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Sanders

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHERYL SANDERS, et al.,

Plaintiffs,

v.

THE UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT,
et al.,

Defendants.

Civil Action
No. 88-1261

NOTICE OF FILING OF
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S
DESEGREGATION PLAN FOR ALLEGHENY COUNTY

Pursuant to the Court's February 7, 1994, Order, the Department of Housing and Urban Development ("HUD") hereby submits its Allegheny County Desegregation Plan (the "Plan"). The Plan sets forth comprehensive and extensive measures to reduce, to the greatest extent practicable, racial segregation in public housing in Allegheny County. The Plan contemplates activities to be undertaken by the Allegheny County Housing Authority ("ACHA") and the County of Allegheny to implement a variety of measures described in the Plan. While HUD hopes that these entities will cooperate in implementing those measures, if they do not, HUD intends to move forward with its desegregation efforts in any event.

As directed by the Court, HUD has sought the input of the other parties regarding the Plan. HUD officials met separately with ACHA's and plaintiffs' representatives during the week of March 21. At that time, HUD presented an outline of the Plan and

its general contents, and solicited the other parties' comments and concerns. Unfortunately, the County declined to meet to discuss the Plan.

HUD provided plaintiffs, ACHA, and the County with copies of the draft Plan on April 1, and again solicited their comments. HUD staff members met with plaintiffs' representatives on April 5 to discuss plaintiffs' suggestions for modifications to the Plan. ACHA did not convey its written comments until late in the afternoon of April 7, which did not leave HUD sufficient time to consider them for incorporation into the Plan. The County did not provide HUD with any comments on the Plan.

Although HUD has already given the parties an opportunity to have input into the Plan, HUD has not, by the submission of the Plan to the Court, categorically foreclosed the possibility of modifying the Plan on the basis of suggestions made by other parties. Should HUD determine to incorporate substantial modifications into the Plan, HUD will so advise the Court.

Respectfully submitted,

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**ALLEGHENY COUNTY
DESEGREGATION PLAN**

ALLEGHENY COUNTY DESEGREGATION PLAN

This plan assumes the voluntary participation and cooperation of the Allegheny County Housing Authority (ACHA), Allegheny County, and the Allegheny County Redevelopment Authority (ACRA) in the accomplishment of its purposes. If, however, ACHA, the County and/or the ACRA determine that they will not cooperate with the implementation of this plan as set out herein, HUD will take whatever actions it determines are necessary and appropriate to implement the plan and achieve its purposes, including exercising its oversight and enforcement responsibilities with regard to federal funds and the Fair Housing Act.

I. PURPOSE

The purpose of this Plan is to set out actions to desegregate the Allegheny County Housing Authority's (ACHA) housing programs, to increase housing choice and opportunity for class members and other low-income residents of Allegheny County, and to decrease racial spatial separation for all residents of the County.

II. REPLACEMENT UNITS

HUD has provided funding to the ACHA for the construction of 100 units of public housing to replace the units demolished at Talbott Towers. Jefferson Borough entered into a cooperation agreement with ACHA which allowed forty-four of the replacement units to be constructed in Jefferson Borough. Within 30 days of the adoption of this plan by the Court, a representative from HUD, Allegheny County and the ACHA will meet with appropriate representative from Jefferson Borough to resolve any concerns the Jefferson Borough may now harbor about the replacement units and to ensure that construction of the 44 units begins as expeditious as possible. If the Jefferson Borough refuses to honor its cooperation agreement and facilitate the construction, HUD will take appropriate enforcement action against the Jefferson Borough.

Within 30 days after the adoption of this Plan by the Court, the ACHA will undertake a study of various sites throughout the County and shall select locations for the other 56 replacement units. The ACHA shall choose locations that provide, to the greatest extent possible, desegregative housing opportunities. If the locations selected are in municipalities that do not have cooperation agreements with the ACHA, the ACHA, HUD, and the County, will engage in negotiations with the municipalities to resolve any problems which might prevent the placement of this housing in those municipalities. If such negotiations are unsuccessful HUD

will evaluate the municipalities' actions and if HUD determines that the municipalities' actions in impeding the construction of the replacement housing may violate the Fair Housing Act or other civil rights statutes and requirements, HUD may consider appropriate actions against the municipalities including, but not limited to, withholding or conditioning Departmental funds and/or the commencement of a Secretary-Initiated complaints under the Fair Housing Act.

III. DEFINITIONS

A. Non-Racially Identifiable Assisted Housing Development

A non-racially identifiable family public housing development is one in which the African-American population of the development is between 38 and 58 percent. This term is taken from the Plaintiffs' Preliminary Proposal of July 5, 1991. The plaintiffs' 38 to 58 percent range was derived from examination of the 1991 racial composition in the ACHA's family public housing program, Section 8 program, and the combined Low Income Family Public Housing (LIPH) and Section 8 waiting lists. The range is equal to 10 percent above or below the 1991 African-American family tenant and applicant population of 48 percent. The Department accepts the plaintiffs' definition of non-racially identifiable, but reserves the right to reevaluate and modify the standard, if necessary, because of a significant change in the racial composition of the family tenant population and/or applicant pool.

The 38 to 58 percent range will also be used to determine whether project based Section 8 developments, moderate rehabilitation developments, 231(d)(3) development and 236 developments are non-racially identifiable.

