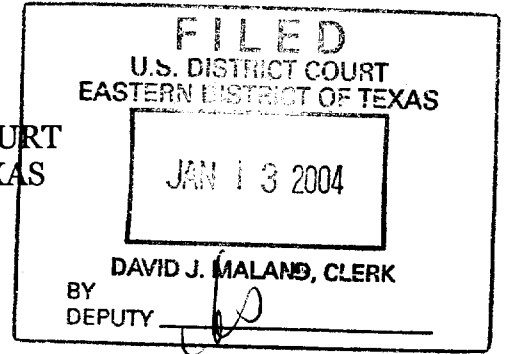


200 (1/13/04)



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS PARIS DIVISION

LUCILLE YOUNG, et al., )
Plaintiffs, )
v. )
MEL R. MARTINEZ, et al., )
Defendants. )

Civil Action No. P-80-8-CA
Judge Leonard Davis

ORDER MODIFYING FINAL JUDGMENT

WHEREAS, Lucille Young, et al, Plaintiffs, brought a class action lawsuit against Mel Martinez, et al., Defendants, (hereinafter referred to as "HUD") claiming various violations of law dealing with fair housing (the "Action"); and,

WHEREAS, this Action has been pending for more than 23 years; and,

WHEREAS, the parties dispute the nature and extent of HUD's compliance with, or violations of, various provisions of the Final Judgment and Decree ("Final Judgment") in this Action and, Plaintiffs have filed motions seeking to enforce, and to hold HUD in contempt of, the Final Judgment;

WHEREAS, there are also pending contested motions to modify the Final Judgment filed by both parties;

WHEREAS, the parties hereto have agreed upon the means set forth herein to fully and finally resolve this Action without the burdens of further litigation; and

WHEREAS, the parties have entered into a Stipulation for the purpose of modifying the

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Final Judgment, and replacing all other remedial orders in this Action.

The hearing on the joint motion for approval of the modifications was held on January 8, 2004. At that hearing the objection by the Martin Luther King, Jr. Regional Community Development Center of East Texas, Inc. [the Center] to the proposed modifications was heard. The Center admits that it is not a class member. Defendant HUD's objection to the Center's standing is granted.

The attorney for the Center also filed objections by several class members at the hearing. These objections were form objections and consisted either of a complaint that the class members did not receive notice of the proposed modifications or a complaint about the notice combined with the same objections to the modifications posed by the Center.

Based on the Declaration of William J. Daley, Regional Counsel for HUD, that the notices were mailed to the last known address of all African American applicants for and residents of HUD-assisted public housing from 1992 to the present, the Court finds that the notice was adequate under Fed. R. Civ. P. 23(e). The Court finds that, based on the responses of plaintiffs and HUD to the objections of the Center, the objections of the class members do not justify rejection of the proposed modifications.

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

**Part I: RELIEF TO THE PLAINTIFF CLASS**

1. On and after March 28, 2003 HUD will create 1,500 desegregated housing opportunities (DHOs) for class members in non-minority census blocks in the class action area, which DHOs shall be in addition to the DHOs created prior to that date.

The class action area consists of the East Texas counties identified in the liability ruling

at 628 F. Supp. 1037, 1040 n. 1, except that for purposes of achieving the 1,500 DHOs specified herein, Nacogdoches County will not be regarded as part of the class action area.

2. On and after March 28, 2003, all DHO placements will be counted towards the final goal of accomplishing the 1,500 DHOs described in ¶ 1, above. Upon completion of those DHOs, the parties agree that this litigation will be terminated and the parties shall submit a joint motion to dismiss the case with prejudice at that time. All DHO Section 8 Housing Assistance Program (HAP) agreements entered into by class members on or after March 28, 2003 will count toward the final 1,500 DHO goal.

