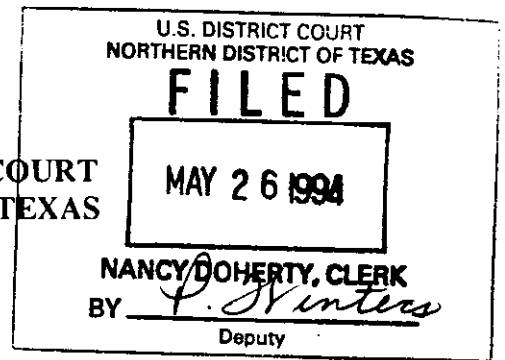


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



DEBRA WALKER, ET AL.

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§

VS.

3:85-CV-1210-R

U.S. DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT,  
ET AL.

ENTERED ON DOCKET  
PURSUANT  
TO F. R. C. P. RULES  
58 AND 79a

**ORDER REGARDING FACTS ESTABLISHED BY CLASS PLAINTIFFS'  
MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST DHA AND HUD**

As required by Local Rule 5.2(a), the Plaintiffs' Motion for Partial Summary Judgment Against DHA and HUD (filed January 12, 1993) -- *which seeks a summary judgment only on the issues of the liability of DHA and HUD* "to the class for injunctive relief remedying the remaining vestiges of the racial segregation" -- states, in 207 separately numbered paragraphs, the "undisputed facts upon which the motion relies." In contrast, neither DHA or HUD has complied with Local Rule 5.2(a) -- which requires them "to list in numerical order...the disputed facts upon which the response relies" -- even though the Plaintiffs' partial summary judgment motion has been pending for over 15 months.

In addition, the Plaintiffs' Rule 5.2(a) statement of material, undisputed facts is supported by the following: (i) the findings of fact made by this Court in the Walker I and Walker III opinions;<sup>1/</sup> (ii) exhibits admitted in evidence at hearings held on December 12, 1988, and on January 23, 1992;<sup>2/</sup> and (iii) the responses to the Plaintiffs 167 requests for admissions, served

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<sup>1/</sup>Walker I, 734 F. Supp. 1231 (N.D. Tex. Aug. 4, 1989) ("DHA Violations Of The (January 20, 1987) Consent Decree"); Walker III, 734 F. Supp. 1289 (N.D. Tex. Aug. 4, 1989)("Joinder Of The City Of Dallas As A Defendant Subject To The Consent Decree").

<sup>2/</sup>Cited in this Order as "Pls. Exh. \_\_\_\_ (12/12/88)" and "Pls. Exh. \_\_\_\_ (1/13/92)."

by DHA on April 5, 1994 and served by HUD on May 11, 1994.<sup>3/</sup> Again, in contrast, HUD does not cite any exhibits or previous findings to support its opposition to the Plaintiffs' Motion for Partial Summary Judgment.<sup>4/</sup>

Accordingly, the Court finds that the following material, undisputed facts<sup>5/</sup> have been established for purposes of the Plaintiffs' Motion for Partial Summary Judgment Against DHA and HUD On The Issue Of Liability To The Class For Injunctive Relief:

I. Existing Vestiges Of Racial Segregation In DHA's Programs

1. The four statements in this paragraph are established facts because:

- (a) FIRST -- admitted in essence by DHA in its purported "denial," admitted by HUD, and established in Walker III.
- (b) SECOND -- established by Pls. Exh. 22 (1/13/92) and by HUD's admission "that DHA has nearly 300 public housing units" in predominately white units. *DHA's denial merely presents a fact issue that is not material to the granting of the partial summary judgment (i.e., whether the correct number is "less than 200" units or "less than 300" units).*

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<sup>3/</sup>The first 123 paragraphs in the Plaintiffs' statement of material, undisputed facts in the partial summary judgment motion (pages 2-45) are, with some exceptions, based upon the DHA and HUD responses to the 167 requests for admissions.

<sup>4/</sup>DHA does rely upon 59 exhibits (most of which were admitted at the April 8, 1994 hearing) to support its claim that "*to the extent possible... (DHA) has complied with the terms of the 1987 Consent Decree and has remedied any remaining vestiges of segregation and discrimination to the extent possible.*"

<sup>5/</sup>The headings and numbers in this order correspond to those in the Plaintiffs' Motion For Partial Summary Judgment (pp. 2-62). The first six headings and findings 1-123 are the same as those used in the Plaintiffs' Requests For Admissions to DHA and HUD, *but the numbers are not the same* -- because this statements of facts combines several admissions into one paragraph (e.g., fact 1 is comprised of admissions 1-4, fact 2 is comprised of admissions 5-6, etc.). Exhibit B to HUD's summary judgment response shows the relationship between this statement of facts and DHA and HUD responses to the requests for admissions.

