

Original

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
APR 26 2001
CLERK, U.S. DISTRICT COURT
By _____ Deputy

DEBRA WALKER, et al.,

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v.

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

CIVIL ACTION

NO. 3:85-CV-1210-R

CLASS ACTION



ORDER FOR REVISIONS TO THE HOUSING FUND

Plaintiffs have moved the Court for an order revising the use of the Housing Fund established by ¶ 3.4 of the City Consent Decree in this case. The motion is based on the results achieved under the Housing Fund to date and the opinion of the United States Court of Appeals for the Fifth Circuit in *Walker v. City of Mesquite*, 169 F.2d 973, 983 (5th Cir. 1999) *cert. denied*, 528 U.S. 1131 (2000). Plaintiffs assert that the requested revisions will directly accomplish the purpose of the Housing Fund as set out in the City Consent Decree. That purpose is to create and obtain affordable housing on terms substantially equivalent to the terms on which public housing is available in non-minority concentrated areas with the Dallas metropolitan area. ¶ 3.4 Housing Fund. The Housing Fund has been restricted in its scope and geographic area of operation by previous orders of the Court. Plaintiffs' motion seeks to increase the types of programs that may be used to create and obtain the housing and to expand the geographic area within which the programs may be used. Plaintiffs' also seek to implement the original

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intent of the City Consent Decree by naming DHA as the entity to control, possess, and administer the Housing Fund.

The Court, having considered the motion, the record and previous orders in the case, the representations of the parties, and the agreement of the parties to the entry of this order, finds that:

1. Families attempting to utilize Section 8 vouchers in areas that provide desegregative housing opportunities often are unable to obtain suitable housing within a reasonable time because of shortages of affordable housing that meets HUD housing quality standards, rent burden restrictions, reluctance of landlords to participate in the Section 8 program, and inability to pay security deposits.

2. In order to help Section 8 families adjust to new areas and to reduce the number of families who elect to move back into minority areas at the expiration of their leases in areas that provide desegregative housing opportunities, it is necessary to provide additional pre-move briefings and counseling, and to provide post-move family counseling and mentoring and student mentoring and tutoring.

3. DHA's success in placing families in areas that provide desegregative housing opportunities depends in large part on the ability of families to post security deposits.

4. Landlords in areas that provide desegregative housing opportunities frequently are unwilling to participate in the Section 8 program. Many, however, have been persuaded to participate in the program for the first time by the payment of bonuses conditioned upon their participation. DHA has demonstrated that the

increased payment of landlord bonuses will increase the number of rental units available in areas that provide desegregative housing opportunities.

5. Landlords of rental properties in areas that provide desegregative housing opportunities tend to have more stringent credit and criminal history screening criteria than landlords in areas that do not provide desegregative housing opportunities. In order to better utilize its Section 8 vouchers in non-minority concentrated areas, DHA proposes to obtain credit and criminal background checks on families who express an interest in using Section 8 vouchers in such areas. DHA will then be able to devote appropriate resources to those families who require additional assistance in overcoming those screening criteria.

6. In order to reduce the risk of hiring sex offenders in its mentor and tutor programs, DHA recommends that criminal background checks be conducted on all persons participating in the mentor and tutor programs.

7. DHA is building 138 new family public housing units in connection with the redevelopment of Roseland Homes. Those units can be funded by a HOPE VI loan, a conventional construction loan, income from the sale of tax credits, and an equity contribution of \$1,550,000.00 from DHA as the developer. The use of the Housing Fund to provide the equity contribution will assist DHA in its provision of desegregative housing opportunities in non-minority concentrated areas and is an appropriate use of the Housing Fund.

It is therefore ordered that:

1. DHA is authorized to use the The Housing Fund established pursuant to the City of Dallas Consent Decree § 3.4 (the "Housing Fund") and the accumulated earnings to the Housing Fund for mobility and other services for class members and other families utilizing DHA Section 8 vouchers other than the vouchers provided pursuant to the Settlement Stipulation and Order entered March 8, 2001, for the following purposes:¹

- a. pre-move family counseling, post-move family counseling and mentoring, and post-move student mentoring and tutoring for families moving into housing that provides desegregative housing opportunities in non-minority concentrated areas;
- b. payment of security deposits for families moving into housing that provides desegregative housing opportunities in non-minority concentrated areas;
- c. administration of a program to provide payment of security deposits for families moving into housing that provides desegregative housing opportunities in non-minority concentrated areas;
- d. landlord incentive bonus payments to landlords for units in areas that provide desegregative housing opportunities in non-minority concentrated areas who agree to participate for the first time in DHA's Section 8 program.

