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

DEBRA WALKER, ET AL.	)	
	)	Civil Action No.
v.	)	3:85-CV-1210-R
	)	
U.S. DEPARTMENT OF HOUSING AND DEVELOPMENT, ET AL.	)	Class Action

HUD'S RESPONSES TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

Defendant United States Department of Housing and Urban Development ("HUD"), pursuant to Fed.R.Civ.P. 36, responds as follows to plaintiffs' requests for admissions as to the truth of the following statements:

I. Existing Vestiges of Racial Segregation in DHA's programs

1. As the court has found, the predominantly African-American location and racial composition of DHA's non-elderly projects is a direct result of purposeful racial segregation. Walker III, 734 F. Supp. 1289 (N.D. Tex 1989).

Response: Admitted.

2. DHA has less than 200 public housing units in predominantly white areas which can be offered to African-American non-elderly applicants [plaintiffs' 1/13/92 exhibit #22 - census tract location and occupancy table].

Response: Denied, except to admit that it is HUD's understanding from DHA that DHA has nearly 300 public housing units in areas which plaintiffs describe as "predominantly white." See footnote No. 1 to Request For Admission No. 3, below, concerning plaintiffs' definition of "predominantly white."

3. DHA's Section 8 certificate and voucher program has been unable to place more than 19% of the Section 8 units in predominantly white[1] census tracts [plaintiffs' 1/13/92 exhibit #20].

Response: Based on HUD's understanding from DHA, ~~it is~~ admitted that the statement is true according to plaintiffs' definition of "predominantly white," and provided that the statement relates to the time period of approximately January, 1992.

4. The lack of integrated housing opportunities in DHA's public housing program means 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.

Response: Admitted.

5. A comparison of the conditions in and around DHA's predominantly white Audelia Manor [29.17% black][2] project to the conditions in and around DHA's predominantly black elderly and non-elderly projects shows a marked disparity in the facilities and other services available to whites and blacks participating in the program.

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[1] By "predominantly white" in this context plaintiffs mean census tracts with less than 30% total minority population.

[2] DHA's Report to Plaintiffs, November 1992.

Response: Admitted that there are disparities between the conditions in and around the Audelia Manor project and the conditions in and around DHA's predominantly black elderly and non-elderly projects. HUD cannot admit or deny the truth of the other matters asserted because the request is vague with respect to the terms "marked disparity," "facilities," and "other services."

6. The housing provided by DHA to the nonelderly class members continues to be significantly inferior to the assisted housing provided to low-income whites in other HUD assisted housing in the DHA service area. Walker III, 734 F. Supp. 1302, 1313. These inferior facilities are an integral part of the scheme of segregation which continues to affect class members today.

Response: Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the truth of these statements, except to admit that the court found in 1989 that facilities and neighborhoods of predominantly minority DHA projects were not then substantially equivalent to certain DHA elderly and HUD-assisted non-DHA housing.

7. The Fifth Circuit has found that the DHA's projects are "historically dangerous slums." 912 F.2d 819, 821-822 (5th Cir. 1990).

Response: Denied, except to admit that the Fifth Circuit in Walker v. HUD et al., 912 F.2d 819, 821-22 (5th Cir. 1990), used

the term "historically dangerous slums" to describe racially identifiable DHA public housing projects.

II. DHA History and Background of Racial Segregation

8. The Dallas City Council activated DHA in 1938 [plaintiffs' 12/12/88 exhibit #1 - General Survey of Housing Conditions City of Dallas, Texas, August, 1938, page 1].[3]

Response: Admitted.

9. Texas law entrusts responsibility for the operation of public housing authorities to a five member board of commissioners who are appointed by the mayor of the city. Tex. Local Gov. Code 392.031, 392.034.

Response: Admitted.

10. From its inception by the City, DHA's public housing program was based on the principle of de jure racial segregation. As shown below, the primary purpose of the segregation in DHA's public housing program was to prevent blacks from moving into white areas.

Response: Admitted.

11. Low income white tenants have been able to receive federal housing assistance outside of the DHA programs [plaintiffs' 12/12/88 exhibit #89 - Summary of location and occupancy characteristics of HUD assisted projects in Dallas County].

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[3] The exhibit numbers refer to plaintiffs' exhibits introduced into evidence either at the December 12, 1988 hearing or the January 13, 1992 hearing. Copies of these exhibits were furnished to opposing counsel and the Court at the time of those hearings.

Response: Admitted with the qualification that low income black tenants have also been able to receive federal assistance outside of DHA programs.

12. Throughout the first half of this century, racial segregation in housing was the official policy of the City of Dallas. State law gave Texas cities the power to enact ordinances providing for residential segregation by race. Tex. Civ. Stat. Ann. art 1015b (repealed 1969). The 1907 Dallas City Charter expressly provided for the City's power to "provide for the use of separate blocks for residences, places of abode, places of public amusement, churches, schools and places of assembly by members of white and colored races". [plaintiffs' 12/12/88 exhibit #7 - Dallas City Charter, 1952, Section 321]

Response: Admitted.

13. The U.S. Supreme Court declared racially restrictive ordinances unconstitutional in 1917. Buchanan v. Warley, 245 U.S. 60 (1917). The City of Dallas continued to pass and enforce its racially restrictive ordinances. City of Dallas v. Liberty Annex Corp., 19 S.W.2d 845 (Tex. Civ. App. Dallas 1929). The 1952 amended version of the City Charter retained the section providing for the segregation of the races and explicitly ratified and confirmed the general segregation ordinance of 1927 [plaintiffs' 12/12/88 exhibit #7 - Dallas City Charter, 1952, Section 321].

Response: Admitted.

14. The initial City of Dallas survey and site selection report for the first DHA public housing projects chose the site for the Negro project in a Negro district while recommending that the site for the Mexican project should be located as close as possible to the Mexican district [plaintiffs' 12/12/88 exhibit #1, pages 11, 13]. There were no recommendations for development of a white project site. DHA honored this recommendation and built the Roseland Home project for blacks in a black neighborhood.

Response: The first sentence is admitted, except that the report, entitled General Survey of Housing Conditions, did not choose the site for a "Negro" project but found that certain "Negro areas" were ideally suited as a possible location for a "Negro" housing project. The second sentence is admitted. The third sentence is admitted to the extent it states that Roseland Home Project was built in a black neighborhood. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the truth of the statement regarding DHA's reasons for selecting the site for Roseland Home Project.

15. The DHA Board minutes for Oct. 30, 1950 show that DHA was honoring the racial residence lines drawn by the City.

"Mr. Stephenson reported to the members of the Authority that he had a meeting with Lloyd Smoot, his attorney Alfred Sallinger, and approximately 25 white property owners who occupied property lying east of the Smoot property. This committee was representing a group of approximately 100 property owners who opposed the location of Project TEX-9-9 on the northwest corner of Dolphin and Haskell Avenues. He reported that they insisted that the line of demarkation between colored residents and white residents in that area was Haskell Avenue. He reported that he had explained to these people the plan of the

Housing Authority to erect a very tall fence and to put shrubs, effectively separating the housing project which may be occupied by Negroes and the property now occupied by these people but he had little success in securing cooperation from them."

DHA went on to drop the contested site from consideration [plaintiffs' 12/12/88 exhibit 35 - 1950s documents, pages 6-7].

Response: Despite reasonable inquiry, HUD does not have sufficient knowledge to admit or deny the truth of the first sentence, but it is admitted that the quoted material is accurately quoted. The second sentence is admitted.

16. DHA successfully defended its policy of de jure segregation when the legality of the practice was challenged in the early 1940s. Housing Authority of the City of Dallas v. Higginbotham, 143 S.W.2d 95 (Tex. Civ. App. - Dallas 1943).

Response: Admitted.

17. The public debate in 1950 and 1951 which led to the creation of the West Dallas project was explicitly premised on the assumption that official action preserving separate residential districts for white and black was proper and would be forthcoming from the City [plaintiffs' 12/12/88 exhibit #8 - 1950-1951 newspaper stories; plaintiffs' 12/12/88 exhibit #8 - 1950 Joint Report].

Response: Despite reasonable inquiry, HUD is without sufficient knowledge to admit or deny the truth of this statement, but it is admitted that the referenced newspaper articles and report describe plans for a racially segregated residential district for blacks.

18. The 1962 public campaign against DHA's 3,000 unit proposal featured numerous ads raising the specter that the units would be integrated and placed in white neighborhoods [plaintiffs' 12/12/88 exhibit #11 - 1962 referendum ads].

Response: Admit that some of the ads appeared to raise the spectre that units would be integrated and placed in white neighborhoods.

19. All of DHA's non-elderly public housing projects developed before the filing of this lawsuit were built and maintained on a de jure racially segregated basis [plaintiffs' 12/12/88 exhibit #5, pages 7, 9, 14, 20, 21, 23; plaintiffs' 12/12/88 exhibit #18 - 1975 documents, page 86]. Higginbotham, supra at 143 S.W.2d 95; Miers v. Housing Authority of the City of Dallas, 266 S.W.2d 487, 490 (Tex. Civ. App. - Dallas 1954).

Response: Admitted.

20. Each of DHA' elderly projects, its Turnkey III project, and its Section 8 program were developed and maintained in a manner which preserved racially segregated occupancy characteristics [plaintiffs' 12/12/88 exhibit #31 - Summary of DHA project occupancy characteristics; [plaintiffs' 12/12/88 exhibit #32 - Summary of Section 8 occupancy characteristics by census tract].

Response: Admitted that DHA developed its elderly and Turnkey III projects on a racially discriminatory basis; and that at various times DHA operated its elderly, Turnkey III and Section 8 programs in a racially discriminatory manner.

21. DHA's first three elderly projects were occupied under a freedom of choice plan which resulted in predominantly one race occupancy [plaintiffs' 12/12/88 exhibit #18 - 1975 documents page 89-90; plaintiffs' 12/12/88 exhibit #31 - supra]. DHA followed a practice of pre-registration and freedom of choice throughout the 1980s in the assignment of elderly tenants to all of its elderly projects which resulted in predominantly one race occupancy [plaintiffs' 12/12/88 exhibit #33 - Elderly registration documents; plaintiffs' 12/12/88 exhibit #34 - Elderly registration documents; plaintiffs' 12/12/88 exhibit #34 - analysis of applicant offers, 1982-1986].

Response: The first sentence is admitted. The second sentence is denied, except to admit that during part of the 1980s, DHA followed a practice of pre-registration and freedom of choice in assignment of elderly tenants, which resulted in predominantly one-race occupancy projects.

22. In 1969, when West Dallas was first subjected to a first come, first served tenant selection plan and was becoming all-black in occupancy, a substantial number of white elderly tenants requested transfers from West Dallas to the new elderly only projects. DHA requested and received HUD approval for the transfers [plaintiffs' 12/12/88 exhibit #14 - 1969 documents 4-9, 14]. These transfers had the obvious segregative effects of reducing the white population in the West Dallas project and increasing the white population in the white elderly projects.

Response: The second sentence is admitted. The first and third sentences are denied, except to admit that in 1969 a substantial number of elderly tenants, including black elderly tenants, requested transfers from West Dallas to the new elderly only projects. It is further admitted that these transfers reduced the white population in the West Dallas projects and increased the white population in the white elderly projects.

23. Despite public controversy about the location of DHA's Turnkey III project in a black neighborhood [plaintiffs' 12/12/88 exhibit #15 - 1968-1970 newspaper stories, page 36], it has been a predominantly black occupied project since its inception [plaintiffs' 12/12/88 exhibit #31 - supra].

Response: Admitted.

24. DHA first began to operate the Section 8 existing program in 1975 [plaintiffs' 12/12/88 exhibit #18 - 1975 documents page 138]. In 1978 DHA's attorney stated in a letter to HUD that DHA not only had the authority to honor Section 8 Existing certificates for housing located in the Dallas County suburbs, DHA had the duty to do so in order to comply with its constitutional duty to disestablish the effects of its prior racial segregation [plaintiffs' 12/12/88 exhibit #35 - Sylvia M. Demarest 3/7/78 letter, to Gordon Lewis, page 1, 8]. DHA allowed only a few tenants to go to the suburbs and subsequently put a complete halt to the practice [plaintiffs' 12/12/88 exhibit #36 - DHA Section 8 suburb documents]. The occupancy patterns of DHA's Section 8 Existing Housing Program were racially segregated

[plaintiffs' 12/12/88 exhibit #32 - Summary of Section 8 occupancy characteristics by census tract, Feb. 1987].

