

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

U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED 2/13

MAY 19 1994

NANCY DOHERTY, CLERK

By _____
Deputy

DEBRA WALKER, ET AL.

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CIVIL ACTION NO.

v.

3:85-CV-1210-R

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

CLASS ACTION

PLAINTIFF'S REPLY TO HUD SUMMARY JUDGMENT RESPONSE

Both HUD and DHA have admitted that the predominantly African-American location and racial composition of DHA's non-elderly projects is a direct result of purposeful racial segregation [responses to plaintiffs' request for admission (RFA) #1]. Both HUD and DHA admit that, despite the previous remedial orders of the Court, the plaintiff class continues to be subjected to remaining vestiges of that segregation [responses to plaintiffs' RFA # 160]. Neither HUD nor DHA have submitted any material evidence in opposition to plaintiffs' motion for summary judgment's statement of material and undisputed facts. HUD states that it lacks sufficient information to admit or deny many of the specific facts asserted in plaintiffs' motion [HUD response to requests for admission #6 - unequal conditions, #157 - HUD's purpose]. Plaintiffs' motion for partial summary judgment on liability should be granted.

This reply is organized according to the headings in HUD's Memorandum in opposition.

I. Admission of Title VIII liability

HUD admits liability for "claims arising under Title VIII of

the Civil Rights Act of 1968, 42 U.S.C. § 3608 et seq. insofar as those claims are based on HUD's failure to affirmatively further the goals of fair housing in its relationships with DHA and the City in the period 1968 up to January 20, 1987." HUD then seeks to limit this concession to four specific areas - tenant selection and assignment, Robin Square, Section 8 and the suburbs, and the City and CDBG. The cases cited below show that HUD's Title VIII duties also include the constitutional duty to disestablish the effects of racial segregation in HUD's programs to the extent practical.

The Title VIII obligation is more, not less, than the constitutional obligation. Congress has charged HUD with the obligation to not only end discrimination and segregation but also to ensure that ghettos are replaced by truly integrated and balanced living patterns. HUD's narrow view of its Title VIII obligations has not been accepted by the courts. NAACP v. HUD, 817 F.2d 149, 154 - 155 (1st Cir. 1987)(Judge Breyer). HUD has the Title VIII obligation to replace the ghettos of Dallas publicly assisted housing with truly integrated and balanced living patterns free from segregation and inequality.

II. Title VIII Remedial Obligations

The cases in which HUD has been found guilty of Title VIII violations have also been cases in which the courts have entered a wide range of injunctive relief. NAACP v. Kemp, 817 F.2d 149, 160-161 (1st Cir. 1987), remedy order on remand 721 F.Supp 361, 366 - 374 (D. Mass. 1989)(extensive remedy even though Title VIII

only basis for liability); Clients' Council v. Pierce, 711 F.2d 1406, 1425 - 1426 (8th Cir. 1983) (Title VIII liability and remedy directions); Garrett v. City of Hamtramck, 503 F.2d 1236, 1247, 1250 (6th Cir. 1974)(Title VIII liability and remedy); Young v. Pierce, 628 F.Supp. 1037, 1054 - 1055, 1057 (E.D. Tex. 1985) (Title VIII liability), 685 F.Supp. 975, 986 (E.D. Tex. 1988) (remedy order and opinion); Jaimes v. TMHA, 715 F.Supp. 835, 841 - 843 (N.D. Ohio 1989).

Plaintiffs' counsel have been unable to find any case in which the only remedy for a HUD Title VIII violation is a remand to the agency. Even in Shannon v. HUD, where the Title VIII violation was HUD's failure to consider racial consequences of project, the appellate court required specific injunctive relief prohibiting HUD processing of the project and set out the range of relief available after HUD made its new determination. Shannon v. HUD, 436 F.2d 809, 822 - 823 (3rd Cir. 1970).

The remaining vestiges of HUD and DHA's prior discrimination affect most of DHA's family projects and the Section 8 program [HUD responses to plaintiffs' requests for admissions ## 1 - 5, 149, 150, 160]. The Cisneros plan does not even address the remaining vestiges at the non-West Dallas DHA projects. The Cisneros plan, as filed with the Court, will not provide mobility services to class members since DHA has refused to allow the non-profit to offer services to DHA applicants and tenants [Plan page 2]. Class members will be denied the mobility services even though HUD has admitted that "...each offer of a unit to an

African-American applicant in the predominantly black projects 9-1 through 9-11 is an offer which perpetuates past segregationist policies and practices in which African-American applicants are assigned to a predominantly black project in a predominantly black area." [HUD response to RFA # 4]. Less than 20% of DHA's Section 8 certificates and voucher are in predominantly white areas [HUD response to RFA # 3, # 160]. The Cisneros plan will do nothing to cure this vestige of past discrimination.

