b>	<b>Allegheny County</b>	<b>United States</b>
African American	-	-
In labor force	54.0%	62.7%
Unemployed	16.7%	12.9%
Total		
In labor force	59.7%	65.6%
Unemployed	6.3%	6.3%

<sup>1</sup>Grew 56.8 percent between 1980 and 1990 Census.

<sup>2</sup>Grew 2.4 percentage points between 1980 and 1990 Census.

Source: Allegheny County Planning Department. Profile of Allegheny County Communities, October 1991

[tabulations of 1990 Census data]

Roughly 42 percent of the area's workforce now is employed in the service sector, compared with 12 to 13 percent in the manufacturing sector, according to the 1990 *Census*.

Allegheny County's 1990 population was 1.33 million, a drop of 7.8 percent from 1980. Between 1980 and 1990, the white population fell 1.2 percent but the African-American population grew 0.8 percent.<sup>6</sup> The county's housing stock grew 1.8 percent, but its household population declined by 0.1 percent, creating a slight housing surplus. Over the same period, the median value of homes rose 32 percent (from \$43,000 to \$57,100). Table 1 presents demographic details on Allegheny County as it compares to U.S. averages.

## 1.2 Characteristics of ACHA

As Figure 2 shows, just prior to the entering of the consent decree in October 1994, ACHA operated 4,078 low-income public housing units located in 17 elderly developments (1,861 units) and 18 family developments (2,217 units).<sup>7</sup> ACHA's largest site was Homestead, with 350 elderly units. Family developments ranged from mid-rise to garden apartments to townhouses; most elderly developments were high-rises. Gross vacancy rates were high: 29.7 percent in family developments and 19.5 percent in elderly developments.<sup>8</sup>

ACHA was declared a "Troubled Housing Authority" in 1994. In 1997, ACHA received a PHMAP score of 73.64 percent, a substantial increase from the previous two years (the scores from 1994 and 1995 were 54.06 and 68.55, respectively).<sup>9</sup>

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<sup>6</sup> Allegheny County's population continues to drop; as of 1995, the population was estimated to be 1.31 million.

<sup>7</sup> Data from May, 1998, in ACHA MIS Department report, "LIPH Occupancy and Waiting List Analysis," June 4, 1998.

<sup>8</sup> *Ibid.*.

<sup>9</sup> The 1997 PHMAP report was the latest report available at the time of this site visit.

Overall, almost half of the ACHA units were occupied by minority households before the consent decree. The percentage varied greatly, however, depending on the type of development. Minorities constituted only about one-fifth of the residents in the elderly ACHA developments but two-thirds in the family developments. Details of ACHA developments' racial occupancy patterns as of Jan. 31, 1995, are presented in Table 2.

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Insert Figure 2

Insert Figure 3

**Table 2. Occupancy Status and Racial Composition of ACHA Public Housing Developments, January 1995**

Site Type	Number of Units	Number Vacant	Number Tenants	Number Minority	Number Non-Minority	Percent Minority	Percent Non-Minority	Total <sup>1,2</sup>	Non-Minority <sup>3</sup>	Non-Identifiable <sup>4</sup>	Minority <sup>5</sup>
Family	2,298	753	1,540	1,010	530	66%	34%	17	2	6	9
Elderly	1,759	338	1,421	300	1,121	21%	79%	17	13	1	3
Total Housing	4,057	1,091	2,961	1,310	1,651	44%	56%	34	15	7	12

<sup>1</sup>Elderly development, empty awaiting demolition.

<sup>2</sup>Cochrandale was empty at this time and not included here.

<sup>3</sup>Less than 38 percent minority.

<sup>4</sup>In the range of 38-58 percent minority.

<sup>5</sup>More than 58 percent minority.

Source : ACHA Unit Status Report, January 31, 1995

Court-specified designations: Non-Minority = less than 38% minority; Non-Identifiable = 38-58% minority; Minority = over 58% minority;

Cochrandale was empty at this time and not included here; Source: ACHA Unit Status Report, Jan. 31, 1995

The spatial distribution of ACHA Section 8 certificate holders shows similar, though less extreme racial patterns. Figure 3 shows that many minority Section 8 households were clustered in the aforementioned seven *Sanders* communities, but that there were also substantial groupings in the municipalities abutting the eastern border of Pittsburgh, including Penn Hills, Edgewood, and Swissvale (see Figures 1 and 3).

### 1.3 Characteristics of the *Sanders* Communities

The seven *Sanders* communities were singled out in the decree to receive special investments of earmarked CDBG funds. They were selected because they have traditionally been the sites for the highest concentrations of African-American-occupied public housing and Section 8 assisted housing residents (see Figures 1-3) and because of a pattern of disinvestment in them. Table 3 lists the seven *Sanders* communities, the public housing developments within them, and their percentages of minority residents at the time of the consent decree.

**Table 3. Seven *Sanders* Communities and Public Housing Developments, January 1995**

<i>Sanders</i> Communities	Public Housing Developments in <i>Sanders</i> Communities (% Minority)
Braddock	Mapleview Terrace (89%), General Braddock Towers (60%) <sup>1</sup>
Clairton	Blair Heights (98%), Milvue Acres (99%), G.W. Carver Hall (60%) <sup>1</sup>
Duquesne	Cochrandale <sup>2</sup> , Burns Heights (89%), H.S. Truman Apt. (43%) <sup>1</sup>
Homestead	Homestead Apt.. (43%) <sup>1</sup>
McKees Rocks	McKees Rocks Terrace (72%), Hays Manor (84%)

Rankin	Hawkins Village and Extension (92%)
Wilkinsburg	Dumplin Hall (61%) <sup>1</sup>

<sup>1</sup>Elderly Development

<sup>2</sup>Empty, awaiting demolition

Source: ACHA Unit Status Report, January 31,1995

## 1.4 History of the *Sanders* Litigation

### 1.4.1 Background

In 1988, public housing residents and applicants filed a class action suit alleging intentional discrimination against themselves and other African-American tenants and applicants by ACHA, HUD, Allegheny County and the Redevelopment Authority of Allegheny County (See Table 4, below). The original plaintiff was a resident of Talbot Towers, Cheryl Sanders, after whom the consent decree was named. Six other plaintiffs (Cecile White, Cheryl Ulrich, Aartha Surratt, Sarah Williams, Kelly Vick, and Christians for a Better Community, Inc.) were later named in the case. The plaintiffs alleged, specifically, that:

- The defendants had established segregated public housing and never acted to undo the segregation; and
- HUD's and Allegheny County's grant funds were spent in a manner that served to reinforce housing segregation rather than promote fair housing.

**Table 4. Overview of Defendants in the *Sanders* Case**

Defendants	Institutional Role	Complaints
U.S. Department of Housing and Urban Development.	Administers, funds, and supervises low-income housing programs established by Congress.	Established de jure racial segregation in public and other federally assisted housing and residential housing patterns in Allegheny County, failed to disestablish it, and has perpetuated it, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and other federal statutes, regulations, and guidelines.
Allegheny County Housing Authority (ACHA)	Operates 41 public housing developments, as well as the Section 8 program in Allegheny County.	
The Redevelopment Authority of Allegheny County	Was hired to relocate residents from Talbot Towers demolition.	Implemented past urban renewal actions that concentrated blacks.
Allegheny County	Disperses CDBG monies to the communities in the county	Did not disburse CDBG monies equitably to <i>Sanders</i> communities in the past.

In 1993, HUD admitted liability for failure to eliminate racial segregation in tenant selection and assignment from 1984 to 1991. Neither the county of Allegheny, the Redevelopment Authority, nor ACHA acknowledged any liability for the actions or practices alleged by the Plaintiffs.<sup>10</sup>

#### **1.4.2 The *Sanders* Consent Decree**

The *Sanders* case did not go to trial. The parties negotiated a settlement that the federal district court, under Judge Gustave Diamond, approved in December, 1994. The major terms of the consent decree called for:

- Cross-listing and merging of the public housing waiting list with the Section 8 waiting list, with applicants of all races to be given only desegregative housing options.
- Development of 100 scattered-site units as replacement housing for Talbot Towers.
- Equalization of housing conditions through improvement and selected demolition of facilities in predominantly African-American-occupied public housing and surrounding neighborhoods; if obsolete public housing units are approved for demolition, any replacement units are to be located in non-impacted neighborhoods.
- Allocation of 450 special Section 8 mobility certificates for use by Plaintiff class applicants to ACHA for desegregative moves.
- Creation of a housing mobility program to assist those making desegregative moves within public housing and those with Section 8 certificates.

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<sup>10</sup> Task Force newsletter, n.d.

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- An affirmative obligation by owners of HUD assisted housing to give priority to class members.<sup>11</sup>
  - Creation of a Task Force comprising representatives from all parties in the lawsuit to implement certain conditions of the Decree.
  - A 25 percent set-aside of the county's Community Development Block Grant (CDBG) budget for FYs 1996-2002, to be spent on community and economic development projects(chosen by the Task Force) and affordable housing in the towns of Braddock, Clairton, Duquesne, Homestead, McKees Rocks, Rankin, and Wilkinsburg.
  - A study of all assisted housing in Allegheny County as the basis for a plan to deconcentrate assisted housing.

After 18 months and annually thereafter, HUD was required to report to the Court on the success of waiting list initiatives in furthering desegregation goals and other actions that HUD was obligated to undertake as part of the decree. ACHA was obligated to determine sites for scattered-site replacement housing within 180 days, cross-list the two waiting lists within 30 days, and merge them within 12 months. The court has jurisdiction over monitoring the implementation of the terms of the consent decree for at least seven years. If the terms are not satisfactorily fulfilled by that time, the court may extend its jurisdiction. Table 5 provides an overview of the major elements of the *Sanders* decree.

## **2.0 Overview of Progress to Date as of Fall, 1998**

Since the *Sanders* decree was signed in December, 1994, implementation has proceeded slowly and several elements remain incomplete at this writing. The Section 8 and public housing waiting lists were

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<sup>11</sup> "Class-members" means all non-whites who are residents or applicants of ACHA.

merged in 1996, but comparatively few applicants have undertaken desegregative moves off the waiting list into public housing. Only a few of the 450 certificates available to plaintiff class households on the waiting list to make desegregative moves have been used. Several deteriorated public housing developments were demolished and substantial modernization and security enhancements have been undertaken at several other developments traditionally occupied primarily by African-Americans. However, ACHA had placed displaced tenants in only 14 of the 100 mandated scattered-site replacement units by the end of 1998. Relatively few of the 409 Section 8 certificates set aside for displaced households have been used. The Fair Housing Services Center, which was to facilitate desegregative moves, began operation only in March, 1998 and has had a number of problems. Of the economic development plans for FY96 in the seven *Sanders* communities, only modest housing rehabilitation activities have been funded. The Task Force was to begin implementing the FY97-2002 plans in 1999. Because of the complexity of the *Sanders* case and the many required elements, we have provided an overview of the implementation to date in Table 6.

**Table 5. Overview of the Major *Sanders* Decree Elements**

Mandates	Description	Implementation Responsibility	Progress to date
Change Tenant Selection and Assignment Plans	Merge Public Housing and Section 8 waiting list. Institute race-conscious tenant selection and assignment practices for all ACHA developments. Monitor waiting list initiatives and report progress.	ACHA, HUD	ACHA has cross listed and merged its public housing waiting list with the Section 8 waiting list as of 1996. At last count, there were 4,172 families on the list. The waiting list has been moving very slowly. There are no firm estimates of how many households have made desegregative moves within public housing. HUD has provided an annual progress report since 1995.
Demolish and replace public housing	Produce 100 units of new scattered-site public housing to replace units demolished at Talbot Towers in 1990. Demolish poor buildings in identifiably African-American developments in impacted neighborhoods.	ACHA	Talbot Towers was demolished in 1990. Cochrandale was demolished in January 1998; three buildings in Hawkins have been demolished. Blair is in the process of being demolished. As of December, 1998, 8 single-family replacement units have been rehabbed and occupied; 6 units are now occupied in Caldwell Station mixed-income multi-family development; 40 more single-family units are now being rehabbed; 19 more sites have been approved by HUD and <i>Sanders</i> Task Force (STF) for acquisition.
Make Physical Improvements	Ascertain and eliminate disparities in maintenance	ACHA, HUD	HUD had completed its maintenance and amenities surveys by 1996 and made recommendations. Over \$10 million has been spent on renovation and modernization of ACHA developments in

Mandates	Description	Implementation Responsibility	Progress to date
to Public Housing Stock	and amenities. Perhaps establish “magnet” development. Survey residents about current conditions and ways to promote desegregative moves.		the 7 <i>Sanders</i> communities. HOPE VI revitalization is in progress at McKees Rocks Terrace. Tenant focus groups and analysis thereof were conducted by Urban Institute in 1996.
Expand Tenant-based Housing Assistance	Secure HUD funding for 450 desegregative Section 8 certificates. Ensure that Housing Quality Standards (HQS) are enforced in all Section 8 units.	HUD, ACHA, FHSC	No accurate information is currently available on how many of the 450 desegregative certificates have been made available to plaintiff class or the 409 certificates to be offered to those who were displaced from ACHA demolitions/renovations. According to PHMAP, ACHA has certified that it has inspected 100 percent of its Section 8 units using standards at least equivalent to the HQS.
Implement Housing Mobility Counseling	Establish a Fair Housing Service Center (FHSC) as a nonprofit organization to provide housing mobility services. Fund FHSC.	HUD (funding) and Allegheny County and ACHA (implementation)	The local civil rights organization, Fair Housing Partnership, was chosen to operate the FHSC. FHSC’s contracted start date was January 15, 1997. As of August 1998, ACHA has assisted 19 desegregative movers and FHSC has assisted 8 desegregative movers. Since its inception,

Mandates	Description	Implementation Responsibility	Progress to date
			the mobility program has had a number of difficulties. <sup>12</sup>
Affirmatively Further Fair Housing	Expand recruitment of class members as tenants in assisted and non-assisted private housing. Provide lists of such housing in non-impacted areas to ACHA.	HUD	HUD provides such a list annually to ACHA.
Implement Community Economic Development Initiatives in communities with a concentration of African-American public housing and tenant-based Section 8.	Promote housing and community economic development activities. Improve public housing residents' access to public transportation. Ensure police protection and anti-crime programs	ACHA, STF, HUD, DOED	Of the 25 percent (\$13 million [or \$28 million, depending on annual appropriation]) of the county's CDBG budget for FY 1996-2002 that must be used for the purpose, funds have been allocated for community and economic development and affordable housing projects (chosen by STF in accordance with a consultant-devised plan) in Braddock, Clairton, Duquesne, Homestead, McKees Rocks, Rankin, and Wilkinsburg. About \$2 million has been spent thus far on short-term plan projects. Long-term plans have been approved and implementation will begin in 1999. Tenant transportation needs survey

<sup>12</sup> Gus Martin served as FHSC's first Executive Director from contract inception through April, 1998. A new Executive Director was named in July, 1998 but was fired in March, 1999. FSHC was then terminated by ACHA in April, 1999, with Judge Diamond issuing a TRO to prevent ACHA from taking over the properties.

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<b>Mandates</b>	<b>Description</b>	<b>Implementation Responsibility</b>	<b>Progress to date</b>
			was completed in 1996. ACHA has increased police protection, security devices and added police substations in several public housing developments. HUD has provided over \$1 million in 1996 and has helped ACHA secure several additional grants to enhance security.

**Table 6. Sanders Case**

## Chronology of Events

Date	Event
1988	<i>Sanders</i> suit filed
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1997	UDA resigns as CDBG spending plan “architect” over dispute of scope of work
July, 1997	New RFP issued for long-term CDBG spending plan
October, 1997	Boston’s Policy and Management Associates (PMA) awarded contract for developing CDBG spending plan
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April, 1998	FHSC Executive Director resigns
July, 1998	New FHSC Executive Director, Lisa Dickerson, hired
Summer, 1998	

Date	Event
	PMA holds series of public meetings in <i>Sanders</i> communities to get input on plan
September, 1998	South Fayette Township files lawsuit to issue a temporary order to stop ACHA from buying six townhouse units there
September, 1998	Blawnox, a borough in Allegheny County files suit in U.S. District Court seeking to prevent ACHA from buying townhouse unit for public housing

## 2.1 Tenant Selection and Assignment Plan

The Consent Decree called for ACHA to: (1) merge public housing and Section 8 waiting lists by a certain time and date, and (2) institute a race-conscious tenant selection and assignment policy for all of its developments. The former was ordered by HUD in March, 1995, and was accomplished during 1996.<sup>13</sup> The latter required that all applicants, regardless of race, be offered two or more public housing developments where their presence would not make it more “racially identifiable.”<sup>14</sup> Refusal of desegregative options would result in the applicant falling to the bottom of the waiting list. African-Americans on the waiting list could only be offered one of the 450 designated desegregative certificates, and these could only be used in Allegheny County census tracts with less than 58 percent black population in 1990 (good cause exceptions were available). HUD was required to monitor progress of the tenant assignment plan and report annually on desegregative outcomes.

### 2.1.1 Progress-to-date

<sup>13</sup> Notice of Filing HUD’s *Second Annual Report On Implementation Activities*, 1997:14.

<sup>14</sup> For African-Americans, this meant eligible developments were less than 58 percent black-occupied; for whites it meant those that were greater than 38 percent white.

ACHA has cross-listed and merged its public housing waiting list with the Section 8 waiting list as of 1996. According to the most recent (1997) Public Housing Management Assessment Program (PHMAP) report, there were 4,172 households on the list, distributed as shown in Table 7.

**Table 7. Racial Composition of ACHA Waiting List, April, 1996**

Unit Type	Minority	Non-Minority	Totals
Elderly	101	506	607
Family	2,192	1,373	3,565
Total	2,293	1,879	4,172

Through the required Court Report, HUD has provided information on annual progress on the implementation of the new tenant assignment plan and other HUD activities since 1995. These reports have not quantified the number of desegregative moves that have occurred within public housing or with the help of Section 8 certificates. We were unable to ascertain any data base maintained by ACHA or HUD on this issue. Our interviews with ACHA staff produced no estimates of how many households have made desegregative moves within public housing, or how many cases could be documented of desegregative movers who remained long in their new development.

ACHA describes its developments as “more segregated today than ever.”<sup>15</sup> The *Sanders* decree specifies three categories of developments: “non-racially identifiable” ( African-American population between 38

<sup>15</sup> Source: “ACHA LIPH Occupancy and Waiting List Analysis,” ACHA MIS Dept. memo, June 4, 1998: 1.

and 58 percent); “identifiably African-American” ( African-American population exceeding 58 percent); and “identifiably white” ( African-American population less than 38 percent.)

As shown in Table 8, according to this categorization, the same number of elderly (one) and family developments (five) are non-racially identifiable today as at the start of the consent decree.<sup>16</sup> The number of identifiably African-American developments increased by one. The number of identifiably white developments went down by one. Among the family developments, Carnegie had a reduction in its percentage of African-Americans and was re-categorized as identifiably white. Groveton and Sharps Terrace saw increases in their percentages of African-Americans that rendered them non-racially identifiable.

**Table 8. Changes in Racial Identification of ACHA Public Housing, 1995-1998**

	January 1995	July 1998
Elderly Developments		
Non -Racially Identifiable	1	1
Identifiable African-American	3	3
Identifiable White	13	13 <sup>1</sup>
Overall % African- American	21%	20%
Family Developments		

<sup>16</sup> ACHA Unit Status Reports, Jan. 31, 1995 and July, 1998.

Non-Racially Identifiable	5	5
Identifiably African-American	9	10
Identifiable White	2	1
Overall % African-American	66%	71%
Total		
Non-Racially Identifiable	6	6
Identifiably African-American	12	13
Identifiable White	15	14
Overall % African American	44%	47%

<sup>1</sup>This figure excludes Harrison, which did not appear on the 1995 Unit Status Report.

Source: Unit Report, ACHA (January 31, July 1998).

Despite relatively little change in the racial profiles of ACHA public housing developments, it should be noted that between October, 1994, and May, 1998, ACHA experienced a drop in its overall population of 399 households (235 elderly and 164 family households). The gross number of vacant units rose by 352 (235 elderly and 117 family)..<sup>17</sup> This change indicates two things. First, as suggested by several ACHA officials we interviewed, ACHA is having difficulty filling many elderly developments because it must fill

<sup>17</sup> Source: "ACHA LIPH Occupancy and Waiting List Analysis," ACHA MIS Dept. memo, June 4, 1998.

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vacancies with those making desegregative moves. Second, although almost a third of the reduced family occupancy during the period was due to demolition and modernization that eliminated or consolidated units, the remaining vacancies are attributable to the same factor as above—inability to fill vacancies with families making desegregative moves. This inability to fill vacancies in a timely fashion was noted by HUD in its 1997 PHMAP report, which gave ACHA an “F” for “vacancy number and percentage and unit turnaround time.”<sup>18</sup>

### 2.1.2 Inhibitors to Implementation of Desegregation within Public Housing

Major inhibitors to the implementation of desegregation within ACHA include: lack of information, growing proportions of minorities among tenants and applicants, the noncompetitive nature of ACHA’s elderly housing, applicant preference for Section 8 over public housing, and weak incentives for tenants to desegregate.

**Lack of Information.** Because the FHSC had only recently begun operation at the time of the case study, applicants on the waiting list have received very limited information regarding desegregative moves. Focus groups conducted by the Urban Institute in 1996 at an earlier stage of the implementation process showed that ACHA tenants and applicants had very little information about mobility or desegregative moves (Galster, Herbig, and Smith, 1996). Likewise, focus groups conducted in 1998 for this case study showed that residents still had very limited information. (see section 3.2 below for details).

Our 1998 focus groups with those who recently made desegregative moves indicated that tenants and applicants received only a listing of the ACHA developments into which they were permitted to move, with little or no supplementary information. To our knowledge, the inspection tours and meetings with tenant leaders that were recommended by the Urban Institute report in 1996 for prospective desegregative tenants had not yet been implemented at the time of the case study.

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<sup>18</sup> Cover letter of PHMAP report from Paul LaMarca, Director Office of Public Housing, HUD-Pittsburgh Area Office, to Deborah Booker, Chairperson of ACHA, July 8, 1997.

**Growing Minority Composition among Tenants and Applicants.** The disproportionate and growing minority composition of the tenant and applicant population was often mentioned by ACHA officials we interviewed. As shown in Table 8, the percentage of African-Americans in family developments has indeed risen, from 66 percent to 71 percent since the decree. As shown in Table 7, the largest segment of ACHA's waiting list is African-American families, yet only 22 percent of ACHA family units would provide a "desegregative" housing opportunity as defined by the consent decree.<sup>19</sup> Although non-white households constitute only a fourth (25.3 percent)<sup>20</sup> of ACHA elderly tenants, they make up a majority of the elderly waiting list (58 percent).<sup>21</sup> There are also disproportionate vacancies in identifiably African-American developments relative to the numbers of whites on the waiting list (compare Tables 2 and 7).

**Units Not Competitive with Other Subsidized and Private Market Housing.** Key interview respondents at ACHA said that their ability to encourage desegregative moves was limited because ACHA units and developments were not as attractive as those on the private market. First, it was very difficult to attract elderly African-Americans to predominantly white-occupied developments. During the last decade there has been a large amount of high-quality, spacious, air-conditioned section 202 elderly housing constructed in or near minority-occupied communities in Allegheny County. By contrast, ACHA has a high number of cramped, efficiency elderly units (158 of the 305 total) ready for occupancy, most without air conditioning. Second, it was nearly impossible for ACHA to attract many whites to predominantly African-American-occupied family developments. ACHA claimed that they lost many prospective white in-movers because they were forced to make desegregative moves before the developments had undergone substantial rehabilitation.

**Preference for Section 8 over Public Housing.** Our ACHA interview respondents told us that the majority of the persons on the waiting list want Section 8 assistance, not public housing. One interview respondent

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<sup>19</sup> "ACHA LIPH Occupancy and Waiting List Analysis," ACHA MIS Dept. memo, June 4, 1998.

<sup>20</sup> "Unit Status Report," ACHA, July, 1998.

<sup>21</sup> "ACHA LIPH Occupancy and Waiting List Analysis," ACHA MIS Dept. memo, June 4, 1998. Note this compares with 45% in Oct., 1994.

stated that at the first of any month there typically were a few Section 8 certificates available,<sup>22</sup> which would be snapped up quickly by applicants attending briefing sessions. As a result, white applicants who had briefings later in the month had essentially no choice but public housing.<sup>23</sup> This preference for Section 8 became a particular problem after the merger of the Section 8 and public housing waiting lists in 1996, because those at the top of the merged list were disproportionately households from the original Section 8 list.

**Limitations on Desegregative Incentives.** It is currently ACHA standard operating procedure to offer desegregative movers a stove and refrigerator, a waiver of security deposit, and a reimbursement for moving expenses. ACHA interview respondents told us that HUD showed “lack of flexibility” in permitting ACHA to offer other financial incentives—particularly rent waivers—to make desegregative moves within public housing. HUD told us that it would be a statutory violation to vary rent by anything other than income.

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<sup>22</sup> These Section 8 certificates are not included in the 450 desegregative certificates stipulated by the decree.

<sup>23</sup> African-American applicants would still have some of the 450 desegregative certificates available to them.

## 2.2 Public Housing Demolition and Replacement

The *Sanders* Decree called for the demolition of any primarily African-American-occupied public housing developments that proved, after careful inspection, to be inappropriate for rehabilitation. It also called for units lost through the Talbot Towers demolition to be replaced by 100 units of either newly built or substantially rehabilitated scattered-site public housing in non-impacted (less than 38 percent minority) areas. It called for 44 of the 100 units to be constructed in Jefferson Borough (a southeastern Allegheny County community that had entered into a Cooperation Agreement with ACHA to allow units to be constructed there; see Figure 1).

### 2.2.1 Progress to Date

Talbot Towers, the housing development originally named in the consent decree, was demolished in 1990. HUD approved the Housing Authority's request for demolition of 409 units located in seven public housing developments on March 26, 1996.<sup>24</sup> These developments are located in Clairton (Blair Heights); Duquesne (Cochrandale, Burns Heights); McKees Rocks (McKees Rocks Terrace); Rankin (Hawkins Village); and South Fayette (Morgan). As of this writing, Cochrandale has been completely demolished and three buildings in Hawkins Village and two buildings in Burns Heights have also been demolished (\$11 million dollars in CIAP funds have been used to rehabilitate the remaining units there). As observed during site visits in August, 1998, there are a substantial number of board-ups at Blair Heights and McKees Rock Terrace that have yet to be demolished. HUD has awarded ACHA a HOPE VI grant for comprehensive revitalization of McKees Rock Terrace. Discussions about the disposition of Morgan in South Fayette—whether it will be demolished, sold to investors, or sold to tenants—are thus far inconclusive.

No replacement units have been built or acquired in Jefferson Borough; nor are sites being actively sought there at this writing, because few suitable sites could be identified for a number of reasons, including lack of access to public transportation. ACHA proposed constructing all 44 replacement units on one site, but

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<sup>24</sup> Notice of Filing HUD's *Second Annual Report On Implementation Activities*, 1997.

this proposal was rejected by the *Sanders* Task Force. According to one of our key interview respondents, no further progress in selecting alternative sites has been made, because the precise route of the new Mon Valley Expressway through the borough has not been established.<sup>25</sup>

An additional 23 replacement units were designated as single-family units in need of rehabilitation that were to be acquired on the market. The first six replacement unit homes were purchased in the eastern county suburbs of Edgewood, Swissvale and Forest Hills and occupied by former Talbot Towers residents in 1996 (See Figure 1).<sup>26</sup> According to ACHA staff, residents who have moved to these scattered-site units have acclimated well to their new communities and there have been no complaints from them or their neighbors. Two new townhouse acquisitions in Baldwin have been occupied. Forty more units have been acquired and are now being rehabilitated or repaired. Nineteen more properties have been approved by the Task Force for acquisition.<sup>27</sup>

The last component of replacement housing consists of new construction of multi-family housing. ACHA proposed the development of 12 turnkey units of public housing, but HUD rejected this proposal because it exceeded development cost limits.<sup>28</sup> More success was achieved with ACHA's proposal for an 18-unit, mixed-finance, mixed-income development at Caldwell Station in the suburb of Wilmerding in eastern Allegheny County. The development, approved by HUD in 1997, is managed by a community-based nonprofit organization.<sup>29</sup> In late 1998, the six units in the complex set aside as public housing were occupied.

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<sup>25</sup> HUD staff note that they tried several other development strategies, but we did not get more information on this.

<sup>26</sup> *Ibid.*

<sup>27</sup> HUD staff noted to us that they are currently in court because "we are out of money" to complete the purchases of these properties.

<sup>28</sup> *Ibid.*

<sup>29</sup> Notice of Filing HUD's *Third Annual Report On Implementation Activities*, 1998.

### 2.2.2 Inhibitors to Implementation of Replacement Housing

ACHA has had difficulties providing replacement housing for the demolished units, as readily admitted by ACHA staff. By the end of 1998, only 14 replacement units were occupied. Undoubtedly, the acquisition of replacement housing has been slowed due to opposition by residents who do not want ACHA housing developments in their communities. At least ten suburban communities have formally protested, with several going so far as to file suits. As a result of this controversy, HUD suggested a new acquisition policy in the fall of 1996.

The Task Force's adoption of this acquisition policy has not defused all opposition, however. The *Post-Gazette* (September 20, 1998) reported that 250 people protested ACHA's purchase of three townhomes to house low-income families in the Ramparts development in Allegheny County. The meeting was attended by Congressman Ron Klink and County Commissioner Larry Dunn, who also spoke against the housing authority's plan. According to the *Post-Gazette* (November 20, 1998), irate citizens in Plum would "rather join neighboring Westmoreland county rather than allow officials to turn over three townhouses to poor people." Plum councilmen organized a petition drive to collect enough signatures to warrant a secession.

According to a source close to *Sanders* implementation efforts, there has been a recent flurry of lawsuits threatening to have the Consent Decree's replacement housing plan deemed null. South Fayette Township, in a September 17, 1998, hearing and subsequent lawsuit, asked Judge Diamond to issue a temporary order to immediately stop ACHA from buying six townhouse units there. The court denied the request. Judge Diamond also dismissed efforts by Forest Hills, Hampton, Monroeville, Robinson, and Ross, which had joined the South Fayette case, to keep public housing out of their communities.

A week later, the *Post-Gazette* (November 28, 1998) reported that Blawnox, another borough in Allegheny County, had filed a lawsuit in U.S. District Court in Pittsburgh seeking to prevent ACHA from buying a townhouse unit in the borough for use as public housing. In the lawsuit, Blawnox claimed that the townhouse unit is not conducive to public housing because it is far from the commercial district and from access to public transportation.

## 2.3 Renovation, Modernization, and Security Enhancements

The consent decree called for the equalization of living conditions through the improvement of facilities (amenities, maintenance, landscape, security, etc.) in ACHA housing and throughout the seven *Sanders* communities.

### 2.3.1 Progress to Date

ACHA has made significant capital investments in the 12 public housing developments in the seven *Sanders* communities that were targeted by the consent decree for special investments. Since the consent decree took effect in 1995, \$5.6 million has been spent on these developments for a variety of comprehensive modernization activities, accessibility improvements, security equipment, and recreational areas.<sup>30</sup> Moreover, another \$20.3 million was invested in these developments beginning in 1993, with work continuing into the consent decree period. An additional \$13.9 million of improvements has been awarded or was in the design stage during 1998.<sup>31</sup> Given that the 12 developments in question contain 1,718 units, these investments imply a per-unit expenditure of \$11,800 in the period immediately preceding the decree, \$3,300 for 1995-1998, and \$8,100 in the near future. The agency has also received a \$15 million HOPE VI grant for McKees Rocks Terrace.

During FY 1996, HUD provided \$1.01 million to ACHA under the auspices of the Public Housing Drug Elimination Program. The grant targeted Burns Heights, Blair Heights, and Ohioview Acres, and funded

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<sup>30</sup> This excludes expenditures on the now-demolished Cochrandale development.

<sup>31</sup> Source for all modernization data: "ACHA Summary of Completed and Projected Work for the *Sanders* Consent Decree," 1998.

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security gates, police substations, drug prevention activities, surveillance equipment, and security lighting.<sup>32</sup>

In 1996, ACHA established police substations at all identified *Sanders* developments and at two other developments where crime problems were severe. Since 1996, ACHA has also increased police protection in the following public housing developments: General Braddock Towers, Maplevue Terrace, Burns Heights, Sharps Terrace, McKees Rocks Terrace, Hays Manor, Uansa Village, Ohioview Acres, Feli/Negley, Homestead High Rise, Millvue Acres, Blair Heights, Carver Hall, and Hawkins Village. Through subcontracts with the local municipalities (with the exception of Clairton), police are now providing foot and vehicle patrols and are staffing the police substations. As a result of its “troubled housing authority” status, HUD made \$700,000 available to ACHA to pay for this enhanced protection.<sup>33</sup>

ACHA staff have met with residents and local police officials on a number of anti-crime initiatives over the past year. Recently, ACHA provided sensitivity training for local police, as well as a special class for residents, through a contract with the community college.

### **2.3.2 Inhibitors to Implementation of Modernization**

Some ACHA staff appear to feel that the physical and social enhancements to the public housing in the *Sanders* communities are excessive, with one staff person saying that funds are “extraordinarily weighted towards *Sanders* developments” and this is “always the way it has been.” Several ACHA officials told us that the consequences of disproportionate shares of the money going to *Sanders* developments (nine to one, by one account) is that ACHA developments in other areas now have serious deferred maintenance and improvements needs. This inequality has been especially problematic in elderly units that are in need

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<sup>32</sup> Notice of Filing HUD’s *Second Annual Report On Implementation Activities*, 1997: 12.

<sup>33</sup> Notice of Filing HUD’s *Second Annual Report On Implementation Activities*, 1997: 11.

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of air conditioning and new windows. As one senior ACHA official put it, “It’s unconscionable that some areas (*Sanders*) get modernized over and over again while other tenants suffer.”

## 2.4 Tenant-Based Assistance

The consent decree mandates the allocation of 450 special Section 8 mobility certificates to be used for desegregative moves by members of the plaintiff class. There are also 409 certificates that are to be offered to those ACHA residents who were displaced from demolished or renovated housing developments. The first priority for the 409 certificates is for displaced residents from Cochrandale, Blair, and McKees Rocks, and the second priority is to those from Talbot Towers. Since these certificates do not have to be used for a desegregative move—though ACHA encourages such use—it is possible that the intent of the decree to desegregate residents from Talbot Towers may not be achieved. Thus far, only a few of either the 450 restricted or the 409 non-restricted certificates have been used.

ACHA was required to request exception rents for predominately white areas in Allegheny County, including Bellevue, Bethel Park, Edgewood, Ingram, Penn Hills, Ross Township, and Verona. No such requests were made through 1997.<sup>34</sup> In March, 1998, HUD approved 20 percent exception rents for the South Fayette Township, Bethel Park, and Ross Townships, and smaller exceptions for the other communities mentioned above.<sup>35</sup>

## 2.5 Mobility Counseling Program

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<sup>34</sup> Notice of Filing HUD’s *Third Annual Report On Implementation Activities*, 1998:13.

<sup>35</sup> Bellevue, Edgewood, Ingram, Penn Hills, and Verona were approved for Fair Market Rent (FMR) exceptions between 6% and 20%. Percentages for FMR offers were based on the minority composition of localities in 1990; Bellevue (3.6%), Bethel Park (2.0%), Edgewood (4.3%), Ingram (2.8%), Penn Hills (16.2%), Ross Township (2.2%), and Verona (2.9%).

The consent decree mandated the establishment of a nonprofit agency, the Fair Housing Services Center (FHSC), to provide counseling to ACHA applicants and members of the plaintiff class using Section 8 certificates in order to encourage them to make desegregative moves and assist them in their transition to new neighborhoods.

According to the consent decree, HUD was to provide \$200,000 (the amount was increased to \$300,000 in a later agreement) for the support of a Fair Housing Services Center during the first eighteen months of its operation. For the succeeding five and a half years of the decree, funds will be provided at the rate of \$1,000 per desegregative housing placement completed by the Center. The Allegheny Department of Economic Development was to provide up to \$500,000 in additional CDBG funds for the center.

### **2.5.1 Progress to Date**

ACHA was given the ultimate responsibility for choosing the organization to operate the Fair Housing Services Center. At the request of ACHA, HUD drafted a request for proposals (RFP). A draft of the RFP was sent to plaintiffs' counsel for approval, and the final RFP was provided to ACHA for in May 1995 for publication.<sup>36</sup>

There have been many challenges involved in creating the Fair Housing Services Center, which have created lengthy delays. According to current FHSC staff, two organizations competed for the original contract, the Fair Housing Partnership and the Urban League. The contract was initially awarded to the Fair Housing Partnership, but later rescinded, because the Partnership was accused of getting unfair advance notice of the RFP.<sup>37</sup> The allegation was denied by the Fair Housing Partnership staff we interviewed. A second RFP was issued in late 1995. Fair Housing Partnership was again awarded the

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<sup>36</sup> Notice of Filing HUD's *Second Annual Report On Implementation Activities*, 1997:16.

<sup>37</sup> Summary of HUD's *Sanders* Implementation Activities for Dec.. 13, 1994-Dec. 31, 1995, 1996.

contract in June 1996, however it took over nine months to negotiate the terms. The contract was executed in December, 1996 and became effective in January, 1997.<sup>38</sup>

According to Fair Housing Services Center and Fair Housing Partnership staff, several subsequent problems further delayed start-up. First, the Allegheny Department of Economic Development did not release funds for the Center promptly. Second, FHSC's first Executive Director, Gus Martin, was hired in 1997, but it was two months before he actually began serving in that position (due to some conflict of interest clearance issues.) The second Executive Director, Lisa Dickerson, former Director of Project Jericho, the housing mobility program in Omaha, NE, was hired in July, 1998. At that time, FHSC staff consisted of the director, three clerical/administrative staff, three counselors working under the Director, plus a Counseling Coordinator with five staff under her (See footnote 12 for an update on FHSC.)

As a result of these delays, the Fair Housing Services Center did not fully assume counseling and mobility responsibilities until March, 1998, over three years after the consent decree was entered and almost two years after the contract was signed. Until that point, all mobility counseling was provided by ACHA. As the contract called for a six-month transition between ACHA and the FHSC, ACHA was still providing assistance at the time of the case study, helping with such things as fielding questions from applicants, taking applications, and determining eligibility.

Table 9 lists services provided by ACHA and, more recently, the Fair Housing Services Center, as of the time of our field visit. Because the latter agency had just begun operations, they had made relatively little progress and were still in start-up mode.

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<sup>38</sup> Notice of Filing HUD's *Second Annual Report On Implementation Activities*, 1997:16.

**Table 9: Services to be provided by ACHA and (FHSC)**

Description of Services	ACHA Progress to date	FHSC Progress to date
<p>Make all offers to applicants deemed eligible by ACHA on the waiting list for public housing, Section 8, or scattered site housing.</p>	<p>ACHA monitors the waiting list, determines eligibility for Section 8 program and forwards the names of eligible applicants to FHSC to make unit offers.<sup>1</sup></p>	<p>FHSC does initial briefing of applicants the same way ACHA carried out its briefings, advising them of choices; public housing, scattered sites, or Section 8. After ACHA sends FHSC mailing labels of those deemed eligible, FHSC sends letters inviting persons to briefing. They typically do 3 briefings per day with 30 clients per briefing</p>
<p>Provide counseling and support services for housing and economic development opportunities, including home visits, escorts to units, post-move support services, and counseling on educational and employment opportunities.</p>	<p>Before FHSC was contracted, according to ACHA staff counseled only “needy” applicants. If the applicants chose public housing, brochures about the complexes were provided as relevant. Escort service was provided to those who asked to visit the complex. There was no individual counseling.</p> <p>And no supportive services were offered to desegregative movers after their move.</p>	<p>After ACHA deems an applicant eligible, FHSC sets up briefings to inform them of choices. FHSC staff will be conducting in-persons tours of public housing units and environs before choices are made. They will be doing active post-occupancy follow-up. There are also plans to use “veterans” of desegregative moves to help encourage others to make desegregative moves. Most services FHSC is to provide were not in place at the time of this visit.</p>

Description of Services	ACHA Progress to date	FHSC Progress to date
<p>Extend incentives for Public Housing placement, such as rent abatements and waiver of security deposits.</p>	<p>As of July 8,1998, ACHA’s Executive Director said, “Currently it is ACHA standard operating procedure to offer desegregative movers: range and fridges, to waive security deposit, and to reimburse moving expenses.”</p>	<p>At the time of the site visit, FHSC had just hired its new director. Moving had been limited to counseling of residents with the assistance of ACHA staff. Staff claimed that future desegregative offers would include reimbursement of moving expenses and waiving of security deposits.</p>
<p>Administer the 450 Section 8 desegregative certificates to those class members who agree to move to rental housing in non-impacted neighborhoods, and provide counseling and support services.</p>	<p>Between September 1997 and February 1998 there were 19 desegregative moves, according to our interview respondents.</p>	<p>As of the site visit, FHSC had helped to make 8 desegregative moves.</p>
<p>Conduct outreach to private landlords in non-impacted neighborhoods, and provide counseling and service referrals to Section 8 tenants and applicants who use their assistance in a desegregative way.</p>	<p>There was no mention of outreach to private landlords, although it is assumed that ACHA did outreach and recruitment of landlords. Counseling staff recommended using Section 8 to move to low-poverty areas, but did not encourage racially desegregative moves.</p>	<p>FHSC has special housing staff who recruit landlords in non-impacted areas. Recruitment is done through telephone calls, open houses (held at FHSC), Sunday newspaper ads, real estate magazines, and the Internet. Staff say they are successful in getting a sufficient number of landlords interested,</p>

Description of Services	ACHA Progress to date	FHSC Progress to date
		but unit sizes are a problem. They are mostly efficiency units, which are not large enough for most residents.
Encourage and assist class members to make desegregative moves.	Again, it was recommended that class members make desegregative moves, but it was not encouraged.	Staff recommends applicants make desegregative moves. To enforce a desegregative move, if they choose not make a desegregative move, they must submit "dire cause" letter to justify why. Refusal to make a desegregative move results in falling to end of waiting-list.

<sup>1</sup>All screening is done by ACHA; FHSC cannot rule someone out with a bad record once deemed eligible by ACHA.

Table 10 shows the number of applicants scheduled to come to the offer briefing, the number that attended, the number of units leased, and the number of desegregative moves, from September, 1997, to February, 1998. (Note that these data do not distinguish those who moved into public housing from those using Section 8.) From then until August, 1998, eight desegregative moves using Section 8 have been made under the auspices of the Fair Housing Services Center.

**Table 10. ACHA Unit Offer Activities, September 1997-February 1998**

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Date of Unit Offer Briefing	Number Scheduled to Attend	Actual Number Attending	Number of Leased Units	Number of Desegregative Moves
2/98	271	142	26	4
1/98	421	175	26	1
12/98	715	287	33	5
11/97	352	102	30	0.00
10/97	348	181	21	6
9/97	349	231	28	3
Totals	2456	1118	164	19

### 2.5.2 Inhibitors to the Implementation of the Mobility Counseling Center and Desegregative Moves with Section 8 Assistance

A number of our interview respondents suggested that delays in the successful implementation of a mobility counseling center could be traced to mutual lack of trust and respect among members of the *Sanders* Task Force and the Fair Housing Partnership/Fair Housing Services Center.

Thus far, there has not been much success in getting applicants to make desegregative moves. As best as we could document, less than two dozen members of the plaintiff class had used Section 8 desegregative certificates by the end of summer 1998.<sup>39</sup>

## 2.6 Community Development around Public Housing

The consent decree requires that, until the year 2002, 25 percent (approximately \$25-30 million) of Allegheny County's Community Development Block Grant (CDBG) budget be spent on community and economic development projects approved by the *Sanders* Task Force. CDBG funds can be used to carry out a wide range of community development activities directed towards neighborhood revitalization, economic development, and the improvement of community facilities. These activities must take place in the seven *Sanders* communities.

The purpose of these CDBG investments is twofold. First, they should improve the neighborhoods surrounding the *Sanders* communities and ACHA developments and provide employment opportunities for neighborhood residents. Second, they should promote desegregative housing choices in the target areas adjacent to the public housing in these areas.

Most significantly, investments are to be made strategically to encourage racial diversity where it currently does not exist in the target areas and to attract white residents to such areas that are now predominantly occupied by African-American residents. This strategy is unprecedented in the history of public housing desegregation efforts (Pynoos, 1974; Chandler, 1992; Vale, 1998). Several of the major public housing desegregation consent decrees issued in the 1990s call for redevelopment of public housing sites, but only the *Sanders* decree calls for systematic, desegregative improvements in neighborhoods near public housing.

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<sup>39</sup> Eight moved under the auspices of the Fair Housing Services Center. As shown in Table 10, 19 were aided by ACHA to make desegregative moves, but some of these were moves into public housing

### 2.6.1 Progress to Date

The Task Force has made little progress thus far spending the CDBG funds. Out of the potentially \$30 million, less than \$2 million has been spent to date. Allegheny County Department of Economic Development staff indicated that the planning process critical for spending these funds has been “very slow.”

A two-stage CDBG planning process was envisioned: a short-term plan for the FY 1996 allocation, and a long-term plan for the remaining six years’ allocations. Development of both plans was initially contracted to Urban Design Associates (UDA), from Pittsburgh.<sup>40</sup> Allocations of CDBG funds for 1996 were extended into 1997 because the *Sanders* Task Force could not fit the first round *Sanders* planning within the county’s regular CDBG planning schedule.<sup>41</sup> UDA’s short-term plan focused two-thirds of the initial allocation of resources on rehabilitating single-family housing that could be used as ownership options for low-income families. The remaining third was to go to a workforce training program. Based on this plan, the *Sanders* Task Force awarded \$3 million in contracts. Another \$600,000 was conditionally awarded, but frozen pending an assessment of how consistent this spending would be with the long-term plan.

In consultation with HUD, the Task Force decided that the long-term plan for spending the rest of the CDBG set-aside funds should be broader in scope than housing rehabilitation and should focus more on desegregative outcomes. UDA did not agree to these modifications in the scope of work and withdrew. After considerable delay in issuing a new RFP (July 1997) and negotiating terms with the winning bidder, a contract was awarded to Boston’s Policy and Management Associates (PMA) in October 1997. The contract was not finally signed and implemented until May 1998, however, due to delays caused by the Task Force and the county government.

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<sup>40</sup> Summary of HUD’s *Sanders* Implementation Activities for Dec. 13, 1994-Dec. 31, 1995, 1996.

<sup>41</sup> *Update*, the Task Force newsletter, March, 1998.

Because the contract for the long-term plan development was scheduled to expire on September 30, 1998, PMA had to work within a tightly compressed schedule. They first conducted a series of interviews with 166 municipal and resident leaders and others knowledgeable about local planning initiatives in each *Sanders* community to identify areas of potential economic development. Promising suggestions from these interviews were blended with those from the planning team and each idea was researched for feasibility, viability, sustainability, and desegregative impact. PMA also held two series of public meetings in all seven *Sanders* communities during the summer of 1998 to get community input on the plan's principles and tentative development ideas as they evolved. A list of recommended projects and supporting analyses were presented to the Task Force in September, 1998.

The Task Force approved the projects proposed by PMA with minor modifications, on December 18, 1998. This plan emphasized economic development, especially initiatives involving local entrepreneurship, instead of housing. A large number of financially feasible and viable potential development activities were detailed for all seven communities. PMA agreed to provide technical assistance to local entities who decide to submit proposals to operationalize one or more elements of the plan. The future schedule of the plans is uncertain, however, as discussed below.

### **2.6.2 Inhibitors to Community Development and Desegregation in the *Sanders* Communities**

A number of serious inhibitors have impeded the redevelopment and desegregation of the seven *Sanders* communities. One factor is simply lack of guidance, because there is no precedent for such a large desegregation effort. A second set of factors have to do with social and economic conditions in the *Sanders* communities, including: a county-wide housing surplus, deindustrialization, poor accessibility and inferior schools. A third set of factors have to do with the county government processes and ambiguity about the goals of the community development activities.

**Lack of Precedent.** The unprecedented nature of this aspect of the *Sanders* decree means that there is little guidance from research or historical experience. Virtually all the social scientific literature on

desegregation analyzes how: (1) non-white minorities can be encouraged to “pioneer” in white neighborhoods, (2) whites respond to the in-migration of non-white neighbors, and/or (3) whites can be encouraged to remain in increasingly racially diverse, but middle-income neighborhoods (Hawley et al., 1983; Galster, Herbig and Smith, 1996). There is no research that bears on the question of how whites may be induced to move into and remain in predominantly African-American-occupied, modest-quality neighborhoods occupied by households with low-moderate incomes (Miller and De Pallo, 1986). Nor are there any other housing authorities or local governments with experience in implementing such a wide-ranging desegregation mandate.

**Countywide Housing Surplus.** Conditions in the metropolitan area housing market affect the ability to bring about substantial desegregation. This factor has been cited as a prime determinant of the success of desegregating public housing developments (Miller et al., 1985). The *Sanders* communities must compete for residents with other communities in the region (and outside the region). Unfortunately, this competition has become increasingly intense over the past half century, as new housing construction has consistently outpaced population change.

**Long-term Deindustrialization of *Sanders* Communities.** The *Sanders* communities have suffered from a long-term loss of manufacturing employment associated with the downsizing of the domestic steel industry. Although some manufacturing facilities remain, there is no longer an abundance of decent-paying jobs. Given the declining economic opportunities, those with the resources to move out have done so, leaving behind disproportionate numbers of households whose choices are constrained, not just by income and job scarcity, but also by race.

**Lack of Accessibility.** Current residents of the *Sanders* communities face a lack of public transportation, meaning that those without access to cars have trouble reaching shopping outlets or health delivery locations (Galster, Herbig and Smith, 1996). Further, few outsiders have reason to travel to the *Sanders* communities (with the exception of Wilksburg, the least poor municipality), due to their location and to the siting of major thoroughfares.

Both of these factors impede efforts at desegregation. First, the lack of transportation reduces the perceived desirability of the site from the perspective of potential in-movers. Second, the lack of external visibility means that few prospective residents have any first-hand information about the *Sanders* communities.

**Perceived Inferiority of Local Public Schools.** Many of our key interview respondents alluded to a common belief that the public schools in the seven *Sanders* communities were of low quality. Many were seen as underfunded, too small to be efficient, and plagued with a need to serve ill-prepared students in old, overcrowded educational facilities. As illustration, Duquesne’s entire school system consists of one building holding K-12 classes, where roughly half the students are enrolled in Special Education classes. As is typical given interracial demographic differences and a tendency for white parents to enroll their children in private/parochial schools, these public schools have a much higher proportion of African-American youngsters than there are African-Americans in the community as a whole.

This situation creates an impediment to desegregation. It has been shown that white parents often assess school quality by the percentage of the student body that is African-American. This unfortunate stereotyping means that white parents who are contemplating remaining in or moving into the *Sanders* communities may be deterred by the perceived quality/racial composition of the local public schools or, alternatively, by the cost of placing their children in more expensive private schools.

**Government Bureaucracy.** According to the plaintiffs’ attorney, HUD and Allegheny County’s procurement processes for hiring planners were “vague and contradictory.” For example, unclear or seemingly contradictory definitions for conflict of interest and “sole source” contracting between the agencies considerably slowed the process. He went on to note that HUD, after examining the short-term plans and proposals that were submitted by potential contractors in 1996 to devise a long-term plan, took what he considered to be a long time both to suggest revisions to the RFP and to negotiate an agreement with the winner on their revised bid. According to HUD staff, though, the county’s procurement process was simply being adhered to and the process could not be expedited any further.

**Ambiguity of Purpose.** Community development activities in the *Sanders* communities have been hindered by lack of consensus about should be the goals of these activities. There are at least three differing positions. First, though clearly not specified in the decree, many African-American residents of ACHA public housing developments in the *Sanders* communities believe that the CDBG monies are intended to enhance their developments and compensate them directly. These sentiments were clearly demonstrated in public comments in the community meetings held in conjunction with the second-round plan. A second position is that desegregating the *Sanders* communities is an impossible task, so the CDBG monies should be spent on tangible capital investments, like housing rehabilitation. The third position is that the desegregation mandate for CDBG monies explicit in the decree be taken seriously. This principle was clear in PMA’s long-term plan: comprehensive economic development—focusing on job creation, entrepreneurship, community activity and retail centers—should be so symbolically and substantively significant that it encourages desegregation of the *Sanders* communities.

A number of our interview respondents noted that disagreements not only resulted in lengthy delays but growing frustration and distrust by the plaintiff class and other citizens of the *Sanders* communities. For example, a Task Force member stated that the misunderstanding that funds were not directly for the *Sanders* tenants would have been defused if they could have seen some tangible improvements to their neighborhoods as a result of the plan. HUD staff report, however, that there have also been a number of times that the plaintiffs have appealed to Judge Diamond for not being represented by their counsel and that there is a disconnect between them and their attorneys on what is expected from the consent decree.

### **3.0 Impacts on Residents**

This section presents documentation of the impact of the *Sanders* consent decree on ACHA residents, specifically focusing on those residents who have made desegregative moves and those who are still on the waiting-list but willing to make a desegregative move. Information provided in this section is both objective and subjective, culled from various ACHA statistical reports, focus groups discussions, interviews with persons involved in the implementation of the consent decree, and discussions with resident tenant leaders.

#### **3.1 Objective Impacts**

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By the end of 1998:

- Seven family public housing developments in the *Sanders* communities have been or are in the process of being substantially modernized; as of summer, 1998, these housed 595 African-American families.<sup>42</sup>
- Five elderly public housing developments in the *Sanders* communities have been or are in the process of being substantially modernized; as of summer, 1998, these housed 198 African-American households.<sup>43</sup>
- Over 500 units of severely deteriorated public housing, most of which was occupied by African-Americans, have been demolished.
- Nineteen African-American households have occupied new or substantially rehabilitated, scattered-site residences in desegregated communities.
- Twenty-seven African-American households have moved into a desegregative housing opportunity during the last year; most used Section 8 to do so.
- Approximately \$2 million has been obligated for rehabilitating homes.

However, on a less optimistic note, the number of both elderly developments and family developments categorized as “non-racially identifiable” has remained constant since the inception of the decree, although the particular developments and their scale has shifted over time. The net result is that the number of African-American families and elderly households living in public housing developments

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<sup>42</sup> Source for all modernization data: “ACHA Summary of Completed and Projected Work for the *Sanders* Consent Decree,” 1998. Occupancy data from “ACHA LIPH Occupancy and Waiting List Analysis,” ACHA MIS Dept. memo, June 4, 1998.

<sup>43</sup> *Ibid.*

categorized by the decree as “non-racially identifiable” has fallen by 52 and 8 households, respectively, over the first four years of implementation.<sup>44</sup>

### **3.2 Subjective Impacts**

To enrich these statistics we also gathered information from a variety of parties who had experienced first-hand the impacts of the consent decree.

#### **3.2.1 Focus Group Participants**

Three focus group discussions were held in September, 1998 to elicit resident perspectives on changes affecting public housing developments. The first group was made up of white residents who recently moved into public housing units predominantly occupied by African-Americans. The second group was made up of African-American residents who recently moved into public housing units predominantly occupied by whites. The third group was made up of both African-American and white applicants on the waiting list who were willing to move into a community or development predominantly occupied by the opposite race. A few members of this group actually had made desegregative moves by the time the focus group was held.<sup>45</sup>

There were two additional group discussions with tenant leaders. The first group was made up from leaders from the *Sanders* communities, the second from non-*Sanders* communities.

#### **3.2.2 Overview of the Discussions**

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<sup>44</sup> ACHA Unit Status Reports, Jan. 31, 1995 and July, 1998.

<sup>45</sup> It should be noted that although focus group participants were recruited through a random selection, ultimately they self-selected to participate. Therefore, their opinions and experiences may not be representative or typical of all claimants.

According to ACHA residents and applicants with whom we met, the impact of the decree has been mixed. Participants in the focus groups expressed mainly positive sentiments about their new living environments, though African-Americans expressed more concerns about discrimination and social isolation. No one perceived that their economic opportunities had been significantly altered. Finally, participants were dissatisfied with the mobility process.

In the focus groups of desegregative movers, most people said that they liked their new housing, neighborhood, or both. Physical conditions, noise, safety, and accessibility were cited as aspects of their residential environment that had improved as a result of the move. The main sources of complaints about their current developments revolved around unsavory behaviors by illegal occupants of units or visitors to the complexes, and inadequate ACHA response to maintenance and repair issues.

Feelings of acceptance into their new communities differed sharply by race. Only one white mover reported any experience with racial incidents or harassment in the new development or neighborhood, whereas most African-American movers had experienced various forms of such incidents. Although both groups professed that typically “everyone got along,” neither black nor white participants perceived that they were socially well-integrated into their new development, let alone into the surrounding neighborhood.

No one in any of our discussions offered the view that their or their children’s opportunities were significantly different as a result of their move or the *Sanders* decree in general. Several indicated that their continued residence in ACHA public housing was sufficient to stigmatize them.

Finally, participants reported that they were dissatisfied with the desegregative housing allocation and mobility assistance process. The level of understanding of the *Sanders* Consent Decree appears to be minimal, which has clearly contributed to the frustration exhibited by focus group participants. Most of the participants who had made desegregative moves said that they did not receive much, if any, information on the development from ACHA. They also claimed that they were not offered an opportunity

to see the developments prior to making their choice, nor were they offered any assistance or inducements to move. There was strong and widespread sentiment across all discussions that mobility counseling staff were insufficiently informed about alternative locations and often demeaning in their dealings with clients, and that the entire process was perceived as slow.

Opinions differed about what would be most helpful in encouraging desegregative moves, though a significant number of participants suggested that improving the perceived safety of the destination developments is critical. There was widespread agreement that unless supportive services continued after the move, attrition would be severe.

### **3.2.3 Residents Who Have Made a Desegregative Move**

Twenty ACHA residents in our two focus groups had made what would be considered a desegregative move, most within the last three years. One resident had moved as recently as within the last six months and two had been living in their development for over 20 years.<sup>46</sup> No residents in this group of 20 had used the Fair Housing Services Center because it had not yet been opened. Their impressions thus reflect actions by ACHA.

**Rationale and Procedure for Desegregative Moves.** Residents moved for a variety of reasons, including medical issues, violence, racial issues, to get out of Pittsburgh, homelessness, and a previous apartment that was too small. Although these participants were living in racially mixed public housing developments and communities, many did not seem to know they had made a move for a desegregative purpose. Others were vaguely aware that ACHA or HUD was trying to fill some kind of “quota,” but they did not have a clear idea of what was going on. One of the white participants said:

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<sup>46</sup> Residents were supposed to have moved within the last three years to be eligible for the group.

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*"I got a letter from...down at the Fidelity Board...it said, 'Are you willing to move in to a more black neighborhood than white,' and I said, 'yeah.' I think they're trying to get white people where I live. I don't know if that was, I don't know if that was downtown people doing that or the people where I live to do that, but I said, 'Yeah, I will.'"*

Participants who had moved into their developments within the last three years were asked what they knew about their new developments before they moved. Most of the participants had not known anything, but a few were familiar with their neighborhoods through word of mouth or knew of someone who had lived there.

Some of the participants said they had received a letter from the ACHA asking them if they would be willing to move into a predominately black/white neighborhood. None of them indicated that ACHA encouraged them to make the move or offered any incentives to do so. One of the participants said that ACHA said they would help him move if he moved to a segregated area but that ACHA never followed up.

Although these participants were given three desegregative choices of where to live, they did not feel they were given enough information about these choices. One participant said:

*"They give you the choice, if you have the bus fare and you have the time and you call, you go see it, make a choice. But you only get I think like 30 days to choose which place I want. But I had a newborn at that time, I couldn't go running off looking at them, so I had to take the safest one."*

A few participants said they were given pamphlets on the developments but, *"it didn't tell you it was way on top of a hill that you had to go up,"* said one participant. Another participant said that transportation was an unforeseen problem: *"I don't think I'd have moved out there if I'd have known the transportation problem, 'cause that presented a very big problem in my life."* Many said they did not receive any information on the development or community at all. One participant said:

*"I wasn't given a pamphlet. I was offered [Groveton Village, Groveton Village, Groveton Village]; that was it. So I had no choice."*

Participants said it would be particularly useful to have community information about the nearest stores and services (grocery store, drug store, laundromats, medical facilities) and available public transportation.

**Evaluation of New Community.** Focus group participants discussed the neighborhoods into which they moved. Many liked their new public housing neighborhoods because they were close to stores, on bus routes, clean, and/or quiet. A few commented that their developments were newly renovated and the landscaping was beautiful. Some noted that their new development was much safer and had fewer shootings and sirens than where they use to live. The following are typical comments:

*"I've got it really nice. I, my neighbors are real nice. Everybody talks to me, and I talk to them, and I think it's great."*

*"...I have no problems, I mean as of yet; but I just love it."*

A participant who had made a desegregative move with a new Section 8 certificate said:

*"I like my neighborhood, the people, I get along with everybody, everybody's nice; they try to help one another. They help you cut your grass and everything. My neighborhood is pretty nice."*

While many of the participants were happy with their new communities, some of the African-American participants said that they were concerned about police harassment. Police would question who they

were, where they were going and, if they had company, harassed them also. However, participants also said that once the police got to know them they did not bother them further.

One of the major complaints of public housing residents was serious problems of drugs and prostitution in their developments. These problems were typically associated with people who “did not belong there.” Participants cited a number of people living in units who were not on the lease, including tenants’ relatives and friends who “shouldn’t be there.” Participants said that the visitors were bringing in the problems:

*“That’s where all the problems come from. Not so much the people who were actually leased the apartment, it’s the people living in the apartments who aren’t on the lease.”*

*“Yeah, I would say [the problems are caused by] the drug dealers, coming into [the development], not so much the people who actually lived there, but the people from the community who were coming in bringing their [stuff] with them.”*

African-American and white tenants had different views about ACHA unit inspections. White participants thought that the management needed to be more active in checking apartments to ensure that only persons on the lease were living there. African-American participants said that their housing was checked twice a year and sometimes every three months to see who is living in the apartment, to see if appliances are working, and to spray for roaches. The results of these inspections were seen as spotty, however. One participant complained, *“They do inspections and they write down their list about what they need to improve in your apartment, and they don’t come back and fix it.”*

Some of the participants said that the ACHA site managers in their developments were never around and at least four of the others said they did not have a site manager. One participant said there had been two managers in the seven months she had been a resident. Participants felt that the site management did not care about the property or the residents. *“If they cared, or showed some interest in the people there and in keeping it up, I think the people living in these places would care more,”* said one.

Another major problem discussed was the lack of maintenance persons to do repair work in ACHA developments. One of the participants said that there is one maintenance person for twelve buildings in his development. Participants recounted several instances where maintenance staff did not do the work or were not available to do the work.

*“Our intercom system...has been broken for two weeks. Big sign that says, ‘Intercom Broken, Good Luck. Manager.’ Or ‘Maintenance.’”*

*“There isn’t enough maintenance people to be doing it, they said they, probably been at least three or four months for them to paint my apartment, they haven’t come in and painted it yet. I don’t know what’s gonna happen when they come in there because of the heat this summer, it’s just peeling the paint off of my walls and I’m hoping that I’m not going to get blamed for that.”*

**Acceptance by Neighbors.** African-American participants had different perceptions from whites about their acceptance into their new communities. The majority of the white participants said that their development was either racially even or 60 percent African-American. Problems of race did not seem to pose any major problems in the white group. When asked if any of the participants sensed any tension between African-American and whites living in their developments, white participants said there were no general racial issues, only individualized ones. One said this about race relations:

*“...if you have one person in there who doesn’t like somebody else, its gonna get turned into a racial discussion. There could be 450 black people and one white person, that white person is gonna fit in or not, it’s part of life...it depends on who lives there, how they were raised, what their attitude is. You can have it perfect, get the wrong person in there and he can start it all off.”*

Almost all white participants said that they got along with their neighbors and other residents in their developments.

Although none of the white participants had experienced any racial harassment in their present developments, one participant did say that he was severely beaten in his previous ACHA development in Duquesne, which had a predominately African-American tenant population. The participant claimed he was beaten because he was white. Because of the incident he asked ACHA to transfer him. He said that trying to get the housing authority to move him was “like pulling teeth.”

*“After my severe beating that I took, I almost lost the [vision] from my left eye. I closed my doors and I left everything there. But I got out. And went and stayed with a friend of mine until February...If I wouldn’t have gone to the Fidelity Building where ACHA is located, I was out there, I was in that office probably twice a week. They were no more concerned about moving me than [garbled]. But I stayed on them and stayed on them, threatened them with a lawsuit, then I got moved.”*

He went on to say that he has not had any racial problems in his new development in Sharps Terrace.

White residents said that it was not necessarily the other residents in the developments who had a problem with them being there, but some opposition came from the communities surrounding the developments.

African-American participants had a different perspective, giving many examples of racial remarks and tense situations, both within their development and in their broader communities. One participant said, “...the day I moved in,...this elderly lady, she was in a wheelchair, she told her friend,...‘Now look what they’re sending us now’.” Another participant said:

*“I have no problem living in a predominantly white neighborhood, but I believe they have a problem with the black people living in the neighborhood. There’s only two schools in Carnegie, there’s an elementary school and there’s a high school, and that’s it. I have a*

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*13 year-old son who experienced prejudice coming from a teacher and from a student, and he was being called names like 'black donut.' My son was a high honor roll student, he was on a gifted program, he went to a school for the gifted...in Pittsburgh. My son's grades dropped all the way down. You know, just from the experience of [prejudice] that he felt from the teacher."*

African-American participants made note of white residents protesting scattered-site public housing in their communities:

*"This is my neighborhood. The neighbors actually, they go to court to try to get like the building shut down, they tried to stop us from getting a playground for the kids...And I believe that, one, because it's low income, and two, because it's, there's a lot of black people...So the prejudices is [real deep] out there."*

*"I guess they don't want low-income housing. Two years ago they were on television about low-income housing. They built low-income housing where I live. They didn't want them to build those houses. But somehow or other they got built. But they have to accept it because they're there."*

**New Opportunities.** Although most of the participants were satisfied with their new living arrangements, they did not perceive any better opportunities because of where they now lived. A large number of focus group participants felt they were not given a chance to succeed by those who look down on persons living in public housing. Participants felt the stigma attached to living in public housing. Said two participants:

*"People in the neighborhood look at you differently. They think automatically just because you live in a housing project you're a certain lower class of people than anybody else, and I don't think that's fair."*

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*“There’s no dirt in front of my door, you know, I believe it’s a lot of, they need to really get other people from the outside to come into this building and really see exactly what’s going on. Not just my building, a lot of other neighborhoods.”*

Other comments also made it clear that residents felt that site managers treated them badly. One participant said she was told by ACHA staff, *“You can move, we don’t want you here anyway,”* after she threatened to leave because ACHA would not respond to her calls. Another participant said:

*“The whole thing was like ‘you’re not worth my time’, where it was the attitude that I [kind of bought]. And then it’s no wonder that people living in these [developments], they feel [bad about this]. I mean if from the beginning you’re treated like that, and then the community does it also.”*

**Encouraging Desegregative Moves.** Participants indicated that ACHA was not involved in any of their moves. Some of the African-American participants said they got help from the Urban League with moving, security deposits, and first month’s rent. But the most frequently expressed problem with the move was the length of time it took the building manager and ACHA to process the paper work.

Participants were asked about social programs or special efforts of any kind by ACHA to encourage racial integration. Participants mentioned the lunch program, in which many children participate. They also noted that ACHA holds resident council meetings, but most of the time people do not attend. There is a food bank once a month, but few residents participate. Participants said that most people do not have transportation to get to the food bank. One of the participants said that the food bank was “a joke” because whoever runs it takes the food home with them. She went on to say that lately there has not been one once a month. Participants could name only one development that had a worthwhile community center with enrichment programs (educational, spiritual, dance, and a lunch program).

Participants were asked if there was anything they would recommend that the ACHA could do better to encourage more desegregated moves. The majority of the residents said that safety should be improved.

One participant said, *“If there is a safe neighborhood, then it doesn’t matter whether the mix is black or white. I don’t mind living there.”* Participants said that in the majority of the developments offered to them it was not safe to walk outside at night. But a “fortified” security system was not seen as the solution by all. As one participant said, *“They put up gates at some locations, they put up security booths, they put up in [Duquesne] during that 24 hours [they ripped off their post.] People want safety, but when they put it in, they’re going to tear it down.”*

One of the most pessimistic comments to the question of what can be done to get people to make desegregative moves was:

*“I would have to say that I don’t see how that they could help anybody, any person move into something. I don’t think anything they say or show that you can do.... Because it’s always gonna be...well you gotta move here because you have to. I don’t see any, I don’t see anything that they would have told me to make me move in there. Nothing. I had to do it anyway, it didn’t matter.”*

### **3.2.4 Applicants Wanting to Make a Desegregative Move**

The third focus group discussion consisted of fifteen participants “willing to make a desegregative move,” according to a recent ACHA survey. Unbeknownst to us, by the time we held the focus group discussion, six of these participants had recently made a desegregative move.

**Reasons for Moving.** Participants said they were willing to make a desegregative move for a variety of reasons, including increased access to transportation, proximity to stores, access to safe play areas, better police protection, housing affordability, and the presence of drugs and other problems in their current neighborhoods. They indicated that racial composition was not an issue for them. One of the black participants in the group said:

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*“I wouldn’t mind living in an integrated neighborhood, because I grew up in, I would say it was basically, I stayed in the suburbs, and it was mostly white, most of the schools are white...Now I’m in a mostly black area but I don’t mind, it doesn’t make any difference.”*

However, this attitude did not necessarily translate into support for the desegregative elements of the consent decree. As one person said:

*“And if people say what am I going to move from [East Hills] for, which is all black, to move to [Hawkins Village], which is all black? I mean, what we’re doing here is a joke...I came for a Section 8 certificate, they said, ‘we don’t have Section 8 certificates. And if you don’t take one of these places, you go back to the bottom of the list.’ So I’m saying this whole thing is a big joke and a farce.”*

**Assessment of Mobility Counseling.** All participants in this discussion group (unlike the previous two groups) had been through ACHA or the Fair Housing Services Center unit briefing process in which they were supposed to be offered choices and information on where they wanted to move. However, like those who had made moves, their evaluations of this experience were uniformly negative. They said the desegregation counseling staff had an attitude that was demeaning to applicants and were themselves uninformed about desegregative options:

*“A lot of the intake people that you go through to get processed, just to get the paperwork processed, treat you like you’re some person that’s uneducated, illiterate and you don’t know anything.”*

*“I think that the workers in the offices, they need to go to the housing projects and see how they live themselves before you’re telling me, ‘oh, Hayes Manor is nice,’ or ‘McKees*

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*Rocks Terrace is nice.’ They’re putting you in New Jack City, as far as I’m concerned, they need to go and see how it is to live in there.”<sup>47</sup>*

**Encouraging Desegregative Moves.** Participants were asked what ACHA could do to make their upcoming move easier. Five of the participants responded that moving expenses were a problem and that ACHA could help by providing money or transportation to assist their moves. One of the participants said, “Well, if we’re low-income, then I think they should give us some moving assistance.”

Three participants responded by saying that ACHA could help by finding a more desirable place for them. Such a place would be more comfortable, have transportation available, and have stores and medical facilities in the area. Participants also stated that a more “responsive staff” would be helpful when making their moves. Many of the participants complained about numerous calls they have placed to ACHA offices that have received either no answer or voice mail or no return call, no matter what the situation.

Many agreed that there is a need for more supportive services, not just during the moving process but after the move. One participant said:

*“I think they should have more supportive services, like I know a lady lived in [Mckees]. She got in the Fair Housing desegregation program, she moved to [Cranburg?]. She got over there and it was such a culture shock, she had no support...and she moved back to [Duquesne]...she had no support services, and it was just too much for her.”*

When asked what she thought would have been a helpful kind of support after moving, she responded:

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<sup>47</sup> The New Jack City reference is to an early 1990's movie dealing with violence and drug dealing in an inner-city community.

*“Like keep in contact with her, tell her if she needed anything, you know,...see how she’s doing. Go in and see her, they need to check on her constantly or something like that.”*

### **3.2.5 ACHA Tenant Council Leaders**

Two group discussions were arranged for ACHA Tenant Council Presidents or Vice Presidents at the Pittsburgh Hilton and Towers. Arrangements were made with ACHA for transportation to be provided to the hotel, and ACHA staff called all tenant leaders to inform them when they would be picked up. Despite these efforts, attendance at the two meetings was small. Five non-*Sanders* tenant council leaders attended the first meeting and three *Sanders* tenant council leaders attended the second.

**Non-*Sanders* Tenant Council Leaders.** A major issue that quickly arose echoed a theme of our earlier groups: inadequate maintenance and repair actions by ACHA. Leaders said that poor sewer conditions caused a strong odor in the developments and that the security cameras placed in some buildings often did not work. Another complaint was that exterminators were not doing a very good job and that they sometimes put chemicals in places accessible to children. Those from high rise (elderly) sites complained of major problems with the elevator systems:

*“Whenever a power surges, the system shuts down. After having elevator requests ignored for two months, one person had a stroke carrying laundry up to the fourth floor and the security guard got trapped in it. We finally got the Fire Marshall to intercede.”*

Leaders explained that residents in their developments resented ACHA because of their lax management attitudes and their unresponsiveness to maintenance and repair needs. Because of the lack of interest shown by ACHA in these developments, one leader of an elderly development said, *“The self-esteem of tenants is degraded.”* Leaders also talked of the poor performance and attendance of site managers,

saying that site managers have several developments to attend to and non-*Sanders* developments are not a priority.<sup>48</sup>

The group discussed issues related to desegregation. The leaders saw fear of crime as the major deterrent to desegregating predominantly African-American-occupied developments. As one leader stated, *“The area is so unsafe that whites are unwilling to move in.”*

The focus of the discussion was a particular development that was 72 percent African-American, so no more African-Americans were allowed to move in. Despite the numerical predominance of African-Americans, the development was losing more whites than African-Americans. The result: out of 160 units, 95 were vacant. The leader living there did not believe that the out-movers’ motivation for leaving was attributable to race but to the fear of violence in the area:

*“Some whites have moved in but left within six weeks. One white resident who recently moved was robbed and assaulted in the building.”*

*“Prospective suburban white tenants would be shocked into oblivion if they moved here.”*

***Sanders* Tenant Council Leaders.** When asked about the condition of their public housing developments, all three participants said that there had been some type of renovation to their development. One leader said:

*“They started renovations in 1995 and they did a beautiful job. Before, it looked like a jungle out there.”*

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<sup>48</sup> It should be noted that ACHA recently underwent a major restructuring that should be addressing these concerns.

Demolition had taken place in two of the developments represented. One leader said they had also demolished rundown housing around the development, removed trash and junk cars, and built a “tot-lot.” She stated, *“The community is much better. People are starting to work better together.”* Another leader said they made street and sidewalk improvements in her development.