Response: The first sentence and third sentences are admitted. The second sentence is denied, except to admit that the letter states that DHA was required to honor Section 8 existing housing certificates for housing in the Dallas County suburbs in order to comply with DHA's statutory duty. The fourth sentence is denied, except to admit that racial disparities in occupancy patterns in DHA's Section 8 existing housing program have existed in the past.

25. DHA's Section 8 Moderate Rehabilitation Program resulted in a 90.6% black occupancy in all minority and low-income impacted census tracts [plaintiffs' 12/12/88 exhibit #37 - Summary of Section 8 MRP occupancy characteristics by census tract percent white].

Response: HUD objects to the request as vague because no time-frame is specified. Notwithstanding this objection, and without waiving it, the statement is denied, except to admit that as of February 1987, DHA's Section 8 Moderate Rehabilitation Program resulted in more than 90% black occupancy in minority census areas.

III. Federal government and public housing desegregation.

26. The Federal policy governing the development and operation of the public housing program during the period DHA was developing its non-elderly projects, 1938 - 1954, accepted de jure racial segregation but required that programs for the

development of low-rent public housing, in order to be eligible for federal assistance, "must reflect equitable provision for eligible families of all races determined on the approximate volume and urgency of their respective needs for such housing". [plaintiffs' 12/12/88 exhibit #25 - PHA testimony before U.S. Commission on Civil Rights, June 10, 1959; Heyward v. PHA, 238 F.2d 689, 697 (5th Cir. 1956); Cohen v. PHA, 257 F.2d 73, 74, 74 n.5 (5th Cir. 1958); Young v. Pierce, 628 F. Supp. 1037, 1045 (E.D. Tex. 1985)].

Response: Admitted.

27. The primary HUD response to the obligation that the de jure public housing be disestablished was to require public housing authorities to adopt remedial tenant selection and assignment plans [plaintiffs' 12/12/88 exhibit #26 - "SUBSIDIZED HOUSING AND RACE", Office of General Counsel, U.S. Department of Housing and Urban Development, November, 1985, pages 31, 34]

Response: HUD objects to the request as vague, particularly with respect to the term "primary response" and because the statement does not specify the time period to which it relates. Subject to this objection, it is admitted that HUD required public housing authorities to adopt remedial tenant selection and assignment plans.

28. Appendix 2 to the 1985 HUD Report recounts, in detail, the failure of HUD's reliance on tenant selection and assignment plan remedies to disestablish either the de jure segregation or its continuing effects [plaintiffs' 12/12/88 exhibit #27 -

Appendix 2, PUBLIC HOUSING TENANT ASSIGNMENT]. The first plans required the adoption of a freedom of choice tenant selection and assignment plan which allowed each applicant to choose the project or site. These plans resulted in no significant change in public housing occupancy patterns [2-11]. In 1967 HUD required public housing authorities to adopt a first come, first served tenant selection and assignment approach [11]. It soon became apparent that first come, first served was not accomplishing any more desegregation than did freedom of choice [25]. Despite various attempts over the years to revise HUD's tenant selection and assignment practices, it has remained the same as has the segregation it was intended to cure [35; plaintiffs' 12/12/88 exhibit #26 - supra pages 28-29; plaintiffs' 12/12/88 exhibit #28 - HUD Assessment Report, pages 2, 3, 7-9, 13].

Response: The first sentence is denied, except to admit that Appendix 2 relates to the development of public housing tenant selection and assignement plans after 1962, including subsequent dissatisfaction with the standard procedures and the development of alternative procedures. The second sentence is admitted, except to deny that HUD required any specific tenant selection and assignment plan to be adopted. The third and fourth sentences are admitted. The fifth sentence is denied, except to admit that the Report states that there was dissatisfaction for several reasons with the effectiveness of first come, first served plans. The sixth sentence is denied, except to admit that

the federal regulations dealing with tenant selection and assignment plans have not been revised by HUD since 1967.

29. The HUD report "SUBSIDIZED HOUSING AND RACE", Office of General Counsel, U.S. Department of Housing and Urban Development, November, 1985 [SHAR] states, in part, the following:

> A. "There are several ways is which current racial discrimination, or the effects of prior discrimination, may have an impact the availability of equal housing opportunity in HUD-assisted housing. The principal such ways, and the principal processes through which these incidences of discrimination or effects of prior discrimination are addressed by HUD, are:
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> 1. Segregation, in the sense of physical separation of the races within a single housing system under common control. The principal source of authority through which this form of discrimination, or effect of prior discrimination, has been addressed is Title VI of the Civil Rights Act of 1964, through tenant selection and assignment requirements adopted pursuant to that authority and through remedial measures adopted in individual cases of noncompliance" [page 31].
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> B. "Again, the general tenant selection and assignment procedures were adopted, and remedial measures devised, at time when public housing systems were already in a segregated condition. The general principle of Constitutional law in the area of racial discrimination is that the remedial obligation in not only to cease the discrimination but to remedy, insofar as practicable, the results of the prior discrimination" [page 34].

Response: Admitted that the quoted portions of this request are accurate restatements of the content of the report at the pages referred to.

30. Appendix 2 to SHAR states, in part, the following:

> A. The Federal government's first attempts to end segregation and its effects in public housing were

centered upon the use of a "freedom of choice" tenant selection and assignment plan [pages 2-11].

B. In 1967 HUD required the use of a "first come, first served" tenant selection and assignment approach as a requirement of Title VI compliance [page 11].

C. "As noted above, dissatisfaction with the procedures adopted in 1967 arose shortly thereafter. The dissatisfaction arose from two directions. On the one hand, the 1967 requirements did not appear to be producing substantial desegregation and, in fact, may have been more successful, at least in some places, in promoting 'resegregation.' On the other, the requirements also were proving to have undesirable effects from a programmatic standpoint. These difficulties are fairly described in an unidentified HUD staff analysis, apparently prepared in 1971:" (page 25).

Response: Denied that the portions quoted in subparagraph A are accurate restatements of the content of the report at the pages referred to; admitted that the portions quoted in subparagraphs B and C are accurate restatements of the content of the report at the pages referred to.

31. The 1971 "unidentified HUD staff analysis" referred to above is titled "Tenant Selection in the Public Housing Program". This document states the following:

A. "The overwhelming majority of local housing authorities have adopted tenant selection plans in accordance with HUD's policy. Although it is not universally the case, it may be assumed that most of these authorities have implemented the plans they have adopted. Unfortunately, however, experience has shown that, in most instances, the adoption and implementation of these plans have not led to desegregation or to a decline in discrimination" [page 1].

B. "In practice, however, not much change in racial occupancy patters occurred through freedom of choice plans. As in public school systems, freedom of choice plans were often handled by local administrators in such a way as to preclude both freedom and choice.

Often, the existence of simple freedom of choice plans was not sufficient to counteract social inhibitions which had become institutionalized to such an extent that people were afraid to exercise their freedom." [page 5].

C. After describing the passage of HUD's first come, first served policy and the effects of that policy, the paper states:

"almost three years have passed since the flurry of activity. During this time, once again it has become apparent that the Department's tenant selection policies are not leading to a lessening of discrimination. In this regard, it is apparent that HUD, as long as it operates under this policy, is not doing all that it can and should be doing to assure compliance with Title VI of the Civil Rights Act of 1964"

"Certain specific problems with the current HUD policy can be enumerated. These include enforcement inadequacies, undesirable side effects, and continuing segregation" [page 8].

"These problems were all documented by an informal survey the Department made in 1969. During the course of this survey, it was determined that there was virtually universal disapproval of the rigidity of the HUD policy, and that the policy had not served to reduce discrimination in public housing admission practices." [page 10].

"We do not believe that HUD can delay much longer in implementing a new tenant assignment policy. The inadequacies of the present policy are universally known and accepted.... This spate of litigation provides HUD with another reason to move quickly in this area so as to not be faced with a new policy set by the judiciary over which we have no control." [page 11].

Response: Despite reasonable inquiry, HUD is without sufficient knowledge to admit or deny the first sentence. Admitted that the quoted portions are accurate restatements of the report.

32. In 1969, HUD's General Counsel's Office rejected the use of Title VI funding cutoffs as a tool for administrative enforcement of Title VI against public housing authorities.

"With respect to the group of approximately 78 small authorities with no applications in pipeline, mentioned above, we have been unable to obtain compliance. There is nothing such authorities stand to lose as a result of an administrative enforcement proceeding. (See Attachment II). The basic payments to these authorities are backed by the full faith and credit of the United States."

Response: Denied, except to admit that the quoted portion of the request is an accurate quotation.

33. In evaluating a proposed 1970 change to the 1967 tenant selection and assignment procedures which would have provided a more explicit "freedom of choice" policy, the then Assistant Attorney General, Civil Rights Division, Jerris Leonard wrote the following to HUD:

A. In referring to the 1967 policy,

> "In practice, this refusal system, which was adopted by most Authorities at least in the South, allowed a certain degree of freedom of choice, and as applied it permitted a substantial number of projects to remain completely segregated...Consequently, it is apparent that under the current regulations, which were designed to be nonracial, the elements of flexibility have been applied by many housing authorities in such a way as to maintain prior racial patterns" [SHAR 28-29]

B. In referring to the requirements of constitutional law that proof of past discrimination creates a duty to take affirmative action to correct continuing effects of that discrimination,

> "I suggest that you consider not only greater emphasis on the "first come, first served' principle which underlies the regulations adopted in 1967, but also a requirement that those authorities which are segregated as a result of past practice take race affirmatively into consideration and assign black

persons to vacancies in white locations and whites to vacancies in black locations until the segregated character of the various projects has been eliminated, and significant integration has been achieved. Our experience has shown, in this connection, that to assign one or two Negroes to a white project, or one to two whites to a black one, is likely to be a hardship on those involved, whereas if a greater degree of integration is accomplished, the results are less unsatisfactory to all concerned." [SHAR 29]

Response: Admitted.

34. A 1977 evaluation of HUD's Title VI enforcement process by the U.S. Justice Department made the following findings, among others:

A. HUD had failed to develop a timely and sufficient Title VI review process [page 27].

B. HUD's Title VI procedures has not been fully implemented [page 32].

C. "Despite an admitted need for a new policy, HUD has failed to revise its tenant selection and assignment plans" [page 37].

D. "The current requirement for tenant selection and assignment plans is not being adequately enforced" [page 39].

Response: Admitted, with the qualification that the two findings identified at 34A and 34B state in full:

34A: "HUD has failed: (1) to develop a Title VI compliance program that reviews a significant portion of its recipients; (2) to resolve possible civil rights violations in its assisted programs in a timely manner; and (3) to allocate sufficient resources to Title VI enforcement."

34B: "Because the procedures detailed in HUD's Title VI handbook have not been fully implemented, many regional offices have failed to develop a systematic approach to Title VI compliance work."

35. In a "MEMORANDUM OF UNDERSTANDING Between the Department of Housing and Urban Development and the Civil Rights

Division Regarding the Enforcement of Title VI of the Civil Rights Division Regarding the Enforcement of Title VI of the Civil Rights Act of 1964", signed by HUD on June 18, 1979, the following, among other, actions were agreed to by HUD to resolve the findings made in the 1977 Interagency Survey Report:

A. "HUD agrees to provide to the Department of Justice a copy of a revised tenant selection and assignment policy within 180 days." HUD further agreed to publish the revision in final form.

Response: Admitted, with the qualification that the document title is correctly quoted as "Memorandum of Understanding Between the Department of Housing and Urban Development and the Civil Rights Division, Department of Justice Regarding the Enforcement of Title VI of the Civil Rights Act of 1964" and the provision quoted states in full:

> "HUD agrees to provide the Department of Justice a copy of a revised tenant selection and assignment policy within 180 days. Once the policy has been approved by the Department of Justice, HUD agrees to proceed forthwith to arrange for publication of the policy in the Federal Register for comment. After HUD has evaluated public comments, made necessary changes, and consulted with the Department of Justice, HUD agrees to publish the tenant selection and assignment plan in final form."

