

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,)

Plaintiffs,)

v.)

CHICAGO HOUSING AUTHORITY,)

Defendant.)

No. 66 C 1459
Chief Judge Aspen

NOTICE OF MOTION

To: See Attached Service List

PLEASE TAKE NOTICE that on Friday, August ~~15~~⁶, 1997 at 9:30 a.m. at the opening of Court or as soon thereafter as counsel may be heard, I will appear before Chief Judge Aspen in the courtroom usually occupied by him in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, or before such other judge who may be sitting in his place and stead, and then and there present **FEDERAL DEFENDANT'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO PLAINTIFFS' REPLY BRIEF IN SUPPORT OF ITS MOTION TO MODIFY CHA JUDGMENT ORDER** at which time and place you may appear, if you see fit.

Respectfully submitted,

JAMES B. BURNS
United States Attorney

By:

Linda A. Wawzenski
LINDA A. WAWZENSKI
Assistant U.S. Attorney
219 S. Dearborn Street
Chicago, Illinois 60604
(312) 353-1996

AFFIDAVIT OF HAND DELIVERY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Renee A. Ward, being first duly sworn on oath deposes and says that she is employed in the Office of the United States Attorney for the Northern District of Illinois, that on the 6th day of August, 1997, she caused a copy of:

- 1) NOTICE OF MOTION
- 2) FEDERAL DEFENDANT'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO PLAINTIFFS' REPLY BRIEF IN SUPPORT OF ITS MOTION TO MODIFY CHA JUDGMENT ORDER
- 3) FEDERAL DEFENDANT'S SUR-REPLY TO PLAINTIFFS' REPLY BRIEF IN SUPPORT OF ITS MOTION TO MODIFY CHA JUDGMENT ORDER

to be hand delivered to the following individual(s) on said date at about the hour of 3:30 pm.

To: See Attached Service List



SUBSCRIBED AND SWORN TO before me
this 6th day of August 1997



NOTARY PUBLIC
My Commission Expires: _____



SERVICE LIST

1. Alexander Polikoff, Esq.
Jeanne L. Nowaczewski, Esq.
Business & Professional People
for the Public interest
17 East Monroe Street, Suite 212
Chicago, Illinois 60603
2. Susan Getzendanner, Esq.
Nancy Eisenhauer, Esq.
Skadden, Arps, Slate, Meagher
& Flom (Illinois)
333 W. Wacker Drive, Suite 2100
Chicago, Illinois 60606
Counsel for CHA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	Chief Judge Aspen
CHICAGO HOUSING AUTHORITY,	)	
	)	
Defendant.	)	

**FEDERAL DEFENDANT'S MOTION FOR LEAVE TO FILE A
SUR-REPLY TO PLAINTIFFS' REPLY BRIEF IN SUPPORT
OF ITS MOTION TO MODIFY CHA JUDGMENT ORDER**

The Department of Housing and Urban Development (HUD) by JAMES B. BURNS, United States Attorney for the Northern District of Illinois, seeks leave to file a sur-reply to the plaintiffs' reply brief in support of their motion to modify the CHA judgment order and in support of which states as follows:

1. The plaintiffs filed their motion to modify the CHA judgment order on March 21, 1997. The motion was filed without an accompanying brief and outlined only in a summary fashion the plaintiffs' reasons for seeking a modification of the order.

2. HUD filed a response to the plaintiffs' motion on June 25, 1997. Subsequently, on July 28, 1997, the plaintiffs filed a reply brief in support of its modification motion.

3. The reply brief discusses several issues that were not raised in plaintiffs' initial motion, such as the implications of court settlements in other civil rights cases. HUD could not have anticipated some arguments the plaintiffs have made in their reply

brief, and therefore should be granted permission to respond to the points plaintiffs have raised in their reply.

WHEREFORE, HUD seeks leave to file the attached sur-reply.

Respectfully submitted,

JAMES B. BURNS
United States Attorney

By: *Linda A. Wawzenski*
LINDA A. WAWZENSKI
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1994

OF COUNSEL:

CAROLE W. WILSON
Associate General Counsel
for Litigation and Fair Housing Enforcement

HOWARD M. SCHMELTZER
Assistant General Counsel

KATHLEEN E. BURTSCHI
Trial Attorney

Dept. of Housing and Urban Development
451 Seventh Street, SW
Washington, D.C. 20410
(202) 708-1067

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	Chief Judge Aspen
CHICAGO HOUSING AUTHORITY,	)	
	)	
Defendant.	)	

**FEDERAL DEFENDANT'S SUR-REPLY TO PLAINTIFFS' REPLY BRIEF IN
SUPPORT OF ITS MOTION TO MODIFY CHA JUDGMENT ORDER**

The plaintiffs' brief is replete with contradictions and obfuscation^{1/}, designed to avoid addressing whether the Gautreaux Section 8 program that the plaintiffs envision for the class that they represent is appropriate. Indeed, the plaintiffs evade a

^{1/} For example, they say it is premature to address the problems that creating a Gautreaux Section 8 program would entail, but concede that they are seeking to restrict where class members can use their certificates. They also point out that HUD has settled other civil rights cases with geographic restrictions on certificate usage but fail to disclose that none of them force displaced public housing tenants to move into non-racially impacted areas against their will, as the plaintiffs may be seeking here. They also fail to disclose that in class actions in which HUD provides a special pool of certificates as part of the settlement, notice was given to the class, they had the opportunity to object to settlement terms, and the settlement was only approved after a "fairness" hearing. They also claim to be motivated to desegregate public housing but they fail to disclose how restricting where Section 8 certificates can be used will result in the desegregation of the public housing units. Additionally, they claim that they do not seek to advance class members over others on the normal Section 8 waiting list, but they then concede a "preference" for Gautreaux families is what they are contemplating. They note that HUD has averred that such a preference is inequitable, but then they address it by not discussing the equity of skipping over non-class members. Instead, they suggest the need for the class to receive counseling, which is unrelated to whether the class member should be given a certificate ahead of other people on the waiting list.

central question, namely, whether class members who will be compelled to move out of their public housing units want, or need, to have their rights to live where they want restricted by an order directed against them.

The brief offers no explanation why the Gautreaux class members, who will receive thousands of Section 8 certificates over the next several years, would want to be put in the potential predicament of not being able to use their certificates in areas that the plaintiffs say they must live and at the same time being told they cannot use their certificates in areas in which apartments are available.^{2/} While the plaintiffs are correct that HUD has settled other civil rights cases where restrictions have been imposed,^{3/} the restrictions have not been forced on public housing tenants who are being compelled to move because of demolition or other dispositions of their public housing units.

^{2/} As stated in HUD's response to the plaintiffs' motion to modify CHA's judgment order, there is a shortage of affordable rental housing in the Chicago area. See Response, page 4, footnote 6. Also, HUD's memorandum regarding the fiscal year 1997 set aside and 5.8.1 of the consent decree, pointed out that the Leadership Council's success rate in placing eligible families in general areas is only 19%. See Memorandum, page 9, footnote 13. The Leadership Council did not qualify this fiscal year for any additional certificates under the consent decree because they have an unused stockpile of hundreds of certificates. These problems illustrate some of the difficulties public housing families will face if they are compelled to live in general areas.

^{3/} HUD has settled most of these cases by providing a special allocation of certificates that are available to families who are seeking desegregative opportunities. The Gautreaux program certificates that the Leadership Council administers is the paradigm for such programs. Those cases are far different from the situation here, where families will be forced to move and then be compelled to live in locations they have not voluntarily chosen.

See, e.g., Thompson v. HUD, paragraph. 3.1.3.1 at 13-14 and paragraph 18.4 at 68 of the attached Exhibit 1.^{4/}

Since the plaintiffs offer no justification for the need for geographic restrictions on the use of certificates, the only practical reason on which they purport to justify putting the Section 8 program under the CHA judgment order is the need for adequate mobility counseling. However, HUD is providing \$4,000,000 so that a competent counseling entity will assist the public housing families.^{5/} Since the plaintiffs concede that they are not asking the court to order additional funding, and any additional funding or directing it for different uses would violate the HUD consent decree, which limits the plaintiffs' remedies to those under that contract, it would serve no purpose to expand the CHA's judgment order because no additional or different counseling could be provided.

In short, while the plaintiffs would like this court first to rule that the CHA's Section 8 program should be made part of the CHA judgment order so that at a later date the plaintiffs can seek to have its yet to be disclosed Gautreaux program implemented, it

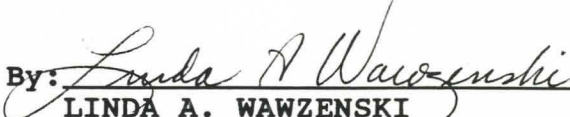
^{4/} In its June 25, 1996 memorandum of decision approving the consent decree in Thompson v. HUD, C.A. No. MJG-95-309 (D.C. MD.), the court specifically noted at 4 that families are permitted to live in racially impacted areas: "Many of the displaced will choose replacement housing in the City in neighborhoods that have primarily African-American residents albeit, hopefully, with mixed income levels."

^{5/} As stated in HUD's memorandum in opposition to plaintiffs' motion for a 1997 set aside and respecting paragraph 5.8.1, Quadel Consulting Corporation now administers the CHA Section 8 program. Quadel's contract grants it performance awards for leasing units in low-poverty census tracts. See Memorandum at page 13.

is apparent now that the essentials of that program are problematic.^{6/} Accordingly, those matters should be considered in connection with the plaintiffs' present motion.^{1/}

Respectfully submitted,

JAMES B. BURNS
United States Attorney

By: 

LINDA A. WAWZENSKI
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1994

^{6/} Indeed, it might have been more efficient for all concerned if the plaintiffs had described the specifics of how they envisioned their proposed Gautreaux program would operate. Then the parties and this court would have been able to fully ascertain the appropriateness of the pending motion. By choosing to hide from the parties the terms of the relief the plaintiffs seek, plaintiffs make it impossible for the parties to address all the potential problems that might arise in putting the CHA Section 8 program under the CHA judgment order. For example, if the plaintiffs were to seek distributing any of the 7340 Section 8 certificates and vouchers to families not to be displaced from public housing, this practice would raise conflicts with appropriation and authorization statutes, as well as being inconsistent with the HUD consent decree.

^{1/} As a separate matter, this court should disregard the submission of letters among plaintiffs' counsel, HUD and CHA regarding the parties' failed attempt to negotiate an entirely separate issue from the modification of the CHA judgment order, namely HUD's alleged violation of paragraph 5.8.1 of the HUD consent decree. Rule 408 of the Federal Rules of Evidence states that evidence of an offer to compromise a disputed claim is not admissible to prove liability of the claim and that statements made in compromise negotiations are likewise not admissible. Since the parties were unable to reach agreement, the offer of compromise has been withdrawn, and the issue remains to be decided by the court.

OF COUNSEL:

CAROLE W. WILSON
Associate General Counsel
for Litigation and Fair Housing Enforcement

HOWARD M. SCHMELTZER
Assistant General Counsel

KATHLEEN E. BURTSCHI
Trial Attorney

Dept. of Housing and Urban Development
451 Seventh Street, SW
Washington, D.C. 20410
(202) 708-1067

publication of advertisements (in English and Spanish language newspapers) that contain a list of such persons and a notification of their right to request reinstatement.

7. Remedial Section 8 Waiting List. As a remedy for the discrimination against Latinos in the Section 8 program (described in the Complaint), a separate "Remedial Section 8 Waiting List" shall be created for the distribution of Section 8 Vouchers. The term "Voucher" as used herein refers to Section 8 vouchers and certificates.

(a) Eligibility. The Remedial Section 8 Waiting List shall be limited to (i) heads of household of Latino families and Latino expectant mothers ("Conventional Registrants") who would have registered for the CHA's Section 8 program between 1974 and 1985 if the CHA had not unlawfully discriminated against Latinos and had taken affirmative steps to market the Section 8 program to Latinos and Spanish-speaking persons as required by federal regulations, and (ii) Latino single persons who are 62 years of age or older or handicapped, disabled, or displaced as defined by applicable regulations ("Elderly Registrants") who would have registered for the CHA's Section 8 program between 1974 and 1994 if the CHA had not unlawfully discriminated against Latinos and had taken affirmative steps to market the Section 8 program to Latinos and Spanish-speaking persons as required by federal regulations.

(b) Certification of Eligibility. To be included on the Remedial Section 8 Waiting List, a Conventional

Registrant must certify that he or she would have registered for the Section 8 program between 1974 and 1985 if he or she had been adequately informed about it. To be included on the Remedial Section 8 Waiting List, an Elderly Registrant must certify that he or she would have registered for the Section 8 program between 1974 and 1994 if he or she had been adequately informed about it.

(c) Ranking of Eligible Persons. The "Eligibility Year" for a registrant shall be the earliest year (but not prior to 1974) as to which the registrant certifies that he or she would have registered for the Section 8 program if he or she had been adequately informed about it.

Registrants for the Remedial Section 8 Waiting List shall be ranked in accordance with their Eligibility Years, starting with the year 1974. Persons with the same Eligibility Year shall be ranked in random order.

(d) Registration. Pursuant to Paragraph 4 of the HUD Decree, HUD or a HUD-approved designee will enter into one or more contracts with firms that will conduct marketing and outreach designed to inform Latinos about the availability of Section 8 Vouchers under both this Consent Decree and the HUD Decree and provide counseling for the use of such Vouchers once they are issued. The contractor selected (or one of the contractors selected, if multiple contractors are selected) will also be responsible for (i) accepting and processing registration forms submitted by persons seeking placement on the Remedial Section 8 Waiting

List; (ii) determining each registrant's Eligibility Year; (iii) compiling and maintaining the Remedial Section 8 Waiting List; (iv) examining each registrant's proof of eligibility under the terms of this Consent Decree and making a final determination of eligibility for each registrant; and (v) providing to the Section 8 Administrator, as defined in Paragraph 8 of this Consent Decree, on a rolling basis, the names of eligible Conventional Registrants and Elderly Registrants from the Remedial Section 8 Waiting List, ranked in accordance with the provisions of subparagraph (c), for the Section 8 Administrator's use in distributing Section 8 Vouchers pursuant to Paragraph 8 of this Consent Decree. The terms "eligible" and "eligibility" as used herein refer to the criteria set forth in Paragraph 7(a) and do not refer to any generally applicable federal requirements for receipt of Section 8 Vouchers.

(e) Proof of Eligibility. Prior to being placed on any list provided to the Section 8 Administrator, a Conventional Registrant for the Remedial Section 8 Waiting List must present to the contractor performing the functions listed in subparagraph (d) proof of the registrant's residence in Chicago between 1974 and 1985. Prior to being placed on any list provided to the Section 8 Administrator, an Elderly Registrant for the Remedial Section 8 Waiting List must present to the contractor performing the functions listed in subparagraph (d) proof of residence in Chicago

between 1974 and 1994. Acceptable proof of residence shall include documentary evidence (such as a lease, school records, work records, utility bills or visa documents) or affidavits from the registrant and another person unrelated to the registrant attesting to the registrant's residence in Chicago during such period. It is not necessary for a person to establish proof of eligibility at the time he or she first registers for the Remedial Section 8 Waiting List; however, such proof of eligibility must be provided before such person is placed on any list provided to the Section 8 Administrator.

8. Distribution of Vouchers. All functions related to the actual distribution of Section 8 Vouchers to persons placed on the Remedial Section 8 Waiting List, including the responsibility for certifying that registrants are eligible for Section 8 Vouchers under HUD and CHA regulations, shall be performed by the CHA's Section 8 Administrator. As used herein, the term "Section 8 Administrator" refers to the CHA or any entity selected by the CHA or HUD to administer what is currently the CHA's Section 8 certificate and voucher program.

(a) Vouchers Subject to This Decree. Beginning as of the date that this Consent Decree is executed by plaintiffs and the CHA, all Section 8 Vouchers that are then available or subsequently made available to the CHA (or any successor, administrator or contractor) or to any program that heretofore has been administered by the CHA shall be distributed in accordance with this Paragraph, except for

Section 8 Vouchers not available for distribution to current registrants on the Section 8 waiting list because of restrictions imposed by federal law.

(b) Manner of Distribution. The recipients of the Vouchers shall be selected both from the existing Section 8 waiting list (as updated, and as supplemented if the waiting list should be re-opened) and from the Remedial Section 8 Waiting List, in accordance with the following rules:

(i) A Conventional Registrant on the Remedial Section 8 Waiting List with a particular Eligibility Year may not be awarded a Voucher before any person on the existing Section 8 waiting list who registered for the Conventional Section 8 program prior to that year. An Elderly Registrant on the Remedial Section 8 Waiting List with a particular Eligibility Year may not be awarded a Section 8 Voucher before any person who registered for the Elderly Section 8 program prior to that Eligibility Year. For example, a person who registered for the Conventional Section 8 program on December 31, 1981, will have priority over all Conventional Registrants on the Remedial Section 8 Waiting List with an Eligibility Year of 1982 or later.

(ii) Subject to rule (i), the percentage of Vouchers distributed to persons on the Remedial Section 8 Waiting List with a given Eligibility Year shall be no greater than the Latino percentage of poverty-level

Chicago residents for the relevant year^{*}; provided, however, that if the Remedial Section 8 Waiting List contains a sufficient number of registrants in a given category (Conventional or Elderly) who are eligible under this Consent Decree and are otherwise eligible for Vouchers in either the Conventional or Elderly Section 8 Program under applicable CHA and HUD regulations, then the percentage of Vouchers distributed by the Section 8 Administrator under that program (Conventional or Elderly) to persons on the Section 8 Remedial Waiting List shall equal the Latino percentage of poverty-level Chicago residents for the relevant year. Those percentages, based on linear extrapolation from the 1970 Census (9.0%), the 1980 Census (16.9%), and the 1990 Census (21.7%), are as follows:

<u>Registration Year</u>	<u>Latino % of Chicagoans Below the Poverty Line</u>
1974	12.1 %
1975	12.9 %
1976	13.7 %
1977	14.5 %
1978	15.3 %
1979	16.1 %
1980	16.9 %
1981	17.4 %
1982	17.9 %
1983	18.3 %
1984	18.8 %

* The "relevant year" refers to the year of registration for the persons who are next on the existing Section 8 waiting list.

1985	19.3 %
1986	19.8 %
1987	20.3 %
1988	20.7 %
1989	21.2 %
1990	21.7 %
1991	22.2 %
1992	22.7 %
1993	23.1 %
1994	23.6 %

Illustration: As of the date of the execution of this Consent Decree, Vouchers under the Conventional Section 8 Program are being issued to individuals on the existing Section 8 waiting list who registered in 1981. Thus, the "relevant year" is 1981, and therefore 17.4% of the Conventional Section 8 Vouchers issued after the execution of this Consent Decree shall be distributed to Conventional Registrants on the Remedial Section 8 Waiting List, provided that such list contains a sufficient number of eligible persons with an Eligibility Year of 1981 or earlier. When the Section 8 Administrator begins issuing Vouchers under the Conventional Section 8 Program to individuals on the existing Section 8 waiting list who registered for that program in 1982 -- in other words, when the "relevant year" is 1982 -- the percentage of Conventional Section 8 Vouchers distributed to Conventional Registrants on the Remedial Section 8 Waiting List shall be 17.9%, again provided that such list contains a sufficient number of eligible persons with an Eligibility Year of 1982 or earlier.

(iii) Any local preferences adopted by CHA for use in awarding Section 8 Vouchers shall not apply to registrants on the Remedial Section 8 Waiting List.

(iv) For purposes of calculating percentages and determining the number of Vouchers to be distributed to persons on the Remedial Section 8 Waiting List, the 500 Vouchers to be provided by HUD pursuant to the HUD Decree shall not be taken into account. The

500 Vouchers provided by HUD constitute a remedy in addition to the remedies provided for under this Consent Decree.

The Section 8 Administrator shall be responsible for developing the specific procedures and mechanisms for the distribution of Vouchers consistent with the foregoing rules.

(c) Delays in Implementation. The plaintiffs and the CHA recognize that a period of time will be required to put this Section 8 remedy into effect, and that for a period of time the Section 8 Administrator will not be able to distribute Vouchers to persons on the Remedial Section 8 Waiting List. The parties agree that the time required to implement this remedy should not be to the prejudice of the plaintiff class. To the extent that the Section 8 Administrator issues Vouchers after the date of execution of this Consent Decree and prior to the time that it begins distributing Vouchers to individuals on the Remedial Section 8 Waiting List, the Section 8 Administrator shall hold back or otherwise ensure the availability of the percentage of Vouchers to be distributed to Conventional and Elderly Registrants on the Remedial Section 8 Waiting List.

(d) Bilingual Staffing. The CHA will ensure that the Section 8 Administrator has sufficient bilingual staff to carry out its responsibilities and provide services, both with regard to individuals on the Remedial Section 8 Waiting

List and with regard to other Latinos who have applied or may apply for Section 8 housing.

9. Marketing and Outreach. The CHA will prepare one or more Requests for Proposals and enter into one or more contracts to provide marketing and outreach for all current and future CHA housing programs. The purpose of this marketing and outreach shall be to substantially increase Latino participation in all current and future CHA housing programs.

(a) Within 90 days of the entry of this Consent Decree, the CHA will prepare and issue a Request for Proposals soliciting proposals for the creation and implementation of an aggressive plan to market all CHA housing programs, including conventional, elderly, and scattered site, to the Latino community of Chicago. The marketing program shall include the mainstream and Latino media in Chicago (newspaper, television, and radio). The use of the broadcast media in this marketing effort shall include paid advertisements and shall not be limited to Public Service Announcements (PSAs). The effort shall also include the development and dissemination of bilingual brochures and other promotional materials that will serve to educate the Latino community about CHA housing programs and how to register for those programs. The CHA will ensure that this contract provides for sufficient bilingual staff for the selected firm ("Marketing Contractor") to carry out its responsibilities.

