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U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

FEB - 7 1995

NANCY DOHERTY, CLERK
BY _____
Deputy

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

DEBRA WALKER, ET AL. *
v. * CIVIL ACTION NO. *
U.S. DEPARTMENT OF HOUSING * 3:85-CV-1210-R *
AND URBAN DEVELOPMENT, ET AL., * CLASS ACTION *
and *
U.S. DEPARTMENT OF JUSTICE. *

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

REMEDIAL ORDER AFFECTING DHA

Vestige A. 2,876 (92%) of the 3,116 black households in DHA's non-elderly public housing projects units¹ reside in predominantly black or minority concentrated projects in predominantly black or minority concentrated areas where the poverty rate exceeds 40% [plaintiffs' 9/27/94 exhibit # 79]. 6,133 of the 6,411 units in DHA's non-elderly public housing projects are in these predominantly black or minority concentrated areas where the poverty rate exceeds 40% [plaintiffs' 9/27/94 exhibit # 79].

DHA is ordered to take the following actions to eliminate this vestige:

- A.1. demolish at least 2,630 units of the public housing in the West Dallas project.
- A.2. provide one-for-one replacement units for each unit to be demolished before the demolition of that unit. The 100 public

¹ These figures exclude the approximately 46 single family homes for which DHA does not separately report racial occupancy data [plaintiffs' 9/27/94 exhibit # 68 - excerpt from DHA monthly report].

housing units and 1,335 Section 8 certificates and vouchers previously provided by HUD are one-for-one replacement units. The 339 public housing units allocated to DHA since 1990 are one-for-one replacement units. The 335 public housing units allocated under the HUD Urban Revitalization Demonstration Grant are one-for-one replacement units. The additional 698 Section 8 vouchers promised in the HUD plan submitted to the Court are one-for-one replacement units to the extent that HUD and DHA are proceeding with demolition under the previously approved demolition plan and if the number of units in the one, two, three, four, and five bedroom unit categories being replaced are matched in the allocations of replacement units. If a new demolition plan is approved then the 42 U.S.C. 1437p prohibition against the use of vouchers as replacement units will apply.

A.3. Develop, through construction or acquisition, an additional 3,205 public housing family units in predominantly white areas. These units shall be in place and occupied before any non-family units or any units in non-predominantly white areas are developed. The restriction set out in the immediately preceding sentence does not apply to the use of public housing units in the reconfiguration of the West Dallas projects provided for in ¶ B.7. of this order. The site for each unit must be approved by the Court and the units, projects, and neighborhoods for the units must provide housing opportunities substantially equivalent to the units, projects, and neighborhoods in and around the predominantly white located HUD assisted projects in

Dallas County. The units may not be located in areas where the poverty rate exceeds 13%, the county average. The development of these units is dependent upon the provision of funding for public housing or comparable programs by HUD to DHA.

A predominantly white area, as this term is used in this order, is determined by first computing the racial composition of the geographic area within a one-quarter mile radius of the center point of the center of the proposed location of the project. If the population, using the block level data for the most current US Census, is less than 37% total non-Hispanic African-American, Hispanic, or other minority persons, then it may be a predominantly white area. The area is not a predominantly white area if it is located on or near a dividing line, such as a highway, major thoroughfare, or railroad tracks, between a predominantly white area and a racially concentrated minority area. The area is not a predominantly white area if it is located in an isolated, non-residential area. The relevant area for the determination of the poverty rate shall be the US Census census tract block group in which the site is located.

The already allocated 674 units of new public housing units shall be occupied within 3 years of the date of this order or, if allocated for suburban development within 3 years and 6 months of the date of this order, unless an extension is granted by the Court for good cause.

A.4. DHA shall make an application for public housing assistance at each available opportunity. All units allocated by

HUD in the future shall be occupied within 3 years of the date of the allocation unless an extension is granted by the Court for good cause.