36. In a memorandum dated June 27, 1980, Laurence D. Pearl, HUD Program Compliance, ECC stated:

> "As you know, the 1967 Tenant Selection and Assignment Policy was developed as a means of implementing Title VI of the Civil Rights Act of 1964 and continues to date. The current policy has not served to desegregate conventional low-rent housing projects of provide an affirmative race conscious approach for integration." (page 1).

Response: Admitted.

37. On Dec. 24 1981 the HUD Office of the Assistant Secretary for Fair Housing and Equal Opportunity issued an Assessment Report by the Office of HUD Program Compliance with the Title: "A Management Control Assessment of the HUD Tenant Selection and Assignment Policy". The report made the following assessments and recommendations about the HUD "first come, first served" tenant selection and assignment policy:

> A. "The present tenant selection and assignment policy has not eliminated segregation in public housing" [page 2].
>
> B. HUD had not complied with the Justice Department agreement requiring HUD to revise the tenant selection policy [page 3].
>
> C. "There were some assumptions about race which underlay the adoption of the 1967 policy. It was assumed that in many cities the local housing authorities had black projects with long waiting lists and white projects with no waiting lists at all. It was assumed that offers of units in white projects would overcome the reluctance of blacks to move into such projects, resulting in the desegregation of the previously white projects. The policy was not designed to desegregate black projects..." [page 7].
>
> D. "The existing policy is a vacancy-conscious policy, not a race conscious policy. Further, this policy does not address the present effects of past segregation." [page 8].
>
> E. "HUD's efforts to desegregate low income public housing have not been very successful thus far. The studies of Kentucky, East Texas, and the ten Southern states all indicate a high degree of segregation in low-income public housing. Further, it has been recognized for some time that the present tenant selection and assignment policy is not desegregating low income public housing.
>
> "Conclusion -- Low income public housing remains racially segregated, particularly in the Southern States. This is in violation of Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act 1968, as amended. The

present tenant selection and assignment policy, adopted in 1967, has not resulted in racial desegregation as was intended." [page 13].

D. "Needed Control -- A new tenant selection and assignment policy which focuses on desegregating low-income public housing is needed.

"Suggestion -- A new tenant selection and assignment policy should be adopted." [page 14].

Response: The first sentence is admitted; it is further admitted that A, C, D, E (including "conclusion") and D (including "suggestion") are accurate restatements of the portions of the report referred to. Part B is denied, except to admit that HUD had not revised its Tenant Selection and Assignment policy as of the date of the report.

38. In a February 28, 1984 letter to the HUD Regional Administrator for Region 6, the region within which Commerce is located, the Secretary of HUD, Samuel R. Pierce, Jr. said

A. "The existence of public housing systems which are racially segregated as a result of discriminatory official action offends the Constitution as well as statutory authorities which the Department is called upon to enforce. The duty to disestablish a dual public housing system and to effect a transition to a unitary system is in most significant respects similar to, and is no less than, the duty to disestablish dual school systems."

B. "The Department has conducted many Title VI compliance agreements developed in court-approved consent decrees. However, the test of the adequacy of a remedial plan is whether it works. Plainly, in many instances the compliance agreements obtained have not passed that test."

C. "The goal of a plan to disestablish a dual public housing system must be conversion to a unitary system".

D. "...Our imperative task, however, is to assure immediate and steady progress toward correction of the condition that offends the Constitution.

This task weighs particularly heavy in Region VI, as the past history disclosed in the Young v. Pierce litigation reveals."

E. Authorities found to be in apparent noncompliance as a result of Title VI compliance reviews should be instructed to prepare promptly and submit effective plans for the disestablishment of dual systems. Authorities which have entered into previous compliance agreements which have not produced meaningful results, whether because of deficiencies in implementation or in the plans themselves, should be instructed similarly."

Response: Admitted.

39. The HUD tenant selection and assignment policy first adopted in 1967 and the policy subjected to the criticisms above is the same HUD policy which is in effect today.

Response: Denied that the February 28, 1984 letter refers specifically to any particular tenant selection and assignment policy, but it is admitted that federal regulations on tenant selection and assignment plans have not been revised since 1967.

40. Appendix 3 to the HUD study 'SUBSIDIZED HOUSING AND RACE" is an account of HUD's public housing desegregation experience in East Texas and states the following:

A. HUD required the 37 East Texas public housing authorities found to be in apparent non-compliance with Title VI to sign the HUD model compliance agreement [page 2].

B. "Under the standard compliance agreement's provisions relating to individual admissions, only gradual incremental change can occur in the racial composition of a project. In operational terms, the pattern would be for one black family to enter an otherwise all-white project and remain there as the sole black tenant until, at some indefinite later point, another black family accepted a similar assignment. The same pattern would occur upon admission of a white family to an otherwise all-black project. The prospect of this resulting isolation of the 'pioneer' family -- sometimes causing it to vacate before the second family arrived -- could in some instances discourage a family from accepting the assignment in the first place. One possible means to counter such a problem, was, in the Task

Force's view, to find means of moving, at a single time, blocks of tenants large enough to avoid the sense of isolation. Transfers to correct over-housed and under-housed occupancies appeared to present such an opportunity" [page 7-8].

C. The East Texas authorities were ordered to submit transfer plans for over and under-housed families utilizing transfers to projects where the family's race did not predominate [page 10].

D. The HUD Task Force also required East Texas authorities to use race conscious marketing efforts and race conscious tenant assignment offers [page 12].

E. The race conscious transfer plan ordered by the federal court at the Clarksville public housing authority resulted in substantial desegregation at both the previously all-white and all-black projects operated by that authority [3 - 5].

F. The standard compliance agreement which had been in effect for the Clarksville Housing Authority from November, 1981 until Dec. 15, 1983 "had been ineffectual, at least if judged on the basis of results" [page 6]. "The Authority submitted the reports required under the compliance agreement, but, as it later developed, no progress was made toward the disestablishment of segregation conditions" [page 3].

G. "The strategy of seeking movement of tenants and applicants in blocs, rather than individually and incrementally, through correction of overhoused and underhoused conditions or through management of vacancies caused by modernization programs, appears to have contributed to success. In particular, the East Texas experience appears to have achieved greater success at desegregating formerly all-black projects, in addition to all-white projects, than has been achieved elsewhere - a result essential to avoiding a disproportionate occupancy in the authority as a whole" [pages 26 - 27].

Response: The first sentence is admitted, subject to the following qualifications: parts A, B, F & G are admitted; part C is denied, except to admit that some East Texas authorities were directed to submit transfer plans for over and under-housed families to appropriately-sized units, utilizing transfers to projects where, to the maximum degree possible, the family's race did not predominate; part D is denied, except to admit that some

East Texas authorities were authorized to use race-conscious marketing efforts and race-conscious tenant assignment offers; part E is denied.

41. A May, 1985 study commissioned by HUD to "aid the Department of Housing and Urban Development (HUD) in designing and administering innovative, low-cost desegregation activities that might be effective in small and medium sized public housing agencies (PHAs) contains the following information:

A. "Barriers that frequently hamper desegregation efforts include:

Differences in the physical condition of projects, with projects serving one race being in worse condition or of worse quality than those serving another race. White tenants, for example, will resist transferring from a well-maintained white project to a dilapidated black project.

Differences in the quality or availability of facilities and services at projects serving different races. Whites who live in a project with a community room and a senior citizens recreation program, for example, will not willingly transfer to a black project that lacks such facilities and services." [page 3].

B. There are a wide range of voluntary and involuntary possible desegregation actions which are listed in Exhibit ES-1 to the study.

C. The standard HUD compliance agreement does not contain any provisions providing for mandatory transfer of over and under housed tenants, a standard of integration, or equalization of conditions among projects. Other agencies enforcing desegregation in public housing do incorporate such provisions [Exhibit 2].

Response: Admitted that the quoted material in 41A has been accurately quoted. The statement in 41B is denied, except to admit that Exhibit ES-1 to the study contains 16 voluntary (race-neutral) and 9 involuntary "possible desegregation actions" listed by stage in the occupancy process and nature of the

action. The first sentence of 41C is denied, except to admit that the traditional HUD compliance agreement does not include provisions providing for mandatory transfer of over and under housed tenants, a standard of integration, or equalization of conditions among projects. The second sentence of 41C is denied, except to admit that at least three agency compliance agreements enforcing desegregation in public housing, including one developed by HUD, incorporate some or all of the provisions itemized in the first sentence of 41C.

IV. DHA, HUD, the City and de jure racial segregation

42. The City of Dallas and DHA refused to comply with any of the HUD desegregation initiatives and HUD continued to fund the City and DHA despite overt defiance of the Constitution and laws.

Response: Admit that at times actions and inactions of the city and DHA were not in compliance with the Constitution and laws, and that HUD did not take effective action to cure such instances of non-compliance.

43. De jure racial segregation in public housing was declared unconstitutional in 1955. Detroit Housing Commissioners v. Lewis, 226 F.2d 180, 183-184 (6th Cir. 1955). DHA took no action to end its de jure policy of tenant selection and assignment until 1965. At that time the federal government acting under the provisions of Title VI of the 1964 Civil Act, 42 U.S.C. 2000d, insisted that DHA drop the use of its explicitly racial tenant selection and assignment policies. After some

delay and resistance, DHA adopted a desegregation plan which it claimed had been approved by a large number of local officials including the mayor. DHA's 1965 desegregation plan was worked out in consultation with the Dallas Citizens Council, a civic organization which had been steadfast in its support for racial segregation in housing [plaintiffs' 12/12/88 exhibit #10 - 1962-1966 documents; plaintiffs' 12/12/88 exhibit #9 - 1950 Joint Report].

Response: The first, third and fourth sentences are admitted; HUD further admits that the documents cited reveal no DHA action to end de jure policy of tenant selection and assignment until 1965. Despite reasonable inquiry, HUD does not have sufficient knowledge to admit or deny statements regarding groups with whom DHA consulted in devising its 1965 desegregation plan, or statements regarding the views of the Dallas Citizens Council.

44. Under the plan, DHA adopted a freedom of choice policy under which an applicant would be able to apply at the project of her choice for that project. Before an applicant of the race that was not the predominant race of the project could be housed at that project, the plan required DHA board notification and approval before accepting the tenant. The plan called for selection of four black families to move, without publicity, into the predominantly white George Loving West Dallas project. An explicit condition of the desegregation plan was that there would be no notice given to applicants that they could apply to the project of their choice. The federal government accepted the DHA

plan [plaintiffs' 12/12/88 exhibit #10 - 1962-1966 documents, pages 20-21, 32, 38-41]. The only change in racial occupancy under the freedom of choice plan was in the West Dallas white project. The other white projects, Washington Place and Cedar Springs Place, remained all white and the minority projects remained all minority [plaintiffs' 12/12/88 exhibit #31 - supra]. Response: The first, second, third, and fifth sentences are admitted; despite reasonable efforts, HUD lacks knowledge to admit or deny the fourth sentence; HUD objects to the sixth and seventh sentences as vague, because no time-frame is provided, and therefore HUD is unable to admit or deny the sixth and seventh sentences.

45. In 1967 HUD formally rejected the use of freedom of choice tenant selection and assignment plans by public housing authorities on the grounds that such plans did not disestablish racial segregation or its effects in public housing [plaintiffs' 12/12/88 exhibit #27 - supra, pages 7-11]. HUD required all public housing authorities to adopt a first come, first served tenant selection policy using a community wide waiting list for all projects administered by the authority [plaintiffs' 12/12/88 exhibit #12 - 1967 documents, page 1]. DHA's board overtly defied HUD's Title VI mandate to cease using freedom of choice and adopt a first come, first served policy [plaintiffs' 12/12/88 exhibit #12 - 1967 documents, pages 15-37; plaintiffs' 12/12/88 exhibit #13 - 1968 documents, pages 1-24]. The City of Dallas became involved when the federal government threatened to sue DHA

and withhold federal funds from DHA and the City [plaintiffs' 12/12/88 exhibit #13 - 1968 documents, pages 15, 23-24, 27, 34]. At the request of the City of Dallas, DHA agreed to end freedom of choice and adopt a first come, first served plan [plaintiffs' 12/12/88 exhibit #13 - 1968 documents, pages 27, 34].

Response: The first and second sentences are admitted. The third sentence is denied, except to admit that DHA contended that its policy was in compliance with Title VI of the Civil Rights Act of 1964. The fourth and fifth sentences are admitted.