In applying the 38-58 percent standard at a particular development, appropriate adjustments may be made to take into account the effect of the racial composition of the project on the neighborhood, so that the desegregation of the projects can facilitate the desegregation of the neighborhoods. An appropriate adjustment, for example, with regard to identifiably African American projects in African American neighborhoods would be a percentage white occupancy at the higher end of the +/- 10 percent range so as to desegregate the development and introduce a critical mass of white persons into these communities.

A development will not be considered non-racially identifiable if a pattern of segregation exists with the development.

B. Non-Racially Identifiable Elderly Public Housing Development

A non-racially identifiable elderly public housing development is one in which the African-American population of the development is 10 percent above or below the combined total percentage of African Americans occupying elderly units and on the waiting list for elderly units.

If a particular elderly development is over 90 percent white, an upward adjustment in the range must be made to target a higher African American population for that development because the existing white racial concentration is attributable in part to:

1. The segregated character of many of the developments.
2. The segregated character of many of the development locations.

The percentage of the upward adjustment shall be equal to the percentage of the income-eligible African-American elderly population in the ACHA's area of jurisdiction.

C. Non-Racially Identifiable Neighborhood

HUD and the plaintiffs will develop a plan to identify communities in Allegheny County that are either:

1. appropriate to target for improvements, community and economic development programs, market-rate housing, and other non-deep subsidy programs; or
2. appropriate for new low income or desegregative housing opportunities.

D. Desegregative Housing Opportunity

An opportunity to reside in a suitable unit in a public housing development that is not racially identifiable as to the race of the person given the opportunity, or to obtain a suitable unit in an assisted housing development that is not racially identifiable as to the race of the person given the opportunity, or the use of

had elderly unit
pop. figures

had to do
gap between
eligibility & occupancy

indications
for new deep
subsidy housing

a certificate or voucher after appropriate mobility counseling by the Fair Housing Services Center to encourage desegregative housing choices, i.e., use of the voucher where one's race does not predominate or is disproportionately present.

E. Community-Wide Waiting List

Community-wide waiting list is one waiting list that serves the Authority's entire area of jurisdiction.

F. Good Cause for Refusal of an Offer

Good cause for refusal of an offer exists when an applicant can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant (or a member of the applicant's family) to retain his or her employment, to secure or continue day care or medical services, or to obtain a unit that reasonably accommodates a disability of the applicant or a member of his or her family.

G. Class Member

All African-American current residents in, or applicants for, public housing, assisted by the ACHA and/or HUD, who have been and continue to be denied decent, affordable and racially integrated public housing opportunities. [Class defined by the Court in the Sanders case in an opinion dated October 15, 1992.]

IV. PHYSICAL IMPROVEMENTS TO PUBLIC HOUSING DEVELOPMENTS AND THE SURROUNDING NEIGHBORHOODS TO ACCOMPLISH EQUALIZATION

The Department recognizes that desegregation of the ACHA's public housing developments has been hindered in the past in part by disparities between the physical plant and neighborhood conditions of developments in predominantly white as compared to those in predominantly African-American neighborhoods. Therefore, the parties to this Plan shall undertake consistent with available resources to equalize the conditions at all public housing developments and in their surrounding neighborhoods. To accomplish this goal, the Plan envisions the parties to this Plan undertake the following actions:

A. Tenant Survey

HUD, in cooperation with plaintiffs' counsel and the ACHA, will prepare and administer a comprehensive survey of a statistically significant segment of the

ACHA's tenants and applicants on both the LIPH and Section 8 waiting lists (both class members and non-class members) to assist in determining the following:

1. the amenities at some public housing developments needed at other public housing developments to accomplish equalization among the developments;
2. conditions in the neighborhoods surrounding public housing developments and how to improve those conditions;
3. how to motivate tenants to make desegregative moves with special attention to elderly African Americans who may have been discouraged from applying for elderly public housing; and
4. the amenities that would make magnet developments effective developments.

B. Physical Improvements To Public Housing Developments

To accomplish the goal of equalizing the conditions in all public housing developments, HUD will inspect the predominately white and integrated public housing developments and develop a list of amenities enjoyed by the tenants at those developments. This list of amenities will be modified, based on the information gathered by the tenant survey. A final list of the amenities that shall be provided at all public housing developments will be provided to the ACHA.

1. Funding Physical Improvements to Public Housing Developments

In making decisions on how to expend its modernization funding, the ACHA shall prioritize providing the amenities included in the final list of amenities described above.

- a. The Department has provided the ACHA with Comprehensive Grant Program funds for the purpose of modernizing the public housing developments within its jurisdictions. ACHA will carry out its modernization program according to the terms of its Voluntary Compliance Agreement (VCA) of July 29, 1992.
- b. Any modernization plan approved (subsequent to the plan approved pursuant to the VCA) shall, to the extent possible, include the

above list of amenities as part of the modernization at any public housing developments.

- c. All future modernization funding decisions shall prioritize providing the above list of amenities at the public housing developments that do not have them. The amenities shall first be provided at all developments that are occupied predominantly by African-Americans.

2. Housing Quality and Accessibility Standards

In addition to providing the above list of amenities, the ACHA will ensure that all public housing developments meet or exceed Housing Quality Standards (HQS) and relevant accessibility standards (24 CFR § 8.20 et seq.). Where necessary, HUD will provide Comprehensive Grant Program funding for the inclusion of safety and security measures, including lighting and fences.