A.5. 350 of the currently available new public housing units and 50% of all subsequent allocations shall be tentatively reserved for use in predominantly white areas of the Dallas suburbs. DHA shall request that the suburbs enter into a cooperation agreement with DHA to allow the development of a reasonable number of public housing units in each suburb. If there are not enough suburban cooperation agreements signed or suburban sites available for acquisition within 6 months of the date of this order, then DHA shall develop the units in predominantly white areas of the City of Dallas. The three years for the initial occupancy of these units will begin to run after the expiration of 6 months from the date of the order.

A.6. DHA shall request the assistance of Dallas County, Texas, as part of the County's compliance with its obligation to affirmatively further fair housing in its housing and community development related activities, in securing cooperation agreements between DHA and the area suburbs.

A.7. Given the applicants' and residents' stated preference for Section 8 units, DHA is urged to devise and submit for court approval a plan which would use Section 8 certificates and vouchers to substitute for at least part of the future allocations of new public housing in predominantly white areas. In order to be approved by the Court such a plan must:

a. ensure that the Section 8 units are from an allocation over and above DHA's past allocations and over and above DHA's future fair share allocation and are not provided as a substitute for any units which would be provided to DHA under the normal allocation process. The housing assistance must be over and above what DHA or the City would otherwise receive from HUD, and can have no effect on the amounts of future assistance HUD may provide or award to DHA or the City, and

b. ensure that the certificates and vouchers for which an offset against the new public housing development is claimed are and will be in use in predominantly white areas for the foreseeable future.

A.8. DHA may use a race conscious tenant selection method for the purposes of preventing or reducing racial identifiability if every person skipped over because of race is provided an equivalent [in terms of cost to the tenant, convenience and suitability for the family's individualized needs and location preferences] alternative housing opportunity. Before use, the method shall be submitted to the Court for approval. The race conscious tenant selection and assignment method should be used only in those instances where the desegregative benefit is substantial enough to justify the use of the resources for the alternative housing opportunities needed to achieve the benefit.

A.9. DHA may use a tenant selection and assignment method which maximizes applicant choice to the extent the exercise of such choice does not unavoidably cause or maintain racially

identifiable projects. For example, if there are 10 units in predominantly black projects available and the top ten applicants on the list are black, then the exercise of choice will not unavoidably cause or maintain racially identifiable projects. If there are 7 units in predominantly black projects and three units in a non-racially identifiable project and the top ten applicants 7 blacks and 3 whites, then the exercise of choice could cause or maintain racially identifiable projects depending on the preferences of the individual applicants.

A.10. Until another method is approved by the Court, DHA shall make the applicant with the oldest application date one offer which if refused results in placement at the bottom of the waiting list. If any appropriate units vacant at the time of the offer is located in an area or project where the applicant's race does not predominate, those units shall be offered to the applicant. Any offer to the West Dallas project may be refused by an African-American applicant and that applicant shall not lose her place on the waiting list. Any offer of a unit in a predominantly white project or location may be refused by a white applicant and that applicant shall not lose her place on the waiting list.

A.11. DHA shall ensure that each African-American household accepting a non-elderly, handicapped, or disabled designated public housing shall be placed on the Section 8 waiting list with an application date of the acceptance of the public housing. If the person accepting public housing is already on the Section 8 waiting list, then the application date is the actual application

date. Each African American household in a non-elderly, handicapped, or disabled designated public housing unit who is also on the Section 8 waiting list shall have a desegregated housing opportunity preference equal to a federal preference.

A.12. A racially identifiable minority public housing project has 75% or more non-Hispanic black, Hispanic, or other minority total population. A racially identifiable white public housing project has 75% or more non-Hispanic white total population.

A.13. Propose and implement a plan, as approved by the Court, providing magnet project improvements for any family project located in minority racially concentrated areas for which there is not a substantial decline in racial identifiability within the three years after the unit, project, and neighborhood improvements required below are completed.

Vestige B. The units, projects, and neighborhoods available for the black occupants of and applicants for DHA's low rent public housing projects are substantially inferior to the conditions in which low income whites receive HUD assistance [plaintiffs' 9/27/94 exhibits ## 62 - 66, 68 - 80]. Walker v. HUD, 734 F.Supp. 1231, (N.D. Tex. 1989).