All developments had perceptibly improved security. Leaders said that crime was down in their developments. As one participant stated, *“We have gotten much better security...even residents are more united in reporting bad guys.”*

None of the leaders were satisfied, however, with the speed or fairness with which the consent decree was being implemented. *“We’ve done four years out of seven and not much has been done,”* stated one leader. Another leader said:

*“The only thing Sanders has done is lengthen the waiting list and create homelessness. Money has gone to studies, trainers, planners, and consultants, not residents of Sanders communities. And then the planner will only consider us if they fit into his plan.”*

Leaders expressed resentment that the Sanders residents do not control the Sanders Task Force or have much say in what happens. One leader claimed:

*“We don’t really have a voice on the board...Task Force minutes do not reflect tenants’ concerns, thus the Judge does not know what’s going on. The Task Force often postpones questions from tenants until the end of the meeting and what happens is everyone leaves, including the stenographer.”*

She went on to say that it was not fair that money is not going to Sanders residents.

As for issues related to desegregation, two of the leaders said they currently have white residents moving into their developments. All the leaders believed that this was a positive event. One said, “Whites want to stay by themselves and are not trouble makers...they are good for the community.” However, the instability of the white in-movers was again repeated in this group. One leader stated that, “Whites move in but they move right out again. Some do not like the school system and some get evicted.”

#### **4.0 Summary and Conclusions as of Fall, 1998**

Several elements of the *Sanders* Consent Decree have been fully implemented:

- ACHA has cross-listed and merged its public housing waiting-list with its Section 8 waiting-list by time and date.
- Several predominantly African-American-occupied public housing developments or buildings deemed beyond repair have been demolished.
- Substantial renovations of many ACHA developments in the targeted *Sanders* municipalities have been completed. Since the consent decree took force in 1995, over \$10 million has been spent on these developments for a variety of comprehensive modernization activities, accessibility improvements, security equipment, and recreational areas.
- ACHA has increased security by establishing police substations with additional police patrolling developments in the *Sanders* communities, and security fences have been placed around developments. Several developments have had controlled-access security gates installed.

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- After a rocky start, the Fair Housing Services Center has been established.<sup>49</sup>
  - Eight CDBG grants for rehabilitation and resale were awarded to 6 communities for 60 units (to date, only 2 communities have spent their grants).

Although completed at this writing, however, several of these elements of the decree were not instituted quickly after the decree took force in December, 1994. Most notably:

- The full merger of the waiting lists did not occur until 1996.
- There was difficulty in the start-up of the Fair Housing Services Center, which did not fully take over counseling and mobility responsibilities from ACHA until March, 1998.

As has been pointed out throughout this case study, the complexity of the *Sanders* Consent Decree has made implementation of many other mandates difficult. At this writing, several mandates to be performed before the decree can be terminated.

- Only 14 of the 100 mandated scattered-site replacement units for demolished public housing will be occupied by the end of 1998. Forty more units have been acquired and are now being repaired. HUD and the Task Force have approved 19 more sites for acquisition, and the Task Force preliminarily has approved 21 more areas for scattered-site acquisition.

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<sup>49</sup> The FHSC has continued to have problems since the case study was completed and HUD has recently taken action to have the Quadel Consulting Corporation take over mobility services in Allegheny County.

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- Few desegregative moves have been made within ACHA or with Section 8. Over the past year, only about two dozen desegregative moves had been made. There is much informal evidence that many white desegregative movers into public housing do not remain long.
  - Modernization and demolition activities at several *Sanders* public housing sites remain to be finished; modernization efforts have not begun at McKees Rocks Terrace.
  - As of 1998, more than 400 of the 450 allotted Section 8 certificates to the Fair Housing Services Center as of January, 1998 were still unused.
  - Plans for spending the county's set-aside FY 1997 - 2002 CDBG funds in the *Sanders* communities were approved by the Task Force in December, 1998, and constituent projects will be approved in mid-1999. Actual development activities will commence at a still later date. Out of \$25-30 million CDBG available under the decree for *Sanders* community redevelopment and desegregation, less than \$2 million has been spent thus far.

Numerous factors have slowed implementation. Among the most significant of those factors that impinged only on particular elements of the decree are:

- *Desegregation within public housing.* Four main factors increase the difficulty of achieving desegregation within public housing: ACHA has provided little information; the minority composition of ACHA tenantry and waiting list has been increasing; much of the ACHA housing stock is non-competitive; and the FHSC has only recently become operational.
- *Replacement scattered-site units.* There is organized opposition in recipient communities to scattered-site housing and this opposition is supported by a number of elected officials and others.

- *Modernization:* There is resistance to modernization of public housing developments within ACHA.
- *Desegregation with Section 8.* Desegregation outcomes through the use of Section 8 subsidies is unclear because FHSC has only recently become fully operational.
- *Community Development in Sanders target communities.* A number of factors diminish community development efforts in target communities, including: the communities' context of housing surpluses; deindustrialization; poor accessibility and schools; local political squabbles over control of community development funds; and government bureaucracy.

## **Baseline Case Study: Buffalo, New York**

**by**

**Kenneth Temkin and Diane K. Levy**

### **1.0 Introduction to the *Comer* Case<sup>50</sup>**

The *Comer* case in Buffalo was settled in September 1996 after 7 years of litigation. The case has a complex structure because plaintiffs made accusations that public housing in Buffalo and the Section 8 program in all of Erie County was administered in a manner that was discriminatory against minority residents. As a result, it was settled with two separate consent decrees: (1) a Public Housing decree that settled complaints against the Buffalo Municipal Housing Authority, the U.S. Department of Housing and Urban Development and the City of Buffalo; and (2) a Section 8 decree that settled complaints against the Rental Assistance Corporation, the City of Buffalo,

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<sup>50</sup> The Section 8 decree relates to Jessie Comer, et al., individually and on behalf of all persons similarly situated v. Henry G. Cisneros in his official capacity as Secretary of the United States Department of Housing and Urban Development; the United States Department of Housing and Urban Development; Belmont Shelter Corporation; Town of Amherst, New York; Rental Assistance Corporation; and the City of Buffalo, New York. The Public Housing decree relates to Jessie Comer, et al., individually and all persons similarly situated v. Henry G. Cisneros in his official capacity as Secretary of the United States Department of Housing and Urban Development; the United States Department of Housing and Urban Development; Buffalo Municipal Housing Authority; and the City of Buffalo.

Belmont Shelter and the Town of Amherst.<sup>51</sup> The specific elements of each decree as well as complaints against the defendants are detailed in Section 1.3 of this case study.

## 1.1 Regional Context

The Buffalo desegregation case was litigated against a backdrop of regional racial segregation, economic stagnation and population decline. The Buffalo metropolitan area has been affected by deindustrialization, creating serious economic problems of relatively high unemployment and low incomes. According to Perry (1987:113), “[p]erhaps no industrial region in the United States has gone through as severe and economically debilitating an era of deindustrialization as the Buffalo region....Buffalo and the Western New York region are caught up in a downward spiral of deindustrialization...” Massey and Denton (1993), using 1980 U.S. Census data, categorized the Buffalo area as “hypersegregated” because of the highly separate nature of racial residential patterns. As Figure 1 shows, most of Erie county’s African-American<sup>52</sup> population resides in a band stretching between the southwest and northeast borders of Buffalo. Whites who live within Buffalo reside in the north and south sides of the City. Most whites in the region, however, live outside of the City of Buffalo. This pattern produced a dissimilarity index<sup>53</sup>, which measures the extent to which groups live apart from one another, in 1990 of 81.7 for Erie County and 72.2 for the City of Buffalo.

Buffalo’s high level of segregation has continued despite overall population declines for both the city and surrounding suburban Erie County. As indicated in Table 1, Buffalo’s black population increased between 1980 and 1990, while the city’s overall population declined. As a result, the

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<sup>51</sup> The Town of Amherst was named because it leads a consortium of 41 towns and villages in suburban Erie County. All of the Consortium’s members are party to the suit.

<sup>52</sup> The term African-American is used in this report. The term “black” is used when referring to census, Buffalo Municipal Housing Authority, Rental Assistance Corporation and Belmont Shelter data or to specific elements of the decrees.

<sup>53</sup> The dissimilarity index measures the extent to which groups live apart from one another. It varies on a scale from 0 to 100, where a value of 1 indicates perfect segregation. Values over 70 are indicative of a high level of segregation (Massey and Denton, 1993).

black proportion of the total population in Buffalo increased from 26.5 percent in 1980 to 30.7 percent in 1990. The portion of Erie County outside of Buffalo also lost population between 1990 and 1980. Despite this drop, however, suburban Erie County's black population increased during the 1980s.

## 1.2 History of *Comer* Lawsuit

Buffalo's *Comer* desegregation case began in December 1989, when Ms. Jessie Comer, a Section 8 certificate recipient, was told by the Rental Assistance Corporation (which operates the Section 8 program for the City of Buffalo) that she had to move back into the City of Buffalo in order to renew her subsidy. Neighborhood Legal Services and the Greater Upstate Law Project filed suit on behalf of minority class members represented by Ms. Comer and six other named plaintiffs.<sup>54</sup> The case was settled in August, 1996 with the parties agreeing to two consent decrees that provided class members a number of remedial elements. A public hearing was held on September 5, 1996 to discuss the decrees, which were approved Judge John T. Curtin of the United States District Court, Western District of New York later that month.

While Ms. Comer's experience with the Section 8 program formed the basis of the initial lawsuit, the *Comer* case was initiated for two major reasons. First, a series of investigative reports published in 1987 in the *Buffalo News* revealed a number of problems with the Buffalo Municipal Housing Authority. These newspaper articles alleged that James Griffin, who was the Buffalo Mayor at the time, controlled Buffalo's housing authority and used it as a source of jobs for political supporters.

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<sup>54</sup> Neighborhood Legal Services eventually had to withdraw from the case because of a federal law prohibiting federally funded poverty law organizations from participating in actions against the federal government.

**INSERT FIGURE 1 HERE**

As a result, the housing authority's staff were alleged to be incompetent in property management and maintenance.

**Table 1. Population Changes in the Buffalo Region**

	<b>Buffalo</b>	<b>Suburban Erie County (excludes Buffalo)</b>	<b>Total Erie County</b>
<i>Total Population</i>			
1980 Population	357,870	657,602	1,015,472
1990 Population	328,123	640,411	968,532
Change	-29,747	-17,191	-46,940
Percentage Change	-8.3%	-2.6%	-4.6%
<i>Black Population</i>			
1980 Population	95,116	7,831	102,947
1990 Population	100,767	8,901	109,668
Change	5,651	1,070	7,105
Percentage Change	5.9%	13.7%	6.9%

**Table 1. Population Changes in the Buffalo Region**

	<b>Buffalo</b>	<b>Suburban Erie County (excludes Buffalo)</b>	<b>Total Erie County</b>
<i>Hispanic Population</i>			
1980 Population	8,926	4,957	13,883
1990 Population	15,297	5,772	21,069
Change	6,371	815	7,186
Percentage Change	71.3%	16.4%	51.8%

Source: U.S. Census.

Second, Section 8 applicants who lived in Buffalo had a very difficult time getting subsidies from suburban jurisdictions because of residency preferences granted by Belmont Shelter (which operated the Section 8 program for the Erie County Consortium of towns and villages) to Section 8 applicants who lived in Erie County outside the City Buffalo. Clients of Neighborhood Legal Services (who were mostly minority City of Buffalo residents), a legal aid organization in the Buffalo area, complained that they could not get Section 8 certificates from Belmont Shelter. Neighborhood Legal Services staff discovered that the Belmont Shelter Company and the Rental Assistance Corporation used residency preferences when allocating Section 8 certificates to applicants. The residency preferences meant that suburban Erie County residents who applied for Section 8 subsidies from suburban Erie County would receive a voucher or certificate before a non-resident applicant, regardless of whether or not the non-suburban Erie County resident applied first (Tegeler, Hanley and Lieber, 1995). Similarly, Buffalo residents received Section 8 certificates from the Rental Assistance Corporation before non-Buffalo residents. According to a defendant's attorney, Belmont Shelter's policy was developed to ensure that suburban Erie

County residents benefited from the program, and was never intended to discriminate against minorities. However, nearly 85 percent of Section 8 recipients applicants from the City of Buffalo are black, while 85 percent of Section 8 recipients from suburban Erie County are white. Therefore, the residency preference for suburban Erie County residents had the effect of excluding a large numbers of Buffalo residents—who were predominantly black—from receiving rental subsidies, and so the preference violated the Fair Housing Act (Tegeler, Hanley and Lieber, 1995).

The *Comer* case was settled in August 1996, with the Public Housing decree and the Section 8 decree being agreed to by both parties. All of the interviewees we spoke with who participated in the final set of negotiations expressed dissatisfaction with the manner in which the case was ultimately settled. Attorneys for the housing authority, Belmont Shelter and the Rental Assistance Corporation said, in interviews, that all the plaintiffs' allegations were untrue, and their side would have won in court. Housing authority representatives said that any alleged discriminatory practices were discontinued well before the *Comer* suit was filed. A Belmont Shelter legal representative pointed out that the residency preferences, discussed above, were adopted by the company as a direct response to a HUD regulation allowing jurisdictions to set geographic preferences. Moreover the attorney said the residency preference's intent was to ensure that low- and moderate-income residents of suburban Erie County received housing assistance rather than to discriminate against Buffalo residents.

There is some corroboration that the legal cases in Buffalo may not have been particularly strong. Housing Opportunities Made Equal (HOME), a fair housing group active in the Buffalo region, declined to be a party to the original *Comer* lawsuit. According to a senior staff member of Housing Opportunities Made Equal, the case against the Rental Assistance Corporation, which was accused of poor outreach efforts to landlords, was especially weak. According to this informant, the Rental Assistance Corporation had an excellent fair housing track record and was unfairly characterized in the lawsuit. As a result, Housing Opportunities Made Equal decided not to participate in the lawsuit. One of the plaintiffs' attorneys said that he was disappointed with Housing Opportunities Made Equal's decision, especially since it came just before the initial suit was filed. Representatives from the City of Buffalo and the housing authority said Belmont Shelter's policies were the most problematic of the three Buffalo-area defendants, and warranted a lawsuit. However, the Housing Opportunities Made Equal informant said that Belmont Shelter's

residency preferences were adopted in response to HUD, and so a legal claim against Belmont Shelter was not fair.

Despite the defendants' objections, each defendant did sign decrees that required them to undertake remedial steps. However, in the *Comer* decrees there is clear language that indicates that the defendants, by signing the decree, are not admitting any misdeed. In fact, the *Comer* decrees state that no party signing the decree shall be construed by anyone for any purpose whatsoever as having admitted any wrongdoing.

All of the defendants' attorneys said that HUD's interest in settling the *Comer* case was prompted by the Clinton administration's policy to settle the case as quickly as possible, rather than continue to litigate. Housing authority representatives said that HUD told them the department would settle the case with or without an agreement. Rather than litigate the case without HUD support, housing authority representatives said they would most likely not succeed in court once HUD made it clear that it would not back the housing authority's defense. The other defense attorneys concurred, and said that it was very difficult to carry out a defense once HUD changed its position in the case from conducting an active defense to seeking a settlement.

According to several defense attorneys, and a City of Buffalo official, the final negotiations took place in a round-the-clock session during which attorneys argued about specific remedy elements. One informant, who is not an attorney, said he left the meeting before dinner and was surprised when he returned late at night and found the negotiations still continuing. According to a plaintiffs' attorney, HUD staff asked the plaintiffs' legal team about the remedies that would make a deal possible. The plaintiffs said that an additional 1,600 Section 8 subsidies would be enough for a settlement. HUD agreed, and the deal was concluded. This process created a contentious environment that, according to some defense attorneys, has hampered the implementation of the elements mandated in the *Comer* consent decrees.

### 1.3 Overview of Settlement

In 1991, the *Comer* case was separated into two cases, the key features of which are presented in Table 2. One lawsuit relates to complaints against the Buffalo Municipal Housing Authority (and is referred to as the Public Housing decree), while the other one relates to complaints about the Section 8 programs operated by the City of Buffalo and a consortium of towns and villages in Erie County (and is referred to as the Section 8 decree).

**Table 2. Overview of Defendants in the *Comer* case**

Defendant	Institutional Role	Complaint	Relevant Decree(s)
Buffalo Municipal Housing Authority	Operates public housing in the City of Buffalo	Public housing projects with a high proportion of minority residents did not receive the same maintenance as projects with a high proportion of white residents.	Public Housing and Section 8
Rental Assistance Corporation (RAC)	Administers Section 8 program as a subcontractor to the City of Buffalo	The Rental Assistance Corporation did not conduct sufficient outreach to landlords with properties in white neighborhoods.	Section 8
The City of Buffalo	Recipient of Section 8 subsidies. Mayor appoints five of the seven members of the BMHA board.	The City of Buffalo did not provide sufficient oversight to either the Rental Assistance Corporation or the Buffalo Municipal Housing Authority. As a result, both entities were allowed to operate in a way that contributed to discrimination against minorities.	Public Housing and Section 8

**Table 2. Overview of Defendants in the Comer case**

Defendant	Institutional Role	Complaint	Relevant Decree(s)
The Belmont Shelter Corporation	Administers the Section 8 program as a subcontractor to the Town of Amherst which contracts with HUD to administer the Section 8 funds for a consortium of towns and villages in Erie County, New York.	The Belmont Shelter Corporation implemented residency preferences for Erie County residents that allowed Erie County residents (who are mostly white) to receive Section 8 subsidies before applicants from other areas, including the City of Buffalo. Most Section 8 applicants from Buffalo are black. This residency preference meant that many white applicants, who lived in Erie County, received Section 8 subsidies from the Belmont Shelter Corporation before black applicants from the City of Buffalo.	Section 8
The Town of Amherst	The Town of Amherst represents all 41 towns and villages in the Erie County Consortium.	The Town of Amherst (and all the members of the Consortium) allowed the Belmont Shelter Corporation to administer its Section 8 program with residency preferences that made it difficult for black residents of Buffalo to receive subsidies from the Belmont Shelter Corporation.	Section 8

The *Comer* desegregation case calls for seven types of remedies, described in Table 3, to be implemented by a variety of organizations. In general the remedies are intended to: (1) provide Section 8 subsidy recipients access to housing across a wider range of neighborhoods through mobility counseling; (2) improve the quality of public housing in Buffalo; (3) enhance the quality of neighborhoods surrounding some Buffalo public housing developments; and (4) reduce the level of segregation within Buffalo public housing developments.

The *Comer* decrees were agreed to in August 1996, and our fieldwork was conducted in August 1998. As a result, our findings should be interpreted bearing in mind that the *Comer* decrees had only been effective for two years. And, as Table 3 shows, the Community Housing Center, which is charged for providing mobility services, was not operating as of our site visit. Many of the other elements called for in the *Comer* decrees were contingent upon the Center starting its operations. Therefore, as of our site visit, only named plaintiffs had received remedial Section 8 certificates; representing a small portion of the 1,600 new certificates available for class action members provided for in the two decrees. No redevelopment activity had started at the Lakeview development, which is supposed to undergo extensive renovations as part of the public housing decree. Some elements, however, were implemented as of our site visit. Application and tenant selection and assignment procedural changes have been instituted, and the City of Buffalo and the Buffalo Municipal Housing Authority have started a joint economic development task force.

## **2.0 Buffalo Municipal Housing Authority and Section 8 Program Description**

### **2.1 Buffalo Municipal Housing Authority**

The Buffalo Municipal Housing Authority was chartered in 1934. The oldest project still in use was opened in July, 1939, and 3,017 total units currently in use were built over 50 years ago. As shown in Figure 2, some of the largest public housing developments are located in census tracts

with a minority population proportion over 50 percent, while developments with a low minority population proportion are located in census tracts where minorities make up less than ten percent of the population. The housing authority currently operates 25 federally funded housing projects and 3 state funded projects. It received a PHMAP score of 91.75 in 1997, and so is classified as a high performer.

As Table 4 indicates, 4,322 families lived in public housing units as of December 31, 1996. Data for this date represent a pre-settlement baseline. Sixteen percent of these families had a white/non-Hispanic head of household, while almost 70 percent of public housing residents in Buffalo had a black/non-Hispanic head of household as of December 31, 1996. These minority proportions were higher within family developments. Blacks head 76.1 percent of the families residing in family projects as of December 31, 1996, compared to 60.2 percent in elderly projects, while white-headed households made up 7.2 percent of residents in family projects. Overall, then, the proportion of black-headed households in family projects was over 2.5 times that for Buffalo. While whites accounted for over two-thirds of Buffalo residents, less than 10 percent of Buffalo public housing residents in family projects had a white/non-Hispanic household head.

**Table 3. Overview of Major Decree Elements: Comer Case**

Remedy	Description	Implementation Responsibility	Progress to-date
Modified tenant selection and admission procedures	Minority public housing applicants will be offered vacancies in projects that have a high proportion (more than 50 percent) of non-minority residents, while non-minority applicants will be offered vacant units in predominantly minority (more than 75 percent) projects	Buffalo Municipal Housing Authority	The Buffalo Municipal Housing Authority has submitted some modified tenant selection and admission procedures for HUD to approve.
Cross-listing	The Rental Assistance Corporation and Belmont Shelter will develop a common application and cross-list applicants with each other and the Buffalo Municipal Housing Authority	The Rental Assistance Corporation, Belmont Shelter and the Buffalo Municipal Housing Authority	The Rental Assistance Corporation and Belmont Shelter have agreed to a common format for their applications and have cross-listed applicants since December 1996. The Buffalo Municipal Housing Authority has not yet agreed to a common format.
Public housing renovation/density reduction	Demolition and/or reconfiguration of 502 public housing units at Lakeview, Perry and A.D. Price projects	Buffalo Municipal Housing Authority	102 units at the A.D. Price Development were demolished prior to the decree's implementation date. The housing authority submitted a revised HOPE VI plan for the Lakeview development, but has been unable to secure all of the funding needed to complete the project. The housing authority has received a grant to begin demolition at the

**Table 3. Overview of Major Decree Elements: Comer Case (continued)**

Remedy	Description	Implementation Responsibility	Progress to-date
Mobility counseling	A Community Housing Center will provide mobility counseling to all Section 8 recipients interested in making moves into non-impacted census tracts	The City of Buffalo is responsible for choosing a contractor to operate the Community Housing Center. The contractor is responsible for providing mobility services	A local organization, Housing Opportunities Made Equal, was chosen to operate the Community Housing Center. The organization expects to begin mobility counseling in the spring of 1999.
New unrestricted Section 8 subsidies	1,170 new Section 8 subsidies for class members	450 subsidies allocated to the Buffalo Municipal Housing Authority, 620 subsidies to the City of Buffalo and 100 subsidies to the Consortium	None of the new unrestricted Section 8 subsidies have been issued to class members. The decree states that the new subsidies will not be issued until the Community Housing Center starts operations.
New geographically restricted Section 8 subsidies	430 new Section 8 subsidies for class members to move into non-impacted census tracts	350 subsidies allocated to the Buffalo Municipal Housing Authority and 80 to the City of Buffalo	Named plaintiffs were issued geographically restricted Section 8 subsidies. None of the other geographically restricted subsidies have been issued and are pending the start of the Community Housing Center's operations.

**Table 3. Overview of Major Decree Elements: Comer Case (continued)**

Remedy	Description	Implementation Responsibility	Progress to-date
Community economic development	Revitalization plans will be developed for the areas surrounding the Lakeview, Perry and A.D. Price projects	The City of Buffalo, Economic Development Task Force and the Buffalo Municipal Housing Authority	The City of Buffalo, Buffalo Municipal Housing Authority and representatives of the plaintiff's attorneys have started to meet as part of an economic development task force charged with coordinating the activities of the housing authority and the City of Buffalo's planning and economic development departments.
Affirmative measures to further fair housing	An inventory will be developed for all federally assisted projects in Erie County that includes the racial composition of tenants and applicants on waiting lists. In addition, all towns in Erie County will conduct an analysis of impediments to fair housing	U.S. Department of Housing and Urban Development, Erie County Consortium members	Housing Opportunities Made Equal has been hired by some towns on the Erie County Consortium to assist in this process.

**Table 4. Racial Composition of Buffalo Municipal Housing Authority Public Housing Tenants as of 12/31/1996**

	Family Developments	Elderly Developments	Total
White households	181	520	701
Black households	1,914	1,088	3,002
Hispanic households	401	183	584
Other households	19	16	35
Total	2,515	1,807	4,322
N	12	16	28

Source: Buffalo Municipal Housing Authority

This racial imbalance is slightly less for residents in elderly projects. As of December 31, 1996, 1,807 units were occupied in elderly projects. Nearly 29 percent of these units had a white non/Hispanic household head, while 60.2 percent of these units had a black household head. Hispanics made up 10.1 percent of the household heads in elderly projects, as compared to 15.9 percent in family projects.

## 2.2 Section 8 Program

The racial characteristics of Buffalo's Section 8 program, administered by the Rental Assistance Corporation, are similar to the public housing figures. As of May 1998<sup>55</sup>, 74.1 percent of the Section 8 voucher/certificates allotted to the City of Buffalo were used by black households. As shown in Figure 3, African-American holders of Section 8 certificate holders issued by the Rental Assistance Corporation lived either on Buffalo's west side or within tracts that had a large proportion of black residents. Conversely, white users of Section 8 certificates issued by the Rental Assistance Corporation mostly lived in census tracts that had a small proportion of black residents.

According to May 1998 data, whites accounted for 80.3 percent of Section 8 voucher/certificate holders issued by the Belmont Shelter corporation. As shown in Figure 4, most black recipients of Section 8 certificates issued by the Belmont Shelter corporation live in predominantly black census tracts within the City of Buffalo while white Section 8 certificate holders live throughout Erie County in tracts that were predominantly white.

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<sup>55</sup> Historical data for Section 8 recipients were unavailable.

**INSERT FIGURE 2 HERE**

**INSERT FIGURE 3 HERE**

**INSERT FIGURE 4 HERE**

### **3.0 Implementation as of Fall, 1998**

#### **3.1 Tenant Selection and Administrative Procedures**

The *Comer* decrees mandate that three types of changes must be made to tenant selection and administrative procedures. First, the Buffalo Municipal Housing Authority, Rental Assistance Corporation and the Belmont Shelter Corporation must start to cross-list applicants. Second, Rental Assistance Corporation and the Belmont Shelter Corporation must develop special waiting lists that include class members who are eligible for remedial relief under the decree. Finally, the Buffalo Municipal Housing Authority must make changes to its tenant assignment procedures in order to encourage residents to make desegregative moves. This section describes the elements of all three types of tenant selection and administrative procedures and analyzes the progress made so far in implementing all three types of changes that are required under the *Comer* decrees.

##### **3.1.1 Cross-listing Overview and Progress To-date**

The Section 8 decree stipulates that applications and waiting lists be cross-listed between Belmont Shelter and the Rental Assistance Corporation. If the housing authority agrees to cross-list its applicants and waiting list with Belmont Shelter and the Rental Assistance Corporation, the decree requires that it use “substantially the same” application form used by the two agencies administering Section 8 programs for the City of Buffalo and the Erie County Consortium. In addition, the lists will include an additional section strictly for public housing applicants. Public housing applicants will then be placed on the Rental Assistance Corporation’s list and will receive an application for Belmont. The Rental Assistance Corporation’s applicants are to be placed on Belmont’s list and on the housing authority’s waiting list, unless an applicant requests that their

name not be sent to the housing authority.<sup>56</sup> Applicants to Belmont are to be placed on the Rental Assistance Corporation's list and can opt to have their name sent to the housing authority.

Unlike the procedure at the Rental Assistance Corporation, the names of Belmont Shelter applicants will not automatically be sent to the housing authority because the *Comer* decrees did not require Belmont Shelter applications to be forwarded to the housing authority. According to housing authority staff, however, Belmont Shelter has offered applicants the option of cross-listing their name with the housing authority, and is working with the housing authority to work out a procedure that is acceptable to Belmont Shelter and the housing authority.

Cross-listing Belmont Shelter applicants with the Rental Assistance Corporation (and vice versa) has been implemented. According to informants from both organizations, the two Section 8 program administrators began cross-listing applicants in December 1996, as required by the decree. It has been difficult for the Buffalo Municipal Housing Authority, Belmont Shelter and the Rental Assistance Corporation to agree on one application form for their Section 8 and public housing services. Negotiating the specifics of the form has taken time and has delayed the sharing of applicant and waiting-list names between certain parties.

### **3.1.2 Issues Encountered During Implementation**

Developing an application that satisfies all three parties has proven difficult. According to housing authority staff, neither the Rental Assistance Corporation nor Belmont Shelter have developed an application form that can be used by the housing authority. Public housing applicants, according to the housing authority, need to provide more information than Section 8 applicants. As a result, the forms used by the Rental Assistance Corporation and Belmont Shelter do not allow for cross-listing.

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<sup>56</sup> This is called a "deselect" option.

### **3.1.3 Special Waiting Lists Overview and Progress To-date**

In addition to the cross-listing of applicants among the defendants, the decree requires Belmont Shelter and the Rental Assistance Corporation to create a special waiting list of households from which recipients will be selected to receive one of the 800 subsidies that will be issued as part of the Section 8 decree. These additional subsidies consist of: (1) 100 unrestricted Section 8 voucher/certificates issued to the Erie County Consortium and administered by Belmont Shelter; (2) 620 unrestricted subsidies that will be allotted to the City of Buffalo and administered by the Rental Assistance Corporation; and (3) 80 Special Opportunity Certificates, which contain geographic restrictions, allotted to the City of Buffalo and administered by the Rental Assistance Corporation.

Section 8 subsidy applicants who applied prior to specified dates (households that would have received Section 8 were it not for the residency preferences), and who are of minority status have been placed on this list already. Potential class members will be notified of their opportunity to be placed on this list.

Although Belmont Shelter will only receive an additional 100 certificates as part of the Section 8 decree, additional subsidies will be made available by Belmont Shelter to applicants on the special waiting list. This will be accomplished by converting a proportion of subsidies returned by Erie County residents to geographically restricted Special Opportunity Certificates. Seventy-five percent of the turnover of Belmont's regular Section 8 subsidies will become Special Opportunity Certificates for a period of up to three and a half years. After that point in time, fifty percent of the turnover subsidies will become Special Opportunity Certificates. Any subsidies that remain after the special list is exhausted will go to households on the supplemental waiting list and to Rental Assistance Corporation applicants with Erie County addresses. The Rental Assistance Corporation is allowed to issue only three of its certificates per month, whether new or turnovers, to non-wait list applicants. The majority of its subsidies must be issued to special applicants who reside in Buffalo and who can verify their claim of federal preference.

Belmont Shelter is to develop a supplemental waiting list after only 100 applicants remain on the special waiting list. The supplemental list will consist of Erie County, minority applicants who resided in Buffalo at the time of their initial application, applied after the specified cut-off dates, and claim a federal preference. This supplemental list will be shared with, and added to, by the Belmont Shelter Corporation.

### **3.1.4 Issues Encountered in Implementation**

Belmont Shelter staff discussed a negative impact of the changes for households on its regular waiting list. Because turnovers in Belmont Shelter-administered Section 8 subsidies will become Special Opportunity certificates<sup>57</sup> targeted to class members, subsidies available to Consortium applicants will decrease. Initially, 25 percent, and later 50 percent, of turnover subsidies will be targeted for the Consortium's waiting list. Given Belmont Shelter's rate of roughly thirty turnovers a month, the agency anticipates losing approximately 270 subsidies a year, and later, 180 subsidies, for households on its regular waiting list.

### **3.1.5 Revised Tenant Assignment Procedures for Buffalo Municipal Housing Authority Residents Overview and Progress To-date**

The Public Housing decree requires the housing authority to develop and implement modified Tenant Selection and Admissions Procedures for new and transfer tenants. The modified Tenant Selection and Admissions Procedure is meant to encourage desegregative placements of public housing tenants. First, minority households who moved into public housing prior to 1991 and live in a project with a minority population proportion greater than 75 percent may request a one-time transfer to a project whose minority population proportion less than 75 percent. Vacancies in federal family developments with a minority occupancy rate greater than 75 percent will be offered to non-minority applicants. Minorities who are skipped as a result of this procedure will be offered a Section 8 certificate; a unit, if available, in one of the five projects with the highest vacancy rate;

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<sup>57</sup> Special Opportunity certificates contain geographic restrictions discussed in Table 5, Section 3.3.1 of this case study.

or an opportunity to remain on the waiting list and be offered a unit in the project in which the non-minority applicant was assigned.

Minority residents in fully occupied family projects with a minority population proportion greater than 75 percent will be offered Section 8 certificates to create openings. The Buffalo Municipal Housing Authority will offer applicants to family developments available units in all family developments in which the racial composition of the incumbent residents does not exceed 75 percent of the applicant's racial status. Also, vacancies in elderly and family projects with a non-minority population proportion greater than 50 percent will be offered to class members.

The Buffalo Municipal Housing Authority will offer minority applicants, whose names come to the top of the public housing waiting list, a unit at one of the five developments with the highest percentage of vacancies. Non-minority applicants will also be offered a unit at one of five developments with the highest percentage of vacant units. However, vacancies may not be offered to non-minority applicants in the following projects: Sedita, Holling Homes, Slater Courts, Camden, Stuyvesant, Monseigneur Geary and Mullen Manor if the non-minority percentage increases more than 5 above the April, 1996 level.

The Buffalo Municipal Housing Authority is also obligated to make additional changes to its assignment procedures that relate to elderly and disabled applicants. The housing authority will offer elderly and disabled applicants available units in both elderly and family developments where the racial composition of the project does not exceed 50 percent of the applicant's status.

### **3.1.6 Issued Encountered During Implementation**

The housing authority has submitted to HUD revised Tenant Selection and Admissions Procedures consistent with the requirements of the Public Housing decree. Representatives of the housing authority interviewed by us said they are doubtful that white tenants will make desegregative moves into predominantly minority public housing developments. To the extent

that desegregative moves occur, housing authority staff anticipate the moves will take place in the elderly housing developments as minority applicants opt to move into these developments.

## **3.2 Public Housing Renovation/Density Reduction**

### **3.2.1 Overview and Progress To-date**

The *Comer* decree relating to public housing calls for the demolition and reconfiguration or replacement of 502 units of public housing at three developments: Lakeview, Commodore Perry, and A.D. Price. Each of these three developments are older developments built before 1940 where minorities account for over 90 percent of the development's residents. The decree also calls for the design and implementation of a density reduction and redevelopment plan for the State-assisted Frederick Douglass Towers development which is in a state of disrepair and has a minority population proportion over 98 percent. Plans for each site vary and implementation is in different stages.

The reconfiguration plan for the Lakeview development calls for the demolition of 554 out of 666 units. Replacement housing will be built on-site and in the surrounding neighborhood. The plan, presented in the housing authority's HOPE VI grant proposal for revitalization of the Lower West Side, involves renovating 106 units into 100 units, rebuilding 200 units both on- and off-site for senior housing, and building 420 new single-family attached and detached houses. The 183 rehab and new units built on-site will be rental properties. Of the 437 housing units built in the adjacent area, fifty will be homeownership units. Once the reconfiguration is implemented, the development will be under private management, no longer managed by the Buffalo Municipal Housing Authority. Demolition and construction had not begun at the time of our site visit in August 1998 for reasons discussed below.

The housing authority demolished 102 housing units at the A.D. Price developments prior to the decree, with funds from the housing authority's Comprehensive Grant allocation. This demolition

has been credited toward the decree requirement to demolish the same number of units. The affected tenants were moved into vacant units on-site. Three hundred units at the Commodore Perry developments will be demolished. These units will not be replaced in keeping with the goal to reduce density and redevelop Perry. The Buffalo Municipal Housing Authority has received the demolition grant for Perry, though the work has not yet started.

Frederick Douglass is also scheduled to undergo considerable reconfiguration. The housing authority is required to enter into a planning process with current tenants, tenant organizations, and social service providers in order to develop a reconfiguration plan that will reduce the density of poverty in the area, increase alternate housing opportunities for tenants, and improve the physical integration of the development into the surrounding area. The decree states that no fewer than 310 of the 763 units at Douglass are to remain after demolition.

The Buffalo Municipal Housing Authority issued an RFP for a developer to carry out the work at Douglass. Only one proposal was submitted and tenants raised concerns with that developer. The housing authority contacted Buffalo State College's Resurgent City Center Task Force (Resurge) to organize and work with Douglass tenants to develop a plan for the required redevelopment. According to a report submitted by the Buffalo Municipal Housing Authority's counsel, Resurge has begun organizing tenants for the planning process.

### **3.2.2 Issues Encountered in Implementation**

The demolition and reconfiguration plans for the Lakeview development had not started at the time of the site visit because the BMHA has not been able to secure the funding needed to complete the project. According to representatives of the housing authority, HUD advised the Buffalo Municipal Housing Authority to apply for a HOPE VI grant for some of the funds necessary to complete the Lakeview redevelopment. These representatives also said that HUD's Office of General Counsel told them it would change proposal scoring system so that the BMHA would receive extra points, although the decree did not have a provision requiring HUD to initiate such activity. Housing Authority representatives said that, after submitting the HOPE VI application, they were told by HUD that BMHA would receive a HOPE VI award. Soon after that conversation,

however, the BMHA representatives said they were notified formally that HUD's Office of Public and Indian Housing would not change its standards, and the proposal was rejected.

In preparing its second grant application, the housing authority made two significant changes. First, it learned that other housing authorities hired consultants to assist in proposal development and design. The authority spent approximately \$200,000 to hire planning and design consultants. Second, knowing it would not receive any exceptions to the grant requirements, the second proposal was consistent with HOPE VI program requirements. The requirements include demolition of 85 percent of existing housing stock and privatization of replacement housing. This level of demolition goes beyond that agreed upon by plaintiffs and defendants in the original consent decree. Although tenants participated in the design process for the HOPE VI application, a few of the tenants with whom we spoke expressed dismay that so many Lakeview units would be demolished. Many units were renovated within the last couple of years. Tenants are also concerned with the requirement to privatize the housing. This second HOPE VI application requested \$33,580,223 from HUD and assumes it will locate \$43,982,003 from other sources, including tax credits.

Buffalo's second HOPE VI proposal was successful, and the BMHA was awarded the grant contingent on securing the other financing needed to complete the project. According to a HUD representative, the housing authority was unable to secure the full tax credit financing that would be used to finance the additional \$44 million needed for the Lakeview redevelopment.

Demolition and reconfiguration work at the Perry developments has not started due to complications with the heating system. According to housing authority representatives, engineers are figuring out how to remove certain buildings without destroying the heating system that runs as a loop through all of the site's buildings.

### **3.3 Tenant-based Assistance**

### **3.3.1 Overview and Progress To-date**

Both *Comer* consent decrees call for an additional 800 Section 8 subsidies to be made available to eligible recipients. Table 5 summarizes the types of subsidies that will be allocated by HUD under each decree.

**Table 5. Summary of Tenant Based Assistance Remedies**

Name of Subsidy	Description
<b>Public Housing Decree</b>	
<u>Comer vs. The City of Buffalo, the Buffalo Municipal Housing Authority and HUD</u>	
Relocation Section 8 subsidies	450 Section 8 subsidies available for Buffalo Municipal Housing Authority tenants displaced as a result of demolition and reconfiguration activities at Lakeview, A.D. Price and Perry projects. Recipients may use the Section 8 subsidy anywhere they wish, but are encouraged to participate in mobility counseling.
Lakeview set-aside Section 8 subsidies	50 Section 8 subsidies available for Lakeview tenants displaced due to demolition/reconfiguration activities and who express an interest in making a move to a non-impacted area. Recipients must attempt to relocate into a census tract where the poverty level is less than 20 percent and the minority population proportion is less than 34 percent. In addition, recipients must participate in mobility counseling services.
Equal Opportunity Certificates	300 Section 8 subsidies available to: (1) named plaintiffs; (2) minority class members who express an interest in making a move to non-concentrated areas; (3) public housing residents of non-elderly projects in a census tract with a minority population proportion more

**Table 5. Summary of Tenant Based Assistance Remedies**

Name of Subsidy	Description
	<p>than 34 percent; and (4) current minority public housing applicants living in a census tract with a minority proportion more than 34 percent. Recipients must attempt to relocate into a census tract where the poverty level is less than 20 percent and the minority population proportion is less than 34 percent. In addition, recipients must participate in mobility counseling services.</p>
<p><b>Section 8 Decree</b></p>	
<p><u>Comer vs. The Rental Assistance Corporation, Belmont Shelter Corporation, the City of Buffalo, the Town of Amherst and HUD</u></p>	
<p>Unrestricted City of Buffalo Section 8 subsidies</p>	<p>620 Section 8 subsidies allocated to the City of Buffalo for: (1) Buffalo residents who are recipients of Section 8 subsidies from the City of Buffalo or the Consortium; (2) Erie County residents who applied for a Section 8 subsidy from either the City of Buffalo or the Consortium prior to the date of the decree and who resided in Buffalo at the time they applied; (3) Erie County residents who claim they would have applied to the Section 8 program prior to the date of the decree if they had been informed that they could apply, or were discouraged by the residency preference; and (4) Buffalo residents who apply in the future while the consent decree is still in effect. Recipients may use subsidies anywhere they</p>

**Table 5. Summary of Tenant Based Assistance Remedies**

Name of Subsidy	Description
Special Opportunity Certificates	<p>wish, though they will be encouraged to use mobility counseling services.</p> <p>80 Section 8 subsidies allocated to the City of Buffalo for recipients defined above who express an interest in making a move to a non-impacted census tract. Recipients are required to use mobility counseling services and initially search for housing in a census tract where no more than 35 percent of residents have an income below the poverty line.</p>
Unrestricted Erie County Consortium Section 8 subsidies	<p>100 Section 8 subsidies allocated to the Erie County Consortium for: (1) Buffalo residents who are recipients of Section 8 subsidies from the City of Buffalo or the Consortium; (2) Erie County residents who applied for a Section 8 subsidy from either the City of Buffalo or the Consortium prior to the date of the decree and who resided in Buffalo at the time they applied; (3) Erie County residents who claim they would have applied to the Section 8 program prior to the date of the decree if they had been informed that they could apply or were discouraged by the residency preference; and (4) Buffalo residents who apply in the future while the consent decree is still in effect. Recipients may use subsidies anywhere they wish, though they will be encouraged to use mobility counseling services.</p>

The Section 8 decree provides for a total of 800 Section 8 certificates that are to be made available to class members, as defined in Table 6. Seven hundred Section 8 subsidies will be allotted to the City of Buffalo by HUD and administered by the City's subcontractor, the Rental Assistance Corporation, while 100 will be allotted to the Consortium and administered by Belmont Shelter. Six hundred and twenty of the 700 additional Section 8 subsidies allotted to the City of Buffalo do not have any geographic restrictions. The recipients of these subsidies will be offered mobility counseling services that are described later in this report.

Eighty of the 700 Section 8 subsidies allotted to the City of Buffalo specify geographic restrictions. These subsidies, called Special Opportunity Certificates, will be available for class members who express a desire for mobility counseling services and who agree to look for housing in non-impacted areas. Non-impacted areas, according to the Section 8 decree, are census tracts in which less than 35 percent of households are below the poverty line. Recipients of the Special Opportunity Certificates must use their subsidy to rent a unit in a non-impacted area for one year. There are no geographic restrictions for the recipients of the 100 additional Section 8 subsidies allotted to Belmont Shelter. Class members receiving these subsidies may use mobility services, but are under no obligation to do so, or to move into non-impacted areas.

Another 800 Section 8 subsidies are to be distributed by HUD as part of the Public Housing decree. Five hundred Section 8 subsidies are "Relocation" subsidies and will be offered to public housing residents displaced due to demolition and reconfiguration initiatives at the Lakeview, Perry and Price projects. Fifty of these subsidies are to be set-aside for Lakeview residents who express an interest in moving to a non-concentrated area, defined as a census tract where the poverty level is less than 20 percent *and* the minority population proportion is less than 34 percent. The other 450 subsidies do not contain any geographic restrictions. Mobility counseling services will be offered to recipients of both types of relocation subsidies, and will be required for recipients of the fifty geographically restricted Lakeview subsidies. Any unused relocation subsidies will convert to Equal Opportunity Certificates described below.

The other 300 subsidies issued under the Public Housing decree, called Equal Opportunity Certificates, contain geographic restrictions identical to the 50 Lakeview certificates described above. The named plaintiffs have first priority for these subsidies. The next highest selection

preference is defined by minority class members who: (1) expressed an interest in moving to a non-concentrated census tract; and (2) live in a non-elderly Buffalo Municipal Housing Authority project located in census tracts with a minority population proportion over 34 percent. The third selection preference category is for minority applicants for public housing who currently reside in minority concentrated areas.

The recipients of the 300 Equal Opportunity Certificates and the 50 Lakeview set-asides are required to undergo mobility counseling. Recipients have 120 days from the date the subsidy is issued to locate housing in non-concentrated tracts. The City of Buffalo may grant a one-time extension of 30 days to a recipient who has yet to secure housing and has made a good faith effort in looking for housing. The Equal Opportunity Certificate geographic restrictions do not apply during the 30 day extension period, recipients may locate anywhere they wish.

### **3.3.2 Issues Encountered in Implementation**

To date, the only recipients of any Section 8 subsidies have been the plaintiffs named in the case. Most of these recipients have used their Section 8 subsidies to relocate from the Buffalo region. For example, Jessie Comer, the lead plaintiff, used her subsidy and relocated to suburban Charlotte, North Carolina.<sup>58</sup>

The Buffalo Municipal Housing Authority has not started its planned redevelopment of Lakeview, Perry or Price projects. As result, there is no need, as yet, to relocate any housing authority residents displaced due to demolition and redevelopment activities. In addition, the 300 Equal Opportunity Certificates cannot be used until the Community Housing Center starts operating. Consequently, none of these subsidies have been issued by HUD, but it is important to bear in

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<sup>58</sup> Ironically, a defense attorney said that Ms. Comer was initially told by Charlotte-area Section 8 administration staff that she could not use her subsidy in the suburban Charlotte area and had to use her subsidy within the city's limits.

mind that the *Comer* decree had not been in effect for a very long time when we conducted the site visit.

While none of the additional subsidies have been issued by either the City of Buffalo or the Consortium, there has been some confusion about who will administer the additional 800 subsidies scheduled to be allocated under the Public Housing decree. According to housing authority representatives, both the 500 relocation subsidies and the 300 Equal Opportunity Certificates to be issued under the Public Housing decree will be administered by the housing authority. This plan represents a change, since the Rental Assistance Corporation has administered Buffalo's Section 8 program since 1988. However, the housing authority's staff said they had a signed commitment from Buffalo's mayor indicating that the Buffalo Municipal Housing Authority would administer the additional subsidies. Conversely, representatives of the Rental Assistance Corporation said they would be responsible for administering the additional Public Housing certificates because they have a contract with the City of Buffalo to operate their Section 8 program. An informant recently said that the mayor decided to allow the Buffalo Municipal Housing Authority to administer the new Section 8 certificates that will be issued by HUD under the Public Housing decree.

### **3.4 Mobility Counseling**

#### **3.4.1 Overview and Progress to-date**

Mobility counseling, provided by a Community Housing Center, is a key element in Buffalo's desegregation case because Section 8 certificates cannot be issued and public housing demolition cannot proceed until the Center is operational. The purpose of the Center, according to the decree, is to: (1) provide mobility counseling services to recipients of Section 8 subsidies issued as part of the decree; (2) undertake outreach efforts to encourage more landlords in non-impacted areas to accept Section 8 tenants; and (3) provide counseling and other services designed to promote regional housing mobility for low-income households throughout the Buffalo area.

As discussed earlier, recipients of Section 8 certificates with geographic restrictions will be required to undergo mobility counseling provided by the Community Housing Center. Therefore, counseling services will be used by a minimum of 430 Section 8 recipients: 50 from the Lakeview set-aside; 300 Equal Opportunity Certificates (geographically restricted Section 8 certificates issued as part of the Public Housing decree) and 80 Special Opportunity Certificates (geographically restricted certificates issued as part of the Section 8 decree).

While recipients of geographically restricted certificates are required to undergo mobility counseling, all recipients of the additional unrestricted Section 8 certificates will be encouraged to undergo mobility counseling and make moves into non-impacted areas of the Buffalo region.

The Community Housing Center will be operated by two organizations, Housing Opportunities Made Equal and the Buffalo Federation of Neighborhood Centers, with Housing Opportunities Made Equal taking the lead in managing the day-to-day operations of the center. These two groups submitted a joint application in March 1998, and have received notification of the award in July 1998. Housing Opportunities Made Equal signed a contract with the City of Buffalo and HUD in October 1998 and planned to start providing mobility counseling in April 1999.

The Community Housing Center will offer clients a broad range of mobility-related services, such as convening group sessions to educate applicant families about the potential benefits of moving to non-impacted communities, providing individual mobility counseling, and assisting families in completing a rental application. These services will be provided by the two lead agencies as well as six subcontractors: the Rental Assistance Corporation; Neighborhood Legal Services; The YWCA of Western New York; The Independent Living Center of Western New York; The International Institute of Buffalo, and the Deaf Adult Services of Western New York.

The Community Housing Center's projected annual budget is \$700,000. HUD will provide \$600,000 per year, while the City of Buffalo will fund the remaining \$100,000. Although both funders have only committed to three years of funding, the Housing Opportunity Made Equal's Director and the plaintiffs' attorneys said the center should be operational for a longer period of time with funding provided by other organizations.

As indicated in Table 6, nearly 5,000 Buffalo and Erie County residents will be eligible to receive mobility counseling. Although all Section 8 subsidy recipients will receive information about mobility counseling, Housing Opportunities Made Equal, in its proposal, estimated that 40 percent of recipients in the first year, and 50 percent of recipients starting in the second year, would attend small group sessions on mobility services and tactics. A smaller percentage will require individual mobility counseling and escorted housing services. Moreover, the proposal estimates that 15 percent of all Section 8 subsidy recipients in Year 1 (162 families) will move into non-concentrated areas. The proposal also estimates that the percentage will increase to 20 percent in years 2 through 5. Therefore, the Community Housing Center will be staffed to facilitate a total of 881 moves by Section 8 recipients into non-concentrated areas.

**Table 6. Projected Number of Community Housing Center Clients**

	Rental Assistance Corporation	Belmont	Buffalo Municipal Housing Authority	Turnover	Total
Year 1	230	100	150	600	1,080
Year 2	235		150	625	1,010
Year 3	235		200	650	1,085
Year 4			150	700	850
Year 5			100	750	900
Total	700	100	800	3,325	4,925

Source: Housing Opportunities Made Equal/Buffalo Federation of Neighborhoods Centers Community Housing Center Proposal. March, 19, 1998

### 3.4.2 Issues Encountered in Implementation

The Community Housing Center has yet to start its operations and will not do so until the spring of 1999. The decree stipulated that the City of Buffalo was to initiate specific actions as part of the proposal review process. According to a HOME representative, the City initiated a selection process in 1997 and solicited proposals from non-profit organizations to operate the Community Housing Center. Housing Opportunities Made Equal and the Rental Assistance Corporation prepared a joint application that proposed to offer Section 8 recipients a number of mobility

counseling services. Housing Opportunities Made Equal responded to the RFP because of its expertise in fair lending. According to that organization's representative, operating the Community Housing Center was "Right up [the organization's] alley." The joint Housing Opportunities Made Equal-Rental Assistance Corporation application was selected by the City of Buffalo to operate the Community Housing Center in 1997.

Several informants, including attorneys and a City official, said that the decision to allow Housing Opportunities Made Equal and the Rental Assistance Corporation to operate the Community Housing Center raised some concern. These informants said that it seemed odd to them that the Rental Assistance Corporation, a defendant in the lawsuit, was chosen by the City of Buffalo to operate the Community Housing Center. One plaintiffs' attorney said, "The Rental Assistance Corporation was a defendant, why should it receive money as part of the settlement?" In addition, some plaintiffs' attorneys said that neither Housing Opportunities Made Equal nor the Rental Assistance Corporation had strong relationships with members of Buffalo's minority communities.

The City of Buffalo drafted a second RFP to secure proposals from organizations to operate the Community Housing Center. The City of Buffalo also convened a bidders' conference to provide information to all organizations that expressed an interest in submitting a proposal. In the second round, Housing Opportunities Made Equal partnered with Buffalo Federation of Neighborhoods Center, an organization that had experience in motivational counseling. The Rental Assistance Corporation was named as a subcontractor on the second proposal, rather than as a joint partner. Once again, Housing Opportunities Made Equal's proposal was judged by the City of Buffalo to be the best application.

### **3.5 Affirmative Measures to Further Fair Housing**

#### **3.5.1 Overview and Progress To-date**

Both *Comer* consent decrees require HUD to initiate efforts to increase fair housing options for minorities in the Buffalo area. The Section 8 decree requires HUD to conduct a study of rents in Erie County to determine if the costs are high enough to warrant exception rents above the Fair Market Rent for subsidy holders. HUD is only required to conduct the study and not necessarily approve applications for Fair Market Rent exceptions submitted by Section 8 agencies. Belmont Shelter representatives said that they have been pushing HUD to conduct the Fair Market Rent study and have been gathering information for the study that it will share with HUD. According to a HUD attorney, this study was completed.

The Public Housing decree requires three sets of additional actions by HUD. The first set is to create a process for increasing subsidy applicants' and recipients' knowledge of housing providers in the Metropolitan Buffalo area. HUD must prepare an inventory of all the federally assisted projects in the metropolitan area that receive project-based assistance. This group of projects will include all Section 236 (privately owned, multi-family housing) and Section 8 property owners. HUD will request from each owner demographic information on the racial characteristics of current tenants and of households on the waiting list. HUD will then create a list from that information of all projects in a census tract for which the poverty concentration is less than thirty percent and give that list to the Community Housing Center. HUD's Office of Fair Housing and Equal Opportunity has completed this study.

HUD will also identify federally subsidized sites where the percentage of minority household occupancy is greater than five percentage points below the overall minority household concentration in Erie County, according to the 1990 census. All developments on this list will be invited by HUD to amend or adopt an Affirmative Fair Housing Marketing Plan. Owners will also have the opportunity to revise their admissions policies and participate in a metro-wide marketing plan. Through this plan, all tenant-based subsidy applicants will also be able to complete a pre-application form for these developments. HUD will design the form and the Community Housing Center will distribute it to the applicants. Owners who participate in the marketing plan and who agree to fill all vacancies with persons using the pre-application form will have a "safe harbor" from HUD monitoring of the owners' compliance with affirmative fair housing marketing requirements. According to attorneys for the plaintiffs, HUD is working on this portion of the remedy, but has not yet completed all of the mandated activities because the Community Housing Center has yet to begin its operations.

The second set of actions involve a HUD analysis of data from federally assisted housing providers in the metropolitan area that use local residential preferences. HUD is to analyze data to determine if the preferences lead to any adverse discriminatory effects. Based upon the results, HUD is to take any necessary enforcement actions. HUD FHEO staff in Buffalo have completed this study, and determined that no federally-assisted project in Erie County uses a residency preference.

Finally, HUD is to require each jurisdiction in the Metropolitan Buffalo area to conduct analyses to identify any impediments to fair housing choice within their area. If impediments are identified, the jurisdictions are to take necessary actions to overcome the effects of the impediments and to maintain records of their analyses and actions. These studies are part of the process used to develop the Consolidated Plan. The City of Buffalo, the towns of Hamburg and Amherst, and 34 of the 41 member municipalities of the Erie County Consortium signed a contract with Housing Opportunities Made Equal to provide fair housing services. Housing Opportunities Made Equal previously conducted Analyses of Impediments to Fair Housing studies for Buffalo and the Consortium, and prepared action plans to overcome the identified impediments.

The last element of the decree regarding fair housing, that jurisdictions conduct analyses of any impediments to fair housing, has been implemented in a number of jurisdictions. Fair housing contracts between Housing Opportunities Made Equal and a number of cities and towns preceded the consent decree. At least one town, Amherst, has begun community outreach efforts on fair housing. Actions have included developing a booklet for area landlords on the issue. Also, the Community Housing Resources Board, which serves the county, submitted a grant application to fund production of a video to inform landlords and realtors of fair housing law and developed public service announcements for radio and television. A Housing Opportunities Made Equal representative did say that suburban communities have done less in this regard than they could. While a number of Consortium towns have signed contracts with the agency, other area towns have refused.

### **3.5.2 Issues Encountered in Implementation**

HUD is responsible for implementing some of the elements included in the *Comer* decrees to further fair housing. While some of these elements have been implemented, HUD has not completed all of the elements included in the decree because some are dependent on the Community Housing Center becoming operational.

### **3.6 Community Economic Development**

#### **3.6.1 Overview and Progress To-date**

The Public Housing decree stipulates that the City of Buffalo create an economic development task force charged with ensuring that the needs of Buffalo's public housing residents are included in the City's process used to develop its Consolidated Plan. This element was included, according to the plaintiffs' attorney, because the City of Buffalo and the Buffalo Municipal Housing Authority had not coordinated planning processes in the past. For example, the City of Buffalo designated the Willert Park neighborhood surrounding the A.D. Price projects as a homeownership zone. At the same time, the Buffalo Municipal Housing Authority has been demolishing units at the A.D. Price complex without consulting with the City of Buffalo about the potential effects on home values in the Willert Park neighborhood.

In addition, the housing authority used a planning process for the Lakeview HOPE VI application that did not include residents from the nearby Lower West Side neighborhood. Consequently, the City of Buffalo has not been able to coordinate its planning and resource allocation decisions with the proposed redevelopment initiative for the Lakeview project.

The City of Buffalo conducts planning efforts that go beyond HUD's requirement for a Consolidated Plan. Most notably, the City of Buffalo is developing a new master plan that will be made available for public comment in early 1999. The Public Housing decree was designed to assure that Buffalo's public housing tenants would play a role in the City's Consolidated Plan development process. Formally, the economic development Task Force would be used as a

forum for housing authority and City of Buffalo staff, public housing tenants and representatives of community based-organizations to come together and discuss possibilities of coordinated action.

The City of Buffalo's Division of Planning was charged with convening the Task Force and an initial meeting took place in December, 1997. The City has two members on the Task Force, a representative from the Economic Development Department as well as a Planning Department staff member. The plaintiffs' attorneys hired a consultant to be on the task force and provide technical assistance. In addition, representatives of two community organizations in the lower west side of Buffalo, Hispanics United and the Westside Neighborhood Housing Services are on the task force.

Thus far, meetings have been used to sharpen the focus of the task force's mission. Both City of Buffalo informants and the plaintiff's consultant said that the initial charge of the task force was vague. Therefore, the members of the task force have spent time developing an agenda and action plan for future meetings. City of Buffalo staff have been responsible for setting meeting agendas and coordinating logistics. The task force has started to identify initiatives that will have an impact on public housing tenants. Currently, the task force has started to explore a homeownership program for Lakeview residents. The group will assist in the Consolidating Planning process as well as other City of Buffalo-led planning initiatives.

### **3.6.2 Issues Encountered in Implementation**

The City of Buffalo chose an experienced staff member to be responsible for the task force. As a result, the consultant hired by the defense attorneys to participate in the task force believes that the process has gone smoothly and will eventually help to coordinate the Buffalo Municipal Housing Authority's and City of Buffalo's planning efforts. It is unclear how the task force will evolve, and what role it will play in future planning processes. This consultant said that it could become a forum where different agencies share information about plans that have been developed in isolation in order to improve communication among affected organizations.

#### **4.0 Impact on Residents and Section 8 Recipients**

Key elements of the consent decrees, most notably the creation of the Community Housing Center, have yet to be implemented. The impact of the decrees on public housing tenants and Section 8 recipients was minimal at the time of our visit in August 1998. We did, however, meet with small groups of residents in two public housing developments to discuss the decrees and residents' perceptions of neighborhoods in the Metropolitan Buffalo area. What we learned from residents relates to their degree of interest in and willingness to move into non-impacted areas using Section 8 certificates.

A total of 22 public housing residents attended focus groups held on-site at two developments named in the Public Housing decree for demolition / redevelopment. The methodology used to develop a sampling frame and contact potential participants is presented in Appendix A, while Appendix B contains discussion guides used during the focus groups.

##### **Familiarity with *Comer* Decree**

Approximately one half of the participants knew about a lawsuit involving the housing authority while only two people knew of the *Comer* consent decree by name. Even more importantly, most of the participants who knew of the lawsuit knew little about the specifics of the settlement and were confused over the elements about which they had heard. In fact, informants who had heard of the *Comer* settlement sometimes offered details about the decree that were inaccurate. For example, many focus group participants had not heard of the Section 8 program. Some of those who were familiar with the program did not understand how the subsidy program worked. Moreover, many participants were suspicious of the Section 8 program. A focus group participant said:

*“[a] letter [came] from Municipal Housing. They sent letters out when they were thinking of renovating and all that stuff. You had to choose to relocate and you had a choice of taking a certain amount of money, Section 8 or whatever, but it was only a one-time thing. Section 8 was only for a year, that’s why I didn’t bother.”*

Another participant said:

*“...the Section 8 housing, if you get one issued to you, it’s only good for six months...Then I heard that...the certification is only good for 15 years and then it dissolves...they said...that it’s kind of iffy too because the government may not honor Section 8 housing after two years.”*

### **Interest in Making Desegregative Moves**

The most significant difference between the discussions at the two developments had to do with residents’ interest or willingness to move into non-impacted areas with Section 8 certificates. The majority of participants in the first group said very clearly that they did not want to move from their homes. A participant said “the point is we don’t want to move from here at all.”

Participants who wished to remain in the development, however, indicated they wanted better services, e.g., maintenance, and wanted the areas within and around the developments to be improved. In fact, almost all of the participants in the first focus group described how the project used to be a good place to live, and would like the development to be restored. One participant said

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*“..these projects have steady [sic] went down. When I first came over here, it wasn’t too bad. Now, this other crowd...The relation with these elderly people...it’s really sad.”*

Participants in the second group were more interested in learning about housing opportunities in different parts of the city and county in order to make desegregative moves with Section 8 certificates. Whether interested in a possible move or not, participants in both groups voiced four primary concerns with moving from their current neighborhoods. First, people identified many non-impacted neighborhoods and towns as racist. They do not want to move to an area where they believe beforehand that they and their families will not be easily accepted. In fact, the focus group participants had sharply defined perceptions of the racial tolerance among residents in a variety of Buffalo region neighborhoods. Participants, for example, described a neighborhood in Buffalo as “very prejudiced...75 percent, 80 percent of [residents in the neighborhood] wouldn’t welcome us...” Another neighborhood, when presented to the focus group as a potential place to move, was greeted with incredulous laughter from all of the participants.

Some participants in the second focus group, however, said they would consider using Section 8 certificates to move into non-impacted neighborhoods that did not have racist reputations. Also, some of the participants did not feel all of the residents of a neighborhood with a forbidding reputation would present a problem. For example, a participant said that one Buffalo neighborhood, described by some in the group as highly prejudiced was “...a pretty good area. I used to go there and I kind of liked it.” Another informant, described a suburban town as very racist, but added, “I have friends who live out there. It’s just you got to keep to yourself. Sometimes you want to be friends with your neighbors and you can’t do that.”

For some though, the pressures of living in a non-impacted area would create a level of stress that would outweigh benefits that might come with the move. For example, a participant said:

*“...I feel like I want to live where I’m comfortable...I don’t want to live where if I’m out there or somewhere else where just because of my skin color I got to be worried about the police driving by my house*

*and I'm just as good a neighbor as them next door to me...But they always...thinking because of my skin color or whatever I'm out there with drugs or I got wild parties all the time..."*

Second, a number of people spoke of the importance of having family live near them. Moves into non-impacted areas would involve the loss of proximity to one's family support and social system. A participant said "...I grew up here and I have most of my family here, so I would want to stay where my family is. I wouldn't want to move outside." Similarly, another participant said "I would like to stay in the neighborhood. I've been around here all my life."

Third, many participants spoke of the locational disadvantages of moving farther from the downtown area. People in both groups talked about the convenience of their current neighborhoods with regards to public transportation and access to jobs, services, stores, and clinics. One participant said, "If...you have to work, you have to consider your transportation. Generally speaking, you can't afford a car, therefore you have to depend on the bus system. [If] you can't get around by the bus system, you want to be as close to that job as you can."

Fourth, others expressed concerns with the financial costs associated with moving. One participant said:

*“Last night someone got killed right there.<sup>59</sup> Right there, very close by. You’re very scared, you don’t know what to do. You say I’m going to move. Where?, and how are you gonna pay?....O.K. You pay your building, but we don’t pay the gas and electricity [in public housing]...You want to move...you don’t have enough to pay the gas.”*

Another participant said:

*“If I moved out...it would still cost me three or four hundred to move.”*

### **Preferred Mobility Services**

Presented with a scenario in which they were to move, participants talked about the types of assistance that would ease the transition. While there were people who indicated they would like help with the move itself, such as assistance to defray moving costs, most participants spoke of the kinds of information they would want to have before selecting a new home. People said they would like information on available housing, and for any particular rental unit, information on the landlord. Is the person responsible with maintenance? Does the landlord have a good or bad reputation? Also, if there were plans for the future of the unit, for it to be sold or renovated, they would want to know that up front.

## **5.0 Conclusion as of Fall, 1998**

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<sup>59</sup> A murder took place across the street from the development the evening before the focus group. Housing authority representatives said a homicide had not occurred on its property in over two years prior to the crime.

The Buffalo *Comer* desegregation case, in its early stages, has had little effect on Buffalo-area public housing tenants and Section 8 subsidy recipients. Only 7 Section 8 certificates have been issued (to named plaintiffs) out of the 1,600 additional Section 8 certificates granted by HUD under the two *Comer* decrees. Moreover, the Community Housing Center, which is to provide mobility counseling, had not started its operations as of our site visit in August 1998. Finally, the Buffalo Municipal Housing Authority has been unable to secure funding needed to develop the Lakeview public housing development. However, the Rental Assistance Corporation and Belmont Shelter Corporation have started to cross-list applicants for Section 8 certificates and these two organizations have also developed special waiting lists that include the names of class members eligible for remedial Section 8 certificates. An economic development Task Force has met to start planning for the economic revitalization of the neighborhoods surrounding some Buffalo Municipal Housing Authority developments.

Two major factors have affected the pace of implementing the *Comer* decrees in Buffalo. First, the Public Housing decree required the defendants to demolish and replace and/or rehab units in three public housing developments in Buffalo. This settlement, however, did not include any additional funding to the Buffalo Municipal Housing Authority for these activities. Rather, the housing authority was to secure HOPE VI funds and tax credits. While the Buffalo Municipal Housing Authority has been awarded a HOPE VI grant, it still has a \$44 million short fall in the funds needed to complete the Lakeview redevelopment plan.

Second, the Community Housing Center, which is responsible for providing mobility counseling services to Section 8 certificate recipients, had not started its operations as of our site visit. As a result, the remaining additional Section 8 certificates had not been issued because the decrees stipulate that the Community Housing Center must be operational before additional certificates can be issued by HUD.

## **Baseline Case Study: Dallas**

**by**

**Susan J. Popkin, Elise Richer, and Carla Herbig**

### **1.0 Background and Introduction**

The *Walker v. HUD*<sup>60</sup> case in Dallas is the second oldest of the desegregation lawsuits in this study; it is also by far the most complex. First initiated in 1985, the case led to separate consent decrees against the Dallas Housing Authority (DHA) and the Department of Housing and Urban Development (HUD) in 1987, and the City of Dallas in 1990. The original consent decree against DHA and HUD was vacated in 1992, the case was reopened, and new, far-reaching remedial orders were issued against DHA in 1995 and against HUD in 1996. The remedial order against HUD was superseded by a new consent order in 1997. In addition, there has been a related fair housing lawsuit against the nearby City of Sunnyvale.

Finally, the case has spawned two separate lawsuits by homeowners' associations in white communities against the DHA to try to stop the construction of public housing in their communities. The first case was settled in 1997; at the time of the case study (September 1998), the second was awaiting a decision from the Fifth Circuit Court of Appeals. The Court issued a ruling in March 1999 favoring the homeowners' position that the race-conscious remedy—scattered-site housing in non-impacted neighborhoods—was not narrowly tailored and that the same goals

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<sup>60</sup> *Debra Walker et al. v. The U.S. Department of Housing and Urban Development, et al.*, 1987.

could be accomplished through providing plaintiffs with Section 8 vouchers. The details of the decision and the potential ramifications for the *Walker* case are discussed in Section 5.0 below.

The *Walker* case has been extremely contentious, with the litigants returning to court many times to address issues such as the defendants' alleged noncompliance with the terms of the consent decrees, lawyers' fees, and the numbers of units to be demolished and replaced. There are ongoing tensions and conflicts between the agencies responsible for implementing the decrees. Despite this contentious history, all parties agree that the *Walker* case has had a profound impact on the management of public housing in Dallas.

## **1.1 Historical Basis for the *Walker* Case**

### **1.1.1 Segregation in Dallas**

According to the 1990 Census, Dallas was the ninth largest city in the United States. It is one of the fastest-growing metropolitan areas in the nation and currently has a population of 1,053,292 persons. In 1990, the city's population was approximately 55 percent white, 30 percent African-American, and 20 percent Hispanic. If current trends continue, the population will be predominantly minority by the year 2000 (See Table 1).

Dallas has long been highly segregated, with most whites living in the North Dallas area and in the surrounding suburbs. As shown in Figure 1, African-Americans are concentrated in the southern and southeastern sides of the city. Hispanics are more dispersed than African-Americans, but there are heavy Hispanic concentrations in the center city and on the west side. According to Massey and Denton (1993), Dallas was one of the most segregated cities in the south—and the United States as whole. Although segregation declined slightly between 1970 and 1980, even middle-class African-Americans were still living in highly-segregated communities in 1980 and Dallas was still one of 16 cities classified as “hypersegregated.” As of 1990, the dissimilarity index measuring segregation between whites and African-Americans in the Dallas/Fort Worth metropolitan statistical area was 0.631. The segregation between people of Hispanic origin and whites and African-Americans is largely unaddressed in the literature and in the desegregation case. As will be discussed later, residents of Dallas public and subsidized housing are disproportionately non-Hispanic.

### **1.1.2 Segregation in DHA Public and Assisted Housing**

The pattern of segregation extended into Dallas' public housing stock—Dallas was one of only a few cities in the nation where public housing was even more segregated than housing in general (Massey and Denton, 1993) (see Figure 2). The level of segregation in DHA housing is the result of a long history of discriminatory policies. The DHA was founded in 1938 and, like most housing authorities at the time, maintained separate developments by race—in DHA's case, for whites,

African-Americans, and Hispanics. The developments set aside for whites were generally in more desirable locations and better maintained.

While the City of Dallas itself is mostly white, and has a large Hispanic population, DHA's tenant population is predominantly African-American. For example, in 1990, DHA's public housing population was 80 percent African-American, 12 percent white, and 7 percent Hispanic and other minorities. Figure 2 shows the spatial distribution of DHA public housing developments.

**Table 1. Population Changes in the Dallas-Fort Worth Region**

	Dallas City	Dallas County
Total Population		
1980 Population	904,078	1,556,390
1990 Population	1,006,831	1,852,810
Change	102,753	296,420
Percentage Change	11.4%	19.0%
<i>Black Population</i>		
1980 Population	265,075	285,753
1990 Population	297,018	369,883
Change	31,943	84,130

**Table 1. Population Changes in the Dallas-Fort Worth Region**

	<b>Dallas City</b>	<b>Dallas County</b>
Percentage Change	12.1%	29.4%
<i>Hispanic Population</i>		
1980 Population	110,478	154,083
1990 Population	204,712	307,542
Change	94,234	153,459
Percentage Change	85.3%	99.6%

Source: U.S. Census.

**Map here--Title Figure 1**

As shown in Figure 3, DHA's Section 8 population is also highly segregated. Further, like its public housing population, DHA's Section 8 population is predominantly African-American. As of 1998, the Section 8 population was similar: 88 percent African-American, 5 percent non-Hispanic white, and 6 percent Hispanic and other. According to informants at the DHA, these figures have changed little during the 1990s.

### 1.1.3 West Dallas

The West Dallas developments, which formed the basis for the original *Walker* litigation, were constructed in the 1950s, in part as a solution to the shortage of affordable housing for African-Americans in the area. Indeed, in a 1989 court opinion Judge Jerry Buchmeyer, who has presided over all the *Walker* litigation and is one of the few actors who has been involved with the case since the beginning, highlighted historical evidence that the construction of public housing in West Dallas was originally intended to prevent poor blacks from moving into what were then white areas in South Dallas.<sup>61</sup>

The West Dallas complex, at 3,500 units on 460 acres, was the largest low-rise public housing complex ever constructed in the United States. When first opened, it consisted of a 1,500-unit development for whites, a 1,500-unit development for blacks, and a 500-unit development for Hispanics. However, by the mid-1970s, the development had become almost entirely African-American (*Walker III*).

### 1.1.4 Tenant Assignment and Selection

According to a history of the DHA included in the *Walker III* opinion, DHA used a race-conscious tenant-selection and assignment plan to sustain the segregation in its public housing developments through the 1970s. Under this plan, which DHA titled "freedom of choice," applicants were not notified that they could apply for the project of their choice and further, if an

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<sup>61</sup> *Walker et al. v. HUD et al.*, 1989 Memorandum Opinion: Walker III: Joinder of the City of Dallas as a Defendant Subject to the Consent Decree. (Henceforth, referred to as *Walker III*.)

applicant for a particular project was not of the predominant race, the application required DHA Board approval. In 1967, HUD rejected this plan as a violation of Title VI and required DHA to change to a “first come, first served” policy, which would have meant offering the next available unit in any development to the household at the top of the waiting list.

**Map 2 here--Title Figure 2**

**Map 3 here**

**Figure 3**

The DHA still had not abandoned its discriminatory policy by 1969; because of this refusal, HUD denied the agency \$31 million dollars in funding for maintenance and management from 1969 to 1974. According to the 1989 opinion, although DHA did modify its tenant selection and assignment procedures somewhat, the agency continued its race-conscious policies until the Walker suit was filed in 1985. The withholding of HUD funds meant that DHA did not have the resources to maintain its developments. As a result, conditions in its properties, particularly West Dallas, deteriorated dramatically. Although the DHA did receive modernization funds after 1974, the agency spent significantly less on West Dallas than it did on its other properties (*Walker III*). By the time *Walker* was filed in 1985, the development had become severely distressed.

### **1.1.5 Section 8 Program**

DHA initiated its Section 8 program in 1975. In its 1987 ruling, the court found that DHA had extended its discriminatory practices to its Section 8 program. Although the agency was urged to do so, it chose not to permit Section 8 certificate holders to use their certificates in suburban areas, which the court construed as limiting their housing opportunities in nonminority areas. Further, in 1980, DHA adopted a policy which effectively prevented many of its public housing tenants from applying for Section 8. Under this policy, public housing tenants could only apply for Section 8 if they first moved out of public housing and waited for 90 days before submitting their application for a certificate. Since the majority of DHA's public housing tenants were African-American, the court found that this policy had the effect of limiting minority participation in the Section 8 program.