3. Maintenance

The ACHA shall also eliminate all disparities in maintenance services among the various developments and shall bring all developments up to the highest standard found among the predominantly non-African-American developments. This standard will be determined by HUD after a review of the history of maintenance services at the public housing developments and an on-site review of the conditions at all developments. This particular aspect will be reviewed periodically to ensure that the level of services remains comparable.

C. Physical Improvements to the Neighborhoods Surrounding Public Housing Developments and Infrastructure Improvements

1. General Neighborhood Improvements

In an effort to improve the vicinity surrounding ACHA family public housing developments, HUD will demolish any vacant buildings that it now owns or may acquire in the future, if HUD determines that: (1) the housing is not needed; and (2) demolition would remove a source of blight from the vicinity. In the neighborhoods surrounding public housing developments, HUD will expedite the repair and/or

sale of HUD-owned multifamily and single family property. If HUD expects to be owner of such a property for more than six months, HUD will adopt and implement a Section 3 employment policy to provide employment opportunities for low-income property and neighborhood residents in the management, maintenance, and rehabilitation of the properties.

2. Improve Infrastructure

Through enforcement of its cooperation agreement with each municipality in which a PHA developments, is located, ACHA will require the municipality to serve the PHA developments with streets, lighting, and other elements of public infrastructure to the standard found in other stable neighborhoods in the municipality where a PHA development is not located. In neighborhoods surrounding PHA developments, which neighborhoods show signs of deterioration, ACHA will require the municipality to institute a program of blight removal and code enforcement to control the deterioration. Where appropriate, the County will assist municipalities in providing help to low-income homeowners eligible for assistance to repair their housing code violations and otherwise support housing rehabilitation and stabilization efforts. To the extent these obligations exceed a municipality's resources, it shall apply to the County for Community Development Block Grant funds. The County will set aside funds from the normal process, sufficient to support such applications and to complete the work within five years.

Further, HUD, the Plaintiffs, the County, and the ACHA will form a Task Force to study the neighborhoods in which historically African-American public housing exists. The Task Force will include appropriate private and non-profit entities (including the Fair Housing Services Center (FHSC)), as well as other appropriate State and Federal agencies, to recommend actions designed to achieve a quality living environment in those communities and to make such communities and the public housing they contain more attractive and desirable for desegregative moves. The Task Force will be responsible to make a recommendation on the developments that will be designated magnet developments (see Section IV. D.).

V. OTHER MEASURES DESIGNED TO STABILIZE AND EQUALIZE PUBLIC HOUSING DEVELOPMENTS AND THE SURROUNDING COMMUNITIES

Concurrent with the implementation of the equalization measures described above, HUD will use whatever authority or leverage is available and necessary to eliminate to the extent possible any vestiges of discrimination that exist in the ACHA's assisted housing developments. The authority to be utilized includes, but is not limited to, the authority of the Assistant Secretary for Fair Housing and Equal Opportunity to initiate investigations under the Fair Housing Act, as described in the Section on Enforcement at the conclusion of this document.

HUD will encourage the appropriate local jurisdictions, including the County, to target Community Development Block Grant (CDBG), HOME, Comprehensive Grant Program (CGP), Comprehensive Improvement Assistance Program (CIAP), Family Self-Sufficiency (FSS), Section 108, and other Federal resources (e.g., funds from the Departments of Energy, Education, Transportation, Labor, Health and Human Services, Agriculture, etc.) toward the goal of enhancing the quality of life in the neighborhoods with public housing, including employment opportunities through the implementation of Section 3. Targeting of funds available under any of the following programs to neighborhoods with public housing will be considered: Enterprise, Fannie Mae, and low-income tax credit.

Other measures which may be utilized include:

A. Transportation

HUD will require the County to prepare and to submit a survey summarizing the availability of public transportation to each of the ACHA's public housing developments. This survey should indicate the frequency, cost, and routes of each means of public transportation serving each development. If this survey reveals a pattern of service which appears to encourage the perpetuation of segregation, or which appears to provide inferior service to residents of African-American impacted developments, ACHA will request public transportation providers to remedy the disparity. Failure of such providers to remedy any such disparity the ACHA finds may be considered a basis for a Secretary-Initiated complaint against the providers of such transportation.

B. Police Protection

HUD, the Plaintiffs, the ACHA and the County will work together to ensure that every public housing development has adequate police protection.

1. Where police protection for a public housing development is not being provided at levels comparable to other neighborhoods, HUD will require the ACHA to enforce the Cooperation Agreement between it and the unit of local government responsible for such protection to provide comparable protection to the PHA development. Where ACHA has difficulty obtaining the full cooperation of the municipality (or County) in providing equitable police services, HUD will consider whether the failure to provide such police protection may violate the Fair Housing Act. Failure to provide an equal level of police protection at predominantly African-American developments may be considered as a basis for a Secretary-Initiated complaint against the municipality providing the predominantly African-American developments with inferior service.
2. Where HUD considers it necessary, HUD shall approve the decertification of units so the ACHA can provide space for police sub-stations at family developments where a history of drug or crime problems exist. Where sub-stations are established, HUD will require the ACHA to negotiate, under the Cooperation Agreement, an arrangement with the local police or the County Sheriff's Department to staff the sub-stations during those hours when a police presence on-site would be most likely to discourage criminal activities.
3. The County will develop and implement a plan to ensure adequate police protection at public housing developments located in municipalities that have no police force.