46. The City Attorney N. Alex Bickley, participated in the negotiations with the U.S. Department of Justice on the specifics of the plan to be adopted [plaintiffs' 12/12/88 exhibit #13 - 1968 documents, supra; plaintiffs' 12/12/88 exhibit #14 - 1969 documents, page 1]. The plan negotiated with Mr. Bickley's assistance and adopted by the DHA board was one which, in the opinion of the Justice Department was "likely to result in little or no change in the racial composition of any of your other locations, all of which are presently segregated" [plaintiffs' 12/12/88 exhibit #13 - 1968 documents, page 66]. The plan was accepted by the federal government even though it would have little desegregative effect.

Response: The first sentence is admitted; the second and third sentences are denied, except to admit that one aspect of the plan was characterized as "likely to result in little or no change in the racial composition of any of your other locations, all of which are presently segregated;" and that the plan accepted by

the federal government adopted a "one offer" procedure rather than the "three offer" procedure which the federal government favored.

47. In 1969, HUD found that DHA was not following its formally adopted first come, first served plan but was rather continuing to operate under freedom of choice [plaintiffs' 12/12/88 exhibit #16 - 1970 documents, pages 27-33]. While DHA staff were negotiating with HUD and the Justice Department on resolving the new finding of Title VI noncompliance [plaintiffs' 12/12/88 exhibit #14 - 1969 documents 29-34], the DHA board passed a resolution instructing the staff to first ask HUD for a waiver of the first come, first served requirement and that if such a waiver was not immediately forthcoming, to return to freedom of choice [plaintiffs' 12/12/88 exhibit #14 - 1969 documents, pages 47-50]. HUD received the request for a waiver but took no action on it. [plaintiffs' 12/12/88 exhibit #14 - 1969 documents, page 51].

Response: Admitted.

48. In January and February of 1970 DHA obtained HUD final approvals for the site and funding of Cliff Manor, an elderly project [plaintiffs' 12/12/88 exhibit #16 - 1970 documents, pages 1-3]. A week after the telegram announcing the final approval, DHA formally rescinded its first come, first served plan and returned to its pre-1968 freedom of choice plan [plaintiffs' 12/12/88 exhibit #16 - 1970 documents, pages 4-14].

Response: Admitted.

49. The federal government notified DHA that DHA's actions were in violation of Title VI and HUD seemed to have deferred funding for all projects not already approved [plaintiffs' 12/12/88 exhibit #16 - 1970 documents, pages 17-19, 20, 23, 38]. The funding deferral had no effect on the availability of funds for the development of the white elderly projects before DHA returned to its freedom of choice tenant selection plan. The only funding actually deferred was the rehabilitation money for West Dallas.

Response: HUD objects to this request as vague in that the statement makes no distinction between new construction funds and rehabilitation funds. Notwithstanding this objection, and without waiving this objection, the first sentence is admitted, subject to the qualifications made in the second and third sentences. As to the second sentence, HUD admits that new construction funding was provided, but denies that such funding was limited to white elderly projects. The third sentence is denied, except to admit that rehabilitation funds were not requested by DHA and therefore not provided to DHA.

50. HUD requested assistance from the City of Dallas in obtaining an end to DHA's blatant violation of Title VI [plaintiffs' 12/12/88 exhibit #16 - 1970 documents, page 43].

Response: Admitted.

51. From 1970 through 1974, HUD continued to defer modernization funds for DHA's projects because of DHA's willful noncompliance with Title VI. [plaintiffs' 12/12/88 exhibit #17 -

1974 documents, page 1]. During this period HUD continued to provide the development and subsidy funding for the predominantly white elderly projects already approved.

Response: Admit that HUD informed DHA that HUD would not approve requests by DHA for CIAP modernization funds for any project until DHA was in compliance with Title VI. The second sentence is admitted, with the qualification that during this period HUD continued to provide DHA's operating subsidy for all projects and continued to provide new construction funding for all projects already approved.

52. A City of Dallas report described the effect of the funding deferral as follows:

> "Until 1969 the Dallas Housing Authority maintained its properties in a reasonable manner and kept its financial reserves high. During this period DHA accepted no federal money for modernization and much equipment and structural components (roofs, doors, windows, etc.) were near the end of their economic life and would soon need replacement. From 1969 to 1974, DHA did not participate in federal modernization programs. Faced with declining real income, DHA management attempted to preserve financial soundness at the expense of physical maintenance. The physical condition of DHA properties deteriorated rapidly and most projects have never been returned to the condition they were in before the Brooke Amendment" [plaintiffs' 12/12/88 exhibit #2 - supra, at 22-23].

Response: Admitted.

53. HUD did a Title VI review of DHA and found DHA to be in noncompliance with Title VI [plaintiffs' 12/12/88 exhibit #17 - 1974 documents, pages 3-10, 11]. Contrary to its action in 1968 when City funds were immediately at stake, the City took no action to resolve this impasse until late 1974.

Response: The first sentence is admitted. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the second sentence.

54. On August 22, 1974, the federal Community Development Block Grant program came into existence. 42 U.S.C. 5304, et seq. The City of Dallas was to receive $195,065,845.00 in funds from this HUD administered program over the next 14 years [plaintiffs' 12/12/88 exhibit #57 - City CDBG documents]. The CDBG Act prohibited race discrimination by recipients. 42 U.S.C. 5309.
Response: Admitted.

55. In November, 1974 a City employee, William Darnall, assumed the job of DHA's acting executive director while maintaining his position as assistant director for the City of Dallas Department of Housing and Urban Rehabilitation [plaintiffs' 12/12/88 exhibit #92 - Darnall/Bacon documents, page 7]. An assistant City Attorney, Lois Bacon, had already begun serving as DHA's attorney [plaintiffs' 12/12/88 exhibit #92 - supra, page 5]. Prior to taking over as executive director, Darnall had already prepared DHA's application for West Dallas rehabilitation funds [plaintiffs' 12/12/88 exhibit #92 - supra, pages 1-2]. Shortly after taking over, Mr. Darnall informed DHA's board that they could not apply for City of Dallas CDBG funds. [plaintiffs' 12/12/88 exhibit #92 - supra, 10].
Response: The document cited does not explicitly support the propositions contained in this request, and despite reasonable

inquiry, HUD lacks sufficient knowledge to otherwise admit or deny the truth of these statements.

56. One of the conditions for receiving HUD modernization funds for West Dallas was that DHA adopt a tenant selection and assignment plan that would allow HUD to make an administrative determination that DHA in was in compliance with Title VI [plaintiffs' 12/12/88 exhibit #18 - 1975 documents, page 2]. With the assistance of the City of Dallas' Fair Housing Administrator, a City Fair Housing department law student intern, and the assistant City attorney, Mr. Darnall proposed a series of freedom of choice tenant selection and assignment plans [plaintiffs' 12/12/88 exhibit #18 - 1975 documents, pages 1, 2, 7, 9-15, 18-22, 25-32, 36-37, 42-46, 70,; plaintiffs' 12/12/88 exhibit #19 - 1976 documents, pages 1, 11, 34]. Upon DHA Board adoption of the plans, HUD made the determination that DHA was in compliance with Title VI [plaintiffs' 12/12/88 exhibit #19 - 1976 documents, pages 44, 71, 73, 80]. The plans did nothing to offer a desegregated housing opportunity to DHA's black residents by DHA's own subsequent admission [plaintiffs' 12/12/88 exhibit #20 - 1979 documents, pages 4-7].

Response: The first sentence is admitted. The second sentence is denied, except to admit that some of the plans proposed by Mr. Darnall were freedom of choice plans, some of which had a waiting list preference for persons willing to go to other-race projects. The third sentence is admitted. The fourth sentence

is denied, except to admit that by DHA's admission the plans failed to encourage a racial mix of tenants.

57. In 1978 DHA received an allocation of 224 units of low rent public housing [plaintiffs' 12/12/88 exhibit #38 - 224 units documents, page 1]. Had these units been developed they would have been the first new, non-elderly public housing units to be developed by DHA on anything other than a de jure segregated basis. Through development of the units, DHA would have been able to offer black tenants the choice of housing in non-impacted areas. DHA was not able to develop these units because the City of Dallas vetoed the use of the units in non-minority areas [plaintiffs' 12/12/88 exhibit #38 - 224 units documents]. DHA allowed the allocation to revert back to HUD. [plaintiffs' 12/12/88 exhibit #38 - 224 units documents, page 38]. HUD continued to fund the City and DHA.

Response: Admitted.

58. In 1980 DHA submitted an application for Section 8 Moderate Rehabilitation Program funds from based on an explicit certification that units located in an area of minority concentration would not be selected for the program [plaintiffs' 12/12/88 exhibit #40 - Robin Square Apartments documents, page 20]. None of the units selected for participation in the program were located in the predominantly white priority areas. All of the units were located in low-income or minority concentrated census tracts [plaintiffs' 12/12/88 exhibit #37].

Response: Admitted.

59. The Robin Square site met none of the HUD site selection requirements. It was located in a blighted, minority and low income concentrated area and consistently failed to meet HUD's housing quality standards. HUD knowingly approved the selection of the Robin Square site and allowed the operation of the complex for many years. [plaintiffs' 12/12/88 exhibit #40 - Robin Square Apartment documents, pages 1, 34-35, 44-45, 70-71, 73, 79, 81-82, 128-134].

Response: The first sentence is denied. The second and third sentences are admitted.

60. Beginning in 1978, the City of Dallas conducted the housing quality inspections for DHA's Section 8 Existing Housing Program under a contract with DHA [plaintiffs' 12/12/88 exhibit #24 - supra, 3-4]. The City inspectors consistently approved units for black families in black neighborhoods which units were in serious violation of the HUD housing quality standards. Between Jan. 20, 1987 and Jan. 20, 1988 DHA's own quality control inspections found that 60% of the units which had previously been inspected and passed, most by City inspectors, did not meet housing quality standards upon reinspection. [plaintiffs' 12/12/88 exhibit #41 - DHA HQS inspection reports, Q1 and Q2 inspection results].

Response: The first sentence is admitted. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the statements made in the second and third sentence, except to admit that DHA reported to the Court in 1988 that a substantial number

of units failed housing inspections during the period January 20, 1987 to January 20, 1988.

61. On Feb. 1, 1980, HUD's Assistant Secretary for Fair Housing found that DHA's freedom of choice tenant selection and assignment plan was not serving to secure DHA's compliance with Title VI and required DHA to submit an alternative Title VI compliance plan for local and national HUD review and approval [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, page 4].

Response: Admitted.

62. HUD's Regional Fair Housing administrator notified DHA on Feb. 20, 1980 that:

1) the existing tenant selection and assignment plan was not serving to secure compliance with Title VI,
2) Title VI requires discontinuance of the condition whereby eligible white tenants find other housing while eligible black families must rely on DHA for housing assistance,
3) DHA's Section 8 program should be used to increase housing opportunities for current DHA minority tenants which would allow non-minority applicants to be placed in the resulting project vacancies thus reducing the racial identification of DHA's program, and
4) required DHA to submit an alternative plan for achieving Title VI compliance. [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, page 9-10].

Response: Admit that the document cited is authentic, but that the request paraphrases selectively the context of the document and does not convey its full meaning.

63. DHA responded in two ways. DHA immediately adopted a new policy requiring public housing tenants to wait 90 days after vacating their project before applying for Section 8 Existing Housing Program [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, page 20]. This policy directly contradicted HUD's

Title VI recommendation and had the practical effect of prohibiting black public housing families from using the Section 8 program since few public housing families have the resources necessary to sit out the 90-day waiting period in private housing.

Response: Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the first sentence. The second sentence is admitted. HUD further admits that this policy was inconsistent with HUD's Title VI recommendation, but that despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the remaining statements made in the third sentence.

64. DHA also submitted a revised tenant selection and assignment plan to local HUD officials for approval. This plan solely a tenant selection and assignment plan. It contained no element designed to either give black DHA tenants increased access to the housing available to white eligible tenants or to allow black DHA tenants to use the Section 8 program to increase their open housing opportunities or reduce the racial identifiability of the projects [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, page 21]. The plan received local HUD approval but there is no record of the plan even being submitted for national HUD approval [plaintiffs' 12/12/88 exhibit #22 - 1981 documents, page 1]. HUD has taken no action to resolve these still pending notice of Title VI violations.