The court also found in 1987 that the DHA had failed to ensure that the units occupied by African-American Section 8 participants met HUD's housing quality standards (HQS). The agency contracted with the City of Dallas to conduct housing quality inspections for its Section 8 units rather than conducting them in-house. The court found that these city inspectors consistently approved units for African-American families in minority neighborhoods that were in violation of HQS. When DHA's own inspectors redid these inspections after the first consent decree was issued in 1987, they found that 60 percent of the city-approved units were in violation of HQS.

## **1.2 The *Walker* Case**

Although HUD had cited DHA several times for discriminatory practices during the 1960s and 1970s, the agency did not become the target of any major fair housing litigation until the mid-1980s. Mike Daniel, the plaintiffs' attorney, filed the original *Walker* case in 1985. Mary Dews, a counselor for the Dallas Tenants Association, had come to Daniel with complaints about unequal conditions for African-Americans and whites in DHA public and Section 8 housing. Daniel, a public interest attorney, had filed the *Young* case in East Texas in 1980, and was actively involved in fair housing issues. Daniel filed a class action suit against the DHA and HUD; Debra Walker and six other West Dallas residents represented the plaintiff class.

A consent decree in the original DHA case was issued in 1987, providing the Court with jurisdiction over the DHA for five years. As will be discussed in greater detail, Congress approved the Frost-Leyland Anti-Demolition Statute in 1987, prohibiting HUD or DHA funds from being used for the demolition of public housing in Dallas; therefore, by 1992, when the time period had ended, no demolition had occurred and the decree was vacated. According to the HUD attorney, other than the demolition, HUD complied with all requirements under the initial decree. Because the DHA had not yet successfully implemented the agreed-upon plan, however, the case was immediately reopened.

In 1994, the court granted the plaintiffs summary judgement against the DHA and HUD, and issued a new remedial order against the DHA in February 1995. The City of Dallas was pulled into the case as a defendant in 1989 for failing to uphold the original decree; a separate consent decree was issued against the City in 1990. In 1996, the court issued a remedial order against HUD; a modified order was agreed to in early 1997. Finally, as discussed above, two separate lawsuits were filed by homeowners associations that sought to prevent the construction of replacement housing in their communities. A summary of all the major litigation and consent decrees in the *Walker* case is shown in Table 2.

The *Walker* case has grown increasingly complex over the years and has the most far-reaching provisions of any of the cases we investigated. The remedies that have been ordered under *Walker* include: administrative changes; demolition and redevelopment of West Dallas; creation of a mobility program; construction of replacement housing in predominantly white areas; construction of additional low-income housing in the City of Dallas; and addressing social and economic problems in and around DHA developments. The number of replacement units ordered (about 9,000 DHA-owned and -operated units and Section 8) and the range of remedies ordered

suggest that *Walker* is the largest desegregation settlement against a housing authority in the United States.<sup>62</sup>

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<sup>62</sup> The *Gautreaux* case in Chicago is the oldest PHA desegregation case. In that case, HUD was obligated to provide 7,100 Section 8 certificates.

**Table 2. Major Litigation in the Walker Case.**

*Plaintiffs:* In all cases, Debra Walker et al., representing class members (African-Americans presently or who during pendency of Consent Decree were residents of DHA property or recipients of DHA Section 8 certificates).

*Defendants:* HUD; Dallas Housing Authority City of Dallas.

	Date filed	Decision dates	At issue	Resolution
Walker (Original Case)	6/25/85	1/20/87: Consent Decree entered;  1990: Supplemental Decree entered;  1992: Decree vacated	Discrimination in public housing	DHA must cease discriminating, equalize conditions, modernize and replace West Dallas units
Walker I	8/4/89	9/22/89: Revised Opinion filed	Violation of Consent Decree by DHA because no Tenant Assignment and Selection Plan, no mobility program, problems with FMRs, Section 8, HQS, and new public housing units	Appointment of a Special Master to monitor compliance by all parties

	<b>Date filed</b>	<b>Decision dates</b>	<b>At issue</b>	<b>Resolution</b>
Walker II	8/4/89	9/22/89: Revised Opinion filed	Frost-Leyland Amendment barring use of federal funds for demolition of public housing in Dallas	Frost-Leyland Anti- Demolition Statute ruled unconstitutional by district court; decision reversed by Fifth Circuit.
Walker III	8/4/89	9/22/89: Revised Opinion filed	City of Dallas' participation in discrimination in public housing	City eventually joined as a defendant in the original decree, with scope and specifications to be determined
Suit against City of Dallas		9/24/90	City of Dallas', DHA, and HUD's continued participation in discrimination in public housing	\$118 million worth of programs and activities to be undertaken over 8 years, to ameliorate conditions in public housing developments
Frankford and Marsh Homeowners' Suit	1995	settled in 1997	Siting of public housing units in Far North Dallas (Frankford and Marsh)	Court ruled in favor of the defendants and the development was built; residents moved in July, 1998
Remedial Order against DHA	1995	1995	Compliance with Consent Decree	DHA ordered to produce 3,025 units of new public housing in predominantly white areas; revision of

	Date filed	Decision dates	At issue	Resolution
				demolition and modernization plans; change in definition of "impacted" area; provision of additional services to residents
Remedial Order against HUD	1996	Superseded in 1997	Compliance with Consent Decree	HUD must exercise its discretion to accomplish goal of providing 3,025 units of public housing in predominantly white areas; submit an unfunded equalization plan; provide funding for mobility counseling; inclusion of surrounding suburbs into cooperative agreements; provision of improvements to public housing neighborhoods
Walker v. HUD, Highlands of McKamey VI, and V Community Association, Preston Highlands Homeowners'	7/3/96 7/12/96: consolidated with Walker case	8/97: Judge rules against homeowners; 10/97: 5th Circuit agrees to injunction blocking projects; 1/98: Case appealed to 5th Circuit	Siting of public housing units in Far North Dallas (McCallum and Hillcrest)	At the time of the case study (9/98), was on appeal to 5th Circuit. Court ruled in favor of the plaintiffs in 3/99.

	<b>Date filed</b>	<b>Decision dates</b>	<b>At issue</b>	<b>Resolution</b>
Association, et al.				

**Figure 4 here: Timeline**

**Figure 4 here: Timeline** (continued)

**Figure 4 here: Timeline**(continued)

**Table 3. Overview of Defendants, Walker Case**

Defendant	Institutional Role	Complaint
Dallas Housing Authority (DHA)	Operates public housing in the City of Dallas as well as the Dallas metropolitan area; administers Section 8 certificates and vouchers	Housing Authority maintained developments segregated by race; public housing projects with high a proportion of minority residents did not receive the same maintenance as projects with a high proportion of white residents; in particular, the West Dallas development was severely distressed due to decades of neglect
Department of Housing and Urban Development (HUD)	Provides Section 8 vouchers and certificates to DHA; monitors and funds public housing	HUD did not uphold standards in Dallas public housing; failed to prevent DHA from discriminating in its housing
The City of Dallas	Recipient of Section 8 subsidies and responsible for oversight of Dallas Housing Authority as well as for general neighborhood conditions.	Did not provide sufficient oversight to the Dallas Housing Authority, allowing it to discriminate against African-Americans; did not improve conditions in impacted neighborhoods as required under the Consent Decree

**Table 4. Overview of Major Decree Elements, Walker Case**

Remedy	Description	Implementation Responsibility	Progress to date
Institute new tenant selection and assignment plan (TSAP); merge public housing and Section 8 waiting lists	Dallas Housing Authority (DHA) was ordered to replace “freedom of choice” TSAP model with “first-come, first-served” policy, and to merge its public housing and Section 8 waiting lists	DHA	New TSAP policy instituted and waiting lists merged shortly after first consent decree.
Modernization and rehabilitation of public housing	Demolition and reconfiguration of the 3,500 units at West Dallas to 950 units; modernization of other public housing in the city	DHA	A total of 2,330 units in West Dallas have been demolished; modernization has proceeded to the point where almost all Dallas developments are now considered modernized
Construction of replacement housing	One-for-one replacement of demolished public housing units; construction of replacement units in non-impacted areas	DHA	One-for-one replacement of West Dallas units has primarily been through Section 8 vouchers and certificates; little progress on construction in

**Table 4. Overview of Major Decree Elements, Walker Case**

Remedy	Description	Implementation Responsibility	Progress to date
			non-impacted areas (see below)
Expansion of Section 8 program	Section 8 program was to serve all people equally; more vouchers were to be made available to Dallas; single waiting list was to be created for public housing and all Section 8 units	HUD; DHA	HUD has provided the DHA with more vouchers than before the lawsuit; currently over 9,500 Section 8 holder, in 1987 there were 3,700; a single waiting list has been created
Establishment of Housing Mobility Division	Housing Opportunities Program was created to assist minority Section 8 certificate holders in moving to non-impacted areas	DHA	The Housing Opportunities Program (HOP) was established in 1989, and is currently seen as fairly successful
Improvement of neighborhoods surrounding DHA developments	Improve gutters, curbs, and sidewalks; provide recreational opportunities and increased security	City of Dallas	Reports conflict about the extent to which the City has made improvements, but some roads and security have improved

**Table 4. Overview of Major Decree Elements, Walker Case**

Remedy	Description	Implementation Responsibility	Progress to date
Increase number of public housing units in non-impacted areas	Construct 474 units of replacement housing and construct or acquire 3,025 public housing units in areas where poverty rate was less than 13% and the population was no more than 37% African-American	DHA	75 units were constructed in North Dallas (Frankford and Marsh), and tenants moved in July of 1998; at the time of the site visit a court injunction blocked construction in two other sites until a homeowners suit was settled
Raise rent ceilings to 120% of FMR	DHA ordered to request exception rents for non-impacted areas.	DHA	Now implemented, but DHA staff say that there was a long wait for HUD approval
Provision of low-income housing opportunities in Dallas suburbs	Creation of \$22 million Housing Fund to pay for the expansion of these opportunities; use of city zoning and other legislative methods to create 800 units of low-income housing in predominately white areas	City of Dallas	It took the City six years to put the money into the Fund;\$2 million has been spent to date; City says it has been unable to persuade predominately

**Table 4. Overview of Major Decree Elements, Walker Case**

Remedy	Description	Implementation Responsibility	Progress to date
			white suburbs to accept any low-income housing

Because there have been so many different rulings in the *Walker* case, understanding the specific provisions is very challenging. The fact that there are separate decrees applicable to each of the defendants, each with its own set of requirements, only adds to the complexity. For example, as of 1997, the DHA, the City of Dallas, and HUD were each operating under a different definition of “impacted” areas. Each defendant also has some responsibility for equalizing conditions in and around DHA developments, although the specific role for each agency is not entirely clear. Finally, although all three agencies are to create new desegregative housing opportunities, each has its own set of goals and requirements. Because of the complexity of the case, we have included a timeline of the Walker case in Figure 4, a list of the defendants involved in the litigation in Table 3, and an overview of the major provisions in Table 4.

### **1.2.1 The Case against the DHA**

The basis for the original 1985 *Walker* case against the DHA was the segregation and unequal conditions in DHA public and assisted housing. Much of the case focused on the West Dallas complex. As noted above, by 1975, the entire development was 95 percent African-American. Conditions had deteriorated to the point where, in 1985, the DHA’s executive director called the development “a publicly-owned slum.” Vacancy levels were high, and violent crime rates were much higher than in other parts of the city. The project was plagued with high rates of drug trafficking and was home to hundreds of transients. An RSR Corporation lead smelter adjacent to the development created a dangerous environmental hazard. Finally, the surrounding area of the city had deteriorated, also becoming economically distressed.

By 1983, about 1,300 of the original 3,500 units in West Dallas had been declared vacant and uninhabitable. At the time the first decree against the DHA was entered in 1987, just 1,917 families lived in West Dallas. The remaining units were empty, and most of them had been boarded up for a decade.

### **1987 Consent Decree**

The 1987 Consent Decree called for a number of changes in DHA's management of its public housing, particularly West Dallas. DHA was required to make the project safe and decent by modernizing 800 to 900 units.<sup>63</sup> The remaining units were to be demolished immediately, if vacant, or eventually once they were empty. Tenants were to be relocated outside of the project or put into modernized units. Demolition was to occur with one-for-one replacement, either in public housing or through Section 8 vouchers and certificates. The new housing was to be located in predominantly white areas.

DHA was also to equalize conditions in its developments, modernizing its housing and ensuring that there were no longer disparities between its predominantly white elderly developments and its predominantly African-American family developments. In addition, DHA was ordered to finally change its tenant assignment and selection process to a "first come, first served" system and merge its public housing and Section 8 waiting lists.

To remedy the inequities in its Section 8 program and offer desegregative housing opportunities for tenants, DHA was ordered to create a mobility counseling program modeled on the Gautreaux program in Chicago. HUD was to provide additional Section 8 certificates as replacement housing for West Dallas and these certificates were to be used to promote mobility and choice. The mobility program was to provide counseling to encourage Section 8 certificate and voucher holders to move to "non-impacted" areas. However, unlike the *Gautreaux* case, the court's standard for an "impacted" area in the *Walker* case was race neutral; a census tract was considered to be impacted if it had 10 or more Section 8 households residing in it. DHA was also ordered to remedy the problems with its Section 8 inspections and ensure that African-American tenants were no longer living in substandard units.

Few of the original actors involved in negotiating and implementing the 1987 decree were still involved at the time of the case study in September 1998. However, according to court documents, the DHA made little progress in implementing this initial decree after 1987—indeed, the plaintiffs took the DHA back to court alleging noncompliance after only six months. However, there was some activity during 1988 and 1989: HUD complied with its obligations, providing the DHA with approximately 2,000 Section 8 certificates and vouchers to use as replacement housing

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<sup>63</sup> The number eventually agreed upon was 842.

for West Dallas, and the DHA initiated its Housing Opportunities Program to promote mobility among all potential candidates, regardless of race. The housing authority also changed its tenant assignment and selection process and merged its waiting lists. In addition, DHA had used Comprehensive Improvement Assistance Program (CIAP) funds to modernize 842 units of the West Dallas development in late 1987.

### **Conflict over 1987 Decree**

Although the HUD attorney asserts that the agency complied with its obligations under and DHA attempted to implement some elements of the 1987 decree, the plaintiffs' attorney alleged that these actions were insufficient. Turmoil within the DHA—and particularly, resistance to the imposition of the decree—may have affected the DHA's initial implementation efforts. The plaintiff's attorney is one of the few key actors involved with the case since its inception. According to his account and court documents from late 1980s, DHA administrators and the DHA Board disagreed about the decree. Further, turnover of senior staff also contributed to the delays in implementation. J. Herrington, DHA's Executive Director when the decree was handed down, resigned in 1988 and was replaced by an acting director, Charles Crane. Crane immediately fired four members of the original mobility team, including the first program director, Craig Gardner.<sup>64</sup> Crane himself resigned a year later, and was replaced by Alphonso Jackson. Many key informants reported that Jackson brought a new energy to the DHA as well as new staff dedicated to improving the agency.

During the period that the DHA was undergoing these changes, court battles and local political struggles over the *Walker* case continued. A central dispute was the fate of the West Dallas development. Although the original decree called for demolition of more than two-thirds of the units and the DHA had modernized 842 units, there was a great deal of disagreement over how many units should actually be demolished, how many should be replaced, the final size of the development, and how many replacement units should be provided in “non-impacted” areas.

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<sup>64</sup> Gardner eventually became the Executive Director of the Walker Project, a Fair Housing organization funded by the 1990 decree against the City of Dallas.

Decisions over how to redevelop the West Dallas site were further complicated by the congressional passage of the Frost-Leyland Anti-Demolition Statute in 1987, which, as noted above, prohibited HUD or DHA funds from being used for the demolition of public housing in Dallas. This amendment was passed in response to concerns raised by a group of West Dallas tenants who opposed demolition of low-income housing in their community. According to the HUD attorney, these residents were also able to enlist the support of then-HUD Secretary Jack Kemp to support renovation of 2,000 units on-site. Judge Buchmeyer declared the Frost-Leyland Amendment unconstitutional in late 1989, but his decision was reversed by the Fifth Circuit Court of Appeals. As a result, the statute remained in effect until Congress repealed it in 1995, stymying any attempts at redevelopment of the West Dallas site<sup>65</sup>.

Another point of contention was DHA's failure to construct replacement housing in non-impacted areas during this period. Court records document numerous disputes between the DHA and white residents over sites that the agency selected for replacement housing. The plaintiffs alleged that neither the DHA nor the City were making good-faith efforts to overcome these obstacles and that HUD was failing to force the housing authority to adhere to the terms of the consent decree.

In addition to the disputes over the West Dallas development and replacement housing, there was also disagreement as to whether DHA's mobility program was complying with the terms of the decree to help African-American Section 8 participants find units in predominantly white areas. DHA's Housing Opportunities Program (HOP) was touted as a success at moving Section 8 tenants into non-impacted areas. However, as discussed above, the definition of a non-impacted area in the original decree was race-neutral, based on the number of Section 8 certificate and voucher holders in a given census tract. Therefore, it was possible for the program to succeed in its mission of moving Section 8 tenants to "non-impacted" areas without substantially increasing the number of African-American tenants in predominantly white areas—and without moving any tenants to suburban communities.

### **The 1995 Remedial Order**

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<sup>65</sup> The Frost-Leyland Amendment was repealed in September 1995 as part of the Omnibus Budget Reconciliation Act of 1995.

In 1989, the court joined the City of Dallas as a defendant for failing to enforce the terms of the decree (the case against the City is discussed below). The City agreed to a separate consent decree in 1990 and the court appointed a Special Master in 1990 in an effort to ensure that the provisions of both the 1987 and 1989 decrees were followed. In 1992, the original decree expired and was vacated, and the case against DHA and HUD was reopened, with the plaintiffs' alleging that the original provisions had never been met. After finding for the plaintiffs in 1994, Judge Buchmeyer issued a new remedial order against the DHA in February of 1995.

The 1995 order called for the following:

- Demolition of 2,630 units in the West Dallas complex, excluding the 842 units rehabilitated in 1987;
- A change in definition of an impacted area from the race-neutral standard (more than 10 units of Section 8 per census tract) to a census tract which is more than 37 percent minority and where more than 13 percent of the households are below the poverty level;
- The provision of over 2,000 Section 8 certificates and vouchers as replacement housing for West Dallas;
- The construction of 474 units of new DHA-owned and -operated housing in predominantly white areas as replacement housing for West Dallas;
- Development of an equalization plan for DHA developments that would remove inequities between predominantly white elderly developments and predominantly black family developments;

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- Provision of resident services and additional security for DHA public and assisted housing; and
  - The raising of rent ceilings to 120 percent of the fair market rent (FMR) for non-impacted areas.

The DHA is currently in the process of implementing the terms of the 1995 remedial order. The contentiousness and conflict has continued, however, with the parties returning to court to resolve issues such as exactly how DHA will redevelop the West Dallas site; whether DHA can convert another development (Roseland) to mixed-income housing; and where DHA will be able to build replacement housing.

DHA staff and the plaintiffs attorney contend that implementation has been delayed by a slow HUD approval process; at the time of the case study, HUD had yet to approve DHA's equalization plan. Further, DHA staff complained that it took HUD nearly a year to approve DHA's final plan for West Dallas, which calls for the demolition of the entire development and the construction of 950 units on the site. The HUD attorney contends that DHA caused the delays, stating that DHA had received approval for its plan in 1989 and no new approval was required. However, HUD believed that DHA's final plan was sufficiently different from the one submitted in 1989 that HUD required DHA to provide additional justification. According to the HUD attorney, DHA delayed in submitting written justification for this new plan, leading to the delays in HUD approval.

### **1.2.2 The Case against the City of Dallas**

In many of the desegregation cases that HUD settled during the 1990s, the City government was included as a defendant in the original lawsuit. In Dallas, however, the City was not pulled into the lawsuit until 1988, when the plaintiffs accused the City government of obstructing the construction of replacement housing in predominantly white areas. The Court also ruled that the City had failed to promote fair housing and to stop the DHA's discriminatory behavior. In 1989, Judge Buchmeyer joined the City as a defendant. According to the current City Attorney, the City assumed the Judge would rule against it, and chose to negotiate a separate consent decree with

the plaintiffs in 1990. He also asserts that part of the City's motivation for settling the case was to address the concerns of African-American residents upset about the loss of low-income housing in West Dallas.

Under the 1990 consent decree, the City of Dallas is obligated to do the following:

- Improve areas around DHA developments, particularly West Dallas;
- Provide 1,600 units of low-income housing in predominantly white areas on terms substantially equivalent to public housing;<sup>66</sup>
- Provide a pool of \$50,000 per year to give landlords \$600 bonus payments for renting three- and four-bedroom units to Section 8 families;
- Use city zoning and other legislative efforts to create 800 units of low-income housing on terms substantially equivalent to public housing in predominantly white areas of Dallas;
- Create a \$22 million fund to produce affordable low-income housing (substantially equivalent to public housing) in non-impacted areas, particularly the suburbs. (The City decree defines a non-impacted area as an area that is less than 50 percent black, a much less restrictive definition than the DHA's definition.);
- Create a Fair Housing Enforcement office to enforce the Fair Housing Ordinance for the City of Dallas; provide \$300,000 per year for a private, non-profit fair housing organization; create a low-income housing clearinghouse; and

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<sup>66</sup> In 1997, HUD provided Dallas with funds for 1,400 Section 8 vouchers for this purpose.

- Obtain cooperative agreements from other local governments to permit the construction of low-income housing in their communities.

A summary of the provisions and progress to date is shown in Table 4. The consent decree against the City was to be in effect for eight years. Like the DHA, the City and the plaintiffs have returned to court on numerous occasions to dispute terms of the decree. Although the City has created a Fair Housing Office and provided funding to an independent fair housing organization, the Walker Project—all parties (including the City Attorney) agree that the City been able to create only a relatively small number of few new housing opportunities. HUD has assisted the City by providing 1,400 Section 8 vouchers to help meet its obligations. At the time of the case study, the term of the decree was expiring and the City was planning to return to court to ask to be released from its obligation.

### **1.2.3 The Case against HUD**

HUD is a named defendant in the *Walker* case and is responsible for helping to carry out the court's orders in all consent decrees and remedial orders. The agency has provided DHA with the Section 8 certificates and vouchers for the replacement housing for West Dallas and the funding for its mobility programs and other requirements. HUD is providing funding for redevelopment in West Dallas, and the construction of new housing in predominantly white non-impacted areas. The agency has oversight responsibility for the DHA and must approve all of DHA's construction and redevelopment plans. In addition, HUD has provided the City of Dallas with Community Development Block Grant (CDBG) funds for improvements in the area around DHA developments and, more significantly, with 1,400 vouchers to help it meet its obligations to provide low-income housing opportunities.

While HUD has been intimately involved in the *Walker* case from the outset, there was no separate court order delineating the specific requirements for the agency until 1996. According to the HUD attorney, when the case was reopened in 1992, the court made no specific findings against HUD, but in 1994, found HUD liable under the allegations of the original complaint. Judge Buchmeyer issued a remedial order against HUD in April 1996 (a Modified Remedial order was

issued in December 1997, superseding the 1996 order). The remedial order against HUD was generally perceived as very far reaching and controversial.<sup>67</sup>

The 1996 order and the 1997 order that superseded it called for HUD to do the following:

- Use its discretion to assist the DHA in creating 3,205 housing opportunities in predominantly white areas (the definition of an impacted area in the HUD order differs from both the City and the DHA decrees; the HUD definition is an area that is less than 40 percent black);
- Provide continued funding for the DHA's mobility counseling program;
- Make provisions to grant exception rents for Section 8 tenants who want to move to non-impacted areas that may have rent levels above prevailing FMRs; and
- Convene a Task Force of Federal agencies to address environmental and social conditions in and around DHA developments. These include addressing such problems as children's school test scores, physical health, safety and security, as well as improved streets and transportation around DHA developments. This Task Force was to include representatives from the Environmental Protection Agency, Health and Human Services, the Department of Education, and the Department of Justice.

Under the remedial order, HUD may substitute Section 8 vouchers for actual physical units, but is required to submit a formal substitution plan to the court. At the time of the site visit, HUD had opted to substitute Section 8 certificates and vouchers and was planning to provide the DHA with 325 new vouchers per year for 10 years, in the belief that this policy was the most realistic way to create low-income housing opportunities in Dallas. However, according to DHA staff, the DHA

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<sup>67</sup> *Dallas Morning News*, April 18, 1996.

and HUD were still negotiating as to whether the housing authority would be allowed to restrict the use of these vouchers to non-impacted areas or whether they would simply provide mobility counseling to all voucher holders.

#### 1.2.4 Homeowners' Suits

The requirement under the *Walker* case that DHA and HUD provide replacement housing in predominantly white areas has led to two lawsuits by homeowners' associations in the North Dallas area. Judge Buchmeyer pulled both of these cases into the *Walker* litigation.

The Frankford and Marsh suit, filed in 1995, alleged that the site that DHA had selected in far North Dallas was not appropriate for public housing. This first suit was dismissed in 1997. The DHA worked with the homeowners to develop an acceptable design and has since constructed a 75-unit development on the site.

The second homeowners' association lawsuit, filed in 1996, alleged that the construction of public housing in a predominantly white community denies the members "equal protection" under the Fourteenth Amendment.<sup>68</sup> Essentially, their case argues that only the "least intrusive" race-based remedy should be used to correct racial discrimination, and that since rental assistance is less intrusive than building public housing, funds for the construction of the development should be used instead for subsidized rentals.<sup>69</sup> Judge Buchmeyer rejected this lawsuit in a strongly-worded opinion in August of 1997. However, this second homeowners' association has appealed the case to the Fifth Circuit Court of Appeals; the court has agreed to an injunction against further construction until the case is settled. The Court heard the case in January 1998 and promised an expedited review. Despite this promise, the case was not decided until March 1999, when the court ruled in favor of the homeowners. The decision and its potential implications for the *Walker* case are discussed in Section 5.0 below.

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<sup>68</sup> *Walker v. HUD, Highlands of McKamey VI, and V Community Association, Preston Highlands Homeowners' Association, et al.*

<sup>69</sup> For a thorough discussion, see Werner, Joseph G. "NIMBY: Is there room in *Paradise* for public housing?" in *Urban Lawyer*, vol. 30 (2), 1998, pp.477-490.

### 1.2.5 Other Litigation

In addition to the previously outlined cases, there has been other litigation related to the *Walker* case, including several disputes over lawyers fees, one of which also went to the Fifth Circuit on appeal. There is currently a fair housing suit against the community of Sunnyvale, alleging that the suburb has refused to allow Section 8 renters within its jurisdiction, contrary to what had originally been agreed upon. Several key actors believe that similar action may be taken against other suburban communities, bringing them into the *Walker* case as well.

### 1.3 DHA Today

The DHA today is a very different housing authority than it was when the original *Walker* suit was filed in 1987. The entire senior administration has changed since Alphonso Jackson became Executive Director in 1989. His deputy, Lori Moon, succeeded him in 1996 and is well-respected by the other key actors. HUD considers DHA to be a high-performer; its most recent PHMAP score was 97. Indeed, staff from the Fort Worth office say that they consider the agency to be one of the best-managed housing authorities in Texas. As will be discussed below, the replacement housing that DHA is constructing is very high-quality and the authority has taken innovative steps to bring about economic development in West Dallas. Further, DHA has a very comprehensive Resident Services program, emphasizing services that help its tenants achieve self-sufficiency.

DHA is a very large housing authority, with 4,629 units of public housing in 26 developments and over 9,000 tenant-based units of Section 8. Its Section 8 program has been growing rapidly, with the infusion of more than 2,000 certificate and voucher units as replacement housing for West Dallas, 1,400 units from the City, and the additional units HUD will provide under the 1997 remedial order. Indeed, the growth has been so rapid in the past year that there was some dispute among DHA staff as to the precise number of units (the best estimate was 9,587 certificates and vouchers, not all leased up). To put this figure in perspective, in 1988, the DHA had only 3,667 Section 8 units under lease.

In sum, since 1987, the *Walker* case has grown to encompass multiple rulings against the DHA, rulings against the City of Dallas and HUD, lawsuits brought by Homeowners' Associations against the DHA, and at least one fair housing lawsuit against a Dallas suburb. The remedies that have been ordered against the different agencies are complex and overlapping. Relationships among the different actors have been, for the most part, extremely contentious. Even given all of these complexities, all actors agree that the *Walker* suit has wrought profound changes on DHA management, improved conditions in DHA's public and assisted housing, and created a significant number of desegregative opportunities for minority tenants.

## **2.0 Implementation as of Fall, 1998**

All parties agree that since 1995, there has been major progress in implementing the provisions of the decree. DHA has demolished much of the original West Dallas development and constructed 225 units of new housing on the site. DHA has also constructed one development in a predominantly white area, purchased a small number of single-family homes, and implemented its HOP program. HUD has awarded DHA two HOPE VI grants to redevelop its properties and agreed to provide 3,205 Section 8 certificates and vouchers to be used in predominantly white areas. The City of Dallas has provided DHA with 1,400 Section 8 certificates and vouchers, created a low-income housing fund, and funded the construction of a small number of units. Nevertheless, many challenges remain. DHA housing remains segregated, very little housing has been constructed in non-impacted areas, only 225 units of replacement housing have been constructed on the West Dallas site, only about 20 percent of Section 8 participants live in non-impacted areas, and most of the City's affordable housing fund remains unspent because of the difficulty of interesting developers in creating low-income housing.

## 2.1 Tenant Selection and Assignment Procedures

The implementation of the changes to the DHA's tenant selection and assignment procedures has been the most straightforward of the requirements under the *Walker* decree. The original 1987 decree required that the authority abandon its long-standing "freedom of choice" model and implement a "first-come, first-served" policy. According to court documents, the plaintiffs took the DHA back to court only six months after the initial decree for failing to present a new plan in a timely fashion. However, court documents from 1989 indicate that the agency complied shortly after the return to court, and the issue has not resurfaced in any other court filings of which we are aware.<sup>70</sup>

DHA's current Tenant Selection and Assignment procedures are in compliance with the court order. The Section 8 and public housing waiting lists have been merged and DHA now offers the next available unit—Section 8 or public housing—to the individual at the top of its waiting list. There is no requirement that African-American Section 8 holders must make a desegregative move (i.e., a move to a non-impacted area)—desegregative moves are presented as one possible option, and encouraged by the Housing Opportunity Program, but not required. DHA has abolished its residency preferences; anyone in Dallas County can apply for DHA's Section 8 program. Finally, the DHA now permits participants to use its Section 8 certificates and vouchers outside the city of Dallas.

## 2.2 Public Housing Demolition and Replacement

The major component of the *Walker* decree involves the demolition and replacement of the enormous West Dallas complex. This process includes the redevelopment of the Lake West<sup>71</sup> site, the construction of replacement housing in non-impacted areas, and replacement with Section 8 certificates and vouchers. In addition, the DHA must improve conditions at its other public housing developments to comply with the decree. In this section, we describe the changes

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<sup>70</sup> It is important to note that given the large number of court filings in this case and the number of disputes, it is possible that this issue was addressed again before the 1995 remedial order.

<sup>71</sup> Lake West is a man-made lake that sits in the middle of the West Dallas complex.

at West Dallas since the original decree, the construction of housing in non-impacted areas, and redevelopment planned for one of DHA's other public housing sites.

### **2.2.1 West Dallas**

Since the repeal of the Frost-Leyland amendment, the DHA has been able to proceed with the demolition of the original West Dallas complex. However, there has been disagreement between DHA, HUD and the plaintiffs as to exactly how much and what type of replacement housing should be constructed on the site. Between 1995 and 1996, the housing authority began demolishing units on the site, tearing down 886 vacant units. However, HUD was reluctant to fund the demolition of the 842 units which had been modernized in 1987. DHA argued that since these units lacked amenities such as air conditioning and washer hook-ups and had other structural problems, it would ultimately cost less to replace them instead of trying again to modernize them. The housing authority submitted a revised demolition plan to HUD in 1996. HUD approved DHA's revised plan for the use the \$26 million in HOPE VI funds it provided for the West Dallas site in 1994 at the end of 1997.

DHA's plan for the West Dallas site calls for demolishing all of the original units and constructing 950 units on the site. At the time of the site visit, all but the 842 units modernized in 1987 had been demolished; these units were scheduled for demolition in 1999. The consent decree calls for one-for-one replacement of all demolished units; many of the remaining 2,550 units have already been replaced with Section 8 certificates and vouchers. While much smaller than the original complex, the new Lake West development will still be extremely large. To address this concern, the new plan calls for dividing the site into several smaller "villages," including a section with 50 single-family homes.

The first section of the redeveloped Lake West site, a 225-unit development called "The Hamptons at Lake West," opened in July of 1998. The new development consists of townhomes of a variety of different bedroom sizes and is significantly better than the housing it replaced. Both DHA staff and the plaintiff's attorney agree that the new housing is very pleasant and comparable to market-rate housing in the Dallas area. However, because the new housing is considered replacement housing, the DHA cannot place any special requirements on residents to help encourage self-sufficiency as it does now in some of its developments in more desirable locations

(Frankford and Marsh, Mexican Village). The only exception is the 50 single-family homes, which will be set aside for Family Self-Sufficiency (FSS) participants as potential homebuyer units.

The 1995 remedial order required that the DHA improve resident services at its developments and equalize conditions and services between its predominantly white elderly developments and predominantly African-American family developments. DHA has made a number of improvements in West Dallas that should enhance the quality of life for residents. One key effort is the construction of a new multipurpose center, which will house a health clinic, YMCA, child care facility, police storefront, swimming pool, and other resources. In addition, in the last several years, DHA bought and rehabilitated a nearby shopping center, which provides easily accessible services for residents, including a supermarket. It is the only major economic development effort in the community, and is the only nearby retail space. While the consent decree encouraged the City to engage in economic development in that neighborhood, DHA's development of the mall was not mandated by the court.

The 1995 remedial order also called for DHA to improve security and reduce crime in West Dallas; specifically, the DHA was supposed to hire extra security for its developments to reduce the crime rate. DHA received its first Drug Elimination grant in 1991, and has used the funds to pay off-duty police officers to patrol at night. DHA has also funded a range of programs that staff believe will help prevent crime, including activities for youth, programs for high school drop-outs, the FSS program, and parenting programs. In recent years, the crime rate in West Dallas has fallen to or below the city average, although it is difficult to know how much of the improvement can be attributed to improved security.

Conditions in West Dallas have also improved because the RSR Corporation lead smelter, which abuts the property, closed in the early 1980s. By the mid-1980s, there had already been one attempt to clean the site of environmental hazards. In 1991, the smelter site was placed on the Superfund cleanup list, as the level of remediation was not considered up to standard. From 1994 to 1995, DHA conducted asbestos removal from its units in West Dallas, and, along with the demolition of 1,100 units, removed contaminated soil from the area. By August of 1995, the smelter site was considered cleaned and was taken off the Superfund list.

Other improvements in West Dallas include the planned revitalization of the man-made lake which sits on the Lake West site and the planned sale of 46 acres of the property to Goodwill Industries, the largest employer in the area, with the idea that the nearby jobs will go at least in part to West Dallas residents.

While the DHA has made substantial progress in improving the Lake West site, the surrounding West Dallas community remains economically distressed. Tenant leaders and advocates observe that the City, which is responsible for improving conditions around DHA developments, has done little thus far. The lead attorney from HUD stated that road conditions had improved, and that the Community Reinvestment Act has promoted commercial activity in the area. However, our own neighborhood survey of the area indicates that while physical conditions in the development itself are excellent and public transportation and many services are available, the surrounding neighborhood contains a fair amount of deteriorating housing, litter, vacant lots, and boarded up or gutted buildings. Other than the shopping center owned by the DHA, there is little evidence of other economic development in the community.

## **2.2.2 Replacement Housing in Non-impacted Areas**

Frankford and Marsh, a predominantly white section of far North Dallas, was one of three non-impacted areas that the DHA selected for the construction of replacement housing. This development represents the first 75 units of the 474 hard units which must be built in predominantly white communities. As described above, local homeowners tried legal methods to block construction of the development, but were ultimately unsuccessful. The area had been vacant prior to the construction of Frankford and Marsh, which may have been part of the reason that the homeowners opposed construction. However, the entire area is now undergoing development and many apartment complexes have been constructed nearby.

To forestall further opposition from local residents, the DHA formed an advisory panel of seven or eight of the most vocal homeowners. This advisory panel worked with the housing authority during the design phase in an effort to create a development acceptable to the community. The resulting construction may be considered a model of modern public housing, as the development was built so as to blend in with the surrounding private developments. The townhouses, which

are of differing sizes on a single parcel of land, were designed to look like single-family homes and they feature amenities such as central air conditioning and washer hook ups.

All tenants are required to be enrolled in the Family Self-Sufficiency program. The first tenants moved into their units at the end of July, 1998, having received months of counseling before the move. DHA offers a range of services on-site, including a facility run by Brookhaven College, which offers classes and computer labs to residents of the entire area. There is a community building on-site which includes a laundry facility and a meeting room, as well as a police room and offices for DHA management staff. All units receive quarterly inspections. Although the transit authority has rerouted a bus line to serve the site, transportation to jobs and to the city of Dallas remains an issue for some residents, some of whom feel isolated, according to tenant interviews. For the most part, however, the development appears to be quite successful and homeowner opposition has ceased.<sup>72</sup>

The DHA had selected two additional sites in North Dallas where it hoped to construct replacement housing. At the time of the case study, these developments were on hold because of the *Walker v. HUD, Highlanders, et al.* suit filed by local homeowners alleging reverse discrimination (see Section 1.2.4 above). The Fifth Circuit ruling in that case means that the DHA cannot proceed with construction at those sites (see Section 5.0). Further, even before the case was decided, the DHA chose not to pursue construction at other sites, fearing that other homeowners' groups would file suits and get folded into the *Highlanders* case.

At the time of the case study, DHA's lead attorney claimed that the agency's biggest obstacle was opposition from homeowners. The agency chose not to move forward with the purchase of any other parcels of land for construction of units in predominantly white areas because local homeowners' associations could join the ongoing lawsuit and block that development as well. As will be discussed in Section 5.0, the Fifth Circuit ruling is being appealed to the Supreme Court and it is not yet clear how these issues will be resolved. For the moment, as the agency feared, it appears that the DHA is unable to construct any further replacement housing in non-impacted areas.

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<sup>72</sup> Indeed, although the housing authority scheduled a meeting for the homeowners to meet with the Urban Institute site team to voice their concerns, none of the members of the advisory panel chose to attend.

### **2.2.3 Roseland Homes**

In 1998, the DHA was awarded \$34.9 million in HOPE VI grants to redevelop Roseland Homes, a development located in a rapidly gentrifying area. Roseland Homes is one of the few high-rise public housing developments in Dallas. The DHA has proposed to replace the current 611 units (which are at 95 percent occupancy) with 435 units, some of which will be mixed-income, and 193 Section 8 vouchers. In addition, there would be a two-building, 176-unit elderly complex, and market-rate housing dispersed throughout the development.

Because of the gentrification occurring in the area, conditions around the Roseland project have equalized to the level of the surrounding neighborhood. Indeed, the executive director of the Walker Project, an independent fair housing organization, argues that any improvements in services at Roseland have little to do with specific City actions. Further, the plaintiffs' attorney has been contesting the DHA's plans for Roseland on the basis that the redevelopment will benefit middle-income tenants more than low-income African-Americans. Since the case study was complete, the plaintiffs have filed a Supplemental Complaint against HUD, challenging HUD's approval of DHA's HOPE VI application for Roseland Homes.

### **2.2.4 Equalization of Conditions**

The 1996 and 1997 remedial orders called for HUD to submit an equalization plan to ensure that conditions in DHA's predominantly black family developments were as good as conditions in the housing authority's predominantly white elderly developments. Equalizing conditions includes such things as installing air conditioning and laundry facilities and improving security. DHA has gradually been making improvements in its developments, although some of its properties remain relatively distressed. An equalization plan was submitted to the Court in 1995, but at the time of the site visit, there had been no response. According to the HUD Attorney, DHA developed an excellent plan and produced a CD-ROM package with photographs to assess what was needed in the developments. At this time, however, there is no funding to pay for most of the improvements that would be required.

### **2.2.5 Factors Affecting Implementation**

To summarize the previous section, there has been significant implementation success in Dallas. After many years of delays, the DHA is currently moving ahead with the demolition and replacement of its troubled West Dallas complex. In fact, with the exception of the 842 units modernized in the late 1980s, the original development has been demolished. HUD has approved a plan for the Lake West site, the DHA has just opened a new 225-unit development on the site, and HUD has provided over 2,000 Section 8 certificates and vouchers for replacement housing. In addition, the DHA has opened a successful 75-unit development in a predominantly white area and is beginning redevelopment at another site. While all this recent progress is impressive, it has taken more than 10 years to reach this stage, and the redevelopment of West Dallas will not be complete for another two years. As we discuss below, several powerful factors have inhibited implementation.

#### **Inhibitors**

As described in Section 1, the replacement of West Dallas has been delayed by opposition from previous DHA administration, community resistance, in both the form of the Frost-Leyland Amendment and lawsuits filed by homeowners' associations, and legal disputes over the construction of replacement housing on the Lake West site. In addition, tenants have protested the decision to construct housing in non-impacted areas rather than simply replacing the housing on the West Dallas site. At the time of the case study, ongoing litigation was delaying the acquisition of sites in predominantly white areas for the construction of the remaining 400 units required under the 1995 remedial order; the 1999 Fifth Circuit ruling may stop this altogether. Finally, it has taken HUD and the DHA significant amounts of time to reach final agreement on plans for West Dallas; each agency holds the other responsible for these delays.

#### **Facilitators**

Despite the delays and problems that remain, the DHA has indisputably made significant progress in implementing the terms of the 1995 remedial order. Moreover, the replacement housing that the DHA has constructed is of very high quality, and the agency is providing unusually comprehensive resident services.

External factors such as the repeal of the Frost-Leyland amendment in 1995, the settling of the Frankford and Marsh Homeowners' Association suit, and the provision of HOPE VI funds and Section 8 certificates and vouchers from HUD have all facilitated the redevelopment and replacement of West Dallas public housing. But perhaps more fundamentally, all parties agree that the *Walker* case has had a profound—and beneficial—effect on DHA administration, making it a better housing authority, much different than the agency that was sued in 1987. The institutional changes have meant that not only is the DHA now attempting to implement the 1995 remedial order in a more timely fashion, but is also doing its work well—building market-quality housing, offering a rich array of resident services, and working creatively to overcome community resistance to scattered-site public housing.

### 2.3 Tenant Based Assistance

The DHA's Section 8 program has changed profoundly as a result of the *Walker* decree. One of the most dramatic effects of the *Walker* case has been a huge increase in the number of Section 8 certificates and vouchers available to DHA tenants. In 1988, just after the first consent decree was issued, the DHA had only 3,667 Section 8 certificates and vouchers under lease; currently the agency has over 9,500 available, although not all are leased up. HUD has provided the DHA with over 2,000 additional certificates and vouchers as replacement housing for West Dallas. More recently, HUD provided the City of Dallas with funding for approximately 1,400 Section 8 certificates and vouchers to satisfy the City's obligation under the 1990 consent decree to provide low-income housing; the City has turned these over to the DHA to administer.

Furthermore, HUD has opted to use Section 8 to meet its obligation under the 1997 remedial order to provide 3,205 units of low-income housing in non-impacted areas. At the time of the case study, the agencies were negotiating the terms of these new vouchers; the DHA would like to restrict their use to non-impacted areas (less than 37 percent minority, less than 13 percent below poverty) for at least the first 120 days after issuance. Under DHA's proposal, clients who did not elect to accept a mobility voucher would remain on the Section 8 waiting list until an unrestricted voucher became available.

In addition to the increase in the absolute numbers of households assisted by Section 8, the quality of those rentals has improved substantially as a result of the *Walker* decree. One of the issues in the original 1987 *Walker* case was that many African-American Section 8 certificate holders were living in substandard units because of problems with the DHA's Section 8 inspection process. As discussed in Section 1, the DHA had been contracting out inspections in black areas to the City. When the housing authority took over this process in 1987, it determined that a majority of its units failed HQS. The DHA has corrected these problems and the plaintiffs' attorney notes that one of the major effects of the *Walker* decree is the improvement in the quality of DHA's Section 8 units.

### 2.4 Housing Opportunities Program

The 1987 consent decree required the DHA to create a mobility program to assist Section 8 participants to move to non-impacted areas. The original decree defined non-impacted areas as census tracts containing fewer than ten Section 8 households in 1987. It also established specific targets for desegregative moves under Section 8, requiring the DHA to locate 15 percent of its Section 8 households in non-impacted census tracts within one year. Within three years, the agency was to have placed 50 percent of its Section 8 households in non-impacted areas, either in Dallas or in the suburbs. At least 15 percent of households living in non-impacted areas were to live in the suburbs. The suburbs in Dallas County agreed not to resist the use of DHA Section 8 certificates in their jurisdictions, in return for being dropped from the lawsuit.<sup>73</sup>

To achieve these goals, the DHA created its Housing Opportunities Program (HOP) in 1987. Unlike the Gautreaux program in Chicago, which was run by a non-profit organization, DHA was ordered to run its program entirely in-house, originally as a separate division and currently as an integrated part of the Section 8 program. The DHA initially had some difficulties with its HOP program—the plaintiffs' attorney reports that this was due to conflict between the DHA and its Board over implementing the program—and, within a year, the acting Executive Director had fired the entire mobility staff.

HOP was reinstated in 1991 and claimed great success in moving Section 8 families into non-impacted areas. During the early 1990s, however, this success was challenged on the grounds that the race neutral definition of "impaction" meant that the DHA could claim to be meeting its goals for placing Section 8 families in non-impacted areas without dispersing them into predominantly white or suburban areas. Indeed, through 1994, almost half of all suburban moves had been to only two suburbs, Garland and Mesquite, and primarily to areas within these communities where there were modest concentrations of minority populations.<sup>74</sup> As a result of this challenge, at a hearing in September, 1994, DHA agreed to a new definition of "non-impacted" areas as census tracts where less than 37 percent of the population is African-American and less than 13 percent is below the poverty level, as of 1990.

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<sup>73</sup> See Polikoff, Alexander (ed.). 1995. *Housing Mobility: Promise or Illusion*. Washington, DC: Urban Institute Press.

<sup>74</sup> Polikoff, 1994: op cit.

### 2.4.1 Overview

Under the *Walker* decree, the HOP program receives \$300,000 per year from HUD to provide mobility counseling for DHA's Section 8 participants. The program's stated goal is:

“to increase the economic opportunities of every Section 8 family by encouraging them to *choose* to integrate into the social mainstream. HOP informs, encourages, and assists clients in moving to the areas that were not available to Section 8 families in the past. Such a move can increase the overall well being of the family by giving them access to better housing, better schools, and greater employment opportunities.”<sup>75</sup>

In 1997, HOP claimed it had placed 794 families, with a placement rate of 40 percent.<sup>76</sup> Since the HOP program began, it has had only three directors, including the one who was dismissed in 1988. The second director of the program recently was promoted to the position of overall Section 8 Director; her assistant became the third HOP Director in August 1998. The current HOP staff include the new director, four counselors, and one outreach worker. The counselors work directly with families, providing budget counseling, housing search assistance, and a number of supportive services. The outreach worker provides follow-up to families who have moved to predominantly white areas. The primary services that HOP provides are: client briefings; van tours to potential housing sites; housing referrals; landlord outreach and briefings; and outreach services to families who have made desegregative moves. Each of these is described in more detail below.

### Briefings

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<sup>75</sup> Housing Opportunity Program, Dallas Housing Authority.

<sup>76</sup> Turner, Margery Austin and Williams, Kale. 1998. *Housing Mobility: Realizing the Promise*. Washington, DC: Urban Institute Press.

HOP staff attend all Section 8 briefings, including those for new participants and turnovers. Because of the recent influx of Section 8 vouchers from the City and HUD settlements, DHA is currently holding two briefing sessions per day, with about 25 participants per session. DHA used to conduct separate briefings for the HOP program, but staff have decided it is more effective to brief all clients about mobility. At the briefing, HOP staff provide information about the advantages of non-impacted areas (access to jobs, schools, etc.) and encourage clients to consider choosing to make a mobility move. They also provide information about HOP's services.

### **Van Tours**

Due to the volume of new Section 8 participants, HOP currently offers van tours of non-impacted areas twice a day. The tours usually cover only one or two communities and highlight housing, schools, shopping centers, and other amenities. The tours also showcase specific apartment complexes, and families can make appointments to view apartments at this time. According to HOP staff, about 30 percent of families in the program get their apartments because they go and address the landlords themselves, many as a result of the van tours.

### **Housing Search Assistance**

If clients express interest in making a mobility move, HOP offers a variety of services. HOP staff used to provide a great deal of personalized search assistance, but since DHA's Section 8 program has grown so dramatically, their ability to assist individual clients has become limited. HOP provides a listing of Section 8 landlords, twice a month, to all participants. While the list is meant to provide information on landlords currently participating in the Section 8 program, our focus group participants noted that these landlords may or may not have an actual unit available.<sup>77</sup> The Section 8 voucher allows a family 60 days to secure housing, with a 30-day extension if needed. Families can also get an additional 30 days under special circumstances.

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<sup>77</sup> See Section 3.0, Impacts on Residents for more information on rental lists.

HOP provides additional information about listings to clients who call in and request them. In spite of the large volume of clients, staff still provide personal one-on-one counseling and assistance with negotiating with landlords on an as-needed basis, if the family requests. If necessary, families are referred to outside agencies for credit counseling and other services. Staff can also refer participants to DHA's in-house providers, such as Resident Services and Resident Employment and Training.

### **Landlord Outreach**

One of the HOP program's major challenges is locating landlords in non-impacted areas who are willing to accept Section 8 tenants. HOP staff use what they call a "private sector approach" for landlord recruitment. Their outreach includes: direct mail and phone contact with smaller landlords (of single family homes); cold calling over the phone and in person; and searching advertisements in the local newspapers. In addition, the program maintains a database of 3,500 housing professionals, including realtors, brokers, builders, and others. On a quarterly basis, these individuals are mailed a flyer about the program. HOP staff note that this practical macro-marketing approach is more efficient because a greater number of landlords and units can be identified. According to the current HOP director, these mailings have been quite successful, generating a 15 to 20 percent return.

HOP advertises its program in real estate publications and to professional real estate organizations and associations and local developers. Staff say that they have built an excellent relationship with the Greater Dallas Apartment Association. HOP also provides a DHA newsletter, informing landlords of Section 8 program rules and regulations and holds seminars to attract new landlords into the program. The ultimate goal of HOP's recruitment efforts is to have the landlords seek the program out themselves.

According to HOP staff, they have had little difficulty in recruiting landlords in non-impacted areas to participate in the Section 8 program. The program added 20 new properties to the Section 8 program just in the last quarter. One of the factors that facilitates landlord recruitment is the fact that DHA is able to offer a one-time \$600 bonus for three and four bedroom units that are newly

leased to Section 8 recipients in non-impacted and predominantly white areas. The City of Dallas is required to provide up to \$50,000 per year for these bonuses under the terms of the 1990 consent decree.

### **Follow-up Services**

HOP has recently introduced a small follow-up component to try to provide support for families who move to non-impacted areas. HOP staff are concerned that almost two-thirds of families who attempt such moves end up moving back to impacted areas or dropping out of the Section 8 program altogether. Thus far, HOP's follow-up component is relatively limited as they have only been able to dedicate one staff person to this service. Follow-up activities include home visits to some families, phone contact, and a program that attempts to link new movers with volunteer tutors and mentors for both children and adults. About 20 to 30 percent of the families who have recently moved to non-impacted areas have received these services. HOP staff noted that they had hoped to get volunteers from churches for the mentoring program, but have been unsuccessful so far. However, staff have been more successful in recruiting Dallas-area businesswomen to serve as mentors. Staff see follow-up as a critical component of their program and hope to raise additional funds so they can expand their services.

DHA had hoped to use \$2.5 million awarded under HUD's Regional Opportunity (ROC) Program in 1996 to provide follow-up services. However, the ROC program requires housing authorities to partner with non-profit organizations. HUD and DHA have now agreed that the housing authority will use these funds to hire a non-profit organization to provide mobility services to DHA clients who wish to move outside DHA's jurisdiction (which includes Dallas and 35 surrounding cities). The DHA selected a non-profit partner in 1998 and the program was slated to begin in early 1999. The addition of the ROC program will increase the number of non-impacted housing choices for DHA's clients.

HOP staff are additionally concerned that more intensive services are required to help families become stable in unfamiliar, non-impacted areas. In particular, child care and employment assistance are critical. As with many mobility programs, another major problem is transportation. While many of the participants have their own cars, others are dependent on Dallas Area Rapid Transit (DART). Families want to move to apartment complexes that are on bus lines, but only nine of the 35 cities in the region have bus service.

## 2.4.2 Program Impact

As of July 31, 1998, a total of 1,992 of DHA's Section 8 families lived in non-impacted areas.<sup>78</sup> This figure represents approximately 23.3 percent of DHA's Section 8 households, an increase from 15.4 percent in 1994. African-Americans comprise 1,600 of these households, meaning that about 20 percent of African-American Section 8 holders move to white areas. According to HOP staff, about 30 percent of the families they serve want to live in non-impacted areas, and about 40-60 families move out to those areas every month. Although the DHA used to discourage moves outside of its jurisdiction<sup>79</sup> (the City of Dallas and Dallas County), the agency now permits its certificates and vouchers to be used in any location.

While DHA has increased number of families who attempt moves to non-impacted areas and is offering more mobility opportunities, HOP staff are very concerned about retention. The Section 8 Director reports that between January, 1997 and August 31, 1998, 872 families who had moved to non-impacted areas moved a second time. Of those who moved twice, 35 percent moved to other predominantly white areas, 30 percent moved to impacted areas, and 35 percent left the program and their whereabouts are unknown. HOP staff would like to get more information about why people may be moving back from non-impacted areas and offer better follow-up services to improve retention, although these second moves do not affect DHA's performance in the eyes of the Court.

According to HOP staff, the majority of people who have moved to white areas have had positive experiences, "if they've been aggressive in seeking help and fitting in." They note that some families may have encountered discrimination, but don't often follow through with their complaints. HOP staff state that they actually get very few reported cases of discrimination, stating that "it's hard to get people to come forward." When the issue does come up, HOP refers people to the Walker Project and to HUD's Fair Housing office.

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<sup>78</sup> Quarterly Report to the Court, #40 Period ending August 6, 1998. Housing Authority of Dallas.

<sup>79</sup> Moves outside DHA's jurisdiction do not count toward their obligations under the *Walker* decree.

### 2.4.3 Factors Affecting Implementation

DHA's Section 8 program has changed dramatically as a result of the *Walker* decree. The number of Section 8 slots available has increased substantially, particularly in the past year. DHA's African-American Section 8 tenants no longer live in substandard units. Further, DHA has created—and sustained—a successful mobility program that offers a range of services to its residents. The number of DHA Section 8 households attempting moves to non-impacted areas is substantial. Nevertheless, the overall number of African-American Section 8 households living in predominantly white areas remains relatively low. As of July 1998, less than a third of African-American Section 8 households lived in census tracts where 60 percent or more of the population was non-Hispanic white (none lived in tracts which were 90-100 percent non-Hispanic white). The comparable figure for white Section 8 holders was over 50 percent. Similarly, nearly half of all African-American Section 8 households live in census tracts which are less than 40 percent white (almost one-fifth live in tracts that are 90 to 100 percent black), while the comparable figure for white households is about a third.<sup>80</sup>

Given the constraints of the Dallas rental market, it is unclear whether HOP will realistically be able to locate a sufficient number of units in non-impacted areas for all of DHA's Section 8 tenants. Furthermore, even if the program could locate units, it is not clear that participants would be interested in moving to these areas. Among those who do move, a significant number of participants move back to impacted areas—or drop off the program—each year. From our interviews with DHA staff and residents, there does not seem to be any one clear reason for this drop-off. Instead, it appears that a combination of inhibiting factors (described below) makes it difficult for families to remain in predominantly white areas. Unless the negative effects of these inhibiting factors are reduced, it is questionable how much more progress DHA can make in decreasing segregation among its tenants.

### Inhibitors

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<sup>80</sup> This should not imply a lack of progress. In 1987, only 2 percent of black Section 8 households lived in census tracts which were over 60 percent white, while nearly two-thirds lived in tracts which were 90 to 100 percent African-American.

A number of external factors affect the DHA's ability to achieve goals for providing housing opportunities in non-impacted areas set under the consent decree. These include: a tight housing market, increasing rents, and community resistance.

The booming economy in the region has created a tight rental market in the Dallas region. High rents and high occupancy rates across the area make it extremely difficult for participants to find and keep housing. While Fair Market Rent (FMR) exceptions (up to 120 percent) are available for mobility moves, most apartments in affluent areas like North Dallas are one- and two-bedrooms. For this reason, larger families must seek single-family homes, which increases both the price and the FMRs. Staff report that they will request exception rents for many more non-impacted census tracts in the future.

Although there is a building boom in Dallas, it is not producing an increase in low-income housing. According to HOP staff, the majority of new complexes are leased up almost immediately and are often luxury units that Section 8 tenants cannot afford. DHA's tenants are now competing "fiercely" for older units (10+ years). The occupancy rate in Dallas is 94 percent, and some suburban markets are even higher (97 to 98 percent). Making the situation even more difficult, approximately 50 percent of DHA's families require three bedrooms, but only about 3.5 percent of apartments in the private market are this large.

Rents in the Dallas area have increased as well. According to the HOP Director, rents went up five percent in 1997 and seven percent in 1996. HOP staff noted that "HUD adjustments don't match the market growth."<sup>81</sup> Despite these problems, other DHA staff feel that low FMRs are not the major factor preventing Section 8 participants from finding units.

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<sup>81</sup> According to DHA staff, Dallas rents currently average \$561 for a one-bedroom unit, \$738 for a two- bedroom, and \$937 for a three-bedroom.

Although there has been more community resistance to public housing construction than to rental subsidies<sup>82</sup>, residents and staff report that there have been instances of discrimination against Section 8 voucher holders. HOP staff say that landlords do not want Section 8 because of the negative attitudes toward recipients and the Section 8 program in general. They may use different screening criteria for Section 8 than for other tenants, including requiring an income three times the rent. Often landlords will expect DHA to run extensive background checks on prospective tenants, including past payment problems, maintenance history, and criminal records. DHA used to do more screening of this type, but now has limited time to do this.

In addition to these external factors, HOP's ability to provide effective services has been hampered by the rapidly increasing size of the Section 8 program. The influx of vouchers as a result of the *Walker* decrees, combined with relocation vouchers from West Dallas and other DHA properties, has meant that staff must focus their efforts on providing only basic services—briefings, van tours, landlord outreach, and rental listings. HOP staff currently have little time for individual counseling and follow-up support, both of which they believe to be critical to the long-term success of the program—both to motivate clients to make desegregative moves and to help them become stable in their new communities.

## Facilitators

The DHA has little control over external factors such as the rental market and local economy—and Section 8 staff have little control over the pace at which new vouchers are released. Nonetheless, the agency has developed effective strategies to help its clients be competitive in Dallas' tight rental market. Its landlord outreach program is comprehensive and apparently brings in a number of new landlords in non-impacted areas. The availability of funds for bonus payments for large units in non-impacted areas has clearly made it easier to recruit landlords for the program. As discussed earlier, DHA management has improved substantially as a result of the *Walker* case and the housing authority's improved image can only have helped its landlord outreach efforts. Finally, the DHA has an unusually strong commitment to resident services and to helping its clients achieve self-sufficiency. The agency is committed to the success of the HOP

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<sup>82</sup> Indeed, the current homeowners' association lawsuit (*Walker v. HUD, Highlands of McKamey VI, et al*) calls for the substitution of Section 8 vouchers for construction of new housing in predominantly white areas.

program and to promoting desegregative mobility and choice. Staff are very concerned about their problems with retention of African-American Section 8 holders in non-impacted areas, and hope to be able to focus resources on identifying and addressing the problems that cause clients to move.

## **2.5 Creation of New Housing Opportunities**

The court ordered DHA and the City to provide new low-income housing opportunities, and HUD to use its discretion to help DHA create opportunities. While the DHA and HUD's obligations were relatively straightforward, the consent decree against the City required multiple actions, including creating an affordable housing fund, providing new housing opportunities on terms substantially equivalent to public housing, creating a new fair housing office, and funding an independent fair housing organization.

### **2.5.1 Progress at DHA and HUD**

The DHA has created new opportunities primarily through the use of the additional Section 8 assistance the agency received as a result of the litigation. As discussed in Section 2.3 above, the DHA has worked to satisfy these obligations through its HOP program, with mixed success—the HOP program is well-respected, but the overall proportion of African-American Section 8 households in non-impacted areas remains at about 25 percent. The housing authority was also required to apply to HUD for exception rents for non-impacted areas. HUD has granted these exception rents, but DHA staff report that because of the booming housing market and corresponding rent increases, the agency now needs to request exception rents for a much wider range of communities.

In addition to approving DHA's requests for exception rents, the 1997 remedial order required HUD to use its discretion to help create 3,205 new housing opportunities in non-impacted areas. As described above, HUD plans to substitute Section 8 vouchers for hard units and has already begun providing the vouchers to the DHA. However, given the tight rental market in the Dallas

region and resistance to Section 8 in general, finding 3,205 additional units in predominantly white, middle class areas for DHA tenants may be challenging.

## 2.5.2 Progress at the City of Dallas

Increasing housing opportunities for low-income tenants is the focus of most of the provisions of the 1990 consent decree against the City of Dallas. While the DHA and HUD have made substantial progress, there is a consensus among our key informants—including DHA staff, HUD staff, Walker project staff, the plaintiff's attorney, and even the City itself—that the City government has not fully complied with many of its obligations under the *Walker* decree (see Section 1.2.2).

Although the consent decree against the City is eight years old—and is about to expire—the City has made only modest progress in implementing its obligations to provide new housing opportunities. However, City officials appear well aware of the importance of the case. According to the director of the Fair Housing Office, every city employee in a department with “Walker-related” responsibilities (e.g., zoning, community development, fair housing) is provided with a copy of the decree and a class that reviews the provisions of the decree. Despite this, even City officials acknowledge that their progress has been limited and that they face significant obstacles in carrying out their obligations under *Walker*.

After six years, the City had failed to meet its obligation to create 1,600 housing units in non-impacted areas.<sup>83</sup> In 1997, HUD agreed to assist the City in meeting this requirement by providing it with funding for Section 8 vouchers—although since many DHA families require large units, this funding will produce only about 1,400 vouchers. This action is in keeping with HUD's position in the *Walker* case that Section 8 is a more workable solution than attempting to construct large numbers of public housing units. As discussed above, the City has given these Section 8 vouchers to the DHA to administer. Recipients are not required to move to non-impacted areas, but receive mobility counseling from the HOP program to encourage them to consider a wider

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<sup>83</sup> The City defines a non-impacted area as one that is less than 50 percent black; this definition is much less restrictive than the one used by the DHA.

range of options. In addition, the City has provided the funding to enable the DHA to provide bonus payments to landlords with large units in non-impacted areas.

The City has encountered significant obstacles in complying with the requirement that the government use zoning and other legislative efforts to produce 800 new, subsidized units in predominantly white areas of Dallas. According to the City Attorney, the government has rezoned a number of units and has offered a density bonus to developers to agree to provide low-income housing units. This bonus would allow developers to build more units per acre. However, no developer has chosen to use this bonus; most are concentrating on building upscale developments where higher density is a disadvantage.

The City has also faced significant challenges in implementing its other efforts to create new low-income housing. According to the plaintiff's attorney, it took the City six years to create its \$22 million fund to finance affordable housing in non-impacted suburban areas. Prior to the creation of the fund, the City had argued that it would draw down from its CDBG funds if necessary. Although the fund now exists, only \$2 million has been spent to date, producing just 96 units. The City attorney acknowledges the lack of progress, but attributes it to the terms set under the consent decree. The Telesis Corporation<sup>84</sup> was appointed to develop the housing; their first strategy was to try to acquire properties from the federal government. More recently, City officials have been talking to developers who want to create Low-Income Tax Credit Housing. However, the City Attorney says there is little incentive for developers to cooperate because the consent decree requires that the housing be provided on terms equivalent to public housing. Thus the developer would have to monitor tenants' income and make rent adjustments like a housing authority. Private developers would have difficulty with a situation where they could not rely on a regular income from a property.

The City has used CDBG and HOME funds to produce affordable housing through acquisition and rehabilitation of properties in predominantly white areas. According to the City Attorney, the City invests its funds in the property and then gets the developer to agree to a relatively low floor rent. This strategy has led to the development of about 300 units in 20 complexes. However, the

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<sup>84</sup> A private development company based in Washington, D.C.

plaintiffs' attorney has disputed whether these units can be considered "substantially equivalent" to public housing.

The City has had no success in obtaining cooperative agreements with suburban governments to agree to let DHA construct housing in their jurisdictions. The City Attorney reports that the City sends a request to each of the suburban governments annually asking them to enter into a cooperative agreement, but these requests are always rejected. The suburbs claim that they already have their own supply of low-income housing for people who live in their jurisdictions. Further, as with the Section 8 program, many do not want DHA tenants to move into their communities. According to the HUD Attorney, there are only two suburbs which might agree to such an agreement (Garland and Coppell). These towns are required to construct public housing as a result of other HUD actions and are considering permitting DHA to construct mixed-income developments with small numbers of public housing units in their jurisdictions.

### **Fair Housing Enforcement**

Under the 1990 consent decree, the City was obligated to provide \$118 million over eight years to fund its own Fair Housing Office and an independent fair housing organization. The City has carried out both of these requirements. The City's Fair Housing Office is charged with enforcing the Fair Housing Ordinance for the City of Dallas and providing education and outreach. It is also obligated to analyze impediments and develop a five-year plan to address barriers to fair housing. The office has a staff of a Director, four investigators, a conciliator, and a public relations person. According to the Director, the office targets housing providers, home buyers, lenders, and renters for education and outreach and spends \$80,000 a year on marketing and advertising. The office maintains an affirmative marketing plan for all City-assisted units (about 60 developments), working with the developers to attract the ethnicities least represented in the Census tract. The office also audits all government-assisted units in Dallas—except DHA properties—for compliance with Fair Housing laws.

The Fair Housing Office receives about 1,100 inquiries a year and handles between 120 and 140 complaints. Files on all cases are sent to HUD. The office has an extensive education and outreach component. Staff provide the mandatory training for City employees. They also place ads on radio stations, do presentations for neighborhood groups and attend community events and distribute brochures and videos. For homebuyer counseling, they set up booths in malls to

pass out information. The office has a relationship with the Greater Dallas Board of Realtors and attends their Lender Fair.

The office has done some testing in government-assisted housing, but, according to the Director, found little evidence of discrimination. They are planning to conduct testing in private market housing as well and she expects to find more problems there. The office has focused much of its effort on discrimination in mortgage lending. Staff were involved in a major case against a large Texas bank that led to a \$2 billion settlement. While the Director considers this effort a major success, the plaintiffs' attorney and the director of the independent fair housing organization complain that this focus on moderate-income home buyers has prevented the Fair Housing Office from being an effective advocate for low-income tenants. The Office has not filed any fair housing suits itself, and has not done any follow-up testing or investigation on discrimination against Section 8 renters.

The Director of the Fair Housing Office agrees that the focus on fair lending has little to do with public and assisted housing. If people call and complain that they are being denied the right to use a Section 8 certificate or voucher, the office refers them to either the DHA or Legal Aid and takes no action on their behalf. Further, the Director claims that the office has received no complaints from DHA tenants in predominantly white areas and that people do not file complaints about Section 8 because they know that landlords are not obligated to accept it. She acknowledges that the Walker Project, the independent fair housing organization, has done some testing and found that minorities with Section 8 were not treated "the same" as those without, but says that all discrimination cases were filed with HUD's Fair Housing and Equal Opportunity (FHEO) Office because "HUD handles all complaints about HUD-assisted units." However, HUD fair housing staff also report that they have received no complaints about Section 8 that they consider discriminatory.

### **The Walker Project**

The Walker Project is an independent, non-profit fair housing organization founded by the original director of DHA's HOP program, Craig Gardner. It began operation in 1990 as a result of the consent decree against the City. The agency has received \$300,000 per year in funding from the

City. Unless the Judge extends the provision, the Walker Project will lose its funding when the consent decree expires at the end of 1998.

The Walker Project provides services to individuals who feel they have been discriminated against while searching for housing. Project staff investigate complaints, and, if they have merit, send them to the City Fair Housing office, the County, or the Texas Human Rights Commission. In addition, the project assists tenants who have disputes with either the DHA or a private landlord, often advocating for clients who are threatened with eviction. According to the Director, the Walker Project primarily serves people who receive rental assistance; only a very small proportion of their clients earn more than 80 percent of the median income.

The Walker Project performs testing of landlords, lenders, and sellers; they have also tested landlords to assess whether or not they discriminate against Section 8 holders. To promote mobility and choice, the Walker Project maintains a database on apartments and rental properties in the Dallas region. Finally, they keep class members informed about developments in the *Walker* case.

The Director of the Walker Project says that discrimination against Section 8 holders is widespread. He argues that landlords discriminate against Section 8 participants because they are low-income and minority. Using testers of different races, the Walker Project claims to have collected evidence of race-based discrimination against non-white Section 8 participants, which they have used as the basis for several lawsuits against landlords in the area. To date, none of these suits has been resolved.

### **2.5.3 Factors Affecting Implementation**

The City's efforts to meet its obligations under the 1990 consent decree have created much of the ongoing contention around the *Walker* case. Although the City has met some of the terms dictated by the decree, virtually all other key informants—including DHA officials, HUD staff, the plaintiffs' attorney, the Special Master, and the Director of the Walker Project—cited the City's lack of compliance as a major problem. The City's own representatives acknowledged that the

City has failed to provide enough low-income housing opportunities and that its Fair Housing Office does not deal with discrimination against Section 8 holders.

The City's representatives cite a number of factors that have prevented the City from fulfilling its obligations. These include: the booming rental market in upscale housing and developers' corresponding lack of interest in producing higher-density low-income housing, as well as the suburban jurisdictions' resistance to permitting DHA to build new housing in their jurisdictions. They also blame the terms of the consent decree that require the creation of new housing opportunities that are substantially equivalent to public housing—a requirement that most developers find unattractive. Fair Housing staff say that they do not deal with discrimination against Section 8 because it is the responsibility of the DHA and HUD—and because, they claim, Section 8 holders do not file complaints. Finally, the City attorney says the extreme contentiousness of the *Walker* case, particularly the ongoing legal disputes, has created a number of delays.

DHA staff, the plaintiffs' attorney, and the director of the Walker project agree that the tight rental market presents a very real restriction, that suburban jurisdictions have been very uncooperative, and that the contention and bitter feelings have made it difficult to move forward. But they also say that the City has chosen to focus on affordable housing and fair housing issues for moderate income households rather than for public and assisted housing tenants. Several also mentioned political factors that have hampered the City's efforts, including lack of City council support, pressure from local politicians, and community resistance to low-income housing.

The City has been able to move forward on those provisions that are less controversial or involve nothing beyond providing funding to other parties. The City was able to get HUD funding for 1,400 Section 8 vouchers, and all sides agree that this strategy is more practical than attempting to construct a large number of public housing units in predominantly white areas. While the City has not been able to produce much low-income housing through its suburban housing fund, it has been able to use its funds to leverage low-rent units in a number of developments. The City's Fair Housing Office does have an active education and outreach program and, at least according to the Director, has taken an aggressive role in enforcing fair lending for moderate income home buyers. Finally, the City has consistently provided the funding for the DHA's bonus program and for the Walker Project, both of which have helped promote opportunity for DHA tenants. The City plans to ask to be released from its obligations under the consent decree when it expires at the end of 1998.

## 2.6 Community Development Around Public Housing Stock

The DHA, the City of Dallas, and HUD all have obligations to improve conditions around DHA public housing stock under the *Walker* decrees. DHA's responsibility is to equalize conditions between its developments in African-American communities and those in predominantly white areas. Although most of this requirement falls into the category of redeveloping and/or modernizing its public housing stock, the DHA has undertaken some community development efforts as well. The City is required to improve conditions around DHA developments, particularly West Dallas. As discussed in Section 1, HUD's obligations are much more far reaching, and require the agency to convene a task force to address a whole range of economic and social conditions.

### 2.6.1 Progress at DHA

The 1995 remedial order calls for the DHA to equalize conditions between its predominantly black family developments and its predominantly white elderly developments. DHA has taken this obligation to mean more than redeveloping the West Dallas site and providing air conditioning and other amenities in its other distressed developments. As one of the biggest landholders in the area, the DHA has taken a leading role in bringing development to the West Dallas community. The DHA's new, modern headquarters building sits adjacent to the West Dallas site. Several years ago, the DHA purchased a nearby shopping mall, developing it into a hub of commercial activity for the neighborhood. This mall sits on the corner of the West Dallas development and contains a supermarket, among other stores. This retail development clearly goes above and beyond the letter of the consent decree, since DHA does not have direct responsibility for developing the surrounding neighborhood economically.

In addition to its redevelopment efforts, the DHA has worked with local public transportation officials to ensure that the West Dallas area is served by bus lines to downtown Dallas. Dallas public transportation authorities also cooperated in setting up a bus line to the North Dallas Frankford and Marsh site within two weeks of the site's completion.

### **2.6.2 Progress at the City of Dallas**

According to the City Attorney, the City is responsible for conditions around DHA developments, including after school and summer programs for youth, code enforcement, home improvement programs, street repairs and improvements and improving playgrounds. The City is also supposed to take action to enhance job availability in minority neighborhoods. According to the HUD Attorney, the City has made a number of physical improvements; in particular, road conditions have improved in these communities. However, he says that much of the activity is due to the City's responsibilities under other legislation, and not to the *Walker* suit.

### **2.6.3 HUD Progress**

The 1997 remedial order called for HUD to convene a Task Force of federal agencies to address environmental and social conditions in and around DHA developments, including children's school test scores, physical health, safety and security, and economic development around DHA developments. This Task Force was to include representatives from a wide range of federal agencies. According to the HUD Attorney, they invited practically "all relevant programs in federal agencies" to attend the initial meeting, but only about 10 percent of them showed up. As the court order did not apply to the other agencies, they had little incentive to become involved. The only responses were from Health and Human Services and the U.S. Department of Agriculture. The HUD attorney feels that thus far, the Task Force has accomplished little.

### **2.6.4 Factors Affecting Implementation**

The housing authority and the City have taken some steps to improve conditions around DHA developments. The DHA has been the most proactive, taking the unusual step for a housing authority of making economic investments in the West Dallas community. The DHA's willingness to take these kinds of innovative steps can be attributed to its current management team. All agree that the *Walker* decree has forced them to think differently about the DHA's role and what kinds of steps the agencies can take to improve the West Dallas area. The City has made

improvements as well, but both HUD and City staff attribute these actions as much to other community redevelopment initiatives as to the *Walker* order.

The 1997 remedial order left HUD with the responsibility of convening a task force to address a wide range of difficult social and economic problems. While the Judge may have been trying to force HUD to pay attention to the serious nature of the problems of DHA tenants, given its broad mandate and essentially voluntary constituency, it is not surprising that this Task Force has accomplished little.