- (c) THIRD -- established by Pls. Exh. 20(1/25/92) and by HUD's admission and explanation.
  - (d) FOURTH -- established by HUD's admission. *DHA's denial of this statement raises a fact question as to DHA only, but one that is not material to the granting of the partial summary judgment.*
2. The three statements in this paragraph are established because:
- (a) FIRST -- established by HUD's admission and the denial of HUD's baseless objection (that certain terms are "vague"). *DHA's denial does not raise a material fact issue.*
  - (b) SECOND -- admitted in essence by DHA and HUD, and established in Walker III.
  - (c) THIRD -- admitted in essence by DHA and HUD, and established in Walker III.
3. Established by Walker III and by DHA and HUD partial admissions.

## II. DHA's History and Background of Racial Segregation

- 4. Admitted by DHA and HUD.
- 5. Established by HUD's admission, by DHA's partial admission, and by the cited statute.
- 6. Established by HUD's admissions, by DHA's partial admissions, and by Pls. Exh. 89 (12/12/88).
- 7-8. Admitted by DHA and HUD.
- 9-14. Established by DHA's admissions, by HUD's admissions and qualified admissions, by HUD's claimed lack of knowledge, and by Pls. Exh. 1 (12/12/88).
- 15-16. Established by DHA's qualified admissions, by HUD's admissions and qualified admissions, and by Pls. Exhs. 5, 18 and 31-34 (12/12/88).
- 17-20. Established by DHA's admissions and by HUD's admissions and qualified admissions.

### III Federal Government and Public Housing Desegregation

- 21-33. Established by DHA's admissions, by HUD's admissions and qualified admissions, and by Pls. Exhs. 25-28 (12/12/88).
- 24. Established by Pls. Exh. 29 (12/12/88).
- 25. Admitted by DHA and HUD.<sup>6/</sup>

### IV. DHA, HUD, The City and De Jure Racial Segregation

- 26. Established by DHA's admission and explanation and by HUD's admission.
- 27-36. Established by DHA's admissions, by HUD's admissions and qualified admissions and claimed lack of knowledge, and by Pls. Exhs. 9, 10, 12, 13 and 16 (12/12/88).<sup>7/</sup>
- 37. Established by DHA's admission and explanation, by HUD's admission and lack of knowledge, and by Pls. Exh. 17 (12/12/88).
- 38-42. Established by DHA's admissions, by HUD's admissions and qualified admissions and claimed lack of knowledge, and by Pls. Exhs. 18, 19 and 20 (12/12/88).
- 43. Established by DHA's partial admission and explanations, by HUD's admissions, and by Pls. Exh. 40 (12/12/88). *HUD's denial of the first sentence does not raise a material fact issue.*
- 44-52. Established by DHA's admissions, by HUD's admissions and qualified admissions and claimed lack of knowledge, and by Pls. Exhs. 21, 22, 31 and 41 (12/12/88).<sup>8/</sup>

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<sup>6/</sup>The last part of the Plaintiffs' statement, subparagraphs B-E (pp. 11-12), are copied from a different exhibit -- and are not the paragraphs B and C admitted in the responses by DHA and HUD.

<sup>7/</sup>HUD's objections to the last two statements in paragraph 28 and to the first sentence of paragraph 33, on the grounds that these statements are "vague," are baseless, and they are DENIED.

<sup>8/</sup>HUD's objection to the last sentence of paragraph 48, on the grounds that the statement is "vague," is baseless and it is DENIED.

V. The Decision To Build The West Dallas Project

- 53-73. Established by DHA's admissions, by HUD's admissions and qualified admissions and claimed lack of knowledge, and by Pls. Exhs. 5, 8, 9, 10, 49 and 50 (12/12/88).<sup>9/</sup>
74. Established by HUD's admission that this was true "on many occasions" with respect to DHA's conduct and by the specific findings made by this Court in Walker I and Walker III concerning DHA. *DHA's denial of this paragraph does not raise a material fact issue.*
75. Established by DHA's admission, by HUD's admission and qualified admissions, and by Pls. Exh. 14 (12/12/88).