DHA is ordered to take the following actions to eliminate this vestige:

B.1. Prepare and submit for court approval a schedule for achieving the unit and project improvements necessary to make the

unit and project conditions at DHA's projects substantially equal to the unit and project conditions at the HUD assisted projects located in predominantly white areas of Dallas and including the improvements listed in paragraphs 32 - 35 on pages 23 - 25 and 38 - 46 on pages 26 - 27 of the DHA proposed permanent injunction for each DHA project. The schedule should be drafted to achieve the improvements in the least possible time given the funding likely to be available and list the possible sources of funding for each improvement. Priority should be given to achieving the improvements in security necessary to achieve a safe environment within each project. The projects with the highest crime rate should be given priority in the funding for the prevention of crime.

B.2. The funding available for these improvements includes the \$15,000,000 in CIAP funding and DHA's formula Comprehensive Grant Program funding. Future funding may become available through other programs from local or federal agencies. DHA shall make application for all funding which could be used to address the inequalities affecting its public housing program. DHA's ability to achieve the improvements in B.2. is limited by the resources available, the need to maintain all of its units in decent, safe, and sanitary condition, and to comply with the statutory and regulatory requirements of DHA's low income housing programs.

B.3. HUD has the authority to increase DHA's operating subsidy beyond the performance funding system formula amount when

necessary because of circumstances beyond DHA's control. 42 USC § 1437g; 24 CFR 990.108(d). This order requiring a remedy for the constitutional and statutory violations of racial segregation is just such a circumstance. HUD has itself admitted the need for such increased funding by its continued provision of the operating subsidy for the vacant West Dallas units. DHA shall take the remedial needs imposed by this order into account when submitting its request for its operating subsidy from HUD. If the subsidy provided, in combination with other funding actually available to DHA, does not allow DHA to meet the obligations imposed under this order within a reasonable time, DHA or the plaintiffs may apply to the Court for relief.

B.4. The neighborhood conditions around DHA's projects which must be addressed in order to achieve substantial equality with the conditions in and around the HUD assisted projects in predominantly white areas include those listed in B.5. below.

B.5. The conditions adversely affecting all or some of DHA's projects include:

- a. high rates of crime,
- b. exposure to industrial uses and environmental hazards,
- c. inappropriate industrial zoning,
- d. unsatisfactory streets, curbs, drainage, sidewalks, lighting and other municipally provided facilities,
- e. lack of neighborhood commercial services such as grocery stores, pharmacies, banks or other financial institutions, and medical facilities,

f. lack of decent, standard, affordable, single family units in the neighborhoods around the projects for the persons now residing in those neighborhoods who wish to remain in those areas,

g. high concentrations of poverty households and households on public assistance, and

h. public schools challenged by high percentages of students failing to pass minimum competency tests.

B.6. DHA's ability to affect these neighborhood conditions around the existing projects is limited to the operation of its own projects and to requesting actions by local and federal agencies and the private sector. DHA's plan for improvement of the neighborhood conditions shall include the determination of which agencies and institutions can improve the conditions and a request to those agencies and institutions for the actions which will improve the conditions.

B.7. In addition to the improvements listed for each DHA project, DHA shall implement a reconfiguration of and improvements to the West Dallas project units consistent with the concepts in the Lakewest Master Plan submitted to the Court under the following conditions:

a. no more than 950 units of public housing may remain in place after the configuration and improvements and this number shall be reduced by the number of City Consent Decree ¶ 3.5 units provided as part of the reconfiguration,

b. prior to the use of any new public housing units in the

reconfiguration of the West Dallas project, DHA and plaintiffs shall seek the cooperation of the City of Dallas in provision of up to 200 necessary infill units under ¶ 3.5 of the City Consent Decree in this case.