C. Anti-Crime Programs

HUD will help ACHA to identify sources of funding -- within HUD and from other sources -- for anti-crime activities to be targeted at those public housing developments where drug and crime problems exist and will assist ACHA to actively seek such funding.

D. Magnet Developments

In addition to the various physical improvements mentioned above, HUD, in consultation with the Plaintiffs and based on the recommendations of the Task Force (see Section III. C. 2.), will, subject to the availability of Federal appropriations and funding and to HUD's determination regarding effectiveness in furthering desegregation, propose at certain developments the inclusion of additional amenities designed to act as a magnet to attract occupants. These additional amenities will be proposed for developments where high vacancy rates are the result of the reality or perception of a high level of criminal or drug-related activities or there are other factors which make desegregation difficult. Anti-crime, anti-drug measures, and social service programs will be instituted, and where appropriate, additional physical amenities will be provided. An outreach and marketing program will be implemented to reduce the vacancy rate.

E. Demolition and Replacement of Dilapidated Public Housing Units

The ACHA shall conduct a survey of the physical conditions of its family public housing development developments and report to HUD respecting the condition of each building at each development. If a majority of units in any building is sufficiently dilapidated, particularly buildings in high density areas, that they need substantial rehabilitation and the building is in a predominantly African-American developments in a predominantly African-American neighborhood, the ACHA shall submit to HUD a demolition plan for that building, in accordance with the applicable provisions of the United States Housing Act of 1937 and its implementing regulations. HUD shall consider any such plan as promptly as possible.

If the replacement units are to be new construction public housing, the units must, subject to the availability of Federal appropriations and funding, be scattered-site housing, located in neighborhoods that are not predominantly African-American and otherwise in accordance with HUD's site and neighborhood standards. In order to achieve these fair housing objectives, the County and ACHA will use their best efforts, including the expenditure of CDBG funds, to ensure that each municipality that is not predominately African-American will accept any such family public housing units within its jurisdiction in neighborhoods that are not predominately African-American, by entering into a

cooperation agreement with the ACHA. HUD will monitor the County's efforts in this regard and enforce the County's certification that it will affirmatively further fair housing.

If the replacement units are to be satisfied through HUD providing additional Section 8 certificates or vouchers, the ACHA will work closely with the Fair Housing Center to provide counseling and other fair housing services to the applicants and recipients of the certificates and vouchers.

VI. WAITING LIST INITIATIVES

This Plan authorizes the use of race-conscious tenant selection and assignment practices for all developments and programs administered by the ACHA in an attempt to attain non-racially identifiable developments. ACHA is required to implement an education and outreach effort to income eligible persons throughout the County, to inform such persons about the availability of housing opportunities in all areas of Allegheny County, including Pittsburgh and McKeesport. The Plan also provides for the cross-listing and merger of the ACHA LIPH and Section 8 waiting lists. The Department reserves the right to review the execution of this waiting list initiatives at any time after the first year of implementation.

A. Community Wide Waiting List

1. Effective immediately and until further notice, the ACHA will utilize a single Community-Wide Waiting List for its LIPH. An applicant who reaches the top of the single Community-Wide Waiting List shall be offered the first available unit. If a pool of vacancies exists when an applicant reaches the top of the waiting list, then the applicant shall be offered a suitable unit at a non-racially identifiable public housing development, if such a unit is available in the pool. Where there is more than one unit which would provide a desegregative housing opportunity, the applicant shall be given a choice among such units.

If there is not a unit in a development where the applicant's race does not predominate, then the applicant must be offered the opportunity to remain in place on the single Community-Wide Waiting List and he/she shall be offered the next available desegregative housing opportunity unit of appropriate size.

2. If the applicant rejects a unit that would have provided the applicant a desegregative housing opportunity without good cause, the applicant will be dropped to the bottom of the single Community-Wide Waiting List and the date of the rejection becomes his/her application date. The ACHA shall not offer the applicant another unit until every other applicant eligible for the same size unit with the same or earlier application date has been offered an appropriate unit or has withdrawn his or her request, or six months has elapsed from the rejection of the offer, whichever time period is longer.

B. Housing Opportunities Waiting Lists

Effective immediately, HUD will require the Housing Authority of the City of Pittsburgh, the Housing Authority of the City of McKeesport, and ACHA to inform eligible applicants for Public Housing and Section 8 that they have a right to apply for housing at the other PHAs and to facilitate this application process. Each PHA will also provide applicants with a list of other assisted housing in Allegheny County at the time that the applicant makes application. HUD will provide those lists to the PHAs.

C. Cross-listing Initiative

Within thirty (30) days of the effective date of this Plan, HUD shall require the ACHA to automatically place its public housing applicants on its Section 8 existing housing program waiting list, and vice versa. The ACHA shall not require cross-listed applicants to accept the type of housing that they did not originally apply for, should they reach the top of that waiting list first. The ACHA will review all current applications and cross-list the eligible applicants on the waiting lists of all programs operated by ACHA for which the applicant is eligible, by date and time of original application and by Federal preference. Future ACHA applicants will need to complete only one application form for housing assistance for all programs administered by the ACHA, including LIPH and Section 8 Housing Certificate and Vouchers.