3. HUD will provide to the Fair Housing Services Center ("FHSC") additional funding at the rate of \$40,000 per month during the balance of the current five-year grant, beginning with the month of April 2003 and ending on December 3, 2003, which is the expiration date for the current grant. In addition, HUD will execute an amended grant agreement, a copy of which is attached to the Stipulation as Exhibit 1, that will provide funding for the FHSC for the period 12/4/03-12/3/05 at the rate of \$900,000 per year. The parties agree that the FHSC shall focus its mobility counseling, landlord recruitment, and other efforts on DHO placements in the following East Texas counties during the balance of its grant: Jefferson, Orange, Bowie, Houston, Angelina, Harrison and Lamar. Implementation of the amended FHSC grant agreement shall be in accordance with the amended FHSC management plan which is attached to the Stipulation as Exhibit 2, and which is hereby approved by the Court.

4. HUD agrees to continue the Desegregated Housing Opportunity Program

(DHOP) it adopted on or about March 14, 2002, to assist in placement of the 1,500 vouchers referenced in ¶ 1, above. Implementation of the DHOP shall be governed by the Desegregated Housing Opportunity Guide, a copy of which is attached as Exhibit 3 to the Stipulation. Under the DHOP, the East Texas Housing Authorities that are identified as DHO Program Housing Authorities (DHOPHAs) provide mobility counseling, class member assistance payments, and landlord incentives for the benefit of class members throughout the East Texas class action area. As part of the DHOP, HUD has established exception payment standards for the East Texas class action area counties. Class members who do not request mobility counseling from the FHSC may request and receive mobility counseling from the respective DHOPHAs. HUD's obligation to continue the DHOP shall terminate when the DHO requirement specified in ¶ 1, above, has been satisfied.

5. The FHSC and the DHOPHAs will participate in the placement and mobility counseling processes.

6. For purposes of this Order, HUD shall receive credit for the creation of a DHO whenever, on and after March 28, 2003, an African-American resident of, or applicant for, low-rent public housing in East Texas, uses a Section 8 housing voucher to lease a housing unit in any neighborhood designated as non-racially impacted on the current, court-approved neighborhood maps, or otherwise designated as non-racially impacted by agreement of the parties, except that no DHO credit will be received for placements in housing units located in Nacogdoches County. The parties agree that the Nacogdoches Housing Authority will no longer participate in the DHOPHA process. The parties

further agree that neither the plaintiffs nor HUD will request any modification or revision to the current court-approved neighborhood maps.

7. HUD shall receive credit for the creation of a DHO whenever the criteria specified in ¶ 6, above, have been met, regardless of whether the class member received mobility counseling from the FHSC or a DHOPHA, and without regard to whether the housing unit was obtained through a referral from the FHSC or a DHOPHA.

8. A class member who uses a Section 8 voucher to lease a unit in a non-minority neighborhood shall retain the ability to use that voucher to lease another unit in a non-minority neighborhood in the class action area, and to receive the Section 8 exception payment standard applicable to the area in which the class member will be residing. However, class members making such subsequent moves will not receive class member incentive payments unless the parties agree that the subsequent move satisfies the applicable criteria for the creation of a DHO, in which case HUD will receive DHO credit for the subsequent move.

9. The parties agree that all PHAs (including the Nacogdoches Housing Authority) have met their public housing equalization obligations under the Final Judgment.

10. The parties agree that HUD shall continue to monitor the following housing authorities for compliance with public housing program requirements, Section 8 housing voucher choice requirements, and desegregation plan requirements:

Beaumont

Port Arthur

Orange County (pending disposition of its housing projects)

Paris

Henderson

Cleveland

Texarkana

HUD's obligation to monitor the above-listed housing authorities under the terms of this Agreement shall terminate when the DHO requirement specified in ¶ 1, above, has been satisfied. The parties agree that the only additional requirement for all other housing authorities in the class action area (including the Nacogdoches Housing Authority) is to cooperate with HUD's DHOP in order to create the 1500 desegregated housing opportunities required by this Order. HUD's obligation to monitor these housing authorities under the terms of this Order shall terminate when the DHO requirement specified in ¶ 1 above has been satisfied.