¹ The assistance of a private fair housing organization provided for in ¶1.h. is the only exception to this restriction on the use of the Housing Fund to families using Section 8 vouchers other than the vouchers provided pursuant to the Settlement Stipulation and Order entered March 8, 2001.

e. administration of the 1.c. landlord incentive program for units in areas that provide desegregative housing opportunities in non-minority concentrated areas,

f. obtaining credit and criminal background checks on families who express an interest in using Section 8 vouchers in areas that provide desegregative housing opportunities;

g. conducting criminal background checks on persons participating in DHA's Section 8 mentor and tutor programs; and

h. obtaining the assistance of a private, non-profit fair housing organization for families seeking housing in non-minority areas. This assistance may also use the Housing Fund to provide the services of a private, non-profit fair housing organization for class members using the Settlement Vouchers provided by the March 8, 2001 Settlement Stipulation and Order who are seeking housing in non-minority areas.

2. The Housing Fund may be used only to obtain desegregative housing opportunities in non-minority concentrated areas or to assist families using DHA's low-income housing programs who have obtained desegregative housing opportunities in non-minority concentrated areas. The term " non-minority concentrated areas" means either:

a.) a census tract that, according to the most recent decennial census, (i) has a black population at or below the average black population of the City of Dallas, (ii) has

no public housing other than scattered single family homes, and (iii) has a poverty rate at or below the average for the City of Dallas; or

b) a census tract that the plaintiffs and DHA agree should be treated as a non-minority concentrated area.

3. The amounts of funds to be disbursed by the Housing Fund for the programs in this Order shall be established annually pursuant to annual budgets and implementation plans submitted by DHA and approved by the Court. The Housing Fund shall not be used for any activities other than those in the implementation plan approved by the Court without an express Court order. The Housing Fund shall not be used in any amount that exceeds the total annual budget approved by the Court without an express Court order.

4. DHA shall not spend any of the Housing Fund on the activities covered by the Section 8 preliminary fee, the Section 8 hard to house fee, and the Section 8 ongoing administrative fee for the Section 8 program unless there is express approval for such spending by the Court. The activities funded by the Section 8 preliminary fee, the Section 8 hard to house fee, and the Section 8 ongoing administrative fee are currently described at 24 CFR § 982.152 and HUD Handbook 7420.7, § 8-3.

5. DHA shall obtain an annual audit of its administration of the Housing Fund. The audit shall meet the same standards required for the Independent Public Accountant Audit of HUD funds and include an examination and opinion on whether the funds have been used in compliance with this and other relevant orders of the Court and include examination of DHA's compliance with the court approved budgets and

implementation plans. The Housing Fund may be used to pay for this audit. The audit shall be complete and the audit report provided to the Court, the Special Master, and the parties within 90 days of the end of each budget year.

6. DHA shall submit the following monthly reports to plaintiffs' counsel showing:

- (a) the expenditure of funds from the Housing Fund,
- (b) the actions taken to implement the court approved plan,
- (c) the name, address, and telephone number of each class member in DHA's Section 8 program who has been attempting to locate housing in non-minority concentrated areas for more than 60 days and who has not been housed,
- (d) the identity of any landlords in eligible areas refusing to participate in the Section 8 program and the reason for the refusal,
- (e) a computer readable spreadsheet in an Excel, Lotus 1-2-3, or other readily available spreadsheet program stating the monthly total and cumulative total of families receiving the benefits of the Housing Fund assistance by census tract and race of household, and
- (f) any barriers or impediments to implementation of this Order. The Housing

Fund may be used to pay for the preparation of these reports.