Separate waiting lists will be maintained for each program. When administering the new cross-listed LIPH waiting list, the ACHA will follow the same procedures set forth in Section V. A. above. As vacancies occur, an applicant would be required to consider vacancies for any program for which the applicant is eligible,

based upon his or her position on the list. A refusal for other than good cause would result in the applicant being dropped to the bottom of that specific program's list. However, such refusal would not affect the applicant's placement on the list of the other program or programs.

D. Transfers

1. The ACHA will make available to residents of public housing the opportunity to transfer between housing developments or programs operated, managed, or administered by the PHA, if such a transfer would result in a desegregated housing opportunity for that resident. To "make available" means to ascertain whether such a transfer would offer a desegregative housing opportunity and to give notice to tenants describing the transfer opportunities and informing the tenants of the actions reasonably necessary to make use of the transfer.
2. Effective immediately the ACHA will begin the mandatory transfer of over housed and underhoused tenants. If a unit of appropriate size in a development in which the tenant's race does not predominate is available, the tenant will be assigned to that unit. Where there is more than one unit which would provide a desegregative housing opportunity, the tenant shall be given a choice among such units.

A good cause reason may be used: 1) to avert a transfer from a development, but not to avert a transfer to a smaller unit within the development; 2) to avert a transfer to a smaller unit, if the larger unit is necessary to afford a person with a disability an opportunity to use or enjoy a dwelling.

E. Merged Waiting List

One year after the execution of this Plan, the ACHA will discontinue Cross-listing and shall merge the single Community-Wide Waiting List for its LIPH program with other ACHA-administered waiting lists. If ACHA

administers a waiting list for a project with project-based Section 8 (except in the case of project-based Certificates), then the ACHA shall notify the owner and give the owner the opportunity to state any objection to the merger of the waiting list.

1. The ACHA will make offers for units as described below:

- a. If only one public housing unit, certificate or voucher is available when an applicant reaches the top of the merged waiting list, then the applicant shall be offered the unit, certificate or voucher. An applicant may reject that offer if it is not a desegregative housing opportunity. The applicant must then be afforded the opportunity to remain in place on the single merged waiting list and be offered the next available desegregative housing opportunity. (In order to receive a certificate or voucher as his/her desegregative housing opportunity, an applicant must attend mobility counseling provided by the Fair Housing Services Center.)
- b. If a pool of vacancies exists when an applicant reaches the top of the waiting list and one or more of the vacancies would provide a desegregative housing opportunity, then the applicant shall be offered the desegregative housing opportunity, if only one exists, or his/her choice of the desegregative housing opportunities if more than one exists. (In order to receive a certificate or voucher as his or her desegregative housing opportunity, an applicant must attend mobility counseling provided by the Fair Housing Services Center.)
- c. If a pool of vacancies exists when an applicant reaches the top of the waiting list and none of the vacancies would provide a desegregative housing opportunity, then the

applicant may choose either:

- (1) to remain in place on the single merged waiting list for the next available desegregative housing opportunity, or
 - (2) select among the available opportunities.
2. In all circumstances, an applicant who refuses a unit which would provide a desegregative housing opportunity will be dropped to the bottom of the merged waiting list and the date of the rejection becomes his/her application date. The applicant shall not be offered another unit until either every other applicant eligible for the same size unit with the same or earlier application date has been offered an appropriate unit or has withdrawn his or her request, or six months has elapsed from the rejection of the offer, whichever period is longer.

F. Good Cause Review Board

A three-person Good Cause Review Board shall be established to review and evaluate applicants' and transferees' requests for good cause exceptions. The Board will meet (or confer telephonically) weekly to decide requests submitted to ACHA. The Board will be made up of one designee from Neighborhood Legal Services Association (NLSA), the Fair Housing Services Center and the ACHA. The designee must have the authority from its agency to make good cause determinations during the weekly meeting and without further consultation with its agency.

In order to make these determinations, the ACHA shall provide each designee to the Board copies of the applications and related materials. The Fair Housing Services Center, in conjunction with the ACHA and the NLSA, will develop guidelines for applicants for good cause exceptions.

The ACHA is responsible for insuring that applicants and transferees requesting good cause exceptions fully understand their obligation to provide complete

information in support of their applications.

H. Affirmative Action Waiting List

If, upon review and evaluation of the results of the other waiting list initiatives and after consultation with the Plaintiffs, HUD finds that the initiatives have proved insufficient to achieve desegregation, the ACHA shall implement an Affirmative Action Waiting List. The Affirmative Action Waiting List may be used by the ACHA to desegregate a racially identifiable development (whether predominantly White or Black) located in either a predominantly White, a predominantly Black, or a mixed neighborhood. This waiting list process should be used only after appropriate educational and outreach efforts and only if, after 18 months, the other waiting list procedures did not bring about substantial progress toward the achievement of the desegregation standard described in this Plan. The Affirmative Action Waiting List would operate as follows:

1. Selections for vacancies in public housing would be made from the single community-wide merged LIPH and Section 8 waiting lists.
2. A person of one race who is on the waiting list may be substituted for a person of another race who is at the top of the list if the substitution would accomplish desegregation. This substitution process would be repeated as frequently as necessary to accomplish the objectives of the Plan. For example, five persons of one race may be substituted in a group move for five persons of another race who were at the top of the list.

VII. HOUSING MOBILITY PROGRAM

A Fair Housing Services Center (FHSC), a non-profit corporation, shall be established to provide housing mobility services.