The Cisneros plan is a constantly changing concept or idea as opposed to an actual plan submitted to the Court for evaluation, approval, and incorporation into an order if approved. The content of the plan changed as it was being presented during the April 8, 1994 hearing. The content of the plan has changed in the various pleadings submitting or discussing the plan. Not only has the mobility program changed from offering mobility to class members to denying mobility to class members, the number of new units to be built in white areas has changed. HUD, in its response to plaintiffs' motion for partial summary judgment, makes the assertion that 474 of the new public housing units under Secretary Cisneros' plan will "be built elsewhere in the Dallas area." [HUD's response, page 12]. HUD's Supplemental Memorandum in Support of Motion to Alter and Amend the Judgment, page 4, filed with the Court on February 18, 1994, refers to 139, not 474, of the new public housing units being located outside of West Dallas. The plan submitted to the Court contains no estimate of the number of units which will be developed elsewhere in

the Dallas area. Neither HUD nor DHA were able to provide, at the hearing, an actual number of units to be demolished. The plan submitted to the Court states only that a "sufficient number" of units will be demolished so that no vacant, uninhabitable units remain standing [Plan page 1].

Even if a Cisneros plan is submitted, approved, and ordered into implementation by the Court, the case will not be moot. Mere adoption of a desegregation plan by a defendant does not exhaust the remedial power of the Court. Raney v. Board of Education, 391 U.S. 443, 449 (1968). The Court must retain jurisdiction to ensure that even a constitutionally acceptable plan is implemented in a constitutionally permissible manner so that the vestiges of prior discrimination are eliminated to the extent practical. Green v. School Board of New Kent County, 391 U.S. 430, 439 (1968). The guiding principles for removal of court control of public institution desegregation efforts are good faith compliance with the desegregation decree over a period of time and whether the vestiges of past discrimination have been eliminated to the extent practical. Freeman v. Pitts, ___ U.S. ___ (1992), 118 LEd 2d 135. The Cisneros plan does not exhaust the remedial power of the Court under any theory of liability.

III. A. Intentional Discrimination

The documents,¹ depositions, and responses to requests for

¹ The federal government documents referred to in requests for admissions 32, 37, and 40 are not already in evidence. These documents are attached to the declaration of Michael M. Daniel served on May 17, 1994.

admissions provide an uncontested factual record of purposeful discrimination equal to or exceeding in detail and scope the record upon which other courts have made findings of HUD's racially discriminatory purpose in its funding and administration of local public housing authority programs. Young v. Pierce, 628 F.Supp. 1037 (E.D. Tex. 1985) reversed on other grounds 822 F.2d 1368 (5th Cir. 1987)(summary judgment); Clients' Council v. Pierce, 711 F.2d 1406, 1410 (8th Cir. 1983)(record compelled a finding of purpose); NAACP v. CHA, Memorandum Opinion and Order, Aug. 27, 1993 (N.D. Tex. CA 3-88-0154-R)(summary judgment).

The undisputed facts show racial purpose by HUD. Gautreaux v. Romney, 448 F.2d 731 (7th Cir. 1971); Garrett v. City of Hamtramck, 503 F.2d 1236 (6th Cir. 1974); Resident Advisory Board v. Rizzo, 564 F.2d 126 (3rd Cir. 1977) cert. denied 435 U.S. 908 (1978); Jaimes v. TMHA, 715 F. Supp. 835 (N.D. Ohio 1989); Hicks v. Weaver, 302 F.Supp. 619 (E.D. La. 1969).

HUD claims to lack sufficient information to admit or deny plaintiffs' allegations about HUD's intent [HUD's response to RFA # 157]. The only evidence asserted by HUD to make purpose a disputed fact is a deposition statement that communication was lost between the HUD Regional Office and the Central Office with the result that HUD failed to monitor DHA's compliance with a Title VI compliance agreement. Incompetence and ignorance are not defenses to a racially discriminatory purpose operating over a long period of time and permeating the regulatory and administrative actions of the federal agency charged with enforcement of

the nation's fair housing laws. Young, 628 F.Supp. at 1055, 1055 n. 9., 1056.