11. HUD shall prepare a written report, on a monthly basis, indicating the total number of DHOs created by the East Texas Fair Housing Services Center and the DHOPHAs during the preceding month.

HUD shall also prepare a written report, on a quarterly basis, describing for the quarter in question the monitoring activities undertaken pursuant to ¶ 10, above, and indicating the status of the remaining neighborhood equalization projects being undertaken pursuant to the Settlement Agreement and Release which was previously entered into by the Plaintiffs, HUD and the State of Texas, and which was filed with this Court action on March 20, 2003.

The above-described reports shall be submitted by HUD to Plaintiffs' counsel until such

time as HUD fully provides the specific relief to the class set out in ¶¶ 1, 3, 4, and 10 of this Order.

12. If the DHO placement process is completed prior to the end of the two-year extension of the FHSC contract, the parties agree that the FHSC will continue to perform post-placement counseling and other activities within the scope of the grant agreement. If the DHO placement process is not completed prior to the end of the two-year extension of the FHSC contract, the parties agree that the DHOPHAs will continue operating, and the litigation will continue until the 1,500 DHOs described in ¶ 1, above, have been achieved. In the event that such an extension of DHOPHA activities occurs, there will be no further extension of the FHSC grant.

13. This Order modifies the Final Judgment and Decree by eliminating therefrom the following requirements:

- 1) Waiting list initiatives (Final Decree, Section III)
- 2) Computerized tracking system, reporting and monitoring (Final Decree, Section VII)
- 3) Racially hostile site (Final Decree, Section V). The parties agree that the developments in Vidor and Bridge City will be sold.
- 4) Area Wide Housing Opportunity Program (AHOP)(required by the Golden Triangle Desegregation Plans)
- 5) Order of Offers (Final Decree, Paragraph II.1)
- 6) DHO Placement numbers per community (Final Decree, Paragraphs II.2, II.3, & II.4)

7) Project-Based Section 8 (Final Decree, Paragraph II.5)

The parties further agree that this Order modifies the Final Judgment and Decree as specifically provided herein and supercedes all other remedial orders entered in this Action.

**Part II: Conditions and Release and Termination of the Litigation**

14. Nothing in this Order shall be construed to require HUD to provide additional funding, other than that which is expressly agreed to herein. HUD's duty to discharge the obligations imposed upon it by the express terms of this Order is subject to: (a) the availability of funding from Congress for any purpose for which funding is required; and (b) the existence of statutory authority for the acts necessary for HUD's performance of its obligations under this Order. HUD shall not be found to be in violation of this Order on account of any failure to perform any obligation imposed upon HUD by the terms of this Order that results: (i) from the unavailability of funding from Congress necessary for performance, or (ii) from the modification or revocation of statutory authority that is necessary for such performance by HUD. If HUD does not provide the specific relief to the class set out in ¶¶ 1, 3, 4, & 10 of this Order, then HUD's obligations under this Stipulation and Order shall not be deemed complete and plaintiffs shall be entitled to seek a court order requiring additional relief from HUD but which shall be limited to such relief as the Court shall determine to be necessary and appropriate to provide the specific relief to the class set out in ¶¶ 1, 3, 4, & 10 of this Order. HUD shall be entitled to oppose any such motion for additional relief.

15. Upon provision of the specific relief to the class set out in ¶¶ 1, 3, 4, & 10 of this



Order, the plaintiffs and all of the class members, and each of them, and their heirs, administrators, successors, or assigns (together, the "Plaintiffs"), shall be deemed to have released and forever discharged HUD and any component, division, agency, or establishment of HUD, and all current and former HUD officials administrators, employees, agents, attorneys, or successors thereof (together the "Defendants"), from any and all claims and causes of action, known or unknown, which plaintiffs have, or could have asserted, by reason of, with respect to, in connection with, or which arise out of, any of the matters alleged at any time in this Action, including, without limitation, any claim of race-based discrimination in housing programs funded by HUD, and any of the matters alleged in the Complaint, the Amended Complaint, or in any other pleading, motion, or other paper served or filed by plaintiffs, which the plaintiffs or any of them have against the Defendants or any of them.