### **3.0 Impact on Residents**

According to the plaintiffs' attorney, the purpose of the *Walker* litigation was to offer new opportunities and improve the living conditions of African-American DHA tenants. All of the major requirements—the redevelopment and replacement of West Dallas, the improvements to the Section 8 program, the creation of a mobility program, the creation of new affordable housing, and the improvement of conditions around DHA properties—were intended to improve tenants' quality of life. In this section, we describe how all of these changes have affected DHA tenants. In particular, we focus on the issues of mobility and choice: the barriers that prevent African-American tenants from making mobility moves, the experiences of those tenants who live in predominantly minority areas, and the experiences of tenants who have moved to non-impacted areas—including those who chose to move back. We also discuss tenants' perceptions of the redevelopment and replacement of West Dallas.

This information was gathered from focus groups with Section 8 recipients, discussions with tenant leaders, and interviews with key informants (for example, DHA staff, plaintiffs' attorney). Focus groups were conducted with three groups: Section 8 recipients who had moved to a non-impacted area; those who had moved to a predominantly minority area; and those who had originally moved to a non-impacted area and then moved back to an impacted neighborhood. In addition, we conducted a group interview with three tenant leaders representing the West Dallas and Frankford and Marsh developments. All of the focus groups were predominantly African-American and mostly female. Most people had lived in their city of residence for about three years or less. The group which had moved to minority neighborhoods contained the only Hispanic participant, as well as the only white person, who was a recent immigrant.

### 3.1 Barriers to Moving to Non-Impacted Areas

The focus groups made clear that many of the barriers to moving to a non-impacted areas are related to the Section 8 program and the nature of the Dallas rental market. These factors make it challenging to find a decent Section 8 unit in a good neighborhood in Dallas in general, and particularly difficult in non-impacted areas. The major problems that focus group participants cited as barriers to mobility included: Dallas' tight rental market, high rents (particularly in non-impacted areas), landlords demanding substantial security deposits, limited time to search, stringent screening, discrimination against Section 8 holders, and tenants' own reluctance to move to unfamiliar areas.

#### 3.1.1 Financial Barriers

Our focus groups echoed a point the key informants also made: because of the tight rental market, landlords, particularly in higher-income areas, currently have little incentive to rent to Section 8 holders. Even with FMR exception rents, Section 8 tenants often cannot compete effectively in the private market. Families who need large units face an even more daunting challenge; these families must often search for houses, which are more costly and scarce.<sup>85</sup>

In addition to the high rents, focus group participants also reported that landlords place unreasonable requirements on Section 8 tenants. Some landlords require tenants to have an income of three times the rent, on the assumption that working families take better care of the units and yards and pay their rent on time. Security deposits are also a perceived problem; several of our focus group participants reported having to pay first and last month's rent plus a security deposit, making moves to predominantly white, low poverty neighborhoods prohibitive. As one participant noted, *"If I had that kind of money, I wouldn't be on Section 8."*

#### 3.1.2 Limited Search Time

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<sup>85</sup> Although there is a landlord incentive program providing a \$600 bonus for units of large bedroom size.

Many of our focus group participants complained that the Section 8 program did not allow them sufficient time to search for housing, particularly in non-impacted areas. Section 8 holders are given 60 days to search, with one 30-day extension. Participants can get a second 30-day extension if they have good cause. Many participants said that this was not enough time to search for decent housing in unfamiliar areas, particularly when the market is so tight. Many participants implied that they had “settled” for a less than ideal unit so as not to lose their subsidy:

*“It takes time to get out and shop for a place that you want to live, you know,...I mean something that’s suitable for you and what you want.”*

*“You have to hurry up or else you lose it [the Section 8].”*

Because they felt they were forced to “settle,” several participants reported that they had ended up in bad neighborhoods or even in bad units. In some cases, the problems became so bad that they were forced to move again.

### **3.1.3 Discrimination Against Section 8**

Even when tenants are able to find suitable units, landlords are neither required nor compelled to accept Section 8—and in Dallas’ tight rental market, have little incentive to do so. Our tenant informants led us to believe that often, landlords’ reluctance is due to a lack of understanding of Section 8 or to an unwillingness to be involved in a government program (either because of perceived inefficiency on the part of the government or increased accountability on the part of the landlord). Focus group participants report that landlords do not want to accept Section 8 because of the stigma associated with the program. As the Director of the Walker Project put it, Section 8 has become synonymous with poor minorities and troublemakers. Focus group participants perceived that landlords often stereotyped them as bad tenants because they were on Section 8. Some acknowledge that “maybe one [Section 8] tenant did mess up” and now the landlord is reluctant to rent to another. But, most participants believe that even if a landlord has not had a

bad experience, most still hold these views about all Section 8 holders. It was reported to us that some landlords had even advised tenants not to tell other neighbors of their subsidized status. As these tenants put it:

*“You are stereotyped when you live on Section 8. I mean, if you move in a good neighborhood, in a good environment, believe me they are going to be watching you to see if you make one mistake.”*

*“If we just don’t tell people, they would never know we were Section 8 and we could be human.”*

### **3.1.4 Lack of Familiarity with Non-impacted Areas**

Dallas is a very large metropolitan area; the non-impacted areas are often very far from where DHA tenants currently live. Many Section 8 participants note that they are reluctant to move away from communities where they feel comfortable and have support systems.

*“People are very locally based and don’t have much contact with other cultures. Going to Plano [a Dallas suburb] is like going to Montana. The perception is they are not welcome there.”*

Further, participants who do move to a non-impacted area may end up isolated because of a lack of transportation.

## **3.2 Section 8 Participants Who Did Not Move to Non-Impacted Areas**

The barriers described above affect all Section 8 recipients. Although DHA offers its mobility services to all Section 8 participants, recipients are not required to use their assistance to move to non-impacted areas.<sup>86</sup> Thus, DHA Section 8 holders move to both predominantly minority areas and predominantly white, low-poverty areas; further, some participants who initially made such a switch end up moving back to an impacted area when their leases expire. In this section, we describe the experiences of participants who chose to use their Section 8 to move to predominantly minority areas within the City of Dallas.

The major issue for focus group participants who had not made a desegregative move was the quality of their neighborhoods. While some also had issues with their units and with the Section 8 program more generally, it was clear that crime and disorder were their major concerns. The types of problems that participants raised included: lack of safety; drugs, prostitution, gambling, and other types of social disorder; too much noise; and children staying out too late. (These problems were also identified by Section 8 recipients who moved back to impacted areas from non-impacted areas.) Participants attributed the problems in their apartment complexes to poor management, especially a lack of screening and failure to enforce rules. These comments were typical:

*“When I first moved into this complex, it was very nice, it was wonderful. But we changed management, and this lady was no judge of character. And she doesn’t care because she used to live here but she moved. And since we’ve had this new management, it has really fallen down.”*

*“We have security where we live, but security has a nonchalant attitude. And the kids will be out until 12:00, 1:00 a.m. screaming like a herd of cattle running up and down the stairs where we live.”*

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<sup>86</sup> The DHA hopes to apply restrictions to the 3,205 vouchers it expects to receive from HUD as part of the settlement from the 1997 remedial order which would require recipients to look first for housing in non-impacted areas.

*“Where I’m living at, we have drugs...In the evening you don’t sleep there. We have gambling. I can’t even sleep at night because I’m afraid. They shoot dice and they gamble and they sell drugs. But I’m trapped, I can’t leave for a year.”*

Several participants also complained about poor maintenance, again attributing these problems to poor management in their complexes.

*“I have a problem with my landlord because it takes an effort on my part to get any work done. I don’t have hot water now, this has been for the last month.”*

### **3.3 Section 8 Recipients Who Moved to Non-Impacted Areas**

Participants who moved to predominantly white, low-poverty areas have had mixed experiences, reporting some improvements in their living conditions and access to opportunity, but also reporting social isolation and instances of discrimination. Because mobility and choice are a major focus of the *Walker* case—and the other cases in this study—we asked focus group participants who had attempted to move to non-impacted areas a series of questions about their motivations for making such a move and their experiences in their new communities.

Participants generally said that they made the decision to make a desegregative move because they wanted a better life for themselves and their families. “A better life” seemed to encompass both a nicer unit and development and a neighborhood with less of the crime and disorder that people who remained in high-poverty, minority areas complained about. Many focus group participants were familiar with the suburban area before they moved—indeed, some already lived there—and were aware of the differences. Most generally echoed the following comments:

*“I found myself moving to try to get into a better place.”*

*“My caseworker said look in the suburbs, it’s better in the suburbs. I didn’t believe her at first, but I fell in love with it. Now I don’t ever want to move back in the city.”*

However, participants said that they did not necessarily want to move to “white areas.” They simply wanted to live in a community with better housing, schools, and jobs. Most of our participants said they sought an integrated community rather than one that was predominantly black or white.

### 3.3.1 New Opportunities

Participants cited a number of advantages of living in a non-impacted area. These included feeling safe and seeing fewer illegal activities.

*“I like that it’s close to my job and I like the schools. And once I close my door, I don’t have to worry about...feeling fear for my life or nothing.”*

Another important advantage was the increased opportunity for themselves and their children. Many participants told of being able to obtain more education and gain access to better jobs:

*“Updating my skills [at college] was an opportunity I enjoyed having. This was one of the best opportunities I’ve had since I’ve been on Section 8.”*

*“I was able to go to school and be a home health aide and certified nurse aide.”*

*“My opportunities have been really great. I got on with the government. I got the opportunity to save a little and now I’m starting to get ready to go to school to be a drug counselor. I’m gonna be the first one in my family to go to college. I mean, it ain’t always been easy, but it’s just been great.”*

Participants also spoke about the advantages of suburban schools for their children:

*“It’s not that many kids in school, in the classroom...so the teacher can kind of be on a one-on-one basis with the kids so that they can learn.”*

Although many participants talked of isolation and problems with transportation, for some, moving to the suburbs meant access to better services:

*“I like where I stay because it’s convenience, it’s grocery stores. I mean the bus line, you can walk right out of your apartment and go the bus stop. I work right down the street, I can walk there.”*

*“There’s a 24-hour day care nursery. Now that’s a good opportunity because if I have to work late, I don’t have to worry about late fees.”*

### **3.3.2 Problems**

While participants said that there were many advantages to living in non-impacted areas, there were also significant disadvantages. Some reported problems with maintenance and management. Others complained of barriers created by poor transportation. But the most serious problem that participants faced was harassment of minorities by police in certain jurisdictions.

*“Duncanville was like redneck town. You know, cause if they didn’t know your car when you came out there, they were gonna stop you if it’s after 12 o’clock at night. I had to get used to that. Every time I look around the police was at my door.”*

*“The police in these predominantly white areas, it’s like if you’re black, you’re targeted...These small little suburbs out here, you cannot go there being black. You can’t go there and live without being harassed. I had to move. I mean, ‘cause I had nightmares*

*about it, they really harassed me...They was calling me black girl and stuff, you know, really mistreating me. I felt like sometimes I'd have to be by my house at ten o'clock at night because I swore to God I thought they was gonna lynch me. For a whole year I'm just a prisoner in my own home. I'm scared of the cops."*

### **3.3.3 Social Integration**

Focus group participants reported mixed experiences with their neighbors in predominantly white areas. Some felt isolated and stereotyped, while others felt welcomed by their neighbors. This discrepancy has to do with the individual experience of the participants, the specific complex they moved into, and the level of racial tension in the larger community. In some cases, a certain jurisdiction might be particularly hard on African-American Section 8 residents. In other cases, tenants felt isolated at first, but gradually felt more welcome once the neighbors got to know them. In still other cases, participants said that their neighbors were warm and friendly from the first meeting. Many of our participants, however, reported very little interaction with their neighbors.

*"I keep to myself, stay in my house."*

*"You would sometimes...be antisocial. I just don't do my neighbors. You could say isolation."*

Although no participants reported overt harassment from neighbors, many spoke of their discomfort about being the only—or one of the few—African-Americans in their new communities.

*"I said, well, I'm not gonna move because I gotta overcome this. These people don't want us here. The street that I live on, we're the only black family and I've been living there for almost three years. It's these suburbs, they don't want us out there. But, hey, we're there you know. We can't run no more; we got to be somewhere."*

*“When I first moved out there, being from the ‘hood and everything. I was riding the bus and I don’t know if it was the expression on my face or it look like I’m gonna shoot somebody or something, but I got on the bus the first time and I sat in a certain seat. And from then on, that was my seat. You could feel and see the distance. Then finally, I guess, they kind of got used to me, said, well, he’s not real violent or nothing and all that we see on t.v. And they began to associate with me.”*

One participant spoke about how difficult this isolation was for her young daughter:

*“My daughter, she the only black girl. And you know what she say? ‘I don’t belong here.’ You don’t see nobody, ‘cause there’s no black children there. And I told her, ‘don’t get caught up in the color deal.’ But then I can see we all want somebody we can relate to. I want to have balance.”*

### **3.3.4 Perceptions of the Housing Opportunity Program**

Given that the HOP program is folded into the regular Section 8 program, it is perhaps not surprising that focus group participants were not familiar with the name and were unsure whether they had received any special counseling and assistance. All of them did remember that they were encouraged to look for housing in the suburbs and offered van tours—although only to a limited number of locations. A number reported going on the tour and ending up moving to one of the featured communities, even though they knew nothing about it prior to the tour. Several reported that the vacancy lists provided to them were not accurate (no vacancies or Section 8 not accepted) and sometimes included housing of poor quality. All noted that they got very little to no assistance with their housing search beyond the vacancy list and the van tours.

*“You’re basically on your own to go to the apartment, fill out the application, and keep checking with the landlord and make them do this and do that; you basically have to do that all by yourself.”*

Participants also did not distinguish between HOP caseworkers and their Section 8 housing specialists. Although many complained that DHA staff were unresponsive and did not provide assistance after they moved, it was unclear which type of program staff they had contacted. HOP program staff that we interviewed acknowledged that they are extremely understaffed and not able to provide the kind of follow up support assistance that they know is needed. Because of the rapid growth of the Section 8 program, other staff are likely struggling with the same problems.

### **3.3.5 Participant Recommendations**

We asked our focus group participants for their recommendations for services that would help other Section 8 holders make mobility moves and become stable in their new communities. The kinds of services that participants suggested include:

- Provide greater assistance with landlord negotiations and provide more information to landlords about the mobility program.
- DHA (and private landlords) should do a better job screening and evicting bad tenants.
- DHA should provide some financial assistance with up-front costs, such as security deposits.
- DHA should allow participants more time to search for units, particularly in non-impacted areas.

- DHA should do a better job inspecting units (and complexes) and making sure that landlords continue to comply with HQS after the initial inspection.
- DHA should take steps to promote the Section 8 program and recipients to receiving communities to help counteract stereotypes.

### **3.4 Public Housing Residents**

Since the purpose of the focus groups was to obtain residents' views about mobility and choice, we did not hold focus groups with current public housing residents in Dallas.<sup>87</sup> However, we did hold a group interview with three tenant leaders—two from West Dallas and one from Frankford and Marsh. As discussed at length above, our key informant interviews and archival research documented the dramatic improvements in DHA's public housing developments: the housing authority has become a better manager, even in its distressed properties, and the new housing the agency is constructing is of market-rate quality. The agency has also begun to provide an unusually rich array of supportive services to its residents. The tenant leaders we interviewed generally confirmed these perceptions.

The tenant leaders acknowledge that much of the improvement is due to changes in DHA management. They credit former Executive Director Alphonso Jackson for having introduced a new philosophy, one that continues to govern the agency today. While they say that DHA used to be the "biggest slumlord in Dallas," they now view the agency as innovative and responsive to tenants' needs.

Most of the tenant leaders' comments concerned the revitalization of West Dallas. They reported that tenants were initially concerned that there would not be enough replacement units for all residents who wanted to return—a resident survey indicated that only about one-third preferred

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<sup>87</sup> We did hold focus groups with public housing residents in other sites where there were not existing mobility programs. Because Dallas had the oldest and largest mobility program, we used the focus groups exclusively to examine the issue of residents' experiences with moving to non-impacted areas.

to take Section 8 certificates. However, the tenant leaders reported that most tenants ultimately received the choice they preferred and received some relocation assistance from the housing authority, if necessary.

Construction on the new units began before the demolition of the still-occupied units began. The tenant leaders agreed that DHA's public housing has improved substantially since the first *Walker* decree. They feel that the rebuilding of the West Dallas has improved the quality of life in the entire area, bringing new services and economic development to the community. One long time resident noted "*Why do we have to move to have opportunities?*" Security is better and the development is much safer than it was in the 1970s and early 1980s. Transportation has also improved and a busline now serves the revitalized development. The tenant leaders say that all of these changes have improved residents' attitudes, given them more confidence and improved their self-image. Although the leaders approved of the Frankford and Marsh development, they believe that the revitalization of West Dallas has had a much more profound impact on DHA residents and the surrounding community.

#### **4.0 Summary and Conclusions as of Fall, 1998**

Because of its complexity, it is difficult to sum up the overall impact of the *Walker* case. Since the case was relitigated in 1995, all three defendants have taken steps to implement the elements of the consent decrees and remedial orders against them. The DHA has made substantial progress in revitalizing West Dallas, creating new housing opportunities for its African-American tenants, and offering greater opportunity and choice for its African-American Section 8 participants. The City has provided an additional 1,400 vouchers to DHA, created some new housing opportunities, and funded its own and an independent fair housing organization. HUD has provided DHA with thousands of new Section 8 vouchers and certificates. Yet some elements of the decrees remain to be implemented: the DHA has not yet completed either the redevelopment of West Dallas or the construction of replacement housing; and the City has encountered serious difficulties in developing new low-income housing opportunities and most of its affordable housing fund remains unspent.

#### **4.1 The DHA**

Key informants from HUD, the DHA, the City, and the plaintiffs agree that from 1987 to 1995, the DHA made relatively little progress implementing the elements of the original *Walker* decree. In the late 1980s, the agency changed its tenant selection and assignment policies, merging its public housing and Section 8 waiting lists, and improved its Section 8 inspections. The DHA also modernized 842 units in West Dallas, but both current DHA staff and the plaintiffs' attorney agree that this effort was inadequate. Further, no units were demolished and no replacement housing was constructed. The most significant step the agency took during this period was initiating its HOP program in 1989. However, resistance to implementing the program prevented it from functioning effectively for several years; at one point, the acting Executive Director fired the entire mobility team and the program was suspended. Even after the program was underway, the original race-neutral definition of an impacted area (one with more than 10 Section 8 households) allowed the DHA to claim it was deconcentrating Section 8 participants without significantly increasing the number of African-American Section 8 households living in predominantly white or suburban areas.

A number of factors inhibited the DHA from making substantial progress before 1995. The previous DHA administration resisted implementing its requirements, particularly the mobility program. The City government reportedly undermined the decree. Most significantly, the Frost-Leyland amendment was passed in 1989 in response to residents' concerns about the demolition of affordable housing in West Dallas. This amendment prevented the use of DHA or HUD funds to demolish housing in West Dallas, effectively blocking all attempts to revitalize the site until the amendment's repeal in 1995.

### **Implementation After 1995**

Because of the DHA's failure to implement the elements of the 1987 consent decree within the original timeline, the case was vacated in 1992 and a new remedial order was issued in 1995. The DHA has made much more progress since the court instituted the 1995 order, although the changes continue to come slowly, and often after much conflict. The revitalization of West Dallas continued to be delayed due to a prolonged dispute over demolition and replacement. The plaintiffs' attorney tried to block the redevelopment of the site altogether, arguing that all of the housing should be replaced in non-impacted areas. Further, HUD and DHA each blame the other

for a year-long delay in the final approval of DHA's plans to demolish the last 842 units in West Dallas, with HUD stating that DHA failed to provide proper justification for its change in plans and the DHA. The DHA continued demolishing many of the remaining units, but because of these disputes, did not begin redevelopment of the site until 1998.

The revitalization effort is now moving ahead quickly and all key informants agree that the DHA has wrought major improvements both in the Lake West site and the surrounding community. Although the agency has built only 225 units thus far, the new housing is of market rate quality, and the DHA plans to provide a rich array of services on site. Although not required under the decree, the DHA is also making economic investments in the surrounding community, having developed a shopping mall adjacent to West Dallas and making an agreement with Goodwill Industries to open an employment facility on site.

In contrast, legal disputes have significantly delayed the development of replacement housing in non-impacted areas. Two different homeowners' associations have sued the DHA to block the construction of small public housing developments in their communities. The first case was settled in 1997, and the housing authority opened a 75-unit development in North Dallas in 1998. All parties agree that this development, too, is high-quality and offers an excellent resident service package. The second case, had been before the Fifth Circuit Court awaiting resolution for nearly a year at the time of the case study and the DHA was enjoined from developing any housing on the disputed sites. As discussed in Section 5.0 above, the Court ruled in favor of the homeowners in March 1999. Because of fears of further litigation, the housing authority opted not to pursue other sites until the case is resolved.

Because of the *Walker* decree, the DHA now offers its Section 8 participants access to housing opportunities in predominantly white, middle class communities. The HOP program has been integrated into the regular Section 8 program and has increased the proportion of African-American residents in non-impacted areas, from just 2 percent in 1987 to about 25 percent in 1996. DHA staff report that increasing this percentage further remains extremely challenging and that residents who attempt desegregative moves still face daunting barriers, particularly the extremely tight rental market. Even those residents who succeed in moving must cope with social isolation and, too often, discrimination. DHA staff believe that much more intensive follow-up services are needed in order to help tenants become stable in these predominantly white communities.

## 4.2 The City of Dallas

While the City of Dallas has implemented some of the provisions of the 1990 consent decree, it has had little success in creating the new affordable housing opportunities the decree mandates. The City took more than six years to create its court-ordered suburban housing fund and since then, it has spent only a small proportion of the funds available. The City's own representatives say that it has been difficult to find developers interested in constructing low-income housing. Suburban governments have been resistant to having any new low-income housing constructed in their communities. Because of these obstacles, the City has helped to finance just 300 units of low-income housing in suburban areas. Further, the plaintiffs' attorney disputes whether these units actually meet the requirement of being "substantially equivalent to public housing." The City did not work out a plan for providing the 1,600 units of low-income housing required under the 1990 decree until 1996.

The City has made some improvements in areas around DHA developments, although HUD informants note that the neighborhood conditions may have improved more as a result of the Community Reinvestment Act than the decree. Finally, the City did create a Fair Housing Office. This office focuses primarily on education and outreach and assisting moderate income home buyers, but does not generally directly address discrimination against low-income renters.

Lack of support or interest from local government officials may have impeded the implementation of the *Walker* decree. According to several key informants, resentment over the contentious nature of the case has affected the City government's willingness to comply with the Court's terms. Even with a Special Master, the Court has apparently been unable to foster an atmosphere of cooperation among the different parties. But external factors have also clearly played a role. Suburban communities have been resistant to permitting the DHA to construct low-income housing in their jurisdictions. The booming Dallas rental market has meant that developers have little interest in taking advantage of the density bonuses or zoning changes that the City has instituted to encourage the construction of low-income housing. Furthermore, the Court's requirement that the City finance low-income housing substantially equivalent to public housing makes it very difficult to attract developers.

### 4.3 HUD

HUD has been involved in the implementation of the *Walker* decree from the outset, providing Section 8 vouchers for replacement housing for West Dallas and overseeing the DHA's compliance. HUD gained a more central role in 1996, when Judge Buchmeyer issued a separate remedial order requiring the agency to use its discretion to create 3,205 units of replacement housing in non-impacted areas. Finally, HUD was charged with creating a task force of federal agencies to address a wide range of social and economic conditions in and around DHA developments.

HUD is currently in negotiations with the DHA as to how the special Section 8 vouchers will be administered and has attempted to convene the task force. Further, there have apparently been disagreements between DHA and HUD about implementation. HUD staff state that DHA has failed to provide adequate justification for changing its redevelopment plans and had to be prodded into moving forward. In contrast, DHA staff complain that HUD has created delays by disputing the DHA's plans for the West Dallas site, its Regional Opportunity Counseling Program, and, currently, its proposal to place special restrictions on the 3,205 vouchers. Notably, DHA staff cite pressure from the plaintiffs' attorney and the Court for keeping the agency in compliance with the *Walker* decree. HUD staff state that the agency has no formal obligation to enforce compliance.

### 4.4 Facilitators and Inhibitors to Successful Implementation in Dallas

The process of implementing the *Walker* decrees and remedial orders has been anything but straightforward. The case has been highly contentious and political, and has generated significant community opposition. Yet the *Walker* experience offers room for optimism: although it took many years, the elements of the decrees are now being implemented and conditions for DHA's African-American tenants are significantly better than they were in when the case was filed in 1985.

#### 4.4.1 Facilitators

Probably the biggest facilitator of change in Dallas has been the changes in the DHA's administration. According to a number of key informants, Alphonso Jackson brought a new spirit to the agency when he became the Executive Director in 1989; his successor, Lori Moon, has reportedly carried on the management reforms that he began. The DHA became a well-managed housing authority, maintaining its developments and improving its Section 8 program. But even more than becoming a high-performing housing authority, the DHA has become innovative and forward-thinking. All parties agree that the new housing the agency is constructing is high-quality and that the DHA has done an outstanding job of providing resident services on-site. The HOP program is well-respected and, with the appointment of the long-time HOP director as the director of the Section 8 program, the entire Section 8 program has taken on a mobility focus. But the most striking example of the DHA's new philosophy is the commitment it has made to the West Dallas community, developing a nearby shopping mall and working with Goodwill Industries to bring employment opportunities to the area—both efforts that are above and beyond what the agency was required to do under the *Walker* decrees.

It is important to note that the DHA would not have been able to take these innovative—and costly—actions without the resources provided under the *Walker* decree. The DHA's Section 8 program grew dramatically as a result of the *Walker* case; clearly, the additional administrative fees have helped the agency to build its resident services department.

### **Creative Diffusion of Community Opposition**

Another way in which the DHA has been innovative is in the creative diffusion of community opposition. Homeowners' associations and local politicians have opposed the construction of replacement housing in predominantly white areas since the first *Walker* decree was issued; two separate homeowners' associations have filed suit to block the construction of new housing in their communities. When Judge Buchmeyer dismissed the first case, the DHA began working with the homeowners' association to design a development that would be acceptable to their community. Moreover, the DHA formed a partnership with a local community college, agreeing to construct a facility on-site that would provide services to the entire area. As a result of the DHA's efforts, the community has accepted the new development.

## Monitoring

All parties agree that the DHA is a different housing authority than it was in 1985. Despite the contentious nature of the case, the DHA credits this change in large part to the effect of continuous monitoring by the plaintiffs' attorney. The plaintiffs' attorney has been tenacious in holding the DHA to the terms of the decree and in ensuring that *Walker* provided genuine desegregative opportunities for DHA tenants.

## Coordination of Local Public Services

DHA's efforts in West Dallas and Frankford and Marsh have benefitted from coordination with the local transit authority. Indeed, when Frankford and Marsh opened, DART rerouted a busline to serve the development. This level of cooperation and coordination with local transit authorities is unusual, but of key importance in facilitating moves to non-impacted areas.

### 4.4.2 Inhibitors

The biggest inhibitor to successful desegregation in Dallas is the composition of DHA's tenant population. The *Walker* case has clearly brought about better housing and conditions for its African-American tenants. Both the DHA and the City have created opportunities for African-American tenants to move to non-impacted areas. However, DHA's housing—and waiting list—remains predominantly African-American; even if the defendants successfully implement all of the ordered remedies, the racial composition is not likely to change. The only white tenants DHA has are elderly, living either in senior developments or Section 8 housing. The agency's Hispanic population is also very small, limited mainly to a single development.

## Coordination Among Multiple Agencies

The *Walker* case includes three main defendants: the DHA, the City of Dallas, and HUD. In addition, suburban housing authorities in Dallas County were also affected by the decrees and two fair housing agencies were created by the City decree. Coordination among all of these agencies has been difficult. The City has reportedly resisted implementing the decree at various points, and has had disputes with both the DHA and the independent fair housing organization. The DHA and HUD have had numerous disputes over implementation, particularly around the redevelopment of the West Dallas site. Finally, informants from the City, the DHA, and fair housing organizations report that most suburban housing authorities have resisted cooperating with the decree and have opposed the construction of any new low-income housing in their jurisdictions.

### **Ongoing Community Resistance**

While the DHA has managed to overcome the opposition of one group of homeowners, the Fifth Circuit Court of Appeals ruled in favor of the homeowners in the second case (see 5.0 below). The agency now fears similar responses from homeowners associations in other non-impacted areas.

### **Reluctance to Accept Minority In-Movers and to Make Desegregative Moves**

In addition to organized resistance to replacement housing, focus groups with DHA Section 8 holders who made—or attempted—desegregative moves indicate that these tenants experienced significant hostility. Some reported experiencing harassment from police or neighbors; even those who did not experience overt discrimination spoke of lack of acceptance from their white or Hispanic neighbors. Other tenants who did not make desegregative moves described their reluctance to make such moves, fearing that they would inevitably encounter discrimination and hostility.

### **Inadequate Supply of Rental Units**

Finally, the Dallas rental market is very tight. According to DHA staff, their Section 8 tenants are competing fiercely for the few units that fall within the FMRs. New construction is occurring, but almost all of it is aimed at more affluent tenants. The City has tried to use its housing fund and its powers to grant density bonuses to encourage the development of low-income housing, but staff report little success in attracting interested developers. In the current booming Dallas economic climate, there is simply little incentive for developers to build low-income housing.

#### **4.5 Institutional Reform in Dallas as a result of the *Walker* Decree**

To end on a more optimistic note, the *Walker* decree has had one unexpected outcome. The original lawsuit was intended to end the DHA's discriminatory practices, provide new and better housing opportunities for African-American tenants, and promote fair housing throughout the Dallas area. However, the very process of attempting to implement the court-ordered remedies has fundamentally changed the DHA. It is true that changes have not been easy and have had a high cost, both in terms of actual dollars and in creating high levels of contentiousness and ill-will. But, as discussed above, the DHA today is well-managed and innovative; staff are very much aware of their obligations to provide high-quality housing and promote opportunities in non-impacted areas. Without the pressure of having to implement *Walker*, without the monitoring from outside parties, it is not clear that such dramatic change would have occurred.

## 5.0 Epilogue: The Implications of *Highlands of McKamy vs the DHA*

In March 1999, the Fifth Circuit Court of Appeals issued its long-awaited decision in the second homeowners' association case, *Highlands of McKamy et al vs. the DHA*, ruling in favor of the plaintiffs.<sup>88</sup> As discussed above, the district court had dismissed the case; the homeowners' association chose to appeal the case to the Fifth Circuit. The Fifth Circuit ruling vacates the district court ruling and upholds the homeowners' argument that the DHA Remedial Order's provision requiring the location of 474 units of new public housing in predominantly white areas is an unconstitutional violation of the rights of the homeowners under the Equal Protection Clause of the Constitution.<sup>89</sup> The ruling states that the race-conscious remedy of siting new housing in predominantly white areas is not narrowly tailored to remedy the vestiges of past discrimination and segregation and further, has the potential to harm the homeowners by lowering property values, and bringing increased crime and disorder to their community.

The Court argues that the Section 8 program is a more appropriate remedy for the past discrimination, calling it a race-neutral remedy that is "increasingly successful at moving black families into white areas." Further, the court states that the program could be even more successful with additional funding for vouchers and mobility efforts and higher FMR exception rents. The Court indicated that it believed that not enough time had elapsed to decree that these strategies were not sufficient to remedy the past discrimination and that "adopting a race-conscious remedy [should be] a last resort." The Court also characterized the *Walker* defendants, the DHA, City of Dallas, and HUD as cooperating defendants who no longer discriminate and actively participate in crafting and implementing remedial measures to eliminate the vestiges of past discrimination.

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<sup>88</sup> Although this decision occurred after data collection for this case study was completed, the ruling is considered so important that we have added this brief discussion.

<sup>89</sup> *Highlands of McKamy IV and V Community Improvement Association; Ginger Lee; Preston Highlands Homeowners' Association, Incorporated; David Beer vs. The Dallas Housing Authority*, United States Court of Appeals for the Fifth Circuit, no. 97-11083, March 16, 1999.

Because of the nature of this decree, the plaintiffs' attorney and the DHA tried to appeal the case to the Supreme Court. In January 2000, The Supreme Court declined to hear the case, sending it back to the Federal District Court.

## **Baseline Case Study: East Texas**

**by**

**Robin Smith and Daryl Dyer**

### **1.0 Introduction to the *Young* Case**

In 1980, African-American residents of public housing in 36 counties in East Texas became plaintiffs in a suit alleging racial discrimination in the region's public housing (*Young v. Pierce* and later *Young v. Cuomo*). The court found HUD liable and the resulting remedies are collectively known as the *Young* Final Judgement and Decree. The 70 housing authorities in the 36 counties in East Texas implicated in this case were not (and have never been) named as defendants.

Many of the 36 counties in East Texas under the *Young* consent decree are markedly rural, with small towns bordered by sparsely populated areas. This general characterization is not true of the region known as "The Golden Triangle" which includes the cities of Beaumont, Orange, and Port Arthur at the triangle's three points. These cities range in population size from 115,000 people in Beaumont to under 25,000 in Orange<sup>90</sup> and are home to significant industrial and

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<sup>90</sup> U.S. Bureau of the Census. *County and City Data Book: 1994*. Washington, DC 1994.

commercial enterprises as well as education, recreation, and cultural facilities. A substantial portion of the public housing units covered under the *Young* decree are in the Golden Triangle.

This report focuses on the *Young* case as implemented in the Golden Triangle and not the full case as it pertains to the 36 county area covered by the decree. There are four housing authorities in the triangle but the field work which informs this report was conducted with three of the housing authorities: Beaumont, Port Arthur, and Orange County (but not Orange City). All references to the Golden Triangle in this report refer only to these three localities.<sup>91</sup>

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<sup>91</sup> The Golden Triangle localities were the jurisdictions in the East Texas case of a sufficient size to analyze in the statistical models envisioned in the long-term evaluation.

## 1.1 Regional Context of the *Young* Case

### 1.1.1 Population Trends

The region of East Texas is generally perceived as a white area, but the court noted in the 1985 decision in *Young v. Pierce* that African-Americans constituted 43 percent of persons living below the poverty level in the East Texas counties and 66 percent of those living in housing without plumbing. It was figures such as these which compelled the court to question the low participation rates of minorities in public housing and the intensely segregated nature of that housing.

While parts of East Texas may be predominantly white, the Golden Triangle is home to many of the African-Americans in the East Texas region. By 1990, African-Americans comprised over forty percent of the population in Beaumont and in Port Arthur. In contrast, neighboring Orange County's population was less than ten percent African-American (See Table 1).

In the 1980s, people moved out of Beaumont, Port Arthur, and Orange County as economic recession and downturns in the oil market slowed the area's growth and reduced available jobs. All three areas saw a decrease in their overall population in the 1980s. However, the African-American population was falling at a slower rate which meant they grew as a percentage of the overall population. In fact, while the overall population in Beaumont was shrinking in the 1980s, the African-American population grew by 10 percent.

As Figure 1 shows, most of the Golden Triangle's African-American population resides in the three cities (Beaumont, Port Arthur, and Orange City) with the adjoining counties having fewer African-American residents. Even within the three cities, patterns of segregation are clear. Whites who live within Beaumont reside on the west side of town. African-Americans who live in Port Arthur live in the southern parts of the city. This pattern produced a dissimilarity index in 1990 of .70 for the Golden Triangle region.

### **1.1.2 Public Housing in the Golden Triangle**

Much of the public housing in the Golden Triangle was built before 1964 and operated according to the Public Housing Administration policy of “separate but equal.”<sup>92</sup> This resulted in most of the public housing in Beaumont, Port Arthur, and Orange County being sited along racial lines. Siting practices of the time meant that in predominantly white Orange County, all four public housing developments were intended for whites, while in Port Arthur it meant that one family development was built on the “white side” of town and one on the “black side” of town.

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<sup>92</sup> In 1964, Title VI of the Civil Rights Act prohibited racial discrimination in federally funded housing.

**Table 1. Population Changes in Beaumont, Port Arthur and Orange County**

	<b>Beaumont</b>	<b>Port Arthur</b>	<b>Orange County</b>
<i>Total Population</i>			
1980 Population	118,102	61,251	83,838
1990 Population	114,323	58,724	80,509
Change	-3,779	-2,527	-3,329
Percentage Change	-3.2%	-4.1%	-4%
<i>Black Population</i>			
1980 Population	42,878	24,813	6,860
1990 Population	47,164	24,778	6,768
Change	4,286	-35	-92
Percentage Change	10%	-.1%	-1.3%
<i>1990 Black Population as Percent of Overall Population</i>	41.3%	42.2%	8.4%

Source: U.S. Census

**Beaumont.** According to the revised 1995 Desegregation Plan, the city includes 26 racially identifiable neighborhoods with U.S. Highway 69 serving as an east-west dividing line separating the white west side from the African-American east side. All of Beaumont's public housing is on the east side of town. Housing authority respondents said housing was originally situated where land was cheap and public housing would not affect property values. The housing authority in Beaumont operates six public housing sites-four family developments (Concord Homes, Magnolia Gardens, Tracewood I and II) with 452 units and two elderly sites (Grand Pine and Lucas) with 120 units. All are currently racially identifiable as African-American developments, although two (Tracewood I and Lucas) originally were built in areas with some white residents.

**Port Arthur.** In 1951, Port Arthur's housing authority opened their first public housing development- Carver Terrace-in a minority neighborhood (148 units). In 1952 a second site, James W. Long (later re-named Gulf Breeze), with 152 units was opened in the white section of the city. An additional 56 units were added near the Carver Terrace site in 1957-58 and classified as Carver Terrace II. All developments are currently racially identifiable as African-American sites.

**Orange County.** In 1951, the Orange County Housing Authority was created by the Orange County Commissioners Court and charged with creating a low-rent housing program in the County (this does not include the incorporated City of Orange which has its own housing authority). In 1954, the Housing Authority built 20 public housing units in Bridge City, 34 units in Cove, 20 units in West Orange, and 44 units in Vidor. An additional 30 units were added to the Vidor development four years later. These developments remain the County's public housing stock.<sup>93</sup>

In 1993, the Orange County Housing Authority was put into receivership when HUD found the Authority in breach of civil rights laws. This action followed well-publicized racial tensions at the Vidor development during integration attempts (discussed in more detail below). The local board

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<sup>93</sup> One development, Cove, was originally built in the County but is on land now annexed by the City of Orange. The County housing authority retained jurisdiction over this development which has a growing minority population.

of directors was disbanded and Orange County was withdrawn as sponsoring agent. The Housing Authority remains in receivership under the direction of HUD. The Orange County government has resisted efforts to return supervision of the housing authority to local leaders.<sup>94</sup>

## 1.2 History of the *Young* Lawsuit

In 1980, African-American residents of public housing in East Texas accused HUD of knowingly and continually maintaining a system of publicly funded, segregated housing in East Texas (*Young v. Pierce*).<sup>95</sup> The case encompassed HUD's Low Income Public Housing, Section 8 Existing Housing Program, and HUD-insured multifamily housing. As stated previously, the 70 housing authorities in the 36 counties in East Texas implicated in this case are not named as defendants. In 1982, the court certified a class in this case that consisted of all African-American applicants for and residents of HUD-funded public housing, rent supplements and Section 8 programs.

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<sup>94</sup> Dyer, Glenda. "Officials question plan to return OCHA." *Beaumont Enterprise*, November 19, 1996, p. 1B.

<sup>95</sup> The case is named after Lucille Young, an African-American woman who encountered discrimination while trying to find public housing in Clarksville, Texas.

Insert map 1 African-American population

**Table 2. Litigation History**

<b>Principal Litigation in the <i>Young</i> Case</b>	
1980	Plaintiffs file suit against HUD
1985	Court decides in favor of Plaintiffs
1988	Interim Injunction
1990	Order for Further Relief
1995	Final Judgement and Decree

In 1985, the Federal District Court for the eastern district of Texas found HUD liable for maintaining a system of segregated housing in East Texas and, in 1987, both parties agreed to limit the scope of the case to public housing. The 1988 Interim Injunction in *Young v. Pierce* required HUD to:

- stop subjecting class members to segregation or separate treatment;
- direct the 70 housing authorities to implement race-conscious Tenant Selection and Assignment Plans within 90 days;
- create and develop desegregative housing opportunities for class members;

- distribute written notices of desegregative opportunities in all HUD-assisted properties to all class members;
- direct owners and operators of each public housing project or program, other than low-rent public housing in non-racially impacted<sup>96</sup> areas to amend their fair housing market and equal opportunity plans; and
- conduct a range of monitoring and research activities to ensure programs are not operated in a discriminatory way.

In 1990, an Order for Further Relief was extended by the Court which required HUD to:

- develop a system to monitor compliance with implementation measures;
- submit desegregation plans for each PHA to achieve unitary status<sup>97</sup> between white and African-American developments; and
- fund and develop a fair housing counseling and advocacy agency.

By June 1991, HUD submitted desegregation plans or assertions of unitary status for all PHAs and began to implement the desegregation plans, although they were not yet court approved. In March 1992, the plaintiffs' attorney filed a motion in opposition to the desegregation plans, stating they were insufficient to remove the vestiges of discrimination. In the Fall of 1993, HUD withdrew the plans. In November 1993, the Assistant Secretary of Fair Housing and Equal Opportunity convened an intra-departmental Desegregation Plan and Remedial Task Force (DEPART) to review and recommend changes to the desegregation plans. Based on these recommendations, the plans were amended in 1994.

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<sup>96</sup> Areas are considered impacted if they are less than 25 percent white.

<sup>97</sup> The decree defines "unitary status" as reached when all vestiges of discrimination attributable to HUD are eliminated.

In 1995, the Court approved the amended desegregation plans subject to the modifications called for in the final judgment and decree (*Young v. Cisneros*). This action requires the plans to incorporate the East Texas Comprehensive Desegregation Plan and several specific provisions in the final decree related to:

- physical improvements to public housing projects and neighborhoods;
- creation of desegregated housing opportunities;
- waiting list initiatives;
- creation of the Fair Housing Services Center; and
- dealing with racially hostile sites.

The provisions of the East Texas Comprehensive Desegregation Plan are binding on HUD because it was incorporated into the 1995 final judgement and decree. The Comprehensive Plan is organized to parallel specific requirements of the 1995 Final Judgment and Decree. The Comprehensive Plan states that “HUD strives not merely to eliminate racially identifiable project sites, but also to overcome spatial separation and segregation in all assisted housing in the affected jurisdictions.” It also called for the creation of 1,000 desegregative housing opportunities over five years, which was amended to 5,134 desegregative housing opportunities within seven years.<sup>98</sup>

To comply with the 1995 final judgment and decree, HUD amended the PHA desegregation plans for a second time.<sup>99</sup> All unitary status assertions (from the 1990 litigation) were replaced by the amended desegregation plans which said that none of the 70 housing authorities had achieved

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<sup>98</sup> “Desegregative housing opportunities” are defined and discussed more fully in section 3.1.3: *The Fair Housing Services Center and Tenant Based Assistance*.

<sup>99</sup> The original desegregation plans were developed in 1990/1991 with first amendments in 1994 and second amendments in 1995.

unitary status. These amended plans form the basis for the remedies required in each housing authority.

Given that the original suit was filed in 1980 and the final judgement and decree was handed down in 1995, key players in the *Young* consent decree have changed over time. The executive directors at all three housing authorities profiled in this case study have changed since 1980. A list of key players is given in Table 3 including the executive directors at the time of the case study field work.

**Table 3. Key Players in the *Young* Consent Decree**

<i>Plaintiffs</i>	African-American residents of public housing in 36 counties in East Texas
<i>Plaintiffs Attorneys</i>	Michael Daniel
<i>Class-members</i>	In 1982, the court established a class consisting of all African-American applicants for and residents of HUD funded public housing, rent supplements and Section 8 programs. In 1987, both parties agreed to limit the scope of the case to public housing.
<i>Defendant</i>	U.S. Department of Housing and Urban Development
<i>HUD Trial Attorneys</i>	Bill Daley, Assistant General Counsel, Texas State Office of Counsel Mike Robinson, Associate Field Counsel, Texas State Office of Counsel Steve Cerny, Trial Attorney, Office of Counsel
<i>Mobility Contractor</i>	East Texas Legal Services (selected in 9/98; will begin service in 1/99)

<i>Beaumont Housing Authority Executive Director</i>	Ernest Wilson
<i>Orange County Housing Authority Executive Director</i>	Tarek Polite
<i>Port Arthur Housing Authority Executive Director</i>	Bobby Feemster

## 2.0 Social And Economic Context For Implementation

The social and economic characteristics of the Golden Triangle communities are important because they influence one of the fundamental goals of the *Young* consent decree: the desegregation of the public housing stock in the 36-county region. At the core, desegregation of the public housing stock relies on the willingness of African-American and white public housing residents to make desegregative moves.<sup>100</sup> In the Golden Triangle, public housing and associated wait lists in each community are often comprised of applicants of the same race (African-Americans in Beaumont and Port Arthur and whites in Orange County). For desegregation of public housing to occur in the Golden Triangle, white subsidized housing residents in the Orange County system would need to move into developments in Beaumont and Port Arthur tenanted primarily by African-Americans, and African-Americans in Beaumont and Port Arthur's public housing would need to move to developments in Orange County where whites predominate.<sup>101</sup>

Although the Golden Triangle is referred to as one region, the social, economic, and geographic differences in the communities are striking and pose challenges to people moving between them. The cities of Beaumont and Port Arthur are urban commercial centers with related job opportunities. They have public transportation, retail shopping, and local trade and professional colleges. Orange County, which is more rural, does not have this wide range of amenities and is not served by public transportation.

Port Arthur and Beaumont have historic African-American neighborhoods with churches, social clubs, and other organizations targeted to the African-American community. Orange County,

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<sup>100</sup> Desegregative moves can be made within and between jurisdictions using tenant-based assistance, but this discussion focuses specifically on the call to desegregate the public housing stock.

<sup>101</sup> The 1995 Golden Triangle Area wide Housing Opportunity Plan (AHOP) noted that "Of the 22 public housing sites in the Golden Triangle (including Orange City), 19 of them are racially identifiable. Fifteen of the racially identifiable sites are predominantly African-American occupied. The exceptions are the four sites operated by Orange County which are all white occupied." Residents could also move out of the Golden Triangle and to other counties in the East Texas region outside of the triangle.

particularly Vidor, is historically white with few traditional organizations for African-Americans. Public housing staff in all three locations wondered why African-American public housing residents would want to move from either Port Arthur or Beaumont to Orange County. Comments like “there are no jobs, no churches, what would they do there?” were coupled with concerns over their acceptance in the town. Even a long-time white resident of Orange County said, “I like it here, but if I wasn’t from here I wouldn’t come here.” A low desirability of Orange County as a destination for low-income, minority persons without auto transportation, could be a strong barrier to desegregation.

## 2.1 Race Relations

Orange County has a checkered history concerning racial tolerance and is associated in the press with lingering segregation and white supremacist activity. Publicized opposition to housing desegregation at the Vidor development reenforced a negative image even though the most notorious events, two Ku Klux Klan rallies, were instigated by groups outside of Vidor and not particularly well received by the community.<sup>102</sup> The wider region has a history spotted with violent activity including cross burnings, beatings, and hangings. In the 1970s, school desegregation in cities like Beaumont increased white flight to surrounding counties and fostered increased segregation throughout the Golden Triangle. More recently in the summer of 1998 was a much-publicized brutal murder of an African-American man by three white men in Jasper, Texas.<sup>103</sup>

In the 1990s, the attempt to integrate the Orange County Housing Development in Vidor became international news. According to our interview and focus group respondents, the widespread notoriety of events in Vidor still shape regional attitudes about desegregation, the *Young* consent decree, and public housing. They also affect the willingness of African-American public housing residents to take advantage of desegregative public housing opportunities in Orange County.

## 2.2 Vidor

In May of 1993, the *Houston Chronicle* proclaimed that Vidor's infamous racial barrier might be a thing of the past. The paper reported that while the Klan had demonstrated twice over desegregating the housing complex in this small town, Klan activities were instigated by outside

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<sup>102</sup> Klans from Waco and Cleveland, Texas demonstrated in Vidor.

<sup>103</sup> Jasper is part of the broader East Texas region, not the Golden Triangle.

groups and they received little support in Vidor. In contrast, more townspeople turned out for a prayer rally on love and tolerance.<sup>104</sup>

Two African-American men moved into the Vidor public housing complex early in the Spring of 1993, and two African-American women with children moved in soon after. At the resident council elections, one of the men, Bill Simpson, was voted secretary and the other, John DeQuir, appointed sergeant-at-arms. Simpson said most of his neighbors gave him a warm welcome and he was no longer worried about living in the formerly white complex.<sup>105</sup> Four months later, however, all of the African-American tenants had moved out of Vidor and Simpson was killed in a robbery in Beaumont the day after he moved out of Vidor.

After Simpson's death, the media and federal officials descended on Vidor and stories were circulated about what life was like for the African-American public housing residents.<sup>106</sup> Former African-American residents reported that while some neighbors were welcoming and supportive, others were abusive. Minority residents claimed that townspeople refused to give them job applications and white teens came to the complex dressed in sheets. *USA Today* reported, "Six months after this virtually all-white, former Ku Klux Klan stronghold began a first effort at desegregation, it has ended-the victim of racial taunts, bomb threats, and Klan intimidation."<sup>107</sup>

In October, former HUD Secretary Cisneros came to Vidor to call for a federal takeover of the housing authority and the resignation of the Orange County Housing Authority board members and Executive Director. Management of day-to-day activities at the site were shifted to the Executive Director of the Orange City Housing Authority.

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<sup>104</sup> Stewart, Richard. "A Change Has Come." *Houston Chronicle*, May 23, 1993, p. 5D.

<sup>105</sup> Stewart, Richard. "A Change Has Come." *Houston Chronicle*, May 23, 1993, p. 5D.

<sup>106</sup> Foreign and domestic newspapers featured stories on the happenings at the Vidor housing development as well as television shows, *Larry King Live*, *Montel* and *Donahue*. The program *A Current Affair* also planted an African-American couple in the development as part of a planned exposé.

<sup>107</sup> Potok, Mark. "Texas town returns to racial 'dark ages'." *USA Today*, September 1, 1993.

Over the next several years, media attention continued as integration efforts at the complex proceeded. The Orange County Housing Authority, working in conjunction with the Beaumont HUD office, moved minority families in to the Vidor development in small groups. Extensive renovations were conducted and security was tightened, including the use of Federal Marshals. Monies were made available for a transportation van and public housing jobs for residents in maintenance, security, and recreation.

These remedies proved transitory, however. The money to cover these expenditures is no longer available at Vidor. Focus group participants and housing authority staff noted that most minority residents left when these short-term remedies ended. Consequently, despite these efforts the public housing complex in Vidor remains racially identifiable as white. In December 1997, HUD reported to the court that four African-Americans were living in the 74 unit site.

During the interviews for this case study, we asked housing authority staff in all locations about barriers to their efforts. The happenings in Vidor were often brought up as a serious barrier to desegregating the Golden Triangle's public housing because they reinforced the image that African-Americans were not welcome in Orange County. Moreover, public institutions lost credibility as effective actors in integration efforts with their perceived inability to protect minority residents and educate local white neighbors in ways that improved tolerance.

### **3.0 Central Implementation And Progress Toward Desegregating Public Housing as of Fall, 1998**

HUD's role as defendant in the *Young* consent decree and the number of housing authorities involved, make implementation of the court order a complex proposition. Ultimately, HUD is responsible for the completion of court-ordered provisions, but HUD requires the frontline operators-the housing authorities-to implement the elements of the decree. HUD holds the housing authorities responsible for implementing the changes in programs and procedures as outlined in each housing authority's desegregation plan. The Department is able to prompt the cooperation of the housing authorities because it is the primary funder. In addition to the desegregation plans for each housing authority, a Comprehensive Desegregation Plan was developed for East Texas and details elements for the region. Table 4 summarizes the major elements of the desegregation plans for the Golden Triangle housing authorities.

As the defendant, HUD has the central position in implementing the elements of the decree. This section reviews the Department's roles in bringing about the provisions of *Young* including the elements for which they have taken coordinating responsibility (such as the creation of the Fair Housing Services Center). This section also reviews the status of desegregating public housing in the Golden Triangle. A detailed discussion of other *Young* activities in each of the Golden Triangle jurisdictions will be covered in Section 4: *Implementation efforts of Individual Public Housing Authorities*.

#### **3.1 HUD as Coordinator, Facilitator, and Monitor of Consent Decree**

This section describes HUD's most recent institutional structures for monitoring implementation of the *Young* consent decree and the Department's involvement in major pieces of

implementation.<sup>108</sup> Following the HUD discussion, there is a status report on desegregation in Golden Triangle public housing developments.

**Table 4. Major Young Consent Decree Elements for the Golden Triangle**

Remedy	Description	Implementation Responsibility	Progress-to-date
Tenant selection and assignment plan changes	<p>Establish preferences.</p> <p>Prompt responses on eligibility and availability.</p> <p>Date and time waiting list procedures.</p> <p>Update and purge waiting list every 6 months.</p>	HUD directed the housing authorities to make changes to their TSAP.	The TSAP changes are essentially complete.
Combined waiting list initiative	Crosslist and merge applicants with other area housing authorities.	HUD	HUD in process of requesting modifications to wait list initiatives.
Institution of race-conscious tenant selection and	PHAs required to institute race conscious procedures to maintain non-	HUD directed housing authorities to institute race conscious procedures.	Public Housing in Beaumont, Port Arthur, and Orange County is

<sup>108</sup> Information is based on interviews and research conducted in August 1998.

**Table 4. Major Young Consent Decree Elements for the Golden Triangle**

Remedy	Description	Implementation Responsibility	Progress-to-date
assignment practices	racially identifiable sites.		still racially identifiable.
Implement a Section 8 mobility program	<p>Create Fair Housing Services Center.</p> <p>Notify all Section 8 families of counseling, referral and training programs.</p> <p>Conduct public information and outreach to landlords.</p> <p>Use certs and vouchers outside racially impacted census tracts.</p>	HUD is responsible for selecting a contractor to provide mobility services through a Fair Housing Services Center.	Contractor not selected at time of site visit (East Texas Legal Services, was selected in September 1998. They plan to begin service in first quarter 1999).
Equalize conditions and physical improvements	<p>Differs by site but major elements include:</p> <p>Install central air, Playgrounds, Laundry; Community Rooms, Landscaping, Locks</p>	HUD directed PHAs to complete physical renovations (additional money made available to Orange County).	Most are complete except air conditioning in all sites. Exceptions at individual sites. In January 1999, Port Arthur and Beaumont appealed their CGP formula

**Table 4. Major Young Consent Decree Elements for the Golden Triangle**

Remedy	Description	Implementation Responsibility	Progress-to-date
			amounts to acquire additional monies to pay for required physical improvements. Office of Public Housing approved appeals.
Housing quality standards	PHAs with failure rates of 25% and up, reinspect	HUD directed PHAs to complete	Complete
Monitoring and Reporting	Must submit occupancy, wait list, and program data; funding of remedial measures; implementation progress	HUD requires PHAs to provide information quarterly to Beaumont Fair Housing Office	Complete
Changes to Rent Policy	Conduct multifamily housing rent survey and request exception rents where warranted.	HUD directed PHAs to complete	Complete

**Table 4. Major Young Consent Decree Elements for the Golden Triangle**

Remedy	Description	Implementation Responsibility	Progress-to-date
	Raise Sec. 8 vouchers to 100% of FMR limit		
Implement Resident Initiatives	Can include: FSS, job creation, homeownership program, drug elimination program	HUD directed PHAs to complete	Sites established various resident services programs and opportunities including FSS

### 3.1.1 Fair Housing and Public Housing Offices

In 1993, HUD Assistant Secretary for Fair Housing and Equal Opportunity, Roberta Achtenberg, replaced the former Desegregation Coordinating Office in Fort Worth, Texas with a local HUD Fair Housing Office in Beaumont. This office was to have primary responsibility for implementing the requirements of the decree in the 36 counties. In November, 1994, a separate HUD Public Housing Office was co-located with the Fair Housing Office. Both of the two HUD Beaumont offices were given oversight responsibility for the implementation of portions of the decree handed down in 1995. The Fair Housing Office directed court ordered elements such as notifying classmembers of desegregative housing opportunities and the Public Housing Office oversaw more traditional housing oriented elements such as changes to the physical stock.

In 1997, the HUD District Inspector General released an audit report that seriously questioned the ability of both offices to complete their missions because of continual strife between the office directors, turf battles, and high staff turnover. A senior HUD official was quoted in the audit as

saying, “The Beaumont office appears in a state of confusion [with] mutual contradictions between the offices. The 70 [public housing authorities] in the *Young* court order are confused and frustrated.”<sup>109</sup> The audit described how the offices often contradicted each other, required duplicate information, and provided minimal compliance monitoring. The report depicted HUD’s Beaumont offices as impediments to progress in the *Young* consent decree and recommended they be closed and their functions transferred to Fort Worth and Houston. The Beaumont Public Housing Office was closed in June, 1997. The Fair Housing Office continues in operation at this writing.

The Beaumont Public Housing and Fair Housing Offices were to serve a coordinating function among housing authorities in the Golden Triangle and play a role in several elements of the planned remedies for the area. For example, the desegregation plans for the Golden Triangle call for the creation of a unified, crosslisted, waiting list among the housing authorities. The combined waiting list initiative among the four Golden Triangle jurisdictions (Beaumont, Orange City, Orange County, and Port Arthur) is not in place. When the Public Housing Office shifted from Beaumont to Fort Worth, the Fort Worth office reviewed the waiting list initiative plan and saw a need for modifications. They are in the process of requesting approval from the Court for modifications to the waiting list initiatives.

Per the consent decree, the Beaumont Fair Housing Office notifies all class members of desegregative housing opportunities by mailing an informational booklet to all class members every six months. This announcement lists desegregative housing opportunities for class members in all HUD-assisted housing in East Texas. To apply, applicants must follow-up with the manager of the specific property.

The Beaumont Fair Housing Office was involved in developing Memoranda of Understanding with municipalities that had jurisdiction over housing authorities whose desegregation plans called for community investments and improvements in neighborhoods surrounding public housing developments. The Fair Housing Office, in conjunction with the Fort Worth office, also maintains

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<sup>109</sup> Jordan, Jerry. “HUD Closes Beaumont Housing Office.” *The Examiner*, June 19 - 25, 1997.

a database on the composition of public housing developments as well as information on Section 8 and other HUD assisted housing.

The consent decree called for the creation of a Fair Housing Services Center to provide mobility counseling and follow-up to housing authority clients and conduct outreach to landlords to increase desegregative housing options. The HUD offices in Beaumont and Fort Worth are involved in establishing this center, but it was not in operation at the time of the site visit in the Summer of 1998 (discussed in more detail in an upcoming section).

### **3.1.2 Community Development Around Public Housing Stock**

As mentioned previously, some housing authority desegregation plans in the *Young* decree included improvements to the neighborhoods around public housing developments. In these instances the court required HUD to cause the housing authorities and their “responsible municipalities” to enter into a Memorandum of Understanding where the municipality agrees to carry out the required neighborhood improvements. These Memoranda were to be filed with the court by July 1, 1995.

Such a Memorandum was not required for Orange County because HUD had officially taken over the Vidor housing development from the County. During our site visit, HUD’s Beaumont Fair Housing Office said Memoranda of Understanding had not been signed for the cities of Port Arthur and Beaumont but that status reports had been filed for both.<sup>110</sup> Since neither city is party to the lawsuit, they do not track expenditures (either CDBG or general revenue) in relation to public housing developments or the *Young* decree.

However, city officials in Port Arthur did say that areas where public housing was located often were part of their target areas for development. The Port Arthur Planning Office was particularly

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<sup>110</sup> HUD staff met with the City of Beaumont on February 12, 1999, to discuss the MOU. The MOU has not been signed.

interested in investing in neighborhoods surrounding public housing, but did not feel it was in the City's interest to sign the Memorandum of Understanding because it would officially involve them in the lawsuit. Public housing officials in Beaumont said they believed that the City had been very helpful with paving, drainage and code enforcement issues.

### **3.1.3 The Fair Housing Service Center and Tenant Based Assistance**

In the 1995 Final Decree and Judgement, HUD was ordered to provide \$500,000 annually for at least five years to establish a Fair Housing Services Center (FHSC). A Notice of Funding Availability appeared in the December 12, 1997, edition of the Federal Register for the Fair Housing Services Center in East Texas. After the site visit, a contractor, East Texas Legal Services, was selected in September, 1998. They plan to begin service in the first quarter of 1999.

The Notice of Funding Availability specifies that the Center will be administered by a non-profit organization and outlines the expected activities of the Center. These include:

- Familiarity with all relevant HUD regulations;
- Outreach to recruit Section 8 landlords and assistance with FMR-exception rents;
- Eligibility review services;
- Counseling services and other social services support to assist desegregative movers;
- Post-placement services to aid desegregative movers;
- Encouragement and assistance to class members to make desegregative moves; and
- Provision of information to class members.

East Texas Legal Services is located in Nacogdoches and plans to have its main operation in this city. Six satellite offices will be located throughout the 36-county service area, including an office in the Golden Triangle. It will also have staff who can travel throughout the region.

According to the Notice of Funding Availability, the Center will have 200 desegregative vouchers/certificates to use each year for class members who are willing to make desegregative moves.<sup>111</sup> The Center will use the following priorities to offer class members desegregative certificates:

- Class members who reside in predominantly African-American, low-rent public housing projects;
- Class members who are on the waiting list for low-rent public housing as of March 30, 1995; and
- Class members who apply for low-rent public housing after March 30, 1995.

A total of one thousand certificates and vouchers will be made available to the Fair Housing Services Center for desegregative housing opportunities. The Housing Authorities will administer the programs. Class members using this assistance have 120 days after receiving their vouchers or certificates to enter into a lease for a desegregative option. After that time, the applicant has 60 additional days to choose housing in any location. If housing is not secured at the end of the 180-day period, the voucher/certificate reverts to the PHA.

HUD is responsible for providing over 5,000 desegregative housing opportunities over seven years. HUD will be given “credit” toward this goal if: (1) a class member uses their certificate/voucher in a non-minority area<sup>112</sup>; (2) a class member is referred by mobility counseling to a landlord in a non-minority area who is willing to rent to them with or without Section 8 assistance; and (3) a class member accepts a unit in a privately owned, HUD-assisted, HUD-

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<sup>111</sup> Certificates and vouchers will be used by the Fair Housing Services Center for desegregative housing opportunities, but the Housing Authorities will administer the programs. The certificates and vouchers are held in reserve in various PHAs’ allocations.

<sup>112</sup> At least 75 percent white.

subsidized development, or FHA development in a non-minority area. Even if a class member does not make a desegregative move, HUD can count offers of housing as a desegregative *opportunity* if the class member is:

- Provided a desegregative housing voucher or certificate (defined as a voucher or certificate which is limited in the first 120 days to non-minority census blocks);
- Offered mobility counseling;
- Referred by mobility counseling to a landlord who accepts housing assistance;
- Referred to a housing unit located in a non-minority census block;
- Referred to a housing unit that meets housing quality standards;
- Referred to a unit located outside an area where “a reasonable African-American would perceive significant racial hostility”; and
- There is no legitimate basis for the class member to refuse the offered unit.<sup>113</sup>

The clock started ticking on the provision of the 5,000 plus desegregative housing opportunities in 1995, with a seven-year time line ending in 2002. A number of respondents said they believed that desegregative moves would not be made in significant numbers until the Fair Housing Services Center was in place both to counsel prospective movers and to develop opportunities with landlords.

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<sup>113</sup> These requirements are detailed in the Notice of Funding Availability, December 1997.

## **3.2 Desegregating Public Housing**

The majority of public housing sites in Beaumont, Port Arthur and Orange County remain racially identifiable. The housing authorities freely admit they have been unable to prompt residents to make desegregative moves or to attract applicants into the system who will make such moves. The 1995 Final Judgement and Decree called for the creation of a Fair Housing Services Center to spearhead mobility and desegregation efforts. Such an organization was not established by the time of the site visit in the Summer of 1998, therefore no information is provided on their implementation activities and accomplishments.

### **3.2.1 Desegregating Public Housing in Beaumont**

As shown in Table 5, all of Beaumont's public housing sites are predominantly occupied by African-Americans, but the stock varies significantly by year, design, and population. Two of the sites are designated for the elderly (Grand Pine and Lucas). These are low-rise developments built in the mid-sixties with courtyards and small backyards. Lucas is located on a major road near shopping, restaurants and the PHA administration offices. Grand Pine is in a deteriorating, residential, minority neighborhood near the family development Magnolia Gardens. However, the development itself is in good condition.

The two large family sites are Concord Homes and Magnolia Gardens, both built in the 1950s with 150 or more units. These are low-rise buildings congregated together to form the development. Magnolia Gardens was originally built for whites in a former white neighborhood, but has long been home to mostly minority families. Both Magnolia and Concord are deteriorated, but Concord Homes is in particularly bad shape, with no major modernization since it was built. Both complexes are in deteriorating neighborhoods with vacant and abandoned properties near by.

Tracewood I and Tracewood II are low-rise walk-ups with 24 and 53 units respectively. They are closer to more recently developed residential neighborhoods and commercial establishments. Since they were built in the mid-1980s, they are more up-to-date and look like modern apartment buildings, not “low-income housing.” Tracewood I is near a wooded residential area and bordered by a moderate-income white community. Tracewood II is near stable neighborhoods and commercial establishments and the housing authority’s administrative offices are located next to this site. Per the consent decree, central air conditioning has been installed at both sites using existing heat duct work.

Table 5. Beaumont 1997 Public Housing Racial Composition

	African-American	White	Other
Concord Homes	101	3	1
Magnolia Gardens	178	7	1
Tracewood I	20	3	1
Tracewood II	48	3	0
Total	347	16	3
Lucas (elderly)	47	8	0
Grand Pine (elderly)	85	8	0
Total	132	16	0

Source: Semi-Annual Report to the Court for 12/97.

### 3.2.2 Desegregating Public Housing in Port Arthur

While both Carver Terrace and Gulf Breeze are predominantly African-American occupied, Gulf Breeze (the development originally built for whites) is bordered by an integrated neighborhood that is still considered non-impacted. The development is located near a major roadway, Gulf Drive, and near retail and commercial activities. The name Gulf Breeze was adopted several years ago during a larger attempt to change the image of the development which had long been plagued by a bad reputation for crime and drug activity.

On the other side of town, Carver Terrace is bordered by a vacant industrial field with large oil storage tanks and a large (150 units) low-income apartment complex run by a nonprofit organization. Both developments were built in the 1950s and are in similar condition. Per the consent decree, Carver Terrace has a new community center with administrative offices and a police substation.

Table 6. Port Arthur 1997 Public Housing Racial Composition

	African-American	White	Other
Carver Terrace	160	3	2
Gulf Breeze	89	23	12
Total	249	26	14

Source: Semi-Annual Report to the Court for 12/97.

### 3.3 Desegregating Public Housing in Orange County

The neighborhoods in Orange County where public housing is located differ widely. The Vidor development is located on the edge of the City of Vidor within walking distance (a mile) of a grocery store. Units in the development are single story duplexes with front and back yards. These are predominantly white-occupied and the development outwardly appears to be in good condition.

Bridge City is built on a cul-de-sac with twenty units stretched along each side of a short road. The site is within walking distance to a high school, but farther from commercial activities. The surrounding land has been purchased by various developers who are building moderate- to high-income homes on nearby lots. The development itself is in poor condition, with deteriorated exteriors and yards. The development is also predominantly white occupied.

West Orange and Cove are closer to the City of Orange and house more minority families. West Orange is the area of Orange City, where most African-Americans in the County traditionally have lived. Cove is within the city limits (annexed in 1970), but is administered and maintained by the County housing authority. The surrounding area is in decline, with abandoned buildings and closed small businesses. The development appears to be in good condition, however, and includes a new community center with laundry facilities.

Table 7. Orange County 1997 Public Housing Racial Composition

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Table 7. Orange County 1997 Public Housing Racial Composition

	African-American	White	Other
Bridge City	0	20	0
Cove	11	21	0
West Orange	16	4	0
Vidor	4	68	0
Total	31	72	0

Source: Semi-Annual Report to the Court for 12/97.

### 3.4 Barriers to Desegregation in the Golden Triangle

The Golden Triangle housing authorities are bound together in an odd way: they each have predominantly one race of people in their system and need each other to furnish residents of the opposite race to desegregate their public housing. Officials at the Port Arthur, Beaumont, and Orange County housing authorities say the people coming to them for housing are often of the same race as current residents. One PHA official in Beaumont said, “We just take the families that come to us...serving people who need service.” The difficulty of attracting opposite race in-movers prompted PHA interviewees to make comments like the “Decree is humanly impossible [to implement].”

Desegregating public housing would require in-movers from the neighboring cities. Variations in the services offered in the different localities could lower the number of people willing to move from Beaumont and Port Arthur to parts of Orange County. Housing authority officials questioned the benefits in-movers to Orange County would receive. When contemplating one of their residents moving to Orange County, a PHA staffperson said, "Welfare to work is a reality...job training and education and the ability for economic advancement are only offered in Beaumont, Port Arthur, and Orange City." As a more rural location, Orange County does not offer the intensive services available in the larger jurisdictions or have similar job opportunities. Given the work requirements placed on many public housing residents under welfare reform, residents of public housing in Orange County may be at a disadvantage in accessing needed job training and employment services.

In addition to employment related concerns, the difference in the availability and proximity of local amenities, such as shopping and public transportation, may also be a barrier to implementation. Orange County does not have the same level of amenities as the larger jurisdictions. A PHA staffperson in Beaumont described the thought process of one of their applicants who was willing to consider Orange County, saying:

*Our typical applicant is female, under 25 with two kids, unmarried, no car...Young enough to need babysitter and a social life. [She asks] "How close can I get to my mother or other relatives?" "Is there a Public Health Clinic?" "How close to stores?" No movies. No mall. Can't get her hair done the way she wants to. No church...Tenant needs to cash her check and get food but where? The PHA doesn't have control over these elements.*

Race relations are also a barrier to implementation in the Golden Triangle. Orange County, particularly Vidor, is perceived by many African-Americans as an unsafe, hostile community for minorities. Overcoming such a legacy will be very difficult. Moreover, housing authority staff in Port Arthur and Beaumont also saw problems with white public housing residents moving to predominantly African-American sites. One interviewee said, "White females going to a predominant black environment...they are the victim of as much intolerance as blacks in Vidor."

Attempting to implement the portion of the decree which calls for providing class members a large number of desegregative housing opportunities will require sustained public education, landlord outreach, and mobility counseling. These activities will be part of the mission of the new Fair Housing Services Center.

#### **4.0 Implementation Efforts of Individual Public Housing Authorities as of Fall, 1998**

While the *Young* consent decree includes a number of functions that HUD is spearheading (discussed above), the individual housing authorities must implement specific elements of their desegregation plans. Each plan is directed to the specific authority, although many of the provisions are similar across the plans. The Golden Triangle housing authorities have made progress on consent decree elements pertaining to tenant selection and administrative procedures, and physical improvements. They have also developed desegregative housing opportunities for class members through new scattered site homeownership initiatives.

While Housing Authorities have made progress on elements related to physical improvements, a lack of funding has hampered their ability to complete all provisions. The decree includes a number of expensive improvements such as building community centers, playgrounds, laundry facilities, and installing central air conditioning. Some of the most expensive work (i.e., installing central air conditioning) is not complete. Each of the housing authorities has a plan on how much they will contribute annually from their CGP funds to cover the expenditures, but it is unclear whether they will complete all construction by the court-ordered deadline.<sup>114</sup>

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<sup>114</sup> In January 1999 the housing authorities of Beaumont and Port Arthur appealed their Comprehensive Grant formula amounts citing unique circumstances and requested funds to cover the court ordered physical improvements. The Office of Public Housing approved the appeals.

The current status of major elements in the desegregation plans Port Arthur, Beaumont, and Orange County are discussed below by city.

#### **4.1 Port Arthur**

Port Arthur's 1997 PHMAP score of 79.75 indicates they are a standard performer. They were given poor scores for vacancy rate and unit turnaround time but solid scores in modernization, rent collection, work orders, inspections, financial management, resident services, community building, and security. The current Executive Director has been at the helm of the housing authority for three years.

##### **4.1.1 Tenant Selection and Administrative Procedures**

The terms of Port Arthur's desegregation plan include: merging the Section 8 New Construction and the public housing waiting lists; notifying African-American public housing tenants of opportunities to make transfers to the Section 8 program; notifying applicants promptly of the approximate date a unit will be available; notifying ineligible applicants promptly; and updating and purging the waiting list every six months. Port Arthur has completed these terms.

Port Arthur was also to give class members a preference equal to the federally-mandated preference and notify applicants of waiting list status. Preferences were implemented but stopped after federal preferences were eliminated and the "white development" became racially identifiable as African-American, thereby making all of Port Arthur's public housing developments predominantly minority. Eligible applicants for all developments are now selected on a first-come, first-serve, date and time basis. Both white and African-American applicants are offered units in all developments as they become available.

Housing authority staff in Port Arthur volunteered that they currently discuss desegregative housing options in Orange County with black applicants. Participants confirmed this practice saying in Port Arthur they were told about other housing options when they applied. Residents we interviewed said that “they ask us all the time” if they are willing to move to Orange County.

### 4.1.2 Public Housing Demolition and Replacement

The Young consent decree did not mandate the demolition or replacement of public housing in Port Arthur. However, it did call for an increase in the housing choices and quality available to classmembers. Under a HOPE I award, Port Arthur rehabilitated and converted 24 low-income apartments at Carver Terrace II into privately owned townhomes. The housing authority felt these units were prime candidates for rehabilitation and conversion and could offer class members the opportunity to become home owners in an affordable context.<sup>115</sup> The apartments were previously part of the addition to Carver Terrace and were set apart from the main public housing development. They are now known as Lincoln Square Townhomes.

Over 1.5 million dollars were made available for replacement housing to return to the affordable housing stock the 24 low-income units at Lincoln Square Townhomes that were converted to homeownership. Staff at the authority felt the best way to offer appealing *desegregative housing options* to current and potential residents, was to acquire scattered sites in non-impacted areas of (neighborhoods where 50 percent or more of the population is white) throughout Port Arthur. The authority prevailed in a protracted public debate process and was allowed to develop 24 single family properties in Port Arthur. These units are tenanted by low- to moderate-income renters who are given the option to buy their homes after 15 months.

### 4.1.3 Public Housing Physical Improvements

Port Arthur's desegregation plan includes a number of repairs and physical improvements to be made at the public housing sites in order to equalize conditions between public housing and Section 8 new construction. These include: the provision of community laundry facilities;

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<sup>115</sup> These two-bedroom townhomes were significantly updated and upgraded by installing air conditioning and carpeting and completely renovating the interior, exterior, and landscaping of the buildings. Lincoln Square Townhomes are maintained as a cooperative with each owner entitled to a 1/24 share of the community.

landscaping; playground areas; and mini-blinds at both Carver Terrace and Gulf Breeze. These improvements have been made at both sites.