c. In the event that City Consent Decree ¶ 3.5 units are not available in time to be used in the reconfiguration of the first village no more than a total of 50 new public housing units may be used in the reconfiguration and improvements of that village,

d. In the event that no City Consent Decree ¶ 3.5 units become available for use in the reconfiguration of the West Dallas projects, no more than a total of 200 units of new public housing may be used in that reconfiguration. The use of these units shall not result in more than 950 public housing units remaining in place after the reconfiguration.

e. Plaintiffs are arguing for a provision in the order that would prohibit any reconfiguration or improvements to the West Dallas site "until the status of the RSR/Murmur site on the National Priorities List and any remedial efforts have been fully resolved." DHA opposes this language because "there is no evidence of any significant environmental health hazard to residents of DHA's West Dallas developments arising out of lead contamination connected with the RSR/Murmur site" and thus there should be no reason to delay the construction of improvements in West Dallas [DHA's Response to Plaintiffs' Motion for Entry of Remedial Order Affecting DHA, page 1]. This paragraph is the only paragraph in this order that has not been consented to by DHA [DHA's Response to Plaintiffs' Motion for Entry of Remedial Order Affecting DHA, page 1]. Therefore, the resolution of this issue will be set for a future hearing and resolution by the Court.

f. any construction, rehabilitation, excavation or other construction work will be done in compliance with all necessary safeguards against releases of hazardous substances,

g. DHA has requested a change in zoning to provide an adequate "buffer zone" between the industrial zoning and uses on Singleton Blvd. and the areas of the West Dallas project to be used for residential purposes.

h. the tenant selection and assignment plan shall provide that no applicant shall lose her or his place on the waiting list because a unit in the West Dallas project has been rejected,

i. the specific reconfiguration and improvements have been

approved by the Court.

B.8. DHA shall submit a plan for achieving and maintaining substantial equality of conditions in DHA's existing and future projects to the Court for approval within 90 days of the date of this order.

Vestige C. At least 2,850 [59.2%] of the black households on DHA's Section 8 certificate and voucher program live in predominantly black or racially concentrated and low income areas. Only 21% of those households live in predominantly white areas. 45.6% of white DHA Section 8 households live in predominantly white areas.

C.1. DHA's September, 1994 survey showed that at least 23% of those on the waiting list preferred housing in the suburbs, 27% preferred housing in North Dallas, and 11% preferred housing parts of Dallas "Other" than those listed [plaintiffs' 9/27/94 exhibit # 91].

C.2. DHA shall provide the mobility services to African-American applicants for DHA's low income housing programs and class members necessary to achieve and maintain a percentage of DHA's Section 8 allocation in predominantly white areas of the Dallas suburbs and a percentage of DHA's Section 8 allocation, including those in the suburbs, in predominantly white areas of North Dallas, predominantly white other parts of Dallas County, and predominantly white adjoining areas. The percentages shall be set after completion of another survey of the area preferences of DHA's applicants and participants. DHA and plaintiffs shall

attempt to agree on the contractor for the survey and the content and procedure of the survey. In the event such agreement cannot be reached, the Court will determine any issues upon which there is no agreement.

The results of the survey shall be considered by DHA and the plaintiffs in their proposals for the target percentages for the mobility program. If agreement cannot be reached, the Court will set the target percentages. These percentages shall be achieved within four years of the date of the order setting the targets and maintained thereafter.

C.3. The mobility services provided shall include landlord recruitment, FMR and voucher payment levels, child care and transportation services, and Title VIII enforcement actions. The mobility services provided by DHA shall include the provision of neighborhood specific information on crime rates, objective indicators of school quality such TAAS results for the schools in the area, social services, job training and employment opportunities, day care, medical facilities, neighborhood shopping services, transportation, and environmental hazards or other conditions inimical to family life.

C.4. DHA's ability to provide the mobility services and achieve the target percentages depends on the availability of funding for the provision of those services, the availability of willing landlords with units in appropriate areas, the Fair Market Rent and voucher payment standard levels, and the choices of the program participants. The need to avoid concentrations of

assisted persons in individual locations shall also be taken into account in determining DHA's performance in achieving the target percentages.