(b) Within 90 days of the entry of this Consent Decree, the CHA will prepare and issue a Request for Proposals to perform outreach functions with respect to CHA housing programs. The firm selected ("Outreach Contractor") must have prior experience performing outreach in the Latino community. Not-for-profit organizations shall be given preference in the selection process. The Outreach Contractor will be responsible for informing individuals in the Latino community about the CHA's housing programs, meeting with and making presentations to the constituencies of church, school, and other community groups and organizations, and actively encouraging the registration of eligible Latinos for all of CHA's housing programs.

(c) The RFPs issued for the contracts described in subparagraphs (a) and (b) shall give preference to proposals that coordinate the outreach and marketing functions into an integrated, cooperative effort.

(d) The CHA will consult with a designated representative of the plaintiffs about the contents of the Requests for Proposals described in this Paragraph, about the selection of the Marketing and Outreach Contractors, and about the marketing and outreach plans developed by those contractors; provided, however, that nothing in this subparagraph shall be construed as requiring the CHA to reveal the contents of the Requests for Proposal or to otherwise discuss the contents of the proposals in a manner that would violate and state of federal laws or regulations

related to the procurement process. This Consent Decree shall not be construed to prevent CHA from designating the same firm to fulfill the functions of both the Marketing Contractor and the Outreach Contractor or from issuing a single request for proposals combining both functions.

10. Monitoring. The CHA will designate a Latino Community Liaison, who (a) must be fluent in Spanish, (b) shall be a full-time employee of the CHA, and (c) must have a direct reporting relationship with and access to the senior CHA officer responsible for day-to-day operations (currently, the deputy executive director of operations). Among other responsibilities, the Liaison shall monitor the compliance by the CHA and its contractors with the provisions of this Consent Decree, and shall prepare quarterly reports regarding such compliance. The Liaison will be available to meet with the plaintiffs regarding compliance with this Consent Decree.

11. Consultation with Plaintiffs' Representatives. The leadership of the CHA shall meet with one or more representatives designated by the organizational plaintiffs in this action on a regular basis, at least quarterly, to discuss the implementation of this Decree and other matters of concern to Latinos in Chicago, and shall consult with such representative(s) before proposing or announcing any major initiative or program.

12. Retention of Jurisdiction. The Court will retain jurisdiction over this matter for the purpose of enabling plaintiffs or the CHA to apply to the Court for such further orders as may be necessary or appropriate for the construction, implementa-

tion or enforcement of this Consent Decree; however, this Consent Decree may be modified only with the prior written consent of plaintiffs and the CHA. In addition, at least 21 days prior to submission of any dispute under this Consent Decree to the Court, the parties shall consult in an effort to resolve the matter informally.

13. Termination of Decree. The CHA's obligations under this Decree shall terminate as follows:

(a) The injunction issued pursuant to Paragraph 2 shall terminate ten years after this Consent Decree is approved by the Court.

(b) The obligation to provide translations pursuant to Paragraph 3, bilingual staffing pursuant to Paragraph 4, and monitoring pursuant to Paragraph 10 may be terminated after January 1, 2006, upon motion of the CHA if the Court determines that these remedies are no longer necessary for the CHA to serve the needs of the Latino community. The specific provisions of Paragraphs 3, 4, or 10 may be modified after January 1, 2000, upon motion of the CHA if the Court determines that equivalent relief will be provided.

(c) The distribution of Section 8 Vouchers to persons on the Remedial Section 8 Waiting List shall terminate when the Remedial Section 8 Waiting List is exhausted.

14. Entire Agreement. The terms of this Consent Decree constitute the entire understanding of the Parties, and no

statement, remark, agreement or understanding, oral or written, which is not contained herein, shall be recognized or enforced.

15. Fees and Costs Reserved. The issue of the CHA's liability for attorney's fees and costs, including the costs of notice, is reserved for later resolution by the parties or determination by the Court. Nothing contained in the stipulation attached hereto as Exhibit A or in the third full paragraph on page 2 (continuing onto page 3) beginning, "WHEREAS, the plaintiffs and the CHA have stipulated to the facts set forth in Exhibit A," shall be construed as conferring "prevailing party" status upon the plaintiffs for the purpose of an award of attorney's fees. Notwithstanding this reservation and the retention of jurisdiction in Paragraph 12, this Consent Decree is a final judgment on all claims between the plaintiffs and defendant CHA, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, and the Court hereby determines that there is no just reason for delay and directs the entry of judgment.

16. Binding Effect. This Consent Decree is binding on the CHA, its officers, employees, agents, successors and assigns, as well as any person or entity that, by contract or otherwise, administers, manages or supervises any program currently under the jurisdiction of the CHA, or any program that is the successor to or replacement of such a program.

EXECUTED THIS 19th DAY OF April, 1996, IN CHICAGO, ILLINOIS.

LATINOS UNITED, EIGHTEENTH
STREET DEVELOPMENT CORPORATION,
HISPANIC HOUSING DEVELOPMENT
CORPORATION, BICKERDIKE
REDEVELOPMENT CORP. and COMITE
LATINO; and ROSALIA RIVERA,
RAQUEL GONZALEZ SYPIEN,
GLORIA CARDONA QUINONES,
and NILDA ORTIZ, on behalf of
themselves and all persons
similarly situated

CHICAGO HOUSING AUTHORITY

By: Linton J. Childs
One of their Attorneys

David M. Schiffman
Linton J. Childs
SIDLEY & AUSTIN
One First National Plaza
Chicago, Illinois 60603
(312) 853-7000

Roslyn C. Lieb
Suite 863
221 North LaSalle Street
Chicago, Illinois 60601
(312) 609-6608

Clyde E. Murphy
Karen M. Berman
CHICAGO LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW, INC.
100 North LaSalle Street
Suite 600
Chicago, Illinois 60602
(312) 630-9744

Attorneys for Plaintiffs

By: Allen A. Rothstein
One of its Attorneys

Jonathan A. Rothstein
Matthew J. Piers
GESSLER, HUGHES & SOCOL,
LTD.
Three First National
Plaza, Suite 2200
Chicago, Illinois 60202
(312) 580-0100

Attorneys for Defendant
Chicago Housing Authority

ENTER:

George W. Lindberg
United States District Judge

Date: JUN 21 1996

Lake Forest College

August 5, 1995

Department of Politics
555 North Sheridan Road
Lake Forest, Illinois 60045-2399
708-234-3100
(fax) 708-735-6291

Mr. John Herold
Associate General Counsel
Office of the General Counsel
United States Department of Housing and Urban Development
Washington D.C. 20410-0500

Dear Mr. Herold:

Enclosed you will find a copy of my paper titled, "Housing Affordability in the Chicago Metropolitan Area: a Study of the Potential Supply of Fair Market Rent Units in Low Poverty Areas". Alex Polikoff asked me to send it to you as soon as it left my printer. He and the Leadership Council staff have read it over and approved its content.

If you have any questions I can be reached at 708-735-5127.

Regards,



Paul B. Fischer
Professor of Politics



HOUSING AFFORDABILITY IN THE CHICAGO METROPOLITAN AREA: A STUDY OF THE POTENTIAL SUPPLY OF FAIR MARKET RENT UNITS IN LOW POVERTY AREAS.

PAUL B. FISCHER

August 2, 1995

I. THE ISSUE

Over the past twenty years, HUD has shifted its focus from financing the construction of new and rehabilitated low income units to providing rent subsidies for eligible families to be used in the existing private housing market. This shift is now accelerating, prompted by the severe departmental budget cuts pending in Congress. At the same time, HUD is trying to "deconcentrate" its low income housing and expand housing choices for its clientele, particularly in low poverty areas where jobs are more plentiful, public services are better funded, and neighborhoods are safer.¹ The purpose of this research is to determine the potential supply of affordable units in the Chicago metropolitan area that, theoretically, could be utilized by low income families with Section 8 certificates/vouchers in low poverty neighborhoods and communities.

II. THE RESEARCH METHODOLOGY

For the purposes of this study, the Chicago metropolitan area includes the city of Chicago, suburban Cook County, and the five "collar" counties in Illinois; DuPage, Lake, Kane, Will, and McHenry. Affordable housing is defined as units with rents that are at or below the fair market rent (fmr) maximum set by HUD. These limits vary, in part, based upon how much of the utilities

¹A recent example is Moving to Opportunity (MTO), a HUD program that targets particular low-income populations and facilitates their moves to low poverty areas in central cities and suburbs.

cost is paid for by the tenant. The fair market rent situation chosen for this study is one in which the tenant pays for electricity for lights and gas for cooking.² In addition, in the Chicago area, fair market rents vary by sub-housing markets. For example, the fair market rent maximum for a two bedroom unit in most of Cook County is \$686. In the more affluent north and northwest suburbs, the fair market rent maximum is \$824. But outside of north and northwest Cook County, the fmrs do not vary significantly. To simplify the study, two different sets of fmrs will be used, one for north and northwest Cook County and one for the rest of the metropolitan area.³

The 1990 Census was used to determine the potential supply of fmr units. The Census organizes units by different bedroom sizes into six different rent categories from less than \$200 to \$1000 or more.⁴ Since the fmr maximums are within a particular category, this Census variable had to be weighted.⁵ Unfortunately the Census combines all units, three bedroom or greater, into a single category whereas HUD has different fmrs for three, four, and five bedroom units. This issue was addressed by creating an fmr level for all three bedroom units and greater that was an

²This configuration was considered most typical by the Gautreaux staff at the Leadership Council.

³Outside of the north and northwest suburbs the maximum fmrs vary by only \$19 for two bedroom units, \$25 for three bedroom units, and \$34 for four bedroom units.

⁴There is an additional no cash rent category with relatively few responses that was dropped for this study.

⁵For example, the fmr for two bedroom units is \$686. The rent category that includes \$686 is five, ranging from \$500 to \$749. To determine the number of units within that limit of \$686, the first four categories, beginning with units under \$200 were added together. Since \$686 includes approximately 75 percent of the range from \$500 to \$749, I arbitrarily included 75 percent of the units in that particular rent category, as part of the aggregation. Thus the formula to determine the number of two bedroom units within fair market rents is $(C=\text{Category})$
 $C1+C2+C3+C4+(C5*.75)$.

average of the three and four bedroom fmrs.⁶ Vacancy rates were also determined but they are not organized by rent levels so their usefulness is limited but useable in this study.⁷

The basic demographic unit of analysis utilized is the Census tract since it is the basis for much of HUD policy governing housing mobility and the most accessible from the Census Bureau. Data was gathered enumerating the number of persons with incomes below the poverty level for each tract. Two low poverty variables were created from tracts defined as 10 percent poverty or less and 15 percent poverty or less. Data was also gathered on the number of African-Americans in each Census tract. Census tracts with over 30 percent African-American were considered racially concentrated.⁸

Before describing the results it is important to state a number of caveats about the research methodology and the data. The original analysis for the study of the HACC service area was completed in 1992 when the 1990 Census information was fresh. Obviously that data is now over five years old. The rent structure has increased by at least a factor of inflation, so the Census data underestimates the actual rents by approximately 15 percent.⁹ On the other hand, the

⁶The three bedroom fmr is \$860 and the four bedroom fmr is \$966 so the three bedroom and greater fmr used was the mean of \$913. It was assumed that, in low poverty Census tracts, the disproportionate number of large bedroom rental units would be three bedrooms which was why the mean of three and four bedroom fmrs was chosen rather than the one for three and five bedroom fmrs.

⁷On vacancy rates, the Census includes vacant housing units by detached versus attached with categories of number of units in attached dwellings as well as vacancy rates by bedroom size but not by rent levels.

⁸The 30 percent figure is based on the Gautreaux criteria for an impacted Census tract that is used to determine which areas cannot be used for Gautreaux placements.

⁹Assuming a conservative three percent per year inflation in rents over five years.

inflation factor has not affected fmrs very much since the 1995 fmrs are very similar to the 1992 fmrs. Thus the actual number of units that are within the fmrs has probably declined and the totals discussed below probably overestimate the number of affordable units. But the results are still useful, particularly when comparing the number of affordable units in low poverty tracts with the remaining tracts. It should also be noted that the weighting of the fmr variables, while based upon careful and logical consideration, is still somewhat arbitrary. Small changes in the weighting formulas could change the resulting number of affordable units, although the general pattern should remain the same. Finally, the Census figures on affordable units do not take into account the vacancy rate. While the report does include some discussion of the vacancy rate by Census tract, the lack of vacancy data by rent levels limits its utility. Given the general impression that the rental market in the Chicago metropolitan area has "tightened" since 1989 when this data was gathered, factoring in the 1990 Census vacancy rates probably overestimates the "available" affordable units.¹⁰

III. THE FINDINGS

A. Poverty Census Tracts

There are 1738 Census tracts in the six county area, of which 1032 (59%) are 10 percent poverty and 1171 (67%) are 15 percent poverty.¹¹ Referring to **Table One**, Chicago has 50 percent of the Census tracts but only 23 percent of the below 10 percent poverty tracts and 30

¹⁰Obviously many other factors are involved in determining whether an fmr unit is actually available to a Section 8 family but those factors are beyond the scope of this study.

¹¹For the sake of readability, throughout the body of this report, all percents are rounded off to the nearest whole number. Ten percent or under in poverty will be denoted as 10 percent while 15 percent or under poverty will be denoted as 15 percent.

percent of the below 15 percent poverty tracts. Suburban Cook with 28% of the Census tracts contains 42 percent of the 10 percent tracts and 41 percent of the 15 percent tracts.

TABLE ONE: LOW POVERTY/BLACK CENSUS TRACTS IN THE CHICAGO AREA

	CTS	%	10%<	%	RANK	15% <	%	RANK	BLK <	%	RANK
CHI	851	50	234	23	2	342	30	1	475	38	1
CK	280	16	237	23	1	249	17	2	228	18	2
NW	204	12	194	19	3	199	22	3	200	16	3
DU	116	7	114	11	4	116	10	4	116	9	4
KN	64	4	51	5	7	55	5	7	63	5	7
LK	97	6	88	9	5	92	8	5	90	7	5
MC	26	1	26	3	8	26	2	8	26	2	8
WL	79	5	67	7	6	71	6	6	69	5	6
TOT	1717	101	1011	100		1150	100		1267	100	

SHARE % = SHARE OF THE METROPOLITAN AREA TOTAL
 NW = NORTH AND NORTHWEST SUBURBAN COOK COUNTY
 CK = THE REST OF SUBURBAN COOK COUNTY
 BLK< = 30 PERCENT AFRICAN AMERICAN OR LOWER

B. African-American Census Tracts

There are 1267 (74%) of the Census tracts that are 30 percent African-American or lower. Slightly more than one-third are in Chicago and the rest in the suburbs. In fact, only 17 percent of the Census tracts in the suburbs have high African-American concentrations and almost all of those are in south and west Cook County. There is also a strong correlation of .67 between the percentage of African-Americans in a Census tract and the percent of the population in poverty. There are 61 Census tracts greater than 30 percent black and 10 percent poverty and 103 Census tracts greater than 30 percent black and 15 percent poverty. But they represent only four percent of tracts at the 10 percent poverty level and six percent at the 15 percent poverty level. On the

other hand there are 316 (18%) low black and high poverty tracts at the ten percent poverty level and 219 (13%) at the fifteen percent poverty level.

C. The Supply of Affordable Units

There are over 312,000 two bedroom units and over 162,000 three bedrooms plus units within fmrs in the Chicago area. Chicago contains the most for both categories of units followed by Cook County outside of the north and northwest suburbs, then north and northwest Cook County. (See **Table Two**)

TABLE TWO: AFFORDABLE UNITS IN THE CHICAGO METRO AREA

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	175,121	202	56	1	865	106,889	124	66	1
CK	49,597	175	16	2	283	18,288	65	11	2
NW	33,118	162	10	3	204	13,329	65	8	3
DU	17,842	154	6	4	116	4,880	42	3	7
KN	10,773	158	4	6	68	5,369	79	3	5
LK	12,006	124	4	5	97	6,285	65	4	4
MC	4,041	155	1	8	26	1,973	76	1	8
WL	9,570	121	3	7	79	5,286	67	3	6
TOT	312,068	180	100		1738	162,299	93	99*	

AVG = MEAN NUMBER OF FMR UNITS WITHIN EACH CENSUS TRACT

NW = NORTH AND NORTHWEST COOK COUNTY

CK = THE REST OF COOK COUNTY

CTS = NUMBER OF CENSUS TRACTS

3BRMS = THREE BEDROOMS OR MORE

AFFORDABLE = UNITS WITHIN MAXIMUM FMRS

TOT = CHICAGO METROPOLITAN AREA

% = PROPORTION OF METRO AREA FMR UNITS IN THAT REGION

*THE TOTAL IS LESS THAN 100% BECAUSE OF ROUNDING TO NEAREST WHOLE NUMBER

For Census tracts 10 percent poverty, the Chicago metropolitan area has close to 152,000 two bedroom units and almost 58,000 three bedroom plus units within fmrs. By region, at 10

percent poverty, Cook County, outside of the north and northwest has the most two bedroom units within fmrs, followed by Chicago, north and northwest Cook County, DuPage, Lake, Kane, Will, and McHenry. For three bedrooms plus units in 10 percent poverty or less tracts, Chicago is first, followed by north and northwest Cook County, the rest of Cook County, Lake, DuPage, Will, Kane, and McHenry. (See **Table Three**)

For Census tracts 15 percent poverty, the Chicago metropolitan area has almost 184,000 two bedroom units and over 73,000 three bedrooms plus units within fmrs. (See **Table Four**) By region, at 15 percent poverty, Chicago has the most two bedroom fmr units, followed by Cook County outside of the north and northwest, then north and northwest Cook, DuPage, Lake, Kane, Will, and McHenry. For three bedrooms plus fmr units in the 15 percent tracts, the pattern is the same except that Lake has more than DuPage and Will has more than Kane.

TABLE THREE: AFFORDABLE UNITS IN 10 PERCENT POVERTY CENSUS TRACTS

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	34,275	138	23	2	248	15,259	62	26	1
CK	40,080	167	26	1	240	11,847	49	21	3
NW	30,990	160	20	3	194	11,950	62	21	2
DU	17,605	154	12	4	114	4,747	42	8	5
KN	7,724	140	5	6	55	3,405	62	6	7
LK	9,565	109	6	5	88	4,778	54	8	4
MC	4,041	155	3	8	26	1,973	76	3	8
WL	7,490	112	5	7	67	3,780	56	7	6
TOT	151,770	147	100		1032	57,739	56	100	

TABLE FOUR: AFFORDABLE UNITS IN 15 PERCENT POVERTY CENSUS TRACTS

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	58,352	64	32	1	356	26,716	75	37	1
CK	43,003	171	23	2	252	12,981	52	17	2
NW	32,634	164	18	3	199	12,914	65	17	3
DU	17,842	54	10	4	116	4,880	42	7	5
KN	9,146	155	5	6	59	3,987	68	5	7
LK	10,622	115	6	5	92	5,492	60	8	4
MC	4,041	155	2	8	26	1,973	76	3	8
WL	7,980	112	4	7	71	4,093	58	6	6
TOT	183,620	157	100		1,171	73,036	62	100	

AVG = MEAN NUMBER OF FMR UNITS WITHIN EACH BELOW POVERTY CENSUS TRACT

CTS = NUMBER OF CENSUS TRACTS AT PARTICULAR POVERTY LEVEL

NW = NORTH AND NORTHWEST COOK COUNTY

CK = THE REST OF COOK COUNTY

3BRMS = THREE BEDROOMS OR MORE

AFFORDABLE = UNITS WITHIN MAXIMUM FMRS

TOT = CHICAGO METROPOLITAN AREA

% = PROPORTION OF METRO AREA FMR UNITS IN THAT REGION

D. Vacancies and Affordability

In order to determine the actual number of fmr units available, vacancy rates have to be considered. Unfortunately, given the limitations of time and other resources, it is impossible to determine the current vacancy rates by census tract. The only readily available data is from the 1990 Census but that data also has problems. It is obviously out of date and it is not organized by rent category. Yet it does provide a rough estimate of what is rentable, keeping in mind the other problems limiting the supply like limited landlord participation and HUD health and safety requirements.

There are over 178,000 vacant units in the Chicago metropolitan area, of which almost 108,000 (61%) are located in Chicago. Most of the remainder are in north and northwest Cook County and DuPage. (See **Table Five**)

TABLE FIVE: VACANT UNITS IN THE CHICAGO METROPOLITAN AREA

	NUMBER	%	AVG	RANK
CHI	107,865	61	125	1
CK	19,413	11	69	2
NW	15,067	8	74	3
DU	13,193	7	114	4
KN	4,320	2	64	7
LK	9,317	5	96	5
MC	3,045	2	117	8
WL	5,937	3	75	6
TOT	178,157	99	102	

For two bedroom units within fmrs, the total number of vacancies is almost 28,000 with Chicago having the bulk, followed by the rest of Cook County, the north and northwest suburbs, and DuPage. (See **Table Six**) For three bedroom units within fmrs, the total number of vacancies is over 13,000, with the overwhelming number in Chicago (85%) and most of the remaining in suburban Cook County.

