

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

The Inclusive Communities Project, Inc.,	*	
Plaintiff,	*	
v.	*	
	*	
The United States Department of	*	No.
Housing and Urban Development,	*	
Defendant.	*	

COMPLAINT

Introduction

1. In the Housing Choice Voucher program, HUD determines the maximum subsidy that landlords of each unit may receive on behalf of housing voucher families by establishing a maximum rent for each Zip Code in the Dallas area.¹ The maximum rent determines the percentage and number of the units available in an area. The local public housing agencies then must adopt a schedule that establishes voucher payment standard amounts for each fair market rent area within its jurisdiction. Subject to discretionary waiver by HUD, the payment standard must be between 90% and 110% of the relevant maximum rent.

2. Because of a law suit settlement, HUD instituted new Zip Code maximum rents for 2011 in the Dallas area that worked to provide Black families with increased access to units outside minority areas of concentrated poverty that were marked by conditions of slum and

¹ “Maximum rent” refers to the highest gross rent that HUD will subsidize and determines the maximum amount of that subsidy for each housing voucher. The subsidy is paid to the landlord as part of the rent for the unit with the tenant paying the remaining share. HUD refers to the maximum rent as the Fair Market Rent or FMR. In the Dallas area, the maximum rent is set for each ZIP Codes and referred to as the Small Area Fair Market Rent or SAFMR. The areas referred to as Zip Codes in this complaint are the U.S. Census Zip Code Tabulation Areas which can be slightly different from the U.S. Postal Service Zip Codes.

blight.² The 2011 Zip Code rents also decreased the undue subsidy for the landlords and decreased the number of units available in the areas of concentrated poverty marked by slum and blight. After the one year settlement period ended, HUD began decreasing maximum rents in White Zip Codes thereby reducing the units available for vouchers in those areas. At the same time, HUD began increasing the maximum rents in minority concentrated Zip Codes with high poverty rates and marked by conditions of slum and blight thereby expanding the number of units available for vouchers in those areas. HUD's implementation of the 2014 maximum rents continues this discriminatory housing practice.

3. HUD's actions are taken pursuant to its willingness to accept racial segregation in its housing choice voucher program. HUD's actions not only discriminate because of race but also are taken without the mandatory HUD evaluation of alternative courses of action that would alleviate rather than perpetuate racial segregation. HUD's actions violate 42 U.S.C. § 3604, 42 U.S.C. § 3608(e)(5), the equal protection principle that is incorporated in the Fifth Amendment to the United States Constitution, and 42 U.S.C. § 1982. HUD's actions directly injure ICP by increasing the financial assistance and other costs ICP must incur to help its clients find housing in desegregated neighborhoods with standard conditions, services and facilities.

Jurisdiction

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(4), and 42 U.S.C. § 3613(a). Plaintiff's claims are pursuant to 5 U.S.C. §§ 702, 706. Sovereign immunity is waived by 5 U.S.C. § 702 for the injunctive relief requested in this complaint.

² This complaint uses "White" to refer to persons of the White race and non-Hispanic ethnicity or Zip Codes that are 50% or greater White non-Hispanic. "Minority" means an area that is less than 50% White.

Plaintiff

5. The plaintiff is the Inclusive Communities Project, Inc. (ICP). ICP is a Texas non-profit corporation which works for the creation and maintenance of racially and economically inclusive communities, the expansion of fair and affordable housing opportunities for low income families, and redress for policies and practices that perpetuate the harmful effects of discrimination and segregation. Specifically, in furtherance of this mission, ICP seeks to create and obtain affordable housing opportunities in non-minority concentrated areas for persons eligible for low rent public housing and to provide the counseling and other forms of assistance to Black families seeking to use their Dallas Housing Authority (DHA) Section 8 voucher to move into low-poverty, non-minority concentrated areas throughout the Dallas metropolitan area. ICP's office is located in the City of Dallas, Dallas County, Texas.

6. ICP is chartered to help poor people obtain affordable housing in decent and safe conditions free from the vestiges of racial discrimination and segregation and in neighborhoods with adequate services and facilities. The non-minority areas within which ICP will assist families are the census tracts defined by the Walker Settlement Voucher Program as Walker Target Areas. Nov. 8, 2001, Settlement Stipulation and Order, page 4, *Walker v. HUD*, Civil Action No. CA-3-85-1210-O.

7. ICP focuses its counseling and financial assistance resources on helping families find housing in High Opportunity Areas (HOAs). HOAs are a subset of the Walker Target Areas and are designed to focus ICP's resources on those higher opportunity areas where there is reason to believe DHA issued voucher holders will need additional assistance to find housing due to higher costs, lack of information about the areas, landlords' refusal to rent to voucher families or racial

discrimination. ICP has defined High Opportunity Areas as any location in a Walker Target Area census tract which also has lower poverty rates, higher median family income, and is in the attendance zones of higher ranking public schools.

8. The housing mobility assistance provided by ICP to DHA voucher participants includes pre-move family counseling and related financial assistance to assist the families who want to make and sustain a desegregative housing move. The housing mobility assistance also includes negotiating with landlords as necessary to obtain units in the eligible areas at rents that are affordable by the voucher families and eligible for the voucher subsidy. The financial assistance provided to these families may include the payment of application fees, moving expenses, security deposits, and utility deposits to assist families moving into housing that provides housing opportunities in non-minority, non-poverty concentrated areas. ICP can also make landlord incentive bonus payments to landlords in areas that provide desegregative housing opportunities when ICP determines that such incentives are necessary to secure housing for the voucher families. For example, ICP may provide a reasonable bonus payment if it is necessary to obtain a rent concession in order for a unit to be eligible for voucher assistance at a rent affordable to the family. Reasonable bonus payments may also be made to convince a landlord to participate in DHA's voucher program. ICP has in some instances made a special utility payment in order to reduce the effect of the decreased maximum rents in order to allow the client to remain in a majority White Zip Code.

9. HUD's maximum rent setting policy, practices, and decisions directly and adversely affect ICP's interests by:

- reducing the number of units in non-minority concentrated market areas that plaintiff

can use to help its clients find housing;

- increasing the amount of time per client that plaintiff must spend in order to help its clients find housing in non-minority concentrated market areas;

- increasing the amount of financial assistance that plaintiff must pay in order to help its clients find housing in non-minority concentrated market areas; and

- discouraging families who work with plaintiff from choosing dwelling units in market areas that offer racially integrated housing because of the cost factors involved in such a choice.

10. The requested relief will provide higher maximum rents in White Zip Codes and will expand housing opportunities in those areas for ICP to use helping its clients find housing in non-minority concentrated areas.

Defendant

11. The defendant is the United States Department of Housing and Urban Development (HUD). HUD is an executive agency of the United States of America. HUD is the federal administrator of the Housing Choice Voucher Program that has been established by federal law and is funded by federal appropriations. 42 U.S.C. § 1437f(o). There are usually about 2.1 million housing choice vouchers in use nationally. There are about 31,000 housing choice vouchers in the Dallas area.

12. The HUD Housing Choice Voucher Program provides federal funds to local public housing agencies for subsidy payments to landlords who accept the conditions of the program and rent to the families chosen to participate in the program. The families are not assigned to a specific unit but must find a landlord willing to rent to them for the amount of the subsidy plus the tenant's share of the rent. The program's success for each voucher family depends on the

family's ability to find a willing landlord. The ability to find a willing landlord necessarily depends on whether the subsidy available is the basis for adequate compensation for the rental of the unit. Adequate compensation alone may not be enough to obtain the unit since many landlords in White Dallas Zip codes will not rent to voucher families even if the rent and subsidy are adequate.

13. HUD's statement of the role that the maximum rent determination plays in the administration of the housing choice voucher program emphasizes the discretionary HUD policy decisions that are implemented by specific maximum rent determinations.

While budget realities and sensitivities to public acceptance exert pressures to set FMRs at low levels, other concerns create countervailing incentives to raise FMRs. For the Section 8 program to work properly, certificate and voucher holders must have an adequate supply of decent, safe, and sanitary rental units to choose from. Higher quality units command higher rents, so FMRs must be sufficiently high to provide acceptable choices for participants. In addition, the certificate and voucher programs were designed to allow assisted households to choose among different neighborhoods. The FMRs must also be high enough to provide acceptable choices among neighborhoods.

...

More fundamentally, the policy tradeoff between lower costs per family served, public acceptability of the housing provided, and the ability to provide an adequate range of choice among units and neighborhoods occurs at the definition level, not at the measurement level. Once the definition is chosen, HUD strives to provide the most current and accurate measurement of the definition in each FMR area. HUD, Office of Policy Development and Research, "Fair Market Rents," U.S. Housing Market Conditions, Winter 1998, Summary pages 1-2, available at: <http://www.huduser.org/periodicals/ushmc/winter98/summary-2.html>.