HUD's denials of plaintiffs' requests for admissions on purpose do not serve to make purpose a disputed fact. Fed. R. Civ. P. 56(e).

Sovereign immunity does not bar plaintiffs' claims. Any omissions in the pleadings can be rectified. NAACP v. CHA, Memorandum Opinion and Order, Aug. 27, 1993 (N.D. Tex. CA 3-88-0154-R) pages 40 - 44, 42 n.140.

HUD's argument fails to inform the Court of the explicit waiver of sovereign immunity found in Section 702 of the Administrative Procedure Act or of the U.S. Supreme Court case, Bowen v. Massachusetts, 487 U.S. 879 (1988), which holds that Section 702 waives sovereign immunity in actions against federal agencies seeking all relief other than traditional money damages as that term is understood at common law.

HUD's argument cites no authority on point for the assertion that sovereign immunity bars plaintiffs' claims in this case where plaintiffs are solely seeking injunctive relief from HUD. The cases cited by HUD do not involve claims for injunctive relief. HUD cites Hohri v. United States, 782 F.2d 227, 245 n.43 (D.C. Cir. 1986) and Unimex, Inc. v. HUD, 594 F.2d 1060, 1061 (5th Cir. 1979). Both Hohri and Unimex involved claims for monetary damages by the plaintiffs. Hohri, 782 F.2d at 231; Unimex, 594 F.2d at 1061, 1062. HUD then cites generally United States v. Idaho __ U.S. __ , 123 LEd.2d 563 (1993) and United

States v. Nordic Villages, Inc., ___ U.S., 117 LEd.2d 181 (1992) for support that sovereign immunity must be unequivocally expressed in a statute. In Idaho the Supreme Court held that language in the McCarran Act making "the State laws" applicable to the United States in comprehensive water right adjudications did not waive sovereign immunity for costs. Idaho, 123 LEd.2d at 571. In Nordic Villages, Inc. the Supreme Court held the U.S. immune from a bankruptcy trustee's claims for monetary relief. Nordic Villages, Inc., 117 LEd.2d at 191. Neither Idaho nor Nordic Villages, Inc. are applicable to this case, and neither involve claims for injunctive relief against federal agencies.

III. B. Claims under 42 U.S.C. § 1983

The record shows concerted action by DHA, HUD and HUD's predecessors to originate and perpetuate racial segregation in DHA's low income housing programs throughout DHA's existence. Time and time again, HUD formally agrees to DHA action which HUD knows will cause or perpetuate racial segregation [HUD's responses to plaintiffs' requests for admissions ## 19, 20, 22, 42, 44, 47, 48, 51, 56, 57, 59, 64, 66, 94, 110, 116, and the documents cited in those requests]. HUD official Irving Statman testified to several specific agreements between HUD and DHA whereby HUD allowed DHA to engage in purposeful racial segregation [Statman deposition pages 34 - 37 agreement letting DHA develop Turnkey III in black area; pages 39 - 41, 87 - 93 agreement to the effect that DHA could use and did use all white waiting list for elderly project][deposition filed with the District Clerk, relevant pages

attached to this memorandum].

HUD has presented nothing to make the concerted action of HUD and DHA to cause and perpetuate racial segregation in DHA's programs under color of state law a disputed fact.²

III. C. Title VI.

HUD cites WEAL v. Cavazos, 906 F.2d 742 (D.C. Cir. 1990). That case specifically stated that there is an implied right of action under Title VI to sue the federal government in a situation-specific suit for improperly funding a particular entity or enterprise. Id. at 906 F.2d 749, 749 n. 9. The Court recognized that where the federal government was itself charged with discrimination or, as a provider of financial assistance, with facilitating or encouraging a specific fund recipient's discrimination, "the federal defendant might be answerable both on the merits and for fees." Id. at 906 F.2d 750. Plaintiffs here have so charged the federal government.

HUD cites Washington Legal Foundation v. Alexander, 984 F.2d 483 (D.C. Cir. 1993). That Court declined to decide whether a Title VI suit could be brought against the federal government to enforce an agency's own determination that a recipient had violated Title VI. Id. at 489.