C.5. DHA shall conduct quality control review inspections of at least 10% of all Section 8 EHP units within 90 days after the initial or annual Housing Quality Standards inspection and comply with all HUD HQS requirements.

Vestige D. The neighborhood conditions for a majority of the black Section 8 participants are substantially inferior to the conditions in which low income whites receive HUD assisted housing and to the conditions in which whites paying rent comparable to the total rent paid by and on behalf the Section 8 households reside [plaintiffs' 9/27/94 exhibits ## 70 - 73, 76, 78].

D.1. DHA shall conduct perimeter inspections of all Section 8 EHP units at least twice annually, noting all obvious code violations on surrounding properties and reporting those violations to appropriate city code officials.

D.2. DHA shall monitor criminal activity, including criminal drug related activity, at and around all apartment projects in which 10 or more DHA Section 8 participants reside. A level of criminal activity at rates higher than the overall City of Dallas rates for any category of crime which level exists for more than six months shall be grounds for refusing to approve any additional Section 8 contracts at that project and for relocating those Section 8 participants in residence.

E. Monitoring and reporting

E.1. DHA shall file quarterly reports detailing the status of compliance with each provision of this order and specifically reporting the results of that compliance.

E.2. The report for each quarter shall be filed with the Court and copies served on the parties within thirty days of the end of the quarter covered by the report.

E.3. DHA shall give Plaintiffs' counsel access upon request and upon reasonable terms to information and documents relevant to compliance with the decree.

F. Jurisdiction of the Court

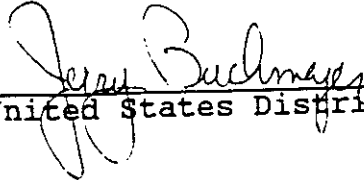
F.1. The Court retains jurisdiction to enforce and modify this injunction according to general equitable principles.

F.2. Should DHA choose to assert that unitary status has been achieved, then DHA shall submit to the Court, with a copy to all other parties, a detailed, factual account upon which the assertion is based and all documents upon which the assertions are based. The account shall include: all steps taken to eradicate the vestiges of racial segregation, any publicly assisted housing desegregation procedures which were not used and the explanation for the failure to use those procedures, the basis upon which the party relies for the assertion that no further action to remove the vestiges of racial segregation is practical or required, whether or not actions by an organization, entity, or person other than DHA could further desegregation, what such actions are and the steps taken by DHA to secure the

performance of such actions and the results of those steps, and any other information relevant to the determination of unitary status.

F.3. Unitary status means that the all reasonable methods have been employed and all available resources marshalled to eradicate the vestiges of racial segregation in DHA's public housing and Section 8 housing programs, and that such vestiges have been eradicated to the extent practical.

7 FEB 95
Date


United States District Judge

attached to this order as Exhibit B. Each village within the Lakewest developments shall have its own manager and separate management staff, which may exceed HUD unit staff ratios if necessary in DHA's judgment.

31. Subject to the availability of funding from sources other than DHA, DHA shall use its best efforts to provide recreational amenities, community and youth services buildings and infill housing on vacant land resulting from the demolition of housing units, in accordance with the Lakewest Master Plan.

32. DHA shall provide separate management staffs for each new public housing development built or acquired by DHA after the date of this injunction, regardless of whether those management staffs exceed HUD unit staff ratios.

33. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall install refrigerated air conditioning in all public housing units and shall provide utility allowances sufficient to pay the entire actual cost of operating those air conditioning units.

34. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall establish a public safety division staffed by a DHA Assistant Director whose sole responsibility shall be to organize and supervise security patrols within each of DHA's public housing developments. That security division shall be staffed by off-duty officers of the Dallas Police Department under contract to DHA.

(a) At the Lakewest Developments, the DHA security division shall provide not fewer than 10 officers on duty at all times.

(b) At Barbara Jordan Square, the DHA security division shall provide not fewer than 2 officers on duty at all times.