14. When HUD set the 2014 Dallas area Zip Code maximum rents, HUD did not evaluate the discriminatory effects of its decision. HUD did not evaluate whether there were an alternative maximum rent voucher policy decisions or maximum rent determinations that would have the less discriminatory effect of alleviating rather than perpetuating racial segregation.

HUD's maximum rent decisions have the discriminatory effect of perpetuating racial segregation.

15. HUD's administration of the housing choice voucher maximum rent setting policy and practices continue to perpetuate racial segregation of voucher families into racially and ethnically concentrated areas of poverty in the Dallas, Texas area. HUD's 2014 maximum rents steer existing voucher participants away from White, low poverty Zip Codes into minority concentrated Zip Codes with high poverty rates that are marked by conditions of slum and blight.

16. The discriminatory effect of HUD's maximum rent decisions is shown by a comparison of conditions in predominantly Black Zip Codes to predominantly White Zip Codes having similar or equal 2014 maximum rents. HUD's stated policy is to set maximum rents in an amount that results in the same percentage of units available, approximately 40%, in each Zip Code or other area.

Small area FMRs will be approximately the 40th percentile rent in each ZIP Code area.

HUD, "Section 8 Housing Choice Voucher Program—Demonstration Project of Small Area Fair Market Rents in Certain Metropolitan Areas, Discussion of Comments, and Request for Participation, 76 Fed. Reg. 21222, 21224, April 20, 2011.

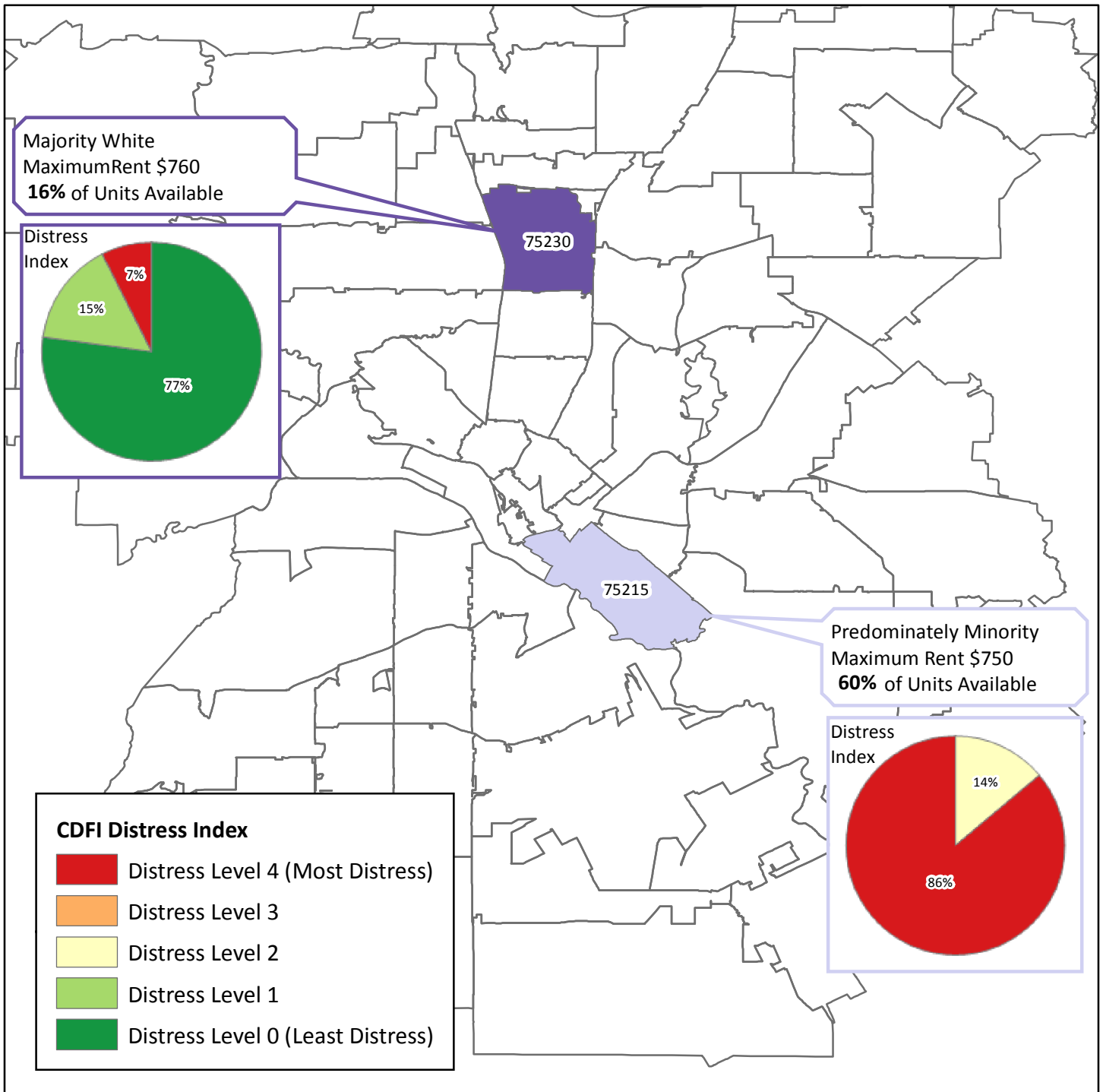
17. HUD'S Zip Code maximum rents deviate substantially from this policy. The same 2014 maximum rent that makes available a gross oversupply of units in high poverty minority Zip Codes makes available significantly smaller percentages of units in the low poverty White Zip Codes.

18. The 2014 maximum 2 bedroom rent of \$750 in the 6% White 75215 Zip Code is high enough to include 60% of the 2 bedroom rental units in that area. This majority Black South Dallas Zip Code is marked by conditions of slum, blight, and high distress. The maximum rent

needed to include only 40% of the 2 bedroom rental units is \$650, not \$750. The 2011 maximum rent was \$590.

19. The 2014 maximum 2 bedroom rent of \$760 in the 70% White 75230 Zip Code is not high enough to include more than 16% of the 2 bedroom rental units in the area. This majority White North Dallas Zip Code is not marked by conditions of slum, blight, and high distress. The maximum rent high enough to include 40% of the 2 bedroom rental units is \$920. HUD initially set the maximum rent at this level in 2011 but subsequently reduced it to \$760 in 2014.

Selected Zip Codes with 2014 Two Bedroom SAFMRs, Percentage of Units Available at SAFMR, and Distress Level of Zip Code



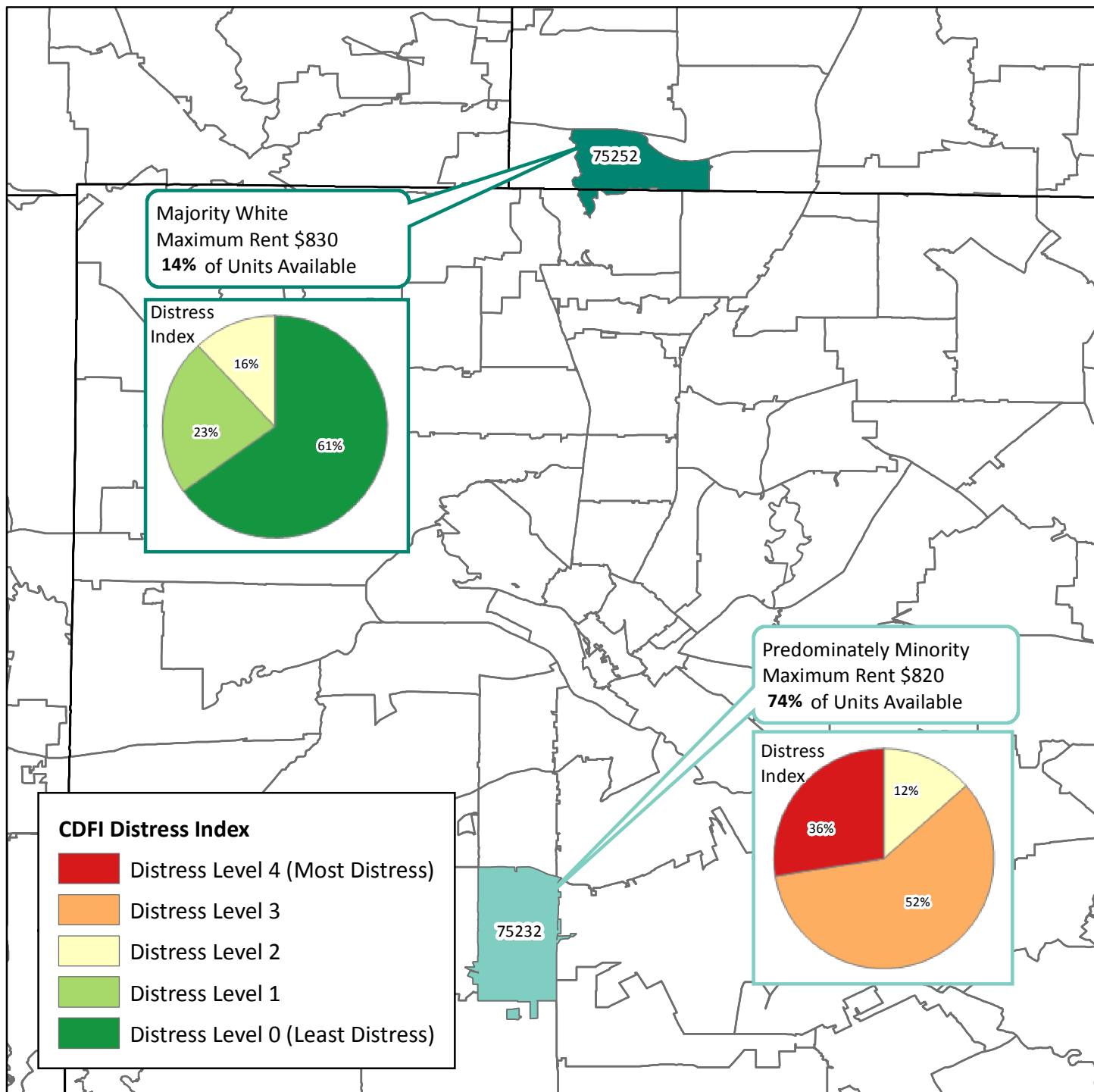
2014 SAFMRs make less units available in majority white zip codes with low distress and more units available in predominately minority zip codes with high distress for the same rent.