² The second sentence of request for admission # 157 states that HUD has acted in concert and in cooperation with DHA and the City for the purpose and with the effect of maintaining racial segregation in DHA's programs. HUD admits discrimination and segregation, claims a lack of knowledge with regard to intent, and does not respond to the allegation of concert and cooperation [HUD's response to # 157]. A lack of response to the acting in concert deems that portion admitted. FRCP 36.

Conclusion

The racially discriminatory purpose of HUD and its predecessors guided the development of the first DHA project. The same purpose continued to shape the housing opportunities of low income families throughout DHA's history and through the preparation and submission of HUD's proposal for a 2,000 unit West Dallas project, a proposal which the current HUD Secretary withdrew because of his concerns that the plan would present unacceptable levels of racial and economic segregation [Cisneros declaration page 4]. The effects of that purpose will continue despite the good faith of any single HUD, or DHA, administration. The Court should grant plaintiffs' motion and proceed to the remedy stage of the case.

Respectfully Submitted,

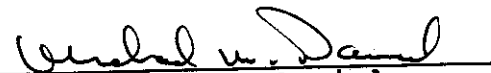
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Certificate of Service

I certify that a true and correct copy of the above document was served upon counsel for all defendants by being placed in the U.S. mail, first class postage prepaid, on the 19th day of May, 1994.


Michael M. Daniel

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF TEXAS

3 DALLAS DIVISION

4 DEBRA WALKER, et al.

*

5 VS.

*

CA NO. 3-85-1210-R

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6 U.S. DEPARTMENT OF
7 HOUSING AND URBAN
8 DEVELOPMENT, et al.

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9 - - -

10 ORAL DEPOSITION

11 OF

12 IRVING STATMAN

13 - - -

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16
17 ANSWERS AND DEPOSITION OF IRVING STATMAN,

18 produced as a witness at the instance of the Plaintiffs,
19 taken in the above styled and numbered cause on the 2nd
20 day of May, 1986, at 9:30 o'clock a.m., before Ann
21 Fleming Cox, Certified Shorthand Reporter in and for the
22 State of Texas, at the offices of Julian & Daniel, P.C.,
23 3301 Elm Street, in the City of Dallas, County of
24 Dallas, State of Texas, in accordance with the Subpoena
25 issued and the agreement hereinafter set forth.

ORIGINAL

1 Q. What do you mean it was a White project?

2 A. Built in what you'd characterize as a White
3 neighborhood and what I'd characterize as Anglo-Saxons
4 living there.

5 Q. During the period that you were with HUD
6 you had many contacts with the owners, managers,
7 developers of HUD subsidized projects in Dallas County,
8 didn't you?

9 A. With ones that had problems. Frankly, I
10 never talked to them unless they had a problem they felt
11 they couldn't resolve with my staff.

12 Q. During the period you were with HUD were
13 you at all acquainted with the -- well, you were
14 acquainted with the gentleman who was the director of
15 the Dallas Housing Authority up to about '74, were you
16 not, Mr. Stephenson?

17 A. Yeah.

18 Q. The one quote that is in the Dallas Morning
19 newspaper about the location of the Turnkey, was that a
20 one-time slip by Mr. Stephenson or was that --

21 A. I don't know. I didn't get too many
22 audiences for Mr. Stephenson, but I do know from Maceo
23 Smith that they sort of had the Black's equivalent of a
24 pay less settlement and that was the only place he would
25 even consider putting, quote, Turnkey 3 projects, and

1 that was more or less reinforced -- this is totally my
2 opinion now, but I think that the ownership of that land
3 in that area by Carr P. Collins had a lot to do with the
4 location of half of the Turnkey situation.

5 Q. How did the ownership by Carr P. Collins
6 have an effect on the location of the Turnkey projects?

7 A. Everything I'm telling you now is hearsay.
8 Do you want to hear hearsay?

9 Q. Sure.

10 A. She said no.

11 MS. JULIAN: I said absolutely.

12 A. There was a either Dorothy Hite (phonetic)
13 or Dorothy Hiet (phonetic). There are two women of that
14 name and I don't remember which one, but this one was
15 the head of the National Council for Negro Women and
16 that might not be the true name of the organization.
17 They had a contract with the Rockefeller Foundation to
18 have pilot programs in Turnkey 3. You know, I don't
19 have to go into what a Turnkey 3 is.