16. Upon provision of the specific relief to the class set out in ¶¶ 1, 3, 4, & 10 of this Order, the plaintiffs and all of the class members and each of them, shall be forever barred and enjoined from prosecuting any claims or causes of action that are described in ¶ 15, above.

17. Nothing contained in this Order shall:

A. Impose on HUD any duty, obligation, or requirement to produce any particular result other than to perform the specific obligations that are imposed on HUD by the explicit terms of this Order;

B. Impose on HUD any duty, obligation, or requirement the performance of which would be inconsistent with any law, rule, or regulation in effect at the time of such

performance;

C. Impose on HUD any duty, obligation, or requirement to award, grant, or otherwise make available to the plaintiffs or any other party any benefits under any program administered by HUD, except as specifically and explicitly set forth herein.

18. This Order, the entry of which is a condition precedent to any obligation of any party hereunder, shall be effective upon the approval, execution, and entry hereof by the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. The date of such entry shall be the "effective date" of this Order. If this Order is finally disapproved by any court, or fails to become effective, or is approved by the Court with any modification to which HUD has not consented during the Rule 23(e) process, or is finally reversed or modified on appeal, this Order shall be null and void, shall have no further force and effect, and shall not be used in this Action or in any other action or proceeding; and, this Order, all court proceedings pursuant to Rule 23(e), Fed. R Civ. P., and all negotiations, filings, and statements made in connection herewith, shall be without prejudice to any person or party, shall not be deemed or construed to be an admission by any party of any fact, matter, or proposition, and shall not be used in any manner, or for any purpose, in subsequent proceedings in this Action, or in any other action, whether judicial or administrative.

19. The terms of the numbered paragraphs of this Order constitute the entire agreement of the parties, and no statement, remark, agreement, or understanding, oral or written, which is not contained herein, shall be recognized or enforced, nor does the Order reflect any agreed-upon purpose other than the desire of the parties to reach a full

and final conclusion of this Action as between the parties and to resolve this matter without the time and expense of further litigation. Each party has entered into this Order after consultation with his/her attorneys and after an independent investigation of any relevant facts, and no party has relied upon the representations of any other party, except those set forth herein.

20. Upon the entry of this Order by the Court, all pending motions by the plaintiffs against HUD, if any, shall be deemed withdrawn with prejudice, and HUD's Motion to Modify the Final Judgment, filed March 15, 2002, shall also be deemed withdrawn with prejudice.

21. The performance of the specific obligations undertaken by HUD pursuant to this Order shall constitute full and final performance of any and all of HUD's obligations in this Action. If HUD provides the specific relief to the class as set out in ¶¶ 1, 3, 4, & 10 of this Stipulation and Order, then:

A. HUD's obligations in this Action shall be deemed fully and finally completed;

B. Plaintiffs shall not be entitled to seek any additional relief against HUD;

C. Plaintiffs shall not be entitled to, and shall not seek, any extension, continuation, or renewal of the jurisdiction of the Court over this Action.

22. Class counsel represents, warrants, and guarantees that he is duly authorized to execute this Order on behalf of the plaintiffs, the class members, and all of their counsel.

23. The terms of this Order are not intended to waive or settle and do not waive or settle any claim by plaintiffs for attorneys fees or litigation expenses. The terms of this

Order do not affect the Court's jurisdiction to award plaintiffs attorneys fees and litigation expenses if such an award is justified by the law and the facts. The terms of this Order shall not be construed as an admission by HUD that Plaintiffs are eligible for, or entitled to, any award for attorneys fees or litigation expenses, and HUD shall be entitled to oppose any motion by Plaintiffs for such fees or expenses.

1-13-04

Date

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

Leonard Davis

United States District Judge