Source: HUD 2014 Proposed SAFMRs, CDFI Distress Index.
Last Updated: April 2014

21. The 2014 maximum 2 bedroom rent of \$820 in the 5% White 75232 Zip Code is high enough to include 74 % of the 2 bedroom rental units in that area. This majority Black South Dallas Zip Code is marked by conditions of slum, blight, and high distress. The maximum rent needed to include only 40% of the 2 bedroom rental units is \$640, not \$820. The 2011 maximum rent was \$700.

22. The 2014 maximum 2 bedroom rent of \$830 in the 59% White 75252 Zip Code is not high enough to include more than 14% of the 2 bedroom units in the area. This majority White North Dallas Zip Code is not marked by conditions of slum, blight, and high distress. The maximum rent high enough to include 40% of the 2 bedroom rental units is \$950. HUD initially set the maximum rent at this level in 2011 but subsequently reduced it to \$830 in 2014.

Selected Zip Codes with 2014 Two Bedroom SAFMRs,
 Percentage of Units Available at SAFMR, and Distress Level of Zip Code



2014 SAFMRs make less units available in majority white zip codes with low distress and more units available in predominately minority zip codes with high distress for the same rent.

24. The term “units available” in this complaint means that the contract rent plus the set allowance for utility costs (gross rent) for the units is equal to or less than the HUD set maximum rent. Units in White Zip Codes may be available under this definition but are still withheld from voucher families by landlords’ decisions not to rent to voucher families.

25. The following table summarizes and compares some of the Zip Codes with different racial compositions and approximately equal rents. The information compared is the two bedroom 2014 maximum rent, the percentage White population and the percentage of the two bedroom units in the Zip Code that are available under the 2014 maximum rent for the Zip Code for the listed Zip Codes.

ZIP Code	2 BR 2014 maximum rent	% White in ZIP Code	% of 2 BR units available in ZIP Code under 2014 maximum rent
75215	750	6%	60%
75230	760	70%	16%
75241	960	2%	75%
75116	960	32%	74%
75043	960	43%	51%
75071	960	66%	38%
75146	930	19%	75%
75115	940	17%	59%
75219	930	51%	34%
75206	940	58%	26%
75232	820	5%	74%
75252	830	59%	14%
75141	850	26%	83%
75233	850	9%	70%
75051	850	22%	57%
75214	850	70%	40%

26. HUD is systematically reducing the maximum rents for units in the majority White, non-racially and non-poverty concentrated Zip Codes. The number of units with rents less than the maximum rents in majority White, urban Zip Codes has decreased from the average of 61%

under the 2011 maximum rents to 55% under the 2014 maximum rents.³ HUD is systematically increasing the maximum rents in minority Zip Codes. The Black Zip Code average percentage of units available per Zip Code has increased from 49% in 2011 to 65% in 2014.

27. The discriminatory effects of the HUD decreases in voucher maximum rents is exacerbated by the market driven increases in rents for the White Zip Codes. The market rent increases are shown by U.S. Census data, market reports, and similar publications. The U.S. Census data available for this period shows an average increase of 7% from the end of 2009 through 2012 for these Zip Codes.⁴

28. HUD has reduced the maximum rent for the units in White Zip Codes by an average of 3% of the 2011 maximum rents despite the increase in non-voucher unit rents in those areas from 2011 to 2014.

29. The average poverty rate is 12% in the majority White Zip Codes with the average 3% decrease in maximum rents.

30. The exclusionary effect of HUD's lowered maximum rents outside of the racially and ethnically concentrated areas of high poverty is disproportionately inflicted on Black voucher families. The current distribution of Dallas area vouchers is racially segregated into high poverty areas with 71% of the voucher families in minority Zip Codes (22,698 of 31,951). These minority

³ These 50% or more White Zip Codes are located in Collin, Dallas, and Denton County and have at least 100 voucher families.

⁴ The areas are the Zip Code areas located in Collin, Dallas, and Denton County that are 50% or more White and have at least 100 voucher families. The average poverty rate for these areas is 12%.

Zip Codes have an average poverty rate of 21%.⁵ Black voucher families are 81% of the voucher families in these Zip Codes..⁶

31. Black, not White, voucher families are segregated into high poverty areas.

- There are only 180 White voucher families in Zip Codes with 30% or greater poverty rates. This is only 2.9% of all White voucher families.

- There are 5,699 Black voucher families in Zip Codes with 30% or greater poverty rates.

This is 22% of Black voucher families and 7.5 times the percentage of White voucher families in those Zip Codes.⁷

32. The White voucher families are disproportionately located in the 50% or more White Zip codes with average poverty rates of 12%.

- 27.4% of White voucher families are located in majority White Zip Codes.

- Only 8.08% of Black vouchers are in the non-minority, low poverty Zip Codes.⁸

33. The exclusionary effect of HUD's lowered maximum rents in White low poverty areas is exacerbated by the higher rents that Black voucher families must pay in these areas

⁵ The areas are the Zip Code areas located in Collin, Dallas, and Denton County that are less than 50% White, have a poverty rate greater than 10% of the population, and have at least 100 voucher families.

⁶ The voucher family data is based on HUD records dated 12/31/2012 and is the most recent data made available by HUD. HUD 12/31/2012 report "voucher_data_with_lt11_restriction" provided by HUD FOIA response.

⁷ The voucher family data is based on HUD records dated 12/31/2012 and is the most recent data made available by HUD. HUD 12/31/2012 report "voucher_data_with_lt11_restriction" provided by HUD FOIA response.

⁸ The areas are the Zip Code areas located in Collin, Dallas, and Denton County that are 50% or more White and have at least 100 voucher families. The average poverty rate for these areas is 12%.

compared to White voucher families. HUD knows this disparity exists. It commissioned a study on this and other subjects that included data from the Dallas area. The study showed that when a landlord in the Dallas area is willing to rent to a Black voucher family, the cost is likely to be greater than the cost of a similar unit in a similar location for a White voucher family.

- Dallas area Black voucher families pay a 10.3% premium compared to White voucher families to live in areas that are at least 80% white.

- Hispanic voucher families pay a 4.5% premium in such areas. Black voucher families pay a 4.9% premium relative to White voucher families to live in very low poverty areas in Dallas. Early, "Racial and Ethnic Disparities in Rents of Constant Quality Units in the Housing Choice Voucher Program: Evidence from HUD's Customer Satisfaction Survey," HUD, March 2011, pages 57, 62, 73, 109.

34. The units in the majority White, low poverty areas that have gross rents below the HUD maximum are not equally available to the Black voucher families. Many of these units are controlled by landlords unwilling to rent to any voucher family.

35. HUD's 2014 maximum rents continue to steer Black voucher families from the low poverty, majority White Zip Codes into the minority concentrated, high poverty Zip Codes by increasing the maximum rents in the minority and high poverty areas. The increased maximum rents in minority areas provide undue subsidy to landlords for units in those racially and ethnically concentrated areas of high poverty and make more units available in areas of slum and blight. HUD has increased the number of units below the maximum rent in the 30% or higher poverty rate, majority Black Zip Codes from an average of 40% in 2011 to 65% in 2014. HUD did this by increasing the maximum rent for the units in these Zip Codes by 18% on average from

2011 to 2014. The U.S. Census data available for this period shows an average rent increase of 3% for these Zip Codes.⁹ HUD's 18% increase is an undue subsidy to the landlords in the majority Black and high poverty Zip Codes.

36. HUD increased the maximum rent in high poverty, majority Black Zip Codes even those Zip Codes contained census tracts with even higher poverty rates. Poverty rates of 40% and higher along with high concentrations of vouchers are found in census tracts in majority Black, high poverty Zip Codes.