Response: The first and second sentences are admitted. The third sentence is denied, except to admit that the plan did not

address Section 8. The fourth sentence is admitted, but it is denied that national HUD approval was required at that time. HUD objects to the fifth sentence as vague in that it is unclear to what "still pending notice of Title VI violations" refers.

65. In February, 1980 DHA was preparing to open for occupancy its Section 8 New Construction elderly project, Lakeland Manor [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, pages 7-8, 14-19]. The project is located in a predominantly white location [plaintiffs' 12/12/88 exhibit #31 - supra]. DHA was faced with the choice of using a waiting list that was composed of persons who had specifically requested Lakeland Manor and who were not in the regular DHA applicant pool or using the regular applicant pool. The Lakeland Manor waiting list was 7% black. The regular applicant pool was 18% black. DHA adopted a plan which gave preference to the whiter Lakeland Manor waiting list rather than the regular, HUD approved waiting list. [plaintiffs' 12/12/88 exhibit #21 - 1980 documents, pages 7-8, 14-19]. Upon completion of initial occupancy, Lakeland Manor was predominantly white [plaintiffs' 12/12/88 exhibit #31]. Response: The first, second, and third sentences are admitted, except to the extent it states that only two alternatives were considered by DHA or available to it in formulating a tenant selection and assignment policy for Lakeland Manor. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny what alternatives were considered by DHA or available to DHA. The fourth and fifth sentences are admitted. The sixth

sentence is denied, except to admit that DHA adopted a revised Resident Selection policy for Lakeland Manor which was intended to achieve a more effective racial balance in the development than would be achieved under the 1976 tenant selection and assignment plan then in effect. The seventh sentence is admitted.

66. In 1981 DHA acquired the Oakland Apartments in South Dallas from HUD. [plaintiffs' 12/12/88 exhibit #22 - 1981 documents, page 2]. It is located in a black census tract and has been predominantly black in occupancy [plaintiffs' 12/12/88 exhibit #31].

Response: Admitted.

67. In 1983 and 1984 DHA began to register applicants for the Audelia Manor elderly public housing project which was under development. Under the registration practices, those registered were allowed to sign up for a vacancy in Audelia Manor without being subjected to the normal waiting list procedures [plaintiffs' 12/12/88 exhibit #33 - elderly registration documents]. From its initial occupancy, Audelia Manor was almost exclusively white in occupancy [plaintiffs' 12/12/88 exhibit #31 - supra]. Audelia Manor is located in a predominantly white census tract [plaintiffs' 12/12/88 exhibit #31 - supra].

Response: Admitted.

68. Throughout 1982 through 1986 the effect of DHA's tenant selection and assignment plan was, through either allowing freedom or choice or assigning on the basis of race, to steer

black applicants to black projects and white applicants to white projects [plaintiffs' 12/12/88 exhibit #34 - analysis of applicant offers, 1982-1986]. This steering resulted in predominantly one race elderly projects [plaintiffs' 12/12/88 exhibit #31 - supra].

Response: The first sentence is admitted with respect to housing for the elderly. The second sentence is denied, except to admit that three of DHA's elderly projects are within 5% of a 50-50 black-white division.

Department of Justice involvement in DHA

69. On June 14, 1968 HUD informed DHA in a letter that unless DHA dropped its freedom of choice plan, then DHA's noncompliance with Title VI would be referred to the Department of Justice. [plaintiffs' 12/12/88 exhibit #13, page 15].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

70. HUD informed DHA on July 1, 1968, that the matter of DHA compliance with Title VI had been referred to the Department of Justice. [plaintiffs' 12/12/88 exhibit #13, page 23].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

71. The Department of Justice forwarded a proposed agreement to DHA on September 16, 1968. [plaintiffs' 12/12/88 exhibit #13, page 32].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

72. The Department of Justice conferred with DHA and City regarding the compliance agreement for DHA on August 22, 1968. The Department of Justice furnished DHA with a copy of the complaint which has already been signed. [plaintiffs' 12/12/88 exhibit #13, pages 34-35].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

73. The Department of Justice tells DHA by letter dated Oct. 12, 1968, that DHA's proposed plan was unacceptable in some particulars but that the Department of Justice was willing to accept a one offer plan, even though "the institution of a "one choice" plan is likely to result in little or no change in the racial composition of any of your other locations, all of which are presently segregated. Accordingly, we wish to reiterate our view that the adoption of a "three choice" plan would be more likely to achieve the objectives of Title VI of the Civil Rights Act of 1964 and to meet the constitutional obligation of the

Housing Authority to disestablish the segregated system of operating public housing projects." [plaintiffs' 12/12/88 exhibit #13, pages 65-66].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

74. The Department of Justice transmitted to DHA the signed agreement on Nov. 9, 1968. [plaintiffs' 12/12/88 exhibit #13, page 92]. The agreement provided that if after six months the plan contained in the agreement had not accomplished substantial compliance with the laws of the United States, the Department of Justice could institute judicial or administrative enforcement proceedings against DHA. [plaintiffs' 12/12/88 exhibit #13, pages 93-97].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

75. By letter dated Dec. 27, 1968, the Department of Justice informed DHA that DHA was violating the terms of the Agreement and that the Department of Justice would consider enforcing that it would comply with the Agreement. [plaintiffs' 12/12/88 exhibit #13, pages 104-105].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the

Department of Justice, which the Court denied at the April 8, 1994 hearing.

76. On December 31, 1968 DHA wrote to the Department of Justice refusing to comply with the Agreement. [plaintiffs' 12/12/88 exhibit #13, pages 107-108].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

77. A conference was held between DHA, the City of Dallas, and the Department of Justice and an agreement was reached on changes to DHA's tenant selection and assignment process to require centralized tenant selection and assignment to end use of freedom of choice plan. [plaintiffs' 12/12/88 exhibit #14, page 1].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

78. The DHA's attorney, in early March 1969, advised the Attorney General of the United States of America that DHA was going to rescind the DHA resolution approving the Agreement with the Department of Justice and return to its earlier freedom of choice methods. [plaintiffs' 12/12/88 exhibit #14, page 12].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the

Department of Justice, which the Court denied at the April 8, 1994 hearing.

79. Justice Department attorney, Thomas Keeling visited DHA and met with DHA staff on August 25, 1969, According to DHA's notes, the Department of Justice had found a high correlation between project of application and project of offer and that white applicants were being offered white projects. [plaintiffs' 12/12/88 exhibit #14, pages 29-30].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

80. On December 10, 1969 DHA passed a resolution going back to freedom of choice plan unless HUD waived Title VI required policy by January 17, 1979. [plaintiffs' 12/12/88 exhibit #14, pages 47-48].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

81. The Department of Justice wrote DHA on Aug. 17, 1970:

> "This Department has received information that the Dallas Housing Authority has rescinded its central tenant assignment methods of operation and has returned to a freedom-of-choice operation...Therefore, the Authority's present operation is in violation of the HUD regulations and is contrary to its agreement with this Department. Moreover, the Authority's past operation under freedom-of-choice would indicate that the new procedure does not satisfy the Authority's obligation under Title VI, 42 U.S.C. 2000d, to insure

> the guarantees of the Fourteenth Amendment. Federal law requires that a public agency, which has in the past operated under an official policy of racial segregation, take steps to correct the continuing effects of its past discrimination.... In view of the responsibility of this Department and of HUD to take early steps to eliminate any unlawful practices, we think a prompt response to this request to be of great importance". [plaintiffs' 12/12/88 exhibit #16, page 16].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

82. In the August 24, 1970 DHA minutes, DHA was requesting a conference with Attorney General Mitchell for the purpose of discussing the DHA's problems with the Department of Justice. [plaintiffs' 12/12/88 exhibit #16, page 24].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

83. On September 17, 1970 there was a meeting with DHA and John Ossea and Buddy Bennett of the Department of Justice and HUD officials to negotiate a tenant selection and assignment plan for DHA. No resolution of the matter was reached. A Department of Justice representative states "You had an agreement with Justice and dropped it to adopt some other plan. This is basically why we are looking into the operation. Can't say one system is better than another. This review should tell us something.

Can't comment one way or another until we get the facts in." [plaintiffs' 12/12/88 exhibit #16, pages 36-42, 41]

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

84. A City of Dallas 9/23/70 memorandum reports that the HUD Area Director considered DHA to be deliberating flaunting and challenging not only HUD but the Department of Justice's rulings. [plaintiffs' 12/12/88 exhibit #16, page 43].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

85. A HUD 8/24/74 memo determining DHA to be in noncompliance with Title VI also stated "It was in March 1970 that the Authority published and began operating under the revised Tenant Selection and Assignment Plan without having received HUD's or Justice's concurrence. No enforcement action has been taken and there is none apparently contemplated. In October, 1973, a memorandum was forwarded from this office to the Assistant Secretary for Equal Opportunity requesting we be advised the position of the Department of Justice and HUD with respect to possible enforcement of Title VI violations. Records in this office indicate that no response has been received" [plaintiffs' 12/12/88 exhibit #16, pages 3-11].

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

86. The U.S. Department of Justice has taken no action to enforce Title VI, 42 U.S.C. § 2000d, et seq. against DHA since 1/1/1971.

Response: HUD objects to this request as moot, because the request relates to plaintiffs' motions to join and enjoin the Department of Justice, which the Court denied at the April 8, 1994 hearing.

V. The decision to build the West Dallas Project

87. DHA's 3,500 units West Dallas public housing projects in the nation's largest low-rise public housing project and the second largest project of any type in the nation [plaintiffs' 12/12/88 exhibit #44 - DHA Facts in Brief, page 24]. It was created by DHA at the City's request [plaintiffs' 12/12/88 exhibit #110 - 1962-1966 documents, page 1,]. The City and DHA's purpose in developing the West Dallas project was to solve the "Negro housing problem" as that problem was perceived by the white community in Dallas in the early 1950s [plaintiffs' 12/12/88 exhibit #10 - 1962-1966 documents, page 1].

Response: Admitted.

88. The City of Dallas aggressively pursued an official city policy mandating racial segregation in housing.

Response: HUD objects to this request as vague because it does not state the period of time to which it relates. Subject to that objection and without waiving it, the statement is denied, except to admit that at some points in time the City of Dallas pursued policies mandating racial segregation in public housing.

89. In 1950 and 1951, white residents of South Dallas were publicly demanding that the City of Dallas take action to prevent black families from acquiring homes in white districts [plaintiffs' 12/12/88 exhibit #8 - 1950-1951 newspaper articles]. Several bombings of homes bought or built by blacks in white districts were reported [plaintiffs' 12/12/88 exhibit #8 - supra]. All of the public debate on the resolution of this "Negro housing problem" as it was referred to, was based on the explicit premise that the City of Dallas should take action to make a substantial amount of housing available to black families while maintaining racial segregation [plaintiffs' 12/12/88 exhibit #8 - supra]. See for example the joint report of the Dallas Chamber of Commerce and the Dallas Citizens Council [plaintiffs' 12/12/88 exhibit #9 - Joint 1950 Report].

Response: Admitted that the newspaper articles cited indicate that some white residents of South Dallas publicly demanded that the City of Dallas take action to prevent black families from acquiring homes in white districts, that those articles also report several bombings of homes bought or built by blacks; that the joint report recognizes a great need for decent housing for

black families and that such housing should be separate from housing for white families.

90. The public accounts of the debate contain statements of disagreement on the issues of whether or not the creation of the housing should be left to private industry or should include federally assisted housing and where the housing should be located were open for question. The public accounts show that there was universal acceptance of the principle that the solution had to be based on maintaining racial residential segregation in the city [plaintiffs' 12/12/88 exhibit #8; plaintiffs' 12/12/88 exhibit #9].

Response: Admitted that the cited newspaper reports support the matters for which these admissions are requested, except that it is not clear whether there existed "universal acceptance" of the principle of residential segregation.

91. On Sept. 25, 1950, the City of Dallas requested DHA to combine its existing allocation of 1,800 new construction public housing units for which a site had not yet been selected with 1,700 units of a new allocation and develop the total 3,500 units in West Dallas. DHA agreed [plaintiffs' 12/12/88 exhibit #5 - 1950s documents, pages 4-5, 10]. DHA's purpose in acceding to the City request was to solve the "Negro housing problem" [plaintiffs' 12/12/88 exhibit #10 - 1962-1966 documents, page 1].