When limiting the analysis to low poverty Census tracts, the number of vacant units within fmrs drops dramatically. In 10 percent poverty tracts there are just over 9,000 two bedroom fmr units and only 1700 three bedroom plus units compared to 28,000 and 13,000 for all tracts. In 15 percent tracts the numbers improve to almost 12,000 two bedroom units and almost 2500 three bedroom units within fmrs. (See **Table Seven**)

TABLE SIX: VACANCIES AMONG FMR UNITS BY PLACE

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	18,953	23	68	1	841	11,274	13	85	1
CK	2,904	10	10	2	279	769	3	6	2
NW	2,181	11	8	3	202	302	1	2	4
DU	1,385	12	5	4	116	109	1	1	7
KN	590	9	2	7	64	175	3	1	6
LK	879	9	3	5	97	338	3	2	3
MC	252	10	1	8	26	69	2	1	8
WL	642	8	2	6	78	260	3	2	5
TOT	27,786	16	99		1,703	13,296	8	100	

TABLE SEVEN: VACANCIES AMONG FMR UNITS BY TEN PERCENT POVERTY

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	1,946	8	21	3	230	553	2	32	1
CK	2,047	9	22	2	236	294	1	17	2
NW	2,058	11	22	1	192	245	1	14	4
DU	1,373	12	15	4	114	106	1	6	6
KN	422	8	5	7	51	79	2	5	7
LK	689	8	7	5	88	253	3	15	3
MC	252	10	3	8	26	69	3	4	8
WL	442	7	5	6	66	118	2	7	5
TOT	9,229	9	100		1,003	1,717	2	100	

In 10 percent poverty tracts by place for two bedroom units within fmrs, north and northwest Cook have the largest number of vacant units, followed by the rest of suburban Cook

and the city of Chicago. DuPage and the other counties only have approximately 3300 vacant affordable two bedroom units in 10 percent tracts. For three bedrooms plus, the number of vacancies are quite small with Chicago having 550 and the Cook County suburbs about the same, representing 1100 of the 1700 two bedroom fmr units in ten percent tracts for the metro area.

At the fifteen percent poverty level for two bedroom units within fmrs, Chicago has the most vacant units followed by north and northwest Cook, the other Cook County suburbs and DuPage. (See **Table Eight**) For three bedroom plus fmr units, Chicago once again has the most vacancies, followed by suburban Cook, and Kane County with the other counties having approximately 500 vacant three bedroom plus units within fmrs.

TABLE EIGHT: VACANCIES AMONG FMR UNITS BY 15 PERCENT POVERTY

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	3,845	11	33	1	338	1099	3	45	1
CK	2,296	9	20	2	248	342	2	14	2
NW	2,172	11	19	3	197	282	2	12	3
DU	1,385	12	12	4	116	109	1	4	6
KN	513	9	4	6	55	97	2	4	7
LK	763	8	7	5	92	280	9	12	4
MC	252	10	2	8	26	69	3	3	8
WL	477	7	4	7	70	145	3	6	5
TOT	11,703	10	100		1142	2423	2	100	

IV. CONCLUSIONS

The number of vacant affordable units, both two and three plus bedrooms, that are located in low poverty census tracts are few in number and represent a very small segment of the total

rental market in the Chicago area. There are only 11,000 two bedroom or more vacant affordable units in 10 percent tracts in the Chicago area, which represents just 2.3 percent of all of the affordable units. At the 15 percent poverty level, the number of vacant affordable two bedroom or more units increase to 14,000, representing three percent of all affordable units. It is important to note that these figures probably overestimate the actual supply of low poverty tract units, because the vacancy rates are probably lower than in 1989 when the Census was taken, particularly in low poverty tracts.

In the Housing Authority of Cook County (HACC) service area, there are over 6,000 families on the Section 8 program and roughly another 6,000 families in the other suburban Section 8 programs. In 1991 there were approximately 13,000 families in the CHA Section 8 program and the number is probably higher today, bringing the total number of Section 8 families in the Chicago area to over 25,000. Previous research indicates that most of those families do not live in low poverty tracts.¹² Assuming a turnover rate of at least ten percent, 2,500 returned family Section 8 certificates/vouchers are available for families to use in low poverty areas each year.¹³ An additional 1,000 new family certificates/vouchers on average have also been available in the Chicago area over the past few years.¹⁴ Assuming roughly 3,500 family certificate/vouchers available for new moves in a given year and a preference that these families move to ten percent

¹²See Paul Fischer, A Racial Perspective on Subsidized Housing in the Chicago Suburbs, 1992, South Suburban Housing Center. It is also commonly known that most of the CHA families do not live in low poverty tracts.

¹³This figure is based on the experience of HACC and may not be generalizable to other housing authorities.

¹⁴Although the CHA did not get an allocation this year, it's allocation was added to that of the HACC Section 8 program.

or less Census tracts, Section 8 families would have to rent approximately 3,500 out of the 9,000 (39%) vacant two or more bedroom affordable units in those tracts. If efforts were made to encourage the existing Section 8 families to move to low poverty tracts, there are almost three times as many families as there are vacant units. (9,000 units for 25,000 families) That assumes that all of these units meet HUD health and safety standards and that the landlords would be willing to rent to Section 8 families. The situation is a little better at the fifteen percent poverty level but the number of affordable units is still far below the number of Section 8 families.

It is clear that a successful housing mobility program that covers all Section 8 families must take the limited supply of vacant units into account. It is unrealistic to rely on this housing market to provide housing choices for low income families in low poverty areas. Even a voluntary program, focusing on new certificates/vouchers, will probably be constrained by the limited supply of available units. If a serious attempt is to be made to expand housing choices and provide housing opportunities for Section 8 families in low poverty areas, new units must be built, older dilapidated units must be rehabilitated, and greater efforts must be undertaken to involve more low poverty tract landlords in the Section 8 program.

AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

RENEE A. WARD being first duly sworn on oath deposes and says that she is employed in the Office of the United States Attorney for the Northern District of Illinois; that on the 25th day of June, 1997, she placed a copy of **FEDERAL DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO MODIFY CHA'S JUDGMENT ORDER** in a government franked envelope addressed to each of the following named individual(s) and caused each envelope to be deposited in the United States mail chute located in the Everett McKinley Dirksen Building, Chicago, Illinois on said date at the hour of 5:00 p.m.

To: See Attached Service List

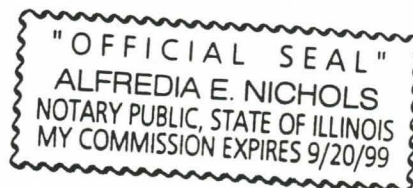
Renee A. Ward

SUBSCRIBED AND SWORN TO before me
this 25th day of June 1997

Alfredia E. Nichols

NOTARY PUBLIC

My Commission Expires: _____



SERVICE LIST

1. Alexander Polikoff, Esq.
Business & Professional People
for the Public interest
17 East Monroe Street, Suite-212
Chicago, Illinois 60603
2. Michael L. Shakman, Esq.
Barry A. Miller, Esq.
Edward W. Feldman, Esq.
Derek L. Cottier, Esq.
Miller, Shakman, Hamilton, Kurtzon
& Schlifke
208 S. LaSalle Street, Suite 1100
Chicago, Illinois 60604
3. Susan Getzendanner, Esq.
Nancy Eisenhauer, Esq.
Skadden, Arps, Slate, Meagher
& Flom (Illinois)
333 W. Wacker Drive, Suite 2100
Chicago, Illinois 60606
Counsel for CHA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CARMEN THOMPSON, et al.	*
— Plaintiffs	*
vs.	* Civil Action No. MJG-95-309
UNITED STATES DEPARTMENT OF	*
HOUSING AND URBAN DEVELOPMENT,	*
et al.	*
Defendants	*
* * * * *	* * * * *

ORDER CERTIFYING CLASS AND APPROVING PARTIAL CONSENT DECREE

On April 25, 1996, this Court entered an Order preliminarily approving a partial Consent Decree by the parties and conditionally certifying a proposed plaintiff class, subject to a hearing to determine the fairness, adequacy and reasonableness of the proposed Partial Consent Decree.

Upon consideration of the Joint Motion of the Parties for Preliminary Approval of Class Settlement, memoranda and affidavits filed in support thereof, and after a hearing conducted on May 31, 1996 at which the Court heard and considered expert testimony and statements presented by class members and non-class members supporting approval of the proposed Partial Consent Decree, and statements by non-class members objecting to its approval, the Court hereby finds as follows:

1. Pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, certification of a class consisting of:

All African-Americans who resided in
Baltimore City family public housing units at
any time between January 31, 1995 and the

date of approval of this Decree, who presently reside in Baltimore City family public housing units, or who will in the future reside in Baltimore City family public housing units prior to the time the Defendants' obligations under this Decree, exclusive of any provision of operating subsidies, terminate.

is appropriate in that the class is so numerous that joinder of all members is impracticable, there exist questions of law and fact common to the class, the claims of the representative plaintiffs are typical of those of the class and the representative plaintiffs will fairly and adequately protect the interests of other class members, and in that equitable and declaratory relief with respect to the class as a whole is appropriate.

2. Class members as well as the public have been afforded timely and adequate notice of the proposed Partial Consent Decree and its terms and of the opportunity to object to approval of the Decree, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and that no such objections were received from class members before the date of the fairness hearing or to date. As more specifically described in the affidavit of counsel for the local defendants, a class Notice approved by the Court which contained a summary of the litigation and the partial Consent Decree, the time and place of the fairness hearing and the procedure and deadline for submitting objections to or comments on the Decree was mailed to all class members. Class Notice was also posted in government offices frequented by class members, and was published in the Baltimore Sun, the Baltimore Afro-

American, and the Baltimore Times, announcements were read on two radio stations serving a predominantly minority audience in Baltimore City and extensive media coverage of the settlement and terms of the Partial Consent Decree further afforded class members actual notice of the proposed Partial Consent Decree.

3. It does not appear that any Class Member submitted an objection to the proposed Partial Consent Decree.¹ In excess of 1,000 members of the public, none of whom identified themselves as Class Members, submitted objections. While most were by signed preprinted form letters, many were individually drafted letters expressing the authors' views on the Proposed Partial Settlement and other matters. None of the persons submitting objections sought to intervene in the litigation pursuant to Rule 24 of the Federal Rules of Civil Procedure and none have legal standing to object to the proposed Partial Settlement pursuant to Rule 23(e). Nevertheless, all submissions have been carefully considered and will be filed with the clerk of this Court.

4. At the fairness hearing, all persons who had asked to speak were permitted to do so. There were statements by Class Members and the parties' counsel in favor of the Proposed Settlement. No Class Member who spoke opposed. There were statements by members of the public who were not Class Members, some in favor of the proposed partial Settlement and a few

¹ One Class Member expressed a desire for a more rapid demolition of one of the projects.

opposed. The statements of all were heard and have been carefully considered.

5. For reasons stated in the Memorandum of Decision Re Partial Consent Decree issued herewith, the Court concludes that:

a. The Partial Consent Decree is fair, reasonable and adequate and otherwise meets the requirements for approval of a class settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure.

b. The Court shall appoint a Special Master to aid the Court in its continuing function in this case relating to the Partial Consent Decree.

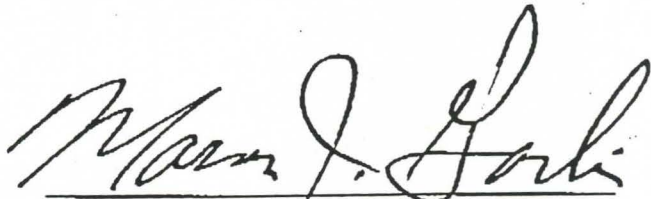
Accordingly:

1. This case shall proceed as a class action pursuant to Rule 23 in accordance with Section 11.1 of the Partial Consent Decree;
2. A class is hereby certified in accordance with Section 11.1 of the Partial Consent Decree. The class shall consist of all African-Americans who resided in Baltimore City family public housing units at any time between January 31, 1995 and the date of approval of this Decree, who presently reside in Baltimore City family public housing units, or who will in the future reside in Baltimore City family public housing units prior to the time the Defendants' obligations under this Decree, exclusive of any provision of operating subsidies, terminate;
3. The Partial Consent Decree is hereby approved and shall be entered as an Order of this Court;
4. The Plaintiffs' Motion for Preliminary Injunction is hereby DISMISSED WITH PREJUDICE;
5. Plaintiffs' claims with respect to Fairfield Homes, Lafayette Courts, Lexington Terrace, Murphy Homes and Flag House Courts (the "Housing Projects") to the extent expressly released by

Sections 10.1, 10.2 and 10.2.1, are hereby dismissed with prejudice;

6. The parties reserve the right to litigate all of the Plaintiffs' claims not expressly released by Sections 10.1, 10.2 and 10.2.1 of the Partial Consent Decree, subject to the provisions of Section XXI of the Partial Consent Decree;
7. The Court shall retain jurisdiction over the Defendants for such further orders as may be necessary and appropriate for the enforcement of this Partial Consent Decree in accordance with Section XII of the Decree and for adjudication of the merits and jurisdiction of Plaintiffs' remaining claims not expressly released by Sections 10.1, 10.2 and 10.2.1 of the Partial Consent Decree; and
8. Except as provided by Section XXI of the Partial Consent Decree and such proceedings as the Court may direct relating to a Special Master, all litigation in this case, including any petition for attorneys fees and costs, is hereby stayed. The stay shall expire six months from the date of this Order unless extended by further Order of this Court.

SO ORDERED this 25th day of June, 1996.



Marvin J. Garbis
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT

CARMEN THOMPSON, et al.

*

Plaintiffs'

*

vs.

*

Civil Action No. MJG-95-309

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

*

*

Defendants

*

*

*

*

*

*

*

*

*

*

MEMORANDUM OF DECISION
RE APPROVAL OF PARTIAL CONSENT DECREE

The Court has before it the question of whether or not to approve the parties' partial settlement of this case as embodied in a Partial Consent Decree.

In order to approve this partial settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court must find that it is a fair, reasonable, and adequate settlement with respect to the class members. See, e.g., Flinn v. FMC Corp., 528 F.2d 1169, 1174 n. 19 (4th Cir. 1975), cert. denied, 424 U.S. 967, 96 S. Ct. 1462 (1976).

It is well established that only parties and members of the Plaintiff Class have legal standing to object to proposed settlements of class actions. See Gould v. Alleco, Inc., 883 F.2d 281, 284 (4th Cir. 1989), cert. denied, 493 U.S. 1058, 110 S. Ct. 870 (1990). However, the proposed partial settlement of this case is of concern to the entire Baltimore region, that is Baltimore City as well as Baltimore, Anne Arundel, Carroll,



Harford, Howard and Queen Anne's Counties. Therefore, the Court required the parties to give public notice of the proposed settlement and an open invitation to provide comments and to speak at the fairness hearing. The Court has had the benefit of input from the parties as well as the general public from the Baltimore region.

No Member of the Plaintiff Class has expressed an objection to approval of the partial settlement.¹ Representative Members of the Class spoke in support of the settlement at the fairness hearing. Moreover, support for entry of the proposed Partial Consent Decree was expressed at the fairness hearing by community leaders and others from Baltimore City and the counties in the Baltimore region. Also, counsel for the parties have presented a united front in favor of acceptance of the proposed settlement.

As noted by counsel for the parties, the partial settlement is, indeed, a compromise of at least part of a vigorously contested law suit in which there were serious issues presented. The proposed settlement represents a compromise reached by the parties after extensive investigation of the facts, legal preparation and formal discovery proceedings. The parties reached agreement as to a basis for settlement in light of the necessarily uncertain outcome of the case and the interest of the parties to devote their resources to more constructive purposes than litigation.

¹ The only person identified as a Class member objecting to any part of the proposed settlement expressed concern only with the timing of demolition of the project in which she lived.

While the parties are unanimous in their view that the partial settlement should be approved and have presented comments reflecting support from throughout the Baltimore region, there is also opposition to approval. The Court has received over 1,200 letters expressing opposition to the proposed Partial Consent Decree. In excess of 1,000 were signed form letters.² However, more than 200 were individually written communications.³ In addition, five persons from the counties in the Baltimore region spoke⁴ at the fairness hearing in opposition to the proposed Partial Consent Decree.

Some of the opposition to the proposed settlement was based upon expressed racial bias. However, the vast majority of the objections cannot be so characterized.

To be sure, many of the objections related to matters that are far beyond the scope of this law suit and should be directed to legislators who can address broad societal problems and can change existing legislation. Nevertheless, the objections were made, for the most part, by persons who express sincerely held concerns about what they perceive as possible negative impacts on them resulting from the providing of housing opportunities for members of the Plaintiff Class in their neighborhoods. The fact,

² A representative copy of each form letter will be filed on the record of these proceedings.

³ Each individual letter received by the Court and by counsel for Plaintiffs in response to the notice will be filed on the record of these proceedings.

⁴ Four orally and one through a written statement read at the hearing.

and it is a fact, that there are already substantially more Section 8 households in the pertinent counties than will be added by the decree does not eliminate the concerns.

Those objecting to the approval of the Proposed Consent Decree do not have legal standing as parties before this Court. However, this Court finds it appropriate to consider their views and to try to address the legitimate concerns of those whose neighborhoods will receive members of the Plaintiff Class pursuant to the Partial Consent Decree. Indeed, it is in the best interest of the Plaintiff Class Members who will move into new neighborhoods for the parties to take all steps possible to ease their transition.

It is important to bear in mind that this case is about the treatment of people whose homes are being demolished by Governmental action. To be sure, some of the residents of the projects should rightfully bear responsibility for the transformation of their neighborhoods into places unfit for decent people. However, the vast majority of those who have had to endure life in the projects cannot be blamed for the deterioration of their neighborhoods.

This Court should not, cannot, and will not, disapprove the proposed settlement which would provide housing opportunities in non-impacted areas for some of the displaced persons. Many of the displaced will choose replacement housing in the City in neighborhoods that have primarily African-American residents albeit, hopefully, with mixed levels of income. Some, however,

will seek an opportunity to move to racially mixed neighborhoods in the Baltimore region. Those who meet stringent qualifications and are willing to undertake the responsibilities⁵ that go along with a housing opportunity should be afforded the chance to change their lives.

The parties to this case, and the Court, should not ignore the reasonable concerns of the neighborhoods into which Class Members will relocate. The recipient neighborhoods have an interest in the design, and careful application, of the selection criteria used to qualify those members of the Plaintiff Class to be given housing opportunities. Moreover, the recipient neighborhoods can contribute to the successful relocation of Class Members by providing the same kind of personal support that is willingly provided to those who immigrate from foreign countries. And, finally, for those few specific situations which may present genuine problems, the recipient neighborhoods have a legitimate interest in having prompt appropriate efforts made to provide solutions.

The Court has concluded that there is a need for a Special Master to assist the Court in the implementation of the Partial Consent Decree. It is not now possible to define the duties of the Special Master with great precision. Nevertheless, at the very least it will be beneficial to have a Special Master,

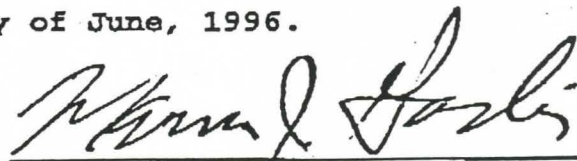
⁵ Plaintiffs' counsel, and the representative Class Members addressing the Court have expressed a keen understanding that the Partial Consent decree is not a "handout" program, but is one that provides heretofore unavailable opportunities.

independent of the parties, meet with representative neighborhood associations in the Baltimore region regarding the organization of a citizen advisory panel to assist the parties and the Court in making the Partial Consent Decree a success. Also, the Special Master will serve a valuable function in regard to liaison between the parties and other organizations⁶ that will be involved, or can be enlisted to help, in the successful implementation of the Partial Consent Decree. Finally, the Special Master shall have a role in helping the Court decide what additional duties, if any, should be performed by a Special Master.

For the foregoing reasons:

1. The Court shall approve the proposed partial settlement and Partial Consent Decree.
2. The Court shall, however, also provide for the appointment of a Special Master to assist the Court and the parties in regard to the implementation of the Partial Consent Decree

SO ORDERED this 25th day of June, 1996.



Marvin J. Garbis
United States District Judge

⁶ For example, county governments as well as religious, charitable and civic organizations.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	Chief Judge Aspen
v.	)	
	)	
CHICAGO HOUSING AUTHORITY,	)	
	)	
Defendant.	)	

**FEDERAL DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO
MODIFY CHA'S JUDGMENT ORDER^{1/}**

Plaintiffs' motion asks that the "order in this case be modified to provide that CHA's Section 8 certificates^{2/} be used to provide relief to plaintiff class families". Motion To Modify Judgment Order at 4. Additionally, plaintiffs ask that the court require CHA to use the certificates "in a manner comparable to the companion case's Gautreaux program". Id. The latter reference is

^{1/} The Department of Housing and Urban Development submits this response to present factors this court may consider in deciding whether to exercise its equitable powers to modify CHA's judgment order as requested by plaintiffs' motion.

^{2/} There are two forms of Section 8 Existing programs involved in plaintiffs' motion: rental certificates and rental vouchers. Under 42 U.S.C. § 1437f(b), which governs the certificate program, HUD is authorized to enter into annual contributions contracts with public housing agencies (PHAs) such as the CHA, which then would enter into contracts to make assistance payments to private landlords. The voucher program is authorized by 42 U.S.C. § 1437f(o) and like the certificate program provides in subsection 1437f(o)(5) for funding through an annual contributions contract with PHAs. The regulations governing those programs are contained in 24 CFR Parts 882 and 982. For purposes of this memorandum, HUD is referring to both programs when it uses the term "certificates".

to the Leadership Council for Metropolitan Open Communities' program under which HUD, pursuant to its consent decree with the plaintiffs, has provided a separate pool of certificates in addition to what has been provided in the normal course to public housing agencies in the Chicago SMSA. This program is available only to "eligible persons" as defined in the HUD consent decree and precludes recipients from using certificates to rent apartments in the racially concentrated "Limited Areas". Plaintiffs' motion now seeks to apply this Gautreaux restriction to Section 8 certificates that have been given to CHA in the normal course of its business.

A. Because Gautreaux class members living in CHA's family public housing projects will be the primary recipients of the 7340 certificates HUD has granted CHA recently and because the class has had equal opportunity to apply to CHA's Section 8 program, it would be inequitable to require that CHA target any further certificates away from other applicants.

Plaintiffs state that over 15,000 families are currently using CHA certificates. Motion To Modify Judgment Order at 3. However, plaintiffs fail to acknowledge that recently HUD has made available to CHA 7340 certificates for use by the tenants of the CHA's family public housing projects, which are primarily Gautreaux class members.^{3/} Declaration of Madeline Hastings at 2. Ex. 1. In addition, there is little likelihood, with a few limited exceptions, that if CHA receives additional certificates from HUD in the future they would be made available to anyone except the tenants of the family public housing projects. Id.