7. DHA shall make the information upon which the reports are based available to plaintiffs' counsel upon request. The purpose for the reports is to provide the information necessary to monitor the class members' receipt of the benefit of the Housing Fund without unduly burdening DHA. If plaintiffs' counsel want additional

information in the reports or if DHA wants to change the reporting period or content of the reports, the parties should attempt to agree on the changes. If no agreement is possible, the parties may apply to the Court for relief.

8. DHA shall maintain the following information and make it available for inspection and copying by plaintiffs' counsel:

(a) The following information in a computer readable spreadsheet in an Excel, Lotus 1-2-3, or other readily available spreadsheet program for each tenant obtaining a unit or other assistance from the Housing Fund: name, race, address, move-in date, landlord name, contract rent, utility allowance, Total Tenant Payment, census tract location of the unit.

(b) The following information in a computer readable spreadsheet in an Excel, Lotus 1-2-3, or other readily available spreadsheet program on each landlord in a non-minority concentrated area contacted for the purpose of participating in DHA's Section 8 program: Name, address, phone number, of landlord and specific person contacted by DHA, name, address, phone number, census tract location of the units for which the contact was made; the name of DHA employee making the contact, and the results of the contact including the reasons given for a refusal to participate in DHA's Section 8 program,

(c) The following information in a computer readable spreadsheet in an Excel, Lotus 1-2-3, or other readily available spreadsheet program for each household receiving the benefit of the Housing Fund assistance: name, race, unit size needed, initial date on which the assistance was offered, the date and type of each form of

mobility service provided, including financial assistance provided by DHA to the household and post-move mobility counseling services, the name, address, and census tract location of each unit the household attempts to rent, and the result of each attempt.

The goal of this provision is to provide the information necessary for effective monitoring of the relief provided to class members while not causing undue administrative burdens to DHA. If plaintiffs decide that other information is needed or if DHA decides that the information is no longer necessary or has become too burdensome to provide, the parties shall attempt to agree on information to be provided. If no agreement can be reached, the parties may apply to court for relief.

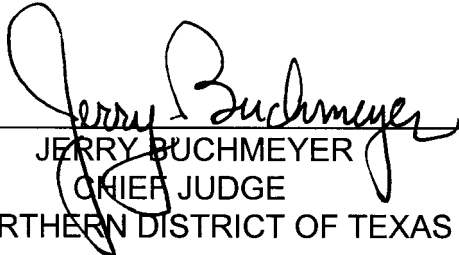
9. DHA is hereby appointed administrator of the Housing Fund, and shall submit quarterly reports to the Court, the Special Master, and plaintiffs' counsel detailing the status of the Housing and all expenditures made pursuant to this Order. The City of Dallas is ordered to transfer all funds currently in the Housing Fund, including principal and accrued interest and earnings, currently being held and invested by the City pursuant to previous Court order into the registry of the Court. Upon the transfer of all such funds, the City of Dallas will have no further obligations with regard to the Housing Fund.

10. DHA may withdraw funds from the registry pursuant to motion and an order from the Court for uses in compliance with the terms of this Order. A separate order will be entered concerning the investment of the funds by the District Clerk.

11. DHA shall assume the duties of Housing Program Administrator set out in the Court orders approving and implementing the Wellington Place, Peters Colony, and Cascade Park Housing Fund proposals.

12. All provisions of prior Court orders that are inconsistent with the terms of this Order are vacated.

Dated: 4/25/01



JERRY BUCHMEYER
CHIEF JUDGE
NORTHERN DISTRICT OF TEXAS

AGREED TO:

Date: _____



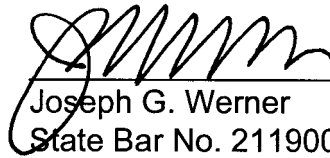
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AGREED TO:

Date: 4/23/01



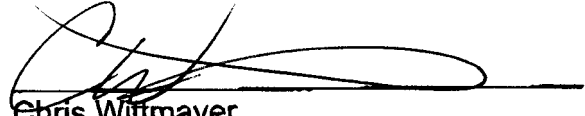
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THE HOUSING AUTHORITY FOR
THE CITY OF DALLAS

The City does not oppose the entry of this Order.

Date: April 2, '01



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