Response: Admitted that the documents cited support the assertions made in this request for admission.

92. At that time, West Dallas was not within the Dallas City limits. DHA's application for the federal funding to develop the project described West Dallas in the following terms:

"The area selected is in what is known as 'West Dallas', a sprawling slum community of approximately five square miles...West Dallas is the largest concentration of sub-standard dwellings and slum conditions in and around Dallas..." [plaintiffs' 12/12/88 exhibit #5 - 1950s documents, page 10].

Response: Admitted.

93. The description above is supported by a 1948 survey of West Dallas conducted by the Council of Social Agencies [plaintiffs' 12/12/88 exhibit #24 - 1948 Survey of West Dallas conducted by the Council of Social Agencies] and the October 1950 report of the Special Committee of the Dallas Chamber of Commerce and the Council of Social Agencies [plaintiffs' 12/12/88 exhibit #5 - supra, at pages 8-11].

Response: Admitted that the document referenced supports by implication the description above. Despite reasonable inquiry, HUD is unable to admit or deny whether the Dallas Chamber of Commerce and Council of Social Agencies supported the DHA's description of West Dallas.

94. The West Dallas project was funded by the federal government and developed on a de jure segregated basis [plaintiffs' 12/12/88 exhibit #5 - supra at page 21]. Miers, 266 S.W.2d at 490.

Response: Admitted.

95. In 1957, two years after the West Dallas project opened for occupancy, DHA listed the following negative factors which it

believed were responsible for the lack of white and latin-american occupancy in the West Dallas sites designated for those races:

> "1. The 'stigma' attached to the area known as 'West Dallas'.
> 2. Lack of adequate shopping facilities, churches and cultural facilities.
> 3. Environmental disadvantages, such as odors, smoke and dust from neighboring industrial plants.
> 4. Need for additional policing in the 'West Dallas" area".

Response: Admitted that DHA listed these negative factors as among the reasons for the higher turnover rate among white and latino tenants.

96. In the same document, DHA noted that:

"It should be pointed out that no occupancy problem has been encountered in connection with Project TEX-9-11-B, 1500 units for Negro occupancy. Although the latter project is also located in West Dallas and is subjected to the same adverse factors influencing TEX-9-11 A and TEX-9-11 C, it is apparent that the heavy and constantly increasing demand for low-rent public housing for Negroes and the lack of other adequate housing for Negroes in this community have combined to overcome all adverse factors and this has resulted in a stabilized occupancy with a long waiting list of Negro applicants." [plaintiffs' 12/12/88 exhibit #5 - 1950s documents, page 22].

Response: Admitted.

97. In 1963 DHA responded to the concern of the federal Public Housing Administration about the high vacancy level in West Dallas by claiming that DHA was considering modernization of the project, providing day care and other services and creating small community areas within each project in order to develop tenant pride [plaintiffs' 12/12/88 exhibit #10, pages 5-8].

Response: Admitted that the documents cited support this contention.

98. In 1968 and 1969 several newspaper series ran calling attention to the problems in the West Dallas project [plaintiffs' 12/12/88 exhibit #5 - 1968-1970 newspaper articles, pages 1-35].

Response: Admitted.

99. In 1975 DHA received $13,000,000.00 in HUD modernization funds for West Dallas. The revitalization failed [plaintiffs' 12/12/88 exhibit #2, at 7, 23; plaintiffs' 12/12/88 exhibit #46 - Millkey & Brown Study of the West Dallas projects].

Response: Admitted.

100. A 1980 City funded survey of the conditions in the West Dallas project found major deficiencies relating to security, health and safety, physical deterioration, and federal, state and local code violations [plaintiffs' 12/12/88 exhibit #46.]. The study's recommendations for the project's rehabilitation were estimated to cost $47,881,638.00 [plaintiffs' 12/12/88 exhibit #46, pages 20, 39, 59].

Response: Admitted.

101. The 1983 City Task Force on Public Housing found:

> 1) at least 35% of the West Dallas units were so deteriorated that they were uninhabitable (23),
>
> 2) "The underlying assumption for upgrading the West Dallas projects is that simply rehabilitation the housing units will not solve all the problems. The large concentration of units in the West Dallas area has created poor security conditions and the overall perception that West Dallas is not a desirable place to live. The revitalization strategy must attempt to reverse this perception through provision of not only decent housing but also retail centers, security, and jobs." (29). [plaintiffs' 12/12/88 exhibit #2]

Response: Admitted.

102. The February 1984 City of Dallas Mayor's Task Force on Housing and Economic Development in Southern Dallas Report noted the extreme need for physical rehabilitation of the units, restructuring of the project's design, decent neighborhood services and measures to counter-act the very high and underreported crime rate [plaintiffs' 12/12/88 exhibit #47 - Mayor's Task Force on Housing and Economic Development in Southern Dallas Report, Excerpts, pages 106-107].

Response: Admitted.

103. The City of Dallas Economic Development Program "Dallas Data Book" compared West Dallas to the other communities in the city and found that West Dallas ranks consistently in the top one or two communities for indicators of urban blight and ranks consistently in the bottom one or two communities for indicators of quality of life [plaintiffs' 12/12/88 exhibit #48 - The City of Dallas Economic Development Program "Dallas Data Bond", Excerpts, pages 2-7].

Response: Admitted.

104. In 1983 DHA prepared a master plan for the rehabilitation of the West Dallas project and the revitalization of the surrounding community. The plan called for $88,344,680 in rehabilitation and revitalization expenditures [plaintiffs' 12/12/88 exhibit #49 - Lake West Master Plan, pages 78-86]. The plan was not able to attract either the public or private funding necessary for its implementation.

Response: The first and third sentences are admitted. The second sentence is denied to the extent it specifies the dollar amount of expenditures envisioned by the plan.

105. From 1983 until the signing of the consent decree in this case, HUD refused to provide modernization funding for the West Dallas project unless DHA could implement a plan which would restore the project and the surrounding community to viability [plaintiffs' 12/12/88 exhibit #50 - West Dallas modernization documents]. Under the HUD viability requirements for modernization of a project, the housing authority must show that the authority and the local government will, in addition to the rehabilitation of the units, undertake correction of conditions such as concentration of assisted housing, physical deterioration of the neighborhood, adverse environmental conditions, crimes and lack of marketability of the project [plaintiffs' 12/12/88 exhibit #50, pages 7-10].

Response: The first sentence is admitted. The second sentence is denied.

106. Beginning in 1985, DHA focused its efforts on achieving higher occupancy rates in West Dallas. DHA's instructions to its Resident Selection Staff with regard to this effort were to force families to take a unit in West Dallas or be denied any housing assistance from DHA. [plaintiffs' 12/12/88 exhibit #51 - DHA 2/11/85 memorandum page 2].

Response: Admitted.

107. During 1986, after the West Dallas occupancy push, the rejection rate for the West Dallas project sites ranged from 58% and 60% for the family sites to 70% for the special purpose single person/elderly site [plaintiffs' 12/12/88 exhibit #52 DHA summary of 1986 West Dallas rejection rates].

Response: Admitted.

108. West Dallas has a long history of high vacancy rates [plaintiffs' 12/12/88 exhibit #5 - 1950s documents, page (1957); plaintiffs' 12/12/88 exhibit #10 - 1962-1966 documents, pages 5-8 (1963); plaintiffs' 12/12/88 exhibit #16 - 1970-1971 documents, page 52; plaintiffs' 12/12/88 exhibit #53 - West Dallas Vacancy History].

Response: Admitted.

109. Each time DHA faced the choice of implementing its programs in a manner which would have relieved the pattern of racial segregation, it chose the policy or practice which instead continued the pattern.

Response: Admit that in numerous instances in the past, DHA elected courses of action which exacerbated racial segregation rather than alleviating such segregation.

110. In 1969, when West Dallas was first subjected to a first come, first served tenant selection plan and was becoming all-black in occupancy, a substantial number of white elderly tenants requested transfers from West Dallas to the new elderly only projects. DHA requested and received HUD approval for the transfers [plaintiffs' 12/12/88 exhibit #14 - 1969 documents 4-9,

14]. These transfers would have had the obvious segregative effects of reducing the white population in the West Dallas project and increasing the white population in the white elderly projects.

Response: The first sentence is denied, except to admit that in 1969, a substantial number of elderly tenants, including black elderly tenants, requested transfers from West Dallas to the new elderly only projects. The second sentence is admitted. HUD objects to the hypothetical form of the third sentence resulting from the inclusion of the words "would have." Subject to this objection, HUD admits that the transfers of white elderly tenants from West Dallas reduced the white population in the West Dallas project.

VI. DHA and the Consent Decree

A. 1987 Consent Decree

111. As the Court found in Walker I, DHA violated the Consent Decree approved in this matter by "its delay in putting a new, non-discriminatory Tenant Assignment & Selection Plan into effect. 734 F. Supp. 1231, 1232 (N.D. Tex. 1989). The late plan finally presented was defective and violated the decree in several ways. Id. at 1235.

Response: Admitted.

112. As the Court found in Walker I, DHA violated the Consent Decree by "its failure to provide the tenant mobility services required by the Decree." Id. at 1232. The violations consisted of delay in establishing the housing mobility division,

failure to provide adequate resources, failure to provide correct information to those who wanted to use the Section 8 program, and delay in providing mobility services. Id. at 1235-39.

Response: Admitted.

113. As the Court found in Walker I, DHA violated the Consent Decree by "its actions concerning the 120% Fair Market Rent Exception for the use of Section 8 certificates and vouchers in non-impacted area of Dallas and its suburbs." Id. at 1232. DHA delayed over three months in even submitting a request to HUD for a 120% rent exception that would make it possible to obtain adequate numbers of Section 8 units in non-impacted areas of Dallas and its suburbs. HUD denied the request and did not approve the 120% rent exception for Section 8 certificates until six months after approval of the Consent Decree. HUD then took the position that this exception would not be granted for Section 8 vouchers. Once HUD changed its position on the vouchers, DHA refused to implement this exception until the court ordered it. Id. at 1239-40.

Response: Admitted.

114. As the Court found in Walker I, DHA violated the consent decree by "its failure to meet the Decree's first year goal for the use of Section 8 assistance in non-impacted areas, and its refusal to use a substantial number of Section 8 certificates and vouchers allocated by HUD to DHA." Id. at 1232. DHA failed to meet the Consent Decree's modest goal of 15% of its Section 8 units in use in non-impacted areas. Id. at 1241-42.

Response: The first sentence is admitted. The second sentence is admitted to the extent that the sentence refers to the first year of the decree.

115. As the Court found in Walker I, DHA violated the consent decree by "its failure to request code enforcement from the City of Dallas on housing that failed Housing Quality Standards ("HQS")." Id. at 1232, 1242-43.

Response: Admitted.

116. As the Court found in Walker I, DHA violated the consent decree by "its failure to meet the Decree's deadlines for the sites selection, construction, and initial occupancy of the 100 units of new low income public housing." Id. at 1232. The site was selected by the Court and not DHA. Id. at 1244. DHA violated the next deadline by not beginning construction on time, and HUD was at least partly at fault for this violation." Id. at 1245. DHA also violated the Decree because initial occupancy of the 100 new units did not begin on time. Id. at 1245.

Response: Admitted.

117. The Court in Walker I, found additional violations of the Decree by DHA. Id. at 1245. These violations consisted of DHA policy of refusing to assign new tenants to the West Dallas project, DHA's notice to those on the Section 8 waiting list, and the one-for-one replacement with a Section 8 certificate or voucher for every unit demolished in West Dallas. Id. at 1245-46.

Response: Admitted.

118. As the Court found in Walker III, "the City was a substantial cause of DHA's deliberate racial segregation and discrimination in its public housing programs in Dallas." 734 F. Supp. 1289, 1290.

Response: Admitted.

B. Continuing Violations by DHA Since Walker I.

West Dallas related provisions of the 1987 Consent Decree

119. The Decree provides that "6.D. DHA shall demolish a unit in the Project for every such unit provided by HUD pursuant to this Decree and comprehensive plan." C.F. 1987 decree 7.C. and 7.D. HUD has provided approximately 1,400 replacement units. DHA has not demolished any units in compliance with the Decree and comprehensive plan [plaintiffs' 1/13/92 exhibit #8 - Henderson deposition, page 17].

Response: Admitted, with the qualification that DHA intends within a short time to commerce demolition of West Dallas units.