The amended plan in 1995 also included the installation of air conditioning at both developments, which the housing authority estimated will cost \$1.9 million dollars. The authority accumulated funds from its 1994, 1995, 1996, and 1997 Comprehensive Grant funds to pay for the air conditioning improvements, but is still short of monies needed to complete these activities.<sup>116</sup> Staff met with the resident councils to determine how to decide which units receive air conditioning first and the residents decided on a lottery drawing.

#### **4.1.4 Creation of Housing Opportunities**

Staff at the Port Arthur Housing Authority expressed frustration at the desegregation goals in the *Young* consent decree. A sizable number of white tenants have not moved into their public housing, which is predominantly African-American, and African-American tenants have not moved in large numbers to public housing in Orange County or other designated areas. The Housing Authority leadership launched a series of scattered-site and home ownership initiatives to broaden the housing opportunities (both in terms of tenure and neighborhood) of class members and others served by the housing authority.<sup>117</sup>

The Port Arthur Housing Authority's first program to promote home ownership began in 1991 when they provided eight families with down payment and closing cost assistance (with a cap of

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<sup>116</sup> Subsequent to the site visit, additional monies were made available to the housing authority for these expenses. In a letter dated January 25, 1999, Port Arthur appealed their Comprehensive Grant Program funding formula under unique circumstances and petitioned for funds needed to complete the court ordered obligations. At the time of the site visit, this appeal had not been approved. It was approved in Spring 1999.

<sup>117</sup> These programs were not required under the consent decree. However, the housing authority feels they proceed in the spirit of "creating desegregative opportunities" for class members.

\$5,000 per family). Participants in this program selected their own home and the housing authority assisted them in locating financing.

In October 1992, the Port Arthur Housing Finance Corporation gave the Port Arthur Housing Authority \$945,626 to establish a home ownership program. The Housing Authority felt that low-income persons often have flawed credit and difficulty obtaining financing, so they assisted 22 families with buying homes by financing purchases as the mortgagee. The Housing Authority notes that 73 percent of the families who purchased homes under this program are class members. One family had been living in Carver Terrace for over 15 years. Every resident in public housing and on the Section 8 program was notified of the opportunity to participate in the program.

#### **4.1.5 Other Activities**

As required by the settlement decree, the Port Arthur housing authority conducted a multifamily housing rent survey and requested exception rents where warranted (specifically in the Stonegate area, which is majority white). They also have raised Section 8 vouchers to 100 percent of the FMR limit.

The housing authority expanded their services to residents through resident initiatives in Family Self-Sufficiency (FSS). The FSS program provides assistance in coordinating services for education, child care, transportation, job placement, and on-the-job training. The housing authority is also working with the Texas Workforce Commission on job and employment initiatives, particularly as they relate to welfare reform.

## **4.2 Beaumont**

The Beaumont Housing Authority's 1997 PHMAP score of 97 designates it as a high performer. The PHA received solid scores on all indicators, with "A" ratings in modernization, rents collected, work orders, inspections, financial management, and security.

#### **4.2.1 Tenant Selection and Administrative Procedures**

As required by the consent decree, the housing authority in Beaumont made a number of changes to their Tenant Selection and Assignment Plan in accordance with their desegregation plan. They merged their Section 8 new construction waiting list with the public housing list, and established a waiting list based on date of application. The agency also committed to notifying ineligible applicants promptly and estimating for eligible applicants when they are likely to receive assistance. In 1996, housing authorities were given the option of doing away with federal preferences. The Beaumont Housing Authority chose to do away with it. The court required the Housing Authority to give class members on the Section 8 list a preference equal to the federal preferences. Without federal preferences, the class member preference was no longer required.

#### **4.2.2 Public Housing Demolition and Replacement**

The only demolition in any of the communities reviewed in this study was done in Beaumont. The 300 unit Neches Park development on Beaumont's east side, near Lamar University, was demolished in 1995-1996 and the land sold for redevelopment to the Port Authority. HUD provided funds to replace 150 of the Neches Park units. The funds were used to purchase 100 scattered sites throughout the city and to build 50 homes in the area where Neches was located.

Neches Park was in the Charlton Pollard neighborhood, a historic African-American neighborhood with longstanding institutions. Because some of the residents felt very strongly about remaining in the community, the housing authority petitioned the court and Plaintiff's attorney to be able to develop housing options in the neighborhood even though it constituted a minority census tract.

<sup>118</sup> The housing authority built 50 homes in the area. The housing authority's investment in Charlton Pollard was combined with a city revitalization effort in the neighborhood. The City committed to an investment of 100 homes in the area as well as a police station and redevelopment of a strip shopping center.

Beaumont also submitted a HOPE VI application for Concord Homes that includes the redevelopment of six buildings into retail and commercial space as part of a larger "work oriented" campus at the public housing site.

#### **4.2.3 Public Housing Physical Improvements**

Beaumont was required to install air conditioning, laundry facilities, community rooms, and playgrounds at all sites to equalize conditions between African-American developments and white developments. Community centers that include laundry facilities have been completed at Magnolia Gardens, Concord Homes, Lucas, and Grand Pine. The housing authority contends that the two Tracewood developments do not have room for additional buildings. Therefore, the Boardroom of the Housing Authority's Administrative Offices is used as a community meeting space.

New playground equipment has been installed at Magnolia Gardens. Tracewood I and II have wooden playground equipment in play areas. The developments for seniors, Grand Pine and Lucas, both had playground equipment replaced or repaired. Upgrades to the playground equipment in Concord Homes is on hold pending a more comprehensive modernization process of the whole development (see below). PHA officials said, "The residents would go crazy if we can't put money in to fix their homes but put it in playground equipment." They also said that, as an interim substitute, residents can use the City park located across the street from the complex.

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<sup>118</sup> The Court did not give explicit permission for this activity.

Air conditioning at the Tracewood developments was installed using prior duct work of the central heating system. Air conditioning was to be installed at Magnolia Gardens and Concord Homes. At the time of the site visit (August 1998), the housing authority had contracted with a firm to design air conditioning specifications and detail the construction work needed. The Board was to meet in September and review plans before work began. If approved, the Housing Authority said construction could start at Magnolia Gardens in 1998 and be completed in 1999. Work on Concord Homes is complicated by the disrepair of the complex. No major modernization has been done at the development since it was built in 1953. A construction bid to upgrade the development came back with an estimate of \$4 million. Housing Authority staff are weighing the efficiency of installing air conditioning before correcting other pressing problems.<sup>119</sup>

#### **4.2.4 Creation of Housing Opportunities**

Like Port Arthur, the housing authority in Beaumont is involved in developing homeownership opportunities for low-to moderate-income persons. These programs are not court ordered but the housing authority reports that the programs expand housing options available to classmembers. The housing authority established a nonprofit and is working with the City in an effort called "Beaumont on the Grow." This home ownership program is designed for low- to moderate-income persons who may have credit problems, but have the drive and desire to become home owners. The authority has purchased 50 homes that tenants lease for two years and have the option to buy.

The housing authority is also working with the City on a First-Time buyer program in which the City offers \$3,000 grants for closing costs after potential home buyers attend a financial management seminar.

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<sup>119</sup> Twenty-two units at Concord were "stripped to the studs" in the first stages of a planned modernization. Activity had to be ceased when the funds were needed for the court ordered air conditioning upgrades in other developments. These units are off-line and the residents were transferred to other locations.

#### **4.2.5 Other Activities**

The PHA is building a resource center and early childhood learning center across the street from Magnolia Gardens. They are working with the local school board to broaden opportunities for public housing children.

### **4.3 Orange County**

The Orange County Housing Authority continues to be operated by HUD and has a 1998 PHMAP score of 92 percent. This score was an improvement over the 1997 PHMAP score of 55.56 and brought the Housing Authority off HUD's "troubled" list. The current Executive Director joined the housing authority in September 1996.

#### **4.3.1 Public Housing Physical Improvements**

The Final Judgment and Decree included requirements to provide air conditioning, community facilities with laundry room, and recreation/playground equipment. New community centers with laundry facilities have been built in Vidor and Cove. West Orange uses the former housing authority office building as their community center. The Bridge City development is built in a cul-de-sac with 20 units. They use an empty unit (when available) for community meeting space. No plans are in place to build a community center. Central air has been installed in Vidor and Cove. All developments received new or repaired playground equipment and keyless deadbolt locks.

#### **4.3.2 Other Activities**

The court requested an increased presence of the housing authority in the Vidor development and required that a housing authority office be built in the development to deal with racial issues

and better implement the desegregation plan. Such a building is complete and houses the Orange County public housing staff including the Executive Director.

As the consent decree required, the housing authority has raised the payment standard for Section 8 to 100 percent of the FMR and provide exception rent to non-impacted areas. They also implemented resident initiative programs (including FSS) and employed a full-time staff person to direct these activities.

## **5.0 Impact on Residents**

This section of the case study documents the impact of the *Young* consent decree and its remedies on class members from their point of view. The fieldwork which informs this writing is a series of five<sup>120</sup> focus groups conducted with participants in publicly assisted housing programs in the Golden Triangle. Major themes from the focus groups held in each jurisdiction are presented below.

### **5.1 Beaumont**

We conducted two focus groups with *Young* class members in Beaumont. The first group consisted of African-American residents who were in the process of becoming homeowners through a Beaumont Housing Authority homeownership program. Some of these participants were former residents of public housing and Section 8 and many were living in predominantly white neighborhoods. The second focus group in Beaumont was made-up of Beaumont Section

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<sup>120</sup> Although six focus groups were planned, one was not conducted when participants failed to show up for the scheduled group.

8 participants at ceiling rent. These participants were likely candidates for one of the housing authorities' scattered site homeownership programs.

### **Beaumont Homeowner Program Participants**

All of the participants in this focus group discussion were living in single family homes provided by the Housing Authority's lease-to-own, or "Beaumont on the Grow" program. The Housing Authority purchased and renovated single family homes throughout Beaumont (generally in non-impacted areas) and offered them to eligible individuals.<sup>121</sup> All of the focus group participants were African-American and were among the first group to enter the program. Some of the participants had moved from public or Section 8 units in impacted areas and many moved to homes in predominantly white neighborhoods.

The majority of participants said they were looking for homes in neighborhoods which were quiet and safe where their children could play outdoors, either in a yard or in the area. The overall sentiment was that race was of less importance in choosing a home than the overall quality of life in an area. Some participants felt great relief at leaving their previous situations (including public housing and Section 8 units) and moving into areas in which they were more comfortable.

*"I chose to live in the west end because it was closer to my children's school, to me it was a quieter part of town, and it's just more stabilized."*

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<sup>121</sup> Participants sign a two-year lease during which time part of their monthly rent is placed in an escrow account. At the end of the two-year lease, participants must find a bank, lender, or mortgage company to finance them, undergo a credit check, and pay a down payment. If the participants should decide not to purchase the home after that two-year lease period, they lose the money in the escrow account. During the lease period, participants may not make any internal or external changes to the home.

*“Where I live there’s just nothing but older people, there are no single people that I know of on my street. All older people, it’s very quiet...a lot of trees, which I love. When I moved in, people came over bringing me biscuits and muffins...”*

*“Where I live, it’s very quiet. We don’t hear the music, we don’t hear gunshots, thank God...”*

When participants were asked to describe why they wanted to own a home, many spoke of the independence and sense of accomplishment.

*“I want to feel that I have accomplished something, and I’ve done something, established something for me and my daughter.”*

Despite the advantages, participants did state that there were some disadvantages to being in the program. However, none of the disadvantages expressed involved their experience moving into a predominantly white neighborhood. Participants were much more likely to discuss negative factors about their home rather than the neighborhood.

*“You can’t make any renovations to the property. Like they have the wallpaper that we have on the wall, you can’t take anything down, you can’t redo it anyway. You have to wait until after the two years whether or not you decide whether or not you’re gonna purchase the house.”*

While repeated questions were asked about their experience in moving to white areas, participants were more interested in discussing (1) specific aspects of their homes and (2) unease over their future ability to buy their current properties. Although participants were pleased with their new housing and communities, some felt the long term financial requirements were beyond their means.

*“My main problem and disadvantage is every morning when I pull back out of the driveway, I look back and I worry ‘two years from now, will I be living here?’ And that bother me...”*

*“Mortgage companies come and talk to us, but are we gonna get any other type of assistance? Are there people that will give us loans to pay these mortgages?”*

Most of the participants in this group were already residents of Beaumont and were moving to other areas of the city. Overall, they were pleased with the idea of homeownership and moving to “safer” neighborhoods (even if their definition of safe meant they were a distinct minority in the neighborhood). They did feel the program gave them the opportunity to move to neighborhoods and into homes they would not have been able to afford if they were not participating in the Housing Authority program. However, disappointment with specifics of their homes and frustrations about their ability to buy the lease-to-own homes increased anxiety about their long term housing situations.

### **Beaumont Section 8 Residents**

The second focus group in Beaumont consisted of African-American women and single parents who were participating in the Section 8 Program. These participants were asked about their housing search process and what constituted a “good neighborhood” to find out their views on

local housing opportunities and about openness to desegregative moves. Participants' length of time at their current homes ranged from less than a month to approximately four years.

Like participants in other groups, the consensus of this group was that the most critical aspect of a neighborhood was safety with good schools also very important. The number of bedrooms at a residence and access to transportation were also concerns.

Participants said if they had the opportunity to live in predominantly white neighborhoods in Beaumont, they would move there but were concerned that they would not be welcomed by white residents. Participants stated that their combination of race, the stigma of receiving housing assistance, and being single, female parents made it difficult to find homes in white and higher-income neighborhoods in Beaumont. Participants believed that rent prices at potential homes in predominantly white neighborhoods were set by the landlord just above the amount that Section 8 holders could afford.

*"They have black people in those areas." "Yeah, but those are the ones like doctors, lawyers."*

*"I think to be honest...I think people on Housing have been stereotyped to a certain extent, whereas they feel if you have kids or you know and you move into the house that you're gonna tear their house up. That's how, maybe it has happened in the past, but it's not like that with everybody."*

Participants felt white residents would have to be forced to accept integration in their communities.

*"They [white residents] have to do it. If it was left up to them, they wouldn't even do it. They have to."*

When attempting to select a new home, participants stated that they each looked at as many as 10 to 35 houses before making a decision on where to live. All of the participants received assistance from the housing authority in this process. This help included periodically receiving updated lists of available homes, and being driven to see at least the outside and the neighborhood of various homes. None of these participants lived in predominantly white areas.

## **5.2 Port Arthur**

We conducted two focus groups with *Young* class members in Port Arthur. The first group comprised residents of a public housing development and the second group was made up of residents of scattered-site public housing in majority white neighborhoods.

### **Carver Terrace Apartments Public Housing Development Residents**

Participants in the focus group discussion held at Carver Terrace Apartments were all female, African-American residents of the development, some of whom were formerly or currently on the wait list for Section 8 housing. Their status as potential recipients of Section 8 made them likely candidates to receive housing counseling services when the Fair Housing Services Center became operational. In the focus group we discussed the types and locations of neighborhoods they would consider moving to (including Orange County) as well as their idea of what made for a good place to live.

Like the Beaumont Section 8 participants, all agreed that a good place to live is a neighborhood that is quiet, crime and drug free, clean, and safe for children to play. Participants in this focus group had lived in the development from three weeks to ten years and all felt that it was not a good place to live. Although many of the participants stated that they had considered moving to other developments or areas in Port Arthur, most said they could not move due to family restrictions, lack of transportation, limited financial support, and difficulty in finding a job.

*“It’s drugs, loud music, [people] staying outside all hours of the night, playing dice out there, they be hollering and screaming, they jump off the roofs and they running around screaming and hollering, oh it’s just terrible.”*

*“You walk down the street, somebody gonna approach you and say ‘is you looking [for drugs]?’ Now, you know you ain’t looking for him, but he like, ‘is you looking [for drugs]?’ You know what he asking you...”*

The majority of participants were opposed to moving to areas that are predominantly white. Participants had strong negative reactions to the prospect of moving to white areas outside of Beaumont such as Vidor and Orange County. In a number of cases, participants had been offered apartments in Vidor in the past and turned them down. Comments included:

*“You cannot walk in that town...oh, no, you’ll get arrested right then and there.”*

*”They tried to put some blacks out there in that project in Vidor, they didn’t get along with them, they was trying to, the police down picked the black people that was staying there with all these, a bunch of white people and things, and they was trying to kill them then. And they want to ask us of going over there? No!”*

*“They gonna lynch you anywhere you go out here, Vidor they’ll sure enough lynch you, just look at you they’ll want to kill you...all them little towns like this. Jasper and all the rest of them, you heard about*

*how they dragged that poor man and done whatever...I ain't going over there."*

They also opposed the idea of white individuals or families moving into their community. They did not believe such moves would work because of racial tension.

*"With the kids, it wouldn't work down here...Blacks can't get along with Blacks, how white people gonna get along [with Blacks]?"*

However, a few were more optimistic.

*“What I learned, okay, it’s not where you live it’s how you live. And I feel like I could move into a white environment and survive. If I were to be put into a white apartment complex with all whites, I could survive there. Because I’m gonna tend to mine anyway. You know, if they speak to me I’m gonna speak to them.”*

Overall, participants in this group said desegregative moves were difficult and in some instances (like moving to Vidor) dangerous. When pressed about the feasibility of any such moves, some participants said they could move to a predominantly white area given that it was in Beaumont and not a smaller town.

### **Scattered-Site Residents**

The second focus group in Port Arthur consisted of residents of scattered-site housing in a rent-to-own program administered by the housing authority.<sup>122</sup> Like the participants in Beaumont, participants in Port Arthur chose the scattered site, homeownership program both to find better neighborhoods and to have a sense of ownership. All of these participants had selected homes in predominantly white neighborhoods of Port Arthur.

*“My reason was to have something that I can call my own. And I was really tired of just renting all the time, it wasn’t that I wasn’t happy with my landlords, because I was on Section 8 and I was paying relatively cheap rent. And it was okay, but I didn’t like the neighborhood I was living in.”*

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<sup>122</sup> Participants had to be low to moderate income (\$12-\$14 thousand per year). Besides income requirements, participants had to be a parent, have a steady job, and have a clean police record. Participants said that all or part of their rent throughout the first year would be put toward their down payment on the house, although they would be responsible for finding a bank or mortgage company to finance the purchase of the home.

*“Crackheads [in my the neighborhood]. So, you know, that’s really a number one reason why I wanted to move, because my kids couldn’t’ really play like, you know, I’d rather for them to be outside to play but they couldn’t.”*

*“I just wanted to own a house myself...I wanted to own something, like for my children, they’ll have somewhere to stay. And to say this is theirs, if anything would happen to me, this would be theirs after I pay it off...I love it, it’s quiet, peaceful, nobody bother you, you know. And it’s nice to have something that you can call your own later on in the future.”*

Although participants stated that there were problems with their homes, including structural concerns, wallpaper and internal decor, and little storage space, generally they were positive about their units.

*“So far as for where I live, I love where I live. I’m not paying a big difference of what I was paying where I was. And it is a better house where we live at and a better neighborhood. So that’s the advantage that I have.”*

*“As a kid I dreamed of just owning a home. If I can’t get nothing else let me own my own house. That’s something that I can leave to my children. And my children can leave to their children....I feel like a king. Maybe I be broke but I feel like a king.”*

All of the participants claimed to have moved to a more diverse community or one that was predominantly white. Most stated that their neighbors were very friendly, and although they could

not decipher how genuine the friendship was, they appreciated introductions, and information on the area.

*“I’m blessed that I live in a neighborhood and it’s all white, basically around me. And, they’re just, they’re nice, they mind their own business, I mind mine.”*

When asked what they liked about their new communities, participants stated the greater police presence, the peace and quiet, safety, and privacy. No one stated that they had any major problems in their new communities and people said they did not feel any racial prejudice. However, participants did mention a small number of circumstances in which their neighbors told them that they knew they had purchased their homes through the housing authority. Participants did not see this as a negative and believed that once they showed their neighbors they were not going to “be any trouble,” they were accepted entirely.

Though participants were very positive about the program they did not seem to understand issues regarding down payment and financing the home after the first year rent period.

*“Take us step by step, when we’re signing up, you could have a class that tell you about the program...And not lead you and then you have to guess the rest of the way while your in there [the program].”*

The desegregative move experiences of participants in this program were positive. They said participating in the program improved the quality of the housing they lived in and the surrounding neighborhood. Participants also reported a good reception from white neighbors.

### **5.3 Orange County**

Participants in this focus group were white residents of the Vidor public housing development in Orange County. This development and the City of Vidor have long-standing reputations for racial intolerance. As discussed previously, in the early 1990s, well-publicized opposition to housing desegregation at the Vidor development reinforced a negative image. A number of the participants in the focus group lived in the development at the time of the publicized integration attempts. This group was asked about their thoughts on what made a good place to live and their thoughts on moving to different types and locations of developments. Participants were also asked about race relations in the Vidor development and about their thoughts on efforts to integrate the development.

Echoing previous focus group participants in Beaumont and Port Arthur, all participants agreed that a good place to live was safe, peaceful, crime-free, well maintained, with supervised play areas for children and a reliable police presence. A number of participants believed that the Vidor development was a good place to live including one participant who had moved from public housing in Port Arthur.

*“Vidor is a good place to live, because if you go to any, most of any of the other complexes [particularly in Beaumont and Port Arthur], you’ve got break-ins, robberies and all that. It’s real peaceful but you got, you know, kids that act up, but mostly it’s a good place to stay.”*

However, participants had many complaints about how the grounds were kept, security, and residents not following the rules of their lease. Participants complained that security personnel are rarely seen and ineffective. Participants agreed that they would like to see stricter limits put on who could enter the development in order to increase safety and limit any criminal or disturbing activities.

*“...I mean if you’re gonna have a security guard... they should have a list of residents that live out here and make the person coming in tell you what apartment they’re going to.”*

When HUD first took over the housing authority, funds were available for security within the development. These funds are no longer available.

*“Well they say it [the security guard] was for both of them [blacks and whites] but of course we know that...it was mostly for them [blacks] because they were afraid that, okay, I’ll say it, the Klan would come in. And that’s what the security was for.”*

Of greater concern to the residents was their relationship with the City of Vidor and official organizations such as the police department and school system.

*“The police department should work with the residents, but they don’t. They should listen to us, if we have any suspicions of drugs, we need to be able to talk to them.”*

*“...our children are separated from the city of Vidor as far as ‘project kids,’ and I’m tired of seeing it in the paper every week that the fire department had to come down to the projects to turn off a fire alarm that a child set off. You know, and it just upsets me, because maybe we need a new name over here...there needs to be some positives about this neighborhood....there’s got to be a change, our schools have got to quit labeling our kids as ‘project kids.’”*

Participants discussed needed changes for Vidor such as supervised activities and play areas for the children, transportation to local grocery stores, improved laundry facilities, and physical improvements to the apartments, including better security doors. However, most residents felt that Vidor was better than the majority of the other public housing developments of which they knew. They would not consider moving to those other communities particularly in Beaumont or Port Arthur.

Participants said that some former residents were hostile to minority in-movers and caused problems during desegregation attempts. However, they also felt HUD had not adequately

screened the African-American tenants particularly the two women who moved to the development (see previous Section 2.2: *Vidor*).

*“They [HUD] more or less forced us to integrate, and they didn’t really care where they [black in-movers] were from, where they took them from or anything. In other words, they were not screened out. But it’s not because of their color, it was their character.”*

*“People [are] sad, it’s not the color, it’s the character. And unfortunately we had some bad characters that moved in at that time, in 1994, we did, because I know first hand.”*

According to participants, racial tensions in the development were low at the time of the focus group. However, participants were concerned with how racism and bias in the City of Vidor affected them as residents of the housing development.

*“Well, I’m talking about the coffee shops down here, I worked the coffee shops, I’ve worked everywhere practically in Vidor, and our waitresses refused to wait on black people. They flat refused to wait on them, they told them to get out.”*

*“I think there’s a lot of work to be done as far as racial issues are, I mean the police need to know and understand we shouldn’t be segregated from the outside, in fact we’re in this fenced in area and we’re not any different from anybody else...”*

Overall, the Vidor focus group expressed concern about the image of the development as racially intolerant. Most participants felt residents of the development were welcoming but the City of

Vidor had elements that were not. Focus group participants commented that they had bi-racial children or grandchildren living with them and while they felt they were accepted at the development, participants felt people in the wider community intimidated them with disparaging remarks.

#### **5.4 Focus Group Themes on Desegregative Moves**

Focus group responses confirmed that what people consider a good place to live, they look primarily for safety and opportunity (schools, transportation, etc). For some participants from traditional public housing, “safety” included being in areas where their race predominated. On the other hand, participants in the homeowner programs who had made moves to white neighborhoods felt they were safer than when they were in their previous homes. For some of the participants, race was synonymous with a good neighborhood, with “white” neighborhoods more likely to have desired amenities.

It should be noted that the income requirements to participate in the homeownership programs necessitate full-time employment or a number of part-time jobs. These income and job levels mean that homeownership candidates are demographically different than many public housing residents. For the most part, homeownership candidates have larger household incomes, are more likely to be two parent families and have more education.<sup>123</sup> The positive reception these families received from their new neighbors may not be able to be broadly generalized to a population which is unemployed or have other socially stigmatized characteristics.

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<sup>123</sup> Demographic information provided in background surveys with focus group participants.

While none of the participants expressly cited “racial make-up” as the deciding factor in housing search, they did have areas they clearly rejected as viable options because of disturbing activities they associated with race. African-Americans pointedly refused the idea of moving to Orange County and white residents in Vidor would not consider moves to family developments in Port Arthur or Beaumont. Each group had strong, preconceived ideas about the desirability of alternate locations. When African-American participants thought of agreeable “desegregative moves” they considered moving to other parts of their own city (or a neighboring city) not to neighboring white jurisdictions.

## **6.0 Summary and Conclusions as of Fall, 1998**

The *Young* case was first brought to court in 1980. Over time, the many decisions and revisions in the case have changed the method of desegregating public housing in East Texas from a primarily administrative solution (Tenant Selection Assignment Plans, recordkeeping, etc) to a pro-active remedy seeking to create thousands of desegregative housing opportunities in the region. The goal of desegregating public housing in East Texas continues to be interpreted in a variety of ways as the housing authorities move from public housing based solutions to tenant-based and scattered-site options.

Without a doubt, the Golden Triangle housing authorities are different than they were when the suit was originally brought. The three authorities profiled in this case study have new leadership. In addition to developing new programs to expand the housing choices of their clients (such as homeownership opportunities), they have also made progress on several, particularly administrative, areas of the decree. In addition, a number of significant physical changes (including construction of community centers, laundry facilities, playgrounds, and installation of central air conditioning) have been made at some of the developments.

Fundamentally, public housing in each of the jurisdictions is still racially identifiable and in Beaumont and Port Arthur, few white citizens participate in the public housing program. Orange County has a more diverse population across their developments, but the majority of residents in all developments are white. Any attempt to provide desegregative opportunities by relying on

desegregative moves between the jurisdictions must deal with the longstanding racial tensions in the region. Certain areas are seen as “off limits” to people of other races. When asked what might be different in five years, one staff person said, “Blacks aren’t going to Jasper and whites aren’t going to big, black family sites.” Given this climate, staff were often frustrated with the elements of the *Young* decree. However, they also expressed a desire to expand the choices of their residents and provide desegregative options. Several people mentioned the potential ability of tenant-based housing assistance to broaden the neighborhood choices of residents, particularly when combined with information, assistance and mobility counseling.

The entity which will tackle these activities is the Fair Housing Services Center. Once the Fair Housing Services Center begins operating in earnest in the Golden Triangle, they will be challenged by the social, economic and geographic differences between the local communities. Providing attractive desegregative housing opportunities within the Golden Triangle may concentrate on moves within cities as opposed to moves to entirely new jurisdictions. Although desegregating public housing seems to necessitate moves between Beaumont/Port Arthur and Orange County, desegregative opportunities could be provided within each area.

## **Baseline Case Study: Minneapolis**

**by**

**Mary K. Cunningham, Mark Turner, and Diane Levy**

### **1.0 Introduction to *Hollman* Case**

In 1992 a group of African-American and Hmong families living in public housing, and the National Association for the Advancement of Colored People (NAACP), filed a class-action suit against the U.S. Department of Housing and Urban Development (HUD), the Minneapolis Public Housing Authority (MPHA), the Minneapolis Community Development Agency (MCDA), and the city of Minneapolis. The fourteen plaintiffs alleged historic patterns of housing discrimination, specifically the concentration of minority residents, and substandard living conditions in predominantly minority occupied developments. The Metropolitan Council, a region-wide governmental body, was subsequently added as a defendant, due to their alleged failure to promote fair and affordable housing.

*Hollman vs. Cisneros* was not litigated in court and was settled in April, 1995, after three years of negotiation. The result of this lawsuit is now known as the *Hollman* Consent Decree. The consent decree sets out a series of actions to "promote equal housing opportunity, expand and maximize geographic choice in assisted housing, and encourage racial integration."<sup>124</sup> The terms of the consent decree are extensive. Major elements include demolition of 770 public housing units within an 80-acre area of the city's near northside; one-for-one replacement of those units; the

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<sup>124</sup> U.S. District Court of Minnesota, Fourth-Division-Hollman, et al. v. HUD, et al., 1992.

creation of a mobility counseling program to assist 900 recently allocated Section 8 certificate and voucher holders; and a metropolitan wide affordable housing clearing house.

Unlike many other consent decrees in our sample, *Hollman* requires that replacement units be acquired or constructed in nonconcentrated areas, which includes both the city and the surrounding suburbs. This approach adds complexity to each requirement of the decree and increases the number of players involved in implementation of *Hollman*. Although implementation progress has not been completed, all parties agree *Hollman* has made affordable housing, from a regional perspective, a top priority in the Minneapolis metropolitan area.

## 1.1 Historical Basis for Hollman Case

### 1.1.1 The City of Minneapolis in Metropolitan Context<sup>125</sup>

According to the 1990 Census, the population of Minneapolis is 368,383. White residents are the overwhelming majority, comprising over 77 percent of the population. Black residents make up 13 percent, Hispanic residents 2 percent, and Asian/Pacific Islanders 2 percent. In 1997 the unemployment rate was only 2.7 percent. Minneapolis has a very tight rental market, with a vacancy rate of less than two percent. On average, two-bedroom apartments rent for \$674.<sup>126</sup>

Over the last twenty years, the City of Minneapolis has experienced tremendous change. The city was well known for active citizens, generous philanthropy, and responsible governmental institutions. Many regarded the Twin Cities region 'immune to urban decline.' However, during the 1980s, the Twin Cities region was deemed "the nation's fourth fastest ghettoizing region."<sup>127</sup> Orfield noted that "inner-city tracts with more than 40 percent of their residents in poverty tripled from 11 to 32; their population grew from 24,420 to 79,081." Moreover, "transitional neighborhoods (those with more than 20 percent and 40 percent of their people in poverty) expanded from 43 to 57 census tracts, from 102,682 to 153,700 people."<sup>128</sup>

As Figure 1 indicates, black residents in Minneapolis are concentrated on the City's near northside and urban center. A dissimilarity index of .618 indicates blacks in Minneapolis are highly

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<sup>125</sup> Most of the information in this section is condensed from the work of Myron Orfield. "Metropolitics: Coalitions for Regional Reform" *Brookings Review*, Winter, 1997: p.6.

<sup>126</sup> Minneapolis Planning Department's On-line report, *State of the City, 1997*.

<sup>127</sup> Orfield, *op. cit.* p 6.

<sup>128</sup> Orfield, *op. cit.* p 6.

segregated (Harrison and Weinburg, 1996). Figure 2 shows that Southeast Asian residents follow a similar pattern of concentration.

By 1994, concentrated poverty and racial segregation in Minneapolis had created a myriad of social ills. White children began to flee the school system, while minority enrollment increased. Approximately 50 percent of school children were on free or subsidized lunch. Perhaps the most visible and troubling manifestation, was the extraordinary increase in crime in Minneapolis' poorest neighborhoods. According to Orfield, in 1994 "violent crime rates were 10 times the metro average, 30 times the suburban average."<sup>129</sup>

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<sup>129</sup> Orfield, *op. cit.* p 6.

INSERT FIGURE 1

INSERT FIGURE 2

Problems continue to grow in the city, while similar problems are beginning to surface in the inner-ring working class suburbs. Thus far, the most prosperous communities—those on the southern western edge of Minneapolis—remain insulated from such social ills. These communities employ a variety of strategies, including restrictive zoning practices, to prevent the construction of affordable housing. Additionally, high rents and low fair market rents (FMRs) preclude most low-income families from using tenant-based subsidies in these locations. Public transportation in suburban communities is sparse to nonexistent. Orfield points out these areas hold 61 percent of the region's new job growth. Unfortunately, inadequate transportation and the lack of affordable housing makes it difficult for central city low-income workers and unemployed to reach and maintain jobs. As a result, thousands of jobs go unfilled.

### **1.1.2 The Minneapolis Public Housing Authority**

The Minneapolis Public Housing Authority (MPHA) is the largest housing authority in Minnesota. MPHA owns and manages 6,300 units of public housing and administers 3,600 Section 8 certificates and vouchers. MPHA's programs serve approximately 20,000 people within the City of Minneapolis. MPHA's housing rentals consist of:

- 40 high-rise apartment buildings with 4,855 units (elderly and single persons);
- 654 scattered site, single-family homes (primarily families); and
- 773 row house units (primarily families).<sup>130</sup>

The authority offers a range of affordable housing programs from a homeownership program to a security deposit loan fund for Section 8 participants.

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<sup>130</sup> Minneapolis Public Housing Authority, *Annual Report*, 1997.

MPHA is guided by a nine member board, two of which are resident representatives. According to the City of Minneapolis public affairs office, over 97 percent of MPHA's funding comes from federal sources and rent revenue, while the remaining 3 percent is contributed by the city.

MPHA is a well-managed housing authority and apparently innovative. According to MPHA's 1997 *Annual Report*, in 1994 HUD granted MPHA a PHMAP score of 98.4. As a high performer, MPHA maintains a 99 percent occupancy rate on all available housing units. Unlike other PHAs in Minnesota, as well as many large housing authorities around the country, MPHA's clients are extremely diverse ethnically. MPHA serves a large immigrant population that includes Hmong, Laotian, Ethiopian, Somali, and Russian residents.

### 1.1.3 History of Segregation<sup>131</sup>

The following describes the history of segregation as outlined by the plaintiffs' attorneys in the *Hollman* complaint. In 1991, the racial composition of family public housing<sup>132</sup> developments was 40 percent black; 45 percent Southeast Asian; ten percent white; 4 percent American Indian; and less than one percent Hispanic. Historically, most public housing in Minneapolis has been acquired or constructed on what is known as the "near northside." The Sumner Field development, built by the United States Housing Authority (HUD's predecessor) in 1938, was the first low-rent public housing project in Minnesota. The development, located on the near northside of Minneapolis, consists of 464 units and was built on the line dividing the City's white and black residents. According to the class action complaint, the plaintiffs alleged federal and local officials intentionally chose this location to sequester low-income black families to one particular neighborhood. Furthermore, it was asserted that after the development was constructed, HUD

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<sup>131</sup> Most of this section is condensed from Amended Class Action Complaint, *Hollman, et al. v. Cisneros*, April, 1992. p.14-18. (It should be noted, this was written by the plaintiffs counsel. Thus, the history of segregation is given through their assertions).

<sup>132</sup> Due to the high number of elderly- and single-person high-rise units, MPHA distinguishes between family units, those developments with primarily families, and high-rises, those with predominantly elderly and single persons.

"deliberately segregated black families by restricting them to the east half of the project, while whites lived on the west half."<sup>133</sup>

In 1950 the City of Minneapolis and the Minneapolis Redevelopment Authority (MHRA) were responsible for choosing the location for the construction of over 1,000 federally subsidized housing units. Although the Minneapolis City Council had the power to veto the selection of each site, all units—except for the Glendale development in Southeast—were built on the near northside of Minneapolis. The *Hollman* complaint, submitted by the plaintiffs, alleges these decisions “intentionally segregated minority residents to satisfy community resistance to racial integration.”<sup>134</sup>

In the early 1960's, the Minneapolis Housing and Redevelopment Authority (MHRA) stopped production of contentious (predominantly minority) family projects and started constructing high-rise units for the elderly. Over a ten-year time span, MPHA and MHRA built 5,147 high-rise units. The plaintiffs' attorneys note that "more units for the elderly were produced [by MPHA], than were produced by any other housing authority in the nation."<sup>135</sup> Currently, there are enough “public housing units for 97 percent of the predominantly white, elderly households in Minneapolis. In contrast, family public housing units, which typically serve minority households, are lacking. Units are available for only 32.5 percent of low-income families in Minneapolis.”<sup>136</sup>

Another point of contention was the failure to administer the Section 8 certificate and voucher program fairly. According to the complaint filed by the plaintiffs, "MHPA's administration of Section 8 certificate and voucher programs has a disproportionately adverse impact on participating

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<sup>133</sup> Amended Class Action Complaint, *Hollman, et al. v. Cisneros*, April, 1992. p. 14.

<sup>134</sup> *Ibid.* p. 14.

<sup>135</sup> *Ibid.* p. 14. p. 15.

<sup>136</sup> Amended Class Action Complaint, *Hollman, et al. v. Cisneros*, April, 1992. p. 14. p. 15.

minority families, both in perpetuating patterns of racially segregated housing in Minneapolis, and in imposing a greater relative harm upon participating minority families."<sup>137</sup>

Specifically, plaintiffs alleged that MPHA failed to attract the participation of landlords with units located in non-impacted areas (see Table 1 for definition) and did not apply for an increase in the Fair Market Rent (FMR), despite regulations permitting them to do so. Additionally, MPHA failed to increase the Voucher Payment Standard for six consecutive years (1985-1991).

Plaintiffs' attorneys also claimed that this pattern of racial segregation in Minneapolis assisted housing has continued through the persistent concentration of new, scattered-site units and other public housing acquisition activity on the near northside. In 1991, "the five major near northside projects have become so racially concentrated that families of color occupy 98 percent of the units. At the same time, approximately 74.5 percent of occupants in elderly high-rises are white."<sup>138</sup>

Today, approximately 44 percent of MPHA's units are located on the near northside.<sup>139</sup> Elderly and single-person units, which account for approximately 77 percent of MPHA's public housing stock, tend to be in better condition relative to family units. However, family public housing stock on the near northside is generally in poor condition. Cracked sidewalks, vacant units, and graffiti are common place. Furthermore, an interstate highway and other cross streets isolate the public housing developments from higher-income neighborhoods. The highway also limits pedestrian traffic traveling to and from the public housing developments. Public transportation is limited to one bus stop on the northeast corner of the area, a long walk for residents living on the southern edge.<sup>140</sup> Consequently, families at the top of the public housing waiting list reject these units at a

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<sup>137</sup> *Ibid.* p. 14. p. 18.

<sup>138</sup> *Ibid.* p. 14. p. 16.

<sup>139</sup> According to data furnished by the Minneapolis Housing Authority.

<sup>140</sup> "What makes a House a Home." *Star Tribune*. February 27, 1995: p.1B

rate of almost 50 percent.<sup>141</sup> MPHA attorneys noted that public housing on the near northside historically has been occupied by residents on the lowest rung of the soci-economic ladder. When the developments were built, they were predominantly occupied by African-Americans. Although today, Southeast Asian residents are predominant in these public housing developments, the pattern is changing once again, with the worst public housing being occupied by Somali and Ethiopian residents.<sup>142</sup>

Some developments suffered from more than just poor maintenance. For example, the now demolished Sumner Field Development<sup>143</sup> was built on a creek bed in the 1930's, and was structurally unsound. Water in the soil caused sidewalk erosion, and constant basement flooding. Some respondents described the building as 'floating on water caught in the soil.' The poor soil and other environmental conditions, such as harsh Midwest winters, provide constant maintenance challenges to the housing authority.

Public housing on the near northside is located approximately one-mile from downtown Minneapolis. Despite close proximity, public housing residents are isolated, not only from other neighborhoods, but also from economic opportunity and the city's shopping and cultural areas. Furthermore, other federal and state assisted housing surrounds public housing on the near northside. Low rents also attract a large number of Section 8 certificate and voucher holders.

## 1.2 *Hollman* Litigation History

The *Hollman* case originated in 1991, when several Hmong and African-American families living in public housing approached the Minneapolis Legal Aid Society with complaints about the substandard conditions in their housing developments. According to the complaint, the lead

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<sup>141</sup> Interview conducted with Defendant's Attorney.

<sup>142</sup> Interview conducted with Defendant's Attorney.

<sup>143</sup> As required by the consent decree Sumner Field was demolished in October 1998.

plaintiff, Lucy Hollman, a 33-year-old African-American woman, lived with her four children in MPHA's Sumner-Olson project for eight years. Ms. Hollman protested the inequality that existed between the security and maintenance upkeep of the family developments (such as the one in which she lived) compared to the elderly developments. In the class-action complaint, Ms. Hollman expressed an interest in moving to the suburbs. Twelve other plaintiffs with similar complaints were named in the suit.

According to plaintiffs' attorneys, at the time the suit was contemplated there was common recognition that low-income minorities were heavily concentrated on the near northside. In July, 1992, the Minneapolis Legal Aid Society and the NAACP agreed to file a class-action suit on behalf of low-income minority families and individuals living in public housing in Minneapolis, participating in MPHA's Section 8 Existing Housing Programs, or on MPHA's waiting lists. The NAACP was named as plaintiff on behalf of its membership.

**Table 1. Key Players In *Hollman* Consent Decree**

<i>Named Plaintiffs, Class Representatives</i>	Thirteen African-American and Hmong families (class representatives), and the NAACP.
<i>Plaintiffs' Attorneys</i>	Minneapolis Legal Aid Society (class); Fredrikson & Byron (NAACP).
<i>Class members</i>	Residents of MPHA public housing, Section 8 certificate and voucher participants, and applicants to MPHA's Section 8 programs or waiting lists.
<i>Defendants</i>	U.S. Department of Housing and Urban Development, Minneapolis Public Housing Authority, Minneapolis

	Metropolitan Council, the City of Minneapolis, and Minneapolis Community Development Agency.
<i>Suburban Agencies</i> <sup>144</sup>	Carver County Housing Redevelopment Agency, Scott County Housing Redevelopment Agency, Hennepin County Planning and Development, Cities of Minnetonka, Chaska, Savage, Plymouth, Eden Prairie, Maple Grove, Mounds View, New Hope, and Shakopee.

The major allegations in the complaint filed were:

- The housing authority had concentrated public housing units in a small, isolated area;
- Developments were populated by minorities only (primarily Southeast Asians and African-American);
- Elderly developments were more reliably maintained and were in better shape than family developments; and
- There was a history and pattern of poor maintenance and upkeep, leaving buildings dilapidated.<sup>145</sup>

Instead of expending resources litigating the suit, the Minneapolis Public Housing Authority and other defendants agreed to enter negotiation to settle the lawsuit. Housing Authority staff reported

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<sup>144</sup> Although suburban agencies were not a party to the lawsuit, they play a significant role in the implementation of *Hollman* through the construction and acquisition of *Hollman* replacement units in their jurisdictions.

<sup>145</sup> Highlights provided by HUD Attorney.

that they viewed the lawsuit as an opportunity to make major improvements in their public housing stock.

The negotiation of the terms of *Hollman* continued until January 6, 1995, when Minneapolis defendants met with HUD Secretary Henry Cisneros in the office of the U.S. Representative Martin Sabo (D-MN). Agreement was reached on the amount of funding resources desired from HUD to settle the lawsuit. Representative Sabo and his aide Marjorie Duske; Secretary Henry Cisneros, Assistant Secretary Joseph Shuldiner and Deputy Assistant Secretary Mary Ann Russ from HUD; Minneapolis Mayor Sharon Sayles Belton; MPHA Executive Director Cora McCorvey; and former Public Division Deputy Executive Director Tom Hoch from MPHA were present at this meeting. In March, 1995, after three years of extensive negotiation, the parties signed a consent decree, settling the class action suit. The consent decree was court approved April 21, 1995. The defendants denied all liability, but the terms of the decree provided benefits to the plaintiffs.

### **1.3 Terms of the *Hollman* Consent Decree**

The key terms of the consent decree call for the following:

- HUD funding of and demolition of 770 units of public housing located in impacted areas (primarily on the near northside of Minneapolis);
- HUD funding of and replacement of those 770 units in non-impacted areas (see Table 2 for definitions);
- HUD's award and MPHA's issuance of 900 Section 8 certificates and vouchers for residents displaced by demolition (no restrictions on use) or to provide mobility opportunities for public housing residents to move to non-concentrated areas;

- HUD’s funding and MPHA’s creation of a mobility counseling program for relocatees of public housing, public housing families, and families on the Section 8 and public housing waiting lists;
- The establishment of an affordable housing clearinghouse; and
- HUD’s investigation of the impact of residency preferences used in some suburb and housing authorities.

All parties agreed to the definitions in Table 2.<sup>146</sup>

**Table 2. Key Definitions of Terms in the *Hollman* Consent Decree**

Terms	Definition
<i>Minneapolis-St. Paul Metropolitan Area or Metropolitan Area</i>	Counties of Anoka, Carver, Dakota (excluding City of Northfield), Hennepin (excluding City of Hanover), Ramsey, Scott (excluding City of New Prague), and Washington.
<i>Minority</i>	A person other than a non-Hispanic white
<i>Minority Concentrated Area</i>	Any Census tracts in the MSA with a 1990 minority population 20 percentage points greater than the overall minority percentage in the Minneapolis/St. Paul MSA (note: this <i>does</i> mean MSA, not Metro Area defined above). Any Census tract with a minority population greater than 28.69 percent was a minority concentrated area at the time the decree was entered.

<sup>146</sup> Consent Decree, *Hollman, et al. v. Cisneros*, April 20, 1995.

**Table 2. Key Definitions of Terms in the *Hollman* Consent Decree**

Terms	Definition
<i>Poverty Concentrated Area</i>	<p>1) Central city (Minneapolis and St. Paul): A census tract with a population at or below poverty which is 15 percentage points greater than the percentage of the population below poverty in the City in 1989. In Minneapolis, Census tracts with a poverty population at or below 33.5% were considered poverty concentration areas. In St. Paul, this figure is 31.7%.</p> <p>2) Suburbs: A Census tract with a poverty population one and one-half times greater than the percentage below poverty for Metro Area is a poverty concentrated area. Suburban tracts with a poverty population of at least 12.2% were poverty-concentrated areas.</p>
<i>Non-impacted Area</i>	Any Census tract within the City of Minneapolis or the Metropolitan Area which is not minority- or poverty-concentrated.

The consent decree aims to:

- deconcentrate family public housing projects;
- improve living conditions in remaining family public housing units;
- relocate public housing units outside areas of concentration;
- improve administration of the Section 8 program;
- expand access to applications for assisted housing;
- encourage expansion of low-income housing opportunities; and

- ensure defendants remain committed to preserving the goals of fair and affordable housing.

In our interview, the defendants appeared to be satisfied with the terms and goals of the settlement. MPHA did express concern about HUD contributing insufficient funding for implementation. MPHA staff noted that although HUD reportedly agreed to contribute over \$100 million dollars, construction costs for replacement units are based on 1995 dollars (construction is not planned to start until 2000). Moreover, during negotiation different types of replacement units were discussed than later proposed in the *Hollman Action Plan* for redevelopment of the near northside. MPHA staff suggest these two factors will result in a shortage of funds. Despite their concern, the housing authority agreed to proceed with the funding allocated.

The NAACP was initially in agreement with the settlement, but in 1996 there was a leadership change which subsequently led to a change in philosophy. According to respondents from the NAACP, the organization is no longer interested in participating in the implementation of *Hollman* and instead would like \$28 million of *Hollman* funds for job creation and economic development.

Though all defendants named in the lawsuit appeared satisfied with the terms of the consent decree, outside agencies directly affected by the terms reportedly were not. Due to the regional nature of the decree, commitment from the suburban entities to acquire and construct replacement units was necessary. Despite this, suburban entities were not brought to the table during the negotiation of *Hollman*. Staff at suburban housing and redevelopment agencies and housing authorities complained that they were "left out of the loop" until the terms of the consent decree were agreed upon. According to staff from suburban locations, it was only then, that they were approached about their involvement in implementation of *Hollman*.

Southeast Asian community leaders in Minneapolis also expressed disappointment with being left out of the negotiation process. According to the *Star Tribune*, Lee Pao Xiong, Executive Director of the Council on Asian-Pacific Minnesotans, complained, "If we had been in on it from the beginning, we would have said 'no' to the settlement, until you have apartment complexes that are ready to move into." Mr. Xiong claimed further that "they were making decisions for the

community without ever consulting the community" and described the process as "classic colonialism."<sup>147</sup> Other Southeast Asian leaders expressed similar attitudes and concerns about relocation of residents. According to the *Star Tribune*, over 30 Hmong residents marched through the Sumner Field development to protest demolition and resident relocation. Some Hmong residents tried to prevent demolition by sending a letter to U.S. District Judge Rosenbaum asking that the case be reopened. Over 100 Hmong residents signed the letter.<sup>148</sup>

Although suburban players and Southeast Asian leaders seemed in our interviews to be less than enthusiastic, Minneapolis officials received *Hollman's* terms enthusiastically. Mayor Sharon Sayles announced that "access to affordable housing could make a difference in a city."<sup>149</sup> The announcement was followed by a three-point affordable housing plan. City Council President Jackie Cherryhomes called the consent decree "the most important thing that's happened in the Fifth Ward in North Minneapolis in the last 30 years." She added "this presents a real opportunity to rebuild North Minneapolis."<sup>150</sup>

## 2.0 Overview of Progress in Implementation as of Fall, 1998

The breadth of the *Hollman* Consent Decree requirements is vast. Successful implementation relies on numerous organizations and government agencies. These include MPHA, the Metropolitan Council, the state HUD office, the Minneapolis Legal Aid Society, the Minnesota Housing Finance Agency, and a long list of suburban housing redevelopment agencies and authorities. MPHA appointed a consent decree coordinator, responsible for managing all aspects

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<sup>147</sup> "\$100 Million Coming from HUD: Low-income units to be dispersed, some projects rebuilt," *Star Tribune*, June 5, 1996: p. 19.

<sup>148</sup> "The Public Housing Debate: Some Southeast Asians Upset at Housing Settlement Terms, Protest Relocation Plan," *Star Tribune*, June 5, 1996: p.1A.

<sup>149</sup> "Housing: Sayles Belton's three-pronged strategy," *Star Tribune*, May 26, 1995: p.24a.

<sup>150</sup> "\$100 Million Coming from HUD: Low-income Units to be dispersed, some projects rebuilt," *Star Tribune*, January 14, 1995: p.1a.

of the consent decree. In addition, there are over six MPHA staff members involved in different stages of implementation. *Hollman* has seven major requirements: relocation of residents who occupy Sumner, Olson, Glenwood and Lyndale public housing developments; demolition of these developments (770 units); construction of replacement of 770 units; creation of a mobility counseling and landlord outreach program; establishment of an affordable housing clearinghouse; and a local residency preference study.

All parties agree overall program implementation has been slow thus far. The terms of the consent decree were court approved April, 1995 and are scheduled for completion in 2002. To date, the relocation from Sumner Field, Olson and scattered site units is complete. Currently residents at Glenwood and Lyndale are being relocated. Relocation is scheduled for completion December 31, 2000. A mobility program is up and running and relocatees are receiving counseling as they move. Approximately 50 percent of the demolition is complete.

The effort to replace units in non-impacted areas has been the greatest challenge. Only 19 scattered-site units are complete.

Table 3 provides a summary of key elements of the consent decree and progress to date. More detailed information on relocation, demolition, the redevelopment of the near northside and acquisition and construction of scattered site replacement units is provided later in this section.

**Table 3. Implementation Progress**

Remedy	Description	Implementation Responsibility	Progress to Date
Relocation	Residents from Sumner Field, Olson, Lyndale,	MPHA	Relocation from Sumner Field and Olson is

**Table 3. Implementation Progress**

Remedy	Description	Implementation Responsibility	Progress to Date
	and Glenwood public housing developments must be relocated prior to demolition.		complete. Currently residents at Glenwood and Lyndale are being relocated.
Demolition	Demolition of Sumner Field, Olson, Lyndale, Glenwood public housing developments, and scattered-site units. (770 units)	MPHA	Olson, Sumner Field, and Scattered Site units have been approved by HUD for demolition and Sumner Field and Olson have been demolished.
Replacement Units	One-for-one replacement of the 770 units both in the City of Minneapolis and the Suburbs.	MPHA	A total of 19 units have been completed.
Section Certificate and Vouchers	Issuance of 900 Section 8 certificates and vouchers to relocatees, residents of public housing in concentrated areas.	MPHA	187 certificates and vouchers were issued to relocatees.

**Table 3. Implementation Progress**

Remedy	Description	Implementation Responsibility	Progress to Date
Mobility Program	Creation of a Mobility Counseling Program	MPHA	A mobility program has been established. Relocatees are receiving mobility counseling. The current mobility contract is almost expired. At the time of the site visit, MPHA had issued an RFP for a new mobility contractor and was awaiting a response.
Affordable Housing Clearinghouse	Creation of a metro-region affordable housing clearinghouse.	MPHA	The Clearinghouse published an inventory of subsidized housing in the metro area and plans a rental vacancy database for 1999.
Local Residency Preferences Study	Conduct a study of local residency preferences employed by suburban housing authorities.	Local HUD	Study found that two local PHAs' residency preferences have an adverse impact on minority applicants. Preferences will be temporarily suspended by PHAs voluntarily.

## **2.1 Demolition**

### **2.1.1 Overview**

The *Hollman* Consent Decree requires the demolition of 770 units of public housing located primarily on the near northside. As a result approximately 519 public housing households are to be relocated. Almost 50 percent of the families have been relocated to other public housing, or private market units using Section 8 certificates and vouchers. Approximately 50 percent of these families moved to non-impacted areas.

Demolitions application for Sumner Field, Olson, Lyndale, and Glennwood, have been submitted to HUD for approval, and almost 50 percent of the required units have been razed (Sumner Field and Olson were demolished). The next section describes the relocation process and schedule demolition schedule, and factors affecting implementation.

### **2.1.2 Relocation**

The demolition of 770 units of public housing will result in a total of 519 public housing households being relocated. Of these relocatees, 56 percent are Southeast Asian; 36 percent are African-American; 5 percent are Caucasian; and the remaining are Hispanic, Ethiopian, and Native American. In accordance with the consent decree, families are offered three choices for relocation. Residents have the option to: (1) move into available public housing units; (2) find a rental unit with a Section 8 certificate or voucher ; or (3) receive a grant of \$5,000. All families will have the option to move back into public housing units after redevelopment is complete.

To ascertain housing preferences, MPHA conducted a survey of residents prior to demolition. During the relocation process, residents who indicated an interest in returning to the near northside after redevelopment are given Section 8 certificates or vouchers. These certificates

and vouchers are issued on a temporary basis. To date, no expiration date or guidelines regarding these certificates and vouchers has been established. Housing authority staff reported concern over potential problems that may arise due to lack of clear guidelines.

Table 4 provides the relocation schedule for each development.

**Table 4. Relocation Schedule**

<b>Development</b>	<b>Start Date</b>	<b>End Date</b>
Sumner Field	October 1, 1995	December 31, 1996 (completed)
Olson Townhomes	March 24, 1997	July 31, 1997 (completed)
Glenwood	April 3, 1994	December 31, 2000
Lyndale	April 3, 1998	December 31, 2000

**Progress to Date**

As of July, 1998, 264 families living in Sumner Field, and Olson have been successfully relocated. Approximately 10 percent of these relocatees purchased homes; 43 percent moved with Section 8 certificate and vouchers; 35 percent moved into other public housing units; and 12 percent were either evicted, moved without notice, or chose other options (Table 5). Almost 50 percent of these families moved to affordable housing in non-impacted areas.

The residents living in Sumner Field and Olson were predominantly Southeast Asian; 55 percent at Sumner Field and 66 percent at Olson. African-American residents constituted 39 percent of the population at Sumner Field and 34 percent at Olson. Non-Hispanic whites comprised only 3

percent of relocated residents at Sumner Field and none at Olson. A profile of the all of the relocatees is presented in Table 6.

**Table 5. Relocation Outcomes<sup>151</sup>**

	Non-concentrated	Concentrated	Total
Moved with a certificate/voucher	99	88	187
Moved into Public Housing	57	94	151
Purchased a Home	28	19	47
Other	21	13	34
Unknown			17
Total	205	214	436

**Table 6. Profile of Public Housing Relocateses<sup>152</sup>**<sup>151</sup> Data furnished by MPHA.<sup>152</sup> Data furnished by MPHA.

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<b>Household Characteristics</b>	
Total Families	519
Total Children	1,297
Average Family Size	4
Average Family Income	\$11,200
<b><i>Race/Ethnicity</i></b>	
African-American	56%
Southeast Asian	38%
Caucasian	5%

## Relocation Assistance

According to MPHA staff, in September, 1995, MPHA contracted the Sumner Olson Resident Council (SORC) to provide relocation services and mobility counseling to families moving out of Sumner Field, Sumner Annex, and Olson Townhomes. SORC is a thirty-two year old resident management council. SORC's office is located in the heart of the near northside public housing developments. The organization employs over twenty staff members, who reflect the race and ethnicity of the public housing resident population. In the past, SORC has managed programs for child abuse intervention, citizenship, welfare-to-work, and an emergency food pantry. The relocation contract was scheduled to expire September 1997, but was extended to November, 1998. During this time SORC staff designed an evaluation of the program to monitor the progress of families five years after relocation.

SORC's major task was to relocate and provide mobility counseling to residents from the Sumner Field and Olson public housing developments. To do so, the organization channeled its resources into matching residents directly to apartments, introducing them to suburban locations by way of tours, assisting with utility connection and monthly payments, providing assistance with obtaining U.S. citizenship, and providing translation to residents. To help with the move, all relocatees were provided with any cost directly associated with relocation. These costs included fees for movers and utility and cable hook-up. Given the tight rental market in Minneapolis, landlord outreach was necessary during the relocation process. New landlords were recruited through realtors, newspapers, and word of mouth. Overall, SORC staff reported that 68 new landlords were recruited to participate in the Section 8 program.

After residents were placed, SORC reported that they performed 90-day, 180-day, and 360-day follow-ups with each relocatee.<sup>153</sup> During these follow-up counseling sessions, many residents expressed anxiety about their new neighborhoods, claiming they wanted to move back to public housing. Complaints focused on the loss of social networks and lack of racial acceptance.

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<sup>153</sup> Although only a 90-day follow-up was required by the terms of the contract, SORC staff reported they conducted 180-day and 360-day follow up.

Respondents from SORC speculated many of the residents who moved outside of the near northside will probably return during their next move.

When their relocation assistance contract expired in 1997, SORC did not submit a proposal for the second round. According to respondents from SORC, the intensity of the relocation contract drained the energy of the staff and left the organization strained. Soon after, the organization dissolved.

MPHA contracted W.D. Schock Company, Inc. to provide relocation and counseling services to relocatees from Glenwood and Lyndale Developments. Relocation was taking place at the time of the site visit (September, 1998). Glenwood and Lyndale are scheduled for demolition in 1999.

### **2.1.3 Factors Affecting Implementation**

MPHA staff reported that many residents did not want to move. This claim was supported by a survey conducted by the Urban Coalition of St. Paul and Minneapolis, which found that 70 percent of African-Americans polled “strongly wanted to move,” while only 28 percent of Hmong and 40 percent of Lao residents “strongly wanted to move.”<sup>154</sup> This poll supported the position of MPHA staff, who reported that most African-American residents, although inconvenienced by relocation, did not oppose it all together. Most were more concerned about the condition of their housing and the quality of services provided during relocation. In contrast, Southeast Asian residents were much more resistant to move.

The Hmong residents most strongly opposed relocation. MPHA staff and plaintiffs’ attorneys attributed this opposition to three major reasons. First, living in a tight knit community, with other

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<sup>154</sup> “Relocation and New Housing Study of Sumner Field Public Housing Residents in 1996,” The Minneapolis Urban Coalition, April, 1997. This study interviewed 50 former residents of Sumner Field public housing development. The sample included 25 Hmong, 20 African-American, and 5 Lao residents. This selection reflects the racial and ethnic characteristics of the relocated population closely and represents one-fourth of the Sumner Field population.

Hmong residents is an integral part of their cultural identity. Many Hmong still belong to clans and seek services from shamans.<sup>155</sup> Separating clans and family through relocation and mobility programs would end this strong connection. Second, most Hmong families are large and therefore are hard to house. A resident who does not speak English with a family of eight would find it impossible to locate an apartment in Minneapolis' tight rental market. Finally, the language barrier fosters heavy dependence on local Southeast Asian social service organizations. Many residents would be incapacitated without immediate access to translation or other services. A further discussion of the Hmong's moving experiences is detailed in Section 4: Resident Impacts.

#### 2.1.4 Public Housing Demolition

According to the consent decree, the demolition plan includes two phases. Phase I calls for the demolition of 402 units: Sumner Field, Glenwood, and scattered-site units. Phase II calls for the demolition of the remaining units in the Glenwood Project, units in the Olson Development, and Lyndale Development. The decree requires all demolition and disposition to be completed by 2002. Table 7 shows demolition plans and dates of completed (expected).

**Table 7. Demolition Schedule**

Development	Date
Sumner Field	October, 1998 (completed)
Olson	October, 1997 (completed)
Lyndale	December 31, 2000

<sup>155</sup> Shaman are spiritual and healing leaders in the Hmong community.

<b>Development</b>	<b>Date</b>
Glenwood	December 31, 2000
Scattered-Site	October, 1997 (completed)

### **2.1.5 Factors Affecting Implementation**

The demolition is gradually moving toward completion. All demolition applications have been approved by HUD. In 1997, the Olson development was the first to be demolished. Sumner Field was scheduled for demolition in early 1997. However, the Minnesota Historic Preservations Office deemed the development eligible for placement on the national Register of Historic Places. Demolition was completed in October, 1998, once the historic review process was complete. All scattered-site units designated for demolition under the consent decree have been razed.

### **2.1.6 Replacement Units**

The Consent Decree requires a one-for-one replacement of all units demolished. There are three major strategies for replacing units. First, there will be a major redevelopment of the near northside. Redevelopment plans include a mixed-income community with approximately 100 units available for public housing. Second, the consent decree requires approximately 80 units replaced in non-impacted areas in Minneapolis. Third, the consent decree requires the remaining units constructed or acquired in non-impacted areas in Minneapolis or in the surrounding suburbs.

#### **Redevelopment of the Near Northside**

After relocation and demolition are complete, an extensive redevelopment of the near northside is planned. The redevelopment effort is overseen by an Implementation Committee chaired by the City Council President, with representation from the Mayor's Office, MPHA, Minneapolis Community Development Agency, City Coordinator, Planning Commission, Public Works, and a private sector housing representative. The cost of redevelopment is estimated at \$118 million (in 1997 dollars). Upon completion of demolition, redevelopment will take five years to complete.

In accordance with the consent decree, the Design Center for American Urban Landscape was contracted to conduct a series of focus groups to discuss land use scenarios and housing development on the near northside. The focus groups met for eight months in 1996. The groups were composed of public housing residents, community organizations, representatives from surrounding neighborhoods, as well as *Hollman* plaintiffs represented by the NAACP and the Legal Aid Society of Minneapolis. The results of these sessions, the *Hollman Action Plan* for redevelopment, were made public on December 21, 1997.

The *Hollman Action Plan* for the Summer Field, Glenwood, Lyndale, and Olson public housing developments proposes the construction of a new, mixed-income housing development. This mixed income development will include 438 and 459 new single-family detached and townhouse units. Approximately 25 percent of the units would be allocated to public housing (100 units); 50 percent market-rate; and 25 percent to families at 60 percent of area median income (tax credit housing).

The actual mix of public housing as opposed to private market housing appeared to be a point of controversy.<sup>156</sup> According to an article in the *Star Tribune*, originally the focus group participants charged with deciding the mix agreed that 25 percent of the units would be public housing and the remaining units would be subsidized for people with moderate incomes. However, according to the article, the City Council changed the breakdown to 75 percent market-rate and 25 percent

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<sup>156</sup> The final number of public housing vs. market rate units that will be constructed is still unclear at the time of this writing.

public housing and voted to approve it.<sup>157</sup> Staff from the NAACP, reported that this was a major point of the contention for the organization and the residents. Respondents from the NAACP believed that the revitalization of the near northside would push the low-income residents out.

The *Hollman Action Plan* also proposes the development of 36 acres of open space that will include four acres of play fields and picnic areas, plus 17 acres of landscaped ponds. The plan proposes sites for institutional and commercial uses. These are sites intended to enhance a connection between neighborhood residents and needed job training, education, and social services. The proposed parkway boulevard connection south to downtown is the most significant component of redevelopment. This parkway will provide direct access to schools, a park, and downtown services that are located south of Basset Creek, a historical barrier dividing north and south Minneapolis.

### **Replacement Housing in Non-Impacted Areas**

In addition to the redevelopment of the near northside, the decree requires that the remaining replacement units be acquired in non-impacted areas. At least 80 more units will be developed within Minneapolis and the remaining units will be replaced in non-impacted areas of either the suburbs or Minneapolis. Although MPHA is ultimately responsible for completion, private developers, county housing redevelopment agencies, and local public housing authorities will be involved in the acquisition, construction, and maintenance of these units.

### **Metropolitan Housing Opportunities Program**

To persuade private developers, housing redevelopment agencies, and local public housing authorities to participate in implementing the *Hollman* consent decree via construction of replacement units, the Minneapolis Public Housing Authority initiated the Metropolitan Housing

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<sup>157</sup> "Showdown Over Replacement Housing Averted." *Star Tribune*. April 16, 1998: p.5B.

Opportunities Program. This program offers grants for the capital costs of up to 690 units, and offers operating subsidies for 40 years, subject to annual congressional appropriations. HUD will award operation subsidies to MPHA through an Annual Contributions Contract. MPHA will reallocate these funds to other local and regional public housing authorities or owners that are administering any units created.

Under the Metropolitan Housing Opportunities Program, 30 percent of the units are reserved for local residents. This provision was intended to provide an incentive for suburban locations to create *Hollman* units. The remaining 70 percent of the units are reserved for Minneapolis residents eligible under the following guidelines:

- Families displaced by the demolition of Minneapolis public housing units;
- Families on Minneapolis waiting lists who live in minority or poverty concentrated areas; and
- Families on the Minneapolis public housing waiting list.<sup>158</sup>

MPHA identifies residents who meet these guidelines and residents may apply at participating entities. All residents will be properly screened by MPHA.

Metropolitan Housing Opportunities Program units adhere to requirements set forth in the consent decree. Multi-family units have the following restrictions (1) developments with 100 or fewer units, no more than 10 units can be replacement units; and (2) developments with 100 or more units, no more than 10 percent of units or 35 units, whichever is less, can be replacement units, unless the locality approves more, all units must be acquired or constructed in non-impacted areas. Only

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<sup>158</sup> MHOP Program guidelines furnished by MPHA

families—those composed of two or more persons—that meet income requirements are eligible residents.

To date, 19 replacement units have been completed in suburban communities, with 14 units occupied by MHOP families. The 19 replacement units are comprised of five Townhomes in a 48-unit mixed-finance development in Savage. Scott County HRA owns these public housing units. In Minnetonka, three public housing Townhomes are a part of a 30 townhouse development, known as Minnetonka Mills. And a second development, Crown Ridge, has six MHOP units in a 64-unit building. Five townhouses are completed in and occupied in Chaska, part of a 39-unit development.

### **Metropolitan Housing Implementation Group**

In addition to the Metropolitan Housing Opportunities Program, the Metropolitan Housing Implementation Group was founded to encourage the production of affordable housing and took the role of providing priority of *Hollman* units in the suburbs. MHIG is a consortium of housing funding agencies. Members include MPHA, the Minnesota Housing Finance Agency, the Metropolitan Council, the Minneapolis-St. Paul Family Housing Fund, the Local Initiatives Support Corporation, and HUD.

The Metropolitan Housing Implementation Group developed common selection criteria for housing funds administered by each agency. Under these criteria, proposals that set aside units for *Hollman* class-members receive higher priority in the allocation of low-income housing tax credits. To date, 19 units have been completed under the aegis of the Metropolitan Housing Implementation Group. Agreements have been completed with private developers and suburban counties to develop 522 more units. Table 8 below describes plans for assignment and acquisition and construction status of the remaining units.

### **Factors Affecting Implementation Progress**

Overall, fulfillment of this requirement of the consent decree has had the least progress. Staff at housing and redevelopment agencies noted four major problems which affect implementation.

### **Community Resistance**

Although respondents identified no specific incidents, community resistance in general, was identified as a major barrier. Staff at housing redevelopment authorities in the suburbs pointed out suburban communities, especially, feel threatened by the influx of *Hollman* residents. Staff suggested most locations do not have the services appropriate for fragile low-income households. The suburbs that surround Minneapolis have a history of exclusion policies precluding most low-income families from residing in their communities. So far, the inner-ring suburbs have been less resistant to affordable housing strategies. Attempts to engage the outer-ring suburbs are ongoing.

**Table 8. Scattered Site Replacement Units**<sup>159</sup>

	<b>Units Assigned</b>	<b>Acquisition/Construction</b>	<b>Occupied</b>
<b><i>Suburban Units</i></b>			
Units Funded through MHIG	38	10	19
Total			67
Units Funded through Counties	190	50	0
Total			240
Units Allocated to Private Developers	332	0	0
Total			332

<sup>159</sup> Data in this table was provided by MPHA.

	Units Assigned	Acquisition/Construction	Occupied
<b>Minneapolis Units</b>	91	9	0
Total			100
Total Minneapolis and Suburban Non-concentrated Units	651	69	739

Resistance to public housing in Minneapolis neighborhoods has also occurred. According to an article in the *Star Tribune* approximately 62 community residents signed a petition to stop MPHA from renting a scattered-site public housing unit. Residents in this predominantly working-class neighborhood cited problems with the last tenant, complaining that violence has increased due to the influx of subsidized households.<sup>160</sup>

According to accounts from the *Star Tribune*, community resistance in affluent suburbs has also taken on more subtle strategies to prevent affordable housing in their communities. Many suburbs are using zoning requirements which limit affordable housing construction by requiring big lots, two-car garages, or single-family homes. The focus on single-family homes has led to a sharp decline in available rental housing. This precludes many low-income families from finding affordable housing in these communities.<sup>161</sup>

<sup>160</sup> "Affordable Housing May be a Tough Sell." *Star Tribune*, July 9, 1998: p.1B.

<sup>161</sup> "Suburban Zoning Shuts Out the Poor." *Star Tribune*. February 28, 1994: p.1A.

### **Lack of Stakeholder Buy-In**

As indicated previously, unlike most consent decrees, *Hollman* requires replacement units to be constructed or acquired in surrounding suburbs. Despite this requirement, suburban entities were not involved in the negotiation of the terms. All respondents representing the suburbs noted this with resentment. Some counties or cities have moved past this and made contributions to the implementation.

According to staff from MPHA, a number of suburbs, however, have indicated a refusal to participate in *Hollman*, complaining of administrative difficulties, lack of incentives, or “already carrying their fair share of public housing” (Herbig, 1997: 25). The participating suburban locations are frustrated with lack of cooperation from other suburbs, explaining “if *they* had to be involved in *Hollman*, all of the suburbs should participate.” Many also noted MPHA's lack of progress in non-impacted areas in Minneapolis.

MPHA has achieved a small amount of progress in overcoming earlier mistakes like leaving the suburbs out of the negotiation process. The newly formed implementation committee includes representatives from all of the key players involved in *Hollman*. The committee now meets on a regular basis with the objective to accelerate the implementation of *Hollman*.

### **Lack of Capacity**

Resistance was not the only problem associated with getting the “suburbs on board.” In many cases, the suburbs surrounding Minneapolis have never owned or managed public housing units. Therefore, there is no well-established entity prepared to administer HUD's Annual Contributions Contract and maintain new public housing units. This lack of capacity has prevented some suburbs from signing on, and has slowed down the progress of the suburbs willing to take on *Hollman* units.

One respondent representing a suburb new to public housing ownership explained the extensive learning process involved in acquiring units for public housing. First, staff had to “sell” the idea of affordable housing production to the community.

Second, the housing and redevelopment agency or housing authority had to apply through MPHA for an annual contribution contract. Administration of the annual contribution contract appears to be a primary concern for many housing redevelopment agencies and housing authorities. Some key informants suggest an umbrella organization, such as the Metropolitan Council, should be responsible for administering the annual contributions contract for *Hollman* units in the region.

Finally, housing and redevelopment staff in suburban locations had to identify affordable units that will meet HQS and be financially feasible. These projects are very difficult to initiate because project financing is complex. In some cases, it may take up to seven funding streams to cover the costs. Developers rely on tax credits awarded by Minnesota Finance Agency. Housing and Redevelopment Agency staff speculated that politics played a large role in the allocation of tax credits. Furthermore, many suburbs have realized, that in order to maintain financial feasibility, the housing redevelopment agency or housing authority will need to sign onto enough *Hollman* units to support new staff needed for administration and maintenance of the public housing units

## **2.2 Tenant-Based Assistance**

### **2.2.1 Overview**

The settlement of *Hollman* involved 900 certificates and vouchers. Approximately 20 percent of certificates and vouchers have been issued to residents, most to public housing relocatees. This next section describes guidelines set forth in the decree regarding certificates and vouchers and is followed by a discussion of the mobility program.

### **2.2.2 Section 8 Certificates and Vouchers**

The *Hollman* Consent Decree set forth a number of requirements regarding the administration of the 900 Section 8 certificates and vouchers. Certificates and vouchers can be used two ways. First, by relocatees from public housing slated for demolition, for which there are no restrictions, so relocatees are permitted to move to impacted and non-impacted areas.

The remaining certificates and vouchers are issued in accordance with the following guidelines outlined in the consent decree: (1) second priority is given to public housing residents living in impacted areas, who receive mobility counseling, and (2) third priority is given to households with children living in concentrated areas on the MPHA waiting list. These certificates and vouchers must be used in a non-impacted area. Under the consent decree all certificate and voucher holders are allowed 180 days to find a unit; 60 days more than conventionally allotted by most housing authorities.

To date, most of the certificates or vouchers have been issued to relocatees. Approximately 187 of the 436 relocatees chose to relocate with a Section 8 certificate or voucher. Over 50 percent of these moved relocated to non-impacted areas.

### **2.3 Mobility Program**

The Mobility Program began in May, 1996, under the direction of SORC. As discussed in Section 2.1.2, to date, most of the participants have been public housing relocatees. MPHA attempted to recruit participants with second priority—those living in public housing in impacted areas, but only 55 of the 176 eligible households expressed interest. Respondents from the housing authority reported three major potential factors that thwarted certificate and voucher utilization and may hinder the ultimate success of the Section 8 Mobility Program. These are noted in Section 2.3.1.