VI. DHA and The Consent Decree

76. Established by DHA's qualified admissions, by HUD's admission, and by the specific findings made by this Court in Walker I (734 F. Supp. at 1232).
- 77-85. Established by DHA's admissions, by HUD's admissions, and by this Court's findings in Walker I (734 F. Supp. at 1232, 1235-39, 1241-46, and 1289-90).<sup>10/</sup>
86. Established by DHA's qualified admission, by HUD's admission and qualified admission, and by this Court's findings in Walker I and Walker III.
- 87-88. Established by DHA's qualified admissions, by HUD's admissions and qualified admissions, and by this Court's findings in Walker I and Walker III.
- 89-90. Established by Exhibit B to the 1987 decree, by HUD's qualified admission (¶ 89), and by DHA's qualified admission (¶ 90).
91. Admitted by DHA and HUD.

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<sup>9/</sup>DHA's objections to parts of paragraphs 54, 56, 58 and 64 and HUD's objection to paragraph 54 are without merit, and they are DENIED.

<sup>10/</sup>DHA's objection to paragraph 78 is without merit, and it is DENIED.

- 92-95. The objections made by DHA and HUD to these statements of fact -- and the objections made by DHA and HUD to the Plaintiffs' Requests for Admissions 126-147 -- are overruled. DHA and HUD shall respond to these statements (and to the corresponding Requests for Admissions) within ten (10) days from the date of this Order.<sup>11/</sup>
96. *This statement is not established, but this does not raise a material fact issue.*
- 97-112. The objections made by DHA and HUD to these statements of fact -- and the objections made by DHA and HUD to the Plaintiffs' Requests for Admissions 126-147 -- are overruled. DHA and HUD shall respond to these statements (and to the corresponding Requests for Admissions) within ten (10) days from the date of this Order.
- 113-114. *Denial by DHA raises fact issues regarding statements concerning "15% of Section B units in the Suburbs," but these are not material to the granting of the partial summary judgment. The objections by HUD to these two statements are overruled.*
- 115-118. Established by DHA's admissions and qualified admissions, by HUD's admissions and qualified admissions, and by Exhibit B III, 12 (A) to the 1987 Consent Decree and by Pls. Exhs. 4, 5, 28, and 38-40 (1/13/92).
119. The first two sentences are established by Walker I and by the records in this case. *The third sentence presents a fact issue concerning "recent progress" by the Plaintiffs and DHA in resolving this dispute, but it is not material to the granting of the partial summary judgment.*
- 120-121. Established by Pls. Exhs. 25.A-25.D (1/13/92) and by HUD's qualified admission and explanation to 121.
122. *Not established, but not material to the granting of the partial summary judgment.*

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<sup>11/</sup>By separate order, this Court has granted Plaintiffs' Motion to Compel HUD's Answers to Requests for Admissions and Interrogatories (filed May 18, 1994).

VII. The City and the 1987 Consent Decree

123. Established by Walker III and by the admissions and qualified admissions of DHA and HUD.

VIII. Individual Plaintiffs<sup>12/</sup>

124. Established by undisputed facts stated in paragraphs 125-207, and by the total lack of response by DHA and HUD.

Zelma Lang

125-132. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.

Jeanette Washington

133-142. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.

Debra Walker

143-166. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.

Renita Brown

167-189. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.<sup>13/</sup>

Lillie Thompson

190-200. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.

Hazel Williams

201-207. Established by the cited deposition excerpts and by the total lack of response by DHA and HUD.

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<sup>12/</sup>The facts concerning the six individual plaintiffs (¶s 124-207) were not the subject of any requests for admissions. However, the relevant excerpts from their depositions which were previously filed ("Excerpts of Plaintiffs' Depositions") do establish the facts stated in each of these paragraphs.

<sup>13/</sup>And by HUD-Brown Exhs. 13 and 14.

In summary, all of the facts stated in paragraphs 1-207 have been established as material, undisputed facts for purposes of the Plaintiffs' partial summary judgment motion -- with the exception of those italicized above in paragraphs 1(b) and (d), 2(a) 43, 74, 96, 113-114, 119 and 122 (but these disputed facts are not material to the granting of the partial summary judgment).

**ENTERED MAY 26, 1994.**

A handwritten signature in cursive script, reading "Jerry Buchmeyer".

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**JERRY BUCHMEYER, JUDGE  
UNITED STATES DISTRICT COURT**