Zip Code	Census Tract	% Black	% Below Poverty	Vouchers as % of All Renter Units	LIHTC Units	Change in Maximum Rents 2011-2014
75210		71%	53%	15%		\$640 to \$690
75210	27.01	89%	63%	50%	310	\$640 to \$690
75215		78%	38%	12%		\$590 to \$750
75215	115	31%	60%	15%	511	\$590 to \$750
75215	203	87%	48%	37%	330	\$590 to \$750
75215	39.01	92%	37%	40%	264	\$590 to \$750
75216		66%	39%	15%		\$720 to 800
75216	86.04	79%	55%	19%	256	\$720 to 800
75241		88%	31%	46%		\$770 to \$960
75241	114.01	89%	48%	43%	898	\$770 to \$960

37. HUD has also increased the number of units available at or less than the maximum rent in majority Hispanic Zip Codes with 30% or greater poverty rates. The available units in majority Hispanic, high poverty Zip Codes increased from an average of 38% in 2011 to 57% in 2014. The average poverty rate in these Zip Codes is 27%. HUD increased the maximum rent for

⁹ The areas are the Zip Code areas located in Collin, Dallas, and Denton County that are 50% or more Black or African American, have a poverty rate greater than 30% of the population, and have at least 100 voucher families. The average poverty rate for these majority Black or African American Zip Codes is 40%.

the units in these areas from 2011 to 2014 by an average of 12%. The U.S. Census data available for this period shows an average rent increase of 3% for these Zip Codes.¹⁰

Existing racial segregation and unequal conditions

38. HUD's maximum rent setting actions perpetuate racial segregation in the Dallas area. HUD acknowledges that subjecting families to the conditions in areas of racially concentrated poverty injures the members of those families in seriously harmful ways. HUD states these injuries in its discussion of the need to affirmatively further fair housing in HUD funded programs.

These racially or ethnically concentrated areas of poverty merit special attention because the costs they impose extend far beyond their residents, who suffer due to their limited access to high-quality educational opportunities, stable employment, and other prospects for economic success. Because of their high levels of unemployment, capital disinvestment, and other stressors, these neighborhoods often experience a range of negative outcomes such as exposure to poverty, heightened levels of crime, negative environmental health hazards, low educational attainment, and other challenges that require extra attention and resources from the larger communities of which they are a part. Affirmatively Furthering Fair Housing; Proposed Rule, 78 Fed. Reg. 43710, 43714, July 10, 2013.

39. HUD knows that the housing choice voucher program in Dallas is racially segregated with both separate and unequal conditions present. HUD's own data shows that 25,000 of the 31,000 Section 8 housing choice vouchers in the Dallas area are segregated into predominantly Black or other predominantly minority Zip Codes.¹¹ The non-Black voucher participants are

¹⁰ The areas are the Zip Code areas located in Collin, Dallas, and Denton County that are 50% or more Hispanic, have a poverty rate greater than 30% of the population, and have at least 100 voucher families. The average poverty rate for these majority Hispanic Zip Codes is 34%.

¹¹ HUD 12/31/2012 report "voucher_data_with_lt11_restriction" provided pursuant to HUD FOIA response.

significantly less segregated into predominantly Black or other predominantly minority Zip Codes.¹²

- 86% of the Black voucher participants are in minority Zip Codes;
- 53% of the White voucher participants are in minority Zip Codes;
- 36% of the Black voucher participants are in 90% or more minority Zip Codes;
- 10% of the White voucher participants are in 90% or more minority Zip Codes.¹³

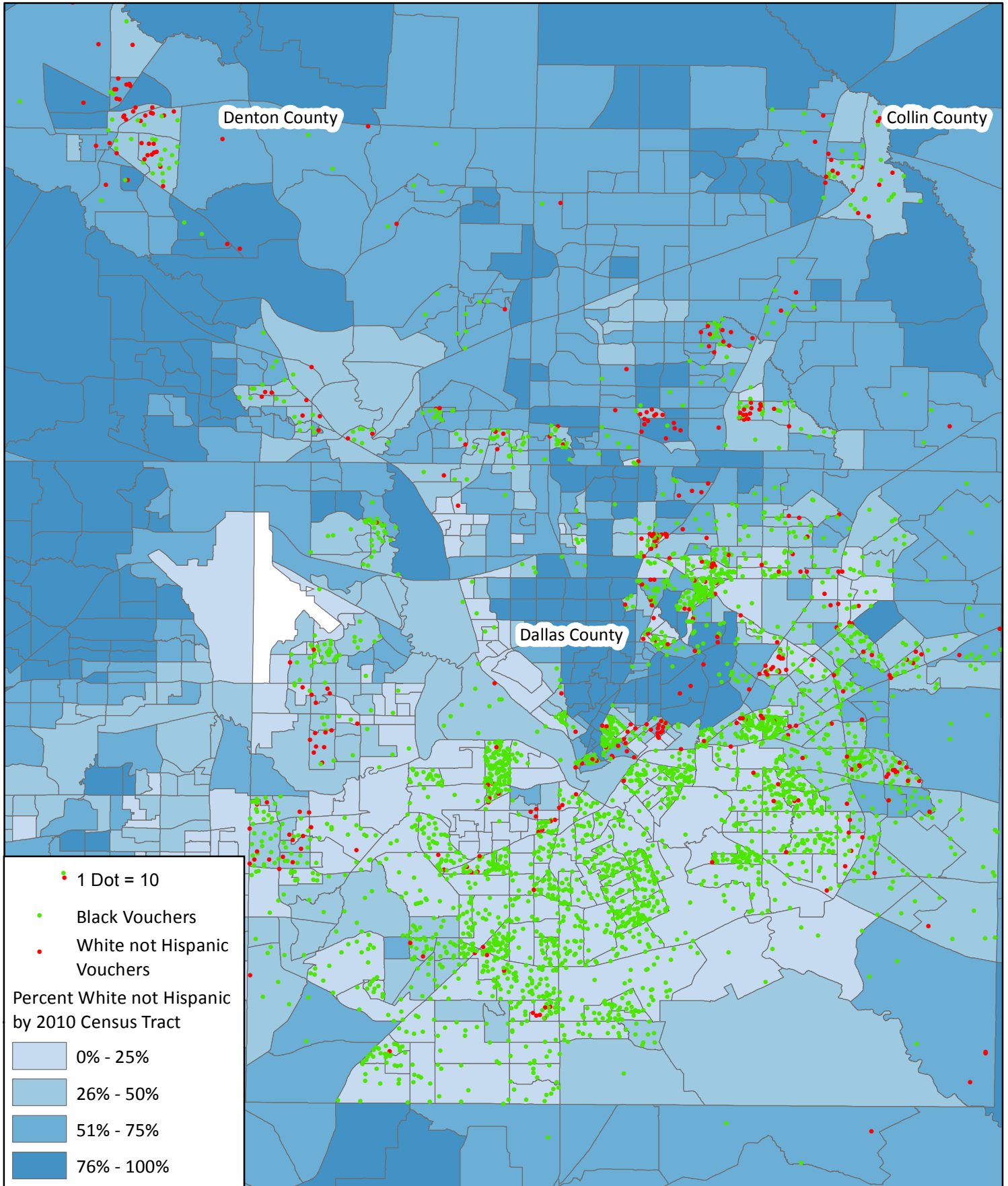
40. Many of the predominantly minority areas with high percentages of Black voucher families are also areas that are marked by conditions of slum, blight, environmental hazards, high poverty, high crime, and concentrations of low income publicly assisted housing.

41. The extent of the racial segregation of the voucher units and the substandard conditions are shown by the following maps setting out the concentration of vouchers by race in each tract along with the percent White population of the tract, the U.S. Treasury Department Distress Index levels of the tracts, and the HUD Opportunity Index levels for the tracts in part of the Dallas area.

¹² HUD 12/31/2012 report “voucher_data_with_lt11_restriction” provided pursuant to a HUD FOIA response.

¹³ The minority Zip Codes are those that are less than 50% White, in Collin, Dallas, or Denton county, and have a poverty rate greater than 10%.