20 Q. No, you don't have to go into what a
21 Turnkey 3 is.

22 A. Their position is for \$600 per family they
23 would teach the families how to turn on stoves, how to
24 flush the toilets, how to be homeowners. She needed two
25 more contracts to fulfill the agreement with the

1 Rockefeller Foundation. She went to Weaver who at that
2 time was secretary of HUD. Weaver asked Maceo to
3 promote the Turnkey 3, and if you notice, there's two
4 Turnkey 3 sections, one on one side of the road and one
5 on the other, that was to get the two contracts for her.

6 Again, according to Maceo, who is no longer
7 with us so we can't confirm this, but according to Maceo
8 Weaver was very desirous of helping her. Stephenson
9 didn't want these units. Stephenson set his line of
10 demarcation up. Since Carr P. Collins had this land he
11 then went and put pressure on the Dallas Housing
12 Authority to go ahead with the two Turnkey projects
13 which I think totaled 357.

14 At that time we had become very interested
15 in locations and equal opportunity. I had recommended
16 Maceo to turn that site down. There was many Black
17 organizations that were really upset about that site.
18 At that time Don Johnson had just come into town and for
19 whatever reason he led the big fight against those
20 projects, not only because it was in the Black area but
21 there was no transportation, the linkages were not
22 there.

23 Maceo told me that he accepted those 357
24 units because we were entitled in this area to a
25 thousand units and he was told that if he took the 357

1 in the Black areas that we would get the rest of the
2 units in the, quote, White areas.

3 Q. Did Mr. Smith say who told him that you
4 would get the rest of the units in the White area?

5 A. The secretary. Of course, you know, the
6 flight in that argument was HUD, as you know, cannot
7 act, can only react. HUD cannot create projects. They
8 can only insure, assist, et cetera, and if somebody
9 doesn't come in, if a developer or Housing Authority
10 come in and want to build something, then it's not
11 built.

12 And so since the Housing Authority never
13 did come in and request these additional, whatever the
14 difference between 357 and a thousand is, we were, you
15 know, powerless to establish those units in the, quote,
16 White parts of town.

17 Q. Why were you powerless so that you had to
18 accept the Black site?

19 A. We really weren't powerless on that.

20 Q. Why did you give in?

21 A. Because the agreement was that they would
22 apply for the other 600 and whatever it is, 643 units in
23 the White part of town. That was an agreement between
24 somebody in the Housing Authority and somebody at HUD.
25 That agreement was never fulfilled.

1 Q. You were present at a meeting with at least
2 one commissioner of the Dallas Housing Authority,
3 Reverend Shipp, and perhaps some other individuals in
4 approximately 1973 in which there was a discussion about
5 funding of the DHA low public housing projects; is that
6 correct?

7 A. Was that the meeting you were at?

8 Q. That's the meeting you told me I was at
9 when we talked on the phone the other day.

10 A. You don't remember being there? That's the
11 first thing that goes, your mind. There was a meeting.

12 Q. Patience goes first.

13 A. You've done pretty good so far. I think
14 you were at that meeting, if you don't remember it --

15 Q. We don't need to argue about that.

16 A. Yeah, there was -- the meeting that I
17 remember that you don't remember was held because we had
18 found the Housing Authority in noncompliance both by
19 their tenant segregation and also by employee
20 segregation; in other words, only Mexican maintenance
21 people could work in the Mexican project and Anglo in
22 Anglo and Black in Black.

23 So we just more or less put a stop to any
24 further funding, which basically at that time the
25 Housing Authority could care less, but there were, I

1 don't remember, either three or four elderly projects on
2 the drawing board and there was a lot of pressure for
3 the Housing Authority to get those and there was a lot
4 of conversation going on that the Dallas Housing
5 Authority was passing up and losing a lot of funds from
6 HUD because they wouldn't comply with integrational
7 projects and again --

8 Well, I think the main problem was that an
9 architect was about to lose a big fee because I wouldn't
10 approve that project, but anyway, whatever the
11 circumstances were, we had a meeting and at that time a
12 Reverend Tom Shipp who was a super, super pastor of the
13 Lovers Lane Methodist Church, very influential in his
14 own right, met and we tried to break the deadlock,
15 basically, on the elderly housing.