^{3/} Class members are defined as African American tenants in or applicants for public housing. Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907 (1969).

Because so much of CHA's Section 8 program will be directed towards providing certificates to Gautreaux class members, it would, therefore, be inequitable to provide Gautreaux class members with any further special right to receive CHA's certificates.^{4/} It should be noted that class members have always had the same right to apply as other eligible tenants for assistance through the Section 8 program, if they were interested in receiving that type of rental assistance. Those that have applied and will apply^{5/} will be considered in accordance with the date and time of their application and any applicable preferences.

If on the other hand, plaintiffs are seeking to move Gautreaux class members who are already on CHA's Section 8 waiting list or who apply in the future to the top of the waiting list (e.g., by creating a preference for them) it would run afoul of the court order in Latinos United v. Chicago Housing Authority, No. 94-C1229 (N.D. Ill. filed June 21, 1996), pgs. 14-17, see Ex. 3, which grants preferences to Latinos. Additionally, such a preference would be prejudicial to existing Section 8 applicants who have

^{4/} Because no new Section 8 funding is expected to be given, except for accommodating public housing tenants, families who have applied to the Section 8 program will essentially be offered only "turnover" certificates, i.e., funding that becomes available when Section 8 certificate holders leave the program, and any unused certificates that had been previously been awarded for CHA's regular Section 8 program.

^{5/} The Section 8 waiting list which has been closed for a period of time, is expected to be opened in the near future. Gautreaux class members will, therefore, be able to apply to be put on the waiting list just like any other eligible family. Declaration of Jennifer O'Neill, Deputy Executive Director, CHAC, Inc. Ex. 2.

previously applied and have been waiting for years for housing assistance. In this regard, there are approximately 5,800 applicants presently on the Section 8 waiting list and those with application dates of 1991 are presently being placed. Declaration of Jennifer O'Neill, Deputy Executive Director, CHAC, Inc. Ex. 2.

B. Because the law precludes certificate holders from being denied the opportunity to select where they want to live, the court should insure that class members are given the opportunity to object to having their legal entitlement waived.

Besides seeking certificates for Gautreaux class members, the motion additionally seeks that class members who receive certificates be directed to use their certificates only in General Areas. Thus, the motion necessarily is asking that this Court endorse denying class members who receive the certificates the opportunity to choose where they want to live. Yet, no explanation has been provided as to why it would be necessary for this Court to mandate where a class member can live or why it will not have any adverse consequences.^{5/} Indeed, if a class member wants to live in

^{5/} The Gautreaux program created through HUD's Consent Decree precludes families from using their certificates in Limited Areas. Such a program, under which 150 certificates per year was provided by HUD separate from normal allocations, allowed families who want to move from where they were presently living and who were interested in moving to a General Area the opportunity to apply for the certificates. In contrast, unlike the Gautreaux program under HUD's consent decree, the geographical restrictions here would apply primarily to class members who will be required to vacate their public housing units pursuant to the replacement and relocation program and who may not want to live in General Areas. This distinction may be critical, since there is a shortage of affordable rental housing. See, "Housing Affordability In The Chicago Metropolitan Area: A Study Of The Potential Supply Of Fair Market Rent Units In Low Poverty Areas", dated August 2, 1995, by Paul B. Fischer, Professor of Politics, Lake Forest College (Ex 4). Therefore, restrictions that would limit where the 7340 families, (continued...)

a General Area he or she is permitted to do so under regular Section 8 program rules.

Should the Court decide, however, to restrict where certificates can be used, the Court should consider changes that have been made in federal housing law. At the time the Court approved the HUD consent decree in 1981, there was only a HUD regulation, which could be waived, that established a "Finders-Keepers" policy.^{7/} In 1988, however, Congress made certificates "portable" so that they could be used in areas outside of the area in which the issuing PHA can under state law operate (i.e., the "PHA's jurisdiction").^{8/} That law guarantees that a certificate can be used anywhere in the same State as the issuing PHA and same or abutting metropolitan statistical area as the issuing PHA's, even in a different State. 42 U.S.C. § 1437f(r); 24 CFR § 982.353(b). Therefore, a court order directing where certificate holders may use their certificates outside the City of Chicago, which is essentially the CHA's jurisdiction, would violate federal law. On the other hand, persons can voluntarily relinquish their legal entitlement, if they so wish. Accordingly, if the Court

^{6/} (...continued)
who must be displaced from their public housing units, could live would appear to adversely affect their ability to rent housing in the City if they wish to remain there, as well as their ability to rent in the suburbs.

^{7/} 24 CFR § 882.103 ("Finders-Keepers" policy) (1981); 24 CFR § 899.101 (Waivers) (1981).

^{8/} Section 145 of the Housing and Community Development Act of 1987, Pub. L. No. 100-242, 101 Stat. 1815, 1852 (codified as 42 U.S.C. § 1437f(r)).

believes it is appropriate in this lawsuit to restrict housing choice, a process where all class members are given the opportunity to object to the restrictions would need to be afforded.^{2/}

Respectfully submitted,

JAMES B. BURNS
United States Attorney

By:


LINDA A. WAWZENSKI
Assistant U.S. Attorney
219 S. Dearborn Street
Chicago, Illinois 60604
(312) 353-1996

Carole W. Wilson
Associate General Counsel
for Litigation and Fair Housing Enforcement

Howard M. Schmeltzer
Assistant General Counsel

Kathleen E. Burtschi
Trial Attorney

^{2/} HUD's regulations also convey to certificate holders the right to receive assistance to lease a unit "anywhere" in the jurisdiction of the PHA that first issued the certificate. 24 CFR § 982.353(a). Thus, a PHA "may not directly or indirectly reduce the family's opportunity to select among available units." 24 CFR § 982.353(f) (61 Fed. Reg. 157 at 42131 (August 13, 1996)).

Since the "freedom of choice" entitlement within a PHA's jurisdiction is regulatory, and not statutory, HUD can permit restrictions within a PHA's jurisdiction where HUD determines they are necessary to achieve desegregation goals under a court order. 24 CFR § 982.353(a) (61 Fed. Reg. 157 at 42131 (August 13, 1996)). On the other hand, HUD has no authority to waive the rights granted by the portability statute to families who want to use their certificates outside of Chicago. See 61 Fed. Reg. 157 at 41230 ("This rule does not revise the portability procedures set forth at 24 CFR § 982.353(b). This final rule, therefore, does not authorize limiting the residential choice of a family renting outside the jurisdiction of the initial HA.").

Department of Housing
and Urban Development
451 Seventh Street, SW
Washington, D.C. 10410
202-708-1067

John Jensen, Associate Field Counsel
U.S. Department of Housing and
Urban Development
626 West Jackson Boulevard
Chicago, Illinois 60606-5601

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division

DOROTHY GAUTREAUX, et al.

Plaintiffs

v.

CHICAGO HOUSING AUTHORITY

Defendant

NO. 66 C 1459

DECLARATION OF MADELINE HASTINGS

I, Madeline Hastings, Associate Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, United States Department of Housing and Urban Development (HUD), do hereby declare under penalty of perjury that I am familiar with the purposes and circumstances of HUD's recent funding of Section 8 certificates and vouchers to the Chicago Housing Authority (CHA), and that the following statements are based upon my personal knowledge or information provided to me by my staff.

1. Pursuant to Section 14(p) of the United States Housing Act of 1937, 42 U.S.C. 1437l, public housing agencies (PHAs) were provided with Section 8 vouchers and certificates to allow public housing families to move out of deteriorated or obsolete public housing developments. In addition to the vacancy consolidation certificates and vouchers, funds were reserved in the amount of \$1,000 per certificate or voucher for the purpose of providing counseling to increase housing opportunities for families



receiving the certificates and vouchers, and to promote higher success rates in moving these families into low-poverty areas.

2. In October 1995, CHA was granted approval for receipt of 4,000 vacancy consolidation vouchers and certificates. Pursuant to the CHA's Vacancy Consolidation Plan, CHA plans to use the 4,000 certificates and vouchers to provide for the relocation of public housing residents living at six developments and various scattered site units. CHA also plans to use the \$4 million in counseling funds that go with the certificates and vouchers to promote housing choices in low-poverty areas. It is HUD's present intention to have CHA contract out the counseling function to a separate entity. The low-poverty areas that are to be promoted under the vacancy consolidation program correspond substantially with the General Areas as defined in the Gautreaux Consent Decree.

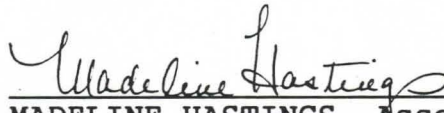
3. Under the Fiscal Year 1996 Appropriation, 42 U.S.C. 14371 note, Congress mandated the conversion of certain distressed public housing developments to tenant-based Section 8 assistance for those individuals living in the distressed units.

4. On December 1, 1996, HUD and CHA executed annual contribution contracts for the funding of 3,340 Section 8 certificates and vouchers given to CHA for the purpose of moving public housing tenants out of distressed public housing that is to be demolished.

5. In the past several years, Congress has authorized very little incremental funding of new Section 8 certificates and

vouchers, except for limited purposes, such as HUD litigation settlements, family unification, witness relocation, and relocation assistance to families living in assisted housing projects or replacement housing for public housing units being demolished or sold. Based on current budgetary constraints, this trend is likely to continue. Accordingly, it is unlikely that there will be additional funds available to CHA for use in its regular Section 8 certificate or voucher programs. Should Congress appropriate funds for Section 8 assistance it will likely be only for specific purposes such as replacement housing or mandatory conversion which would offer housing assistance to the Gautreaux class of public housing tenants.

Executed on May 23, 1997.


MADELINE HASTINGS, Associate Deputy
Assistant Secretary for Public
and Assisted Housing Operations
Office of Public and Indian Housing
U.S. Department of Housing and
Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.)
)
Plaintiffs)
)
v.)
)
CHICAGO HOUSING AUTHORITY)
)
Defendant)

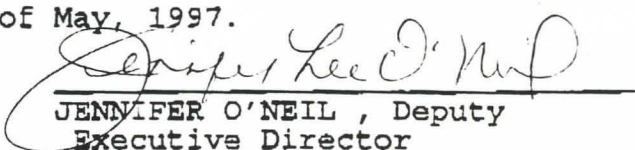
NO. 66 C 1459

DECLARATION OF JENNIFER LEE O'NEIL

1. I, Jennifer Lee O'Neil, Deputy Executive Director of CHAC, Inc., do hereby declare under penalty of perjury that my responsibilities include overseeing the Chicago Housing Authority's (CHA) Section 8 program which CHAC has, by contract, been administering since December 1, 1995. The following statements are based upon my personal knowledge or information provided to me by staff.

2. There are approximately 5,800 applicants on the waiting list for CHA's Section 8 certificates and vouchers, and those with application dates of 1991 are presently being placed. The waiting list for new applicants who wish to receive Section 8 assisted housing has been closed for several years, but it is expected that the list will be reopened later this year. Gautreaux class members will be able to apply to be placed on the waiting list just as any other eligible family.

Executed on this 23rd day of May, 1997.


JENNIFER O'NEIL, Deputy
Executive Director
CHAC, Inc.
1000 South Wabash Avenue
Chicago, Illinois 60605



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LATINOS UNITED, EIGHTEENTH STREET
DEVELOPMENT CORPORATION, HISPANIC
HOUSING DEVELOPMENT CORPORATION,
BICKERDIKE REDEVELOPMENT
CORPORATION, and COMITE LATINO;
and ROSALIA RIVERA, RAQUEL
GONZALEZ SYPIEN, GLORIA CARDONA
QUINONES, and NILDA ORTIZ,
individually and on behalf of all
persons similarly situated,

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY, UNITED
STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT, VINCENT LANE,
ROBERT D. WHITFIELD, and HENRY
CISNEROS,

Defendants.

No. 94 C 1229

Judge Lindberg

CONSENT DECREE WITH CHICAGO HOUSING AUTHORITY

WHEREAS, plaintiffs have filed a Complaint in this action alleging that, as a result of actions and inactions of the Chicago Housing Authority ("CHA") and its officials, in the operation, administration, supervision and funding of housing assistance programs in Chicago, Latinos have been and are being deprived of housing assistance on the basis of race, color and national origin, in violation of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VIII of the Civil Rights Act of



1968 (42 U.S.C. §§ 3604, 3608), and 42 U.S.C. §§ 1981, 1982 and 1983.

WHEREAS, the Court has determined that plaintiffs may maintain this action as a class action pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure. The class certified by the Court consists of all Latino residents of Chicago who were, have been, or will be denied participation in or equal access to any CHA program as a result of the policies and practices challenged in the Complaint. - - - - -

WHEREAS, the plaintiffs have previously entered into a Consent Decree in this action with the United States Department of Housing and Urban Development ("HUD"), and this Consent Decree (the "HUD Decree") was approved by the Court on July 13, 1995. The HUD Decree states, among other things, that HUD will provide funding for 500 rent-subsidy vouchers under the Section 8 program for the exclusive use of members of the plaintiff class, together with \$1,100,000 of funding over five years for outreach and counseling to promote the use by Latinos of these vouchers and of any vouchers that may be made available to class members as part of the relief obtained from the CHA.

WHEREAS, the plaintiffs and the CHA have stipulated to the facts set forth in Exhibit A hereto ("the Stipulation"). The CHA has not admitted that it violated the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, or 42 U.S.C. §§ 1981, 1982 and 1983; however, the CHA acknowledges that the stipulation sets forth facts from which the Court may infer a

violation of those constitutional and statutory provisions as set forth in the Complaint, and the CHA does not object to a finding by the Court that it violated those constitutional and statutory provisions as set forth in the Complaint.

NOW, THEREFORE, the plaintiffs and the CHA agree as follows:

1. Jurisdiction. This Court has jurisdiction over plaintiffs' claims against the CHA pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 3612.

2. Injunction Against Discrimination. The CHA and its officers, employees, agents, successors and assigns are hereby enjoined from discriminating against Latinos in the operation, administration, supervision and funding of housing assistance programs in Chicago, in violation of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3604 and 3608), and 42 U.S.C. §§ 1981, 1982 and 1983.

3. Translation of Forms and Telephone Messages. The CHA shall ensure that all forms, written materials and recorded telephone messages used now and in the future in dealings with current and prospective tenants and registrants are available in both the English language and the Spanish language. Without limiting the generality of the foregoing, the CHA shall take the following actions:

(a) The translation requirements of Paragraph 3 shall apply to forms, leases, notices, posters, brochures

and mailings related to registration, intake, eligibility and suitability determinations, marketing, outreach, certification and recertification, inspections of housing, retention of tenants and registrants, communications with prospective tenants and registrants, tenant services and public safety. The translation requirements of Paragraph 3 shall apply to all current and future housing assistance programs, including but not limited to conventional housing, elderly housing, the Section 8 program and the scattered site program.

(b) In order to comply with this Paragraph, the CHA shall contract with a professional translator or translation firm, which will be selected through a Request For Proposal process for an annual requirements contract to meet the CHA's translation needs. The first such contract shall take effect within six months from the entry of this Consent Decree. The translation of all materials described in subparagraph (a) that are in use as of the time that the CHA enters into the first such contract shall be completed by the contractor selected as soon as reasonably feasible following the effective date of the contract. The ability of a potential contractor to complete translation of such materials within 90 days from the effective date of the contract shall be one of the selection criteria on which potential contractors are evaluated in the procurement process.

(c) To the extent feasible, the Spanish-language version will appear on the same document as the English-language version.

(d) The CHA shall require in all contracts entered into or renewed following the entry of judgment in this matter that all its contractors and subcontractors provide and use Spanish-language translations of the forms and written materials described in subparagraph (a). The CHA shall request that existing contractors and subcontractors provide and use Spanish-language translations of such forms and written materials as soon as such translations are available.

(e) The CHA shall provide Spanish-language versions of all recorded telephone messages. In any English-language version, within the first ten seconds, the listener shall be informed what to do in order to hear the Spanish-language version (e.g., to wait or call a different number).

4. Bilingual Staffing. The CHA shall ensure that an adequate bilingual (Spanish-English) staff at all levels of employment is available in those offices and locations where Spanish-speaking individuals residing in or registering for public housing may need assistance in Spanish; provided, with respect to management offices serving residents of specific buildings and developments (or groups of commonly managed buildings and developments), that the CHA's obligations to maintain bilingual staff shall be as stated in subparagraph

(a)(vii). Without limiting the generality of the foregoing, the CHA shall take the following actions:

(a) The CHA shall provide employees fluent in Spanish in the following positions on or before August 1, 1996 or six months from entry of this Consent Decree, whichever is later:

(i) At least one telephone system operator to assist Spanish-language speakers who call during normal business hours;

(ii) At least four staff employees in Occupancy to assist persons applying for conventional public housing;

(iii) At least five individuals on the CHA's Emergency Services dispatch staff, at least one of whom is scheduled for duty at all times;

(iv) At least five individuals on the Police Services dispatch staff, at least one of whom is scheduled for duty at all times;

(v) At least one administrative staff employee at the Operations Office (currently located at 47th and State Streets);

(vi) At least one staff employee in any office responsible for performing outreach functions; and

(vii) At least one administrative staff employee at the management office for each development (or group of commonly managed buildings or developments) with a resident population that is at least 10% Latino or has at least 20 Latino leaseholders. Upon implementation, this requirement shall apply to Lathrop, Bridgeport, Trumbull Park, and any elderly development (or group of commonly managed buildings or developments) meeting the criteria in the preceding sentence. Beginning one year after implementation, and at annual intervals thereafter, the CHA shall redetermine the management offices to which this subparagraph applies, using the most recent available data.

(b) In selecting personnel for police, security and maintenance positions, the CHA (and its successors, contractors and administrators) shall give due regard to the need for Spanish-speaking personnel in those developments with a significant Latino resident population.

(c) Within six months from the entry of this Consent Decree, the CHA will open two site registration and information offices, which will be staffed at all levels with bilingual personnel, and which will assist individuals seeking information about or wishing to register for CHA programs. One office will be in the West Town, Humboldt Park or Logan Square area. The other will be in the Lower West Side (Pilsen) or South Lawndale (Little Village) area.

(d) The Latino Community Liaison designated pursuant to Paragraph 10 of this Consent Decree will, on an annual basis, evaluate and report on (i) areas within the CHA where additional bilingual staff may be necessary, and (ii) the need for additional site registration and information offices.

(e) To the extent the CHA contracts with one or more outside contractor(s) to provide any of the functions addressed by subparagraphs (a) or (c), the CHA shall require such contractor(s) to adhere to the bilingual staffing requirements contained herein.

5. Updating of Waiting Lists. Not later than six months following the execution of a contract between the CHA and the translator or professional translation firm as required by

Paragraph 3(b) of this Decree, the CHA will conduct surveys of the registrants on its waiting lists for conventional and Section 8 housing to determine whether those registrants are still interested in CHA housing. All forms and notices sent to registrants in connection with such surveys shall be in both English and Spanish, and shall clearly and conspicuously notify registrants of all actions they must take to avoid being removed from the waiting lists. These registrants will also be notified that they are required to notify the CHA of any change in address. Any registrant who does not respond or who responds by saying that he or she is no longer interested will be removed from the pertinent waiting list.

6. Reinstatement of Purged Latinos. Within 90 days of the entry of this Consent Decree, the CHA will take all steps feasible to identify and prepare a list (the "Purge List") showing the names (in alphabetical order) and last known addresses of individuals who have been "purged" or removed from any CHA waiting list since January 1, 1980, because of their failure to respond to any notification from the CHA or to notify the CHA of changes in address. The CHA shall inform a designated representative of the plaintiffs about all steps taken to create the Purge List. The individuals on the Purge List shall be reinstated on the pertinent waiting list, in the same positions and with the same priorities as if they had never been removed from the list, in accordance with the provisions of this Paragraph.

(a) Any Latino on the Purge List (and any Latino who establishes that he or she was removed from any CHA

waiting list since January 1, 1980, because of his or her failure to respond to any notification from the CHA or to notify the CHA of changes in address) shall, upon such person's request, be reinstated if that person can affirmatively establish that his or her removal from the list was due to the failure of the CHA to provide bilingual notification regarding that person's obligations and not for some other reason not attributable to the CHA. A person can satisfy the foregoing burden of proof by establishing that he or she did not have sufficient English language skills to understand the CHA's notifications.

(b) The Purge List shall be furnished to all offices that accept registrations for CHA programs (whether operated by the CHA or by any contractor or other administrator), and the individuals responsible for providing information to prospective registrants shall be instructed to inquire whether they have registered previously, and if so advise them that they may be eligible for reinstatement.

(c) The CHA shall mail a bilingual (English and Spanish) letter to (i) all persons on the Purge List identified in CHA records by race code or self-identification as Latino, Hispanic, or Spanish-surnamed, and (ii) all other Spanish-surnamed persons on the Purge List. This letter shall notify such persons of their right to request reinstatement and shall include a form to request reinstatement. The CHA shall also arrange for the

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CARMEN THOMPSON, et al.,

Plaintiffs

vs.

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

Defendants.

Civil Action No. MJG 95-309

* * * * *

PARTIAL CONSENT DECREE

I. INTRODUCTION AND PURPOSE

1.1 Plaintiffs have asserted claims in this action against the United States Department of Housing and Urban Development ("HUD"), Henry G. Cisneros in his official capacity as Secretary of HUD, the Housing Authority of Baltimore City ("HABC"), Daniel P. Henson III in his official capacity as Executive Director of HABC and Commissioner of the Baltimore City Department of Housing and Community Development, and the Mayor and City Council of the City of Baltimore (the "City"), alleging that defendants and/or their predecessors established de jure racial segregation in public housing in Baltimore, and that each failed to disestablish and perpetuated that racial segregation, in violation of the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 1981, 1982 and 1983, the U.S. Housing Act of



1937, the Housing and Community Development Act of 1974, and the Administrative Procedure Act.