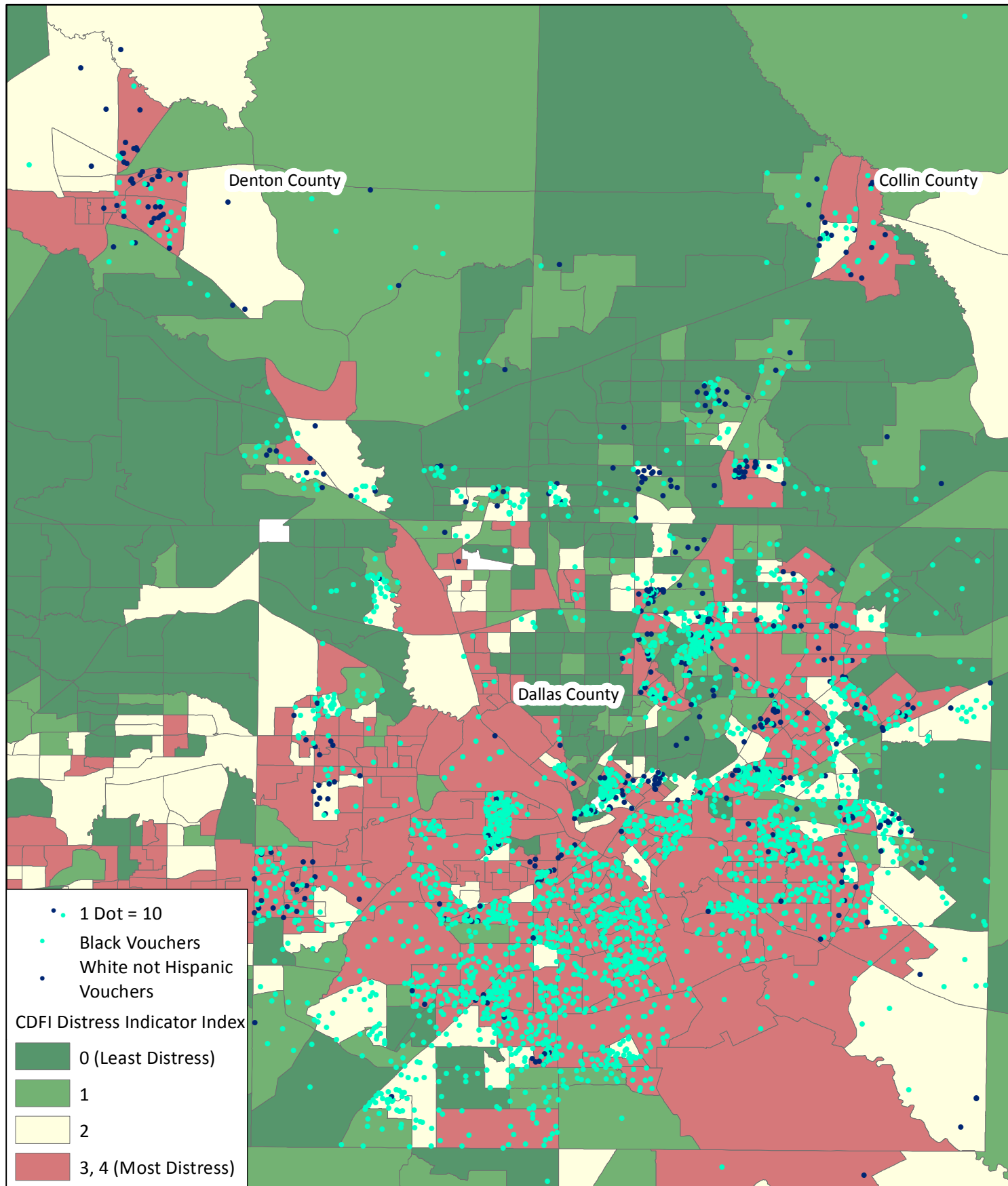
White not Hispanic Vouchers and Black Vouchers Per Census Tract in the Dallas Area as of December 31, 2012



Sources: HUD Housing Choice Voucher Data as of 12/31/2012, Census 2010 Table P5.

43. The U.S. Treasury developed the Distress Indicator Index for its Community Development Financial Institutions Fund program. The Distress Indicator Index ranked every census tract in the country from 0 to 4, with 0 indicating least distress and 4 indicating the highest level of distress. The index is based on a combination of poverty, median family income, and unemployment levels. The U.S. Census data, including more recent reports, for these distress index elements continues to show the existence and extent of distress for census tracts. There is additional evidence of the degree of slum and blight in census tracts such as industrial zoning, specific environmental hazards, blighted housing, and crime rates. These U.S. Treasury distress rankings are one measure of the degree of slum and blight in census tracts. The following map shows the distribution of White and Black voucher families by distress index level for census tracts in the Dallas area.

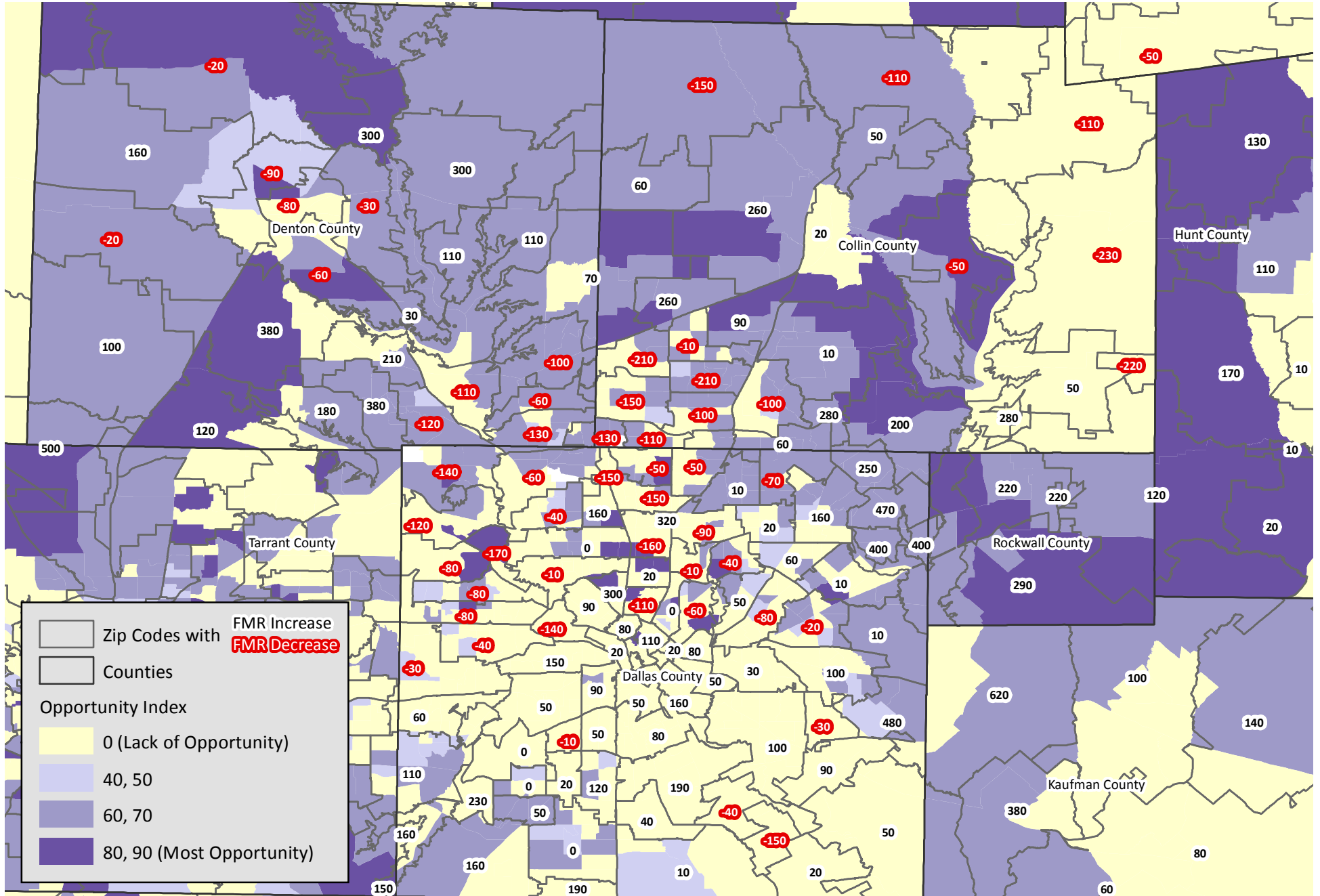
White not Hispanic Vouchers and Black Vouchers Per Census Tract in the Dallas Area as of December 31, 2012



Sources: HUD Housing Choice Voucher Data as of 12/31/2012, US Treasury's Community Development Financial Institutions Fund Distress Indicator Index.

45. HUD's Housing Choice Voucher Marketing Opportunity Index identifies many census tracts with voucher families in racially concentrated areas with high poverty rates as locations with no potential opportunity for housing choice voucher families seeking improved housing and neighborhood conditions. The HUD Opportunity Index is based on the existence of relatively low poverty rates, a stock of available affordable rental housing, economic opportunities, and a relatively low density of subsidized housing. HUD, "Housing Choice Voucher Marketing Opportunity Index: Analysis of Data at the Tract and Block Group Level," Office of Policy Development and Research, page 12, February 2011. The following map shows the Opportunity Index for the census tracts in each of the Zip Codes in the Dallas area with the net increase or decrease in maximum rent from 2011 to 2014 for each Zip Code. The areas with little or no opportunity based on the HUD index have substantial increases in the maximum rents making more units available in those areas. The HUD high Opportunity Index areas have more maximum rent decreases that make fewer units available in those areas.