A. Non-Profit Corporation

HUD shall, subject to appropriations, provide FY 95 funding¹ for a competitively chosen² local non-profit corporation to further fair housing in Allegheny County through:

1. monitoring the compliance of the providers of low-income housing in the County (including federally subsidized and assisted housing) with the fair housing laws and the requirements placed upon such providers as a consequence of this Plan;
2. providing counseling respecting housing and economic development opportunities to the actual and potential consumers of such housing;
3. encouraging and assisting in the development of desegregative housing opportunities, including outreach to private landlords in non-impacted areas and counseling and referral services to Section 8 tenants and applicants who wish to utilize their Section 8 certificates or housing vouchers in a desegregative fashion;
4. encouraging and assisting tenants and applicants of the ACHA to make desegregative moves within the LIPH program; and

¹ Subject to the availability of appropriations that could legally be used for the stated purposes, HUD would agree to fund such a corporation with a staff of five for three years. Included in such funding would be sufficient funds to rent an adequate office, should the corporation actually need additional office space to carry out the stated functions for which HUD would propose to fund the corporation.

² The corporation would have to be competitively chosen, i.e., it would have to apply to HUD for the money in response to a Request for Proposal (RFP) or Notice of Funding Availability ("NoFA"). HUD cannot create or organize such an organization.

In addition, HUD is willing to send the RFP or NoFA directly to any entity plaintiffs suggest.

5. encouraging and assisting class members to make desegregative moves to privately owned assisted housing programs;
6. administering the 200 new Section 8 desegregative vouchers provided by the Office of Public and Indian Housing for the exclusive use of those class members who agree to move to private rental housing in neighborhoods in which the African-American population of the neighborhood does not exceed by 20 percent the African-American population of Allegheny County as a whole, exclusive of the Cities of Pittsburgh and McKeesport.

Depending on the source of funding, HUD shall be required to fund such a non-profit corporation, only, if the corporation meets the requirements of (applicable statute, regulations, Handbook, and/or Notice).

B. HUD Assisted Housing

The following sections describe the respective functions of the FHSC and HUD in the Housing Mobility Program:

1. The FHSC shall:
 - a. give each class member written notice, every six months, in a form and distribution method to be approved by the Court, of all HUD-assisted low income housing developments in Allegheny County that offer class members a desegregative housing opportunity;
 - b. include in the notice the full address, telephone number, and name of the person responsible for accepting applications for the development, a short description of the type of housing offered by the development, and the general eligibility requirements for the development. The notice shall include a provision that informs the class members that, upon a class member's request, the FHSC shall refer, in writing, the name of the

class member to specific developments and that the developments will be under a duty to recruit that class member to apply;

- c. include in the notice the telephone number of the HUD Fair Housing and Equal Opportunity ("FHEO") Office that is designated to perform the functions set out in paragraph VI. B. 2. b., below and a brief description of the functions to be performed by that Office; and
 - d. the FHSC shall designate specific personnel to respond to requests for information and requests for assistance from class members desiring to obtain a desegregative housing opportunity. The assistance to be provided shall include referrals of interested class members to public housing developments, and programs other than low income public housing developments, that offer desegregative housing opportunities in Allegheny County, as well as any other assistance HUD deems appropriate in the specific situation presented to it. The assistance shall include the written referral of class members and monitoring of the results of the referrals. The FHSC shall keep a written record of the requests for assistance, the types of assistance provided and the results of the efforts to render assistance.
2. HUD Pittsburgh Area FH&EO and PIH Offices shall perform the following functions:
- a. direct the owners, operators, or managers of non-racially identifiable assisted housing developments in Allegheny County to amend the Affirmative Fair Housing Marketing Plan or Equal Housing Opportunity Plan within 90 days of the date of this order to include the following procedures:
 - (1) Each assisted housing development will include the Allegheny County Housing Authority, Pittsburgh Housing Authority,

and the McKeesport Housing Authority in the site's respective market area as community sources to be contacted for applicant referrals, and specifically will recruit as applicants those class members referred to it by HUD.

- (2) Each assisted housing development will determine, for each applicant, whether or not that applicant is a class member. The owner, operator or manager will record, for each class member, the dates of each offer of housing assistance made, whether the offer(s) are accepted, the date of any rejected or withdrawn applications, and the specific reasons given by the applicant for any rejection of an offer or withdrawal of an application. On request, but not more often than quarterly, the owner, operator or manager will provide a status report showing each class member applicant's place on the waiting list as well as making available the record itemized above.
- (3) The development will give class member applicants a preference, equal to, but no greater than, the federal selection preferences that are accorded in the recipient-selection process to other applicants who, at the time they are seeking housing assistance, fall in the categories listed in 24 C.F.R. § 960.211(a)(1). All developments subject to this requirement, however, shall cease giving class members the priority and preference required here if and when the African-American occupancy equals or exceeds the lesser of (a) the percentage of the African-American population in need of subsidized housing in Allegheny County, or (b) 40 percent. If the class member preference is no longer required, each class member will continue to receive the same statutory

or regulatory federal preference to which the class member would otherwise be entitled.

- (4) The development will determine every three months, the racial composition characteristics of those receiving its assistance and the racial composition of those on the waiting list for its assistance, and HUD will determine annually, the racial identification of the area or neighborhood within which those receiving its assistance are located.

- b. HUD's Mid-Atlantic Fair Housing Enforcement Center shall respond to complaints of discrimination or of violations of HUD applicant-selection procedures or of the various civil rights statutes applicable to transactions conducted under this Plan. It shall keep written records of the complaints and of all actions taken by HUD as a result of the complaints.