1.2 This suit was brought on behalf of a proposed class of all African-Americans who presently reside, or will in the future reside, in Baltimore City family public housing units.

1.3 The parties have entered into this Partial Consent Decree to settle certain issues raised in the Plaintiffs' Complaint and Motion for Preliminary Injunction and to avoid the expense and inconvenience of litigation. The defendants deny all liability for all actions, practices or omissions raised in Plaintiffs' claims.

1.4 The HABC and the City intend to demolish and replace the following five public housing projects: Lafayette Courts, Fairfield Homes, Lexington Terrace, Flag House Courts, and Murphy Homes. The purposes of this Decree are to provide for the redevelopment of the housing units which have been or will be demolished at those projects, to settle certain of plaintiffs' claims in this case, and to provide enhanced desegregative housing opportunities for residents of Baltimore City public housing.

II. DEFINITIONS

For purposes of this Partial Consent Decree only, the following definitions, as may be modified by future statutes or regulations, apply:

2.1 "Baltimore Housing Market" means the Baltimore Metropolitan Statistical Area (MSA) as defined by the U.S.

2.7 "Project-based Certificate" means a certificate that is attached to a housing unit or project to subsidize or assist the rental of that unit or a unit in that project by an eligible family.

2.8 "Special Certificate" means a Tenant-based Certificate that is coupled with mobility counseling, as discussed in this Decree, for the household receiving the Certificate. Except as expressly provided herein, a Special Certificate may only be used in a Non-impacted Area.

2.9 "Regular Certificate" means a certificate from HABC's regular inventory of Section 8 certificates and vouchers, with or without mobility counseling. This Decree does not restrict Regular Certificates to use in Non-impacted Areas or otherwise impose conditions on their use by an eligible family.

2.10 "Non-impacted Area" means, in the Baltimore Housing Market, one of the following census tracts:

Baltimore City:

801.01, 1308.03, 2401.00, 2402.00, 2502.06, 2601.01, 2603.01, 2605.01, 2606.05, 2701.01, 2701.02, 2702.00, 2703.02, 2704.01, 2704.02, 2705.01, 2705.02, 2706.00, 2707.03, 2712.00, 2713.00, 2714.00, 2715.01, 2715.03, 2720.02;

Anne Arundel County:

7011.00, 7012.00, 7013.00, 7021.00, 7022.01, 7022.02, 7022.03, 7023.00, 7024.00, 7026.00, 7027.00, 7063.00, 7067.00, 7070.00, 7080.98, 7301.01, 7303.00, 7304.00, 7305.02, 7305.04, 7306.01, 7306.02, 7307.00, 7308.00, 7309.01, 7309.02, 7310.02, 7310.03, 7311.01, 7311.02, 7311.03, 7312.01, 7312.02, 7312.03, 7312.04,

7313.03, 7313.04, 7313.05, 7313.06, 7313.07, 7401.02, 7402.01,
7402.02, 7402.03, 7403.01, 7403.03, 7405.00, 7406.00, 7407.00,
7408.00, 7409.00, 7410.10, 7501.01, 7502.02, 7502.03, 7503.00,
7504.00, 7505.00, 7506.00, 7507.00, 7508.01, 7510.00, 7511.01;

Baltimore County:

4001.00, 4002.00, 4004.01, 4005.00, 4006.00, 4007.01, 4007.02,
4010.00, 4013.01, 4013.02, 4014.00, 4015.03, 4015.04, 4022.02,
4033.00, 4034.02, 4035.00, 4036.01, 4036.02, 4037.01, 4037.02,
4038.01, 4038.02, 4038.03, 4041.00, 4044.01, 4044.02, 4045.00,
4046.01, 4048.00, 4049.00, 4050.00, 4060.00, 4070.00, 4081.00,
4082.00, 4083.00, 4084.00, 4085.02, 4085.03, 4085.04, 4085.05,
4086.01, 4086.02, 4087.01, 4087.02, 4088.00, 4089.00, 4101.00,
4102.00, 4111.01, 4111.02, 4112.01, 4112.02, 4113.02, 4113.03,
4113.04, 4113.05, 4114.02, 4114.04, 4114.05, 4114.06, 4201.00,
4202.00, 4203.02, 4203.03, 4204.01, 4204.02, 4205.01, 4205.02,
4206.00, 4207.01, 4207.02, 4208.00, 4211.01, 4211.02, 4212.00,
4301.02, 4304.00, 4305.00, 4306.00, 4307.00, 4308.00, 4401.00,
4402.00, 4403.00, 4404.00, 4405.00, 4406.00, 4407.00, 4408.00,
4409.02, 4411.01, 4411.02, 4501.00, 4502.00, 4504.00, 4505.01,
4506.00, 4509.00, 4510.00, 4511.00, 4512.00, 4517.01, 4517.02,
4518.02, 4519.00, 4520.00, 4521.00, 4523.00, 4524.00, 4525.00,
4901.00, 4902.00, 4903.01, 4903.02, 4904.00, 4905.00, 4906.01,
4906.02, 4906.03, 4907.02, 4908.00, 4910.00, 4911.00, 4912.01,
4912.02, 4913.00, 4915.00, 4916.00, 4917.01, 4917.02, 4919.00,
4920.01, 4920.02, 4921.01, 4921.02, 4922.00;

Carroll County:

5020.00, 5030.00, 5041.00, 5042.01, 5042.02, 5051.00, 5052.01,
5052.02, 5061.00, 5062.00, 5075.00, 5076.00, 5077.00, 5078.00,
5081.00, 5082.00, 5090.00, 5100.00, 5110.00, 5120.00, 5130.00,
5141.00, 5142.00;

Harford County:

3011.01, 3011.02, 3012.00, 3013.00, 3014.01, 3014.02, 3015.00,
3016.02, 3017.00, 3021.00, 3022.00, 3028.01, 3031.00, 3032.01,
3032.02, 3033.00, 3034.00, 3036.01, 3036.02, 3037.00, 3038.00,
3039.00, 3041.00, 3042.01, 3042.02, 3051.00, 3052.00, 3053.00,
3063.00, 3064.00;

Howard County:

6011.01, 6011.02, 6021.00, 6022.00, 6023.01, 6023.02, 6026.00,
6027.00, 6028.00, 6029.00, 6030.00, 6040.00, 6051.01, 6051.02,
6054.00, 6056.00, 6066.01, 6066.02, 6067.01, 6067.02, 6067.03,
6068.01, 6068.02, 6069.01, 6069.02, 6069.03;

Queen Anne County:

8103.00, 8104.00, 8105.00, 8106.00, 8108.00, 8109.00, 8110.00.

Provided that this list of census tracts may be amended, by agreement of the Parties, based upon the official publication by the U.S. Census Bureau of future decennial census data or other population data at the tract level, or as otherwise provided in this Decree. Provided further that none of the following census block groups will be treated currently as part of a Non-Impacted Area, even though located at this time within a census tract that is or would be considered to be a

Non-Impacted Area: 2603.011, 2603.012, 2603.013, 2603.014, 2603.015, 2605.011, 2605.012, 2605.013, 2605.014, 2605.015, 2606.052, 2606.053, 2606.054, 7402.029.

2.11 **"Impacted Area"** means any area in the Baltimore Housing Market that is not a Non-impacted Area.

2.12 **"Non-subsidized Market Rate Unit"** means:

(a) with respect to the Murphy Homes and Flag House Courts sites, a fee simple, condominium, or cooperative homeownership unit subject to underwriting criteria that require purchasers to have incomes that are at or above sixty percent (60%) of median;

(b) with respect to the Murphy Homes site, a rental unit for which neither the owner nor the occupant has received a capital grant or deferred loan to reduce the rent below sixty-two percent (62%) of HUD's Fair Market Rent (FMR) level (based on the FMR level set at the 45th percentile, as to be calculated by the HABC in the event HUD no longer calculates the FMR level based upon the 45th percentile), nor a rental assistance subsidy, under any federal, state, or local rental assistance program, for persons who have incomes below sixty percent (60%) of median;

(c) with respect to the Flag House Courts site, a rental unit for which neither the owner nor the occupant has received a capital grant or deferred loan to reduce the rent below the lesser of HUD's FMR level or the rent "which the market will bear" in the Flag House neighborhood, nor a rental assistance subsidy under any federal, state or local rental

assistance program for persons who have incomes below sixty percent (60%) of median. The rental amount "which the market will bear" will be determined by an independent survey of market rents in an area that includes the census tract in which Flag House Courts is located (Census Tract 302). The market rent survey shall be obtained by the HABC and provided to HUD and the Plaintiffs. If, after all parties have been provided the information obtained through the market rent survey, the parties are unable to agree upon the rental amount "which the market will bear" in that neighborhood, the dispute resolution procedures set forth in Section 13.2 of this Decree will apply;

(d) a rental or homeownership unit shall not be deemed a "subsidized" unit solely because the purchaser, seller, or developer has received mortgage insurance, below market rate financing, or a federal, state, or local tax credit or exemption;

(e) a homeownership unit shall not be deemed "subsidized" solely because the owner-occupant has received a loan or grant to reduce the settlement expenses, or a second mortgage that is deferred or forgiven based on the continued occupancy of the homeowner for a period of years.

2.13 "Hard unit" as used in this Decree does not include a "non-subsidized market rate unit" or a "market rate unit," but does include homeownership and project-based units developed pursuant to Section 3.2 et. seq.

2.14 "Parties" means the Plaintiffs, the Local Defendants, and the Federal Defendants.

2.15 **"Plaintiff"** means Carmen Thompson, Rhonda Harris, Joann Boyd, Doris Tinsley, Lorraine Johnson, and Isaac J. Neal, and, when it is certified, the plaintiff class.

2.16 **"Federal Defendants"** means HUD and Secretary Henry G. Cisneros and their successors. "Action" as used when referencing the Federal Defendants shall include non-action.

2.17 **"Local Defendants"** means the HABC, the Mayor and City Council of Baltimore, and Commissioner Daniel P. Henson, III and their successors.

2.18 **"Redevelopment Plan"** means a plan for the redevelopment, either on-site or off-site, of the units of a Housing Project that have been demolished or will be demolished as provided in this Decree. A Redevelopment Plan is independent of any Replacement Housing Plan required by Section 18 of the U.S. Housing Act of 1937.

2.19 **"Redevelopment Housing"** means housing developed or provided pursuant to a Redevelopment Plan.

2.20 **"RFP"** means a Request for Proposal for housing development for public response under this Decree. In all situations where this Decree imposes duties or obligations with respect to RFPs or the RFP process, such duties shall be interpreted so as to accord with Federal and State law. To the extent duties with respect to RFPs or the RFP process are inconsistent with the requirements of Federal or State law, and cannot be interpreted to accord with such law, such Federal and State law shall prevail. Section 13.2 on Dispute Resolution shall apply to disputes regarding whether or not the duties

regarding RFPs or the RFP process are inconsistent with Federal or State law, or can be interpreted to conform thereto.

2.21 **"Supplementary City funds"** means a total amount of \$35,304,060 (\$5,034,660 in State Fiscal Year 1995 and \$5,044,900 in each of State Fiscal Years 1996 through 2001) in local bond funds, Community Development Block Grant (CDBG) funds, if any, awarded to the Local Defendants in the normal course, and Section 108 loan guarantees, if any, awarded to the Local Defendants in the normal course, committed by the Local Defendants as the local contribution toward the development costs of units financed, in whole or in part, with Partnership Rental Housing Program ("PRHP") funds appropriated by the Maryland General Assembly for Baltimore City public housing replacement. CDBG funds and Section 108 loan guarantees may be used for the above-stated purpose only if such use is authorized by applicable law and regulations.

2.22 As used in this Decree, "effective date of the Decree" and "date of approval of the Decree" are used interchangeably and are equivalent in meaning.

III. RENT-SUBSIDIZED HOUSING AND HOMEOWNERSHIP DEMONSTRATION

3.1 Tenant-Based Assistance

3.1.1 Upon approval of this Decree, HUD hereby commits funding authority for use by the HABC pursuant to this Decree for a total of 1,342 Section 8 Certificates from Federal Fiscal Year 1995 funds for tenant-based assistance. Except as needed for single, disabled, non-elderly certificate holders selected under Section 7.3 of this Decree, and to relocate current one-

bedroom tenants, these certificates shall be for units of greater than one (1) bedroom. Upon execution of the applicable Annual Contributions Contract amendment(s) ("ACC amendment(s)"), HABC will issue these certificates in accordance with applicable law and regulations and this Decree. These certificates shall have an initial term of three (3) years and shall be renewed for the longest term allowed by law and for the number of terms that totals, including the initial term, fifteen (15) years; and, such future year funding is subject to the availability of appropriations and section 3.3.1 of this Decree. The applicable initial ACC amendments shall be executed on a yearly basis unless the parties otherwise agree, based upon the estimated needs; provided that the initial ACC amendment shall be executed when the Mobility Counselor has been selected and is ready to begin operations. After a total of fifteen (15) years of assistance, any special conditions connected with these certificates that are imposed by this Decree will terminate, and the certificates themselves will be further renewed, expire and/or otherwise be treated in accordance with HUD's generally applicable policies as to Section 8 certificates at that time. If, under the Comparable Relief provision, tenant-based rental subsidies are provided under a program other than the current Section 8 program, after a total of 15 years of assistance, any special conditions on the tenant-based rental subsidies that are imposed by this Decree will terminate, and said subsidies themselves will terminate, be further renewed, expire and/or otherwise be treated in accordance with HUD's generally

applicable policies as to said subsidies at that time.. In addition, if and when the Mobility Counselor ceases operation due to the depletion of its funding, the tenant-based assistance awarded by this Decree will be used without the special conditions imposed by this Decree. Further, the parties agree that for the purpose of determining federal fair share allocations of tenant-based rental assistance in future years, the 1,342 Special Certificates described herein shall not be considered part of the allocation upon which HABC is normally evaluated.

3.1.2 Upon receipt of a Special Certificate after completion of the initial stage of the Mobility Counseling program (see Section VIII, infra), the holder of that Certificate shall have 120 days from the date of issuance of the certificate (the "Initial Search Period") in which to enter into a lease or other applicable contract for the rental of a unit in a Non-impacted Area. During the Initial Search Period, the holder of the Certificate shall be entitled to accept or reject any offer for rental in a Non-impacted Area. Upon the expiration of the Initial Search Period, the holder of the Certificate may continue searching for an additional thirty (30) days (the "Extended Search Period") in Non-Impacted Areas, if the Mobility Counselor certifies that the Certificate holder has been searching for such opportunities and has considered offers, if any, in good faith, and that an extension is necessary to enable the family to utilize the Certificate. Submission of a

Request for Lease Approval shall toll the running of all time periods for searches under this section.

3.1.3 Except as provided in Sections 3.1.3.1 and 3.1.3.2 of this Decree, if the holder of a Special Certificate has not entered into a lease within 120 days of issuance of the Certificate upon completion of the initial stage of the Mobility Counseling program, and the Mobility Counselor does not make the certifications discussed in Section 3.1.2 above, the holder shall return the Certificate to the HABC for redistribution in accordance with the terms of this Decree. If the Mobility Counselor has made the certifications at the end of the Initial Search Period, and the Certificate holder has failed to enter into a lease or other applicable contract by the end of the Extended Search Period, the Certificate holder shall return the Certificate for redistribution in accordance with the terms of this Decree. If the Certificate holder is on any HABC waiting list for public housing, regular Section 8 assistance, and/or other type of assisted or subsidized housing, return of the Certificate under this section will not affect the Certificate holder's standing on such waiting list. Submission of a Request for Lease Approval shall toll the running of all time periods for searches under this section.

3.1.3.1 If a displacee requests a Section 8 certificate and wishes the option of using the certificate in an Impacted Area, the HABC will issue the displacee a Regular Certificate. If no Regular Certificate is available, the HABC will issue the displacee one of the 150 certificates discussed in Section 3.2.3

of this Decree, which certificate will be converted to a tenant-based certificate and used without any of the special conditions imposed by this Decree. If none of the certificates discussed under Section 3.2.3 is available, HABC will issue the displacee one of the certificates discussed in Section 3.2.2 up to a limit of 150 such certificates, which will be converted to a Regular Certificate and used without any of the special conditions imposed by this Decree. If none of the certificates discussed in the preceding sentence is available, the ACC will be amended as necessary and the HABC will issue the displacee one of the certificates discussed in Section 3.1.1 which will be converted to a Regular tenant-based certificate and used without any of the special conditions imposed by this Decree. In either case, HABC will then replace the converted certificate with the next available Regular certificate.

3.1.3.2 If a displacee wishes to live in a Non-impacted Area, the displacee will be issued one of the Special Certificates under this Decree with all special conditions attached. If, however, the displacee fails to find such housing within the 120-day Initial Search Period and, if applicable, the Extended Search Period, the Special Certificate will then be converted to a Regular Certificate and used without any of the special conditions imposed by this Decree. The HABC will then replace the converted Special Certificate with the next available Regular Certificate.

3.1.4 A Special Certificate holder who has rented a unit in a Non-impacted Area may, using that Certificate, move to an

Impacted Area after living in the Non-impacted Area for a period of one (1) year. If such a family thereafter terminates its use of the Certificate, the special conditions imposed by this Decree will apply upon the next re-use of that Certificate by another family under this Decree.

3.1.5 Upon termination of a family's participation in the Special Certificate program, the Special Certificate shall be returned for re-use pursuant to the terms of this Decree.

3.1.6 The HABC and/or the Mobility Counselor [see section VIII infra] shall inform each Special Certificate holder of the special conditions of the Special Certificate program, as well as the general terms of the Section 8 assistance, including the possible availability of exception rents in excess of the Section 8 FMR, subject to all applicable approvals and regulations. The HABC shall inform the Special Certificate holder of the location and telephone number of the Mobility Counselor which will be providing services to the Special Certificate holder, and shall likewise inform the Mobility Counselor of the name, address, and telephone number of the Special Certificate holder.

3.1.7 The parties agree that, in certain circumstances, exceptions to FMR limits may be necessary to enable the Special Certificates to be used in Non-impacted Areas. The HABC agrees to use its best efforts to collect data on, and to monitor, market rents at the census tract level in Non-impacted Areas of the Baltimore Housing Market.

3.1.7.1 Within 120 days of approval of this Decree, if supported by data, and thereafter at the times necessary, HABC shall apply to HUD for permission to provide exception rents of up to 120% of FMR for units in Non-impacted Areas in the Baltimore Housing Market. HABC shall use its best efforts to support its application with the data and information required by HUD. HUD shall grant such permission for such exception rents if HABC's application is consistent with federal regulations.

3.1.7.2 In addition, subject to the availability of HABC funding reserves and the limitations of 24 C.F.R. Part 882.106, the HABC shall approve exception rents up to 110% on a unit-by-unit basis as necessary to enable use of Special Certificates in Non-impacted Areas where 120% exception rents are not sought or approved.

3.1.8 With respect to each certificate discussed in section 3.1.1 that is used as a Special Certificate outside of the City of Baltimore, HABC shall transfer, upon the direction of the parties, the administration of the certificate and the normal administrative fee to the public housing authority where the certificate is being used, except that in the case of Baltimore County, as to each Special Certificate that is used in Baltimore County, HABC shall transfer 100% of the administrative fee to the County. Such a transfer pursuant to the preceding sentence does not remove the certificate from the Special Certificate program.

3.2 Project-Based Assistance

3.2.1 Subject to the provisions of 3.2.1.1, the HABC will utilize \$18,648,000 of the Urban Revitalization Demonstration ("URD") Grant funds that have been awarded for the redevelopment of Lafayette Courts to create at least 168 homeownership units in Non-impacted Areas of the Baltimore Housing Market. Each of these homeownership units shall be for a unit of greater than one (1) bedroom.

3.2.1.1 Within one year after execution of this Decree, the parties will attempt to develop a process and plan, which shall be incorporated into this Decree, to implement the home ownership demonstration program referenced in Section 3.2.1 above, including a "rent to own" strategy using best efforts to make homeownership under this demonstration program feasible and affordable to HABC families at the average income of HABC households.

3.2.1.2 Should the parties be unable to jointly develop a process and plan or should the parties determine that the homeownership program referenced in Section 3.2.1 above is not practicable, lawful, feasible or affordable, the HABC will, to the extent permitted by law, utilize the funds discussed in Section 3.2.1 to create 168 project-based rental subsidies in Non-impacted Areas of the Baltimore Housing Market, with a term of fifteen (15) years, to be developed under the procedures discussed in Sections 3.2.5 through 3.2.13 of this Decree. In the event the homeownership program is practicable, lawful, feasible and affordable with regard to fewer than 168 units,

remaining funds will be utilized in accordance with the preceding sentence.

3.2.2 Upon approval of this Decree, HUD hereby commits to HABC funding authority for 496 Section 8 certificates from Federal Fiscal Year 1995 funds. These certificates shall be for an initial term of three (3) years, and shall be renewed for the longest term allowed by law and for the number of terms that, including the initial term, totals fifteen (15) years; and, such future year funding is subject to the availability of appropriations and section 3.3.1 of this Decree. After 15 years of assistance, any special conditions connected with the certificates that are imposed by this Decree will terminate, and the certificates themselves will be further renewed, expire, and/or otherwise be treated in accordance with HUD's generally applicable policies as to Section 8 subsidies at that time. If, under the Comparable Relief provision, project-based rental subsidies are provided under a program other than the current Section 8 program, after a total of 15 years of assistance, the special conditions on the project-based rental subsidies that are imposed by this Decree will terminate and said subsidies themselves will terminate, be further renewed, expire and/or otherwise be treated in accordance with HUD's generally applicable policies as to said subsidies at that time.

3.2.2.1 To the extent it is practicable, lawful, feasible and affordable, HABC shall use the certificates referenced in Section 3.2.1 above to develop homeownership units in Non-impacted Areas. Within one year after execution of this Decree,

the parties will attempt to develop a process and plan, which shall be incorporated in this Decree, to implement this homeownership demonstration program, including a "rent to own" strategy, using their best efforts to make homeownership under this demonstration program feasible and affordable to HABC families at the average income of HABC households.