Neighborhood Opportunity Level and Small Area FMR Change from 2011 to 2014



Sources: HUD HCV Marketing Opportunity Index by 2000 Census Tract, HUD FMR 2011 and 2014.

September 2013

47. The predominantly minority Zip Codes also have a disproportionate share of the substandard rental units and publicly assisted rental units with gross rents at or below \$250. Only 18% of these low rent units are in 50% or greater White Zip Codes while 65% of these units are in 30% or less White Zip Codes. U.S. Census Special Tabulation, 2007 - 2011 American Community Survey, ZS40801_860.xls.

48. White voucher participants are significantly less affected by these adverse conditions.

- Over one half, 52%, of the Dallas area Black, non-Walker Settlement Voucher families were in Distress Level 4 census tracts as of June 2011. This is the highest level of distress;

- Only 35% of Dallas area White voucher families were in Distress Level 4 census tracts as of June 2011;

- 42% of Dallas area White voucher families were in Distress Level 0, 1, or 2 census tracts as of June 2011. These are the census tracts with low distress levels;

- Only 26% of the Dallas area Black HCV, non-Walker Settlement Voucher, participants were in the low Distress Level 0, 1, or 2 census tracts.

49. HUD's 2014 maximum rents will perpetuate the segregation of Black voucher participants into predominantly minority areas with conditions substantially inferior to the conditions in which White voucher families are housed. HUD continues to set maximum rents that make substantially higher percentages of units available in Black and other predominantly minority Zip Codes than will be available in majority White Zip Codes. For example:

- 63% of the 2 BR units in the ten majority Black Zip Codes have gross rents equal to or less than the 2014 maximum rents.

- 62% of the 2 BR units in the fourteen less than 10% White Zip Codes have gross rents

equal to or less than the 2014 maximum rents.

- Only 47% of the 2 BR units in the 53 majority White Zip Codes in Collin, Dallas, and Denton counties have gross rents equal to or less than the 2014 maximum rents.¹⁴

50. HUD's 2014 maximum rents will perpetuate racial segregation by increasing maximum rents in the Black and other predominantly minority Zip Codes while decreasing maximum rents in many majority White Zip Codes.

- The landlords for 9,609 of the 9,952 voucher holders in the less than 10% White Zip Codes will have a maximum rent increase averaging 10% more than the 2011 maximum rents;

- The landlords in the 10 majority Black Zip Codes will have a maximum rent increase averaging 12% over the 2011 maximum rents.

- The landlords for only 343 of the 9,952 existing voucher participants in the minority, less than 10% White, Zip Codes will have a decreased maximum rent. The average decrease is only 1%.

51. The maximum rent decreases are both more widespread and deeper in the White Zip Codes. HUD decreased by 9% the maximum rents for 2,622 of the voucher participants in the majority White Zip Codes. These decreases adversely affect 54% of voucher families in the majority White Zip Codes. A majority of the voucher families affected by these decreases are Black.¹⁵

¹⁴ This analysis focuses on the 2 Bedroom units because HUD uses the SAFMR for these units to set the SAFMRs for the other bedroom sizes.

¹⁵ "voucher_data_with_lt11_restriction."

HUD directed the City of Dallas to alleviate racial segregation at the same time HUD was refusing to consider perpetuation of segregation by its maximum rent decisions.

52. HUD is the federal agency charged with enforcing the Fair Housing Act. 42 U.S.C. §§ 3608(a), 3614a.

53. Two weeks before HUD published the proposed 2014 maximum rents, HUD clarified the content of the affirmatively further fair housing duty for HUD's own programs. HUD's clarification was part of the justification for a HUD proposed rule on the duty under the Fair Housing Act, 42 U.S.C. § 3608(e)(5) to affirmatively further fair housing in HUD programs. HUD, *Affirmatively Furthering Fair Housing; Proposed Rule*, 78 Fed. Reg. 43710, July 19, 2013. HUD stated the affirmatively further fair housing obligation begins with the requirement to use HUD data to evaluate patterns of racial integration and segregation, and racial and ethnic concentrations of poverty. The next step is to assess whether government policies, practices, or programs have created, perpetuated, or alleviated the segregation patterns revealed by the assessment. The obligation applies to the Housing Choice Voucher program. HUD, *Affirmatively Furthering Fair Housing; Proposed Rule*, 78 Fed. Reg. 43710, 43714 - 43716, July 19, 2013. Actions that result in reducing racially and ethnically concentrated areas of poverty affirmatively further fair housing. Such actions "hold the promise of providing benefits that assist both residents and their communities." *Id.* at 43714.

54. Less than a month later, HUD published its proposed 2014 maximum rents for the Dallas area and the rest of the country. HUD, "Proposed Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program and Other Programs Fiscal Year 2014", 78 Fed. Reg. 47339, August 5, 2013. The proposal contains no evaluation of the patterns of racial and ethnic integration and segregation and racial and ethnic

concentrations of poverty in the Dallas area. The proposal contains no assessment whether the past maximum rents or the proposed maximum rents have created, perpetuated, or alleviated the segregation patterns in the Dallas area. *Id.* at 47339 - 47344. The HUD website with the detailed maximum rent calculations and supporting data contains no evaluation or assessment of the effect of the proposed maximum rents on racial segregation in the voucher program and in the Dallas area. <http://www.huduser.org/portal/datasets/FMR/FMRs/docsys.html&data=fmr14>.

55. ICP submitted its comments to HUD on the proposed 2014 maximum rents on September 4, 2013. The ICP comment stated facts showing that the proposed 2014 maximum rents would perpetuate the segregation of Black voucher participants into predominantly minority areas with conditions substantially inferior to the conditions in which White voucher participants are housed. The comment proposed several less discriminatory alternatives including the suggestion that HUD use the most current census data to set maximum rents that would alleviate rather than perpetuate racial segregation.

56. HUD adopted the proposed maximum rents as the final maximum rents for 2014 on October 1, 2013 without consideration of the perpetuation of racial segregation from its decision. HUD, "Final Fair Market Rents," 78 Fed. Reg. 61668 October 1, 2013. HUD stated that it would not take the poverty concentrations in the Dallas area into account when setting maximum rents. It stated that the public housing authorities may increase payment standards to make up for higher rent areas. *Id.* at 61675. HUD responded to ICP's comment on the effect of the proposed maximum rents without discussing the existence of racial segregation, whether or not HUD considered the effect of the proposed maximum rents on the existing racial segregation, or the consideration of less discriminatory alternatives. HUD did not deny the accuracy of the

description of the effect of the 2014 maximum rents on perpetuating racial segregation in the Dallas area. HUD's response was that it "must follow its statutory and regulatory requirements to update FMRs using the most current census data available." *Id.* at 61676. HUD had already admitted that HUD did not use the most current census data available for the Dallas maximum rents but rather continued to use much of the same data it used in determining the 2013 maximum rents. *Id.* HUD did not discuss the less discriminatory alternatives to the manner in which it was using the data.

57. Eight weeks after setting the 2014 maximum rents without considering any effects on racial segregation, HUD directed the City of Dallas to implement a written long-term affordable housing strategy to address patterns of segregation and affirmatively further fair housing. HUD notified the City on November 22, 2013 that HUD required the City of Dallas to:

- Develop a written long-term strategy to address siting of housing throughout Dallas that will address patterns of segregation and affirmatively further fair housing, including consideration of regional housing needs and opportunities, and include the strategy in an updated Analysis of Impediments. HUD letter, Nov. 22, 2013, page 27.

58. HUD has made no such considerations or strategies concerning the implementation of its maximum rent policies and practices under HUD's own obligation to affirmatively further fair housing.

59. HUD refused to consider the same factor - perpetuation of racial segregation - in its own decisions that it considered important enough to require the City of Dallas to consider.

HUD's refusal to prohibit discrimination against voucher families by the federally assisted multifamily landlords exacerbates the effect of the discriminatory maximum rents.

60. HUD has other programs that it could use to alleviate the discriminatory of its maximum rent decision. These programs include HUD program subsidies, HUD loan insurance

or guarantees, and other forms of HUD assistance that were used to develop or purchase the units in White Zip Codes.

61. Many of the landlords in Dallas area White Zip Codes who refuse to rent to voucher families have taken advantage of other federal rental assistance programs. These landlords' discrimination against voucher families makes unavailable units that may otherwise be available under the maximum rent set by HUD for the White Zip Codes.

62. HUD already regulates the tenant selection policies of the HUD assisted projects for purposes of affirmatively furthering fair housing. 24 CFR Subpart M, 24; CFR § 200.615. HUD has the authority to require the adoption of policies prohibiting recipients of its assistance from discriminating against voucher families. HUD letter to City of Dallas, Nov. 22, 2013, page 27.