120. Exhibit 9, incorporated into the 1987 Decree, provides that DHA will achieve a "decent, safe, and sanitary environment for the residents of the West Dallas project by the following actions:

A. Modernizing approximately 800-900 units for which funding has already been made available by HUD.

B. with respect to the remaining approximately 2,600 dwelling units,

1) demolishing those that are currently vacant;

2) relocating the current outside the West Dallas project or to units modernized pursuant to 4A of this Plan, a;

3) as units are vacated by occupant families, demolishing those structures; and

4) preparing the land for redevelopment for uses other than assisted low-income housing." DHA has complied with A. (modernization) and partially complied with B.2) (relocation). DHA has not complied with B.1), 3) (demolition) or B. 3) (redevelopment for uses other than assisted low-income housing.

Response: Admitted.

121. Paragraph II.2.D. required that "Clearance and demolition of buildings will follow a carefully-developed plan to be submitted and approved by HUD." Under the plan submitted and approved by HUD, all but the 800 modernized units should have been demolished and replaced by the end of the five years. Only 1,400 of the units have been replaced. None of the units have been demolished.

Response: The first sentence is admitted. The second sentence is denied, except to admit that under the plan submitted and approved by HUD, all but approximately 800 units could have been demolished and replaced within five years. The third sentence is denied, except to admit that 1,435 units had been replaced as of January 1, 1994, and that Secretary Cisneros' housing assistance plan calls for an additional 1,372 replacement units. The fourth sentence is admitted with the qualification that DHA intends within a short time to commence demolition of West Dallas units.

122. DHA's failure to comply with the West Dallas provisions of the decree directly affects the residents of the

800 modernized units. These class members continue to suffer the adverse environmental, physical, and social conditions which, according to the 1987 decree, negate any prospects for the long term viability of the modernized units. 1987 Decree 5.A. through 5.G.

Response: Admitted.

123. DHA's failure to comply with the West Dallas provisions of the decree also directly affects the housing choices of African-American applicants for DHA's public housing and Section 8 programs. Had DHA been able to comply with the 1987 consent decree then an additional 1,300 Section 8 certificates or other forms of assisted housing units would have been available in the form of replacement units. Walker I, 734 F. Supp. at 1270. Now, those units are available only in that vestige of purposeful segregation, the West Dallas project. Walker I, 734 F. Supp. at 1268; Walker III, 734 F. Supp. at 1306; Walker v. HUD, 912 F.2d 819 821 (5th Cir. 1990) -- characterizing the West Dallas project as "one of Dallas's worst slums".

Response: The first sentence is admitted. The second sentence is admitted, except to deny that DHA has been unable to comply with the 1987 consent decree. The third sentence is denied, except to admit that there are at least 1,300 vacant and uninhabitable units currently existing on the West Dallas site and that Secretary Cisneros' housing assistance plan calls for the demolition of all vacant units after completion of DHA's plan for reconfiguration of the project.

Housing Mobility Division

124. Exhibit B of the 1987 decree requires DHA to establish and maintain a Housing Mobility Division for Section 8 certificates or voucher holders seeking housing in non-racial impacted areas [Exhibit B Summary of Plan Objectives 2., III.5].

Response: Admit with the qualification that the 1987 decree requires DHA to establish a Housing Mobility Division for Section 8 certificate and voucher holders seeking housing in certain census tracts according to the number of Section 8 units already in use in that tract.

125. The 1987 decree set up a separate Housing Mobility Division within DHA. The relevant provisions of the 1987 decree make it clear that the tasks to be assigned to the Mobility Division were limited. DHA has effectively and unilaterally amended the 1987 decree to deprive plaintiffs of the benefit of their bargain in this very important area to real desegregation of DHA's Section 8 program.

Response: Denied.

126. The Exhibit B mobility provisions state:

> "Exhibit B
>
> ...
>
> Summary of Plan Objectives
>
> ...
>
> 2. establishment of a new Housing Mobility Division within DHA's organizational structure... This Division will promote and make housing mobility possible for black and other minority families of DHA's housing programs by:
>
> A. Conducting outreach to owners of private rental housing in areas where few Section 8 certificate or voucher holders currently reside, with particular emphasis in non-racially-impacted areas of Dallas and the suburbs.

B. As part of the entire process of preparing for, locating and contracting for housing in those areas, assisting and counsel with families who are seeking such housing.

C. [non-minority and public housing.

D. Administering tenant relocation programs of the DHA pursuant to this Decree.

E. [working with fair housing organizations]

F. Complying with the Housing Mobility requirements of HUD Handbook 7420.7 (11-79), Chapter 7."

III. General Procedures to Improve DHA's Administration of DHA's projects and programs.
...

3. All current and future participants in the Section 8 existing and voucher program will be notified of DHA's Housing Mobility United and the availability of counseling and referral services to assist any certificate for voucher holder who wishes to locate alternative housing in area where his or her race does not predominate. The content of the notice to be provided shall be agreed upon by the parties. Counseling shall include notice of units available in non-impacted areas (including all HUD-assisted or insured rental projects in such areas), a description of the location or neighborhood in which suitable units may be found, and the facilities and services available in those neighborhoods such as schools, day care, health care, and public transportation.
...

5. A new Housing Mobility Division will be established for the purposes previously described. The division will be headed by a staff person at the Assistant Director level with a minimum of five other staff persons (one real estate outreach person, three counselors and one clerical person).... Once residents are placed by the Housing Mobility staff, they will be treated in the same manner as all regular Section 8 certificate holders with regard to handling of all interim examinations and re-examinations and other services under the Section 8 program. Either through the activities of this unit or through other means DHA will comply with the Housing Mobility requirements of HUD Handbook 7420.7 (11/79), Chapter 7."

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

127. The Court has already found DHA in violation of these provisions. Walker I, 734 F. Supp. at 1235-1239. DHA is continuing the violation by assigning mobility division staff to general Section 8 duties and by otherwise limiting that staff's efforts to promote housing choices in non-racially impacted areas.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

DHA's Record of Compliance with the Mobility Provisions

128. Walker I sets out DHA's past violations of the consent decree's mobility provisions. 734 F. Supp. 1235-1239. The mobility provisions of the supplemental consent decree were designed to remedy these past violations. DHA was given thirty days from the signing of the decree to reestablish the mobility division. Instead of restoring the mobility division, DHA continued the violation.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

129. Walker I found that DHA's reorganization of the mobility unit which assigned responsibility for basic Section 8

program services to the mobility staff violated the consent decree. 834 F. Supp. 1236-1237.

Response: Admitted.

130. DHA did not even make a token effort to remedy the Walker I violations of the consent decree until November 13, 19898 when the Assistant Director for HOP was hired. On January 20, 1990, DHA reported to the Court that the complete staff had been hired [DHA's Report to the Court # 8, Jan. 20, 1990]. This was five months after the opinion in Walker I. The claim was false. DHA did not have the 1987 decree required three (3) mobility counselors until May 13, 1991, only two weeks before the hearing on mobility related matters [5/28/91 transcript pages 60-62].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

131. DHA's Section 8 Administrative Plan and the testimony of DHA's employees make it clear that the HOP performs a substantial amount of general administrative work for the entire Section 8 program. The Court has already ruled that a similar attempt by DHA to make the mobility staff responsible for basic Section 8 program services as well as mobility services "in itself, violated the Consent Decree". Walker I, 734 F.Supp. 1236-1237.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

132. DHA's present organization does not even have the consent decree required Housing Mobility Division. Instead, DHA has assigned mobility duties to a new section called the Housing Opportunity Program [HOP] which is also charged with general Section 8 program duties [plaintiffs' mobility exhibit #6, pages 4, 10, 13-16].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

133. DHA adopted a new Section 8 Administrative Plan on August 23, 1990, after the agreement was reached on the Supplemental Consent decree. The Plan governs the operation of the HOP [plaintiffs' mobility exhibit #6; Mobility Tr. Campbell testimony, page 101].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

134. According to the 1990 Section 8 Administrative Plan, the personnel assigned to the HOP are required to perform many basic Section 8 program services. The HOP staff has been given duties not included in the original consent decree's definition of the Housing Mobility Division. These duties include: working with all property owners, not just those in non-impacted areas,

conducting the housekeeping training course, assisting families with jobs location [page 4], assisting all families with social services requests and other difficulties, doing the home visits for all clients [page 14], handling all requests for extensions of certificates and vouchers [page 15], and taking requests for housing quality standards complaint inspections & page 17]. The Assistant Director for HOP hears all appeals under the Section 8 program [page 14]. While these duties are important for the operation of the overall Section 8 program, the requirement that the limited HOP staff perform them continues the pattern of using the Housing Mobility division staff to perform general duties which has already been found to violate the consent decree. Walker I, 734 F. Supp. 1236. The 1987 decree requires DHA to maintain a Housing Mobility Division whose responsibilities are limited to those provided in the consent decree. [1/20/87 decree Exhibit B sections - Summary section 2 through 2.F., 111.3., III.S. 111.15].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

135. The 1990 Section 8 Administrative Plan makes no provision for individual transportation for applicants to view available units, to make return inspection visits, and to execute leases. The Administrative Plan includes only van tours [page 13].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

136. The 1990 Section 8 Administrative Plan lists only one subject for individual counseling - "all HUD regulations pertaining to housing" & page 14]. The original consent decree requires extensive individual counseling [1/20/87 decree Exhibit B, Section 111.3.; 9/24/90 decree section 9.(b)].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

137. The 1990 Section 8 Administrative Plan omits the requirement that DHA conduct an ongoing analysis of the adequacy of the Section 8 Fair Market Rent levels. The analysis is required by HUD Handbook 7420.7, paragraph 7.2.d. and paragraph III.S. of Exhibit B to the original consent decree.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

138. The DHA employees' testimony at the hearing before the master on the mobility issue confirms that a substantial part of the HOP's time is spent on basic Section 8 program services and on participants who are not seeking housing in non-impacted areas.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

139. Each HOP counselor at DHA has an individual caseload of approximately 40 persons at any given time [mobility Tr. - Wade (Senior counselor) testimony, page 76]. HOP has a caseload of form 300 to 500 persons every month [mobility Tr. - Campbell (mobility assistant director) testimony page 107]. Fifty percent of the caseload are families who are not interested in finding housing in the non-impacted area [mobility Tr. - Wade (Senior Counselor) testimony page 76]. The HOP provides basic Section 8 services to all Section 8 participants, not just those looking for housing in non-impacted areas [mobility Tr. - Campbell (Assistant Director) testimony page 94-95]. It is necessary to spend 20% more time with the families who want non-impacted housing than it does with families who are looking for housing in impacted areas [mobility Tr. Wade (Senior Counselor) testimony page 76-77].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

140. The HOP staff at DHA have no information on basic neighborhood facts such as the difference in rankings in the various school districts, relative crime statistics or job opportunities in the suburbs [mobility Tr. - Campbell (Assistant Director) testimony pages 96-99]. The HOP briefings do not

include any information on which suburbs are served by DART [id at 99-100].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

141. Even though the HOP staff at DHA recognize that families seeking housing in non-impacted areas face more difficulties in finding that housing, the staff does not believe it has any obligation to provide additional assistance to the families seeking non-impacted housing [mobility Tr. - Campbell (assistant director) testimony pages 102-104].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

142. Both the Assistant Director and the Senior Counselor believe that it would be illegal steering for the HOP staff at DHA to even encourage minority families to seek housing in non-impacted areas [mobility Tr. - Wade (senior counselor) testimony pages 67-68, 74-75; Campbell (assistant director) testimony page 96]. There is no one at DHA whose job it is to encourage people to move to the predominantly white suburbs or the predominantly white area of Dallas [mobility Tr. - Wade (senior counselor) testimony page 68]. Under the 1/20/87 decree, DHA has the obligation to "use every good faith effort to locate a substantial percentage of its Section 8 certificate or voucher units outside census tracts in which there are currently 10 or

more Section 8 certificates in use" [1/20/87 Exhibit B III. 12.A.].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

143. Half the caseload of the HOP staff at DHA is person who are not seeking housing in non-impacted areas. But for its regular Section 8 duties, the HOP would be spending twice as much time on behalf of the mobility clients who want and need the extra assistance necessary to find housing in the predominantly white suburbs and areas.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

144. DHA continues to provide false information about the availability of housing in predominantly white areas to Section 8 participants. Walker I, 734 F. Supp. 1238. Each Section 8 participant is given a list of units in non -impacted areas in order to assist the participant is given a list of units in non-imparted areas in order to assist the participant in her housing search. Under the 1987 consent decree that list should include only housing in non-impacted areas and should include all such housing in non-impacted areas. DHA continues to list impacted housing on the non-impacted list [plaintiffs' 1/13/92 exhibit #20.B - November 1990 list and attached census tract locations with impacted units marked on the list]. DHA continues to omit

non-impacted housing available for Section 8 participants in predominantly white areas from the list [plaintiffs' 1/13/92 exhibit #20.C. - November 1991 list and attached sheets showing Section 8 available units in non-impacted that are not on the list].