3.2.2.2 Should the parties be unable to jointly develop a process and plan or should the parties determine that the homeownership demonstration program referenced in Section 3.2.2.1 above is not practicable, lawful, feasible, or affordable for some or all of the units, the certificates discussed in Section 3.2.2 which are not utilized in the homeownership program will be used as Project-based Certificates in Non-impacted Areas of the Baltimore Housing Market, to be developed under the procedures discussed in Sections 3.2.5 through 3.2.13 of this Decree.

3.2.3 Subject to the availability of appropriations, HUD will also provide HABC funding authority for a total of an additional 150 certificates from Federal Fiscal Year 1996 appropriations, and if not from such 1996 appropriations, from appropriations from Federal Fiscal Years 1997-2000. These 150 certificates shall be for the longest initial term allowed by law and shall be renewed for the longest term allowed by law and for the number of terms, including the initial term, that totals at least 15 years of assistance, subject to the availability of appropriations and Section 3.3.1. After a total of fifteen (15) years of assistance, the special conditions connected with the

certificates that are imposed by this Decree will terminate, and the certificates themselves will be further renewed, expire, and/or be otherwise treated in accordance with HUD's generally applicable policies as to Section 8 subsidies at that time. If, under the Comparable Relief provision, tenant-based rental subsidies are provided under a program other than the current Section 8 program, after a total of 15 years of assistance, any special conditions on the tenant-based rental subsidies that are imposed by this Decree will terminate, and said subsidies themselves will terminate, be further renewed, expire and/or otherwise be treated in accordance with HUD's generally applicable policies as to said subsidies at that time.

3.2.3.1 To the extent it is practicable, lawful, feasible and affordable, and consistent with the provisions of Section 3.1.3.1 of this Decree, HABC shall use these certificates to develop homeownership units in Non-impacted Areas. Within one year after the execution of this Decree, the parties will attempt to develop a process and plan, which shall be incorporated into this Decree, to implement this homeownership demonstration program, including a "rent to own" strategy, using their best efforts to make homeownership under this demonstration program feasible and affordable to HABC families at the average income of HABC households.

3.2.3.2 Should the parties be unable to jointly develop a process and plan or should the parties determine that the homeownership demonstration program referenced in Section 3.2.3.1 above is not practicable, feasible, affordable or lawful

for some or all of the units, the certificates discussed in Section 3.2.3 which are not utilized in the homeownership program will be used as Project-based Certificates in Non-impacted Areas of the Baltimore Housing Market, to be developed under the procedures discussed in Sections 3.2.5 through 3.2.13 of this Decree.

3.2.4 The provisions of Sections 3.2.5 through 3.2.13 below shall apply for units as to which it is determined that the homeownership demonstration program discussed in either Section 3.2.1, Section 3.2.2.1, or Section 3.2.3.1 above is not practicable, feasible, affordable or lawful.

3.2.5 Within 120 days of a determination that the homeownership demonstration program discussed in Section 3.2.1 is not practicable, lawful, feasible, or affordable for some or all of the units, the HABC will issue a Request for Proposals (RFP) for the project-based URD subsidies referred to in Section 3.2.1.2.

3.2.6 Within 120 days of a determination that the homeownership demonstration program discussed in either Section 3.2.2.1 or Section 3.2.3.1 is not practicable, feasible, affordable or lawful for some or all of the units, and of the execution of an applicable ACC amendment (if an applicable ACC amendment has not already been executed), the HABC shall issue an RFP for the project-based certificates in question.

3.2.7 RFPs issued pursuant to paragraphs 3.2.5 and 3.2.6 shall inform potential contractors, inter alia, that:

(a) proposals are sought for the development of units to receive

project-based rental subsidies in Non-impacted Areas within the Baltimore Housing Market; (b) development may be through new construction, existing housing, or acquisition with rehabilitation; (c) preference shall be accorded proposals that contain a significant proportion of housing for large families (at least three bedrooms); (d) proposals should be for scattered-site or mixed-income development that physically integrates the assisted units with market-rate apartments or single-family dwellings; (e) preferences shall be accorded proposals that contain commitments by the owner for continued use of the units as affordable housing beyond the term of the federal assistance awarded under this Decree; (f) HUD has discretion whether or not to authorize contract rents of up to 120 percent of the Section 8 FMRs for any development, upon the HABC's showing that such rents are "reasonable" under the standards set forth in 24 C.F.R. § 882.714 and 24 C.F.R. § 983.12(a), 60 Fed. Reg. 34722 (July 3, 1995), and otherwise meet the requirements of those regulations; and (g) owners of units receiving the project-based subsidies shall be required to rent the units to eligible families referred by the HABC and selected by the owner in accordance with 24 C.F.R. § 983.203, 60 Fed. Reg. 34726.

3.2.8 Within forty-five (45) days of a determination that the homeownership demonstration program discussed in Section 3.2.1 is not practicable, affordable, feasible or lawful for some or all of the units, or within forty-five (45) days of such a determination with regard to the homeownership program

discussed in either Sections 3.2.2.1 or 3.2.3.1 and of the execution of each applicable ACC amendment (if an applicable ACC amendment has not already been executed), the HABC shall transmit the RFPs in draft form to the Plaintiffs for their review and comment. Plaintiffs shall transmit their comments to HABC within twenty (20) days of the receipt of the draft RFPs. No later than twenty-five (25) days after the expiration of this review and comment period, HABC shall transmit to HUD either a draft RFP that is satisfactory to both HABC and the Plaintiffs, or a draft RFP that is satisfactory to HABC together with Plaintiffs' comments and a statement explaining the HABC's reasons why the RFP should not be modified. HUD shall consider the Plaintiffs' comments and HABC's statement and shall, if HUD deems appropriate, require the HABC to amend the RFP.

3.2.9 Proposals for project-based housing received by HABC in response to RFPs issued pursuant to Sections 3.2.5 and 3.2.6 shall be evaluated and ranked by a RFP Review Panel that includes, but is not limited to, one member selected by the Plaintiffs and one member selected by the affected resident organizations.

3.2.9.1 The RFP Review Panel shall evaluate and rank proposals in accordance with the criteria in the RFP, with Appendix A to this Decree, and the applicable regulations, including those at 24 C.F.R. Part 983, 60 Fed. Reg. 34717 et seq. (July 3, 1995) and 24 C.F.R. Part 882, subpart G, as applicable. HABC shall select proposals in accordance with available funding and, unless it demonstrates good cause to the

contrary, in accordance with the recommendations of the RFP Review Panel, and shall forward any selected proposals to HUD in accordance with 24 C.F.R. §§ 983.52-983.57, 60 Fed. Reg. 34723-34724. Once selected by HABC, the project-based proposals under this Decree shall be processed in accordance with HUD regulatory procedures, and will be approved by HUD within thirty (30) days if consistent with law, applicable regulations, and this Decree.

3.2.10 HABC shall use its best efforts to complete development and occupancy with regard to: 1) the URD project-based rental subsidies discussed in Section 3.2.1.2, within three years of a determination that the URD will not be used for homeownership; and 2) the Project-based Certificates discussed in Sections 3.2.2.2 and 3.2.3.2, within three years of execution of each applicable ACC amendment. In any event HABC shall complete occupancy of those units within six and one-half ($6\frac{1}{2}$) years of the approval of this Decree.

3.2.11 Beginning thirty (30) days after RFPs are issued, the HABC shall provide quarterly status reports to HUD and plaintiffs regarding all projects being developed, or under consideration for possible development, as project-based housing or homeownership units under Section 3.2.1.2, 3.2.2.2, or 3.2.3.2 of this Decree. The status report shall include a brief description of the proposals received in response to RFPs, the status of developments awarded project-based certificates, all known obstacles to completion or implementation, and projected dates of occupancy.

3.2.12 If within 180 days of the date of the issuance of each RFP under Section 3.2.5 and/or Section 3.2.6, the HABC has not received approvable development proposals to generate sufficient units to utilize all of the project-based certificate units included in the RFP, then the HABC shall continue to re-issue additional RFPs until twenty-four (24) months have elapsed from the date of initial issuance of the RFP or until acceptable proposals have been received for all funded units, whichever occurs earliest.

3.2.13 If within twenty-four (24) months from the date of initial issuance of an RFP under Section 3.2.5 or 3.2.6 of this Decree, HABC has not received approvable development proposals likely to generate sufficient units to utilize some or all of the project-based subsidy or certificate units included in the RFP, or if HABC is otherwise barred by legal or factual impossibility from utilizing some or all of the project-based subsidies or certificates included in the RFP, then the HABC shall, after consultation with HUD and Plaintiffs' counsel, and subject to HUD's approval, amend its Redevelopment Plan(s) and any Replacement Housing Plan(s) required by Section 18 of the U.S. Housing Act of 1937 in the following order of priority:

(a) Unless prohibited by law, to convert the unutilized URD project-based subsidies discussed in Section 3.2.1.2 and/or the Project-based Certificates discussed in Sections 3.2.2.2 or 3.2.3.2 to tenant-based subsidies or certificates of the same term as the project-based subsidies or certificates would have had, and, except as to the URD project-

based subsidies discussed in Section 3.2.1.2, renewable for the same total number of years, subject to the availability of appropriations; or

(b) To use any of the URD funds discussed in Section 3.2.1 that remain unutilized to construct, acquire or rehabilitate public housing units, on scattered sites or integrated with market rate units in a mixed-income development, located within any Non-impacted Area. The HABC shall seek cooperation agreements with Neighboring Areas/Jurisdictions in the Baltimore Housing Market in order to develop some or all of these public housing units in Non-impacted Areas outside Baltimore City; or

(c) To seek, on a case-by-case basis, the approval of the parties to any proposed alternatives that the parties agree will be consistent with the purposes of this Decree. In attempting to reach such an agreement, the parties shall take into consideration the criteria set forth in Appendix B to this Decree. If the parties cannot agree on an alternative, the dispute resolution procedures set forth in Section 13.2 of this Decree shall apply.

3.2.14 Upon successful operation of the homeownership demonstration program discussed in Section 3.2.2.1 of this Decree, the parties will consider using some of the 1,342 Special Certificates as part of a homeownership program, including a "rent to own" strategy.

3.2.15 To the extent it accords with applicable laws and HUD regulations and procedures, HUD will make FHA

single-family or multi-family property disposition units available to the Local Defendants for use with the subsidies provided under Section 3.2.1, 3.2.2, or 3.2.3 of this Decree, to develop homeownership units, project-based rental or other hard units in accordance with applicable laws and HUD regulations and procedures.

3.3 Other Provisions

3.3.1 HUD shall give no lesser priority to the funding and renewal of the certificates described in Sections 3.1.1, 3.2.2, and 3.2.3 of this Decree, than to Section 8 or successor program subsidies provided under other litigation settlements and consent decrees. If Congress fails to appropriate monies that HUD determines can be used to fund rental assistance sufficient to fund the certificates to be provided pursuant to Section 3.2.3 of this Decree by the end of Federal Fiscal Year 1999, the comparable relief provisions of this Decree at Section XVII shall apply.

3.3.2 If and when the Mobility Counselor ceases operation due to the depletion of its funding, the Special Certificates will be used without the special conditions imposed by this Decree.

3.3.3 If unutilized URD project-based subsidies are converted to use as Tenant-based subsidies pursuant to Section 3.2.13(a), the special conditions imposed by this Decree will terminate after a total of fifteen years of assistance from the date of the conversion of those subsidies to use as tenant-based subsidies.

IV. FAIRFIELD HOMES REPLACEMENT PLAN

4.1 Upon the execution of this Decree, the HABC shall amend its Fairfield Homes Replacement Housing Plan to provide for:

a) Twenty (20) units of conventional public housing in the 700, 800 and 900 blocks of East Preston Street;

b) 110 units of conventional public housing, to be built on the Lafayette Courts site, which will be funded by the Local Defendants with state PRHP funds and/or supplementary city funds and/or private funds, and regarding which the HABC may submit to HUD an allocation plan that will allocate these units for elderly housing;

c) Thirty-eight (38) scattered-site units in the Sandtown area that are being developed by HABC and financed with State PRHP funds;

d) 170 units of conventional public housing constructed on the site of Lexington Terrace in conformity with the terms of this Decree.

4.2 The units referred to in Sections 4.1(b) and 4.1(c) above shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of that Act or a successor provision of law.

4.3 HUD will approve the allocation plan for elderly housing referred to in Section 4.1(b) above if that plan complies with applicable law and regulations.

4.4 The demolition of Fairfield Homes shall not be considered a prohibited activity under this Decree.

4.5 The Local Defendants will take all other actions necessary to replace Fairfield Homes in accordance with Section 4.1 of this Decree.

V. LAFAYETTE COURTS REDEVELOPMENT PLAN

5.1 On or before the date of execution of this decree, HABC will prepare a Redevelopment Plan for Lafayette Courts that is consistent with, and incorporates the terms of, this Partial Consent Decree. The Redevelopment Plan for Lafayette Courts shall provide for:

a) 228 hard units on the Lafayette Courts site, of which 130 units will be funded with URD dollars that have already been awarded to Baltimore City and ninety-eight (98) units with State PRHP and/or supplementary City funds. The ninety-eight (98) units developed with State and/or supplementary City funds shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these 228 units are developed in accordance with federal public housing development requirements or the URD requirements, as applicable, they will receive, subject to the availability of appropriations,

operating subsidies as provided under Section 9 of the U.S. Housing Act or a successor provision of law.

i) 210 of these 228 hard units of housing will be sited on the West block of Lafayette Courts known as the "Superblock," and will be subdivided for future condominium, cooperative or fee simple homeownership under a plan to be developed by the Local Defendants in accordance with State law. The units fronting on Aisquith Street shall be subdivided in fee simple, and all other units will be subject to a vertical subdivision to the extent permitted by law.

ii) Eighteen (18) of the 228 hard units will be transitional housing for teen parents sited on the Mid-block. The units will be constructed with State PRHP funds and/or supplementary City funds.

b) 345 of the 1,342 certificates referenced in section 3.1.1 of this Decree;

c) At least 168 homeownership units in Non-impacted Areas and/or project-based URD rental subsidies for units in Non-impacted Areas at a cost of no more than \$18,648,000 (pursuant to Sections 3.2.1 and 3.2.1.2 of this Decree);

d) Ten (10) hard units developed at the Montpelier Apartments site with State PRHP funds and/or supplementary City funds;

e) Forty (40) hard units developed in Non-impacted Areas under the RFP procedures in Section 3.2.5 et. seq. of this Decree with State PRHP funds and/or supplementary City funds, to be funded no later than State Fiscal Year 1998 and ready for

occupancy no later than six and one-half (6½) years from the date of approval of this Decree.

5.2 The HABC may build up to 110 one-bedroom units on the Lafayette Courts site, as provided in Sections 4.1 and 4.3 of this Decree.

5.3 The fifty (50) hard units referred to in Sections 5.1(d) and 5.1(e) above shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of that Act or a successor provision of law.

VI. DEMOLITION AND REDEVELOPMENT OF OTHER HIGH RISE DEVELOPMENTS

6.1 With regard to Lexington Terrace, Flag House Courts, and Murphy Homes, the right of tenants and tenant councils to involvement in the demolition, redevelopment or replacement housing plan process, to the extent authorized by law, shall include the Plaintiffs.

6.2 The City of Baltimore and HABC will expeditiously develop comprehensive Redevelopment Plans, including relocation plans, for Lexington Terrace, Flag House Courts, and Murphy Homes. In the case of Lexington Terrace, the sections in the September 1, 1995 revised URD application relating to on-site development shall constitute a comprehensive Redevelopment Plan as to on-site development as meant by this section. These plans

will incorporate the commitments of the parties under this Decree, will not delay the demolition of these projects as required by Section 6.3 of this Decree, and are independent of any replacement housing plan required by Section 18 of the U.S. Housing Act of 1937. The Redevelopment Plans will be developed based on a strong participatory process that includes residents and resident organizations, local educational institutions, foundations, churches, financial institutions, non-profit organizations, and community leaders who have a demonstrated interest in improving the quality of housing and other opportunities for public housing families, in addition to HABC staff and representatives of City agencies. In the case of Lexington Terrace, the participatory process as meant by this section shall be the process required by the URD statute as implemented by HUD.

6.2.1 The Redevelopment Plan for Lexington Terrace shall be submitted to HUD within 120 days of the execution of this Decree, and shall be consistent in all respects with the URD agreement relating to Lexington Terrace, as awarded and as may be amended. The submission of demolition applications required under this Decree and the actual demolition discussed in Section 6.3 shall not be delayed by the provisions of this Section. The Redevelopment Plans for Flag House Courts and Murphy Homes shall be submitted to HUD within one (1) year of the execution of this Decree, provided that the submission of demolition applications required under this Decree and the actual demolitions will not be delayed.

6.2.2 At least sixty (60) days before a Redevelopment Plan is submitted to HUD, HABC shall provide complete copies of the draft Plan to the Plaintiffs and resident organizations, and shall cooperate with the project Resident Council to provide all households residing in the project with an executive summary of the Plan. HABC shall solicit comment by Plaintiffs and resident organizations prior to making the Plan final, and shall provide a thirty-day period for comment by Plaintiffs and other residents. HABC shall either modify the Plan or provide the parties with an explanation as to why it should not be modified, as part of the Redevelopment Plan submitted to HUD. To assure that residents have an opportunity to comment on the Redevelopment Plans, the HABC shall notify the residents that they may apply for technical assistance from independent consultants and HABC will underwrite expenses incurred to disseminate information to project residents.

6.2.3 All draft RFPs for the development of units under the Redevelopment Plans for Lexington Terrace, Murphy Homes, and Flag House Courts will be submitted by the HABC to the Plaintiffs' representative for their review and comment pursuant to the procedure set forth in Paragraph 3.2.8 of this Decree.

6.2.4 Proposals received by the HABC in response to the RFPs discussed in section 6.2.3 above shall be evaluated and ranked by an RFP Review Panel that includes, but is not limited to, one member selected by the representative of the Plaintiff class and one member selected by the affected resident organizations.

6.2.5 The RFP Review Panel shall evaluate and rank proposals in accordance with the criteria in the RFP and applicable laws and regulations. HABC shall select proposals in accordance with available funding, and, unless it demonstrates good cause to the contrary, in accordance with the recommendations of the RFP review panel.

6.3 Demolition Applications

6.3.1 As soon as practicable, but no later than thirty (30) days from the approval of this Decree, HABC and the City of Baltimore will submit to HUD a demolition application and, if required by law, a Replacement Housing Plan for the replacement of Lexington Terrace. As soon as practicable, but no later than sixty (60) days from the approval of this Decree, HABC and the City of Baltimore will submit to HUD demolition applications and, if required by law, Replacement Housing Plans for the replacement of Flag House Courts and Murphy Homes. The demolition applications and Replacement Housing Plans shall be consistent with and incorporate the commitments of the parties under this Consent Decree. The HABC shall provide counsel for Plaintiffs with a copy of the demolition applications and Replacement Housing Plans when they are submitted to HUD.

6.3.2 HUD shall expeditiously approve the demolition applications, and any replacement housing plans required by law, submitted by HABC and the City pursuant to Section 6.3.1 above, if they satisfy applicable statutory and regulatory requirements and the commitments by the parties under this Decree, or shall expeditiously direct HABC to make specific modifications to

bring the applications and replacement plans into compliance with applicable law and this Decree.

6.3.3 The demolition of Lexington Terrace, Murphy Homes, and Flag House Courts will be fully completed as follows: Lexington Terrace will be demolished in 1996; either Murphy Homes or Flag House Courts will be demolished between 1998 and 2000; and the third of these projects will be demolished no later than 2001.

6.4 Lexington Terrace, Flag House Courts and Murphy Homes units demolished shall be replaced at the earliest practicable date in accordance with the provisions of this Decree. The redevelopment units shall house at least the same number of individuals and families which could be served by the housing to be demolished, and demolished units will not be replaced with housing units designated for elderly or disabled only occupancy except insofar as specifically provided in section 6.5(a) of this Decree. Nothing in this Section shall affect the provisions of Section 3.1.1 of this Decree.

6.5 On-site Housing: Subject to Sections 6.5.1 and 6.5.2 of this Decree, hard units shall be constructed on the sites of Lexington Terrace, Flag House Courts and Murphy Homes as follows and shall be ready for occupancy no later than three (3) years after the date of each demolition:

(a) Lexington Terrace: In addition to the 170 units referred to in Section 4.1(d) of this Decree, the Local Defendants will develop 133 rental units (100 of which will be one-bedroom elderly units) and 113 Nehemiah eligible-

homeownership units (see Public Law No. 100-242 (1987)) in accordance with the Lexington URD, as may be amended. Thirty-five (35) of the elderly units and the thirty-three (33) non-elderly rental units shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of the Act or a successor provision of law.

(b) Flag House Courts: The Local Defendants will develop 130 hard units with State PRHP funds and/or supplementary City funds. In the event that PRHP funds or supplementary City funds are not available to fund any or all of these units, the unfunded units shall be funded with other funds lawfully available to the Local Defendants that can be used for that housing purpose. The Local Defendants shall make a determination whether such funds are available, and shall notify the parties of their determination and the basis for it. In the event of a dispute, the dispute will be resolved pursuant to the procedures discussed in Section 13.2 of this Decree. Nothing herein shall preclude or prevent the Federal Defendants from exercising any authority or pursuing any other remedy available to the federal government with regard to the availability or use of such funds.

i) The units discussed in subsection (b) above shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of the U.S. Housing Act of 1937 or a successor provision of law. The Local Defendants will not develop low-income housing units on this site other than the 130 hard units referenced above.

(c) Murphy Homes: The Local Defendants will develop seventy-five (75) hard units with State PRHP funds and/or supplementary City funds. These units shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of the U.S. Housing Act of 1937 or a successor provision of law. The Local Defendants will not develop low-income housing units on this site other than the seventy-five (75) hard units referenced above.