3. Increased Desegregative Housing Choices

To provide for additional housing opportunities and mobility, vacant units in HUD-owned non-racially identifiable assisted housing developments will be made available for class members to apply with the same preference as set forth in VI. B. 2. a. (3).

When HUD negotiates the sale of any HUD-owned non-racially identifiable assisted housing developments, HUD will require that the purchaser have a plan that calls, to the extent practicable, for a racially integrated development. HUD will negotiate sales of HUD-owned developments and single family houses to the ACHA to provide homeownership opportunities for low-income households.

4. General Procedures To Improve ACHA Administration of ACHA's Section 8 Existing Housing Program ("§ 8

EHP") and To Provide Increased Mobility for ACHA's
§ 8 EHP Participants

- a. To better assure that Housing Quality Standards ("HQSs") are enforced in all units where § 8 EHP certificates and housing vouchers are utilized, ACHA will:
- (1) Either contract with the municipalities where such units are located (or, if appropriate, Allegheny County) ("the County") to have initial and annual inspections carried out by the municipal (or County) housing code staff, or ACHA will use its own staff or contract with staff of other § 8 EHP programs to carry out the inspections. Where units are found to be in violation of HQS, municipal, or County codes, steps to obtain compliance will be taken in accordance with Chapter 5 of HUD Handbook 7420.7, and ACHA will request code enforcement from the municipality within which the unit is located (or the County).
 - (2) Carry out quality review inspections of at least 30 percent of all units utilizing § 8 EHP assistance within 90 days of the initial or annual inspection for the first year of this Plan's implementation, 20 percent for the second year, and 10 percent for the third year.
 - (3) Carry out perimeter inspections of all units utilizing § 8 EHP assistance at least twice annually, noting all obvious code violations on surrounding properties and reporting them to the appropriate municipal (or County) officials for follow-up code enforcement.
 - (4) Respond to all § 8 EHP tenants reporting complaints to ACHA staff about their

units, buildings, or complexes by notifying the owner or manager about the complaint and asking that person to address it. Where the owner or manager does not address the complaint appropriately in a reasonable time, ACHA will take the steps outlined for such situations in Chapter 5 of HUD Handbook 7420.7. A "reasonable time" will be determined by the severity of the condition of which the tenant is complaining.

- (5) Provide a special opportunity to each family currently participating in the § 8 EHP as of the date of the implementation of this Plan to better assure that the dwelling unit which it occupies meets HQS and local code standards. Within 30 days of the date of this Plan's implementation, ACHA will notify each § 8 EHP family by letter that if it believes that the dwelling unit it occupies does not meet HQS and/or local code standards, it may:
 - (a) seek from its landlord the correction of any dwelling unit conditions it believes violate HQS and/or code standards;
 - (b) if the landlord fails to correct the reported building deficiencies within a reasonable period of time, the family may request the ACHA to inspect the property and take appropriate actions to correct any violations that may exist; and
 - (c) if prior to receiving the ACHA's notice, the family has already requested the landlord to correct such deficiencies, the family may request the ACHA inspection without further communicating with the landlord.

- (6) Upon receipt of notice by a participating § 8 EHP family that it has notified its landlord of such deficiencies, has given the landlord a reasonable time to correct them, and has been unsuccessful in obtaining the needed corrections, ACHA will conduct the requested inspections within a reasonable time after receipt of the family's request, but not to exceed 10 days. The inspection will be conducted by an ACHA employee qualified to conduct inspections pursuant to HUD HQS in accordance with the procedures used for initial HQS inspections. If the unit fails to pass the inspection, ACHA will deal with the matter as outlined in Chapter 5 of HUD Handbook 7420.7. Upon reasonable request, ACHA will make available to plaintiffs' counsel the requests for inspection, the inspection reports, and all documents reflecting resolution of the complaints.
- (7) To better assure that § 8 EHP participants are aware that they can move to another dwelling upon completion of one year's tenancy under their lease, ACHA will send notice of this fact to all current participants. In addition, the ACHA will inform § 8 EHP participants about the availability of the Fair Housing Center's mobility counseling; the availability of ACHA counseling and mobility services (which must be provided consistent with HUD regulations); and the names of three landlords who will accept § 8 payment and have an appropriately sized unit available for rent in a non-racially impacted neighborhood. The ACHA will also provide the above information to all future § 8 EHP participants.
- (8) ACHA will conduct a public information and outreach program to landlords with

units in Allegheny County, including landlords owning properties in areas where few or no properties currently participate, to make those landlords aware of the rental opportunities available under ACHA's § 8 EHP.

- (9) In order to comply with this Plan, each year ACHA will use every good faith effort to have a substantial percentage of its § 8 EHP participants use their assistance outside neighborhoods which are racially-identifiable.

C. New Section 8 Vouchers

The Office of Public and Indian Housing will allocate a maximum of 200 desegregative Section 8 vouchers for the exclusive use of those class members who agree to move to private rental housing in neighborhoods in which the African-American population of the neighborhood does not exceed by 20 percent the African-American population of Allegheny County as a whole, exclusive of the Cities of Pittsburgh and McKeesport. Non-class members will be eligible for the ACHA's other programs, including its non-desegregative vouchers and certificates.