16 MR. STRONG: I'm sorry, basically on
17 the what?

18 THE WITNESS: On the elderly
19 housing.

20 A. I asked Stephenson if that project was
21 going to be integrated and he said, "Well, we have this
22 long waiting list already for the project." And I said,
23 "They're all White." And he said, "I don't know." And
24 I said, "They're all White." And that would just
25 automatically, you know, prevent any minorities and all

1 we're doing is exacerbating the situation and he -- his
2 argument was that we couldn't keep these poor people who
3 have been waiting three or four years on this list.

4 And anyway, to make a long story short, we
5 agreed, Tom Shipp crammed the agreement down that we'd
6 work off two lists, that we'd take the White list and we
7 would have a Black list which was a list of Black
8 elderly people that was supposed to be supplied to me by
9 the Urban League. At that time I was on the Urban
10 League's board and I asked Roosevelt Johnson to
11 participate in this with me and the agreement was that
12 every fifth position would be filled by a Black and that
13 way the Whites would only be mulched out of one
14 position.

15 So that was the agreement that was made on
16 that project and Roosevelt couldn't get any substantial
17 list for me. I don't know, I think there were two or
18 three Blacks in the whole project, but that was the
19 meeting I had with Reverend Shipp who was at that time
20 chairman of the board.

21 Q. Did you make a suggestion that DHA recruit
22 potential Black applicants for this project from the
23 Black elderly who were living in the DHA projects
24 already?

25 A. That was one of the sources. I really

1 pre-site selection projects and try to integrate them.
2 Now, there's always been great and master plans to try
3 to attempt that.

4 Q. But they've never been implemented, to your
5 knowledge?

6 A. As far as I'm concerned, no.

7 Q. When you had this meeting with Mr. Shipp
8 and Mr. Stephenson, was the meeting at the church, is
9 that what you said?

10 A. The meeting was -- no, I'm trying to
11 remember. I think it was at HUD. I think the meeting
12 at was at our office in Bryan Tower.

13 Q. Do you recall who was present?

14 A. Yeah, Mike Daniel was present, Tom Shipp
15 and myself and I think, I'm not sure of this, but I
16 think maybe Vic Pettite sat in on this because there
17 could be some legal implications.

18 Q. Was Roosevelt Johnson present at that
19 meeting?

20 A. I don't remember but Tom Shipp was on the
21 board of the Urban League and he could have very well
22 been there.

23 Q. But you don't remember Mr. Johnson being
24 part of that particular meeting?

25 A. No, but I do remember Mike Daniel being

1 there.

2 Q. When you had the conversation with Mr.
3 Stephenson about the waiting list that he had ready for
4 this project and you said you knew it was an all-White
5 waiting list and he didn't contradict you on that; is
6 that fair to say?

7 A. I, as the learned attorney pointed out,
8 since I didn't say that I couldn't say I knew but --

9 Q. Mr. Statman, I believe that you knew and I
10 was asking is that what you were saying, that it was
11 your understanding?

12 A. I believe in my heart that it was
13 all-White.

14 Q. And Mr. Stephenson never told you it
15 wasn't?

16 A. He wouldn't bet me a quarter that I could
17 find a Black name on it.

18 Q. Do you know if that list that he had for
19 that project had been developed specifically for that
20 proposed project, or was he just using his White elderly
21 waiting list?

22 A. No. See, this project was talked about for
23 several years and the minute you hear about a project,
24 people try to get on the waiting list. This project was
25 probably announced or mentioned or talked about for

1 probably two years.

2 Q. So it was your understanding that he had a
3 waiting list for that particular project?

4 A. Yeah, that I believe.

5 Q. Did you talk to him about whether or not
6 there were any Black elderly on just the regular DHA
7 waiting list?

8 A. For that project?

9 Q. No, not for that particular project.

10 A. No. We really concentrated all our efforts
11 on how we were going to assure that that project would
12 be treated as an integrated project.

13 Q. What I'm asking about in that regard you
14 say you asked Mr. Johnson --

15 A. After we settled and that's why I don't
16 think he was there. After Tom Shipp agreed with me that
17 we would have this double list, then I went to Roosevelt
18 and said, look, here's our chance to really integrate
19 this project. Come up with a list, whatever
20 one-twentieth of that -- I'm sorry, whatever one-fifth
21 of that number was.