6.5.1 At least fifty percent (50%) of the units located on the Flag House Courts site and the Murphy Homes site after redevelopment must be Non-subsidized Market-rate units to be

developed by the Local Defendants. To the maximum extent feasible, the hard units referred to in Sections 6.5(b) and 6.5(c) above shall be physically integrated with the market rate units at Murphy Homes and Flag House Courts. Any party may move for the modification of Section 6 as it pertains to Flag House Courts and Murphy Homes, if such party demonstrates that the Non-subsidized Market-rate development is impossible in spite of its best efforts, provided that no such modification shall increase the financial obligations of the Federal Defendants under this Decree.

6.5.2 The HABC shall adopt and implement, with the technical assistance of HUD and in consultation with the plaintiffs, a strategy to affirmatively market the non-subsidized market rate units, which strategy shall include specific steps to solicit applications from families in the housing market who are least likely to apply without special outreach.

6.6 Off-site Housing: The remaining 1639 demolished housing units for Lexington Terrace, Flag House Courts, and Murphy Homes shall be redeveloped as follows:

(a) 956 of the certificates provided pursuant to Section 3.1.1 of this Decree;

(b) 496 of the certificates provided by HUD pursuant to Section 3.2.2 of this Decree;

(c) 188 hard units developed off-site, of which eighty-five (85) will be located in Sandtown (the 25 "Stricker Street" units and the 60 units from "Sandtown Packages 4 and

5"), eleven (11) will be located on Old Frederick Road (the "Mutual Housing" units), thirty (30) at Norwood Gardens, and sixty-two (62) at the three Mount Pleasant sites. The units at Norwood Gardens and Mount Pleasant will be physically integrated with other units at those sites that are not part of this Decree. These 188 units will be developed using State PRHP funds and/or supplementary City funds, and shall be ready for occupancy no later than six and one-half (6½) years from the date of approval of this Decree.

6.6.1 The 188 hard units referred to in Section 6.6(c) above shall be developed in accordance with federal public housing development requirements and shall be operated as low-income housing under the U.S. Housing Act of 1937 or a successor provision of law. If these units are developed in accordance with federal public housing development requirements, they will receive, subject to the availability of appropriations, operating subsidies as provided under Section 9 of the U.S. Housing Act of 1937 or a successor provision of law.

6.7 In addition to the on-site and off-site housing discussed in Sections 6.5 and 6.6 above, the Local Defendants will develop thirty (30) homeownership units in the Poppleton area under the funding designated in the Lexington URD, as may be amended.

6.8 Should Section 18 of the U.S. Housing Act of 1937 require the HABC to submit a Replacement Housing Plan for Lexington Terrace, Flag House Courts, and/or Murphy Homes, the housing developed pursuant to this Decree shall be considered

replacement housing under Section 18 as set out in Appendix D to this Decree.

VII. ALLOCATION OF SPECIAL CERTIFICATES

7.1 Eligible families shall be selected to participate in the Special Certificate program in accordance with the process and priorities set out in Section 7.3 of this Decree. Families which do not meet Section 8 eligibility criteria, or have one or more members who have engaged in the actions or inactions (e.g., certain criminal activity) described in 24 C.F.R. 982.552, 60 Fed. Reg. 34714-34715 (July 3, 1995), will not be offered a Special Certificate by the HABC or by the Mobility Counselor. A family using a Special Certificate under this Decree may voluntarily participate in a housing authority Family Self Sufficiency (FSS) program within the meaning of 24 C.F.R. Part 984. To the extent permitted by law, the escrow account created on behalf of such a participating family may be used for homeownership. The Mobility Counselor shall advise the family in writing that participation in a FSS program is voluntary.

7.2 Within ninety (90) days of entry of this Decree, HUD, in consultation with the parties, shall decide upon the process and timetable for distribution of the tenant-based certificates awarded under Section 3.1.1 of this Decree.

7.3 Selections of families shall be made in the following order of priority:

7.3.1 First, pursuant to Sections 3.1.3.1 and 3.1.3.2 and XIX, HABC shall provide certificates to displacees and to the named plaintiffs listed in Section 2.15 of this Decree. HABC

shall assure itself it has sufficient certificates to meet the needs of this group before making any Special Certificates available to the other priority groups.

7.3.2 Second, HABC shall provide certificates to relocatees who wish to move to Non-impacted Areas.

7.3.3 Third, to other public housing residents living in projects, including scattered-site, with 75% or more African-American residency in Impacted Areas who wish to move to a Non-impacted Area. Within this category, HABC will design a process that gives special consideration to:

(a) Families with prior applications for Section 8 assistance or requests for transfer;

(b) Families with an urgent need for relocation, including but not limited to: a documented health condition of a family member, or the need of a family member to obtain housing closer to a place of employment, education or training; and

(c) Families with children, provided that a head of household is willing to participate in an appropriate job training program. Refusal to participate in a FSS program as provided in 24 C.F.R. Part 984 shall not deprive a family of a preference under this subsection.

7.3.4 Fourth, to public housing applicants, on the waiting list as of the date of execution of this Decree, living in Impacted Areas who wish to move to a Non-impacted Area.

7.3.5 Fifth, to Section 8 applicants, on the waiting list as of the date of execution of this decree, to the extent that

they are not entitled to any higher priority under this Decree, living in Impacted Areas who wish to move to a Non-Impacted Area.

VIII. MOBILITY COUNSELING SERVICES

8.1 All of the certificates awarded under this Decree that are used as tenant-based certificates under this Decree are Special Certificates, except as provided in Sections 3.1.3.1 and 3.1.3.2.

8.2 Upon approval of this Decree, HUD hereby commits \$3,375,550 in funding authority from Federal Fiscal Year 1995 funds to the HABC to create a Mobility Counseling program, designed to counsel and assist persons seeking to use the Special Certificates awarded under this Decree.

8.2.1 Within sixty (60) days after approval of this Decree, HUD shall award the funding authority referenced in Section 8.2 for use in the Mobility Counseling program.

8.2.2 With regard to any Project based Certificates that are converted to use as Tenant based Certificates pursuant to Section 3.2.13(a) of this Decree, the HABC shall contribute \$275 per certificate, minus that portion of the \$275 which has been expended prior to the determination that the certificates should be converted to tenant-based use.

8.2.3 The Local Defendants, in cooperation with the Mobility Counselor, shall make all reasonable efforts to secure additional funding, including charitable grants and federal formula or block grant funding, in the event the budgeted amounts are insufficient or additional funding is required to

provide the specified services and tasks as the Special Certificates turnover and are reissued to other families.

8.3 All of the Special Certificates shall be administered in conjunction with a mobility counseling program to be administered by a nongovernmental entity ("the Mobility Counselor").

8.3.1 HABC may not release certificates for use as Special Certificates until it certifies that mobility counseling services are available to each recipient of the Special Certificates involved, although HABC may continue to administer its Regular Certificate program without restriction. Each family selected to receive a Special Certificate must complete the initial stage of the Mobility Counseling program in order to obtain the Certificate.

8.3.2 Within thirty (30) days of approval of this Decree by the Court, the parties shall convene a panel composed of one member selected by the Plaintiffs, one selected by HUD, and one selected by the Local Defendants. Within 120 days of the approval of this Decree, the panel will decide upon the design of the Mobility Counseling program, including the minimum acceptable percentage of Special Certificates being used within the maximum total period of search time (150 days) allowed under Sections 3.1.2 and 3.1.3.2 of this Decree ("the minimum acceptable percentage"); the process and criteria for selection of the Counselor; and objective criteria to be used in evaluating the Counselor's performance ("performance criteria"). If agreement among the panel concerning the design of the

program and the performance criteria cannot be reached, the dispute resolution procedures of Section 13.2 of this Decree shall apply. The City will draft a solicitation or RFP to advertise for provision of mobility counseling services, and the responses will be evaluated by the panel. Any decision to select, retain or terminate the Contractor may not be effectuated unless HUD concurs in writing with the decision, except with regard to performance-based terminations as provided in Section 8.3.3.

8.3.3 The initial term of the Mobility Counselor's contract shall be one (1) year. The panel will evaluate the counselor's performance on an annual basis pursuant to the performance criteria discussed in Section 8.3.2, and decide whether to renew the contract. Any such decision may not be effectuated unless HUD concurs in writing with the decision, except that the provisions of Section 13.2 of this Decree shall apply in the event of a dispute concerning the termination of the Contractor on performance grounds.

8.3.4 Before making any decision described in Sections 8.3.2. and 8.3.3 of this Decree, except for the determination of the minimum acceptable percentage, the panel shall consult and, as appropriate, share information with the counties in the Baltimore Housing Market.

8.3.5 The panel will conduct a review of the utilization of the Special Certificates within one (1) year of the commencement of the counseling and annually thereafter. If the panel finds that less than the minimum acceptable percentage of

Special Certificates is being used with the special conditions imposed by this Decree within the allotted maximum search period of 150 days, then it will consider whether any changes are necessary to facilitate the use of the certificates and decide upon how to implement such changes. But in any event, the panel will not alter or abrogate any of the special conditions, including the geographic conditions, imposed on the use of the certificates by this Decree until three (3) years after the approval of this Decree. Before deciding whether to alter or abrogate any of the geographic conditions, the panel shall consult and, as appropriate, share information with the counties in the Baltimore Housing Market. If agreement among the panel cannot be reached, the dispute resolution procedures of Section 13.2 shall apply.

8.4 Duties of the Mobility-Counselor

The Mobility Counselor shall:

8.4.1 Develop and implement a strategy to market participating families holding Special Certificates to landlords in Non-impacted Areas and coordinate recruitment of landlords (see Part III of Appendix C to this Decree) in Non-impacted Areas throughout the Baltimore Housing Market for the Special Certificate program;

8.4.2 Provide families with detailed information about locational options in Non-impacted Areas and maintain listings of available vacancies;

8.4.3 To the extent possible, refer each family to at least three (3) identified vacancies in Non-impacted Areas that are located in neighborhoods selected by the family;

8.4.4 Provide services to assist families as they look for housing, including transportation, escort services, and child care;

8.4.5 Provide counseling, as needed, to families to assist them to pass standard tenant-screening procedures;

8.4.6 Assist families with needed transitions after the move, including help in locating schools, churches, child care, employment, social services, and, insofar as practicable, assistance in reducing the sense of isolation or in resolving disputes with neighbors;

8.4.7 Provide appropriate referrals to families who encounter illegal discrimination or harassment; and

8.4.8 Advise the HABC if it believes that FMRs are too low and are inhibiting the success of the program.

IX. HUD ACTIONS TO AFFIRMATIVELY FURTHER FAIR HOUSING AND OVERCOME IMPEDIMENTS TO METROPOLITAN-WIDE FAIR HOUSING AND LOCATIONAL CHOICE

9.1 In connection with Consolidated Plan submissions of the Baltimore Housing Market jurisdictions to HUD as provided under 24 C.F.R. Part 91, as amended, 60 Fed. Reg. 1896 et seq. (January 5 1995), HUD shall require each jurisdiction to submit a certification that the jurisdiction will affirmatively further fair housing. This certification means the jurisdiction will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to

overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. The analysis of impediments that the local governmental units certify to conduct shall include the identification of their policies which affect opportunities of minority households to select housing in the jurisdiction. In the event that HUD subsequently adopts regulations that conflict with this paragraph, the subsequent regulations shall prevail.

9.2 All parties shall promptly report to one another, in writing, any significant opposition that is communicated to, or that otherwise comes to the attention of, any party regarding any hard unit housing acquisition or development opportunity being pursued by HABC and/or developers pursuant to this Decree. The parties shall likewise report any significant improper opposition that is communicated to, or that otherwise comes to the attention of, any party regarding the efforts of the Mobility Counselor to publicize the mobility program and to refer participants to landlords in Non-impacted Areas throughout the Baltimore Housing Market. Any unlawful form of such opposition shall, in addition, be promptly reported to cognizant legal authorities. HABC shall not fail to pursue, and HUD shall not fail to approve, where such approval is necessary, any hard unit housing acquisition or development opportunity governed by this Decree because of unlawful opposition from any person or entity.

9.3 In the event HUD determines that any person or local government receiving federal funds for housing and urban

development is unlawfully impeding or failing to cooperate with proposals by the Local Defendants or private developers to site hard unit housing provided under this Decree within a neighboring jurisdiction, with the efforts of Special Certificate holders to lease units within the neighboring jurisdiction, or with the efforts of the Mobility Counselor to market the program to landlords operating housing in neighboring jurisdictions, HUD shall take whatever enforcement action it deems appropriate against that person or local governmental entity to enforce such obligations. In addition, HUD shall, if it deems it appropriate, refer determinations of non-compliance to other federal executive agencies for review and possible issuance of sanctions with respect to that agency's funding of the recipient, pursuant to Presidential Executive Order 12892 of January 17, 1994 (Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing). The City and HABC may consult with HUD in developing strategies, including incentives, to encourage cooperation by all jurisdictions within the Baltimore Housing Market outside of Baltimore City, with respect to the development of hard unit housing provided under this Decree, if such cooperation is necessary, regardless of whether the jurisdictions are currently recipients of HUD funding. Nothing in the preceding sentence shall be construed as obligating HUD to provide funding beyond that which is specifically provided in this Decree.

9.4 In the event HABC seeks to develop public housing pursuant to this Decree in Non-impacted Areas outside of

Baltimore City, HUD shall send a letter to the chief executive officer of each local governmental jurisdiction in the Baltimore Housing Market (other than Baltimore City) which is a recipient of federal housing and urban development funds. HUD shall provide the other parties with a copy of this letter and a list of the recipients. The letter to the chief executive officers shall:

9.4.1 Inform them about the Redevelopment Housing provisions in the Decree;

9.4.2 Encourage them to enter into cooperation agreements, if necessary, with the HABC or another public housing agency for the development of public housing units pursuant to this Decree;

9.4.3 Advise them that failing to enter into a cooperation agreement with HABC or another public housing agency regarding public housing redevelopment units will be taken into consideration by HUD in determining whether they are failing to comply with their certifications to affirmatively further fair housing.

9.5 Although HUD does not concede that any provision of this Decree grants the Court jurisdiction to review any HUD enforcement decision regarding the redevelopment housing or relocation assistance discussed in this Decree, HUD recognizes its responsibilities under Section 808(e)(5) of the Fair Housing Act (42 U.S.C. § 3608(e)(5)), which requires it to administer its programs in a manner to affirmatively further fair housing, and will make enforcement decisions in a manner that it decides in its discretion is consistent with that section.

9.6 HUD shall advise the owners, operators, and managers (hereinafter "owners") of FHA-insured or other assisted housing developments (not including public housing and project-based owners) in the Baltimore Housing Market of, and invite the owners' participation in, the process of filling vacancies in assisted developments from among Special Certificate holders referred by the Mobility Counselor. The notice shall include materials with which the owners can register to participate in this process.

9.7 Based upon information provided by the plaintiffs, HUD shall advise the owners, operators, and managers of Low-Income Housing Tax Credit properties and other properties receiving assistance from non-Federal sources in the Baltimore Housing Market concerning the existence of this Decree, and invite them to accept prospective tenants from among Special Certificate holders referred by the Mobility Counselor.

X. SCOPE OF DECREE AND DISMISSAL AND RELEASE OF CLAIMS

10.1 Upon Court approval of this Decree, and except as otherwise provided in this Decree, the Plaintiffs, for themselves, and all members of the class they represent, and their successors, heirs, and assigns, hereby withdraw, release and forever discharge each of the Federal Defendants, and their successors, employees, agents, attorneys, officers, directors, trustees, subsidiaries, heirs, assigns, and personal representatives, from every claim, claim for relief, right, cause of action, suit and issue, known and unknown, contingent or liquidated, asserted or unasserted, with respect to the site

selection, site approval, acquisition, construction, development, density, operation, maintenance, modernization, improvement, neighborhood improvement, rehabilitation, replacement, re-development, relocation, displacement, disposition, funding, administration, monitoring, supervision, oversight, or enforcement, or any similar claim, with regard to the Housing Projects, including any claim concerning the lawfulness of the replacement housing or Redevelopment Housing for those projects and any claim involving alleged segregation, alleged failure to desegregate or disestablish segregation, or alleged failure to affirmatively further fair housing with respect to the Housing Projects, from the beginning of time through the date upon which the obligations of the Federal Defendants under this Decree terminate. This release does not release Plaintiffs' claims against the Federal Defendants as to other Baltimore City family public housing; does not release any claim by Plaintiffs for attorneys' fees and costs; and does not release any claims by plaintiffs for prospective injunctive relief as to tenant selection and assignment so long as that relief does not require the expenditure of more than de minimis federal funds in the performance of ministerial duties or actions. This release does not release any claims which members of the Plaintiff class did not assert and could not have asserted in this litigation prior to the date this Consent Decree is approved by the Court, to the extent that such future claims are unrelated to any claim involving alleged segregation, alleged failure to desegregate or disestablish segregation, or

alleged failure to affirmatively further fair housing with respect to the Housing Projects, or any similar claim.

10.2 Upon Court approval of this Decree, and except as otherwise provided in this Decree, the Plaintiffs, for themselves, and all members of the class they represent, and their successors, heirs, and assigns, hereby withdraw, release and forever discharge each of the Local Defendants, and their successors, employees, agents, attorneys, officers, directors, trustees, subsidiaries, heirs, assigns, and personal representatives, from every claim, claim for relief, right, cause of action, suit and issue, known and unknown, contingent or liquidated, asserted or unasserted, with respect to the site selection, site approval, acquisition, development, density, modernization, rehabilitation of on-site units, replacement, redevelopment, relocation, displacement, construction, disposition, funding for Redevelopment Housing, improvements to Redevelopment Housing units, monitoring, supervision, oversight, enforcement or any similar claims, with regard to the Housing Projects, including any claim concerning the lawfulness of the Replacement Housing for those projects and any claim involving alleged segregation, alleged failure to desegregate or disestablish segregation, or alleged failure to affirmatively further fair housing with respect to the Housing Projects, from the beginning of time through the date upon which the obligations of the Local Defendants under this Decree terminate. This release does not release Plaintiffs' claims against the Local Defendants as to other Baltimore City family public

housing; does not release any claim by Plaintiffs for attorneys' fees and costs; and does not release any claims by Plaintiffs against the Local Defendants for relief as to tenant selection and assignment. This release does not release any claims members of the Plaintiff class did not assert and could not have asserted in this litigation prior to the date this Consent Decree is approved by the Court, to the extent that such future claims are unrelated to any claim involving alleged segregation, alleged failure to desegregate or disestablish segregation, or alleged failure to affirmatively further fair housing with respect to the Housing Projects, or any similar claim.

10.2.1 Section 10.2 does not release Plaintiffs' claims for relief against the Local Defendants for equalization and/or neighborhood improvement with respect to activities and conditions at the Housing Projects and Redevelopment Housing sites that post-date the execution of this Decree, provided that such claims may not be based in whole or in part on site selection, site approval, acquisition, development, density, construction, modernization, rehabilitation of on-site units, replacement, re-development, improvements to Redevelopment Housing units, relocation, displacement, funding for development of Redevelopment Housing, monitoring, supervision, oversight or enforcement with respect to the Housing Projects and Redevelopment Housing.

10.3 In resolving the merits of Plaintiffs' remaining claims, no party shall seek to introduce evidence with regard to any alleged action or proposed action, or inaction, by the

Federal Defendants with regard to the demolition and development of replacement housing or Redevelopment Housing for the Housing Projects. The parties intend, however, that this Partial Consent Decree shall have no effect on the Court's consideration of any defense of laches, statute of limitations, or standing raised by the Federal Defendants that Plaintiffs may overcome by showing a continuing violation of the law, and the parties shall be free to seek to introduce, and to interpose objections to the introduction of, any evidence relevant to these defenses. In the event evidence is introduced relevant to these defenses that would otherwise be inadmissible pursuant to this section (10.3), that evidence shall be introduced for the sole and specific purpose of rebutting the evidence raised by the Federal Defendants, and may not be used for any other purpose and may not be used to enhance the relief Plaintiffs seek from the Federal Defendants.

10.4 In resolving the merits of Plaintiffs' remaining claims, no party shall seek to introduce evidence with regard to any alleged action or proposed action, or inaction; by the Local Defendants with regard to the demolition and development of replacement housing for the Housing Projects, except that Plaintiffs may seek to introduce such evidence to prove their tenant selection and assignment claims against the Local Defendants and, consistent with Sections 10.2 and 10.2.1 of this Decree, to prove their equalization/neighborhood improvement claims against the Local Defendants or to obtain such relief from the Local Defendants, and nothing in this Decree shall be

interpreted to restrict the introduction of such evidence for that purpose. The parties intend, however, that this Partial Consent Decree shall have no effect on the Court's consideration of any defense of laches, statute of limitations, or standing raised by the Local Defendants that Plaintiffs may overcome by showing a continuing violation of the law, and the parties shall be free to seek to introduce any evidence relevant to these defenses. In the event evidence is introduced to rebut these defenses that is otherwise inadmissible pursuant to this Section (10.4), that evidence shall be introduced for the specific purpose of rebutting the evidence raised by the Local Defendants, and may not be used for any other purpose and may not be used to enhance the relief Plaintiffs seek from the Local Defendants.

10.5 This Partial Consent Decree is not a comprehensive settlement of the claims set forth in Plaintiffs' Complaint against the Federal Defendants, and Plaintiffs and Federal Defendants reserve the right to contest the merits of all of Plaintiffs' claims against the Federal Defendants not expressly released herein. Nothing in Section 10.1 shall be construed to prohibit Plaintiffs from seeking to introduce against the Federal Defendants evidence related to the Housing Projects not specifically deemed inadmissible pursuant to Section 10.3 for purposes of proving Plaintiffs' remaining claims against the Federal Defendants, as not released above in Section 10.1 of this Decree, through evidence that the Federal Defendants established and failed to disestablish segregation or failed

affirmatively to further fair housing in Baltimore City's public housing system as a whole. Defendants reserve the right to interpose all other possible objections to the introduction of such evidence. The relief that could be awarded against the Federal Defendants with respect to any such claim, if established, would be limited by the provisions of Sections 10.1 and 10.3, and would be consistent with the provisions of Section 10.7.