63. HUD has failed to include such a requirement in the Affirmative Marketing Plans of HUD assisted or insured multifamily rental projects in majority White Dallas Zip Codes. This failure perpetuates racial segregation and exacerbates the discriminatory effect of HUD's 2014 maximum rent decisions. The failure to prohibit discrimination against voucher families allows HUD assisted/insured rental housing with rental costs below the maximum rent for the Zip Code to deny units to families assisted under another HUD housing program - the Housing Choice Voucher Program - solely because of the families' receipt of the voucher assistance. The HUD assisted projects in the minority Zip Codes do not discriminate against voucher families and do rent many units to those families.

Sequence of events after the end of the one year settlement demonstration program support the conclusion that HUD's maximum rent decisions were made because of race.

64. HUD's use of Zip Codes as the geographic base for the maximum rents in the Dallas area began with the 2011 program year. HUD adopted the 2011 Zip Code maximum rents

because of a settlement in a lawsuit brought by ICP. The suit challenged HUD's previous use of a single maximum rent for the eight county Dallas metropolitan area. ICP asserted that HUD's use of the single maximum rent based on the data for the multi-county area violated HUD's duty to affirmatively further fair housing. *ICP v. United States Department of Housing and Urban Development*, 2009 WL 3122610 (N.D. Tex 2009); *ICP*, 2009 WL 3446232 (N.D. Tex. 2009). HUD agreed to replace the single maximum rent with a one year demonstration program setting separate maximum rents for each Zip Code. The maximum rents for the Zip Codes were set to allow housing choice voucher tenants to move into better quality neighborhoods without any additional net cost to the government and to prevent increased rents that would provide undue subsidies to landlords in the lower-rent areas.

HUD expects that small area FMRs will provide HCV tenants with greater ability to move into opportunity areas, which are where jobs, transportation, and educational opportunities exist, and will reduce undue subsidy in lower-rent areas. Section 8 Housing Choice Voucher Program—Demonstration Project of Small Area Fair Market Rents in Certain Metropolitan Areas, Discussion of Comments, and Request for Participation, 76 Fed. Reg. 22122, 22124, April 20, 2011; Section 8 Housing Choice Voucher Program—Demonstration Project of Small Area Fair Market Rents in Certain Metropolitan Areas for Fiscal Year 2011, 75 Fed. Reg. 27809, 27810, May 18, 2010.

65. The 2011 Zip Code maximum rents achieved the stated purposes for the one year demonstration program. The 2011 maximum rents enabled voucher recipients in Dallas to choose neighborhoods with substantially lower violent crime rates and lower poverty rates. The net cost of the change to the government was zero because the undue subsidy to landlords in lower rent areas was reduced. Collinson, Robert A. and Ganong, Peter, Incidence and Price Discrimination: Evidence from Housing Vouchers (June 9, 2013).¹⁶

¹⁶ Available at SSRN: <http://ssrn.com/abstract=2255799> or <http://dx.doi.org/10.2139/ssrn.2255799>; PDR, "HUD Research Roadmap FY 2014 - FY 2018,"

66. After the one year settlement required duration of the program, HUD abandoned the 2011 maximum rents and substantially lowered many of the 2012, 2013, and 2014 maximum rents in majority White, low poverty neighborhoods. The HUD reductions in the maximum rents for these areas reduced the number of units available by decreasing the amount of the HUD subsidy per unit in those areas.

67. At the same time, HUD substantially increased the 2012, 2013, and 2014 maximum rents that can be paid to landlords in Black and other predominantly minority neighborhoods. The HUD maximum rent increases in these areas increased the HUD subsidy per unit over the amount necessary to obtain an adequate number of units. The higher HUD maximum rents increased the amount of the undue subsidy that the Zip Code maximum rent demonstration was implemented to end. The combined effect of the undue subsidy for the large number of units in predominantly minority areas is to make the limited subsidy available for fewer families and to reduce the subsidy for units in low poverty areas where families are not forced to live in conditions of slum and blight.

68. HUD knows that maximum rents must be set higher to accomplish the goal of alleviating rather perpetuating racial segregation. In 2001 HUD cited the need to increase maximum rents for voucher families participating in the HUD plan to substitute vouchers for public housing units in the Dallas *Walker v. HUD* case. HUD explained that an increase by 125% would better enable the limited number of Settlement Voucher families to gain access to the comparatively limited number of units in predominantly White areas. The increased maximum rents would make it more likely that Black voucher families would be competitive in those rental

July 2013, page 70 at http://www.huduser.org/portal/pdf/Research_Roadmap.pdf.

markets. Cousar, Acting General Deputy Assistant Secretary for Public and Indian Housing, to Rogers, Texas State Office of Public Housing, March 28, 2001. The U.S. Court of Appeals for the Fifth Circuit held that higher rents were needed for Black voucher families to obtain units in predominantly White areas. *Walker v. City of Mesquite*, 169 F.3d 973, 985, 985 n. 30, 987, (5th Cir. 1999), *cert. denied*, 528 U.S. 1131 (2000).

69. HUD established a similar set of higher maximum rents to provide a limited number of Black voucher families with access to units in majority White areas in numerous East Texas counties. In some counties the maximum rents were set from 119% to 163% of the standard maximum rent in the area. HUD set the amounts to substantially increase the number of units for Black voucher families in non-minority areas. HUD, Texas State Office of Public Housing, “Young v. Martinez Litigation Desegregated Housing Opportunity Guide,” 2003, pages 9 - 10.

70. HUD’s reduction of the maximum rents in majority White Zip codes was done with knowledge that the effect of the action would be to reduce all Black voucher families’ access to units in those areas and to perpetuate racial segregation. HUD’s post 2011 decreases in the maximum rents for predominantly White Zip Codes limited the access of Black voucher families to units in majority White areas.

Departure from the agency’s own established procedures.

71. HUD consistently states that it is obliged to use the most current census data available. It did not do so when calculating the 2014 maximum rents. The data set HUD has chosen to use is the U.S. Census American Community Survey (ACS) 5_{year} reports. These reports are published about 2 years after the close of the period covered by the data. For example, the ACS 2007-2011 data was released on December 6, 2012. It was the most current data

available for use by HUD throughout 2013 when HUD was setting the 2014 maximum rents.

72. The use of the most current 2007-2011 Zip Code level data available at the time HUD set the maximum rents would have been a less discriminatory alternative to the use of the less current data. The ACS 2007-2011 rents in the minority Zip Codes either stayed about the same as or decreased from the ACS 2006-2010 rents. If the HUD maximum rents for 2014 had been set using the current data, the HUD maximum rents in minority Zip Codes would have decreased or stayed about the same and not increased. ACS rents increased in many of the White Zip codes from the ACS 2006-2010 data to the ACS 2007-2011. Maximum rents for 2014 based on the current data would have been higher in many of the majority White, low poverty Zip Codes. This would be a less discriminatory pattern than the HUD 2014 increases in minority area maximum rents and substantial decreases in White area maximum rents.

73. The use of the most current ACS 2007-2011 Zip Code median gross rent data would have been a less discriminatory alternative to HUD's use of the older data. The use of this data instead of the ACS 2006-2010 would have made the following differences:

- The maximum rent in 14 of the 17 majority White Zip Codes with poverty rates less than or equal to 10% would have increased by an average of \$75 per month. The average decrease in the remaining 3 majority White Zip Codes would be \$22 per month;

- By comparison, the maximum rent in 7 of the 10 majority Black Zip Codes with an average poverty rate of 26% would have increased by an average of only \$12 per month. The average decrease in the remaining 3 majority Black Zip Codes would be \$12 per month;

- By comparison, the maximum rent in 12 of the 17 majority Hispanic Zip Codes with an average poverty rate of 27% would have increased by an average of \$21 per month. The average

decrease in the remaining majority Hispanic Zip Codes would be \$15 per month.

74. The U.S. Census ACS 2007-2011 data was available for use in the Dallas areas Zip Code maximum rent calculations. See for example,

MEDIAN GROSS RENT (DOLLARS)¹⁷

Universe: Renter-occupied housing units paying cash rent more information
2007-2011 American Community Survey 5-Year Estimates

...

ZCTA5 75001

Median gross rent 952

75. HUD knew the ACS 2007-2011 data was available because HUD used data from ACS 2007 - 2011 to make the calculations used in setting the 2014 maximum rents for the entire eight county HUD Dallas, TX HUD Metro FMR Area.

Fair Market Rents for metropolitan areas and non-metropolitan FMR areas are developed as follows:
2007-2011 5-year American Community Survey (ACS) estimates of 2-bedroom adjusted standard quality gross rents calculated for each FMR area are used as the new basis for FY2014.¹⁸

76. HUD used the U.S. Census American Community Survey 2007 - 2011 data to set the 2014 maximum rents for all of the large single county or multi-county Fair Market Rents in the country.