## Landlord Outreach

In accordance with the consent decree, MPHA hired a consultant to conduct focus groups with landlords in the metro area to gain information that would improve landlord recruitment. MPHA will hire a full-time staff person responsible for landlord recruitment and outreach. In addition, MPHA hopes to increase that number with the new affordable housing clearinghouse and by hiring a staff member dedicated solely to landlord recruitment.

### 2.3.1 Factors Affecting Implementation

The low vacancy rate in the metropolitan area is an enormous barrier for Section 8 certificate and voucher holders. Due to the low vacancy rates, landlords have no incentive to rent to Section 8 certificates and vouchers. According to staff at the Housing Authority, landlords are not taking Section 8 in many neighborhoods. One landlord stated in the *Star Tribune*, “A lot of landlords like me don’t take Section 8 these days,” he continued “I get 20 calls from people desperate for a place to live.”<sup>162</sup> It is no wonder, then that approximately one in eight certificate holders fail to find units in the Minneapolis Metropolitan region (Kennedy and Finkel, 1994).

The plaintiffs’ attorneys reported that FMRs are low in comparison to private market rents. MPHA is currently working on exception rents at approximately 10 percent above FMR. MPHA staff believe this amount will be sufficient.

A tight rental market can present a daunting challenge to most middle-income tenants; it presents an even bigger problem for former public housing residents. In many cases, public housing residents have never tried to navigate the private market, or even paid a utility bill. Furthermore,

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<sup>162</sup> “No End In Sight For Housing Crunch.” *Star Tribune*. August 26, 1997: p.1A.

over 56 percent of the relocatees are Southeast Asian; most do not speak English. In an effort to overcome this, SORC matched residents to units, instead of leaving housing search to participants independently. This model places an extreme burden on staff and organization resources. Moreover, matching residents to landlords under rushed circumstances, may limit tenant choice and mobility.

Furthermore, recent changes in HUD regulations allow Section 8 landlords to charge full security deposits. Initially, this prevented residents from participating in the program. MPHA has since secured private funds for a security deposit loan program. As a result, many of the residents who initially expressed interest are now participating in the mobility program.

## **2.4 Creation of New Housing Opportunities**

### **2.4.1 Overview**

In addition to new public housing units available in Minneapolis and the suburbs, the *Hollman* Consent Decree required two major components that may lead to the creation of new housing opportunities. This next section describes the newly created affordable housing clearinghouse and the recent suspension of local preferences on suburban waiting lists.

### **2.4.2 Affordable Housing Clearinghouse**

In accordance with the consent decree, MPHA has allocated \$2.5 million dollars from its Comprehensive Grant Program over a five-year period beginning in 1996 for the development and operation of an affordable housing information clearinghouse.

In the summer of 1998, the newly established HousingLink published a 100 page directory of housing units in the Twin Cities metro area that offer rent subsidies for low-income people. Information included number of units by bedroom size, rents; utilities paid by tenant, security deposit requirements, and also information on area grocery stores, playgrounds, and the names of the schools in the district. The directory, "Choosing a Place to Live," will be disseminated to social services agencies and organizations in the Twin Cities. A vacancy registration database that will match available housing units to homeseekers is planned for 1999.

### **2.4.3 Local Preference Study**

In accordance with the consent decree, the local HUD office conducted a study of local housing authority residency preferences in suburban locations to test if they had a discriminatory impact on residents. The study concluded in two cases residents from the city—usually minority residents—were substantially less likely to come to the top of assisted housing lists due to tenant selection procedures providing preference to local residents. As a result of this study, the two suburban authorities have suspended these preferences until further notice.

## **3.0 Overview of Resident Impacts**

The primary thrust of our focus groups was to engage in an in-depth discussion with *Hollman* class-members about their experiences with the consent decree and their views on neighborhood life. Focus groups consisted of persons who made segregative moves with a Section 8 subsidy, a desegregative move with Section 8, or who moved into a scattered-site public housing unit. All participants were relocatees from public housing on the near northside. We also included information from press clippings and excerpts from *Relocation and New Housing Study of Sumner Field Public Housing*, a report presented to the Legal Aid Society of Minneapolis by The Urban Coalition.<sup>163</sup> As previously indicated, the primary groups affected by the consent decree—African-

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<sup>163</sup> This study interviewed 50 former residents of Sumner Field public housing development. The sample included 25 Hmong, 20 African-American, and 5 Lao residents. This selection reflects the racial and ethnic characteristics of the relocated population closely and represents one-fourth of the Sumner Field population.

American and Hmong residents—have drastically different experiences in relocating. Due to these differences we report on the groups separately.

### **3.1 African-American Residents**

Even though participants in the three focus groups lived in different areas of the city and in housing units that varied in terms of quality, participants in each group offered similar comments when speaking about their experiences with the mobility program, their ability to locate housing in the designated non-impacted areas, and, to a certain degree, their experiences in the new neighborhoods.

#### **3.1.1 Mobility Program**

Participants in the focus groups were, with few exceptions, displeased with the mobility program. In each group, people said they received little to no information from the program on elements of the decree or on the range of housing options available to them. Some people believe they were misinformed of their options. They said they were excited to learn through a letter that homeownership would be one of the housing options open to them. Upon meeting with mobility staff, however, a number of participants were told they would receive a Section 8 subsidy, could move into a different public housing unit, or locate housing on their own. According to participants, mobility staff steered a number of people away from home buying and toward Section 8, even in instances when a resident stated that she wanted to consider buying a home. A participant in the group of scattered-site residents shared the following account, an account echoed by participants in each of the groups.

*Now when I went for the housing relocation, I prefer to have a house, to buy ...a home. I was not given an option. I was told that Section 8 was a joke, that I was discouraged from getting Section 8...and that...most landlords would not take people from the*

*projects....I was not given the option to get a house, I was never even spoke with anybody to see if I qualified for a home, so basically I was told I was getting a scattered-site house. They go, 'well you either take this house or you're evicted.' So I was not given a choice.*

Participants identified only a few specific services they received from the mobility program. One participant mentioned receiving assistance with the moving costs. A few did say they were taken to view a number of units and were otherwise assisted with locating housing.

In contrast, people in all three groups, however, said they were not presented a range of housing options. They told of how they were offered either a Section 8 subsidy or a scattered-site unit, or eviction. Participants in each group believed the mobility program only helped the residents it wanted to help. A number of people expected to receive over \$5000 from the decree to move out of public housing and complained that they have not seen the money.

### **3.1.2 Housing Availability**

Many participants said they had difficulty locating affordable housing in non-impacted areas that accepted Section 8 subsidies. According to a scattered-site resident:

*The landlords are saying that their property is getting ruined by people that are on Section 8, so they don't want to rent to people with Section 8, plus what they're doing is they're raising their rent above your Section 8 certificate so that you can't even get into their buildings.*

Participants across groups said they know many people who, unable to locate housing in non-impacted areas, made segregative moves out of necessity.

*Yeah, everybody got pushed that way. Yeah, 'cause a lot of people that I knew from this area got, you know, had no choice but to move that way too. So, you know you were told to basically get on. So I wind up having to move back north Minneapolis, because Section 8 certificate, nobody really wants it.*

Another factor participants identified as affecting their ability to locate suitable housing is transportation. The lack of adequate public transportation in the suburbs curtailed a number of participants' interest in moving away from the city. Without transportation, they would have difficulty traveling to work. A participant who owns a car also spoke of the need for, and lack of, public transportation.

*If, like the problems I've been having with my car, I couldn't do nothing. I was completely paralyzed. There's no way, there's no bus service, I mean, it is just unbelievable.*

### **3.1.3 New Housing and New Neighborhood**

Several focus group participants from both the scattered-site and desegregative movers groups spoke positively about their new homes and neighborhoods. A resident of a scattered-site unit had no complaints about where she lived. The neighborhood was diverse in terms of race and ethnicity, the children played well together, and people watched out for each other's homes. Another participant, one who had made a desegregative move, was happy with her housing. The only regret was the manner in which she came to live there.

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*The home that I'm living in now, I mean, it's a townhome, it's a nice townhome, but I'd rather for it to have been my choice on where I wanted to live.*

However, a number of participants in the scattered-site and desegregative movers focus groups recounted experiences they have had in their new homes and neighborhoods with discrimination and stigmatization. A scattered-site resident told of how she had no problems with her neighbors until the inspection truck from MPHA, logo on the side, drove by to check on the outside of the unit. Once people knew she was a public housing resident, their attitude toward her changed.

*This is what [my neighbors] told me. That they wanted me to know that this is a predominantly white neighborhood. I said I have no problem with that because I grew up with mostly white people. They told me that they don't like drugs. I said I don't use drugs, that's not a problem. We don't like loud music or parties. I said good because I don't like people that play that either....Then they informed me how many Minneapolis Public Housing people live within a four block radius. They pointed the exact homes out to me...*

In addition to problems with neighbors, participants told of racist and highly uncomfortable situations that have occurred while driving down the street or while shopping. One woman who made a desegregative move recounted an experience she had in a grocery store.

*I'm the only black person that's in the store, and this little kid was in the aisle, and ...I'm looking for the food that I normally buy for my ethnic [cooking], it's not there. It's not there. So I'm.. strolling my cart, little kid's in the aisle, next thing you know, I was fixing to turn and he looks up, started screaming. I'm like, what the hell are you screaming for? Right? He jumped up and he run looking, looks up at me....And see, this is what I carry, I got a big purse....And people in the [store], they were like, oh my God, has she been stealing or*

*is she going to rob us. This is what I was feeling in the grocery store in my community. Ok, this is supposed to be my community.*

### **3.1.4 Fears and Suspicion**

A number of participants in each focus group hold a general sense that there is a plan to remove and scatter African-American residents from sections of the city in order to recapture the land for white residents with more income. They perceive the city to be in the process of gentrification and the moves that are coming about due to *Hollman* appear to fit neatly into this process. Accounts that the mobility program handed out Section 8 subsidies while knowing that people would have great difficulty finding units in which they could use them only adds to their belief that people are not being offered greater housing options, rather they are being removed.

### **3.2 Southeast Asian Residents**

MPHA has a large Southeast Asian population. Many developments, particularly developments affected by the *Hollman* Consent Decree are predominantly Southeast Asian. Hmong residents are the majority within this group. Compared to other ethnic groups, little is written about Hmong people. The Hmong have a long history of movement across Asia, and often have been described as having no country of their own. After several forced moves throughout China and Vietnam, thousands fled to Laos to avoid forced assimilation. There, the Hmong settled in the higher regions within the valleys of the northern mountains. Isolated, but self-sufficient, the Hmong villages were and continue to be united communities. Families were large; ten children are still not uncommon. The Hmong are an agrarian culture—working as farmers, craftsmen, or shaman. A majority of Hmong have only completed 1.6 years of education. The language of the Hmong was only recently re-recorded in 1950, after being lost under cultural persecution in China (Fadiman, 1997).

After disruptions from the Vietnam War, during which the Hmong supported American forces, many Hmong were once again forced to seek refuge. Most, traveling by foot, walked over 30 days to neighboring Thailand. After spending years in camps, many sought refuge in the United States. Despite dispersal policies, approximately 10,000 Hmong have settled in Minneapolis, beginning in the mid-1980s (Fadiman, 1997).

In Minneapolis public housing, Hmong residents continue to maintain their cultural identity. Residents still belong to specific clans. Shaman grow healing herbs in public housing gardens. The most important thread that weaves through their cultural fabric—the need to remain close to their families and other Hmong people—is highly guarded.

Although the research design proposed focus groups with residents, conducting focus groups with Southeast Asian residents proved challenging due to language barriers. Most Hmong and Lao residents do not speak English. Instead we conducted three small group interviews with a translator who spoke both Hmong and Lao. Lengthy one-on-one interviews using a translator would have been preferable, but were not possible due to resource constraints. The group interviews did, however, generate common themes and relevant responses.

Each group interview was different in size and composition. The segregated movers consisted of two older Hmong males; two older Hmong females; one older Lao male; and one young Hmong female. The group of desegregative movers was composed of two elderly Hmong females. The group of relocatees who moved to project-based assistance was comprised of two older Hmong males, both with more than seven children; one Lao female in her early forties, with three children; and one older Lao male.

### **3.2.1 Mobility and Relocation**

Interviews reveal that many residents did not understand why they had to move. Many were cognizant of the lawsuit, but did not completely understand the consent decree. According to the

Urban Coalition report, over 16 percent of Hmong residents reported they did not know why they had to move. As was clear from key informants, there was a lot of confusion during relocation.

Some informants were very angry. They believed they were not represented well by the families named in the complaint. Above all, residents we interviewed did not want to move. This sentiment was supported by the Urban Coalition study, which found that over 50 percent of Hmong reported they did not want to move.

*The [development] was in good condition, why was it torn down? New units are not as good. Why didn't the government just remodel. Why doesn't the government use the funding for more cops—instead of moving people out.*

*I didn't want to move to the suburbs or where they wanted me to move. I wanted to stay in public housing.*

Residents were asked about the relocation and mobility assistance they received during relocation. Reports were mixed. Although residents were appreciative of the services they received, such as phone and cable hook-up, and money for moving expenses, they expressed anxiety about the amount of time they were given to move. Most felt rushed, stating they had to move too quickly. This limited their choice while finding an apartment, they believed. Some also reported that they were threatened by their relocation consultants.<sup>164</sup>

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<sup>164</sup> Instead of mobility or relocation counselors, staff assisting with relocation were referred to by relocatees as consultants.

*[The] consultant pushed me too quickly. They did find me a unit, but I had to choose very quickly and I only got two choices then they told me I had to move.*

*The consultant told me I had to move or once people started to move from my development they would shut-off the electricity and I would be left during the winter without heat.*

Residents were told if they were not happy with the unit choices offered by the relocation consultant, they could look on their own. This proved difficult for most Hmong residents. As indicated, most Hmong do not speak English and have large families. These factors make finding an apartment on the private market extremely difficult. One resident who did find a unit, experienced difficulty obtaining her Section 8 certificate on time.<sup>165</sup>

*The consultant told me I could take the housing they found for me, or I could locate my own unit, but when I did find one, my number was not up yet, so they gave the unit to another Section 8 person who had priority. I felt very deceived by this.*

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<sup>165</sup> Residents were relocated in phases, and were told a head of time to look for units on the private market. Although this resident may have found a unit, it is possible she was not officially being relocated at this point.

### 3.2.2 New Housing and Neighborhood

Not surprisingly, informants felt that a “good neighborhood” would be safe, gang and drug-free, with a sense of community. Once again, the importance of living close to other Hmong families surfaced during the interview. Almost all residents stated a ‘good neighborhood’ would include “Hmong families close by.” When asked about their new residential environments in light of this criteria, overall responses varied among participants. Some residents reported their new neighborhood was safer, diverse, quiet, in close proximity to schools, with more parking space. It was also reported that in some cases transportation was further away and housing units were smaller, and new neighborhoods were “not nice.” Responses were not consistent within any group (segregative or desegregative movers) so one cannot draw a correlation between where the residents moved and the nature of their responses. However according to a more systematic survey, generally Lao residents were more satisfied than Hmong residents with their new housing. According to the Urban Coalition report, nearly 44 percent of Hmong residents believed their housing was worse than public housing.

*My new apartment is so-so. The neighborhood is good. There are three Hmong families living close by. Public housing was better.*

Although residents were mixed about their new neighborhoods, it was clear they did not like being dispersed throughout the city and suburbs. Participants felt isolated from their family and friends. They did not appear to be integrating into their new communities. Some felt anxious that if something bad happened to them their neighbors in their new community would not help them. Elderly Hmong appear the most dissatisfied. Many reported that they were “scared” and “worried” by their new neighborhood.

*I am afraid if I get sick my neighbors will not help me. There are no Hmong families where I live now.*

In each group the interviewer asked, "If given the opportunity would you move back to public housing?" All but a few answered "yes," without hesitation or caveats. The respondents that answered "no" were Lao, or in one case, a young Hmong woman that had just purchased a home.

As the interview came to a close one woman asked the interviewer to "please tell the government to build a housing village for Hmong families." The woman next to her stated, "stop trying to scatter us about."

#### **4.0 Conclusion as of Fall, 1998**

As of the time of our site visit, three years had passed since the court approved the *Hollman* Consent Decree. During this period, approximately 50 percent of the demolition has occurred, and the last residents will be relocated over the next year. MPHA has established an affordable housing clearinghouse for the region. Key elements, such as the redevelopment of the near northside, construction and acquisition of replacement units in the city and the suburbs, and solidifying the establishment of a mobility program still remain to be completed. Clearly these elements could have a large impact on affordable housing in the region. However, more steps need to be taken to engage the suburban locations in construction and acquisition of replacement units.

#### **4.1 Lessons Learned**

Hollman implementation has brought to light a number of lessons for both mobility programs and public housing revitalization. Perhaps the most prominent issue in Minneapolis is the difficulty with relocation, and the impact it may have on residents. Relocation in general is always a difficult process. Residents often maybe resistant to move, while housing authorities are dashing to meet a court-imposed deadline. However, the high number of Southeast Asian residents unwilling to move—primarily for cultural reasons—exacerbates problems with relocation in Minneapolis.

Although relocation was not embraced by all residents, some have new opportunities as a result of *Hollman*. Approximately 44 relocatees have purchased homes and 214 moved to non-impacted areas. The outcomes for the relocatees who fervently opposed relocation are still uncertain—particularly for Hmong residents. MPHA's effort to track the relocatees interested in returning to the near northside after redevelopment will also impact resident outcomes. It is unclear if the proposed number of units available to public housing residents will be enough to match the number of residents who want to return.

Lack of buy-in from the suburban housing and redevelopment agencies and housing authorities was also a major issue in Minneapolis. Unfortunately, the suburbs were not brought to the table during the negotiation of the Hollman consent decree. Instead they were invited to participate after the suit was settled. Many suburban entities expressed resentment, and were initially unwilling to participate.

As indicated previously, participation from the suburbs has been a major obstacle to fulfilling the consent decree's replacement unit requirements. However, MPHA staff report participation is increasing and over have been assigned to suburban locations.

**Baseline Case Study: New Haven**

**by**

**Mary Cunningham, Maria-Rosario Jackson, and Elise Richer**

## 1.0 Introduction and Overview of the Case

In 1989, the Elm Haven Extension public housing development in New Haven was demolished, leading to the immediate loss of 366 units of housing. Two years later, Christian Community Action, Inc., an organization that works with the homeless, filed a class action suit on behalf of low-income African-American and Hispanic residents of and applicants for New Haven public housing.<sup>166</sup> The plaintiffs alleged that the three defendants, the Housing Authority of New Haven (HANH), the U.S. Department of Housing and Urban Development (HUD), and the City of New Haven, had intentionally perpetuated racial segregation in the city because they had delayed or ceased construction of public housing in predominantly white neighborhoods.<sup>167</sup>

The class-action suit was settled in May, 1995, after four years of negotiation.<sup>168</sup> The *Christian Community Action Settlement Agreement* aims to promote desegregation and spatial deconcentration of public housing by acquiring or constructing the remaining Elm Haven replacement units in non-impacted areas.<sup>169</sup> Major elements also include the creation of a mobility program that strongly encourages participants to move to non-impacted areas, merging of public housing and Section 8 waiting lists, and HUD's award of 458 Section 8 certificates and vouchers.

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<sup>166</sup> According to various informants, New Haven Legal Assistance Association approached Christian Community Action about the lawsuit, and the organization agreed to participate in the interest of some of their clients who were waiting to receive public housing. New Haven Legal Assistance Association and the Connecticut Civil Liberties Union assisted in filing the suit.

<sup>167</sup> *Christian Community Action, Inc., et al. v. Kemp et al.*, 1991.

<sup>168</sup> *Christian Community Action, Inc., et al. v. Cisneros et al.*, 1995.

<sup>169</sup> Non-impacted is defined as areas where the percentage of minorities is no more than 20 percent greater than the New Haven metropolitan area's non-white percentage, as measured by the last census (using 1990 figures, this number is about 40 percent).

## 1.1 Characteristics of the Region

New Haven, like many industrial cities, has experienced an economic decline over the past several decades. The population in the city has decreased from 164,443 in 1950 to an estimated 122,000 in 1997, a loss of one-fourth. Between 1990 and 1995 alone, an estimated 5 percent of the population departed from the city, and this trend has shown no signs of slowing. As reported in one article, in the last two decades, “middle class flight from the city, the loss of tax revenues and an inefficient local bureaucracy all led to a serious blight problem.”<sup>170</sup>

In 1996, there were approximately 48,000 households in New Haven, far lower than the city’s housing stock of 54,000 (Rae, 1996: ii). High vacancy rates, blight, and abandonment had reached epidemic proportions. For a small city, New Haven has an exceptionally high density of subsidized housing, including large concentrations of low-income public housing, HUD Section 202 elderly housing, Section 8 housing, and state rental subsidies. According to one article, 11,000 units in the city, or over one-fifth of the total number of units, were either public housing or otherwise subsidized as of 1991.<sup>171</sup>

As of the 1990 U.S. Census, the City of New Haven was 49 percent white, 35 percent African-American, and 13.2 percent Hispanic. As Figure 1 shows, New Haven’s black population is highly concentrated, starting on the central northern boundaries of the city and continuing down the center, creating an L-shaped pattern. Figure 2 shows that with few exceptions, public housing developments are located in these areas. The black-white dissimilarity index registered .679 for the New Haven Metropolitan Area in 1990 (Harrison and Weinberg, 1992).

## 1.2 Characteristics of the Public Housing Authority

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<sup>170</sup> “Livable City Initiative Succeeds in New Haven.” *American City and County*, January, 1997: p.17.

<sup>171</sup> Judson, George. “Uproar in New Haven on Public Housing Role.” *The New York Times*, September 30, 1991: p.B1.

Founded in 1938, the Housing Authority of New Haven (HANH) is governed by a Board of Commissioners. The Mayor appoints the Commissioners, and they must be residents of the city. Typically, the Board is comprised of at least one public housing resident, two African-Americans, one Hispanic, and at least one woman. The Commissioners then appoint the Executive Director of the housing authority. According to some observers, this organizational structure, while allowing for tenant representation, has led to periods where “city politics” have influenced the authority’s business, not always in the best interests of the tenants or the housing authority (Rae, 1996: 9).

INSERT FIGURE 1

INSERT FIGURE 2

HUD has designated HANH as a troubled housing authority for about ten years, with typically low PHMAP scores: 52.53 in 1991, 55.13 in 1994, and 54.9 in 1997. The agency has undergone significant staff changes, including turnover at very high levels, which has led to a lack of consistent leadership. Most recently, the Mayor's office took charge of the agency in 1998, and many workers were fired. Staff went from 150 in 1996 to 125 in 1998. Since 1988, HANH has had five different Executive Directors, including three in the past five years. Two of these were Interim Directors. David Echols, who was hired in 1988 when HANH was first designated as troubled, was a professional housing authority Director but was unable to get HANH off the troubled list during his four-year tenure. He died in office. In 1996, an Interim Executive Director from Quadel Consulting was hired, while the search for a permanent Executive Director was conducted. In 1997, Ed Bland became Executive Director, and staff turnover under his administration has reportedly been high.

The racial composition in HANH's public housing is 82 percent African-American, about 13 percent non-Hispanic white, and just under 4 percent Hispanic.<sup>172</sup> In major low-income developments, 90.5 percent of households are headed by women. Nearly half of the public housing residents in New Haven are recipients of the federal welfare program now called Temporary Assistance to Needy Families (TANF). Average annual household income for residents living in public housing is only \$8,725 (Rae, 1996: 14).

HANH manages properties that are situated in the declining urban core of the city as well as in peripheral, more isolated areas. The first generation of low-income developments, completed between 1941 and 1951, tend to be large, with 1,788 units in six projects (298 units each, on average). A majority of these developments are located in high density working-class neighborhoods, and are quite visible within the city. The second generation, finished between 1960 and 1986, consists of smaller developments (the average size is 57 units) built in the corners of the city, isolated from the city's amenities and market-rate units (Rae, 1996: 9). HANH manages 31 properties: 15 for low-income families and 16 for the elderly. Most of the low-income developments are low-rise construction.

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<sup>172</sup> 1994 Public Housing Data furnished by HANH.

Table 1 provides the racial composition of New Haven's major public housing developments at the approximate time when the suit was filed. As illustrated, only two developments (Matthew Ruopp and McQueeney) were less than three-quarters African-American.

**Table 1. Public Housing Developments**<sup>173</sup>

<b>Development</b>	<b>Black</b>	<b>Hispanic</b>	<b>White</b>
Elm Haven	95%	.01%	.02%
Quinnipiac Terrace	77%	10%	11%
Farnum Courts	92%	.04%	.01%
Rockview	92%	.04%	.03%
Matthew Ruopp	54%	.01%	45%
McQueeny	52%	0	48%
William Rowe	77%	.01%	21%
Eastview Terrace	86%	.03%	13%
Mccounaughy Ter.	94%	2%	3%
Brookside	87%	4%	8%
Westville Manor	98%	1%	1%

According to HANH staff, HANH owns 2,900 units of public housing (62 percent are family units and approximately 38 percent are for the elderly) and it administers 2,650 Section 8 certificates and vouchers.

<sup>173</sup> 1990 Public Housing Data furnished by HANH.

According to several informants, including Home, Inc. staff and plaintiff's attorneys, HANH has long been infamous for its poor management of properties. As indicated, most of HANH's developments were built in the 1940s, 1950s, and 1960s. Despite modernization efforts, the age of the stock presents a constant maintenance challenge. The dispersal of the housing stock across the city adds to the difficulty of supervising and maintaining the buildings (Rae, 1996: 12). In 1991, Home, Inc., an affordable housing organization, was contracted to manage some of HANH properties. Since that time, the quality of management has improved significantly, according to several informants.

### **1.3 History of the Desegregation Litigation**

#### **1.3.1 History of the Elm Haven Development<sup>174</sup>**

The 487-unit Elm Haven low-rise housing development was opened in 1940 in the Dixwell neighborhood, a predominantly African-American community of New Haven. The population of the project was originally about two-thirds African-American and one-third white, with each individual building (there were 36) segregated by race. Residents of different races lived at virtually the same economic standard, and nearly every head of household had a job. In 1955, an additional 366 units of housing were added in the six high-rise buildings known as the Elm Haven Extension.

At the time of its construction, the development was hailed as one of the brightest examples of government housing in the country. The Winchester Repeating Arms factory was the economic anchor of Dixwell, providing roughly 20,000 jobs to the city when operating at full capacity. As occurred in so many other inner cities across the U.S., however, when the economic base eroded, the neighborhood entered into a vicious cycle of decline.

Dixwell probably peaked economically about thirty years ago. In 1970, the population began falling gradually. The homicide rate in New Haven had begun climbing a few years earlier, and by the mid-1980s, fueled by gang activity, the number of murders skyrocketed—at times triple the national rate. The Winchester factory had slashed its work force, and economic conditions were worsening rapidly. Tracts of housing were abandoned. Concurrently, the population of both Dixwell and the Elm Haven development was becoming largely African-American. By 1992, the number of non-Hispanic white household heads in Elm Haven had fallen to 16, or 3.7 percent. As a whole, occupancy of New Haven public housing had become 95 percent non-white by this

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<sup>174</sup> Most of the information in this section is condensed from Rae, (1996) pp.1-8, 22-37.

time. Furthermore, a 1994 housing authority study pegged the unemployment rate in Elm Haven at 85 percent, with more than half of all households receiving public assistance.<sup>175</sup>

As early as 1983, HANH began soliciting help from outside experts to address the deterioration in Elm Haven. Academics were already terming the high-rises “a catastrophe,” marked by concentrated poverty, drug dealing, rodents, filth, lack of heat and hot water, and vandalism so rampant that HANH was no longer bothering to replace broken windows and light bulbs.<sup>176</sup> During the late 1980s, the housing authority attempted various modernization efforts with Comprehensive Improvement Assistance Program funds, with no apparent long-term effect. In 1989, HANH finally tore down the Elm Haven Extension, the six high-rise buildings providing 366 units of housing. This land, bordered by an abandoned rail line, has remained vacant ever since. The failure of the HANH to rebuild these units in suitable sites in New Haven formed the basis of the 1991 lawsuit leading to the *Christian Community Action* Settlement Agreement.

The remaining low-rise units at Elm Haven became a HOPE VI site in 1995, under the stewardship of the Elm Terrace Development Corporation, which residents, HANH, and local institutions had formed in 1991. When surveyed in 1995, residents mentioned poor management or maintenance as the worst problem in the development—even worse than crime (Rae, 1996). Issues cited in the HOPE VI baseline report include serious deterioration of interior walls, problematic heating systems, electrical systems which were not up to code, and old, non-functional plumbing. In addition, the land surrounding the development had continued to deteriorate. The vacant lots, abandoned housing, and lack of recreational and commercial facilities led to significant social disorder, if not outright crime. The HOPE VI plan, with \$45 million in federal government money, involves razing the remainder of Elm Haven and replacing it with 355 units of low- and middle-income family housing.<sup>177</sup> Additionally, a school adjacent to Elm Haven is being renovated and is expected to help attract working families back to the community.

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<sup>175</sup> LEAP (Leadership, Education and Athletics in Partnership) Web Pages: Site Statistics, <http://leap.yale.edu/communities/table.html>.

<sup>176</sup> Bass, Paul. “New Haven seeks cure for a housing-development slum.” *The New York Times*, November 13, 1983, p.11CN 2.

<sup>177</sup> “New Haven reconstructs public housing.” In *American City and Country*, vol.113, no. 8. July 1998 (p.50).

### 1.3.2 The Litigation

As indicated, HANH has undergone major staff changes during the past ten years. This turnover made it extremely difficult for the research team to piece together the litigation history of *Christian Community Action, Inc.*. The information in the next section was culled from interviews with current housing authority staff, staff from the housing organization awarded the mobility contract, and plaintiffs' attorneys, as well as contemporary newspaper articles.<sup>178</sup>

In 1989, after demolition of the Elm Haven Extension, HUD approved HANH's implementation of the Elm Haven Replacement Plan. This plan called for the replacement of the demolished units with 183 units of public housing (owned and operated by HANH) and 183 development-based Section 8 rental units outside of areas of minority concentration. Replacement housing was scheduled for completion within six years, but by 1991 no private developer had yet submitted a proposal to build the 183 Section 8 development-based units. The plaintiffs thus filed a lawsuit against HANH, HUD, and the City alleging that the defendants had deliberately failed to implement the replacement plan and continued to place public housing in areas of minority concentration. The New Haven Legal Assistance Association (NHLAA) and the Connecticut Civil Liberties Union filed the suit on behalf of minority applicants and residents of public housing. Christian Community Action, a nonprofit organization that provides services to homeless individuals and families, was named as the lead plaintiff. Staff at Christian Community Action reported that they got involved because they hoped their clients would have better access to public housing as a result of the lawsuit.

From 1991 to 1995, progress in implementing the replacement plan continued to be slow. Residents of non-impacted minority areas continued to resist the siting of housing in their neighborhoods. Neighborhood resistance was quite high and was manifested vocally, in acts of arson, and in attempted legal injunctions (discussed in Section 2.3).

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<sup>178</sup> On several occasions we scheduled in-person interviews, and telephone interviews with the HANH's attorney. However, due to scheduling conflicts on the part of the attorney, we were not able to interview him.

#### **1.4 Terms of the Settlement Agreement**

Instead of going to trial, HUD, HANH, and the plaintiffs agreed that they could come to a satisfactory accord. In May, 1995, four years after the lawsuit was filed, the court signed and approved a settlement agreement between the plaintiffs, HUD, and HANH. The agreement settles the claims against HUD and HANH without the defendants admitting liability, while claims against the City are still pending. Because the City did not agree to make any financial contribution to the settlement terms, plaintiffs' attorneys decided to continue the suit against New Haven until a satisfactory agreement could be reached. The resolution remains unclear at this writing.

The main terms of the Settlement Agreement require that HANH and HUD achieve the following:

- Merge public housing and Section 8 waitings lists.
- Locate the remaining units of replacement public housing in non-impacted areas either inside or outside the City of New Haven.
- Publish Requests for Proposals (RFP) to find private developers to produce 62 units of project-based Section 8 housing within non-impacted areas within New Haven.
- Award to HANH 458 new Section 8 certificates and vouchers and issue 508 tenant-based Section 8 certificates and vouchers to families on the HANH Section 8 waiting list, on the HANH public housing waiting list, or living in HANH family public housing who wish to move to areas in New Haven or the suburbs that are non-impacted areas.
- Create a mobility counseling program to work with Section 8 certificate and voucher holders.

- Monitor suburban housing authorities and Section 8 program administrators to ensure programs are not operated in a discriminatory way.

It should be noted that unlike other settlement agreements and consent decrees identified in this study, *Christian Community Action, Inc.*, defines *impacted* by the level of minority presence, without a consideration of poverty rates. Both the plaintiffs and defendants agreed that *impacted areas* are those census block groups where minority representation exceeds the New Haven metropolitan area's percentage of minorities by more than 20 percent, based on 1990 census data (this figure is 40 percent until more current data is available). *Minorities* are defined in the decree as all persons other than white non-Hispanics.

## **2.0 Overview of Progress through Fall, 1998**

The parties to the Settlement Agreement have achieved only partial success in implementing its terms. Only about three-fifths of all replacement units in non-impacted areas have been constructed or acquired so far. Less than a quarter of the required Section 8 vouchers and certificates have been issued, and less than 15 percent of them have actually leased up so far. This slow pace is due, in part, to the requirement under the agreement that the certificates be awarded gradually, over a period of four years, to avoid overwhelming the mobility counseling agency, the HANH, and the rental market. Finally, no private developers have responded to the RFP to construct or acquire project-based units within the City of New Haven.

More positively, the waiting lists for Section 8 and public housing have been merged, a mobility counseling program is up and running, and mobility counseling has been offered to all new holders of Section 8 certificate and vouchers provided through the decree. Table 2 below provides an overall summary of implementation of the various Settlement Agreement elements, while the following section explains these components in more detail.

### **2.1 Key Players**

The key players in the implementation of the settlement agreement are: staff from HANH; staff from Home, Inc., a non-profit organization that manages property for HANH and runs the mobility

counseling program; staff from ACF, Inc., the group that does landlord outreach and is involved in site acquisition; and attorneys from the Connecticut Civil Liberties Union and New Haven Legal Assistance Association who monitor the implementation of the decree on behalf of the plaintiffs. (See Table 3 for a summary.)

**Table 2. Implementation Progress**

<b>Remedy</b>	<b>Description</b>	<b>Implementation Responsibility</b>	<b>Progress to-date</b>
<i>Waiting List Requirement</i>	Merge the Section 8 and Public Housing waiting lists.	HANH	Waiting list was merged.
<i>Replacement Units</i>	Through construction, rehab, or turnkey, replace 183 units in non-concentrated areas in New Haven.	HANH	113 public housing units have been built or acquired in non-concentrated areas and are occupied. The remaining have been identified and the proposal has been submitted to HUD for approval.
<i>Section 8 Projected-Based Replacement Units</i>	62 project-based units constructed or acquired in non-impacted areas within City of New Haven.	HUD and HANH	HUD issued a request for proposals (RFP) for development, but this has only generated one unit of housing so far.
<i>Section 8 Certificates and Vouchers</i>	Allocation of 508 Section 8 certificates and vouchers to residents on the Section 8 waiting list, public housing	HANH is responsible for administration of all certificates.	Approximately 120 certificates have been issued. Seventy-two certificate and

**Table 2. Implementation Progress**

Remedy	Description	Implementation Responsibility	Progress to-date
	residents, and residents on the public housing waiting list.		voucher holders have leased.
<i>Mobility Counseling and Landlord Outreach</i>	Mobility counseling to Section 8 certificate and voucher holders.	Home, Inc., a New Haven housing organization, in partnership with ACF Inc., has formed The New Neighborhood Development (TNNP). TNNP is responsible for the mobility counseling and landlord outreach.	Mobility services have been provided to 120 certificate and voucher holders.
<i>Monitoring</i>	HUD regional office will investigate New Haven and area PHAs to determine if residency preference policies exist. Additionally, annually HUD must conduct a study of 2 PHAs with residency preferences to determine if policies	HUD Regional Office	The initial area study was completed several years ago. The two PHAs found to have residency preferences are currently the object of Compliance

**Table 2. Implementation Progress**

Remedy	Description	Implementation Responsibility	Progress to-date
	have a discriminatory impact.		Reviews which are not yet complete. <sup>179</sup>

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<sup>179</sup> An interview with HUD PIH staff from the local office was scheduled during the site visit, but was canceled. Several attempts to interview the staff via telephone were made, but each time, the staff member was called away or did not respond. Due to these scheduling conflicts we were not able to discuss these matters with HUD PIH staff. Information above was gathered from the local office of Fair Housing and Equal Opportunity.

**Table 3. Key Players**

<b>Key Players</b>	
<i>Plaintiffs</i>	Christian Community Action, Inc. and African-American and Hispanic Residents of and applicants for New Haven Public Housing
<i>Plaintiff's Attorneys</i>	Connecticut Civil Liberties Union and New Haven Legal Assistance Association
<i>Defendants</i>	U.S Department of Housing and Urban Development, and the Housing Authority of New Haven (HANH)
<i>Mobility Contractor</i>	Home, Inc. and ACF Inc. joined together to form The New Neighborhood Development (TNNP)
<i>Landlord Outreach</i>	

Nearly all informants noted that relationships among the key players have been tense. The plaintiffs' attorneys and the HANH have been at odds for some time over the scattered-site program, and also disagreed about the selection of Home, Inc. as the provider for the mobility counseling program. This dispute, outlined below, characterizes the fundamental problems with New Haven's attempt at desegregation, showcasing how petty quarrels and local politics, rather than outright intentional obstruction, have blocked progress in the case.

The settlement agreement required HANH, HUD, New Haven Legal Assistance Association to choose a mobility counseling agency. According to plaintiffs' attorneys, HUD agreed to approve whomever HANH and the plaintiffs selected, although HANH alone controlled the actual funds which were to be issued as payment. The plaintiffs' attorneys requested that an RFP be sent out, and four proposals were submitted. After the proposals were scored, Home, Inc. was chosen, but HANH's Board favored a different organization. The Board lodged a complaint alleging a

conflict of interest with the selection of Home, Inc.<sup>180</sup> since one of New Haven Legal Aid Association's attorneys also sat on Home's Board of Directors. The HANH Board requested an outside attorney to review the situation for ethical violations. None were found, and with the plaintiffs' attorney and HUD complaining vociferously about the delays in the selection process, the contract was finally awarded to Home, Inc. The end result was a delay of seven to eight months in implementing the mobility counseling program.

Unsurprisingly, Home, Inc. and HANH have a complicated relationship. By all accounts, Home, Inc. appears to be doing a good job managing HANH property and this benefits the authority. Still, according to informants, the organization is hampered by extensive HANH bureaucratic procedures. Home, Inc. staff noted that HANH databases are poor and property maintenance continues to be a problem. It was also noted that in the past, HANH staff was often less than cooperative. Most recently, the HANH Executive Director instituted monthly meetings for the key players involved in the implementation. The players we interviewed during our site visit have received these new meetings well, and according to Abt Associates' recent review of Section 8 moves, the parties are meeting "in a cooperative spirit."<sup>181</sup>

## 2.2 Waiting List Merger

The decree requires that both the Section 8 tenant-based and public housing waiting lists be merged so that an application to either program will be treated as an application for both lists. If an applicant chooses, he or she may request that his or her name be added to only one list. This change will allow an applicant to reject an offer of public housing but still remain on the Section 8 waiting list (or vice-versa). According to HANH staff, this requirement has been completed.

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<sup>180</sup> At this point Home Inc. was named the mobility contractor. Home Inc. and staff from ACF Inc. formed The New Neighborhood Development (TNNP), the organization responsible for mobility counseling.

<sup>181</sup> "Implementation Recommendations for successfully moving Section 8 families to nonimpacted communities as defined by the Christian Community Action Settlement Agreement." Prepared by Abt Associates for CCLUF and NHLAA, January 19, 1999.

### 2.3 Siting of Remaining Units of Replacement Scattered-Site Public Housing in Non-Concentrated Areas

The Settlement Agreement requires development of 183 scattered-site public housing units in non-impacted areas within the City of New Haven. These units were to have been completed within three years of the effective date of the settlement agreement (May, 1995). As of September, 1998, however, only 113 units have been constructed or acquired and are fully occupied. According to HANH staff, the remaining units have been identified and are going through the HUD approval process. Most progress has been made through rehabilitation, acquisition, and turnkey developments.<sup>182</sup>

#### 2.3.1 Factors Affecting Implementation

The siting of replacement housing has occurred in fits and starts as a result of opposition from city officials and residents of target areas, as well as staff changes within HANH. Informants from Home, Inc. and ACF, Inc. reported that some residents of the receiving (predominantly white) neighborhoods have negative preconceived notions about public housing residents based on their race and low-income status. Also, some receiving area residents have opposed construction because of HANH's reputation for poor property management. Residents of receiving areas complained that their property values would suffer if public housing were to be placed in their neighborhoods. Complaints were also expressed about the loss of tax revenue the conversion of existing housing to public housing would bring.

Further complicating the matter was the City's non-cooperation. Even before the settlement, the City had refused to make land available to the housing authority. In 1991, then-mayor John C. Daniels announced that the best procedure for replacing Elm Haven's units would be to move

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<sup>182</sup> Turnkey developments are constructed by private developers and then sold to the housing authority.

people to the suburbs, and he requested that HANH put off the purchase of 19 homes as replacement units.<sup>183</sup> Local political skirmishes were to become the norm during the next seven years, as the replacement units were slowly acquired or constructed. For instance, although HUD had provided HANH with \$18 million for the construction or acquisition of 183 units of scattered site housing, in March of 1992 the Housing Authority missed a HUD deadline for this component of the replacement plan.<sup>184</sup> The plan included a mix of existing single family homes as well as new construction.<sup>185</sup>

A pattern of community opposition to scattered-site public housing has influenced the climate in which tenants, politicians, and administrators have had to make decisions about housing mobility. In November of 1992 this opposition was archetypically illustrated in Morris Cove, an area that, according to the *New York Times*, has had a history of “racially motivated incidents over the years.”<sup>186</sup> Morris Cove is in the East Shore section of New Haven, a predominantly white part of the City. Several heated public hearings on the program followed, showcasing local resentment and racism. Rallies were held to denounce the City’s plan. Homes which HANH had acquired for the scattered site program in the Morris Cove section of New Haven were the targets of arson. Two of the burned homes were vacant, but one still housed the private market owner who was forced to flee when smoke filled her home.

In the Edgewood Park neighborhood, a different form of opposition was manifested. There, the private owner of a neighboring development got an injunction to prevent HANH from acquiring a

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<sup>183</sup> Judson, *op. cit.*

<sup>184</sup> HUD responded by extending the deadline.

<sup>185</sup> Schuster, Karla, “Relocated Families Find Happiness in New Homes,” *New Haven Register*, Sunday, May 21, 1995, p. 7.

<sup>186</sup> Rierden, Andi. “When housing collides with race and class.” *The New York Times*, January 3, 1993, p.13CN 1.

property, although the injunction was eventually suspended, the property was acquired, and the tenant moved in. The injunction was filed on the basis of a technicality concerning the notice of sale of the property. The neighboring development owner claimed they did not want HANH to acquire property because the area already had minorities, and the housing authority was a bad manager. They feared that neighborhood property values would decline as a result of the acquisition.<sup>187</sup>

In April of 1993, the first six families to live in houses purchased by the housing authority for the scattered-site program moved into their homes. Through mid-1995 HANH continued to acquire and construct homes for the scattered site program. But the agency remained far short of the 183 units required. At the time of the site visit in 1998, only 113 families had moved into homes acquired for the program.<sup>188</sup>

There have been other challenges to providing the replacement units. Despite overall high vacancy rates in New Haven, housing stock located in non-impacted areas is acquired under a 'seller's market.' Additionally, staff from HANH said that property owners sometimes raise the price of a property when they know that HANH is interested. ACF Inc. staff noted the housing authority has paid up to 40 percent over fair market value for some property. According to HANH staff, they have halted purchases of single-family homes because they felt purchase was not financially feasible, and maintenance on just a handful of single-family homes would be difficult and inefficient.

We found criticism of the scattered-site program in local newspaper coverage as well as in resident focus group conversation.<sup>189</sup> It was noted that, in some instances, the scattered site

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<sup>187</sup> There were also several other media reports of resistance to public housing acquisition in other non-concentrated areas in the city.

<sup>188</sup> Schuster, *op. cit.*

<sup>189</sup> "Relocated families find happiness in new homes" *New Haven Register* May 21, 1995 p.A7.

housing remains concentrated. For example, in a small area on Chamberlain Street, HANH purchased seven condos and then also built a 10-unit property. Additionally, informants reported that many of the areas that are non-impacted according to the 1990 census have since become areas with large numbers of minority residents or subsidized housing, and now merit a concentrated classification.

Despite obstacles, representatives from the HANH as well as ACF, Inc. said that they did not anticipate much trouble in delivering the remaining units soon. Some informants noted that HANH's management problems are being alleviated through Home, Inc.'s involvement. Informants also commented that tenant screening and selection procedures have been very important for successful placements. Home, Inc. has screened all potential participants in the scattered-site program. This screening includes a visit to the tenant's home for a housekeeping check, a credit check, and an in-depth client interview. As a result of the screening, most of the residents placed in scattered-site housing are the "cream of the crop." This process has helped place tenants who will be successful within their new neighborhood. It also avoids the damage one bad tenant can bring to the reputation of scattered-site public housing.

## **2.4 Production of Section 8 Project-Based Housing**

The Settlement Agreement requires HUD and authorizes HANH to issue an RFP to private developers to create 62 Section 8 project-based units in non-impacted areas within the City of New Haven, or, in HUD's case, in the New Haven suburbs. To date, HUD has issued one RFP (according to HANH staff, it was decided HUD would be responsible for this element under the agreement). HUD issued an RFP for the development of the units sometime in 1996<sup>190</sup>, and there were only three responses.

### **2.4.1 Factors Affecting Implementation**

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<sup>190</sup> Housing Authority Staff interviewed could not pinpoint an exact date.

According to staff at ACF, Inc., delivering on this portion of the Settlement Agreement will be difficult.<sup>191</sup> Staff explained that private developers are not interested in Section 8 project-based program primarily because financing from the Section 8 program would not be sufficient, leaving them with operating costs and debt service that exceeded annual rental income. In addition, the recent decrease in the program's period of subsidy guarantees from 20 years to one to five years has made it more difficult for developers to obtain mortgages from banks. Furthermore, in the past, low-income housing tax credits were used to supplement financing. Today, however, less tax credits are available and the competition for these has increased. Informants at both the housing authority and ACF are under the impression that a new RFP from HUD is forthcoming, but are uncertain as to its prospects.

## **2.5 Tenant-Based Assistance**

The terms of the *Christian Community Action* Settlement Agreement require HUD to issue 300 mobility certificates and 152 bridge certificates for families waiting for Section 8 or public housing, and families currently living in public housing. In addition, the terms of the agreement provide six certificates to the named plaintiffs and convert 50 project-based Section 8 units to 50 tenant-based certificates. All 508 of these certificates are "special certificates" and must follow specific guidelines outlined in the decree. The Settlement Agreement stipulates that Section 8 certificates must be used within 270 days of issuance. This means the certificate holder has approximately nine months to identify a unit and lease up, but within the first 180 days of issuance, the certificate can only be used to move to a non-impacted area. After 180 days, the holder may use the certificate in an impacted area. All certificate holders must attend at least one mobility counseling session within the 180 days.

## **2.6 Mobility Counseling**

### **2.6.1 Overview of the Mobility Counseling Program**

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<sup>191</sup> Although staff at ACF Inc. have no direct involvement in this component of the decree, staff have day-to-day contact with private developers in the community. This information is based on discussions ACF staff have had with developers.

In 1997, Home Inc., an affordable housing organization in New Haven, and ACF Inc., a small organization responsible for identifying scattered-site replacement units, joined together to form The New Neighborhood Development (TNNP). This organization is now responsible for providing mobility counseling and landlord outreach. To date, the Executive Director of Home, Inc., reported that approximately 120 people have been provided mobility counseling and 72 have leased apartments. According to HANH, 51 certificate holders have moved to non-impacted areas and 21 moved to impacted areas. The Director noted that a significant portion of the people who did not lease up were either ineligible or physically unable to participate in the mobility program. This signaled a problem with the housing authority's screening process for eligible and appropriate participants. During our site visit, we were told that HANH has taken steps to alleviate this problem. Nevertheless, the recent Abt Associates' review of the mobility program indicates that poor eligibility determination is still one of the worst problems of the program.<sup>192</sup>

Mobility counseling involves a number of elements intended to facilitate a prospective tenant's move to non-impacted areas of New Haven or the suburbs. According to mobility counseling staff, prospective movers first attend a workshop where the mobility program is explained. The session includes information on the *Christian Community Action* lawsuit and newly found opportunities to move to a non-impacted area under the new mobility program. A major component of the workshop involves the Section 8 Director of HANH presenting information about Section 8 program regulations and meeting individually with each participant to certify his or her income. After attending the first workshop, clients decide whether or not they want to receive the special mobility certificates.

To introduce mobility participants to new neighborhoods, TNNP provides maps outlining parameters of non-impacted areas and summaries of services and amenities in those areas. Public transportation schedules for non-impacted communities are provided as well. TNNP helps participants identify available units by furnishing a weekly apartment listing for both New Haven and the suburbs. This list is compiled by staff using twelve newspapers and other resources. To overcome barriers created by the Section 8 program, TNNP staff offer assistance with Section 8 paperwork, which can become confusing and overwhelming for some participants.

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<sup>192</sup> Abt Associates, *op. cit.*

Staff serve as mediators between landlords and tenants. The program also offers a loan fund to enable clients to pay required security deposits. According to many informants (from all perspectives) this component has been critical to the program's success. Prospective tenants typically do not have the money for the deposit. In many cases mobility counselors provide assistance with day-to-day problems that may impede progress in leasing up such as assistance scheduling a payment plan for overdue utilities.

Mobility staff reported that participants coming from public housing seem to have the most problems. Staff explained that the services public housing clients required were not fully anticipated, and that some clients needed help with issues (literacy or addiction, for example) beyond the scope of the mobility program. The counselors also do some follow-up once clients have moved and intercede when people are at risk of breaking their leases. From time to time, the counselor will assist the clients in preparation for inspections.

For the most part, the plaintiffs' attorneys think of the mobility program as a vehicle to move residents into the suburbs. As previously indicated, a total of 72 participants have moved with Section 8 certificates as part of the mobility program. Of those, 21 have moved to impacted communities and 51 to non-impacted areas.<sup>193</sup> Most of those moves occurred within the City, with only twenty-four participants making moves to the suburbs. Data concluding whether or not participants who moved to the suburbs actually moved to non-impacted areas were not readily available.

As described previously, under the requirements of the Settlement Agreement, Section 8 certificates and vouchers must be used within 270 days of issuance. Within the first 180 days of issuance, the certificate or voucher can only be used to move to non-impacted areas. Also, per the settlement agreement, mobility counseling must be obtained within the first 180 days of issuance. After 180 days have passed, certificate and voucher holders can use mobility certificates to move into impacted areas. This clause provides a way out for participants who do not want to make a mobility move. Several informants, namely mobility staff and plaintiff's attorneys, noted that frequently people with mobility certificates will wait for six months to move wherever they choose, often into impacted areas. Data provided by HANH indicates that

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<sup>193</sup> According to data furnished by the housing authority's Section 8 Director.

approximately 29 percent of the participants that have leased up have done so in impacted areas. According to plaintiff's counsel and other informants, there are plans to recommend that in the future the mobility certificates be limited to suburban areas only. Ultimately, plaintiffs' attorneys believe this would remove the current exit strategy, only allowing tenants to move to suburban areas where plaintiff's attorneys believe there are far fewer impacted areas than in the City of New Haven.

## 2.6.2 Factors Affecting Implementation

Progress in implementing the mobility program has been slow for a number of reasons. HANH's sluggishness in responding to the mandate to implement a mobility program was fundamental. According to several informants, HANH staff believed that they were already providing mobility counseling, although not at the level necessary to achieve the plaintiffs' demands. Furthermore, the mobility program's being "mandated" from above seemingly did not sit well. As a consequence, HANH staff reportedly alienated potential landlords by providing curt and sometimes insufficient information about the program. However, several informants noted that the HANH attitude toward the mobility program is improving. Specifically, there appears to be greater coordination between HANH Section 8 staff and the mobility program staff at TNNP. As the recent Abt Associates report indicates, however, working with HANH on mobility issues continues to be difficult. Perhaps most serious is the housing authority's lack of a "logical plan for distributing mobility assistance among its qualifying population."<sup>194</sup>

Early on, TNNP expressed frustration with the way in which people were funneled to the mobility program. There was no HANH screening process, so the counselors wasted a lot of time talking with people who were not interested in, or eligible for the mobility program. During our site visits, informants made clear that they were aware of this problem and were seeking to address it. The HANH Section 8 Director and TNNP mobility counselor are now working more closely together to identify a more promising pool of candidates for the program. TNNP staff have also identified Spanish translators to overcome language barriers initially faced. Nevertheless, the Abt report makes clear that the initial eligibility screening remains a problem, with ineligible families referred to mobility briefings, and with the mobility process and requirements remaining unclear to those families referred. In addition, the report points out that HANH is supposed to develop its own mobility program, but has yet to do so.<sup>195</sup>

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<sup>194</sup> Abt Associates, *op. cit.*, p.2.

<sup>195</sup> Abt Associates, *op. cit.*, pp.5-9.

Another hurdle to maximizing desegregation, according to both plaintiffs' attorneys and mobility staff, is that many residents simply do not want to move to the suburbs, preferring to remain in New Haven near their jobs and social and support networks. For example, working residents often rely on nearby extended family for child care. According to informants from Home, Inc. and ACF, Inc., many residents' participation in the welfare-to-work transition program makes their employment and corresponding support networks particularly important. These tenants are required to remain employed or within their job training program or they face sanctions, including a loss in TANF benefits. Additionally, public transportation between the suburbs and the city is very poor, which means that sustaining support networks and employment can be difficult after such a move. Furthermore, informants from Home, Inc. claimed that eligible residents are not necessarily comfortable with the idea of living in majority white, higher-income areas.

The mobility counselor we interviewed noted that clients come in with pre-conceived notions about the suburbs. Barriers related to poor transportation in the metropolitan area and access to pre-existing support networks are seen as real and grave. Prospective movers are often concerned that suburbanites are prejudiced and will not welcome them to the community. According to mobility staff, some of the clients suffer from low self-esteem and assume that they cannot survive in a new environment. Many parents are especially concerned about how their children will be treated in new schools. Also, people want to know that they can purchase foods and services that are familiar to them. For some, language barriers are also a concern.

The alternative to moving to the suburbs—moving to a non-impacted neighborhood within New Haven itself—is also complicated, because of the difficulty in identifying suitable housing in non-impacted neighborhoods. In general, appropriate housing stock in non-impacted areas in New Haven is limited in terms of availability and affordability. Moreover, some areas which at the time of the settlement were categorized as non-impacted are now believed to be impacted. As previously discussed, several informants said that new census information will certainly reveal this.

A systemic problem affecting housing opportunities is that landlords within New Haven and its suburbs are often reluctant to rent properties to Section 8 tenants. Informants stated that landlords often hold strong negative pre-conceptions based on racial and class prejudice, which

limits their enthusiasm for renting to such prospective tenants. Moreover, they do not want to be bothered with HANH bureaucracy.

A final barrier to moving into non-impacted areas, especially in the suburbs, is that rents are high and exceed HUD fair market rents by 15 to 20 percent. In some cases this problem is being addressed by requesting exception rents, which the Settlement Agreement accommodates. But this is more complicated than it seems. According to ACF Inc. staff, the establishment of exception rents in suburban locations for HANH mobility participants will become standard local policy for all Section 8 program participants. Suburban housing authorities are likely to resist this change. According to staff from ACF Inc., in the past high rents allowed suburban localities to use the low rent standard as a barrier to prevent Section 8 certificate and voucher holders from moving to their community. At the time of the site visit, staff at ACF had just submitted a request for exception rents to HUD.

### **2.6.3 HUD Monitoring to Ensure Non-Discriminatory Practices**

An interview with HUD PIH staff from the regional office was scheduled on several occasions. Each time, the staff member was called away, or did not respond. Due to these scheduling conflicts we were not able to discuss these matters with the regional HUD staff to whom we were directed. Information provided below was gathered from the Settlement Agreement and the HUD regional office of Fair Housing and Equal Opportunity.

The Settlement Agreement requires the HUD regional office to investigate New Haven and area public housing authorities to determine if they use residency preferences in determining admission to public housing or in awarding Section 8 certificates. The decree also requires HUD annually to investigate two public housing authorities with residency preferences to determine if policies have a discriminatory impact on racial minorities.

HUD completed the initial determination of which towns have residency preferences, finding there were two public housing authorities—West Haven and Hamden—which were. The two authorities are currently the object of Comprehensive Reviews which have not yet been completed, due to

“staff shortages and shifting HQ priorities,” according to HUD staff. According to staff at the office of Fair Housing and Equal Opportunity, for the most part, the HUD regional office in Hartford is “out of the loop” on the implementation of the Settlement Agreement. The office has been downsized and the HUD office in Boston is responsible for compliance. Staff claimed that since the initial stages of the negotiation of the lawsuit, HUD in Washington has been more involved they have been in the Hartford office.

### 3.0 Overview of Resident Impacts

To ensure that resident opinions, ideas, and experiences were included in this report, we conducted two individual interviews and a focus group with residents directly affected by the terms of the Settlement Agreement.<sup>196</sup> The focus group was conducted with informants who had made desegregative moves to scattered-site public housing. The individual interviews were conducted with a resident who made a segregative move with a Section 8 certificate and another resident who made a desegregative move with a Section 8 certificate.

Information about impacts on residents was also obtained from Home, Inc. staff, staff of ACF Inc., and one of the plaintiffs’ attorneys.<sup>197</sup>

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<sup>196</sup> Three focus groups were scheduled during our site visit. However, we had a low response rate for certificate holders who made both desegregative and segregative moves. We mailed an invitation to all 51 desegregative movers and received only two responses. Only one participant showed up. We mailed an invitation to all 21 segregative movers and received only three responses. Only one participant showed up. We treated each of these as an individual interview. The last group, participants who made desegregative moves to scattered-site public housing, had 10 participants. For all of the groups, participants who expressed interest received a reminder phone call from UI staff. In addition, we offered each participant a \$40 incentive to cover the cost of expenses. The focus groups were held in downtown New Haven and were accessible by public transportation.

<sup>197</sup> In general, staff from the plaintiff organization, Christian Community Action, Inc., were not particularly knowledgeable about resident impacts as a result of implementation of the Settlement Agreement. The informant from that organization said that she was more knowledgeable about the filing of the case and the negotiations for the settlement. She has not been involved in actively monitoring implementation.

### 3.1 Moves to Scattered-Site Housing

When asked to talk about where they had lived just prior to making their move, informants described unsafe and unsanitary living conditions. People complained about crime, drugs, mice, roaches, and poorly maintained buildings. Participants also perceived animosity among the people who lived in the neighborhood.

When asked about their new neighborhoods, on the other hand, most seemed generally pleased. They believed that their new neighborhoods were safer and they were happy to “get out of the projects.” When participants had lived in public housing developments, they believed that other people had negative perceptions of them because they lived in “the projects” or in very poor neighborhoods. Many people said that they were ashamed of where they lived. They often could not get food establishments to deliver in their neighborhoods, and taxis would refuse to transport them. Some said that friends would not come to visit them because they were fearful of the area.

*“I moved because of the stigma. No one wants to visit you, taxis don’t want to bring you home, the bus doesn’t want to come down the street.”*

Some of the focus group participants were very happy with their new homes. They noted that the areas were cleaner, quieter, and less crowded, and their neighbors were pleasant. One person who had moved into a single family home was passionate about her new space. She talked about tending her garden and being able to have good play space for her child. She also spoke of positive relations with her neighbors, although at first she experienced great hostility. She was the target of vandalism, some of which she felt was racially motivated. Nevertheless, she made a commitment to stay, mostly because of the quality of the housing.

*“In my backyard I put a little pool for my baby, [and a] swing-set, and it’s like living in my own home but I don’t own it, but if you come there you would think I do because of how it’s kept...I can’t complain one bit.”*

Others were much less emphatic about improvements in their housing. A few people complained that they still did not have enough bedrooms for their children. Some people said that there was not adequate space for children to play. Also, some who lived near other former HANH development residents who had moved to scattered-site housing said that while they were not living in the developments, they still felt like they were clustered with other people “from the projects” and did not like that.

All of the participants said that they had to go through an extensive screening process before they could move. Indeed, one woman was offended that she had to go through a rigorous screening process only to move next door to people who she thought would not have successfully passed that screening.

Further discussion with the participants revealed that their information about housing options was somewhat less than complete. Some of the participants said that they were presented with choices of places to move, while others asserted that they had not been offered any choices. Some were not even aware that scattered-site housing included single-family homes—they thought that only apartments were provided. A few residents were very curious about how other people could get single-family housing. During the focus group, they tried to guess why some people may have gotten single-family homes and some not, and why some were presented with choices of places to live and some not. Explanations ranged from preferential treatment by HANH, to housing determined by the number of years of residence in the developments. In any event, a significant number had either not received the correct information, or had misinterpreted what they had been told.

*“There wasn’t a choice. If I didn’t choose one of the three, then I would go to the bottom of the list, this is what I was told. I didn’t even know they had private homes.”*

Many participants who lived in apartments or condos, especially those who said that they did not have enough bedrooms, stated that they wanted to move again. The person who was very happy

with her single-family home said that she was interested in owning a home in the future. Others echoed this sentiment.

Some of the focus group participants said that they had participated in workshops that helped to prepare them for their move. During the workshops, they were provided with more information about their communities. Also, they were provided with maintenance training and they were given tools and appliances to maintain their homes (rakes, garden hoses, etc.).

### **3.2 Moves with Section 8 Certificates**

We interviewed two residents who moved with a Section 8 certificate or voucher. Both participants complained that their previous neighborhoods (public housing) were unsafe and unsanitary. Crime was a problem, as was property maintenance and the quality of local schools.

Reflecting on her new neighborhood, one informant said that she felt safer and thought that her child was in a better school environment. She also noted that the property was better maintained. However, she said that the new neighborhood and the building where she lived had its share of problems, including crime, overcrowded units, occasional maintenance issues, and noise.

The other informant said that although she now lived not very far from her former community, the environment was better. It was quieter and she felt more at peace. She was still looking forward to moving to an even better place, but her most recent move was positive.

Neither informant seemed knowledgeable about the mobility program. They remembered information sessions as long and boring. Once they decided that they did want to move, participants said that they started to work with the mobility counselor at Home, Inc. They said that they were presented with a map of areas that they could consider and they were provided with a list of apartments to investigate. It was then their responsibility, with assistance from the mobility counselor, to find a place to live. One informant said that she mentioned the possibility of looking in a neighborhood that was not on the map for an apartment, but was told that the area was not eligible.

A senior staff member at Home Inc. provided some impressionistic information about the residents who had moved through the mobility program. He believed that residents who have gone through the program typically end up a couple of miles from where they lived before, and seem to be happy. He also thought that approximately 25 to 30 percent of those who accept the certificates wait six months and then move into impacted areas. Although the tenants may not be in predominantly white areas the informant did not see this as a failure, since the new housing is better than where they were initially. He thinks that the mobility counseling program helps

residents to find better housing than they could on their own. Many appreciate the better structures, transportation, lower density, and better schools.

A TNNP mobility counselor said that the informal follow-up calls she has made indicate that some residents in non-concentrated areas want to move back. Adapting to a new environment apparently is proving difficult. Others, in both non-impacted and impacted areas, seem to be very happy, however. She said that many are very proud of their new homes.

### 3.3 Facilitating Mechanisms

Generally, TNNP (Home Inc. And ACF Inc.) was viewed as helpful by the focus group participants. The workshops provided to prepare residents for their moves were also viewed as beneficial, as was the provision of home maintenance appliances and supplies. Residents were pleased generally with the assistance. For the most part, they did feel that they were able to find better housing than they could have on their own. In particular, the personal help from the mobility counselor was described as very valuable. She has assisted in identifying units, filling out forms, and talking with difficult landlords. Of equal importance, the counselor has provided residents with moral support. The recent Abt report also gave a positive review to TNNP, while pointing out that the group needs to recruit more landlords and provide more services to each mobility family.<sup>198</sup>

### 4.0 Summary and Conclusions as of Fall, 1998

Overall, implementation of most of elements of the Settlement Agreement had progressed slowly as of our site visit in 1998. Since May 1995, when the decree was signed, the waiting lists for Section 8 and public housing have been merged, and a mobility counseling program has been established. Nevertheless, only about 60 percent of all replacement units in non-impacted areas have been constructed or acquired so far. Less than a quarter of the required Section 8 vouchers and certificates have been issued, and less than 15 percent of them have actually leased up so far. In addition, no private developers have responded to the RFP to construct or acquire project-based 62 units within or outside the city of New Haven.

With the recent appointment of a new HANH Executive Director and the institution of monthly meetings for all key parties involved in the implementation, key informants believe the implementation process will pick up. HANH staff as well as ACF, Inc. staff reported they do not anticipate major obstacles to securing the remaining scattered-site units replacement units.

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<sup>198</sup> Abt Associates, *op. cit.*, p.14.

With regard to the Section 8 mobility program, those involved in implementation are learning important lessons about what it takes to get people to move, especially to the suburbs. Many important issues, such as the scarcity of appropriate housing, poor transportation between the city and the suburbs, and the importance of residents' social networks, fears, and needs, are seemingly just now coming to the attention of those responsible for designing and implementing the terms of the settlement. Informants involved in implementation, for the most part, indicated that they were willing to address these issues.

MPHA continues to face enormous barriers to implementation. Several respondents interviewed believed the tight rental market was the number one implementation barrier. Although MPHA is making strides to recruit new landlords and identify available units, the rental market will continue to have an impact on the success of both the utilization of Section 8 certificates and vouchers and the mobility program.

## 4.2 Unintended Outcomes

Although *Hollman* has not been fully implemented a number of unintended consequences have surfaced as a result. MPHA was already a well-managed housing authority, staff appeared to have made a genuine commitment to affordable housing and have "changed the way they do business." Staff appear organized and well-informed on every aspect of the decree and appear committed to *Hollman's* success. Furthermore, the housing authority views *Hollman* as an opportunity to revitalize their housing stock and to provide better housing and services to their residents. Nearly all respondents interviewed from outside the authority described a positive relationship with MPHA. Many noted that without the dedication and commitment of MPHA staff implementation of *Hollman* would not have made any progress.

Perhaps one of *Hollman's* greatest accomplishments to date has been the renewed commitment to looking at affordable housing from a regional perspective. The impetus for this new regional perspective can be partially credited to *Hollman's* terms which require the location of replacement units in both the city and the suburbs. Key players from housing organizations and local government in the region meet regularly to discuss the distribution of affordable housing, region-wide transportation, and other regional issues. MPHA has established a metro-wide affordable

housing clearinghouse. This clearinghouse recently published an inventory of assisted housing in the region and plans on a metro-wide rental vacancy database in 1999. Additionally, MPHA plans to hire a staff person responsible for Section 8 landlord outreach and recruitment

It is still too early to conclude if *Hollman* has met its original goals to "promote equal housing opportunity, expand and maximize geographic choice in assisted housing, and encourage racial integration."<sup>199</sup> It is clear, however, that the lawsuit has served as an impetus for change. When the suit was filed in 1991, persistent patterns of segregation and concentration of low-income minorities in Minneapolis were broadly accepted by key players across the region. Politics and community resistance limited public housing construction to the near northside. Plans for affordable housing in the suburbs were almost nonexistent. Today, the region is taking a new approach to affordable housing. Access to housing in the suburbs and non-impacted areas in Minneapolis are top priority.

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<sup>199</sup> U.S. District Court of Minnesota, Fourth-Division-Hollman, et al. V. HUD, et al., 1992.

Other lessons learned to date with regard to implementation of the mobility program are that the mobility counselors need more time with residents, one-on-one. According to staff from Home, Inc., they currently spend approximately 20 hours per client, which is not enough. Progress in getting people ready to move to drastically different environments is incremental. Moreover, some of the needs of the prospective movers are beyond the purview of the mobility counselor. (Some residents require assistance with health problems, substance abuse, basic education, and so on.) Also, staff noted that given the housing market and the circumstances of prospective movers, more realistic goals about possible neighborhoods need to be set.

Finally, many informants said that if the goal of the Settlement Agreement is to change race relations or make a significant change in racial residential patterns, the program is but a drop in the bucket. In several instances, informants brought up forces in the state of Connecticut and the New Haven region that conspire against these goals, such as long-standing institutional racism. If the goal is to provide prospective tenants with better housing, however, then according to several informants, steps taken to date and strides likely to be made in the future may be important contributions to meeting this goal.

## **Baseline Case Study: New York**

**by**

**Carla Herbig and Mary Cunningham**

### **1.0 Introduction**

The *Davis* consent decree is a consolidation of two separate lawsuits: *United States v. New York City Housing Authority* and *Davis v. New York City Housing Authority*. The plaintiffs in these cases alleged that the New York City Housing Authority (NYCHA) pursued policies and practices that discriminated against black and Hispanic applicants and transferees for public housing<sup>200</sup>. Specifically, they charged that blacks and Hispanics were denied consideration for housing in certain projects based on their race, color, or national origin.<sup>201</sup> Unlike many other public housing discrimination suits, the U.S. Department of Housing and Urban Development (HUD) was implicated in the case, but not named as a defendant. However, the Department actively participated in working out the terms of the consent decree.

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<sup>200</sup> The term “black,” rather than African-American, is used throughout this case study as that is the term used in the original consent decree and by focus group participants in this study.

<sup>201</sup> The term “project” is used here specifically as it is referred to in the Class Action Complaint.

The terms of the consent decree called for: (1) adoption of a new tenant selection and assignment plan (TSAP) to be effective for five years; (2) reservation of 1,990 units of public housing for applicants that established a claim that they were discriminated against during the applicable period; and (3) provision by HUD of 200 Section 8 vouchers to provide housing to applicants that made substantiated claims of discrimination that occurred between January 1, 1983 and December 31, 1984 (See Section 2.2.3, *The Claims Process*, for what constitutes a substantiated claim.)

The background of this case, the terms of the settlement, and the status of the remedies are significantly different than the others in our sample. For example, this case never went to court and HUD was not named as a defendant. In addition, the provisions outlined in the consent decree were very narrow and did not include remedies common to other settlements, such as demolition and replacement, mobility counseling, equalization of public housing developments, or community development. It affected only a fraction of the housing under NYCHA's jurisdiction (31 out of over 320 developments) and, while implementation of the settlement has, on the whole, been relatively successful, there are still a number of barriers to full implementation and important lessons to be learned.<sup>202</sup>

## **1.1 Regional Context of the *Davis* Case**

### **1.1.1 New York City**

New York City is the most populous city in the United States. Regionally, there are 18 million people who live within a 50-mile radius. New York is a dynamic city, with movement both to and from the city, as well as within it. According to the 1990 census, nearly 33 percent of New Yorkers moved within the city itself. Table 1 indicates that, although the city of New York had only a slight population increase from 1980 to 1990, the population for both blacks and Hispanics

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<sup>202</sup> This case study was conducted from September 23-25, 1999 and reflects the status of the case only up to that date.

increased significantly. Although the city is racially and ethnically diverse, it is highly segregated. According to Harrison and Weinberg (1992), the dissimilarity index for Hispanics in New York is .66; for blacks, it is .81.<sup>203</sup>

### 1.1.2 The New York City Housing Authority

The New York City Housing Authority (NYCHA) is the largest public housing agency in the United States, operating 100,000 units in over 320 developments and housing over a half a million people. It also administers 65,000 Section 8 certificates and vouchers. As of December, 1988, just prior to the *Davis* case, the racial composition of the public housing tenant population was 11.2 percent white (non-Hispanic), 55.1 percent black (non-Hispanic), 28.2 percent Puerto Rican, and 5.5 percent “other,” making it more racially diverse than most other housing authorities.<sup>204</sup> NYCHA housing is generally considered to be in good physical condition compared to other subsidized or privately-owned stock in New York City. HUD considers NYCHA to be a very high performing housing authority, with a FY 1997 PHMAP score of 99.25.

Although NYCHA tenants are a more racially and ethnically diverse group than those of other housing authorities, the developments themselves are highly segregated. For example, Figure 1 maps the 31 affected developments of the *Davis* consent decree to their location in the city by race of census tract. With a few exceptions, most of the predominantly white developments are located in predominantly white census tracts. This fact, coupled with the uncovering of several discriminatory policies and practices, lies at the root of the *Davis* case.

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<sup>203</sup> The dissimilarity index measures the proportion of minority members who would have to move to change their area of residence to achieve an even distribution, with the number of minority members moving being expressed as a proportion of the number that would have to move under conditions of maximum segregation. An index value of 1.0 indicates maximum segregation, whereas a value of 0.0 indicates no segregation.

<sup>204</sup> Amended Class Action Complaint, *Davis, et al. v. The New York City Housing Authority*, May 31, 1990.

**Table 1. Population Changes in New York City**

	<b>New York</b>
<i>Total Population</i>	
1980 Population	7,071,639
1990 Population	7,322,564
Change	+250,925
Percentage Change	3.5 %
<i>Black Population</i>	
1980 Population	1,788,377
1990 Population	2,107,137
Change	+318,760
Percentage Change	17.8 %
<i>Hispanic Population</i>	

	<b>New York</b>
1980 Population	1,406,389
1990 Population	1,737,927
Change	+331,538
Percentage Change	23.6 %

Source: U.S. Census

Figure 1 Here

[Map of New York Housing Authority 31 Affected Developments and Census Tracts by Race]

## 1.2 History of the *Davis* Case

The *Davis* case began in 1985 when two Hispanic women on the Housing Authority staff brought to the attention of a NYCHA board member some application process practices they felt were discriminatory to blacks and Hispanics. They claimed that certain projects were identified as “off limits” to black and Hispanic applicants and current tenants requesting transfers. These projects were identified in NYCHA’s “Interviewers’ Guide to Anticipated Vacancies,” which records upcoming expected vacancies weekly. It was alleged by the Housing Authority staff women that the guide contained codes to identify developments to which only whites could be referred and that black and Hispanic applicants were told that no vacancies existed at these developments when they, in fact, did exist. The plaintiffs’ attorney, the Legal Aid Society of New York, told us that, on its face, the claim seemed so preposterous that it was not immediately investigated. However, Legal Aid finally took on the case in 1987 and concluded after its investigation that this policy was indeed in effect, that it had been in effect since the early 1960s, and that there were also in effect other discriminatory policies.

For example, several parties alleged that local politicians were giving their white constituents access to public housing vacancies ahead of minorities with higher priority by providing them with “Directors Card’s.” These cards, attached to the constituent’s application, notified the NYCHA housing assistant to help these families move into a unit before others who were ahead of them on the waiting list. In addition, NYCHA’s Office of Community Affairs was alleged to have provided similar types of assistance.