- (c) At Frazier Courts, the DHA security division shall provide not fewer than 8 officers on duty at all times.
- (d) At Rhoads Terrace, the DHA security division shall provide not fewer than 4 officers on duty at all times.
- (e) At Turner Court, the DHA security division shall provide not fewer than 4 officers on duty at all times.
- (f) At Town Park Apartments, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (g) At Brackins Village, the DHA security division shall provide not fewer than 3 officers on duty at all times.
- (h) At Cedar Springs Place, the DHA security division shall provide not fewer than 4 officers on duty at all times.
- (i) At Little Mexico Village, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (j) At Lakeland Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (k) At Park Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (l) At Brooks Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (m) At Forest Green Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.
- (n) At Audelia Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.

(o) At Cliff Manor, the DHA security division shall provide not fewer than 2 officers on duty at all times.

(p) At Simpson Place, the DHA security division shall provide not fewer than 2 officers on duty at all times.

(r) At Oakland Apartments, the DHA security division shall provide not fewer than 2 officers on duty at all times.

(s) The DHA security division shall provide not fewer than 2 officers on duty at all times to patrol its scattered site housing units.

35. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall hire qualified personnel and conduct continuing youth gang intervention programs at each family public housing development.

36. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall construct 1 low-rent public housing unit for family occupancy in predominantly white, non-Hispanic areas (areas in which more than 50% of the population, according to the 1990 Census was white, non-Hispanic) of the City of Dallas, in predominantly white, non-Hispanic areas of the suburbs of the City of Dallas, or in racially mixed (not more than 40 % African American) areas of the City of Dallas or the suburbs of the City of Dallas, for each new construction family housing unit built in DHA's Lakewest Developments after December 31, 1994.

37. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall each year beginning January 1, 1996 through December 31, 2005, construct in predominantly white, non-Hispanic areas of the City of Dallas, or in predominantly white, non-Hispanic areas of the suburbs of the City of Dallas, or in racially mixed areas of the City of Dallas, or in racially mixed areas of the suburbs

of the City of Dallas at least 100 new construction low-rent public housing units for family occupancy, and during each of those years shall demolish an equal number of existing units in Turner Court, Roseland Homes, Frazier Courts and/or Rhoads Terrace, thereby reducing by one-half the density of each of those developments.

38. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall construct laundry facilities in all low-rent public housing developments and shall equip those facilities with automatic clothes washers and dryers.

39. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall install landscaping and automated landscape irrigation systems in each of DHA's public housing developments.

40. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall provide buildings, furniture, equipment and supplies, including personal computers suitable for student use, and shall contract with service providers, to provide supervised after-school study programs and tutoring programs in each DHA family development for all children of school age living in those developments.

41. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall provide buildings, furniture, equipment and supplies, and shall contract with service providers, to provide "Headstart" programs in each DHA family development for all preschool children, ages 3 years and older, living in those developments.

42. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall contract with off-duty officers of the Dallas Police

Department to provide at least two off-duty officers to patrol the Lakewest Shopping Center continuously between the hours of 8:00 a.m. and 10:00 p.m.

43. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall install video security surveillance systems, with tape recording capacity, to provide security surveillance of all points of ingress and egress of each DHA public housing building for senior and handicapped occupancy.

44. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall construct facilities and provide management assistance for resident-operated cooperative retail convenience and grocery stores at Turner Court, Frazier Courts and Rhoads Terrace.

45. Subject to the availability of special funding provided by HUD specifically for that purpose, DHA shall construct youth sports buildings, including facilities for basketball, boxing, strength training and similar athletic and recreational activities and programs, at Little Mexico Village, Cedar Springs Place, Roseland Homes and Barbara Jordan Square, and shall provide equipment and staff to supervise youth athletic programs at those facilities.

46. DHA shall establish and enforce ceiling rents for all public housing units at the minimum level permitted by statute.

Reporting Requirements

47. DHA shall serve on counsel for the Plaintiffs, not later than the ___ day of each month, a written report containing

- (a) Title VI Record of Application data;