Today's notice provides final FY 2014 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2014. The FY 2014 FMRs are based on 5-year, **2007–2011** data collected by the American Community Survey (ACS). HUD, "Final Fair Market Rents for the Housing

¹⁷ The data is available on the U.S. Census website at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_afpt=table

¹⁸

[http://www.huduser.org/portal/datasets/fmr/fmrs/FY2014_code/2014Summary_dallas.odn?inputname=METRO19100M19100&disp_name=Dallas,%20TX%20HUD%20Metro%20FMR%20Area&cbsasub=METRO19100M19100&data=2014&year=2014&fmrtype=Final&incpath=\\$incpath\\$&cbsamet=19100](http://www.huduser.org/portal/datasets/fmr/fmrs/FY2014_code/2014Summary_dallas.odn?inputname=METRO19100M19100&disp_name=Dallas,%20TX%20HUD%20Metro%20FMR%20Area&cbsasub=METRO19100M19100&data=2014&year=2014&fmrtype=Final&incpath=$incpath$&cbsamet=19100).

Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2014, 78 Fed. Reg. 61668, October 3, 2013 (Emphasis added).

77. HUD deliberately refused to use the 2007 - 2011 data for the median gross rent of each Zip Code in the actual computation of the Dallas area Zip Code maximum rents.

FY2014 Final Small Area FMRs are calculated using **2010** 5-Year American Community Survey (ACS) data on the rent distribution of rental households in ZIP Code Tabulation Areas (ZCTAs). This page demonstrates how the Final FY2014 small area rents for ZIP Code 75001 within the Dallas, TX HUD Metro FMR Area were calculated (emphasis added).¹⁹

78. The use of the most current data, the ACS 2007-2011 Zip Code median gross rent for the Dallas area Zip codes, would have been a less discriminatory alternative as set out above.

Other less discriminatory alternatives to HUD's 2014 Zip Code maximum rents

79. There are other less discriminatory alternatives to HUD's current maximum rent setting process for Zip Codes. The alternatives involve using different configurations of the census data available for each Zip Code to refine HUD's current methodology for determining Zip Code maximum rents. The use of these configurations was presented to HUD in the context of resolving the inaccuracies of the maximum rents in the Dallas area and other areas where the Zip Code maximum rents were calculated. The elimination of the inaccuracies would have reduced the magnitude of the discriminatory effects of maximum rents being too low in high opportunity areas and too high in poor neighborhoods with large voucher concentrations. HUD rejected these alternatives.

80. In the past, HUD has used other types of rent by area data to set maximum rents in a

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[http://www.huduser.org/portal/datasets/FMR/FMRs/FY2014_code/2014zip_code_calc.odn?zc=75001&cbsamet=19100&data=2014&path=\\$path\\$&fmrtype=Final#step2](http://www.huduser.org/portal/datasets/FMR/FMRs/FY2014_code/2014zip_code_calc.odn?zc=75001&cbsamet=19100&data=2014&path=$path$&fmrtype=Final#step2).

manner that increased those rents in low poverty, non-minority concentrated areas while avoiding undue subsidy for units in high poverty, minority concentrated areas. HUD has used local rental market reports for the Dallas area to set exception standards for maximum rents in the Dallas area at the census tract level. HUD did not evaluate this alternative in setting the 2014 Zip Code maximum rents in the Dallas area. This would have been a less discriminatory alternative resulting in higher maximum rents in White Zip Codes and lower maximum rents in minority Zip Codes.

81. In the past, HUD has directly increased the maximum rent available in majority White areas when that was consistent with providing Black voucher families with adequate access to those White areas. This was done for a small portion of vouchers in Dallas and in East Texas as described above. HUD did not this evaluate this alternative in setting the 2012 through 2014 Zip Code maximum rents in the Dallas area. This would have been a less discriminatory alternative resulting in higher maximum rents in White Zip Codes.

Claim for relief

82. The Fair Housing Act, 42 U.S.C. § 3608(e)(5), commands HUD to “administer the programs and activities relating to housing and urban development in a manner to affirmatively further the policies of this subchapter.” HUD’s Housing Choice Voucher Program is a program and activity relating to housing, 42 U.S.C. § 1437f(o). 42 U.S.C. § 3608(e)(5) prohibits HUD actions:

- that are discriminatory housing practices with the effect of perpetuating racial segregation by making housing unavailable because of race without justification or for which there are less discriminatory alternatives and thus violate 42 U.S.C. § 3604(a), or

- that perpetuate racial segregation because of race in violation of 42 U.S.C. § 3604(a), or
- are not based on an evaluation of the effect of alternative courses of action in light of the effect upon open housing by perpetuating or alleviating racial segregation.

83. HUD's process for calculating and HUD's decisions adopting the 2014 housing voucher program maximum rents for the Dallas area Zip Codes are discriminatory housing practices that perpetuate racial segregation in the voucher program and in the Dallas area. There are no legitimate interests served by the discriminatory housing practice. There are less discriminatory alternatives to the elements of the practice causing the discriminatory effect perpetuating racial segregation and to the specific maximum rents for the Dallas area Zip Codes. HUD has not evaluated its practices and decisions setting the voucher maximum rents to determine their effect upon open housing by perpetuating or alleviating racial segregation. HUD has not evaluated alternative courses of action to either the elements of the practice causing the discriminatory effects or to the specific maximum rents for the Dallas area Zip Codes. HUD's actions set out in this complaint violate 42 U.S.C. § 3608(e)(5) by causing discriminatory effects in violation of 42 U.S.C. § 3604(a).

84. HUD's process for and HUD's decisions adopting the 2014 housing voucher program maximum rents for the Dallas area Zip Codes are discriminatory housing practices that perpetuate racial segregation in the voucher program and the Dallas area. HUD's actions are taken at least in part because of HUD's willingness to accept racial segregation in the operation of its Housing Choice Voucher Program in the Dallas area Zip Codes. This violates 42 U.S.C. § 3608(e)(5) by perpetuating racial segregation by making units in White areas unavailable because of race in violation of 42 U.S.C. § 3604(a).

85. HUD's process for and HUD's decisions adopting the 2014 housing voucher program maximum rents for the Dallas area Zip Codes are discriminatory housing practices that perpetuate racial segregation in the voucher program and the Dallas area. HUD's actions are taken at least in part because of HUD's willingness to accept racial segregation in the operation of its housing choice voucher program in the Dallas area Zip Codes. This is a violation of the Fifth Amendment to the Constitution of the United States and 42 U.S.C. § 1982.

Prayer for relief

86. Plaintiff requests injunctive relief requiring HUD to comply with its obligation to affirmatively further fair housing in its Dallas area Zip Code maximum rent setting policies and decisions. This obligation requires affirmative action to remedy violations of 42 U.S.C. § 3604(a), 42 U.S.C. § 3608(e)(5); the Fifth Amendment to the Constitution of the United States and 42 U.S.C. § 1982.

87. Plaintiff requests injunctive relief requiring HUD to implement an assessment, analysis, and implementation process for the application of the affirmatively further fair housing standard in HUD's Dallas area Zip Code maximum rent setting policies and decisions. The injunctive relief should require HUD to:

A. conduct and make public an assessment of the elements and factors in the HUD voucher maximum rent setting process and decisions that cause or perpetuate racial segregation, and racially or ethnically concentrated areas of poverty in the Dallas area;

B. using the assessment, proceed to identify and make public the primary factors of the HUD voucher maximum rent setting process influencing conditions of racial and ethnic integration, racial and ethnic segregation, and racial and ethnically concentrated areas of poverty,

which factors are causes of perpetuating those conditions or that can alleviate, mitigate, or eliminate those conditions;

C. adopt the less discriminatory alternatives for setting maximum rents in the Dallas area Zip Codes which will avoid perpetuating racial and ethnic segregation and will increase Black voucher families' access to units in non-minority concentrated areas of low poverty without conditions of slum and blight.

88. Plaintiff requests an injunction requiring HUD to use the most current U.S. Census American Community Survey 5-year report data available in the calculation of Dallas area Zip Code maximum rents for the Dallas area. This requirement should continue until HUD has completed the required assessment, identification, and less discriminatory alternative determination process necessary to affirmatively further fair housing in the maximum rent setting process.

89. Plaintiff requests an injunction requiring HUD to provide funding under existing HUD programs for a regional mobility counseling program available for all voucher families in the Dallas metropolitan area. The mobility counseling should include the provision of financial assistance on behalf of families when necessary or appropriate to obtain units in Zip Codes outside of poverty and minority concentrations. This element of relief is appropriate to overcome the perpetuation of segregation imposed on these families by HUD's violation of its legal obligation to affirmatively further fair housing in its voucher maximum rent setting process and decisions.

90. Plaintiff requests an injunction requiring HUD to comply with its affirmatively further fair housing duty by requiring the owner of any housing unit that is funded or made available

using any federal incentives such as federal subsidy, federal guarantees, federal mortgage insurance, federal mortgage assistance, or other federal assistance in the Dallas area and that is located outside areas of poverty and minority concentration to accept families with housing vouchers in a portion of the units. The requirement should prohibit the refusal to rent to an applicant participating in the voucher program based upon source of income or the need for income that exceeds 2.5 times the voucher family's portion of the rent,

91. Provide an award of attorney fees, litigation expenses, and costs;

92. Any other appropriate relief.

Respectfully Submitted,

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