The *Davis* case was not the first time that allegations of racial discrimination had been lodged against NYCHA. According to the plaintiffs’ attorney, in the 1940s and 1950s, NYCHA adopted a racial quota policy in order to integrate its developments and had been accused of racial quota policies in the early 1960s by the local press. These policies allowed only a certain number of blacks and Hispanics into predominantly white developments, with the intent of keeping the development integrated. NYCHA admitted to the policy at that time and promised to discontinue it. Over the years, the issue of racial quotas continued to surface, although NYCHA now denied those claims.

The Legal Aid Society worked a number of years investigating the original allegations brought by the two Hispanic NYCHA staffers and other policies since brought to light. In 1990, the organization felt confident that it had collected enough evidence and filed suit against NYCHA. The U.S. Department of Justice was informed about these policies and was asked by Legal Aid to join the suit. However, the Department subsequently decided to file its own suit against NYCHA in 1990. Both lawsuits were ultimately consolidated in the *Davis* consent decree. According to plaintiffs' attorney, HUD was implicated, although not named, in both suits because the agency had prior knowledge of a number of the discriminatory policies outlined above.

The Legal Aid Society's class action complaint cited a number of deleterious effects on the plaintiffs and class members because of NYCHA's discriminatory policies and practices, such as denying them an equal opportunity to obtain low-income housing at the project of their choice. These policies and practices also allegedly resulted in diminished opportunity for superior housing quality and services, community services, and other benefits.<sup>205</sup> Four minority plaintiffs were named in the lawsuit—two who had applied for NYCHA housing (applicants) and two who had requested a transfer from one NYCHA development to another (transferees). Each had requested a unit in a development that was predominantly white and, therefore, “off limits” to minorities, according to the NYCHA policies and practices in question. In addition, tenant data compiled for the case turned up some suggestive evidence. Of the 135,586 families who moved into NYCHA developments between 1973 and 1988, 16,801 (11.86%) were white. But at 23 of the projects, white move-ins comprised between 60 and 90 percent of all move-ins.

Ultimately, the complaint cited a number of discriminatory policies and practices:<sup>206</sup>

- the use of codes designating projects to which only whites could be referred;

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<sup>205</sup> Amended Class Action Complaint, *Davis, et al. v. The New York City Housing Authority*, May 31, 1990.

<sup>206</sup> Amended Class Action Complaint, *Davis, et al. v. The New York City Housing Authority*, May 31, 1990.

- the use of selection criteria that allowed white families moving out of certain developments to be replaced by white families moving in; even allowing them to be offered units before minority families with higher priority on the waiting list;
- the use of neighborhood preferences, giving priority to residents who lived near predominantly white developments over others with higher priority on the waiting list;
- the use of selection criteria that allowed a disproportionate number of whites to move into new developments in predominantly white neighborhoods; and
- the placement of new immigrant (predominantly white) families in predominantly white projects and homeless families (predominantly minority) in predominantly minority projects.

### 1.3 Overview of the Settlement

Rather than embark on a lengthy trial, NYCHA, Legal Aid (for the plaintiffs), HUD, and DOJ entered into a long series of negotiations, finally reaching a settlement in 1992. There were three major provisions under the terms of the settlement:<sup>207</sup>

- (1) injunctive relief, barring future discrimination on the basis of race, color, or national origin;
- (2) implementation of a detailed Tenant Selection and Assignment Plan, approved by all parties and the court, which substantially revised NYCHA's tenant selection and assignment system; and

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<sup>207</sup> West Publishing, 839 F. Supp. 215, *Davis v. New York City Housing Authority*, (SDNY, 1993).

- (3) relief for 2,190 claimants to remedy NYCHA's past discrimination.

## **2.0 Implementation as of Fall, 1998**

The *Davis* consent decree is much narrower in scope than most of the others in this study, focusing only on tenant assignment. It does not provide for more comprehensive remedies such as demolition and replacement, equalization of developments, or mobility counseling. One reason for this narrow scope is that the quality of NYCHA housing, in general, is good and fairly equal in condition at predominantly minority and predominantly non-minority developments, according to several key informants. Moreover, in the extremely tight and expensive New York housing market, public housing remains attractive to both whites and minorities and, thus, is generally more diverse in occupancy. Therefore, the limited scope of the remedies in *Davis* not only addresses the initial claim made, but also reflects the unique circumstances of the New York City Housing Authority.

Table 2, below, presents summary information on the terms of the *Davis* consent decree, the responsible parties, and progress to date. Following the table, we provide a detailed discussion of each consent decree element and the current status of its implementation.

### **2.1 Tenant Selection and Assignment Plan**

The Tenant Selection and Assignment Plan (TSAP), fully effective in January, 1995, was adopted and implemented to prevent any unlawful discrimination on the basis of race, color, or national origin at any existing or new developments. The TSAP was to be implemented within one year of the consent decree and monitored by all parties, and remain in effect for five years. In addition, the plaintiffs were not to challenge any conduct by the Housing Authority during this five-year compliance period.

**Table 2. Overview of Major Decree Elements, *Davis Case***

Remedy	Description	Implementation Responsibility	Progress to Date
Adoption of a new Tenant Selection and Assignment Plan (TSAP)	A new TSAP will be implemented and remain in effect for 5 years.	The New York City Housing Authority (NYCHA)	A TSAP was phased in over three years and became fully effective in January, 1995. Changes to the TSAP are currently being challenged by the plaintiffs.
Public Housing Units	1,990 units of public housing in 31 “affected developments” will be made available to remedy claims of discrimination by black and Hispanic applicants and transfers that occurred between January, 1985 and December, 1990 (May 31, 1991 in Staten Island).	The New York City Housing Authority (NYCHA)	Approximately 8,000 claims were filed and 2,000 were substantiated. 780 black and Hispanic claimants have moved to affected developments; 600 are still waiting to move. The remaining claimants have dropped out of the process for various reasons.
Section 8 Vouchers	200 Section 8 vouchers will be made available to black and Hispanic	HUD	No information on how many claims were originally filed under this provision. 100 vouchers were used to

**Table 2. Overview of Major Decree Elements, *Davis* Case**

<b>Remedy</b>	<b>Description</b>	<b>Implementation Responsibility</b>	<b>Progress to Date</b>
	claimants who allege discrimination occurred during the period January 1, 1983 to December 31, 1984.		settle substantiated claims; 49 of those were returned by claimants unable to secure units.

Prior to the TSAP ordered under the consent decree, the Housing Authority had no formal tenant selection and assignment plan in place. HUD was implicated in the consent decree, in part, because of its knowledge that a TSAP did not exist during its 1983 Title 6 enforcement audit of the Housing Authority.<sup>208</sup> Specifically, the TSAP describes:

- how a prospective tenant can apply for an apartment;
- the priority codes assigned to applicants;
- the specific information that NYCHA must provide to applicants to determine eligibility;
- procedures for scheduling eligibility interviews and project assignment;
- procedures for transfers;
- processes for recruiting applicants for projects that have exhausted applications;
- procedures for assigning tenants to new projects; and
- procedures for monitoring the new system.

The TSAP is very detailed and was carefully designed to make sure that there would be no discretion or special favors in the application and tenancing process. It was noted by both NYCHA and Legal Aid staff that having a detailed, inflexible TSAP is a benefit for all parties concerned.

In July, 1995, NYCHA proposed to modify the TSAP to include “income tiers,” designated as Tier 3 (highest income), Tier 2, and Tier 1 (lowest income). NYCHA’s proposed “working family preference” would establish new local priorities (priorities that local housing authorities are allowed to make) as part of the applicant selection process. The highest local priority would be assigned to Tier 3 applicants and the second priority to Tier 2 applicants. The lowest priority would be assigned to Tier 1 applicants, but only to those who were working or disabled. Thus, Tier 1 families receiving public assistance would receive no local priority. In addition, federal preference holders would be categorized as working/disabled households or nonworking households and priority would go to the working/disabled. NYCHA proposed to increase to 50

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<sup>208</sup> According to several key informants, the audit also showed that neighborhood preferences and director’s card referral policies were in place, further implicating HUD.

percent the proportion of new rentals to local preference holders and reduce the proportion of rentals to federal preference holders to 50 percent.

In July, 1997, the plaintiffs' motion enjoining the "working family preference" was granted. They claimed that the preference would have the effect of not allowing any families on public assistance into public housing and increasing homelessness. And, at the core of the *Davis* case, it would have a discriminatory effect on minorities. The plaintiffs argued that, in most cases, the differences between the percentages of each racial group receiving units under the TSAP approved in the consent decree and the percentage of that racial group receiving units under the proposed TSAP were significant. That is, white households would be receiving more units than they currently were, and minority households would be receiving fewer. In addition, the plaintiffs' expert compared the projected white admission rates of 9.9 percent under the proposed TSAP to the white admission rates for each year from 1990 on and found that this rate was significantly higher than the rate in any other year examined. The plaintiffs' expert also concluded that at the 11 affected developments that remained more than 50 percent white as of June, 1996, the process of desegregation would be reversed at four, would stop at four, and would slow significantly at three.<sup>209</sup>

In November, 1997, an injunction barring the working family preference from the 21 *Davis* consent decree developments that were still predominantly white (out of the 31 originally designated in the consent decree) was entered. In December of that year, NYCHA issued a new TSAP complying with that injunction. Testimony on the new TSAP was heard in October, 1998, and a decision was expected shortly, thereafter.

## **2.2 Remedial Relief**

### **2.2.1 Claims for Public Housing Units**

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<sup>209</sup> West Publishing, 1997 WL 407250 (SDNY).

The substantial portion of remedial relief under *Davis* came in the form of public housing units. Thirty-one NYCHA developments were identified as “affected developments” under the consent decree and 1,990 “victims” were calculated. To calculate the number of “victims” and identify the affected developments, Legal Aid statisticians compared the racial and ethnic characteristics of the NYCHA tenant and applicant pool with those of the tenants currently residing at each development. For each development, the number of “excess” whites was determined. Using a 95 percent confidence interval, it was concluded that 1,990 more white households moved into 31 predominantly white NYCHA developments than was expected had steering not occurred.<sup>210</sup> The remedial relief translated these victims into units for which minority NYCHA applicants and tenants could file claim. The 31 affected developments, their location, and number of victims/units are presented in Table 3.

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<sup>210</sup> All other NYCHA developments are predominantly minority.

**Table 3. The 31 Affected Developments in the *Davis* Consent Decree**

<b>PROJECT</b>	<b>BOROUGH</b>	<b>VICTIMS</b>
Bay View (NE)	Brooklyn	204
Berry (NE)	Staten Island	111
Boston Road Plaza (E)	Bronx	35
Cassidy-Lafayette (E)	Staten Island	69
First Houses (NE)	Manhattan	5
Forest Hills Coop (P)	Queens	38
Fort Independence (NE)	Bronx	15
Fulton (P)	Manhattan	14
Glenwood (NE)	Brooklyn	141
Holmes Towers (P)	Manhattan	52
Isaacs (P)	Manhattan	39
Latimer Gardens (P)	Queens	6
Meltzer Tower (E)	Manhattan	35

**Table 3. The 31 Affected Developments in the *Davis* Consent Decree**

<b>PROJECT</b>	<b>BOROUGH</b>	<b>VICTIMS</b>
Middletown Plaza (E)	Bronx	63
New Lane Area (E)	Staten Island	59
Nostrand (NE)	Brooklyn	167
Parkside (NE)	Bronx	11
Pelham Parkway (NE)	Bronx	99
Pomonok (NE)	Queens	132
Randall Ave. Balcom Ave. (E)	Bronx	42
Ravenswood (NE)	Queens	14
Robbins Plaza (E)	Manhattan	45
Seward Park Ext. (P)	Manhattan	5
Sheepshead Bay (NE)	Brooklyn	89
South Beach (NE)	Staten Island	69

**Table 3. The 31 Affected Developments in the *Davis* Consent Decree**

<b>PROJECT</b>	<b>BOROUGH</b>	<b>VICTIMS</b>
Strauss (P)	Manhattan	5
Todt Hill (NE)	Staten Island	99
Vandalia (E)	Brooklyn	55
Vladek (NE)	Manhattan	141
W Brighton II (E)	Staten Island	29
Woodside (NE)	Queens	103
	<b>TOTAL</b>	<b>1,990</b>

NE=Non-Elderly; E=Elderly; P=Partially Elderly

Source: *Davis Consent Decree, Exhibit A*

### **2.2.2 Section 8 Subsidies**

The *Davis* case and consent decree focuses on the tenanting of public housing units and not on other subsidies provided by the housing authority. However, a small portion of remedial relief came in the form of 200 Section 8 vouchers. During settlement negotiations, NYCHA claimed that a statute of limitations limited its ability to provide relief only to the period beginning January

1, 1985 to December 31, 1990 (to May 31, 1991 for Staten Island claims) although the claim period under the consent decree began January 1, 1983. The 200 special Section 8 vouchers were to be provided to claimants with substantiated claims of discrimination that occurred between January 1, 1983, and December 31, 1984. There is some debate as to the reasons for providing the vouchers to this special group of claimants. While NYCHA invoked the statute of limitations, the plaintiffs' attorney contends that no such statute existed. But to expedite the settlement, all parties agreed that HUD would provide the vouchers as part of the remedy and estimated that the number of claimants for this period would be around 200. Given a 15-year life for the vouchers, the vouchers are estimated to be worth approximately \$24,000,000.

### **2.2.3 The Claims Process**

Within 30 days of the entry of the consent decree, NYCHA was to have provided information to the public about the *Davis* case and the claims process. In 1993, NYCHA began advertising in newspapers and at community centers. It also posted information at its developments and sent letters to individual minority residents. Forty-thousand dollars was spent on outreach by Legal Aid staff to provide information about the claims process to minority NYCHA residents and applicants. Subsequently, about 8,000 claims were received, 2,000 of which were validated by HUD. Any "disqualified" claims had to be reviewed by Legal Aid staff, and NYCHA also had an appeals process in place. According to NYCHA staff, of the 6,000 claims disqualified, none were appealed. Legal Aid staff, however, noted that it did successfully renegotiate some disqualified claims.

To file a claim, claimants were required to document the circumstances around their initial interview (or transfer request). They could select up to three developments on their claim.<sup>211</sup> Claimants were prioritized according to eligibility date (the date of their initial interview or transfer request) and apartment size. To be eligible for relief, claimants had to do the following:

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<sup>211</sup> According to our focus group participants, there is some discrepancy as to what choices claimants had. Some thought that they could select three developments; others thought claimants could only select three boroughs. NYCHA and Legal Aid staff both agreed that claimants could select up to three developments in their claim.

- 1) file a claim;
- 2) be a black or Hispanic applicant;
- 3) have been interviewed for conventional public housing or requested a transfer between developments during the relevant period;
- 4) have been eligible for either housing or transfer;
- 5) have requested or would have requested placement in one of the 31 affected developments at the time of eligibility interview; and
- 6) not have gotten placement or transfer in any of the 31 affected developments.

For claimants to prove that they would have requested placement in one of the affected developments, they had to provide a reason why they would have made such a request at the time of eligibility, such as to be close to family members or place of employment.

## **2.3 Implementation Progress**

### **2.3.1 Public Housing Claims**

Claimants were assigned to the affected developments beginning in 1995. Three out of every four vacancies in each development were to be filled by validated claimants until the number of units shown in Table 3 was reached. To date, 780 claimants have moved to one of the 31 affected developments. Legal Aid and NYCHA staff report that most of them, although not all, were able to move to one of the three developments of their choice.<sup>212</sup> Some claimants moved, or were encouraged to move (by both NYCHA and Legal Aid Staff) to other developments in order to get a unit more quickly. Six-hundred (600) claimants remain on the waiting list. (Others dropped off the list for various reasons, e.g., no longer wanted a unit, no longer qualified for public housing). The reasons for the wait include: a lack of vacancies in the development of choice; no units of the appropriate bedroom size; and an inopportune time for the household to move (for example, having children who are in the middle of a school year or a family member receiving medical treatment).

Table 4 provides data on the racial composition for the 31 affected developments, comparing data from 1991 (pre-consent decree) and 1997.

### **2.3.2 Section 8 Claims**

Claimants who received Section 8 under the consent decree had to use their vouchers within one year and were not geographically restricted (therefore, no mobility counseling was required). Any vouchers not used by this group could be claimed by class members from subsequent years. Of the 200 vouchers available to claimants, only about 100 were needed for substantiated claims. And of those 100, only 51 were actually used by claimants. A number of reasons for this low lease up rate were cited by several key informants. In general, there is a 40 percent turn back rate (down from 50 percent a few years ago) for any Section 8 certificates and vouchers due to the extremely tight New York rental market.<sup>213</sup> There are few vacancies (especially with large

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<sup>212</sup> See Section 3 for focus group participants' opinion.

<sup>213</sup> Other sources corroborate this information (see Kennedy and Finkel, 1994).

units) available under the current fair market rent level. In New York, most “successful” Section 8 recipients use their subsidy to pay for rent on their existing unit (i.e., they certify in place) and are primarily small family households and the elderly. We were unable to secure any information, from either NYCHA or Legal Aid, on where the 51 consent decree vouchers were used.

**Table 4. The 31 NYCHA Affected Developments**

<b>Percent Change in White Tenancy after Consent Decree</b>		
<b>Project Name</b>	<b>1991 % White Households</b>	<b>1997 % White Households</b>
Bay View	64.9	38.9
Berry	79.8	61.3
Boston Rd. Plaza	45.7	23.6
Cassidy-Lafayette	74.2	55.8
First Houses	44.8	28.2
Forest Hills Co-op	65.6	54.3
Fort Independence	31.7	13.6
Fulton	43.9	30.2
Glenwood	65.7	36.2
Holmes Towers	52.5	33.7
Isaacs	59.7	40.3
Latimer Gardens	33.6	24.7
Meltzer Tower	49.1	29.1
Middletown Plaza	76.0	56.0
New Lane Area	85.9	74.9
Nostrand	73.3	37.7
Parkside	19.1	11.3
Pelham Parkway	61.6	40.4
Pomonok	63.6	47.6
Randall Ave/Balcom Ave	44.6	25.2
Ravenswood	32.9	23.5
Robbins Plaza	78.9	60.7
Seward Park Ext	35.2	26.4
Sheepshead Bay	63.4	39.3
South Beach	72.7	55.2
Strauss	44.4	32.2
Todt Hill	67.3	50.5
Vandalia	44.1	24.7
Vladek	19.7	14.0
W Brighton II	29.2	21.1
Woodside	21.6	17.2
<b>TOTAL ALL DEVELOPMENTS</b>	<b>51.0</b>	<b>34.0</b>

Source: Tenant Data, New York City Housing Authority

### 2.3.3 Monetary Awards and Services Provided to Claimants

A monetary award totaling \$60,000 was made only to the five named plaintiffs in the suit. Although the consent decree did not require significant amounts of spending on services for or assistance to other claimants, a significant amount of resources *was* devoted to its implementation. The Office of the *Davis* Consent Decree was opened in 1991. This office has a small staff dedicated solely to the implementation of *Davis* decree, in coordination with other departments within the Housing Authority also working on various aspects of the decree. In addition, a full-time staff member at Legal Aid was funded for a time by HUD through FHIP (Fair Housing Initiatives Program) money.<sup>214</sup> Staff in NYCHA's Department of Equal Opportunity also assist in various aspects of the decree, as do staff from the Housing Authority's Law Department.

Other assistance to claimants included moving costs up to \$650 (paid directly to a moving contractor) and utility hook ups. Moving costs and utility hookups were made available only to claimants who moved *subsequent* to their initial eligibility interview or transfer request (that is, they made a move after their initial interview or transfer request and prior to moving to one of the affected developments under the claims process). Transferees were also able to get their security deposits transferred as well.

Unlike many other consent decrees, *Davis* did not specify any mobility counseling as part of the relief. However, NYCHA's TSAP does note that it provides related assistance, such as making "project information books" (which highlight the amenities of each NYCHA development and its surrounding community) available to all applicants and transferees.

## 2.4 Implementation Barriers

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<sup>214</sup> The funding has now been canceled because Legal Aid does not have substantial equivalency. The staff person still works full-time on *Davis*, but is funded through grants.

NYCHA and the plaintiffs view the success of the *Davis* consent decree differently. What is of interest is that it is NYCHA staff who say that the decree has not substantially affected racial balance at NYCHA developments (“Let’s not kid ourselves, it’s only 31 developments”) and Legal Aid staff who says the consent decree has been “enormously effective...It put an end to 30 years of secret discrimination.” Neither side, however, likes the fact that there are 600 claimants still on the waiting list and that progress in moving them off the list has slowed tremendously. At the beginning of the assignment period, on average, approximately 25 moves would occur each month. More recently, the number of moves has been estimated at only around eight per month.

NYCHA staff assert that the terms of the consent decree have too much latitude—that many waiting list claimants are “dragging their feet” on accepting a unit because they have the flexibility to do so. There is no time period by which these moves must be completed, and there is no penalty to claimants who refuse to accept a unit offered. Units may be refused simply because the timing is “inconvenient” for the household. NYCHA staff told us that the remedy should have to end somewhere and suggest giving claimants three years to move since after that “a family stays put.”

Another burdensome aspect of the consent decree, according to NYCHA, is that “everything that has to do with tenant assignment has to be cleared with the plaintiffs’ attorney and with DOJ.” Although Legal Aid is currently involved with NYCHA in, sometimes contentious, negotiations of the revised Tenant Selection and Assignment Plan, it is not evident that their or DOJ’s involvement in implementing the consent decree has caused any major delay.

According to all parties, though, the major barrier to moving the remaining claimants off the waiting list is that there are currently no vacancies in the 31 affected developments. As stated earlier, NYCHA developments, especially the predominantly white ones, are still attractive places to live and, therefore, have little turnover. Perhaps adding to this shortage of available units is the fact that a significant number of elderly residents are living in developments designated as non-elderly, sometimes in underoccupied units.<sup>215</sup> For example, in 1996, nearly 3,700 single elderly persons

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<sup>215</sup> Tenant Data, 1991 and 1997, New York Housing Authority.

were living in the 15 non-elderly developments affected by the consent decree.<sup>216</sup> NYCHA's TSAP specifically calls for the transfer (voluntary or involuntary) of tenants living in underoccupied units and designates such transfers as Code 0, the highest priority. We have no information on whether this, or any other, policy is being implemented in order to assist the remedial efforts.

Although both NYCHA staff and Legal Aid now encourage claimants to accept units in developments other than their first choices to facilitate a quicker move, many claimants told us that they feel entitled to the developments they asked for. They say that they were asked by NYCHA to choose the developments they wanted to move to on their claim form, and they will wait for an opening rather than accept an alternative. In addition, there are a few developments that many minorities simply do not want to move to, such as those on Staten Island (whether because of its racial makeup or its remoteness). Even plaintiffs' attorney notes that they may need to look at other, less choice-based, policies in the future to facilitate full implementation.

Finally, according to some of our key informants, NYCHA is not without its administrative problems. Interviews with the plaintiffs' attorney, local community groups, and NYCHA tenant leaders noted that the agency often does not keep residents informed about policies and that it is not in compliance with federal regulations on resident participation in policy making. This perceived lack of resident input and participation in the consent decree has caused significant resentment on the part of some of the current residents of the 31 affected developments. And this resentment may have caused some of these developments to be viewed as "hostile" by claimants. Some tenant leaders in the affected developments have repeatedly complained to their local representatives about what they perceive as unfairness in the way the consent decree has been implemented (tenant leaders' views are detailed in *Section 3: Impacts on Residents*). One tenant newsletter, for example, claims that HUD and NYCHA are using the consent decree "as a weapon...in their intentional discrimination against White families..."<sup>217</sup>

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<sup>216</sup> This does not include the nine developments that are designated as "Partially" elderly, and it is not clear from NYCHA's data how many of these residents are living in underoccupied units.

<sup>217</sup> The Tenant, Vol. 46, No. 5 (published by Tenants Council).

The consent decree *has* prompted some changes within NYCHA, however, not the least of which was the firing of management and line staff who helped establish and perpetuate the discriminatory practices and policies highlighted in the *Davis* complaint.

### **2.4.1 Implementation Facilitators**

A number of factors in the *Davis* case have allowed the implementation of the remedies in the consent decree to be relatively successful. First, NYCHA is a very well-managed housing authority that has dedicated significant staff time to the implementation efforts. The agency has an Office of the *Davis* Consent Decree, and staff in the agency's Department of Equal Opportunity and Law Department assist in various aspects of the implementation.

Second, NYCHA has good housing stock that is desirable to both minorities and whites and that is situated within the context of an extremely tight private rental market. Unlike in many areas of the country, it does not take as much effort to persuade minority families to move into predominantly white developments in white neighborhoods.

Finally, the narrow focus of the *Davis* consent decree is, itself, a facilitating factor in implementation. Unlike most of the other cases in our sample, the consent decree does not provide for comprehensive remedies such as demolition and replacement, equalization of developments, community development, desegregative moves by white public housing residents, or mobility counseling. This limited scope allows for implementation efforts, supplied with adequate resources, to be clearly focused, and, in the end, achievable.

## **3.0 Impacts on Residents**

This section of the case study presents a documentation of the impact of the consent decree and its remedies on NYCHA claimants, specifically regarding households that successfully moved to

one of the affected developments and those that are still on the waiting list. In addition, we also provide brief information about the impacts on current residents (non-claimants) at two of the affected developments. Information for this section was culled from focus groups, group interviews, discussions with tenant leaders, and interviews with key informants (e.g., NYCHA staff, plaintiffs' attorney). Focus groups were conducted with two groups: claimants who had moved and claimants who were still on the waiting list. Information about focus group participants is provided in Table 5, and recruitment and selection information on all focus groups is found in Appendix A. A group interview was conducted with clients of Legal Aid who had filed claims and were in various stages of moving. An interview with tenant leaders was conducted at one of the 31 affected developments with a large number of consent decree units. We also received correspondence from one other tenant leader who could not attend our group interview.

### 3.1 Major Themes

All of our key informants stated that they had heard of no complaints from claimants who had moved to affected developments and that, on the contrary, feedback was quite encouraging. One said "They love their apartments and their new neighborhoods." Neither Legal Aid nor NYCHA have fielded any racially-based complaints by claimants. In our focus groups, however, we did hear complaints of racial hostility by white tenants in affected developments. Moreover, neither side has apparently talked much to those claimants who are still on the waiting list. We found through our focus groups that this group also has discrimination complaints, but these are directed at NYCHA staff and stem from their *ongoing* pursuit of NYCHA housing.<sup>218</sup>

Areas of discussion for both of our focus groups and the group interview with claimants were similar, and we combine all of their responses in this section. There were four main areas of interest:

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<sup>218</sup> It should be noted that although our focus group participants were recruited through a random selection of all claimants, ultimately they self-selected to participate. Therefore, their opinions and experiences may not be representative or typical of all claimants.

- (1) The claims process, including reasons they filed a claim, why they wanted to move to one of the affected developments, what they thought of the claims process;
- (2) Major barriers to moving (anticipated or actual), including how barriers were overcome;
- (3) Their experience (anticipated or actual) in the new community, including what they liked and did not like, how accepted they felt by their neighbors, and what new opportunities were expected or presented; and

**Table 5. Demographic Characteristics of Focus Group Participants**

<b>Average Number of Years on Waiting List</b> (claimants who have not moved)	6.4	<b>Education</b>	<b>Percent</b>
		Less than High School	20%
		High School Grad	30%
<b>Average Number of Years Living in New Development</b> (claimants who have moved)	1.65	Some College	20%
		4 year College	30%
<b>Household Composition</b>		<b>Age</b>	
		18-24	0%
Percent of Households with Children	80%	25-29	10%
		30-39	60%
Average Number of Children	2.5	40-49	20%
		50-62	10%
		62+	0%
<b>Gender</b>		<b>Race/Ethnicity</b>	
Percent Female	100%	African-American	80%
Percent Male	0	Hispanic	20%

- (4) Overall satisfaction with NYCHA and Legal Aid Society administration of the consent decree, including what assistance they received or would have liked to have received during the process.

### 3.1.1 The Claims Process

Claimants who had already moved were asked to describe the kind of place that they would want to move to. All agreed that a good place to live is a neighborhood that is drug free, has nice neighbors, and is close to amenities, such as transportation, good schools, supermarkets, hospitals, and day care. These were the things they were looking for when they originally applied for NYCHA housing or requested a transfer to one of the affected developments. Claimants still on the waiting list placed more emphasis on adequate bedroom size and safety issues. These participants, in particular, expressed a pressing fear of crime. Typical comments from both groups follow:

“I live in—right in—Crack Alley. And all these crack heads they go on around here, they kicking in people’s doors, they try to come in on you, and they shoot right into your door, they shoot right into your window, these kids do not care.”

“I am scared to death to stay here and I don’t want to stay here, I’m trying to get out of here...”

Participants found out about filing a claim of discrimination under the *Davis* consent decree from a variety of sources including: flyers hung in developments; daily newspapers; word of mouth; and letters addressed to them through the mail. Some participants reported that they filed a claim because when they applied for a public housing unit or for a transfer from their current development, they were not given any choice or they suspected they were being ‘steered’ away from good [predominantly white] developments.

*“I saw one of the developments I wanted to move in, and then it didn’t come easy...I was steered in another direction.”*

*“They accept my application at Parkside. I went there and signed the lease, and I was ready to start packing and everything. As soon as I opened the door they telephoned me, was downtown office saying that they can’t give me the apartment at Parkside.”*

As part of the claims process, claimants were allowed to choose three of the affected developments they wanted to move to. Participants told us that they did not receive their first choice due to bedroom size restrictions or availability, and many said they did not receive any of their three choices. Often the reasons were not clear to the participants.

*“I picked one [development] in Queens, but they have co-ops over there and I wanted to live in a co-op. They sent me a letter saying I wasn’t eligible for the co-op and I wondered why because it’s on the list.”*

*“They had housing I didn’t even know existed, and that’s what they sent me to... Then they tell me I have to accept this, if you don’t accept this, then you will just lose out on this, you know, your decree. It was just terrible.”*

### 3.1.2 Major Barriers to Moving

Most participants reported they had been waiting between five to twelve years for a unit in a new development (some of this wait was, of course, after the initial interview). They expressed frustration with the long wait and the process. Some participants believed the reason that they had been waiting was due to the lack of available apartments. Others felt as though they were still being discriminated against by NYCHA because they were not able to move into a unit in one of the developments they had chosen.

*“I said what about the Smith Houses on the lower east side, no that was maxed out. All the places that I had mentioned, they didn’t have nothing. I’m like but people die, I mean, come on. Don’t people die and leave places empty?”*

*“I feel like I’m being discriminated against now...it don’t make sense to jump out of the pan into the fire. But, if I had gone straight and filled out a regular housing application, I would not have waited six years. Even though it would have been in a bad place and everything, I would not have waited so long. And I feel like I’m being discriminated against still now.”*

### 3.1.3 Experience in the New Community

Many of our participants complained of increasing problems in their new communities. Most complaints focused on overcrowding due to inappropriate bedroom size, poor maintenance, increased drug activity, dangerous dogs, and overall poor sanitation. Participants noted that these changes had occurred since the time they moved in and attribute the problems, in good part, to a lack of adequate screening of new tenants.

*“It’s gotten worse. It used to be, when I first moved in there, it was real quiet. It was real clean. Now it’s wild. It’s really wild.”*

*“Housing still does a good job as far as coming to fix stuff and things like that, but it’s just the people that they’ve allowed to move in here now. Not only that, but the people that was quiet and peaceful moved out.”*

When asked about feeling accepted by the people in their community, reaction was mixed. Some participants believed their white neighbors felt apprehensive or even scared of them. Although they had some awkward experiences, these participants felt more comfortable once they got to know their new neighbors. Not all participants agreed, however, and a few expressed that the development was highly segregated with *“the white kids on one side and the black kids on the other.”* Participants also expressed their concern that white residents were moving out of their developments.

*“...Caucasian [whatever] people’s children play to one side, and black, whatever you want to say, play to the other side of the development, it’s like in half...”*

*“What I’m noticing is that people like us [black] that felt discriminated against...all they’re doing is transferring us from one area to the next areas and the people [white] that lives there that they’re trying to integrate, they’re moving out so it’s still the same thing...”*

Finally, when participants were asked if they had any concerns about moving into predominantly white developments, they said they preferred to live in a neighborhood where there was a diverse mix, and their neighbors would care about the community. Their ultimate solution to this problem is better screening of tenants.

*“Instead of just putting everybody in there, they should like, [use] some kind of screening process. They make the rest of us look bad.”*

*“I just want to live around people who care about where they live at.”*

*“I feel that sometimes one person makes it bad for the rest of us...”*

### **3.2 Current Tenants (non-claimants) Living in Affected Developments**

To supplement our discussions with claimants, we also spoke with a small group of tenant leaders at one of the affected developments. The development is a large one with a substantial number of consent decree units. Our group consisted entirely of seniors—two African-American and one white—and all had lived in the development for at least 30 years.

This group said that they first became familiar with the *Davis* consent decree in 1991. They reported that prior to the influx of *Davis* tenants, a majority of the residents in their development were working, and that the development was racially mixed. They believed that after the consent decree, 75 percent of incoming tenants did not work and the development had become

overwhelmingly minority.<sup>219</sup> Tenant leaders attributed recent problems at the development specifically to the *Davis* tenants and NYCHA's failure to provide adequate services for them. These problems include drug activity, graffiti, prostitution, tenants fighting, filth, illegal pets, unattended children, and more noise. They also complained about the lack of services available for young children in the development, many of whom have come as a result of the *Davis* decree, adding to the increase in some of the identified problems.

Tenant leaders also suggested that due to the influx of *Davis* tenants, long-time residents of the development are moving out. One tenant leader suggested that reverse discrimination was in place, and accused HUD of "*creating a ghetto.*" This tenant complained, "*if something isn't done we will be like other developments.*" And while this group seemed sympathetic at first to *Davis* tenants not having adequate resources at their new developments (such as recreation for their children), they also believe that "*if people have another apartment [at another development], they should stay in it.*"

#### **4.0 Conclusions as of Fall, 1998**

Although there are a number of barriers to full implementation of the *Davis* consent decree, the remedies have been, on the whole, fairly successful. The Tenant Selection and Assignment Plan has been fully effective since 1995. Seven-hundred and eighty (780) black and Hispanic families have moved to once predominantly white developments and 51Section 8 vouchers have been provided for claimants not eligible for public housing. Claimants who have moved to NYCHA's affected developments have been generally satisfied with their housing and their community, although some say they feel racially isolated.

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<sup>219</sup> Although the percentage of families on welfare almost doubled between 1990 and 1996 at this particular development, only 15 percent of all families there received such assistance in 1996. The minority population also increased from 37 percent to 52 percent during that time period (Source: NYCHA Tenant Data, 1990 and 1996).

The implementation efforts were facilitated by the relatively narrow scope of the remedies, the substantial resources that NYCHA was able to dedicate to implementation, and the attractiveness of a choice of the 31 affected developments offered to claimants. However, six hundred (600) families are still on the waiting list for public housing and half of the Section 8 vouchers were turned back by claimants unable to find housing. The rate of move-ins has decreased dramatically over the last few years.

The primary inhibitor on the public housing side of the remedial order is a lack of units in the 31 affected developments available to claimants. The attractiveness of these developments means a slow turnover in units. In addition, resentment on the part of non-claimant tenants in some of the affected developments may be deterring some claimants from moving to those developments. On the Section 8 side, clearly, the biggest problem is a tight and expensive private rental market.

How will NYCHA provide relief for those 600 claimants still on the waiting list? Given that there is no set timetable for the remedy to “end,” one solution, as suggested by both NYCHA staff and plaintiffs’ attorney, is to provide claimants with less choice-based options. Moreover, the proposed changes to the TSAP, according to plaintiffs’ attorney, will have a discriminatory effect on minorities, negating much of the progress that has already been made.

## Baseline Case Study: Omaha, Nebraska

by

Diane K. Levy and Malcolm Drewery

### 1.0 Introduction

Four named plaintiffs filed a class action suit in 1990, *Hawkins v. (Kemp) Cisneros*<sup>220</sup>, on behalf of themselves and class members, alleging that the Omaha Housing Authority (OHA), the U.S. Department of Housing and Urban Development (HUD), and the City of Omaha administered federal housing assistance programs in a discriminatory manner that served to maintain a system of racially segregative housing.<sup>221</sup> Specifically, the plaintiffs alleged that OHA deliberately sited public housing developments in the minority areas of Omaha and used special criteria to screen applicants to the housing authority's scattered-site program that were discriminatory.

The case went to trial, but the parties agreed to settle shortly after hearings began. On January 21, 1994, the settlement agreement was approved and signed by the parties to the *Hawkins*

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<sup>220</sup> The *Hawkins* case refers to *Mary Hawkins, Ersalene Davis, Toni Harris, and Ethel Bynum on behalf of themselves and others similarly situated v. Henry Cisneros, Secretary of the United States Department of Housing and Urban Development; The United States Department of Housing and Urban Development; Housing Authority of the City of Omaha, and the City of Omaha*.

<sup>221</sup> Class members are defined in the settlement as "all past and present applicants for and past and present recipients of federal housing assistance administered by OHA for low-income persons in Omaha; past and present residents of Tommie Rose Gardens [a private Section 8 development]; residents (as of July 31, 1991) of Logan Fontenelle Homes eligible for, but excluded from, scattered site single-family dwellings operated by OHA."

lawsuit. The settlement agreement specifies a number of actions that defendants are required to take that focus on the demolition and replacement of public housing units, issuance of new Section 8 subsidies, establishment of a housing mobility program, and inspections of properties accepting Section 8 subsidies. The majority of the elements have been implemented, although one key element, the provision of replacement housing, had not been completed at the time of the Urban Institute site visit in October, 1998.<sup>222</sup>

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<sup>222</sup> This case study reflects the status of implementation of the settlement-agreement elements as of October, 1998. It does not reflect actions that may have occurred since the Urban Institute's site visit.

## **1.1 Background on the City of Omaha and the Omaha Housing Authority**

Located on the Missouri River, the city of Omaha established itself early on as a center for livestock markets and meat packing plants. While there is still a strong connection between Omaha and steaks, the economic base of the city has shifted towards telecommunications. By the mid- to late-1990s, there were more than 24 telecommunications businesses in the city (Greater Omaha Chamber of Commerce, 1998).

According to the 1990 Census, the population of Omaha was 335,795. Eighty-four percent of the population was white and 13 percent was black.<sup>223</sup> Three percent of the population was of Hispanic origin. The city's population grew by nearly seven percent between 1980 and 1990. (See Table 1). Population growth was strongest among minority groups. While the white population increased by 4.7 percent, the black population increased by 15.7 percent and the Hispanic population increased by 31.9 percent.

The 1990 Census data show a city highly segregated by race. (See Figure 1.) With the exception of two tracts, all tracts with more than 10 percent black population are located in the northeast portion of the city. The thirteen tracts with between 50 and 90 percent black population are contiguous to each other and surround the two tracts that are between 90 and 100 percent black. The dissimilarity index in 1990 for the City of Omaha was 73 while the index for the Omaha MSA was 69.2.

Omaha has a history of racially segregated housing and community patterns, with spatial patterns established as early as the 1920s (Greater Omaha Chamber of Commerce). By the 1920s, an area of north Omaha was clearly established as the African-American community. This community had a number of black-owned businesses and services, as well as firm boundaries. It took an open housing ordinance to make it possible for African-American citizens to move to other areas of the city. The African-American community experienced considerable economic decline by the 1960s, and in 1968 there were riots along the area's main business corridor.

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<sup>223</sup> The term "African-American" is used in this report. The term "black" is used when referring to census and Omaha Housing Authority data.



**Table 1. Population Changes in Omaha<sup>224</sup>**

	<b>City of Omaha</b>
<i>Total Population</i>	
1980 Population	314,267
1990 Population	335,795
Change	21,528
Percentage Change	6.9%
<i>White Population</i>	
1980 Population	268,995
1990 Population	281,676
Change	12,681
Percentage Change	4.7%
<i>Black Population</i>	

<sup>224</sup> Figures for white and black persons are not exclusive of persons of Hispanic origin.

1980 Population	37,889
1990 Population	43,829
Change	5,940
Percentage Change	15.7%
<i>Hispanic Population</i>	
1980 Population	7354
1990 Population	9,703
Change	2,349
Percentage Change	31.9%

Source: U.S. Census

INSERT FIGURE 1

Since the late 1930s, the Omaha Housing Authority (OHA) built five multi-family public housing developments with federal funds. Logan Fontenelle, the oldest development, was built in 1938. The second half of the project, Logan-Fontenelle South, followed in 1941. Southside Terrace development was built in 1939. In the early 1950s, three developments were constructed; Hilltop Homes in 1951, and Spencer Homes and Pleasantview Homes in 1952. Prior to the *Hawkins* settlement, the housing authority demolished or reconfigured a number of units at three developments. In the late 1970s, Southside Terrace development was involved in a density reduction program that reduced the number of units by 170 and 57 units at the Spencer Homes development were demolished in 1982 to allow freeway expansion. Replacement units for both developments were sited in the same general area. OHA sought approval from HUD in 1989 to demolish 194 units in Logan Fontenelle North and replace the units with single-family homes located throughout city, except within designated census tracts. The majority of the specified census tracts had a minority population greater than 35 percent (Defendants' Motion for Summary Judgement (Motion for Judgement), 1993).

OHA began the city's first scattered-site public housing program in the early 1980s, financed with public housing development funds, Section 8 New Construction program funds, and CDBG block grant money. In 1980, HUD approved OHA's proposal to build 56 units of scattered-site public housing. Between 1980 and 1991, the housing authority has purchased or built 272 scattered-site units, configured as duplexes, townhomes, and single-family houses (Motion for Judgement, 1993). Scattered-site public housing is part of OHA's homeownership project.<sup>225</sup> The program requires a tenant to decide whether to buy the scattered-site unit or to relocate after living in the unit for five years. Program participants receive homeownership education assistance. If they elect to purchase the unit, part of their rental payments, calculated pursuant to HUD regulations, is applied toward the purchase.

For purposes of this report, 1990 OHA data serves as the baseline data for the public housing developments. Data from 1990 identify 24 public housing developments with a total of 3,954 units.<sup>226</sup> The smallest of these developments had 19 units and the largest had 418 units (Logan

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<sup>225</sup> Note that HUD has never approved this project.

<sup>226</sup> HUD Field Office staff report that a 1991 HUD monitoring review of OHA indicated that OHA had 3,152 units of public housing in 1991. Logan Fontenelle North and South had 265 units remaining and 22 units of replacement housing had been acquired for Logan Fontenelle North. Based on the 1991 review, HUD staff estimates that OHA had approximately 3,283 public housing units in 1990, not 3,954 units.

Fontenelle). Half of the developments had less than 50 percent black households and half had over 50 percent black households. A slightly finer distinction indicates that nine developments had less than 30 percent black households, nine had over 70 percent black households, and six had between 30 and 70 percent black households.<sup>227</sup> (See Figure 2.) Stated differently, eighteen developments, or 75 percent, were either predominantly white or predominantly black, while six developments could be considered relatively integrated. With one exception, the predominantly black developments were located in census tracts with 50 to 100 percent black population. Most of the predominantly white developments were located in tracts with zero to ten percent black population. Two of these developments were in or on the border of tracts with ten to 50 percent black population.

By the fall of 1998, OHA had approximately 2,925 units of public housing. (See Table 2.) Of this number, 2,325 units were located in multi-family developments or elderly/disabled high-rises as compared to 3,954 in 1990. Staff indicated that there were three multi-family developments with a total of 786 units. Southside Terrace had 368 units, Pleasantview Homes had 300 units, and Spencer Homes had 118. In addition to the large developments, there were over 600 units of scattered-site public housing.<sup>228</sup> There were twelve public housing high-rises, which provide a total of 1,539 units for elderly, disabled, and/or handicapped persons.

**Table 2. OHA Properties as of Fall 1998**

Omaha Housing Authority Properties - Fall 1998	
<b>Multi-Family Developments</b>	786
<b>Southside Terrace</b>	368
<b>Pleasantview Homes</b>	300

<sup>227</sup> HUD Field Office staff report that the 1991 monitoring review indicated that in 13 OHA public housing developments, 92 percent or more of the residents were of one race.

<sup>228</sup> HUD Field Office staff reported that OHA had 474 units of scattered-site public housing units and an additional 56 scattered-site units under its Section 8 New Construction Program.

Omaha Housing Authority Properties - Fall 1998	
<b>Spencer Homes</b>	118
<b>Elderly (12 Towers)</b>	1539
<b>Scattered-Site Houses</b>	600
<b>Total</b>	2925

INSERT FIGURE 2

OHA data indicate that there were 4,927 households receiving Section 8 assistance in 1990. Breakdowns of subsidy holders by race shows that 3,239, or 66 percent, were black and 1,529, or 31 percent, were white. In 1993, the total number of households receiving Section 8 dropped to 2,438.<sup>229</sup> Again in 1993, the majority of recipients were black (1,280, or 53 percent), though the percentage difference between black and white recipients decreased. There were 1,025 (42 percent) white households receiving Section 8. Data from 1996 indicate that there were 3,332 households receiving Section 8. Of the 3,332 subsidy holders, 2,152, or 65 percent, were black and 985, or 30 percent, were white.

The majority of Section 8 subsidy holders in 1993<sup>230</sup> rented housing units in northeast Omaha. (See Figure 3.) Mapping the Section 8 addresses by race shows that, similar to the location of public housing developments, the majority of the black households with Section 8 resided in the northeast section of the city, in predominantly black census tracts and in the tracts bordering those areas. There is also clustering of white households with Section 8 in the northeast; however, the majority of these addresses cluster just to the north and south of census tracts with over 50 percent black population. The area with the second highest concentration of Section 8 households is in the southeast. There are Section 8 addresses scattered throughout the northwest and southwest areas of Omaha. Most of these addresses are of white households.

OHA was considered a high performing housing authority from the early to mid-1990s, after which performance was rated lower. From 1991 to 1995, the agency received PHMAP scores above 90. The highest score, 98.65, was received in 1993 and the lowest score during that period was 90.86 in 1991. Staff did not provide the scores from 1996 or 1997; however, HUD Field Office staff reported that the scores were 68.62 and 89.94, respectively. In 1998, the Omaha Housing Authority's PHMAP score dropped to 41.29, and was declared by HUD to be a troubled housing authority. The OHA is now under the supervision of the Troubled Agency Recovery Center.

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<sup>229</sup> Researchers attempted to verify the Section 8 data received from OHA and to discover why the number of participants fluctuated so greatly between 1990 and 1993. OHA staff did not respond to our requests for verification. HUD Field Office staff reported that data from a 1991 HUD/FHEO monitoring review of OHA, indicated that OHA had issued 3,279 Section 8 subsidies in September 1991. Of these subsidy holders, HUD data indicate that 69 percent were black and 28 percent were white.

<sup>230</sup> The Urban Institute is developing baseline information on the racial composition of OHA's Section 8 program from the agency's 1993 program data.

## 1.2 History of the Desegregation Litigation in the *Hawkins* Case

As in many U.S. cities, public housing developments in Omaha historically were segregated. Developments built in the 1930s have been described as either “racially homogeneous or bisected.” “Bisected” housing developments had buildings or portions of them that were segregated by race even if whites and blacks were present in the development as a whole (Coulibaly, Green, and James, 1998).

Developments across the U.S. not only were segregated, but also were sited in low-income areas of the cities. “No attempt was made at either the federal or local level to diversify the location of [Public Works Administration] public housing projects” (Coulibaly, et al, 1998). The developments were built during a time when segregated housing was legal. Plaintiffs to *Hawkins* claim, however, that the segregated system of housing has been maintained over time, even though the housing authority discontinued its internal segregation policy in 1951 (Motion for Judgement, 1993). OHA 1990 data indicate that all but one of the public housing developments that have more than 70

percent black households are located in predominantly black census tracts. Two developments that have between 30 and 70 percent black households are located in southern Omaha, in a tract that is between 10 and 50 percent black. Two other developments, which also could be considered more racially integrated, are located in northern Omaha near the borders of census tracts that are over and under 50 percent black. With one exception, housing developments with predominantly white households are located in or on the border of predominantly white census tracts.

In the late 1980s, OHA proposed a major renovation of 194 units in the north half of Logan Fontenelle. HUD approved the plan in 1989, but subsequently initiated discussions with the then-Executive Director of OHA in which HUD suggested the units be demolished and replaced, one-for-one, with scattered-site single-family units. The development itself was in poor physical condition and the surrounding area had crime and drug problems. OHA staff recounted how the Authority paid the sheriff’s department to videotape drug transactions and gang activities in order to make its case to the city police department that there were serious problems in the area.

OHA met with residents of Logan Fontenelle in the fall of 1989 to discuss the demolition and replacement plans for the development. Most tenants were in favor of the plan, but the city council had to approve it before HUD could give the final go ahead. Residents were asked to show their support of the redevelopment plan by attending the city council meeting in which the plan would be discussed. OHA staff said that the council voted down the plan in December, 1989, because of issues around definitions of "scattered-site." Council members were concerned with how many feet apart scattered-site units should be and how many units would be located in each district of the city. Members did not want "too many units" in their own districts. According to HUD Field Office staff, city council rejection of the plan for Logan Fontenelle proved to be the final straw in a history of segregative practices.

At this point, Mary Hawkins and a group of public housing residents contacted Legal Aid to discuss their difficulties with locating housing in non-impacted areas. Because Legal Aid could not take on a class action case, residents contacted an attorney who was known in the African-American community from her previous involvement with school desegregation and welfare cases. Named

INSERT FIGURE 3

plaintiffs claimed that they were unable to obtain federally assisted housing outside of predominantly black areas of the city due to the policies and practices of the City, the housing authority and HUD that perpetuated a segregated housing system.

While researching the housing situation faced by public housing tenants, the attorneys discovered that OHA's eligibility criteria for the scattered-site public housing units created a barrier to entry for residents of Logan Fontenelle. To acquire a scattered-site unit, a person had to be employed for at least one year at the time of application, have a monthly income of at least \$833, and the applicant had to have a personal interview with OHA's Executive Director. Employed tenants with very low incomes, retired, disabled and other persons receiving income from sources other than wages, and newly employed persons were thus barred from the scattered-site units. According to HUD Field Office staff, the criteria maintained the status quo neighborhood composition in areas with scattered-site housing; blacks lived in black neighborhoods and whites lived in white neighborhoods. (The first scattered-site program was intended to have housing outside of impacted areas, but the plan met resistance from the city council. As a consequence, fewer-than-intended scattered-site units were located in non-impacted areas.)

An amended complaint was filed by the plaintiffs' attorneys on February 8, 1990. The city council later reversed its decision on the Logan Fontenelle plan and HUD issued final approval for the demolition and replacement of the units. In September, 1990, a preliminary injunction hearing was held in regard to OHA's scattered-site program because no existing Logan Fontenelle tenants could meet the program's requirements. The preliminary injunction was issued in November. During this time the Logan Fontenelle units were demolished. However, displaced tenants were not given an opportunity to move to non-impacted areas of the city because replacement units were not yet available. The lawsuit included the issue of displacement along with the original housing segregation claims.

Four Plaintiffs and four Defendants were named in the *Hawkins* class-action suit. The Defendants were: the Secretary of the U.S. Housing and Urban Development (HUD) (Kemp, then Cisneros), HUD, Omaha Housing Authority, and the City of Omaha. (See Table 3.) Although the role for the city in the settlement agreement is small, parties to the case wanted the city included in the settlement so it would not later veto construction of desegregative housing.

The plaintiffs' attorney made an offer to OHA to settle the suit in 1990. According to the attorney, neither OHA nor HUD acted on the offer at that time. The case went to trial for seven days before HUD attorneys contacted plaintiffs' counsel with an offer to settle. HUD, Department of Justice attorneys and the Plaintiffs' attorneys outlined a settlement and presented it in court. At that point, OHA's executive director believed he had sufficient support from the state and federal government to avoid settlement even though then-Secretary of HUD Cisneros wanted the suit settled. A meeting was held in Omaha with Cisneros, Nebraska Senator Kerrey, the Governor, OHA, the Mayor, an attorney from the Department of Justice, and other federal HUD representatives. According to housing authority staff, the intent of the meeting was to convince Cisneros to change his mind about settling the case. City attorneys, according to HUD Field Office staff, believed they could win in court. Only after HUD said it would settle separately from OHA and would not cover OHA attorney fees did the housing authority agree to settle the case. Parties to the settlement other than OHA said there was considerable rancor throughout the case and this set the tone for implementation. OHA staff, however, said that the process was not contentious.

**Table 3. Overview of Defendants in the *Hawkins* Case**

Defendant	Institutional Role	Alleged in Complaint
U.S. Department of Housing and Urban Development (HUD)	Administers, funds, and supervises low-income housing programs established by Congress.	Failed to dismantle a <i>de jure</i> system of racially segregated housing established by both HUD and the Omaha Housing Authority.
Omaha Housing Authority (OHA)	Operates public housing and Section 8 in the City of Omaha.	Maintained a system of racially identifiable housing projects through: the location of new developments; the use of a non-centralized waiting list; unequal maintenance of black projects; application and selection procedures that result in maintaining the

		racially segregated housing patterns.
City of Omaha	City Council grants approvals for construction and demolition of public housing.	Maintained the <i>de jure</i> system of racially segregated federally assisted housing in a named development by preventing the development's demolition and the construction of scattered-site replacement housing.

Information taken from the amended complaint, dated 2/8/90.

Following settlement, additional negotiations occurred to set the specific terms of the agreement. Plaintiffs' counsel were asked what they wanted, and, according to one of the attorneys, received more than they had proposed in the earlier settlement offer presented to OHA in 1990. The case was settled and the settlement agreement was approved by the U.S. District Court in Nebraska on January 21, 1994.

Since reaching the settlement in 1994, parties to the suit have returned to court once. Plaintiffs filed a motion to enforce the settlement as a response to problems that developed between OHA and the agency administering the housing mobility counseling program. The agency complained that it was not receiving the names and addresses of potential program participants from OHA. This issue has since been resolved.

### 1.3 Overview of the Settlement Agreement and Progress as of Fall, 1998

The settlement agreement includes five major relief elements and three additional elements that have not required major actions. The major elements are the:

- demolition of public housing units at three developments and relocation of tenants in replacement housing & mobility assistance for Logan Fontenelle North displacees;
- combination of Section 8 and public housing waiting lists;
- issuance of 100 new Section 8 subsidies with initial restrictions of use in impacted areas;<sup>231</sup>
- development and implementation of a housing mobility counseling program; and
- inspections of Section 8 housing stock.

The other elements address neighborhood improvement efforts in two areas, attention to the School Board's desegregation plan as it may intersect with public housing tenant relocation, and a review of utility allowances provided to residents of scattered-site and Section 8 units. For a complete overview of the settlement, see Table 4.

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<sup>231</sup> The *Hawkins* settlement agreement defines an impacted census tract as a tract with minority population greater than 35 percent according to the 1990 U.S. Census. The agreement includes Census Tract 58 with the impacted tracts because it has had a heavy concentration of moderate rehab and existing Section 8 housing since the 1990 Census was taken.

**Table 4. Overview of *Hawkins* Settlement Agreement Elements**

Remedy	Description	Implementation Responsibility	Progress To-Date
Tenant selection and assignment plan (TSAP)	<p>Combine Section 8 and public housing waiting lists;</p> <p>Continue use of the existing TAP for leasing multi-family, conventional housing units.</p>	Omaha Housing Authority (OHA)	<p>Cross-listing of the waiting lists has</p> <p>TSAP guidelines are still in use.</p>
Demolition and replacement of public housing	<p>Re-contact displaced residents from Logan Fontenelle North and provide them with mobility assistance in order to make another move, should the residents so choose;</p> <p>Demolish housing at Logan Fontenelle South, Hilltop Homes, and Pleasantview Towers</p> <p>Provide replacement housing for displacees from each of these developments.</p>	OHA, with approval from City Council and HUD Field Office	<p>Former residents were contacted and</p> <p>Demolition at each site has been completed and 715 units demolished;</p> <p>Replacement housing for Logan Fontenelle North completed by the end of 1996, as required. Other developments is being provided. Acquisition of off-site public housing to be replaced.</p>
New Section 8 subsidies	<p>Provide OHA 75 Section 8 certificates and 25 vouchers;</p> <p>Subsidies first available to eligible Logan Fontenelle displaced residents;</p> <p>Subsidies only for use in non-impacted census tracts, as defined in agreement, during the first 120 days.</p>	HUD and OHA	<p>New subsidies were issued as required.</p> <p>Many recipients waited until the end of the year and then leased units in unrestricted areas.</p>

**Table 4. Overview of *Hawkins* Settlement Agreement Elements (continued)**

Remedy	Description	Implementation Responsibility	Progress To-Date
Mobility counseling	Fund and implement a Section 8 mobility counseling program operated by a private, non-profit housing agency.	HUD is responsible for selecting an agency to run the mobility program	<p>HUD issued an RFP and selected Family Housing Advisory Services, Inc. (FHAS) to run the mobility program;</p> <p>In 1997 the contract with FHAS was extended through 1999;</p> <p>Approximately 1,091 OHA clients had been served by the mobility program, Project Jericho, by the time of our site visit.</p>
Review of Section 8 Housing Quality Standards	<p>Conduct annual housing quality standards reviews of 5% of Section 8 units in Omaha;</p> <p>Reinspect the privately-owned Section 8 development, Tommie Rose Gardens and take appropriate actions.</p>	HUD Field Office	<p>HUD conducted the required reviews of both Section 8 units and Tommie Rose;</p> <p>Reviews revealed serious problems, which led HUD to authorize a comprehensive Management Review of OHA's Section 8 program. Again, high failure rates were found;</p> <p>Discrepancies found between OHA's audits and its books. Two audits of OHA were underway at the time of our site visit.</p>
CDBG Investment	Continue using CDBG funds in specified neighborhoods to carry out City's Homeowner Housing Rehabilitation Program.	City of Omaha	City was directed to continue an existing activity. There has not been much focus on this element of the agreement.
School Busing	Encourage discussions between OHA and the School Board to amend the city's school desegregation plan so that children moving from segregated areas are not bused back to their old school.	HUD Field Office	HUD sent letters to the School Board, OHA, and Plaintiffs' Attorney in order to encourage talks on the matter.
Review of utility allowances	Review the sufficiency of utility allowances provided to residents of scattered-site and Section 8 units.	HUD Field Office	HUD conducted the review and found the allowances to be sufficient.

As of October, 1998, the required demolition of public housing units has occurred and the mobility counseling program continues to function. Waiting lists have been combined and inspections of Section 8 properties have been completed. There are still many units of replacement housing that need to be acquired or constructed, however, and the end date for replacement is approaching. Details on each element of the agreement and progress in their implementation are presented in Section 3.

## **2.0 Implementation as of Fall, 1998**

### **2.1 Tenant Selection and Assignment Plan**

The settlement specifies two primary actions with regard to tenant selection and administrative procedures; OHA must combine its Section 8 and public housing waiting lists and OHA must continue using its existing Tenant Selection and Assignment Plan (TSAP) for leasing its multi-family, non-elderly, conventional housing units.

Cross-listing of the regular Section 8 and public housing waiting lists has occurred. HUD Field Office staff said that HUD has no reason to believe that the cross-listing system is not working well. Staff noted that the settlement agreement did not require HUD to monitor the system and the agency has not done so. The plaintiffs' attorney said that she did not anticipate the full range of information needed to monitor implementation; therefore, the OHA annual reports do not include enough information to determine if cross-listing is working well. The attorney did say that applicants now can apply for both Section 8 and public housing in one place, rather than having to travel to different sector offices for each application.

It is important to note that the selection criteria for scattered-site units designated under OHA's homeownership program are not connected to the regular Section 8 and public housing waiting list process. In order to be selected to live in a scattered-site unit in the homeownership program, a person has to nominate herself to be placed on the program's list and meet the economic criteria that the housing authority received legislative permission to include as criteria for program

participation.<sup>232</sup> Preference is given to existing OHA tenants. OHA is required to tell people about the nomination process during each annual recertification. According to staff at HUD's Field Office, until HUD approves specific units for the homeownership program, scattered-site units remain public housing subject to the regular waiting-list procedures.

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<sup>232</sup> HUD Field Office staff have reported that HUD has not officially approved any demonstration homeownership program and that the section of the congressional law allowing such a program was repealed by the Quality Housing and Work Responsibility Act of 1998. However, from other accounts, it appears that the scattered-site, homeownership program is operational.

## 2.2 Public Housing Demolition and Replacement

The *Hawkins* settlement agreement requires the housing authority to re-contact all previous Logan Fontenelle North residents who were displaced due to demolition to offer them another opportunity to state their housing preferences. OHA must then provide these persons assistance, including mobility counseling, to make another move should they so choose. This element of the settlement addresses the concern that the displaced tenants were not given an opportunity to make a desegregative move because replacement housing had not been acquired at the time the development was demolished.

*Hawkins* also addresses demolition at three other multi-family properties. OHA was required to submit plans to the City Council and, upon Council approval, to HUD regarding the disposal, through demolition or sale, of Logan Fontenelle South, six or more buildings in Hilltop Homes, and Pleasantview Towers East and West. The first 25 percent of replacement units had to be located outside of impacted census tracts, as did 75 percent of all units replaced. Plans for Logan Fontenelle South had to be submitted within one year from the effective date of the settlement agreement; plans for Hilltop Homes were to be submitted within four years of the agreement, and those for Pleasantview within six years of the agreement. Following submission of the proposals, OHA was to have six years within which to complete the HUD-funded demolition and replacement for each site. Residents of the developments subject to displacement had to be offered an opportunity to state their preference for relocation housing and provided written material informing them of counseling services.

Staff at the mobility counseling program said that former residents of the Logan Fontenelle North public housing development were contacted as required. Program staff offered residents the option to move again, this time into either a Section 8 or a scattered-site public housing unit in a non-impacted area. Staff reported no problems regarding implementation of this relocation offer.

OHA has completed demolition at each of the three specified housing developments. At Logan Fontenelle North and South, a total of 388 units were demolished. By the time the lawsuit was filed, the number of units in the Logan Fontenelle North and South developments had been reduced to 388, from the approximately 600 original units, through both demolition and reconfiguration. The 194 units torn down at Logan Fontenelle North were approved prior to the

*Hawkins* settlement. The southern portion of the development was demolished in 1994. All of the Hilltop Homes development was demolished in 1995, a total of 225 units of housing, as were the 102 units of Pleasantview Towers East and West. The total number of public housing units demolished was 715. The speed with which the units were demolished increased the difficulty of relocating residents.

Replacement housing for Logan Fontenelle North was completed by the end of 1996 as required. Because demolition at this development occurred pre-*Hawkins*, many residents were relocated to housing in impacted areas; hence, the requirement to recontact Logan Fontenelle residents to make another housing choice was included in the settlement agreement. Replacement housing for the remaining developments will be provided through Section 8 units and through the acquisition of off-site public housing units. There is no on-site rehab or other form of public housing redevelopment under *Hawkins*. According to the Plaintiffs' Attorney, the replacement plan and status is as shown in Table 5.<sup>233</sup>

**Table 5. Status of Replacement Housing**

	<b>Demolished</b>	<b>Acquired New</b>	<b>Acquired Rehab</b>	<b>To Acquire</b>	<b>End Date</b>
<b>Logan South</b>	194	16 units - 3 BR 4 units - 4 BR	49 units - 3 BR 13 units - 4 BR	10 units - 2 BR 94 units - 3 BR 8 units - 4 BR	August 2000
<i>Total</i>	<i>194</i>	<i>20</i>	<i>62</i>	<i>112</i>	
<b>Hilltop</b>	225	0	0	113 - 3 BR	May 2001

<sup>233</sup> Some information on the status of replacement housing was provided by other parties to the settlement. However, the plaintiffs' attorney offered UI the most detailed information on replacement housing.

<i>Total</i>	225	0	0	113	
<b>Pleasantview</b>	102	0	0	92 units - 2 BR 10 units - 3 BR	Sept 2001
<i>Total</i>	102	0	0	102	
<b>Overall Total</b>	<b>521<sup>234</sup></b>	<b>20</b>	<b>62</b>	<b>327</b>	

There remain 327 units of housing to replace. In a letter to HUD dated April, 1997, The plaintiffs' attorney indicated that OHA had not replaced any of the units demolished in 1995 and 1996. Most of the replacement housing to date has been single-family units. HUD Field Office staff did say that of the 82 replacement units produced to date, all but eight have been located in non-impacted areas of the city. OHA has acquired no new units since 1997.

<sup>234</sup> This number represents the total number of units demolished after *Hawkins* was settled. It does not include the 194 units previously demolished at Logan Fontenelle North.

## 2.2.1 Issues in Implementation

There have been three major issues encountered in the implementation of the demolition and replacement plans under *Hawkins*—timing of demolition, opposition to replacement plans, and replacement costs.

### Timing

The timeframe in the settlement agreement under which OHA could apply for demolition of the public housing developments was based upon dates of OHA's submission of its demolition and replacement plans for each site. The agreement did not require nor prohibit all units slated for removal to be demolished within a two-year timeframe. Because the demolition happened quickly and over a short period of time, sufficient replacement housing was not available when needed.

One-half of the replacement housing for Hilltop Homes tenants was provided through the issuance of Section 8 tenant-based subsidies. Hilltop was torn down before all of the Logan Fontenelle North and South units were replaced. This situation, coupled with the fact that Hilltop and other displaced tenants were seeking Section 8 housing concurrent with regular Section 8 recipients, led to excess demand for quality housing units renting for an amount below FMR levels. As a result, some displaced tenants had to move into poor quality housing. This issue is addressed below in the section on Housing Quality Surveys.

Acquisition of scattered-site replacement housing also has proceeded slowly. According to HUD, it took OHA from 1991 to 1996 to complete the first 194 units of replacement housing, for Logan Fontenelle North, even though there was money for replacement.<sup>235</sup>

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<sup>235</sup> OHA acquired replacement housing pre-*Hawkins* because it planned and began demolition at Logan Fontenelle North prior to reaching settlement.

## **Opposition**

Before the housing authority could purchase a property for scattered-site public housing, a public hearing on the purchase was required. OHA placed purchase notices in major papers along with the dates for the Board of Commissioners' meetings during which the planned purchases would be discussed. According to OHA staff, these hearings were often heated, as residents of the neighborhoods in which the units were located attended the meetings to speak against approval of the purchases.

## Cost

OHA purchased replacement housing units until 1997. According to the Plaintiffs' attorney, however, the number of units acquired each year steadily declined. The attorney's records indicate that OHA acquired 54 units in 1991 and only 12 units in 1995.

By 1996 or 1997 (accounts vary) HUD and OHA realized that the \$29 million remaining in replacement funds from HUD would not be enough money to acquire the remaining units of replacement housing. OHA requested an additional \$10 million from HUD to cover the shortfall and asked the plaintiffs' attorney to support this request. The attorney, however, wanted a full accounting of where the replacement money had been spent to date before she would agree to support OHA's request. She requested that HUD conduct an audit of OHA.

The HUD Field Office, per direction from the then-Deputy Assistant Secretary of Public and Indian Housing (PIH), informed OHA that it would not consider a request for additional funding until the housing authority evaluated alternative replacement housing strategies. HUD worked with OHA staff to develop a Request for Proposals (RFP) for a study. OHA hired Abt Associates, Inc. and received their report in March, 1998. OHA staff told us at the time of our site visit that they were in the process of developing an amended replacement plan. We were told that the plan, to have been presented to the OHA Board in early November, 1998, would include some of Abt's recommendations on a mixed-finance, multi-family housing approach.

In a telephone conversation in February, 1999, a staff member from the HUD Field Office told UI that the replacement plan was rejected. A second plan has been submitted to HUD and it is currently under review. In December, 1998, the attorney for the plaintiffs filed a letter with HUD, OHA and the City of Omaha charging that there was "no reasonable basis to believe that the Defendants will satisfy the replacement housing requirements as set forth in the *Hawkins* Settlement Agreement." The letter called for the named parties either to remedy the situation or to provide written explanation within 30 days of receiving the letter. The letter states that if neither action occurs, the plaintiffs' attorney will seek, through the U.S. District Court, the appointment of a special master to serve as the administrator of the *Hawkins* agreement. HUD staff said that the three defendants responded in writing that they were in compliance.

## 2.3 Tenant-Based Assistance

The *Hawkins* settlement states that HUD will provide OHA with 75 Section 8 certificates and 25 Section 8 vouchers. These subsidies will first be made available to eligible tenants displaced from Logan Fontenelle, but are not otherwise limited to eligible displaced tenants. Recipients of the 100 subsidies may only rent units in non-impacted census tracts if they use the subsidy within the first 120 days after receiving it. After that point, OHA may reissue the subsidies, unrestricted, according to their ordinary Section 8 procedures. Displaced tenants are to be offered their choice between a restricted subsidy and an unrestricted subsidy, dependent upon availability of the latter.

Issuance of the 100 special Section 8 subsidies from *Hawkins* went well, according to OHA Section 8 staff. However, staff did mention issues with the use of the subsidies. Some recipients had trouble finding affordable units in non-impacted areas of the city that would accept Section 8. In addition to those recipients who had difficulty or were unable to locate housing in the select areas, many people chose to wait until the end of the 120-day restricted period and then leased units in impacted areas. Staff also said that some recipients who made desegregative moves returned to impacted areas after one year.

Because a number of recipients held their subsidies until the end of the 120-day period, OHA Section 8 staff thought the subsidies should have been restricted for only 60 days. Holding the subsidies for 120 days served to increase staff paperwork. Section 8 staff are required to conduct follow-up contacts with subsidy holders during the 120-day period until the holder uses the subsidy. Were the restricted period shorter, staff feel holders would use the subsidies sooner, thereby reducing OHA staff time spent on monitoring.

The settlement agreement did not define the number of years, or recertification cycles, the 100 Section 8 subsidies were to remain restricted. According to HUD Field Office, OHA decided to retain the subsidies' location restrictions indefinitely. When HUD Field Office staff learned of this decision, they did not object to maintaining the geographic limitations.

The existing Section 8 program has been affected by *Hawkins* in at least two ways: first, all Section 8 subsidy holders may use the services of the mobility counseling program, and second,

HUD issued a blanket approval for FMR<sup>236</sup> exception rents for units located in non-impacted areas that accept Section 8. According to HUD Field Office staff, most of the Section 8 recipients rent units in segregated neighborhoods. A few months prior to our visit, OHA hired a Section 8 staff member responsible for contacting landlords with properties in non-impacted areas to increase their awareness of the Section 8 program.

### 2.3.1 Issues in Implementation

In discussions with parties to the *Hawkins* agreement about the Section 8 program, two major issues arose concerning program implementation—timing of subsidy issuance and FMR exception requests.

#### Timing

The plaintiffs' attorney and the mobility counseling program staff told of how, in the past, OHA placed quantities of Section 8 subsidies into the system within a short period of time, thereby significantly increasing the number of people searching for housing. Both the plaintiffs' attorney and housing mobility staff said that now the spacing of Section 8 allocations has improved. According to the mobility program's first year report, 800 subsidies were issued in a 48-day period between mid-November and the end of December, 1994. The attorney's records showed that 42 percent of recipients who received Section 8 in 1995 were briefed within a two-month period and 66 percent of recipients in 1996 were briefed over three months. Project Jericho's report for Year Three stated that approximately 500 subsidies were issued within a 50-day period between early March and late April, 1997. Issuing the subsidies within a short timespan led to increased competition among Section 8 holders seeking housing. This competition in turn led some people either to lease housing of poor quality or to lose the subsidy because they could not find available units. The large releases also made it difficult for mobility program staff to provide adequate

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<sup>236</sup> Omaha FMR levels for 1998 were as follows: \$291 for an efficiency unit; \$399 for a one-bedroom unit; \$503 for a two-bedroom unit; \$660 for a three-bedroom unit; and \$740 for a four-bedroom unit (HUD USER). In 1997 the average sale price of a house in Omaha was \$118,004. Average rent in 1997 on a three-bedroom apartment varied by area of the city: NE Omaha, \$483 for 1100 square feet; SE Omaha, \$591 for 1315 square feet; NW, \$680 for 1328 square feet; and SW, \$708 for 1376 square feet (Greater Omaha Chamber of Commerce, 1998).

services to clients and spurred some landlords to complain about the number of calls they received regarding available units.

## **FMR Exceptions**

In 1995, the HUD Field Office and OHA agreed to develop a form for requesting a 20 percent exception rent. OHA would fax the request form to HUD for a particular property, and then HUD would fax its approval. In 1996 HUD set an automatic FMR exception rate for up to 20 percent above FMR for any unit located in specified majority-white census tracts. While these actions were supposed to facilitate rapid approval of exception rents in order to simplify moves into non-impacted areas, OHA made few exception requests. As late as the spring of 1997, Section 8 recipients reported to Project Jericho staff—and in one instance to the plaintiffs' attorney directly—that they were told by OHA Section 8 staff that there were no FMR exceptions.

## **2.4 Housing Mobility Counseling Program**

The settlement agreement states that HUD will fund and implement a Section 8 mobility counseling program operated by a private, non-governmental housing agency. The settlement outlines, in an appendix, the services to be offered clients, landlord outreach responsibilities, and reporting requirements of the selected agency. The appendix also specifies that the recipients of the 100 restricted Section 8 subsidies must participate in the full counseling program, and that mobility staff are to be permitted to attend any regular Section 8 update and briefing sessions in order to inform people of the mobility services.

The HUD Field Office was responsible for selecting an agency to develop and implement the housing mobility program. HUD staff said they used Chicago's Gautreaux mobility program as a model in developing their Request for Proposals. The settlement required OHA to serve as the conduit for funds between HUD and the agency selected to run the mobility program. According to HUD staff, OHA did not want to participate in the program, but once HUD threatened a lawsuit, the housing authority agreed to its role. HUD issued the RFP and received one proposal before the deadline, from Family Housing Advisory Services, Inc., and then another after the cutoff date from a neighborhood activist group. OHA contracted with Family Housing Advisory Services

(FHAS) in May, 1994, for a four-year program. In 1997, the contract with FHAS was extended through 1999. Mobility staff said that the agency's executive director is working to replace its existing funding to maintain the program after 1999.

FHAS has been involved in housing issues since 1968 and has been a HUD-certified housing counseling agency since the 1970s. FHAS provides education, advocacy and counseling through each of its six centers: Fair Housing Center of Nebraska; HomeSearch Counseling (homeless services); Metro Mediation Center; Project Jericho Mobility Counseling; Pre-Purchase Counseling; and Foreclosure Prevention Counseling. The agency serves the Omaha metropolitan area through its three offices in Omaha and one in Council Bluffs, Iowa. Its only previous housing mobility work involved relocating people displaced by a highway construction project in the 1970s. Staff said that FHAS wanted the contract with HUD because the project fit well with the agency's overall work and came at a time of agency expansion.

#### **2.4.1 Program Structure & Services**

Oversight for the housing mobility program is provided by the Director of HomeSearch and Project Jericho. Direct responsibility for Project Jericho, the mobility program, falls to the Project Coordinator, who also provides direct services to clients. The program has three full-time mobility counselors. HUD channels \$136,000 to Project Jericho per year. In addition, United Way funds from the city of Lincoln, NE, used primarily to fund a financial planning course, cover the costs of one full-time equivalent position.