22 Q. Did you ever talk to Mr. Stephenson or was
23 it ever discussed, proposed that Mr. Stephenson use the
24 existing low rent public housing waiting list and to
25 identify Black elderly?

1 A. No.

2 Q. Do you know for a fact whether he made any
3 offers or contacted anyone who was elderly, Black
4 residing in public housing at that time?

5 A. I don't know for a fact, but I think and I
6 don't know if Gene's got the records but if you had the
7 occupancy record there, I think empirically you could
8 deduce that there were no offers made to Blacks because
9 it was an all-White project.

10 Q. What I was trying to identify -- I think
11 you're right, I don't think there were any Blacks in
12 that project, but in terms of you being able to satisfy
13 yourself, you said you weren't sure you could trust Mr.
14 Stephenson to actually contact residents and make the
15 offer.

16 A. My opinion.

17 Q. Did you ever see any letters he sent out?

18 A. No, nothing.

19 Q. Did he ever do anything to prove to you --

20 A. No. I made a bad mistake during that
21 negotiation and I took it upon myself, thinking that
22 Roosevelt could get me that list. See, I shouldn't -- I
23 guess the statute of limitation has run out on -- I made
24 a dumb move. I shouldn't have taken that under my
25 responsibility to provide minorities, and then when I

1 didn't do it he could say, look, you see, if you can't
2 find them with your vast knowledge of minorities, why do
3 you expect me to?

4 What I should have done is put the onus on
5 him. I didn't because at that time, frankly, I just
6 wanted to get minorities in there, I didn't want to play
7 games, and I thought there would be no problem getting
8 elderly into a project like that, but I think what was
9 proven then was that minorities were hesitant to go into
10 an all-White area where they could feel hostility.

11 Q. The only thing you did to get Black elderly
12 for that project was to ask Mr. Johnson to get you a
13 list?

14 A. Get me a list we could work off of.

15 Q. Did you ever suggest to Mr. Stephenson that
16 he advertise in media aimed at a Black audience to
17 advise them of the availability of the project to Black
18 elderly?

19 A. I think that was one of the suggestions. I
20 can't say for certain.

21 Q. Did you check about that?

22 A. I don't remember ever requiring that so I
23 don't remember checking. I just really don't. I mean I
24 focused my whole plan on the Urban League list.

25 Q. You said the agreement you came up with was

1 a one in five offer, for every five Whites one Black
2 would be offered a unit?

3 A. Yeah, we -- somebody came up with the one
4 out of five because at that time the Black population
5 comprised of about 20 percent of the City of Dallas so I
6 was working from a parity. If there were 20 percent
7 Blacks in Dallas, we ought to have 20 percent Blacks in
8 the project and that would compute into one out of five.

9 Q. Was the eligible population, low-income
10 population, 20 percent Black?

11 A. It should have been higher.

12 Q. But you chose to use the general population
13 figures?

14 A. I mean I could put my finger on that
15 number. I couldn't really put my finger on, you know,
16 we'd really be getting into a sophisticated statistical
17 program to find out what percentage of the total
18 eligibility would have been Black.

19 Q. You didn't have that information, any
20 access to --

21 A. Right.

22 Q. So the one in five was based on the --

23 A. On the 20 percent of Black population in
24 Dallas at that time, that's right.

25 Q. Did you get any resistance from Mr.

1 Stephenson on that proposal?

2 A. Sure, it was crammed down his throat.

3 Q. What did he tell you was the basis of the
4 resistance?

5 A. That we were discriminating against all
6 these poor Whites that had been waiting two years to get
7 into that project.

8 (Discussion off the record)

9 Q. Mr. Statman, when did you have the
10 conversation, if you recall, with the board member or
11 Mr. Darnall or Ms. Demarest?

12 A. I don't remember.

13 Q. Do you remember the year?

14 A. It was whenever we tried or when the
15 Housing Authority was considering extending an -- again,
16 I think it was in Irving, Texas; is that right? I
17 remember one thing right.

18 THE WITNESS: Gene, are you saying

19 no, it's not in Irving?

20 A. Yeah, the one I remember I think we were
21 trying to sneak over into Irving, Texas because they
22 were doing some bad cases there. We had Bear Creek and
23 it's really subsidized housing where all the Blacks were
24 living in and we thought it would be neat to not only
25 give safe, sanitary housing to a Black but also to break