Upon request, HUD will consider for the Allegheny County market area, whether granting an exception to the Fair Market Rents levels for certificates and/or payment standards for housing vouchers, pursuant to 24 C.F.R. §§ 882.106(a)(3) and 887.351(b)(2), (1990 Edition) respectively, would increase the opportunity of class members who sought housing through the § 8 EHP to obtain a desegregated housing opportunity, and, if so and otherwise consistent with HUD regulations, shall grant such an exception.

VIII. ENFORCEMENT

The Department shall establish an effective monitoring and enforcement process to include a standardized approach for comprehensive and consistent recordkeeping and reporting. The ACHA will be required regularly to report its performance on each of the elements of the Plan. The responsibility for monitoring the ACHA's performance is assigned to the Mid-Atlantic Regional FHEO Enforcement Center. The Office will be provided sufficient resources for monitoring in Allegheny County, funding for travel to developments, data analysis, and evaluation.

A. Schedule For Plan Implementation

If not otherwise specified, an implementation schedule shall be devised for every Plan element contained herein. The schedule shall set deadlines that are appropriate to each type of remedial measure and ensure their completion in a prompt fashion. The maximum implementation period for any plan element shall not exceed seven years after the date of plan amendment approval.

B. Reporting Requirements

The ACHA will be required to submit to the Mid-Atlantic FHEO Enforcement Center quarterly reports, the format of which will be established upon execution of this Plan.

C. Alternative Actions

If the ACHA does not agree to follow this Plan or fails to implement this Plan as approved by the Court, the Department can take any or all of the following alternative actions at the behest of the Court. These actions include:

1. Declarations of breach under the ACHA's Annual Contributions Contract;
2. Debarment proceedings against the ACHA director(s), officer(s), and/or other employee(s) responsible for such failure pursuant to 24 CFR 24.305(d)(1) and 24 CFR 24.705(a)(8);

3. Withholding or conditioning funding awarded under various Departmental programs such as Comprehensive Improvement Assistance Program or the Comprehensive Grant Program;
4. Referral of the matter to the Department of Justice for appropriate action; and
5. Commencement of a Secretary-Initiated Title VIII complaint against the ACHA.

In addition, when HUD determines that the city or locality where an ACHA development is located (or may be located) is impeding the progress of an ACHA in implementing the provisions of this Plan, HUD will institute appropriate actions against that city, State or other entities including, but not limited to, withholding or conditioning Departmental funds under the CDBG and/or other applicable programs, or the commencement of a Secretary-Initiated complaint under the Fair Housing Act.

D. HUD Monitoring of Federally Subsidized Programs

HUD will continue to monitor ACHA's compliance with its HUD approved Tenant Selection and Assignment Plan (TSAP) and the VCA. The Department, in cooperation with state and local fair housing enforcement organizations, will continue to enforce Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, Section 3 of the Housing and Urban Development Act of 1968, and other civil rights statutes administered by this Department.

E. Other Enforcement Activity

HUD will utilize its lawful authority to enforce the Fair Housing Act and thus to seek to remedy any discriminatory treatment in housing and housing related rights which might affect tenants of the ACHA's developments. Upon receiving notice of an indication of possible discriminatory treatment or policies, HUD will make available FHEO personnel who will conduct a preliminary inquiry to determine whether a Secretary-

Initiated investigation is warranted. Where the preliminary inquiry indicates that discrimination based upon race, color, religion, sex, familial status, or handicap, has had an adverse affect upon tenants of and applicants to the ACHA's developments, the Assistant Secretary for Fair Housing and Equal Opportunity will initiate a Title VIII complaint and seek redress for the discrimination.

The areas in which the Department will consider the use of the Secretary-Initiated complaint as a tool for the elimination of discrimination include but are not limited to those listed below:

1. Provision of Police Protection

HUD recognizes that police protection is a housing related municipal service which must be provided without regard to race, color, religion, national origin, familial status or handicap. If HUD receives information indicating that tenants of ACHA housing are receiving police services which are inferior to those provided to persons living in the surrounding community, HUD will investigate to determine whether this disparity in services has a racial or other prohibited basis.

2. Availability of Developments for the Construction of New Federally-Assisted Housing

In the past, the ACHA has sought to construct new federally-assisted housing and met with opposition from municipal governments and community groups. Upon receipt of information indicating that opposition to the placement of proposed new federally-assisted housing may be based upon racial or other prohibited bases, HUD will conduct a preliminary inquiry. If this inquiry supports that the opposition has a prohibited basis, the Assistant Secretary for Fair Housing and Equal Opportunity will initiate a Title VIII complaint against the parties opposing the housing for discriminatory reasons and will seek redress for the persons aggrieved by the opposition.

IX. HOUSING OPPORTUNITIES ANALYSIS

In an effort to better ensure that class members may have housing opportunities in predominately white neighborhoods which do not have a concentration of assisted housing and that are comparable with the number of housing opportunities in predominately African-American neighborhoods and/or predominately white neighborhoods which do have concentration of assisted housing, HUD will conduct a study of all assisted housing in Allegheny County. After an analysis of the results of this study, HUD will determine if there is a need to provide additional assisted housing in such neighborhoods to provide desegregative housing opportunities.

CERTIFICATE OF SERVICE

I hereby certify that I have, this 8th day of April, 1994, served by the manner indicated, the foregoing Notice of Filing of Department of Housing and Urban Development's Desegregation Plan for Allegheny County on counsel of record for the parties at the addresses listed below.

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