Project Jericho serves current Section 8 subsidy holders and persons on the Section 8 waiting list. Services provided to clients before a move include: budgeting assistance; van tours to introduce clients to different areas of the city; and packets that include information about stores, daycare providers and other services. The program also provides transportation to clients to view prospective housing units. Once a move is made, staff maintain contact with the client once a month for three months, and then annually thereafter. Clients are provided guidance on housing upkeep, handling repairs, and dealing with neighbors. The program does not provide moving assistance money or security deposits.

In addition to providing direct services to clients, Project Jericho recruits landlords. Staff contact prospective landlords individually or through associations. There are areas of the city in which fewer landlords will agree to rent to Section 8 subsidy holders because of their preconceptions of the program and/or recipients. Staff said that having access to exception rents has helped them reach out into more parts of the city. Also, landlords are encouraged to call Project Jericho staff if they have concerns or problems with the Section 8 program or tenant. Getting the message out about the services offered to both clients and landlords has helped staff's landlord recruitment efforts.

### **2.4.2 Program Access**

When the program first began, Project Jericho staff attended OHA's Section 8 briefings, took down people's names, and told them to call FHAS in order to register for a program orientation session. Now, mobility staff conduct their 45-minute orientation immediately after OHA's two-hour Section 8 briefings. If people are interested in the program, they stay for the orientation. Mobility counselors call people who indicate they are interested in participating in the program to schedule an intake appointment. Participants are not screened.

During the intake meetings, counselors order credit reports for clients and help them review and strategize how to clear up any bad credit or inaccuracies. Counselors also address budgeting concerns. The meeting lasts about an hour. Staff provide clients addresses of housing units located in non-impacted areas, based upon their areas of interest. For those participants who want to live in restricted, or impacted, areas, staff will contact any landlords the clients may find.

Project Jericho staff believe the program has been effective in getting people to consider moves to areas of the city they would not have considered previously, and in bringing new landlords into the Section 8 program. Now that there are a number of households that have made desegregative moves, staff said that current clients can see other examples of people moving into non-impacted areas.

Project Jericho is required, under the terms of the settlement agreement, to provide OHA and HUD with activity reports on a quarterly basis. In addition, the program has submitted annual

reports and a cumulative report prepared in May, 1998. Data on cumulative activity indicate that 930 persons received services, of whom 663, or 72 percent, have been placed in housing. (See Table 6). Of those persons placed, 30 percent moved from impacted to non-impacted areas and 29 percent moved within non-impacted areas. Eight percent moved from non-impacted to impacted areas and 33 percent moved within impacted areas. With regard to displaced tenants, 163 persons have been served from which 135, or 83 percent, were placed. Of those placed, 81 persons, or 60 percent, made moves to non-impacted areas. By the time of our visit in October 1998, staff said that approximately 1,091 OHA clients had been served by Project Jericho.

**Table 6. Project Jericho Activity Through May 1998**

	<b>Number of Households</b>	<b>Percent</b>
Received Services	930	
Placed in Housing	663	72%
<i>Type of Move</i>		
Impacted to Non-Impacted	199	30%
Non-Impacted to Non-Impacted	190	29%
Total Non-Impacted	389	59%
Non-Impacted to Impacted	54	8%
Impacted to Impacted	220	33%
Total Impacted	274	41%

Information taken from Project Jericho data, May, 1998.

### **2.4.3 Issues in Implementation**

Three issues of concern facing implementation of the mobility counseling program emerged from on-site interviews, copies of program reports, and correspondence: landlord participation and rental conditions; Section 8 program administration; and relations between OHA and FHAS/Project Jericho.

#### **Landlord Participation and Rent Conditions**

A number of factors make it difficult for Project Jericho staff to recruit landlords with properties located in non-impacted areas. Staff must try to overcome landlords' stereotypes about racial and ethnic minorities and about people who need housing assistance in general, regardless of race/ethnicity. As staff put it, they have to do "more courting" to bring some landlords on board.

Project Jericho's yearly reports mention mobility constraints caused by many landlords' requirement that tenants pay full security deposits, rather than 30 percent of a month's rent. Also, some landlords require higher credit ratings than many program clients have, and rents in some non-impacted areas of the city are above FMR, even with the 20 percent exception. In addition to these factors, the city has had low rental vacancy rates for a number of years. The program's 1994-1995 yearly report cites occupancy rates of 95 percent that had held for a few years. We were told that there is little incentive for a landlord to let an apartment sit empty during the time it takes to have a unit inspected for inclusion in the Section 8 program.

#### **Section 8 Administration**

Although mobility staff said that the problem has eased, mass Section 8 distributions in the past led to stiff competition among clients for available units and increased the workload for mobility staff. The increased competition for housing led some Section 8 holders to take the first unit they could find rather than conduct a more wide-reaching housing search. Program staff have had to institute waiting lists during times they have operated at capacity. Both situations affected clients' ability to consider or make moves to non-impacted areas. Another factor related to Section 8 was the incorrect information provided some clients regarding availability of FMR exception rents.

## **OHA and FHAS Relations**

The relationship between OHA and FHAS/Project Jericho has improved over the years; however, there is some disagreement among parties interviewed as to the degree of improvement. Apparently, there was what has been described as a “non-cooperative environment” between the two organizations when the mobility program began. Project Jericho did not receive notices of meetings with tenants for a time, which made it difficult to notify people about the program, and staff were, according to one account, escorted out of Section 8 briefings by OHA. FHAS staff thought that the issues mainly occurred between upper-level staff at the two organizations, saying that at the program level, relations were not bad. This view of the situation is supported by a letter written by then-OHA attorney to a HUD attorney in which OHA reports that the then-executive director of FHAS would not return his calls or speak to him. That particular problem was eased with a change in FHAS directors. Current mobility staff said that they receive meeting notices in a more timely manner.

OHA staff said that around the time of the motion to enforce the settlement—December, 1994—relations were heated between the organizations. After the hearing, relations were still difficult, but Project Jericho staff said things have eased in the last year. Both OHA and Project Jericho staff indicated that at present, relations are much improved. HUD Field Office staff see the situation somewhat differently, saying relations between OHA and FHAS/Project Jericho still are not smooth.

Another implementation issue is the ability of the mobility program to meet demand for its services. Early in the implementation of the program, OHA received complaints from Section 8 recipients that they had difficulty reaching counselors or receiving services. The problem could have been an issue of staff capacity, the result of large Section 8 allocations, or a combination of the two. This concern about Project Jericho did not surface in interviews as a current problem, although some focus group participants mentioned similar concerns. Whether or not these participants contacted the program recently or in the past is unclear.

## **2.5 Review of Housing Quality Standards in Section 8 Housing**

The settlement agreement requires HUD to conduct annual housing quality standards (HQS) reviews of 5 percent of Section 8 units in the city for three years. Additionally, HUD must reinspect twice a privately-owned, Section 8 development, Tommie Rose Gardens, according to specified dates, and take appropriate actions. As discussed below, the HQS inspections revealed serious problems, which then led to a series of additional reviews of Section 8 and OHA practices.

The HUD Field Office brought in an independent team of inspectors to conduct the required HQS inspections. The results indicated high failure rates among OHA's Section 8 units. Analyzing the results from the 1994 and 1995 inspections, the attorney for the plaintiffs found higher failure rates among housing units located in the impacted areas of the city. The results indicated a pattern of disparity in housing quality between units rented with a Section 8 subsidy that were located in predominantly white areas of the city and those located in black areas. The plaintiffs' attorney's analysis of the 1996 HQS results found that failure rates had increased.<sup>237238</sup>

The plaintiffs' attorney also was able to compare the quality of Section 8 units into which a small number of displaced Hilltop Homes tenants moved to the larger of sample of units rented with Section 8. Eleven of the units included in the HQS sample were occupied by Hilltop Homes displaced tenants. Of these 11 units, nine failed the inspection. Comparison of the number of serious failures found in the total sample (37 percent) to the sub-sample of Hilltop displaced tenants (55 percent) indicates there are 18 percent more failures among Hilltop displaced tenants than in the Section 8 program as a whole.<sup>239</sup> In light of these results, OHA's plan to replace half of Hilltop Homes with Section 8 subsidies became of concern to the attorney.

The HQS findings, along with the plaintiffs' attorney's call for a review of Section 8 management, led HUD to authorize a comprehensive Management Review of OHA's Section 8 program. HUD again brought in an independent team to conduct the review. The report, which was issued in

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<sup>237</sup> Plaintiffs' attorney has followed closely the HQS review and outcomes. As a result, the attorney was able to provide UI with considerable information regarding the review and concerns with Section 8.

<sup>238</sup> Out of the five percent (226) of the units inspected, 82 percent (186) of the units failed.

<sup>239</sup> Percentages differ slightly from figures provided by the plaintiffs' attorney due to rounding.

January, 1997, verified the high HQS failure rates. Among other findings, the report stated that 67 percent of the inspected units occupied by relocated Hilltop Homes families failed housing quality inspections, and 87 percent of all failed housing was located in impacted areas. The review also found evidence of property owners who purchased rundown houses in impacted areas and rented them through the Section 8 program with little to no rehabilitation (from letter to US HUD General Counsel from the plaintiffs' attorney, June 1997).

The poor HQS results and the request from OHA for additional funds with which to acquire replacement housing spurred the plaintiffs' attorney to call for an independent audit of OHA's use of replacement and Section 8 administrative funds. According to HUD staff, a CPA's review of OHA's Section 8 and public housing financial records turned up differences between OHA audits and the records. Whether from the attorney's request or due to other reasons, two audits of OHA were underway at the time of our site visit.

By June, 1997, the plaintiffs' attorney requested that HUD transfer the administration of the Section 8 program from OHA to a non-profit organization. The request was based upon problems with the use of FMR exception rents, the creation of increased housing competition due to the high number of subsidies placed into the system in short periods of time, and the high rate of HQS failures. No action had occurred in response to this request at the time of our site visit.

HUD inspected 100 percent of the units in the Tommie Rose Gardens development. HUD staff said that the owner of the development was sanctioned for problems that were found, and required to make necessary improvements. Staff reported that the housing is in better condition now, albeit still at a low level.

## **2.6 CDBG Investment, School Busing, and Utility Allowances**

The *Hawkins* settlement agreement includes three additional components, none of which required significant changes in activity. The first of these components directed the City to continue its use of CDBG funds in specified neighborhoods to carry out its Homeowner Housing Rehabilitation Program as long as OHA retains ownership of two named housing developments, or until the specified neighborhoods are no longer blighted and substandard.

Because the City was directed to continue an existing activity rather than create a new program, there has not been much focus on this element of the settlement. The City plans to purchase the Logan Fontenelle site from OHA. It will redevelop half the site as commercial property and half as residential, both homeownership and rental, properties. The Hilltop Homes parcel was sold already to a large African-American church that plans to build a religious and educational campus.

The second component states that HUD is to encourage discussions between the housing authority and the School Board to amend the city's school desegregation plan to eliminate "wrong-way busing." The settlement defines such busing as, "when, pursuant to the OPS desegregation plan, a white child living in federally assisted housing located in an impacted tract is transported to a school in a non-impacted census tract or when a black child living in federally-assisted housing located in a non-impacted census tract is transported to a school located in an impacted tract."

The settlement included the section on busing because, according to HUD Field Office staff, the plaintiffs' attorney's experience working on school desegregation allowed her to foresee the potential for a problem once desegregative housing moves were made. HUD Field Office sent letters to the School Board, OHA and the plaintiffs' attorney to encourage talks on the matter. HUD received a letter from the School Board thanking staff for their concern. HUD staff did meet with a Board President at one point, but as far as staff knows, no action has been taken to address the issue. OHA did say that the Board began discussing the issue last year (1997), but has not heard anything about it since.

The third component requires HUD to review the sufficiency of the utility allowances provided to residents of scattered-site and Section 8 units. HUD Field Office conducted the required review of utility allowances and found them to be sufficient.

### **3.0 Impact on Residents**

To assess the impact of the *Hawkins* settlement on OHA residents, we asked interviewees what they believed the impact to be so far, and we reviewed a number of newspaper articles that discussed moving-related issues. We also held two focus groups with residents who, according to Project Jericho records, either moved from an impacted area into a non-impacted area, or moved within an impacted area following the settlement. Focus group discussions focused on participants' mobility experiences and outcomes. A total of fourteen people attended the two sessions; nine participated in the desegregative movers groups and five participated in the non-desegregative group. Twelve participants were women and twelve were African-American.

The impact of the settlement agreement on OHA residents to date appears to be mixed. Participants in the focus groups discussed a range of experiences, positive and negative, they have had working with the housing authority and with the mobility counseling program. While some people were able to locate housing with the assistance of one or the other agency, others found housing on their own. Unfortunately, a number of participants told about the poor condition of the housing they looked at and, in a number of cases, ultimately rented. Not everyone, however, moved into poor quality housing. Especially in the focus group of desegregative movers, there were people who said they liked their new housing, neighborhood, or both. For a few participants, positive aspects of their moves were tempered by the fact that they moved far from areas with regular public transportation, making travel difficult. In fact, following the first evening's group, we drove one woman home because there was no evening bus service to the far west side of town where she lived.

### **3.1 Efforts to Locate Housing and to Move**

Several participants in each focus group spoke about the excellent assistance they received from Project Jericho staff with locating a new home. People spoke of both emotional and housing-search support. One participant from the desegregative movers' group said:

*I needed a lot of help in finding an apartment and getting around....Actually, I personally wouldn't have been able to make it through that moving process in this amount of time...[a Project Jericho staffer] is the one that really helped out a great deal, making*

*sure things got done, and helping me know my rights and speak up...not be afraid.*

A participant who moved within an impacted area said,

[t]hey picked me up and took me to several houses during the day,...[and] took me home. That was the main thing. And whenever they got a new listing, they would call me and let me know. If I was interested, then they would take me to see it.

One person told of how a staff member called after she had moved into her new home to make sure her move had gone well.

The majority of focus group participants, however, located housing through their own efforts. Some of them tried to work with the mobility program or the housing authority, but had considerable difficulties working with the agencies. A few people said that they had been given addresses of rental properties, either by OHA or Project Jericho, that were occupied, in poor condition, in dangerous areas, or too expensive. One desegregative mover commented that a mobility staff person *“kept giving me houses that were over my budget. And yet they give you a seminar on how to budget.”* Another participant from the same group said that OHA had incorrectly set her rent level, which led her to look at units priced beyond her means. A woman who moved within an impacted area indicated that she was screened out of the mobility program even though the program is not supposed to deny services to clients.

*[Staff] looked at [my credit], she said, ‘Sorry, we cannot help you.’ [And that was it?] That was it....So if it’s set up like that, why are they turning people down for their credit?...I’m like, ‘there’s no way you can like help me?’ She’s like, ‘no ma’am.’*

There were a couple of people who were unable to establish contact with Project Jericho, and eventually gave up. After hearing such diverse accounts of experiences with the mobility program, one participant in the desegregative movers’ group commented, *“I’m trying to*

*understand how even in this small group, there's some that say they got a lot of service and then others that didn't get any. How does this happen with the same program?"*

Regarding the process of moving itself, focus group participants talked about the difficulty a number of them had paying full security deposits. One woman told how she negotiated with the landlord by offering to clean the unit before moving in as her deposit. A couple of people indicated that they had problems as well with the actual move. They said that moving assistance would have been very helpful.

In interviews and during focus group discussions, residents talked about problems posed by transportation and discrimination that affected their housing searches. Section 8 staff at OHA and tenant leaders talked about the fact that many tenants must choose units near bus lines because they do not have a car. The south and west areas of Omaha do not have as good of bus service as other areas. Consequently, many people did not want to move beyond the public transport lines. One participant who made a desegregative move said:

*The areas that I really wanted to move in had better transportation. And I just was not able to, either it was out of my income or [the landlords] didn't rent to Section 8. So I ended up having to move out where, I mean, I'm a church goer, three or four times a week, and I've been here like two months and been to church one time. I can't even get to church because I have no transportation on the weekends. And during the week...it cuts off at 5 o'clock. So if I had been able to move in some of the places that...I looked at, then I wouldn't have the transportation problem that I have. But again, it was move in where I'm at or go to a shelter, so I had to make a split-second decision.*

A couple of focus group participants spoke about the discrimination they faced during their housing searches. One person who moved within an impacted area said, *"I have had situations where I have called and they said, 'oh yeah, the house is for rent.' And then when you get there and they see your color, it's a different story."* Another woman from the same focus group told of a rather odd excuse used by a landlord of a nice house with a yard who, upon seeing her and her

two young sons, said that the boys were not big enough to be in the room that would be their bedroom.

### 3.2 New Housing

Focus group participants also talked about the quality of their rental housing. There was a slight difference in responses between the two groups overall. More people from the group of tenants who made desegregative moves moved into nicer housing compared to the group of people who moved within impacted areas. A number of people had moved into units they liked. The apartments were well maintained, quiet units, some of which had interesting architectural detail that added to the tenants' satisfaction. Still others from both groups recounted stories of dirty hallways and dangerous living conditions. One woman in the desegregative movers' group said that management maintains the appearance of the buildings in the front of the complex, but not that of the less visible buildings. She lives in the back and said that *"they don't even get there to vacuum or nothing. I mean, I pick up Pampers and stuff. I live on the third floor, so all the way down I'm picking up trash out of the hallways."* Her building is new, but already she has found roaches coming from neighbors' units. Another participant who moved within an impacted area said a wall in her basement is caving in due to leakage. She reported the problem to her landlord, who has yet to address the problem.

### 3.3 New Neighborhoods

Focus group participants discussed the neighborhoods into which they moved. A number of people were happy with the quiet and convenience of their location. As one woman who made a desegregative move said, *"I love mine. Mine is quiet...it ain't no drugs...and it's not a lot of kids and it's, I just love it...It's quiet."* Another participant who moved within an impacted area said, *"My son's school is four blocks away. Both the bus line and the supermarket is just three blocks away. The neighbors mind their own business; that's the main thing."*

While many people were happy with where they lived, a number of participants talked about the fact that their neighborhoods were unsafe. A participant in the desegregative movers' group said:

*I mean, the neighborhood I live in, I don't like it because if you got to go to the store, you better go before it gets dark. Sometimes it's scary to even walk to the store when it's daytime, because it's so drug infested, it's gang infested, I mean it's just, it's just terrible.*

One participant who moved within an impacted area recounted problems in the neighborhood, but seemed somewhat resigned to them.

*I had some information [about where I was moving] because my neighbor and I have the same landlord, so I had some information. But I didn't have a clue that there are crack houses on the block, and then there was a shooting this past winter on the block. But all in all, it's ok. Just mind your own business.*

In addition to asking about the overall safety and convenience of new neighborhoods, we were interested in hearing whether or not tenants faced discrimination. Participants who lived in more racially integrated areas did not mention race- or class-based problems with neighbors. Only one person, a participant in the desegregative movers' group, told of a specific problem with her neighbors that she believes to be the result of both racial and class discrimination.

*In my neighborhood,...the apartments and the duplexes, they're racially mixed, whites and blacks. But the houses that are around them that are owned, the majority are owned by whites. And I mean, this is kind of petty, but they throw their branches in my yard, and I've seen them doing it, but what can I do?...They think because I rent or because I'm Section 8 that I'm lower and maybe because I'm not paying full rent, that I'm not productive, you know. It's just obvious, in my neighborhood, it's obvious.*

Interviews with other parties to the *Hawkins* settlement indicated that tenants have had few, if any, problems with neighbors. Both OHA and Project Jericho staff said that there have been a few problems between OHA tenants and neighbors, but no community-wide efforts to block housing mobility efforts. The occasional experience of racism that has occurred, has involved tenants living in OHA scattered-site housing.<sup>240</sup> There have been some neighbors who assume that if an OHA tenant has a visitor, drug transactions are taking place. OHA has received calls from neighborhood organizations complaining about a tenant. Staff said that most of the calls turn out to be groundless claims that have more to do with “NIMBY” attitudes than any real problems created by tenants.

OHA staff did say that staff drove by every unit of scattered-site housing every two weeks to check on the properties. Staff have assisted people with car repair and other concerns relating to the exterior of their houses in order to reduce the likelihood that assisted residents would have problems with their neighbors.

Newspaper stories and tenants tell a somewhat different story about experiences with neighbors. An article in the *Omaha World-Herald* from July, 1995, cited a number of incidents, ranging from taunting of children to property defacement, faced by OHA tenants who moved into scattered-site housing early on (Gonzalez and Burbach, 1995). A small group of public housing tenant leaders told researchers that there still is opposition to OHA residents moving into some neighborhoods.

The newspaper article does say that, for a number of the tenants interviewed, relations with neighbors and classmates have improved over time. However, the piece ends by stating that “many scattered-site residents said they get by partly by accepting that racism and income-based prejudice are facts of life beyond their control” (Gonzalez and Burbach, 1995). Some of the focus group participants in this study said much the same thing. As one woman put it, “*I stay to myself. I have a single, a one-bedroom apartment. Long as I stick to myself, I’m fine.*”

#### **4.0 Summary and Conclusions as of Fall, 1998**

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<sup>240</sup> Before a house is purchased by OHA as a scattered-site unit, public notice is made of the impending sale. Therefore, neighbors know that families in these houses are receiving assistance.

Defendants in the *Hawkins* suit have implemented most elements of the settlement agreement. Of the five major relief elements, four have been implemented fully. The housing authority combined the Section 8 and public housing waiting lists and continues to use its existing Tenant Selection and Assignment Plan. OHA demolished the public housing units at the three developments named in the settlement. OHA received from HUD the 100 new Section 8 subsidies and issued them in accordance with the settlement. HUD selected a provider for the housing mobility counseling program. FHAS, the organization chosen, established Project Jericho and the program continues to function.<sup>241</sup> The program had served 930 households and placed 663 households in housing from when it began through May, 1998. Of the households placed, 59 percent moved into or within non-impacted areas of the city. In addition to initiating the mobility counseling program, HUD conducted the required HQS reviews of Section 8 properties.

OHA has yet to implement fully the requirement to provide replacement housing for tenants displaced from the demolished public housing developments. Partial replacement has occurred, but there are 327 units remaining to be replaced through a mix of new construction and property acquisition. At the time of UI's site visit, OHA staff were developing a plan to meet the replacement requirement. According to HUD Field Staff, in a follow-up contact in February, 1999, no replacement plan had yet been approved and the plaintiffs' attorney filed a letter of non-compliance with HUD, OHA, and the City of Omaha.

The minor elements of the settlement have been implemented. The City of Omaha has continued to invest CDBG funds into specified neighborhoods. HUD raised the issue of wrong-way busing with the School Board and OHA, and reviewed the sufficiency of utility allowances for scattered-site and Section 8 units.

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<sup>241</sup> According to HUD, Project Jericho was discontinued in 1999.

#### 4.1 Inhibitors and Facilitators of Implementation

There are factors that inhibited implementation of settlement elements. One factor was the timing of implementation. OHA elected to demolish all of the required units in a short period of time even though the settlement allowed for staggered demolition. The rapid demolition increased the number of households in need of housing at a given time and OHA has been slow in acquiring replacement housing. The timing of other OHA actions also affected the ability of OHA and Project Jericho staff to assist clients with locating housing. OHA issued large numbers of Section 8 subsidies in short periods of time. In addition to increasing demand in the housing market, these actions slowed clients' access to mobility services. Mobility staff had to develop waiting lists in order to meet the demand for their services. Efforts to assist clients with locating housing were complicated further by the lack of coordination early on between the housing authority and the mobility counseling program.

At least three external factors also inhibited implementation of settlement elements. The political climate, in which city council members were afraid their districts might receive a disproportionate share of assisted housing, slowed the acquisition of housing units. The tight rental housing market in the city has made it difficult to locate affordable housing in non-impacted areas. The rental market factor is exacerbated by the real and perceived discrimination African-American households face when searching for housing in non-impacted areas. The combination of agency slowness to replace housing along with these external factors has led to situation in which available funds for housing replacement are now considered, by OHA, HUD and the plaintiffs' attorney, to be insufficient.

There are also factors that facilitated the implementation of settlement elements in Omaha. One factor was the availability of funds. HUD provided funds for the demolition of public housing units and their replacement. Although OHA has yet to replace all the housing required, it has completed the demolition under *Hawkins*. A second factor has been monitoring of implementation. The plaintiffs' attorney, though not required by the settlement to fulfill a monitoring role, has followed implementation of the mobility counseling program, the acquisition of replacement housing, the use of FMR exception rents, and the HQS studies. In certain instances, the attorney's attention has supplied pressure on the parties to implement elements of the settlement. A third factor has been the improvement of relations between two key parties. OHA and Project Jericho have worked to improve their relations over time. Staff at both organizations said that they work together better now than they did in the past.

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## FOCUS GROUP RECRUITMENT AND SELECTION

Site	Participants	Sample frame	Sampling methodology	Contacts
Allegheny County	Public housing residents who had recently made a desegregated move; person on the Public housing/Section 8 waiting-list will to make a desegregative move	List provided by housing authority	Random sample drawn from 600 families on the housing authority's waiting list and residents	Urban Institute mailed all solicitation letters and received telephone calls from prospective participants. Participants were screened and selected over the telephone
Buffalo	Public housing residents living in developments scheduled for demolition / remodeling	List provided by housing authority of all residents in two developments	Random sample of 100 residents each at Lakeview and A.D. Price developments	Urban Institute mailed 50 solicitation letters each to residents at Lakeview and A.D. Price developments; made telephone calls to residents confirming attendance
Dallas	<p>Section 8 recipients who made a desegregative move</p> <p>Section 8 participants who made a segregative move</p> <p>Section 8 participants who initially made a desegregative move,</p>	Separate lists for each group provided by the Housing Opportunity Program (HOP) of all such recipients since 1995	<p>All recipients on the list (109)</p> <p>Random sample of 100 recipients (out of 849 on list)</p> <p>All recipients on the list (22)</p>	Urban Institute mailed all solicitation letters and received telephone calls from prospective participants. Participants were screened and selected over the telephone

	but moved back to an impacted area			
East Texas:				
Beaumont	Section 8 participants	List of program participants at ceiling rents provided by housing authority	All recipients on the list (97)	Urban Institute mailed all solicitation letters and received telephone call responses from prospective participants
	Participants of the "Beaumont on the Grow" lease-to-own program	List provided by housing authority	All participants on the list (54)	Urban Institute mailed all solicitation letters
Orange County	Section 8 participants	List provided by housing authority	All recipients on the list (19)	Urban Institute had no contact with potential participants
	Non-claimant housing development residents	Resident Initiative Coordinator distributed announcements of meeting throughout development and posted notices on community bulletin boards	All who responded participated in discussion group	

Port Arthur	Claimants who are residents of public housing and on the waitlist for Section 8	List provided by housing authority	All participants who met criteria (82)	Urban Institute mailed all solicitation letters and received responses in writing from prospective participants; UI wrote those selected to confirm participation
East Texas (continued):  Port Arthur	Scattered site residents in Housing Authority home ownership program	List provided by housing authority	All recipients on the list (20)	Urban Institute mailed all solicitation letters and received telephone call responses from prospective participants; UI wrote those to confirm participation
Minneapolis	Relocatees under the consent decree who moved with Section 8 certificates and vouchers (desegregative movers and segregative movers) or relocatees who moved to scattered	List generated by housing authority.	All recipients on the list (264)	The Urban Institute prepared a mailing of solicitation letters in sealed, postage paid envelopes that were sent to MPHA. Staff at the housing authority attached address labels and mailed solicitation letters to recipients on the list.

	site units and public housing units.			UI received telephone calls from prospective participants who were screened and selected.
New Haven	Claimants under the consent decree who already moved with Section 8 certificates or to scattered-site units.	List provided by housing authority and mobility contractor.	All residents on the list (185)	Urban Institute mailed all solicitation letters and received forms from interested participants. Participants were called and sent a letter to confirm their participation.
New York	Claimants under the consent decree who had already moved  Claimants under the consent decree still on the waiting list	Confidential list held by housing authority and not made available to the Urban Institute	Random sample of 100 claimants in each group	Urban Institute mailed solicitation letters to housing authority to forward to sample of claimants. Housing authority was given specific written instructions on sampling procedure. UI received telephone calls from prospective participants who were screened and selected
Omaha	Section 8 recipients who moved outside of impacted tracts.  Section 8 recipients who moved within impacted tracts.	List provided by Project Jericho (mobility program) of all program participants who moved into impacted and nonimpacted tracts. Forwarded to UI by housing authority staff.	Random sample of 100 residents in each group.	Urban Institute mailed 100 solicitation letters to each group and received calls from prospective participants

## INTERVIEW GUIDES

### Attorney Interview Guide

#### (PHA, HUD, Plaintiff)

Thanks for meeting with us today. We're conducting a study for HUD on the *[name]* Consent Decree and we'd like to talk with you about the experiences to date with efforts to implement the various aspects of the decree. We're interested in learning about the successes as well as any difficulties that may have occurred with implementation efforts.

We'll be taking notes during our discussion, but want to assure you that everything you say will be kept strictly anonymous. We will not name you in the report even if we quote something you say. No one but us will see our notes.

#### A. Litigation Status

**1. Have there been any amendments to the consent decree? If yes, please describe.**

- Are there any elements of the consent decree that have been disputed? If yes, please explain?
- Is there any pending litigation?

#### B. Implementation

***[Note: ask individual questions only if provision applies to this site]***

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**1. The [name] consent decree, as we understand it, requires the PHA to change its tenant selection procedures. Is this correct?**

IF YES:

- What types of changes are required (merging Section 8 and PH, etc.)?
- Have these changes been implemented? IF NO: Why not? What is the timetable for implementation?
- How many residents have received assistance since these changes were implemented?
- How have residents responded to these changes?

IF NO:

- What is your understanding of the decree regarding PHA tenant selection procedures?

**2. We understand that the consent decree requires PHA to provide Section 8 subsidies to displaced PHA residents. Is this correct? To other class members?**

IF YES:

- What progress has been made in providing Section 8 to class members? How many have received assistance?
- Has the PHA encountered any problems in providing this Section 8 assistance to displaced residents? To other class members? How are these problems being addressed?
- What is the timetable for providing Section 8 subsidies? Has this changed since the original consent decree? Why/why not?

IF NO:

- What is your understanding of the decree regarding the provision of Section 8 subsidies?

**3. Is it correct that the consent decree includes mobility counseling for class members?**

IF YES:

- Which class members are supposed to receive counseling? Are they required to participate?
- Has PHA started implementing a mobility counseling program?
- Is PHA providing the counseling in-house or did it contract with an NPO?
- IF USING AN NPO: What was the selection process for hiring the NPO? Was an RFP issued? How many organizations responded? Were residents/class members involved in the selection?
- Did the NPO have any prior experience in providing mobility/housing counseling? What type?
- What kind of counseling is being offered to participants (housing search assistance, motivational counseling, information about desegregated areas, assistance in negotiating with landlords, supportive services, follow up services)?
- How many participants have received these services?
- How many have made a desegregative move?
- Have any moved back to their original community?
- Have there been any problems in implementing the mobility program? What kind? (Probe specifically: Community resistance? Participants

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unwilling/reluctant to move to desegregated areas? Transportation? Financial barriers?

IF NO:

- What is your understanding of the decree regarding mobility counseling?

**4. Has the PHA been successful in identifying landlords in low-poverty areas who will accept Section 8? Why/why not?**

**5. Has there been any community resistance to the Section 8 program? To the mobility program in particular?**

- What kinds of problems have there been?
- What kinds of things have been done to overcome these problems?

**6. Is it correct that the consent decree requires the PHA to apply for FMR exception rents?**

IF YES:

- Has the PHA applied for any? For how many areas? For what rent amounts?

IF NO:

- What is your understanding of the decree regarding FMR exception rents?

**7. The consent decree requires the local government to make commitments to removing barriers to affordable housing. Is this correct?**

IF YES:

- What has PHA done to negotiate commitments from local government?
- Has the local government made any changes in zoning regulations? What types of changes?
- What is the current timetable for making these changes?
- How many Section 8 holders have found units in areas subject to these new regulations?

IF NO:

- What is your understanding of the decree regarding the local government's involvement with removing barriers to affordable housing?

**8. The consent decree requires the creation of a fair housing enforcement office. Is this correct?**

IF YES:

- Has this office been created?
  - How is this office administered? By the PHA? By the City?
  - How many complaints has it received?
  - What kind of cases has it reviewed? What determinations were made?
  - How many of these cases have been resolved? How were they settled?

IF NO:

- What is your understanding of the decree regarding the creation of a fair housing enforcement office?

**9. The consent decree, as we understand it, requires the PHA to demolish and replace a number of conventional public housing units. Is this correct?**

IF YES:

- Have the units been demolished?
- How are the units being replaced (tenant-based subsidies, project-based assistance, combination)?
- IF THERE WILL BE PROJECT-BASED REPLACEMENT: How is the redevelopment being funded? HOPE VI? CGP? Is there a plan available? Is some of the development being modernized instead of replaced?
- Where will the new housing be located? On site? In the community? In a different area? IF IN A DIFFERENT AREA: How do the new areas compare with the original location?
- Were the tenants involved in the decisions about where to locate replacement housing?
- How will the new/modernized development be managed? Will it be mixed-income? Private Management? Resident-managed?
- What is the timetable for demolition/providing replacement housing? Has this changed since the original consent decree? Why/why not?
- Has the PHA encountered any barriers in trying to demolish/replace units? What kind? How are they being addressed?

IF NO:

- What is your understanding of the decree regarding the demolition and replacement of public housing units?

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**10. Is it correct that the consent decree requires the PHA to improve conditions in its current public housing stock?**

IF YES:

- What developments are affected? Why were they included?
- Has PHA made any changes in management (private management, site-based, etc.)?
- Have there been any changes in maintenance? What?
- Are any major improvements planned? What?
- How will any improvements be funded (CGP, operating funds, HOPE VI, etc.)?
- How much has been spent to date?
- What changes have been made to date? What is the timetable for the remaining changes?
- What obstacles exist (if any) to making these improvements?

IF NO:

- What is your understanding of the decree regarding improvements to PHA's current housing stock?

**11. Is it correct that the consent decree requires improvements in security?**

IF YES:

- What type of improvements are planned/have been made? PHA police? Hiring of security guards? Community policing? Community crime prevention (tenant patrols)? Security improvements (security systems, gates, fences, ID cards, etc.)? Drug prevention?
- Have these changes had any impact on crime rates in and around the development? Evidence (i.e. actual crime data)?

IF NO:

- What is your understanding of the decree regarding improvements in security?

**12. We understand that the consent decree requires the city or PHA to make improvements in the community around the PHA's developments. Is this correct?**

IF YES:

- What kinds of improvements are planned?
- Are there any plans for redevelopment in the surrounding neighborhood? IF YES:  
What are the plans? Expected costs? Progress to date?
- Are there any plans for specific economic development projects?
- How will these be funded? What are the expected costs? Progress to date?
- Have CDBG funds been applied for? For what purpose?
- How much has been completed to date? How much has been spent?
- What obstacles exist (if any) to making improvements?

IF NO:

- What is your understanding of the decree regarding improvements in the surrounding community?

**13. The consent decree, as we understand it, calls for improvements in access to public transportation for PHA residents. Is this correct?**

IF YES:

- What do these improvements entail? What are the plans, costs, etc?
- How will these changes be funded?

IF NO:

- What is your understanding of the decree regarding public transportation?

### **C. Impact on Residents**

#### **1. How many residents have been affected by the changes that were ordered in the consent decree?**

- How many residents have made desegregative moves? How defined? Evidence?
- How many have participated in the counseling program (if applicable)?
- How many are living in new/revitalized developments?
- How many developments have received improvements?

#### **2. What have been the experiences of residents who have moved or tried to move to desegregated areas?**

- Have any encountered difficulties in moving? What kind? Has the PHA provided any assistance?
- Have any experienced discrimination? Examples? What has the PHA done in response to these problems?

- Do you have a sense of how residents feel about their new communities?

**3. How well has the counseling program worked thus far?**

- Has it been effective in getting people to move to new areas?
- Has it been effective in helping residents become stabilized in their new communities?
- Is it providing adequate services? Are there other things the program could be doing to help people move?

**4. What have been the experiences of residents who have are living in new/revitalized public housing developments?**

- Are they satisfied with maintenance? Why/why not?
- Are they satisfied with security? Why/why not?
- IN NEW/REVITALIZED DEVELOPMENTS: How satisfied are residents with the new housing? Have there been any problems or complaints?

**D. Lessons**

**1. What are the overall lessons to be drawn from the early implementation experience?**

2. Is there anything else you'd like to add about the impact of the consent decree?

**HUD (Fair Housing and Equal Opportunity Staff) FHEO staff****A. Implementation**

***[Note: ask individual questions only if provision applies to this site]***

**1. Is the PHA making any special efforts to identify landlords in low-poverty areas who will accept Section 8?**

- If Yes: What strategies do you use to locate units in desegregated (or low-poverty) areas ?
- Do you make presentations to property management associations?
- What about other strategies like contacting individual landlords through ads, Internet listings, for rent signs, etc.?

**2. Have you encountered any difficulties in recruiting landlords in non-impacted areas for this program?**

- What kinds of problems have you had?
- Have there been any instances of discrimination? What did you do in those cases?
- What kinds of things have you done to overcome these problems?

**3. Have you encountered any community resistance to the Section 8 program? To the mobility program in particular?**

- What kinds of problems have you had?
- What kinds of things have you done to overcome these problems?

**4. Does the consent decree require the PHA to apply for FMR exception rents?**

- Have you applied for any? For how many areas? For what rent amounts?
- How did you determine that exception rents were needed for these areas? Are there other areas where you considered applying for exception rents?
- What are the racial and economic characteristics of these communities?
- How many participants have found units in these areas since the consent decree was implemented?
- IF HAVEN'T APPLIED: Are there any areas that require exception rents? What is the timetable for applying for exception rents? What has prevented you from doing this thus far?

**5. Did the consent decree require the local government to make any commitments to removing barriers to affordable housing?**

- How did you determine what barriers existed?

- What has PHA done to negotiate commitments from local government?
- Has the local government made any changes in zoning regulations? What types of changes?
- What is the current timetable for making these changes?
- How many Section 8 holders have found units in areas subject to these new regulations?

**6. Does the consent decree require the creation of a fair housing enforcement office?**

[Note--who is required to do this? City or PHA?]

- How is this office administered?
- How many complaints has it received?
- What kind of cases has it reviewed? What determinations were made?
- How many of these have been resolved? How were they settled?

**7. What are the overall lessons to be drawn from the early implementation experience?**

## HUD PIH Staff

### A. Implementation

*[Note: ask individual questions only if provision applies to this site]*

**1. Was the local HUD office asked to give approvals on any procedures implementing the consent decree or make any regulatory interpretations related to contracting or procurement?**

**2. Does the consent decree require PHA to make any changes to its tenant selection procedures?**

- IF YES: What types of changes (merging Section 8 and PH, etc.)
- Have these changes been implemented? IF NO: Why not? What is the timetable for implementation?
- How many residents have received assistance since these changes were implemented?
- How have residents responded to these changes?

**3. Does the consent decree require PHA to provide Section 8 subsidies to displaced PHA residents? Other class members?**

- What progress has been made in providing Section 8 to class members? How many have received assistance?
- Have you encountered any problems in providing this Section 8 assistance to displaced residents? To other class members? How are these problems being addressed?
- What is the timetable for providing Section 8 subsidies? Has this changed since the original consent decree? Why/why not?

**4. Does the consent decree include mobility counseling for any class members?**

- Which class members are supposed to receive counseling? Are they required to participate?
- Has PHA started implementing a mobility counseling program?
- Is PHA providing the counseling in-house or did it contract with an NPO?
- IF USING AN NPO: What was the selection process for hiring the NPO? Was an RFP issued? How many organizations responded? Were residents/class members involved in the selection?
- Did the NPO have any prior experience in providing mobility/housing counseling? What type?

- 
- What kind of counseling is being offered to participants (housing search assistance, motivational counseling, information about desegregated areas, assistance in negotiating with landlords, supportive services, follow up services)?
  - How is the NPO/PHA identifying units in desegregated areas? Recruiting landlords to participate?
  - Have you encountered any problems in implementing the mobility program? What kind? (Probe specifically: Community resistance? Participants unwilling/reluctant to move to desegregated areas? Transportation? Financial barriers?)

**5. Does the consent decree require PHA to demolish and replace any conventional public housing units?**

- Have any units been demolished?
- How are the units being replaced (tenant-based subsidies, project-based assistance, combination)?
- IF THERE WILL BE PROJECT-BASED REPLACEMENT: How is the redevelopment being funded? HOPE VI? CGP? Is there a plan available? Is some of the development being modernized instead of replaced?
- How will the new/modernized development be managed? Will it be mixed-income? Private management? Resident-managed?
- What is the timetable for demolition/providing replacement housing? Has this changed since the original consent decree? Why/why not?

- Have you encountered any barriers in trying to demolish/replace units? What kind? How are they being addressed?

**6. Does the consent decree require PHA to improve conditions in any of its current public housing stock?**

- What developments are affected? Why were they included?
- Has PHA made any changes in management (private management, site-based, etc.)?
- Have there been any changes in maintenance? What?
- Are any major improvements planned? What?
- How will any improvements be funded (CGP, operating funds, HOPE VI, etc.)?
- How much has been spent to date?
- What changes have been made to date? What is the timetable for the remaining changes?
- What obstacles exist (if any) to making these improvements?

**7. Does the consent decree require any improvements in security?**

- What types of improvements are planned/have been made? PHA police? Hiring of security guards? Community policing? Community crime prevention (tenant

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patrols)? Security improvements (security systems, gates, fences, ID cards, etc.)? Drug prevention?

- How are these security measures funded (PHDEP, CGP, operating funds, other)?
- Are they being provided by the PHA or through partnerships with outside agencies (police, social service agencies, etc.)?
- What obstacles exist (if any) to making these improvements?
- Have these changes had any impact on crime rates in and around the development? Evidence (i.e. actual crime data)?

**8. Does the consent decree require that the city or PHA make improvements in the community around the PHA's developments?**

- What kinds of improvements are planned?
- Are there any plans for redevelopment in the surrounding neighborhood? IF YES: What are the plans? Expected costs? Progress to date?
- Are there any plans for specific economic development projects?
- How will these be funded? What are the expected costs? Progress to date?
- Have CDBG funds been applied for? For what purpose?
- How much has been completed to date? How much has been spent?
- What obstacles exist (if any) to making these improvements?

**9. Does the consent decree call for any improvements in access to public transportation for PHA residents?**

- What do these improvements entail? What are the plans, costs, etc.?
- How will these changes be funded?

**10. What are the overall lessons to be drawn from the early implementation experience?**

## Local Government Staff Interview Guide

Thanks for meeting with us today. We're conducting a study for HUD on the *[name]* Consent Decree and we'd like to talk with you about the involvement of the local government in implementing elements of the decree to date.

We'll be taking notes during our discussion, but want to assure you that everything you say will be kept strictly anonymous. We will not name you in the report even if we quote something you say. No one but us will see our notes.

***[NOTE: Ask individual questions only if provision applies to this site.]***

### 1. What is the role of the local government in the lawsuit?

- What is the local government required to do according to the consent decree?
- Does it play a role in monitoring implementation?

**2. The consent decree, as we understand it, requires the local government to make commitments to removing barriers to affordable housing. Is this correct?**

IF YES:

- What has the local government agreed to do?
- Has the local government made any changes in zoning regulations? What types of changes?
- What is the current timetable for making these changes?

IF NO:

- What is your understanding of the decree regarding local government involvement with removing barriers to affordable housing?

**3. We understand that the consent decree requires the creation of a fair housing enforcement office. Is this correct?**

IF YES:

- Who is required to do this? City or PHA?
- How is this office administered?
- How many complaints has it received?
- How many of these complaints have been resolved? Litigated?

IF NO:

- What is your understanding of the decree regarding the creation of a fair housing enforcement office?

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**4. We understand the consent decree requires the city to make improvements in the community around the PHA's developments. Is this correct?**

IF YES:

- What kinds of improvements are planned?
- Are there any plans for redevelopment in the surrounding neighborhood? IF YES: What are the plans? Expected costs? Progress to date?
- Are there any plans for specific economic development projects?
- How will these be funded? What are the expected costs? Progress to date?
- Have CDBG funds been applied for? For what purpose?
- How much has been completed to date? How much has been spent?
- What obstacles exist (if any) to making these improvements?

IF NO:

- What is your understanding of the decree regarding community improvements?

**5. Is it correct that the consent decree requires the PHA to demolish and replace a number of its conventional public housing units?**

IF YES:

- What has been the role of the local government in bringing about the demolition and replacement? Selecting sites, funding, etc.?
- Have any units been demolished?

- How are the units being replaced (tenant-based subsidies, project-based assistance, combination)?
- IF THERE WILL BE PROJECT-BASED REPLACEMENT: How is the redevelopment being funded? HOPE VI? CGP? Is the local government assisting with financing (leveraging funds, tax credits)? Is there a plan available? Is some of the development being modernized instead of replaced?
- Where will the new housing be located? On site? In the community? In a different area? IF IN A DIFFERENT AREA: How do the new areas compare with the original location?
- Were the tenants involved in the decisions about where to locate replacement housing?
- How will the new/modernized development be managed? Will it be mixed-income? Private management? Resident-managed?
- What is the timetable for demolition/providing replacement housing? Has this changed since the original consent decree? Why/why not?
- Has the PHA encountered any barriers in trying to demolish/replace units? What kind? How are they being addressed?

IF NO:

- What is your understanding of the decree regarding the demolition and replacement of public housing units?

**6. Is it correct that the consent decree requires PHA to improve conditions in its current public housing stock?**

IF YES:

- What developments are affected? Why were they included?
- Has PHA made any changes in management that you are aware of (private management, site-based, etc.)?
- Have there been any changes in maintenance? What?
- Are any major improvements planned? What?
- How will any improvements be funded (CGP, operating funds, HOPE VI, etc.)?
- How much has been spent to date?
- Have there been changes in security?
  - What changes have been made to date? What is the timetable for the remaining changes?
  - What obstacles exist (if any) to making these improvements?

IF NO:

- What is your understanding of the decree regarding PHA efforts to improve the conditions in its housing stock?

**7. Is it correct that the consent decree calls for improvements in access to public transportation for PHA residents?**

IF YES:

- What do these improvements entail? What are the plans, costs, etc.?
- How will these changes be funded?

IF NO:

- What is your understanding of the decree regarding public transportation?

**8. What are the overall lessons to be drawn from the early implementation experience?**

**9. Is there anything else you would like to add about the impact or implementation of the consent decree?**

## Housing Mobility Staff Interview Guide

Thanks for meeting with us today. We're conducting a study for HUD on the *[name]* Consent Decree and we'd like to talk with you about features of your housing mobility program and your experiences with the program to date.

We'll be taking notes during our discussion, but want to assure you that everything you say will be kept strictly anonymous. We will not name you in the report even if we quote something you say. No one but us will see our notes.

### A. Background

***[Note: This guide assumes the PHA has contracted with an NPO to provide the mobility counseling. This may not be true in all cases, e.g. Dallas. The guide will be adapted for those sites.]***

1. **When did the mobility program for PHA tenants begin?**
  - Is there a contract with the PHA? If so, when did you get it?
2. **How did your organization become involved with mobility counseling for PHA?**

- What was the selection process?
- Why did you choose to apply?

**3. Does your organization have prior experience in providing housing counseling?**

- Provided mobility counseling in other programs?
- Provided housing counseling?
- Worked on other PHA programs?
- Worked with low-income populations?
- Provided transitional assistance for homeless?
- Done housing relocation?

**4. What other kinds of services does your organization provide?**

- Employment & training?
- Family counseling?
- Parenting and child care services?
- Advocacy?
- Other types of services?

**B. Litigation Status**

1. · Was your organization involved in enforcing the consent decree?

**C. Landlord Outreach**

1. **How do you locate units in desegregated (or low-poverty) areas ?**

- Presentations to property management associations?
- Contacting individual landlords through ads, Internet listings, for rent signs, etc.?

2. **Have you encountered any difficulties in recruiting landlords in non-impacted areas for this program?**

- What kinds of problems have you had?
- Have there been any instances of discrimination? What did you do in those cases?
- What kinds of things have you done to overcome these problems?

3. **Have you encountered any community resistance to this program?**

- What kinds of problems have you had?
- What kinds of things have you done to overcome these problems?

#### **D. Counseling**

##### **1. When did/will your organization start providing services to PHA clients under the consent decree?**

- How many housing counseling staff do you have?
- How many landlord outreach staff do you have?
- How much funding do you receive from the PHA? Do you have any other sources of funding for this program?
- How many PHA clients have you served to date?
- How many clients have been placed in non-impacted areas?
- What are your average costs per family counseled? Per family placed?

##### **2. What kind of monitoring do/will you receive from the PHA?**

- Do you hold regular meetings?
- Prepare reports?

##### **3. How would you characterize your working relationship with the PHA?**

- Have PHA staff been cooperative in getting the mobility program started?
- Do you feel the PHA is supportive of the mobility program? Why/why not?

**4. How do/will you get clients from the PHA?**

- Does PHA send a list?
- Do you recruit at the Section 8 briefing?
- Do you hold other types of group sessions to recruit clients?

**5. What kind of application or screening process do/will you have?**

- Are you required to serve all clients from the PHA?
- Which class members are supposed to receive counseling? Are they required to participate?

**6. A. What services do/will you offer to participants in house?**

**B. What services do/will you offer through referrals?**

- Housing search assistance? What kind?
- Providing rental listings in desegregated/low-poverty areas?
- Information about desegregated/low-poverty communities? How provided?
- Assistance in negotiating with landlords?
- Motivational counseling?
- Fair housing information?
- Budgeting assistance?
- Credit counseling?
- Housekeeping training?
- Supportive services (family counseling, employment related counseling)?
- Advocacy with other agencies (PHA, welfare, etc.)
- Referrals/linkages to services in the new community?
- Follow up services? For how long?
- Help with security deposits?
- Other assistance like help with appliances, food, clothes, other goods?

**7. What are the typical steps a client would go through in searching for housing and receiving counseling services?**

- Do clients search independently?
- Are supportive services provided before the move or after (or both)?

- Do all clients receive the same package of services? IF NO: How do you determine how much service to provide?

**8. What other services, if any, do you think would make your program more effective?**

**9. We understand that the consent decree requires the creation of a fair housing enforcement office. Is this correct?**

IF YES:

- Who is required to create this office? City or PHA?
- Have you referred any of your clients to this office because of discrimination?

**D. Impact on Residents****1. Have participants encountered any barriers to moving to desegregated areas?**

- Discrimination?
- Problems with transportation?
- Money for security deposits, moving expenses?
- Fear of moving to unfamiliar areas, away from services, etc.?

**2. What has been the experience of residents who have moved to desegregated areas?**

- Have they gained any benefits from the move (schools, safety, jobs, better housing?)
- Have any encountered difficulties in moving? What kind? Has the PHA provided any assistance?
- Have any experienced discrimination? Examples? What has the PHA done in response to these problems?
- Do you have a sense of how residents feel about their new communities?

**3. How well has the counseling program worked thus far?**

- Has it been effective in getting people to move to new areas?
- How many clients have been counseled? How many have moved to these areas?
- Has it been effective in helping residents become stabilized in their new communities?
- Have any residents moved back? How many?
- How many clients are receiving supportive/follow up services?
- Do you have any program reports we could see?
- Is it providing adequate services? Are there other things the program could be doing to help people move?

## **E. Summary**

### **1. To sum up, how effective do you think that the mobility program has been/will be in reducing segregation in your PHA?**

- Are residents receiving new opportunities?
- Has the PHA corrected existing problems?
- Are there other areas that still need to be addressed?

### **2. What do you think the racial composition of the PHAs' developments will be in five years?**

- Do you think there will be any substantial changes? Why/Why not?

**3. What advice would you give someone who was trying to start a mobility counseling program in their community?**

**4. Do you have any program materials that I can see, for example, brochures or intake forms?**

**5. What are some of the overall lessons to be drawn from the early implementation experience?**

**6. Finally, is there anything else you would like to add about the mobility program?**

## PHA Desegregation Staff Interview Guide

Thanks for meeting with us today. We're conducting a study for HUD on the *[name]* Consent Decree and we'd like to talk with you about your experiences implementing the various aspects of the consent decree and what you think the effects of the decree have been on PHA residents to date. We also have a few questions on the availability of data from PHA.

We'll be taking notes during our discussion, but want to assure you that everything you say will be kept strictly anonymous. We will not name you in the report even if we quote something you say. No one but us will see our notes.

### A. Background

#### 1. I'd like to start by getting a little background about this PHA.

[NOTE: VERIFY THE INFORMATION WE'VE RECEIVED IN ADVANCE]

- How many public housing units do you have? Conventional vs. Scattered site?
- How many Section 8?
- How many developments? Average age? [Get list]

#### 2. What was your most recent PHMAP score?

- Can I get a copy of the assessment today?
- Is the PHA appealing any of the scores?
- Can I get the PHA's overall PHMAP scores from 1996? From the year the consent decree was issued?

**3. What kind of historical data does PHA have available on the racial composition and physical condition of its conventional developments? [Note: this may be more appropriate for an MIS person. Verify information provided by phone/mail; arrange to see data if haven't received it in advance]**

- How far back do your data go? Do they go as far back as 1993?
- Can you provide us with the addresses of all public housing developments in use in 1980 and 1990?
- What form are the data in? (computer, files, ledgers, reports, etc.)

**4. What kind of historical information does PHA have about the racial composition of Section 8 recipients?**

- Can you provide us with records of participant addresses by race from 1990 and 1996? When the consent decree was filed? (i.e., (probe for available data closest to 1990))
- What form are the data in? (computer, files, ledgers, reports, etc.)

**B. Implementation**

***[Note: ask individual questions only if provision applies to this site]***

- 1. The [name] consent decree, as we understand it, requires the PHA to change its tenant selection procedures. Is this correct?**

IF YES:

- What types of changes are required (merging Section 8 & PHA waiting lists, etc.)?
- Have these changes been implemented? IF NO: Why not? What is the timetable for implementation?
- How many residents have received assistance since these changes were implemented?
- How have residents responded to these changes?

IF NO:

- What is your understanding of the decree regarding PHA tenant selection procedures?

- 2. We understand that the consent decree requires PHA to provide Section 8 subsidies to displaced PHA residents. Is this correct? To other class members?**

IF YES:

- 
- What progress has been made in providing Section 8 to class members? How many have received assistance?
  - Have you encountered any problems in providing this Section 8 assistance to displaced residents? To other class members? How are these problems being addressed?
  - What is the timetable for providing Section 8 subsidies? Has this changed since the original consent decree? Why/why not?

IF NO:

- What is your understanding of the decree regarding the provision of Section 8 subsidies?

**3. Is it correct that the consent decree includes mobility counseling for class members?**

IF YES:

- Which class members are supposed to receive counseling? Are they required to participate?
- Has PHA started implementing a mobility counseling program?
- Is PHA providing the counseling in-house or did it contract with an NPO?
- IF USING AN NPO: What was the selection process for hiring the NPO? Was an RFP issued? How many organizations responded? Were residents/class members involved in the selection?
- Did the NPO have any prior experience in providing mobility/housing counseling? What type?

- 
- What kind of counseling is being offered to participants (housing search assistance, motivational counseling, information about desegregated areas, assistance in negotiating with landlords, supportive services, follow up services)?
  - How many participants have received these services?
  - How many have made a desegregative move?
  - Have any moved back to their original community?
  - Have you encountered any problems in implementing the mobility program? What kind? (Probe specifically: Community resistance? Participants unwilling/reluctant to move to desegregated areas? Transportation? Financial barriers?)

IF NO:

- What is your understanding of the decree regarding mobility counseling?

**4. Is the PHA making any special efforts to identify landlords in non-impacted areas who will accept Section 8?**

- IF YES: What strategies do you use to locate units in desegregated (or low-poverty) areas ?
- Do you make presentations to property management associations?
- What about other strategies like contacting individual landlords through ads, Internet listings, for rent signs, etc.?

**5. Have you encountered any difficulties in recruiting landlords in non-impacted areas for this program?**

- What kinds of problems have you had?
- Have there been any instances of discrimination? What did you do in those cases?
- What kinds of things have you done to overcome these problems?

**6. Have you encountered any community resistance to the Section 8 program? To the mobility program in particular?**

- What kinds of problems have you had?
- What kinds of things have you done to overcome these problems?

**7. Is it correct that the consent decree requires the PHA to apply for FMR exception rents?**

IF YES:

- Have you applied for any? For how many areas? For what rent amounts?
- How did you determine that exception rents were needed for these areas? Are there other areas where you considered applying for exception rents?
- What are the racial and economic characteristics of these communities?
- How many participants have found units in these areas since the consent decree was implemented?
- IF HAVEN'T APPLIED: Are there any areas that require exception rents? What is the timetable for applying for exception rents? What has prevented you from doing this thus far?

IF NO:

- What is your understanding of the decree regarding FMR exception rents?

**8. The consent decree requires the local government to make commitments to removing barriers to affordable or fair housing. Is this correct?**

IF YES:

- How did you determine what barriers existed?
- What has PHA done to negotiate commitments from local government?
- Has the local government made any changes in zoning regulations? What types of changes?
- What is the current timetable for making these changes?
- How many Section 8 holders have found units in areas subject to these new regulations?

IF NO:

- What is your understanding of the decree regarding the local government's involvement with removing barriers to affordable housing?

**9. The consent decree requires the creation of a fair housing enforcement office. Is this correct?**

IF YES:

- Has this office been created?

- How is this office administered? By the PHA? By the City?
- How many complaints has it received?
- What kind of cases has it reviewed? What determinations were made?
- How many of these cases have been resolved? How were they settled?

IF NO:

- What is your understanding of the decree regarding the creation of a fair housing enforcement office?

**10. The consent decree, as we understand it, requires the PHA to demolish and replace a number of conventional public housing units. Is this correct?**

IF YES:

- Have the units been demolished?
- How are the units being replaced (tenant-based subsidies, project-based assistance, combination)?
- IF THERE WILL BE PROJECT-BASED REPLACEMENT: How is the redevelopment being funded? HOPE VI? CGP? Is there a plan available? Is some of the development being modernized instead of replaced?
- Where will the new housing be located? On site? In the community? In a different area? IF IN A DIFFERENT AREA: How do the new areas compare with the original location?
- Were the tenants involved in the decisions about where to locate replacement housing?
- How will the new/modernized development be managed? Will it be mixed-income? Private Management? Resident-managed?
- What is the timetable for demolition/providing replacement housing? Has this changed since the original consent decree? Why/why not?
- Have you encountered any barriers in trying to demolish/replace units? What kind? How are they being addressed?

IF NO:

- What is your understanding of the decree regarding the demolition and replacement of public housing units?

**11. Is it correct that the consent decree requires the PHA to improve conditions in its current public housing stock?**

IF YES:

- What developments are affected? Why were they included?
- Has PHA made any changes in management (private management, site-based, etc.)?
- Have there been any changes in maintenance? What?
- Are any major improvements planned? What?
- How will any improvements be funded (CGP, operating funds, HOPE VI, etc.)?
- How much has been spent to date?
- What changes have been made to date? What is the timetable for the remaining changes?
- What obstacles exist (if any) to making these improvements?
- Can I get a copy of the CGP application that describes these changes?

IF NO:

- What is your understanding of the decree regarding improvements to PHA's current housing stock?

**12. Is it correct that the consent decree requires improvements in security?**

IF YES:

- What type of improvements are planned/have been made? PHA police? Hiring of security guards? Community policing? Community crime prevention (tenant

patrols)? Security improvements (security systems, gates, fences, ID cards, etc.)? Drug prevention?

- How are these security measures funded (PHDEP, CGP, operating funds, other)?
- Are they being provided by the PHA or through partnerships with outside agencies (police, social service agencies, etc.)?
- What obstacles exist (if any) to making these improvements?
- Have these changes had any impact on crime rates in and around the development? Evidence (i.e. actual crime data)?

IF NO:

- What is your understanding of the decree regarding improvements in security?

**13. We understand that the consent decree requires the city or PHA to make improvements in the community around the PHA's developments. Is this correct?**

IF YES:

- What kinds of improvements are planned?
- Are there any plans for redevelopment in the surrounding neighborhood? IF YES:  
What are the plans? Expected costs? Progress to date?

- Are there any plans for specific economic development projects?
- How will these be funded? What are the expected costs? Progress to date?
- Have CDBG funds been applied for? For what purpose?
- How much has been completed to date? How much has been spent?
- What obstacles exist (if any) to making improvements?

IF NO:

- What is your understanding of the decree regarding improvements in the surrounding community?

**14. The consent decree, as we understand it, calls for improvements in access to public transportation for PHA residents. Is this correct?**

IF YES:

- What do these improvements entail? What are the plans, costs, etc?
- How will these changes be funded?

IF NO:

- What is your understanding of the decree regarding public transportation?

### **C. Impact on Residents**

**1. How many residents have been affected by the changes that were ordered in the consent decree?**

- How many residents have made desegregative moves? How defined? Evidence?
- How many have participated in the counseling program (if applicable)?
- How many are living in new/revitalized developments?
- How many developments have received improvements?

**2. What have been the experiences of residents who have moved or tried to move to desegregated areas?**

- Have any encountered difficulties in moving? What kind? Has the PHA provided any assistance?

- Have any experienced discrimination? Examples? What has the PHA done in response to these problems?
- Do you have a sense of how residents feel about their new communities?

**3. How well has the counseling program worked thus far?**

- Has it been effective in getting people to move to new areas?
- Has it been effective in helping residents become stabilized in their new communities?
- Is it providing adequate services? Are there other things the program could be doing to help people move?

**4. What have been the experiences of residents who are living in new/revitalized public housing developments?**

- Are they satisfied with maintenance? Why/why not?
- Are they satisfied with security? Why/why not?
- IN NEW/REVITALIZED DEVELOPMENTS: How satisfied are residents with the new housing? Have there been any problems or complaints?

**D. Summary**

**1. To sum up, how effective do you think implementation of the consent decree has been in helping to reduce segregation in your PHA?**

- Are residents receiving new opportunities?
- Has the PHA corrected existing problems?
- Are there other areas that still need to be addressed?

**2. What do you think the racial composition of the PHAs' developments will be in five years?**

- Do you think there will be any substantial changes? Why/Why not?

**3. What lessons have you learned from the early implementation experience?**

- Is there anything that you have done differently?
- What advice would you give another PHA facing the same issues?

**4. Is there anything else you'd like to add about the impact of the consent decree?**

## Tenant Leader Interview Guide

*(May be group interview)*

Thanks for meeting with us today. We're conducting a study for HUD on the *[name]* Consent Decree--an agreement reached between HUD, PHA, & local Section 8 administrators and minority residents of PHA & recipients of Section 8 certificates to end discriminatory practices in housing assistance and to improve conditions in public housing developments. We'd like to talk with you about efforts to date to implement the decree.

We'll be taking notes during our discussion, but want to assure you that everything you say will be kept strictly anonymous. We will not name you in the report even if we quote something you say. No one but us will see our notes.

### **A. Implementation**

***[Note: Ask questions only if provision applies to your site]***

- 1. One of the things the PHA is supposed to do is to improve conditions in certain developments to make them equal to developments in desegregated/low-poverty areas. Are you aware of any changes in *[insert names]* developments?**

- Have there been any changes in PHA management (e.g., going to private management or resident-management)? What do you think has been the effect of these changes?
- Have there been any changes in maintenance (e.g., more or better janitors)? What?
- Has the PHA made any improvements in [name of development]? To individual units? Common areas? Grounds?
- Have there been any improvements in security (e.g., hiring guards, community policing, drug prevention program, new security measures)? Have these changes reduced crime?
- Are there still other improvements that need to be made to make this development equal to developments in desegregated areas?
- Have there been any changes made to the public transportation system in this area? What?

**2. Another thing this PHA is supposed to do is demolish and replace units in [name of development]. Have any units been demolished?**

IF YES:

- How have tenants responded to the demolition? Were there concerns about losing housing, having to move, changes in the community, etc.?
- What kind of replacement housing did the PHA offer? Section 8? Units in other developments? Temporary relocation while new housing was constructed? Assistance with security deposits and other moving expenses?
- Has the PHA provided enough assistance to families who had to move? IF NO: What other kinds of assistance should it have provided?

IF NO:

- Do you know what the tenant relocation, demolition, and replacement plans are?
- Do you know what the timetable for relocation, demolition and replacement is?
- What are tenants' concerns about losing housing, having to move, changes in the community, etc.?

IF NEW HOUSING IS BEING CONSTRUCTED:

- Are there any plans to make the new development a mixed-income community? Will the original tenants be able to move back if they want to?
- Where is the new housing being constructed? On-site? In the community? In a different area?

IF IN A DIFFERENT AREA:

- How does this compare to the old neighborhood?
- Were residents involved in choosing the new locations? How do residents feel about the new housing? The new location?

**3. The PHA and the City government are supposed to make improvements in the community around this development. Have there been any changes like new sidewalks or repaved streets?**

- Have there been any other types of changes?
- Has there been any improvement in problems like litter, abandoned cars, broken windows, and graffiti? What kinds of changes? Who has been responsible for the changes?
- Are there any new things like parks, trees, or playgrounds in the community?
- Are there any new businesses in the area?
- Are there any new social service agencies (Boys and Girls Club, etc.)?
- Are there any new job opportunities or job training programs?

- Have there been any changes in the transportation in this area? Please describe.

**4. Are you satisfied with the speed at which the consent decree is being implemented?**

**B. Impact on Residents**

**1. Have any new tenants moved into this development because of the consent decree?**

- How many new tenants have moved in?
- Have there been any problems with the new tenants? Any advantages to having them here?
- How have the old tenants felt about the new people moving in?

**2. How have people felt about moving to new or revitalized developments like [development name]?**

- How satisfied are residents with the new housing? Have there been any problems or complaints?
- Are they satisfied with maintenance? Why/why not?
- Are they satisfied with security? Why/why not?

**C. Lessons**

**1. What are the overall lessons to be drawn from the early implementation experience?**

**2. Is there anything else you would like to add about the impact or implementation of the consent decree?**

**PUBLIC HOUSING DESEGREGATION  
FOCUS GROUP PROTOCOL MODULES**

**MODULE 1**

GENERAL THOUGHTS ON MOVING - OPENER

To begin, please introduce yourself and tell us something about yourself, like where you live and how long you've lived there.

- For Non-Movers Who Did Not Participate in a Housing Counseling Program
  
- For Non-Movers Who Were Required to Participate in a Housing Counseling Program
  2. [If Applicable] You participated in the *[Name of Housing Counseling program]* because you wanted to make a move. Why did you want to move? *[Probe for: concern for safety, better schools, access to jobs, to be near family/friends, had to move, wanted different type of housing]*
  
- For All Movers

1. Each of you recently moved to a new neighborhood. Why did you decide to move?

*[Probe for: concern for safety, better schools, access to jobs, to be near family/friends, had to move, wanted different type of housing]*

2. Before you moved, what did you know about your new neighborhood? *[Probe for: prior knowledge about schools, crime, jobs, shopping, types of neighbors]*. How did you find out this information?

**MODULE 2**

## NEIGHBORHOOD ACCEPTANCE OF INTEGRATION

- For All Movers

1. What do you like about your new neighborhood? What don't you like about it?
2. Did you consider moving to any other neighborhoods? How were these different from the one you eventually moved to? Why did you decide not to move to any of these other ones?
3. Tell me a little about the people who live in your neighborhood? [*Probe for: race/ethnicity, age, family status, employment status, etc.*]

- For Desegregative Movers

4. Do you think the people in your neighborhood are open to new people/families moving in? Why or why not?
5. Do you think the people in your neighborhood are open to non-white people/families moving in? Why or why not?

6. How do you feel about living in a neighborhood that's mostly white? What kind of issues has this raised for you? Can you give me some specific examples of how this has affected you and your family [*Probe for both positive and negative effects*]?

- For Segregative Movers

4. Do you think the people in your neighborhood are open to new people/families moving in? Why or why not?

5. Do you think the people in your neighborhood are open to people of different races/ ethnic groups moving in? Why or why not?

6. Would you/did you consider moving to a neighborhood that was predominantly white? Why or why not? Can you give me some specific examples of how such a move might have affected you and your family [*Probe for both positive and negative effects*]?

- For Non-Movers

1. What kinds of neighborhoods did you consider moving to?
2. Please tell me about these neighborhoods. What did you like/not like about them?

*[Probe for: crime, schools, racial makeup, jobs, stores, etc.]*

3. Do you think the neighborhoods in this community/area are open to people of the different races or ethnic groups? Why or why not?

4. Do you think it is difficult in this community/area for people to move to neighborhoods where most everyone is of the opposite race? Why or why not?

5. Would you/did you consider moving to a neighborhood that was predominantly white? Why or why not? Can you give me some specific examples of how such a move might affect you and your family *[Probe for both positive and negative effects]*?

### MODULE 3

#### BARRIERS TO MOVING

- For All Movers
  1. What were some of the most difficult parts of your move? *[Probe for: security deposit, transportation, unfamiliarity with area, new neighbors, leaving friends and family, new schools, access to health and other services].*
  2. How did you overcome these difficulties?
  
- For Non-Movers
  1. What were some of the most difficult aspects in trying to move? *[Probe for: security deposit, transportation, unfamiliarity with area, new neighbors, leaving friends and family, new schools, access to health and other services].*
  2. Why did you decide not to move?

**MODULE 4**

## MOVE BACK OPTION

- For Section 8 Holders W/option to Move to PH When Available
  1. Are you planning/would you like to move to a public housing unit when one becomes available? *[If YES] Why?*
  2. *[If YES]* If you have a particular development in mind, why do you want to move there?
  
- For Section 8 Desegregative Movers W/option to Move Back to Segregative Areas
  1. When your lease is up, will you consider/have you considered moving from your present neighborhood? *[If YES] Why?*
  2. *[If YES]* If you have a particular neighborhood in mind, why have you chosen to move to there?

**MODULE 5**

## HOUSING COUNSELING PROGRAM

- For Those Not Required to Participate in Housing Counseling Program
  1. Do you know about the *[Name of Housing Counseling program]*? What had you heard about it?
  
  2. Did you use the *[Name of Housing Counseling program]*? Why or why not?
  
- For Those Required to Participate in Only One Housing Counseling Session
  1. How many counseling sessions did you participate in? *[Probe for reasons]*
  
- For Those Who Participated in the Housing Counseling Program
  1. How did you find out about the *[Name of Housing Counseling program]*? What had you heard about it prior to participating in it?

2. *[For those who used the Housing Counseling program]* Here is a list of services that the program provides *[Facilitator: Obtain list of program services prior to conducting focus group]*. Please tell me which of these services were the most useful in your move? Which were the least useful?

3. Did the program help you with your decision to move to your new neighborhood? What kind of services did it provide to help you make this decision?

4. What kind of service (s) or information would have been helpful to you in your move that the program did not provide?

5. Overall, were you satisfied with the assistance you received from the *[Name of Housing Counseling program]*? Would you recommend the program to other people? Why or Why not?

- For Housing Counseling Programs with Class Member Recruitment Requirement

6. Did you receive housing information directly from any property owners or managers? If yes, what kind of information did you receive? What form did it come in?

7. Was this information helpful to you in your move? Did it influence your move in any way? Why or why not?

**MODULE 6**

## IMPROVEMENTS TO PUBLIC HOUSING STOCK AND SURROUNDING AREAS

- For Current PH Residents
  1. Have you noticed any physical improvements in and around your development? If yes, what are they? *[Probe for specific improvements in their units, building, development, and neighborhood.]*
  
  2. What improvements do you think should be made that haven't been? *[Probe for/rank most important ones.]*
  
- For PH Equalization Requirements
  1. Do you think that the amenities (e.g., air conditioning, decor, grounds around development) at your development are worse, better, or the same as that of other developments? Why do you say this?
  
  2. Have you seen any improvements in the maintenance of your development (e.g., things getting repaired, trash being picked up, graffiti cleaned up, locks being fixed)?

- For Other Improvement Requirements [*Anti-crime, transportation*]
  1. Do you think the crime in and around your development has gotten better, worse, stayed the same? [*Probe for drugs, prostitution, shootings/violence, gangs, loiterers*]. Why do you say this?
  
  2. Have you noticed any changes in the transportation system in your area? What are they?

## MODULE 7

### HOMEOWNERSHIP OPPORTUNITIES

1. Do you know about the rent-to-own homeownership program? Are you currently participating in it?

2. [If NO] Why did you decide not to participate in it?

[If YES] Why did you decide to participate in it? What have been the advantages and disadvantages of the program?

3. Would you recommend the program to others? Why or why not?

**MODULE 8**

## SATISFACTION WITH PHA ADMINISTRATION OF THE PROCESS

## • For Movers

1. Was the PHA involved in your move? How? *[Facilitator: Probe for both positive and negative involvement.]*
  
2. Did you get any help from the PHA specifically to make the move to your new neighborhood? *[other than the Housing Counseling program.]* What kind of help did you receive? *[Probe for: security deposit, moving assistance].*
  
3. Were you satisfied with the help you received from the PHA?
  
4. What kind of help from the PHA would have been useful to you in your move?

## • For Non-Movers

1. Did you get any help from the PHA specifically to move to a new neighborhood? *[other than the Housing Counseling program.]* What kind of help did you receive?

2. Were you satisfied with the help you received from the PHA?

3. What kind of help from the PHA would have been useful to you to make a move?

**MODULE 9**

## NEW YORK

- For Public Housing Group
  1. What are some of the reasons that you decided to file a claim for public housing?  
*[Probe for: circumstances surrounding their initial application]*
  2. Did you indicate a preference for any particular development(s) on your claim? If YES, why did you want to move to this/these particular development(s)?
  3. At the time of your initial application, was this/were these the same development(s) you wanted to move to?
    - 3a. If YES, is it for the same reasons that you just mentioned?
    - 3b. If NO, what differences are there between the development(s) you applied for before and that one you eventually moved to?
  4. Did you get a unit in your preferred development?

4a. If YES, is it what you thought it would be? Why or why not?

4b. If NO, do you like the development you're in? Why or why not?

- For Section 8 Group

1. Why did you decide to file a claim?

2. Why did you choose Section 8 over a Public Housing Development?

3. At the time of your initial application, which development did you want to move to? Why don't you want to move there now?

**MODULE 10**

## CONCLUSIONS/WRAP UP

1. Looking back on your move experience, would you make the same move again? Why or Why not?
  
2. Does anyone have any additional thoughts or comments about any of the topics we talked about today?
  
3. Does anyone have any questions or concerns about this study in general?
  
4. Thank you so much for participating today. Your comments and insights have been very helpful.

*[Explain and administer the Background Information Form. Hand out stipends and get receipts.]*

**MODULE 11**

## ECONOMIC OPPORTUNITY AND SOCIAL INTERACTION

1. What changes, good or bad, have taken place because of your move to a new neighborhood?
2. Has living in your new neighborhood provided you or your family with any new opportunities? [*Probe for employment, schools, social, other*]. What are they?