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

145. The 1987 decree requires DHA to provide only a limited staff. For most of the consent decree's duration, DHA has not even assigned the minimum staff. During those periods when there was a minimum staff DHA, by assigning that limited staff to non-mobility, basic Section 8 duties, continued to deprive the class of a substantial remedial component of the 1987 decree.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

15% of Section 8 units in the Suburbs

146. Exhibit B 111.12.(a) states that by the third year of the decree "15% of the total DHA Section 8 certificate or voucher units will be in the suburbs." DHA has never met this goal. As of January 31, 1991 DHA's total Section 8 certificate and voucher allocation was 5,506 [DHA's 6/29/91 Section 8 utilization plan, page 2]. In addition there are 117 Section 8 certificates which were converted to free standing certificates when the Robin Square project was terminated from the Section 8 moderate Rehab

program. As of October 31, 1991, almost five years into the decree and two years since the deadline set by the decree, there were only 747 certificates or vouchers in the suburbs to DHA's monthly report. This was only 13.57% of the allocation. DHA has maintained approximately 13% of the Section 8 allocation in the suburbs for the last 11 months [plaintiffs' 1/13/92 exhibit #20.A - summary of Section 8 in the suburbs]. DHA has never achieved the 15% goal.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

147. Had DHA achieved the 15% minimum goal, an additional 84 families, most African-American, would have been residing in the housing of their choice in the suburbs for each month of the last two years.

Response: HUD objects to this request as moot, because the issue was resolved by the Special Master after a hearing on or about August 13, 1991.

Apply for all possible assistance

148. Exhibit B paragraph 9 of the 1987 consent decree requires DHA to apply "for all possible housing allocations or other forms of assistance that may become available through HUD that might help accomplish the goals of this plan."

Response: Admitted.

149. The goal of the plan is "to remedy the unlawful discrimination alleged by plaintiffs in this lawsuit. This goal

applies to all DHA public housing projects and Section 8 developments and programs" [Preface to Exhibit B of 1987 decree]. One form of assistance that would help accomplish the goals of the plan is HUD CIAP funds to improve the quality of the minority projects to a standard approaching equality with the predominantly white HUD-assisted projects. A basic improvement is the installation of air conditioning in the non-elderly projects. DHA did not even apply for CIAP air conditioning until April 1991. HUD has denied the application [plaintiffs' 1/13/92 exhibit 4 - 1991 CIAP application; plaintiffs' 1/13/92 exhibit #5 - HUD denial of funds for non-West Dallas air conditioning].

Response: Admitted.

150. DHA has never applied for CIAP equalization funding under HUD's desegregation CIAP set-aside [plaintiffs' 1/13/92 exhibit #40 - CIAP guidelines, page 4, notice of preference for items designed to cure disparities between white and black projects].

Response: Admitted with the qualification that beginning in fiscal year 1992 DHA has not been eligible for CIAP Funding.

151. HUD has made available special allocations of Section 8 certificates and vouchers for public housing authorities who incorporate the use of such certificates and vouchers into a desegregation plan [plaintiffs' 1/13/92 exhibit #28 - PHACA guidelines, page 2]. DHA's applications for certificates and vouchers do not even mention desegregation [plaintiffs' 1/13/92

exhibits #38 - 1991 DHA Section 8 application; #39 - 1991 DHA Section 8 application].

Response: Admitted that HUD has made available special allocations of Section 8 certificates and vouchers for public housing authorities who incorporate the use of such certificates and vouchers into a desegregation plan in connection with settlement of litigation; further admitted that DHA's 1990 and 1991 Section 8 applications did not mention desegregation.

152. HUD has taken no action to require DHA to comply with the requirements of the 1987 consent decree. In many instances, HUD has even opposed plaintiffs' attempts to require DHA compliance with the 1987 decree.

Response: Admitted, with the qualification that HUD provided DHA with technical assistance designed to help DHA comply with its consent decree obligations and that in some instances HUD opposed what plaintiffs denominated as attempts to require DHA compliance with the 1987 decree on the ground that such attempts were in fact requested modifications of the decree and/or contrary to HUD regulations.

VII. The City and the 1987 Consent Decree

153. The Court has already found that the City of Dallas has been a substantial cause of the racial segregation in public housing in Dallas both through its own actions and through its failure to stop DHA's blatantly discriminatory and segregationist practices. Walker III, 734 F. Supp. 1289, 1313 (N.D. Tex. 1989).

Response: Admitted.

154. The City of Dallas also chose to oppose the 1987 Consent Decree and to frustrate its implementation. Walker III, 734 F. Supp. 1289, 1313 (N.D. Tex. 1989).

Response: Admitted that the court found in its Walker III opinion that some of the actions of the City between the effective date of the 1987 consent decree and the date of the opinion were in opposition to the decree and frustrated its implementation.

155. HUD continued to provide the City of Dallas with over $195,000,000.00 in federal Community Development Block Grant funds without requiring the City to take effective action to cease discrimination and eradicate the effects of the racial segregation. Walker III, 734 F. Supp. 1289, 1292-1293 (N.D. Tex. 1989).

Response: Admitted that HUD's continued provision of community block grant funds did not fulfill HUD's obligations under 42 U.S.C. § 3608(e)(5) of the Civil Rights Act of 1968. HUD lacks knowledge, information, or belief regarding the intent of HUD.

156. The racially segregated housing patterns in the city caused by the City's enforcement of racial segregation ordinances have not been fully eradicated.

Response: Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny whether, or to what extent, existing housing patterns were caused by the City's prior enforcement of racial segregation ordinances.

157. HUD continued the policy of racial segregation in low rent public housing that was initiated by its federal predecessors for the purpose and effect of racial discrimination. HUD has acted on its own and in concert with and in cooperation with DHA and the City of Dallas for the purpose of and with the effect of maintaining racial segregation and its effects in DHA's low income housing assistance programs.

Response: Admit that DHA's public and assisted housing programs have been operated on a discriminatory basis, perpetuating racial segregation, and that HUD has not fulfilled its obligations under 42 U.S.C. § 3608(e)(5) of the Civil Rights Act of 1968 in eradicating this segregation. Despite reasonable inquiry, HUD lacks sufficient knowledge information or belief to admit or deny the remaining allegations in this request with regard to the intent of HUD and its federal predecessor agencies.

158. HUD has now and has had in the past knowledge of:

a) the City's and DHA's role as a cause of racial segregation in housing,

b) the City's opposition to the consent decree,

c) the City's actions taken to frustrate implementation of the consent decree, and

d) DHA's actions in violation of the 1987 consent decree.

Response: Admit that HUD now and in the past has had knowledge that some of the City and DHA's housing policies and practices exacerbated racial segregation; that HUD had knowledge of those

City actions which were determined to be in opposition to the 1987 Consent Decree and/or taken to frustrate the 1987 Consent Decree, and that HUD has had knowledge of those DHA actions which were determined to be violative of the 1987 Decree.

159. Despite this knowledge, HUD continues to provide federal funding to the City of Dallas and DHA without requiring the City or DHA to remedy the effects of the City's and DHA's actions contributing to racial segregation in DHA's housing programs.

Response: Denied.

160. Despite the remedial purposes of the consent decree in this case, plaintiffs and the plaintiff class continue to be subjected to remaining vestiges of racial segregation. These vestiges include the following:

A) all but less than 300 of the non-elderly units in DHA's low rent public housing program are located in predominantly minority and low-income areas and 3,500 of these units are located in the West Dallas project,

B) less than 20% of the units available for the class members utilizing § 8 EHP assistance are located in predominantly (70% to 100%) white census tracts,

C) the DHA non-elderly public housing and Section 8 units in predominantly minority and low-income areas do not provide the same kind and quality of unit, project, and neighborhood facilities, amenities, services, and conditions as are provided by the predominantly white occupied HUD assisted multi-family projects located in predominantly white areas in Dallas County, Texas,

D) there is a substantial lack of federally assisted housing for non-elderly low income households as compared to the housing for elderly low income households. This disparity has been caused by racially based opposition to providing federally assisted housing to non-elderly families. This disparity has the racially discriminatory effects of adversely affecting a disproportionate number of

African-American families and perpetuating segregation in housing patterns,

E) many of DHA's projects are racially identifiable.

Response: The first sentence is admitted to the extent it is construed to state that "some of the plaintiffs" and plaintiff class members continue to be subjected to conditions which are in part attributable to prior de jure segregation by the City and DHA. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the truth of the second sentence to the extent it states that the conditions described in each subpart constitute vestiges of prior, de jure segregation. Subject to the foregoing qualification, the statements contained in subparts A, B, and E are admitted, using plaintiff's definition of "predominantly minority" and "predominantly white" areas. Despite reasonable inquiry, HUD lacks sufficient knowledge to admit or deny the truth of the statements contained in subparts C and D.

161. HUD is currently taking the position that its remedial obligations in Walker are satisfied and that it has no obligation to remedy the remaining vestiges of racial segregation in DHA's low income housing assistance programs.

Response: Denied, except to admit that HUD takes the position that any remedial obligations in this case that might be found will be satisfied when Secretary Cisneros' plan is implemented.

162. HUD has refused to provide the resources necessary to eradicate the remaining vestiges of racial segregation in DHA's low income housing assistance programs. These resources include:

A) the additional West Dallas project replacement units necessary to eradicate the vestiges of racial segregation perpetuated by the continued existence of more than the modernized units in that project,

B) the funds necessary to equalize the conditions in DHA's non-elderly projects to the conditions in the predominantly white HUD assisted projects in the area,

C) the additional housing resources necessary to provide a comparably number of housing opportunities outside of minority and low-income concentrated areas of Dallas,

D) administration of its programs to require suburban cities and Dallas County to cooperate with the remedy process.

Response: Denied. The Secretary's plan addresses any remaining vestiges of discrimination to the extent practicable.

163. Plaintiffs requested HUD to consent to modifications of the consent decree which, while increasing HUD's financial obligations, would have the effect of ameliorating the remaining vestiges of segregation that are attached to the DHA's West Dallas project and the lack of desegregated housing choices available to the class members. The requested modifications would have also had the effect of contributing to the fulfillment of the purpose of the consent decree in this case. HUD refused to consent to the requested modifications.

Response: Denied, except to admit that during the life of the 1987 decree, plaintiffs demanded that HUD consent to

modifications of the consent decree, some of which would have increased HUD's financial obligations under the decree, and that HUD refused to consent to those modifications.

164. HUD's refusal, since January 20, 1987, to supply the resources necessary to eradicate the vestiges of racial segregation are for the purpose and have the effect of supporting, maintaining, and perpetuating racial segregation and discrimination in DHA's assisted housing programs.

Response: Denied.

165. HUD's actions and failures to act in the administration of its programs affecting the City of Dallas and DHA since January 20, 1987 are for the purpose and have the effect of supporting, maintaining, and perpetuating racial segregation and discrimination in DHA's assisted housing programs.

Response: Denied.

166. HUD's continuing to provide federal funds, since January 20, 1987, for the City of Dallas while the City of Dallas is engaged in actions which perpetuate and maintain racial segregation and discrimination in housing without requiring effective action to eradicate the effects of the segregation and discrimination are for the purpose of and have the effect of perpetuating racial segregation and discrimination in DHA's programs.

Response: Denied.

167. HUD's continuing to provide federal funds for DHA, since January 20, 1987, while DHA is engaged in actions which perpetuate and maintain racial segregation and discrimination in housing without requiring effective action to eradicate the effects of the segregation and discrimination are for the purpose of and have the effect of perpetuating racial segregation and discrimination.

Response: Denied.

Respectfully submitted,

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