10.6 This Partial Consent Decree is not a comprehensive settlement of the claims set forth in Plaintiffs' Complaint against the Local Defendants, and Plaintiffs and Local Defendants reserve the right to contest the merits of all of Plaintiffs' claims against the Local Defendants not expressly released herein. Nothing in Section 10.2 shall be construed to prohibit Plaintiffs from seeking to introduce against the Local Defendants evidence related to the Housing Projects and Redevelopment Housing not specifically deemed inadmissible pursuant to Sections 10.2.1 and 10.4 for purposes of proving Plaintiffs' remaining claims against the Local Defendants, as not released above in Sections 10.2 and 10.2.1, through evidence that the Local Defendants established and failed to disestablish segregation or failed affirmatively to further fair housing in Baltimore City's public housing system as a whole. Defendants reserve the right to interpose all other possible objections to the introduction of such evidence. The relief that could be awarded against the Local Defendants with respect to any such claim, if established, would be limited by the provisions of

Sections 10.2 and 10.4 and would be consistent with the provisions of Section 10.7.

10.7 In the event Plaintiffs prevail as to their remaining claims and the Court awards, as part of any final relief, relief in the form of "desegregative housing opportunities," each of the Defendants shall receive credit for the relief provided in this Decree in accordance with a formula to be determined by the parties or, if the parties cannot reach agreement, by the Court that shall provide at a minimum that each of the Defendants receives one credit for each Special Certificate with mobility counseling provided pursuant to this Decree, and for each project-based unit and for each hard unit located in a Non-impacted Area. However, Defendants will not claim a credit for providing a "desegregative housing opportunity" for the use of a Special Certificate by a non-minority family. If as part of any final relief, the Court awards relief in a form other than "desegregative housing opportunities," each of the Defendants shall receive credit for the relief provided in this Decree in accordance with a formula to be determined by the parties or, if the parties cannot reach agreement, by the Court. The Defendants shall not be denied any credits or have their credits reduced due to the action or inaction of Plaintiffs or any non-party. The Federal Defendants shall not be denied credits or have their credits reduced due to the action or inaction of any of the Local Defendants, and the Local Defendants shall not be denied credits or have their credits reduced due to the action or inaction of any of the Federal Defendants.

10.8 Upon approval of this Decree, Plaintiffs will withdraw with prejudice their Motion for Preliminary Injunction, and the parties will submit a joint stipulation of dismissal with prejudice in accordance with Sections 10.1, 10.2, and 10.2.1 of this Decree.

XI. CLASS CERTIFICATION

11.1 The parties agree that the Plaintiff class should be certified and defined as follows:

All African-Americans who resided in Baltimore City family public housing units at any time between January 31, 1995 and the date of approval of this Decree, who presently reside in Baltimore City family public housing units, or who will in the future reside in Baltimore City family public housing units prior to the time the Defendants' obligations under this Decree, exclusive of any provision of operating subsidies, terminate.

The Defendants expressly reserve the right to seek decertification or modification of this class, or any subclass, for any purpose other than this Partial Consent Decree. All of the parties' obligations under this Decree are conditioned upon the Court's certification of a Plaintiff class that is broad enough to include, at a minimum, all such current and future residents.

11.2 Upon execution of this Partial Consent Decree by all parties, the parties shall promptly file it with the District Court and request that the Court enter an order:

(a) certifying a class as stated in Section 11.1 of this Decree;

(b) preliminarily approving the proposed Decree as fair, reasonable, and adequate;

(c) approving publication and dissemination of a class action notice describing the settlement terms, the date of the fairness hearing, and the right to comment or object; and

(d) scheduling a hearing to determine the fairness, reasonableness, and adequacy of the proposed settlement and whether the Court will approve the Consent Decree.

11.3 Pursuant to Federal Rule of Civil Procedure 23(e), all known class members shall be given notice, the form of which shall be agreed upon by counsel for all parties, or determined by the Court in the event that there is no such agreement, of the terms of this Decree and their right to object to the terms thereof. HABC shall post the notice in all HABC offices and other government and social service agency offices where class members are likely to frequent, as well as pay for radio announcements. Special means, including but not limited to translation of notices, shall be devised to provide effective notice to foreign language speakers. HABC shall also mail (with address correction requested) or deliver the notice to all known class members. HABC will publish the class notice for one day in a Sunday edition of The Baltimore Sun, for one day in The Afro American, as well as community newspapers serving predominantly minority areas of Baltimore City. Counsel for all parties shall be provided a copy of the addresses of all persons to whom notice is mailed or delivered. Class members will have until ten (10) days before the date of the fairness hearing within which to file written objections to the proposed terms of this Decree. Between the execution of this Decree and the

fairness hearing, the Defendants shall direct all inquiries from class members regarding the Decree to Plaintiffs' counsel. For the purposes of this section, the date of execution of this Decree is the date that the last party executes the Consent Decree.

11.4 A fairness hearing shall be held at such time and place as ordered by the Court to consider whether this proposed Decree should be approved as fair, reasonable, and adequate. Any class member who has submitted a timely written objection may appear at the hearing and show cause why this Consent Decree should not be approved. Objections raised at the hearing will be limited to those matters addressed in timely written objections.

XII. RETENTION OF JURISDICTION

The Court's jurisdiction over the Federal Defendants under this Decree shall terminate seven (7) years after the Court's approval of this Decree. The Court will retain jurisdiction over the Local Defendants until their commitments under this Decree are met. Until such time, the Local Defendants will not seek public housing funds from HUD for public housing construction or acquisition with rehabilitation in Impacted Areas, and will not seek and engage in public housing construction or acquisition with rehabilitation with State PRHP funds in Impacted Areas. While the court retains jurisdiction as to the Federal Defendants under this Decree, any party may apply to the Court for such further orders as may be necessary and appropriate for the enforcement of this Decree against the

Federal Defendants, but not to increase the Federal Defendants' obligations under the Decree. While the Court retains jurisdiction as to the Local Defendants under this Decree, any party may apply to the Court for such further orders as may be necessary and appropriate for the enforcement of this Decree against the Local Defendants, but not to increase the Local Defendants' obligations under the Decree. Prior to the submission of any dispute under this Decree to the Court, the parties shall comply with the dispute resolution procedures set out in Section XIII of the Decree.

XIII. DISPUTE RESOLUTION

13 The parties may attempt to resolve disputes relating to this Decree in any manner, but before seeking relief from the Court, the parties must comply with all procedures set out in Sections 13.1 and 13.2 below.

13.1 Any allegation by a party of a violation of the terms of this Decree by one or more of the other parties shall be by written notice to all counsel of record. The notice shall specify the facts supporting the allegation, and shall precede the filing of any motion to enforce the terms of this Decree. Upon receipt of the notice by counsel, the party alleged to have committed the violation shall either remedy the alleged violation and so notify all other counsel in writing, or provide written explanation within thirty (30) days, or ten (10) business days in the case of an alleged violation involving an individually affected class member who requires emergency relief. At the end of such period, if the issue is not

resolved, any party may seek relief from the Court concerning the alleged violation of this Decree.

13.2 In the case of a dispute about the meaning or application of this Decree that does not involve an allegation of a violation thereof, the party or parties who wish to raise the disputed issue shall send written notice to the counsel for all other parties. At the end of a thirty-day period during which the parties will attempt to resolve the dispute without the Court's involvement, the party or parties who raised the issue in writing may seek a decision of this Court to resolve this dispute. Disputes under this Decree shall be resolved in accordance with the purposes of this Decree. However, matters relegated to the discretion of a party by the terms of this Decree or by law, as well as the Federal Defendants' reasonable interpretations of federal regulations, shall not be subject to the procedures under this Section or otherwise contested. Matters relegated to the discretion of a party include, but are not limited to: HUD's determination with respect to selection or retention of the mobility counselor or HUD's decision to terminate or otherwise take action with regard to the counselor due to criminal actions or other violation of federal or state law; HUD's determination under Section 9.3 that a federally funded entity is unlawfully impeding or failing to cooperate with hard unit Redevelopment Housing proposals; and any consequent enforcement action (as "action" is defined in this Decree). A determination to terminate the Mobility Counselor on performance grounds is not relegated to HUD's discretion by

this Decree. However, in the event a dispute arises between the parties with regard to the termination of the Counselor on performance grounds, no party shall contend that HUD's position is based upon grounds other than HUD's evaluation of the Mobility Counselor's performance, or that HUD's position otherwise is a subterfuge.

XIV. MONITORING AND ENFORCEMENT OF THE PARTIAL CONSENT DECREE

14.1 The terms of this Decree shall apply to each of the named Plaintiffs and proposed Plaintiff Class members, their agents, successors, heirs, and assigns, and shall apply to each of the Defendants, their officers, directors, agents, employees, successors, and assigns.

14.2 During the first year following entry of this Decree, Local Defendants and the Mobility Counselor shall each file a report with the Court and the parties every three (3) months, which shall describe the activities carried out in implementing this Decree. During the second and third years following entry of this Decree, such reports must be filed every six (6) months. After three years, such reports must be filed at least annually until such time as the Court's jurisdiction over this Decree terminates. In addition, the Mobility Counselor shall provide to the parties monthly statistics showing the number of placements made in the preceding month by jurisdiction and the addresses of the units leased. Upon request of a party, the Mobility Counselor shall provide to the party eligibility information about a Special Certificate holder or holders.

14.3 Upon at least twenty (20) days advance written notice

by any other party to this Decree, a party shall make documents available for inspection and copying or otherwise respond to reasonable requests for documents made by a party directly relating to the responding party's compliance with the terms of this Decree, with the exclusion of any documents that would not be discoverable on grounds of privilege. In determining the reasonableness of any request under this Section, the demands and other priorities relating to the litigation of this case shall be taken into consideration.

14.4 Nothing in this Decree shall be construed to make Federal Defendants the guarantors of the obligations of any Local Defendant or the Mobility Counselor, nor shall it be construed to make the Local Defendants the guarantor of the performance of the Federal Defendants or the Mobility Counselor. However, should HUD determine that there has been non-compliance with this Decree by any other party, it will advise all parties of its determination. Nothing in this Decree shall obligate HUD to provide any funding authority except the funding authority that it has specifically agreed to provide in Sections 3.1.1, 3.2.2, 3.2.3, and 8.2 of this Decree, or, in the case of Sections 4.2, 5.1, 5.3, 6.5(b) & (c) and 6.6.1, that it has agreed to provide contingent on compliance by the Local Defendants with HUD public housing development requirements.

XV. SUBSEQUENT LEGISLATION

A Defendant shall not be obligated to carry out any term of this Decree if any otherwise applicable current federal statute or regulation, or future federal statute or regulation

that becomes effective after the execution of this Decree, precludes that party from complying with, or withdraws that party's authority to perform, that term.

XVI. FUNDING

The Federal Defendants' duty to discharge the obligations imposed upon them by this Decree is subject to the availability of funding authority from Congress for any purpose for which funding is required. Nothing in this Decree shall be construed to require the Federal Defendants to provide funding or funding authority other than that which is expressly agreed to herein, except as may be provided for comparable relief under Section XVII below.

XVII. COMPARABLE RELIEF

17.1 The Federal Defendants shall not be found in violation of this Decree or otherwise be held in contempt of this court due to a failure to perform any obligation imposed upon them by the terms of this Decree which results from the unavailability of funding from Congress necessary for compliance, from the modification or revocation of statutory authority necessary for compliance, or from the failure of HUD or any other person to seek such funding or authority from Congress. Notwithstanding the foregoing, if at any time before the discharge of HUD's obligations under this Decree, Congress fails to appropriate funds necessary for compliance with HUD's funding obligations in Sections 3.1.1, 3.2.2, 3.2.3, and 8.2 of the Decree, or revokes or otherwise substantially modifies any statutory authority of HUD necessary for compliance with any

material and substantial provision of relief in this Decree, then Plaintiffs shall be entitled to receive alternative relief, consistent with HUD's revised funding or statutory authority, which is comparable to the relief that HUD can no longer perform. Such comparable relief shall not require the Federal Defendants to provide or expend funds in an amount greater than that expressly agreed to by the Federal Defendants under the terms of this Decree, nor shall the Federal Defendants be required to take any action, or to attempt to take any action, which would circumvent or violate, or have the effect of circumventing or violating, the intent of Congress. In addition, in no event shall such a revision in HUD's funding or statutory authority constitute grounds for reopening this Decree.

17.2 In implementing Section 17.1, the parties shall consult in an effort to agree upon a proposed modification of this Decree to provide such relief. If the parties agree upon a proposed modification, they shall promptly submit same to the Court for approval. If after sixty (60) days the parties cannot agree, any party may submit the matter to the Court for adjudication, after providing ten (10) days advance written notice of its intent to do so. In the event comparable relief for a requirement is impossible to provide, in whole or in part, HUD shall be discharged from performance of all or the remainder of that obligation.

XVIII. RELOCATION

18.1 A person required to move from his/her dwelling on account of demolition required or carried out under this Partial Consent Decree (this "Decree") shall be considered, for purposes of this Section only, a "Displaced Person." The Local Defendants make no admission or representation in this Section of the Decree that persons relocated from any of the five (5) Housing Projects which are the subject of this Decree were/are/will be "displaced persons" as contemplated under the URA. HABC may not move a Displaced Person unless assistance is provided as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. § 4601 et seq.) and implementing regulations codified at 49 C.F.R. Part 24 (the "URA") in a manner consistent with Title VI of the Civil Rights Act of 1964 ("Title VI") and Title VIII of the Civil Rights Act of 1968 ("Title VIII"), and relocation housing is provided as required by this Section. Subject to Section 18.12 of this Decree, the provisions of the URA that are in effect as of the time of execution of this Partial Consent Decree are hereby incorporated into the Decree, are requirements of the Decree, and shall continue to apply to and govern the relocation of persons from the Housing Projects irrespective of any change of law, as long as and only if the change in law would permit the Local Defendants to continue to follow the above referenced provisions of the URA.

18.2 Each Redevelopment Plan shall include a relocation plan for each project that incorporates the requirements of the URA and this Decree.

18.3 Displaced Persons shall be entitled to first preference for public housing, tenant-based assistance (including Special Certificates to the extent the Displaced Persons meet the definition of Displacee in Section 2.3 of the Decree), Redevelopment Housing provided pursuant to this Decree, and HUD assisted housing throughout the Baltimore Housing Market.

18.4 Relocation Counseling and Housing Search Assistance: HABC shall provide relocation assistance and advisory services, as required by the URA, to minimize hardship to Displaced Persons and assure that Displaced Persons are offered housing of their choice in a full range of neighborhoods, both inside and outside areas of minority concentration. These services shall be available to Displaced Persons beginning at least 120 days before the first tenants will be required to move.

18.4.1 HABC shall, either directly or by contract with a housing mobility contractor, provide timely and effective relocation counseling and advisory services, including personal interviews to determine the relocation needs and preferences of each Displaced Person, to explain the relocation housing options and financial assistance for which the Displaced Person is eligible under the URA, and to educate families about the availability of federal and state assisted affordable housing opportunities throughout the Baltimore Housing Market.

18.4.2 HABC shall use its best efforts to assure that Displaced Persons are afforded reasonable opportunities to relocate to decent, safe and sanitary dwellings not located in an area of minority concentration. HABC shall use its best efforts to recruit landlords for relocation housing in Non-Impacted Areas, and shall provide reasonable transportation to families searching for relocation housing.

18.5 Relocation Housing

18.5.1 HABC shall make specific offers of relocation housing and other assistance in a timely manner so that the Displaced Person has sufficient time to negotiate and complete the purchase or lease of the relocation housing before the date he or she will be required to move. If a family has requested tenant based assistance, HABC shall issue the type of certificate requested and offer mobility counseling at least 120 days before the earliest date that the family will be required to move. If a Regular Certificate is not available, then the provisions of Section 3.1.3.1 shall apply.

18.5.2 If sufficient tenant-based assistance is not available for all Displaced Persons that select that option, then those families shall be relocated to their second choice and will retain their Displaced Person preference for the next available tenant-based assistance. Displaced Persons may not be required to accept permanent relocation to other public housing in lieu of tenant-based assistance.

18.5.3 HABC shall give each Displaced Person a 90-day written notice that indicates the earliest possible date the

resident may be displaced. No later than thirty (30) days before the family is required to move, HABC shall give the family written notice of the exact moving date.

18.6 In the case of an urgent or emergency situation, if the HABC determines that a person's continued occupancy will constitute a substantial danger to health or safety or otherwise constitutes an urgent or emergency situation as stated in the URA (42 U.S.C. § 4625(c)(3)), the HABC may relocate the person on a temporary basis and/or give notice within a shorter time period than specified under Sections 18.5.1 and 18.5.3, and shall thereafter provide the relocation assistance required by the URA and this Decree. Provided, however, that a failure to commence relocation services and to offer relocation housing and other assistance in a timely manner in advance of demolition activities shall not be deemed an urgent or emergency situation.

18.7 Reimbursement of Relocation Expenses: Displaced Persons shall receive payment for moving and related expenses as provided under the URA. Upon timely hardship request, HABC shall make such payment in advance of the scheduled moving date.

18.8 Persons Displaced From Lafayette Courts

18.8.1 Persons previously displaced from Lafayette Courts may submit claims for relocation assistance to the HABC at any time up to eighteen (18) months after the date of displacement. HABC shall determine whether the family is entitled to any additional relocation assistance pursuant to the URA, the Lafayette Courts Relocation Plan, and this Decree, and will obtain verification of claimed expenses. HABC shall use

its best efforts to include timely notice to former Lafayette residents of their rights under this Section in a regular mailing that goes to former Lafayette Courts residents, and in the newsletter.

18.8.2 HABC shall give all persons previously displaced from Lafayette Courts an opportunity to receive relocation and mobility counseling and to select relocation housing of their choice, including Special Certificates in accordance with the priorities in section 7.3 of this Decree. Any person temporarily moved who must make a second move to obtain a Special Certificate or housing of his or her original choice(s) shall receive relocation assistance in accordance with the URA, the Lafayette Courts Relocation Plan, and this Decree.

18.9 Persons Displaced From Fairfield Homes and the 734 W. Fayette Street and 770 W. Saratoga Street Buildings of Lexington Terrace: HABC shall notify persons previously displaced from Fairfield Homes and the 734 W. Fayette Street and 770 W. Saratoga Street buildings of Lexington Terrace that they are entitled to apply for, and participate in, the distribution of Special Certificates as set forth in Section 7.3.2 of this Decree. Said notice need not be specifically made to the former Fairfield Homes and Lexington Terrace displaced persons if it is accomplished in accordance with a general notification that may be implemented as part of the process for distribution of Certificates to be developed pursuant to Section 7.2 of this Decree.

18.10 HABC shall maintain records and documents with respect to relocation that the URA requires, and upon reasonable advanced notice, shall make copies of those documents available to HUD and the Plaintiffs.

18.11 Nothing in Sections 18.1 through 18.10 shall alter the selection priorities established in Sections 7.3 through 7.3.5 of this Decree.

18.12 None of the provisions in Sections 18.1 through 18.10 applies to, or creates any obligation on behalf of, the Federal Defendants.

XIX. NAMED PLAINTIFFS

The named Plaintiffs shall receive first priority for Special Certificates, homeownership units and redevelopment housing provided pursuant to the Decree, so long as they meet eligibility rules, regardless of where they currently live.

XX. ATTORNEYS' FEES AND COSTS

Plaintiffs' counsel reserve the right to petition for attorneys' fees and costs at a later date, but in no event more than twenty (20) days after a final judgment or final consent decree is entered in this case. Defendants reserve the right to contest, in whole or in part, any petition for fees and costs filed by the Plaintiffs.

XXI. STAY

The parties agree to negotiate in good faith, for a period of six (6) months from the Court's approval of this Partial Consent Decree, a resolution of the remaining claims in this case. During this period, the parties agree to a stay of

litigation; provided, however, that any party may seek to obtain preliminary relief with respect to actions that are discovered or occur after the parties' signing of this Partial Consent Decree, which, if not enjoined, would jeopardize the availability of the relief to be provided under this Partial Consent Decree; provided further, that the six-month period of delay caused by this stay will not be raised as a defense to motions to enjoin actions that are discovered or occur after the signing of the decree that cannot be brought until after the conclusion of the six-month stay. Any party may make a reasonable request for documents necessary for the effective conduct of the negotiations referenced above under the procedures discussed in Section 14.3 of this Decree. The stay of litigation will remain in effect for the entire six-month period referenced above.

XXII. OTHER TERMS AND CONDITIONS

22.1 The signature of the parties on this Partial Consent Decree constitutes a Settlement Agreement for purposes of reservation of funds only.

22.2 This Partial Consent Decree may be signed in counterpart.

22.3 The benefits and burdens of this Decree are binding upon the parties hereto, and their successors and assigns, and no third party not a signatory hereto may rely upon, enforce, or otherwise claim any rights, interests or benefits by virtue of this Decree.

22.4 No party is acting as the agent of the other, and no obligation or provision of this Decree shall be construed to give the authority of any party to bind the other in any manner, nor shall either party be liable in any manner for the acts, omissions or conduct of the other party or its agents.

22.5 This Decree shall be executed in quadruplicate, and each executed Decree shall be considered an original.

22.6 The parties signing this Decree are represented by Counsel and are fully informed as to the contents of this Decree, and sign hereon freely without being under any duress or undue influence. The actual person signing below represents and warrants his or her ability to bind the respective corporate or governmental party, and by the signature below, each party agrees that the person signing has the apparent authority to bind the respective corporate party above their signature.

22.7 This Decree and its appendices shall constitute the entire understanding and agreement of the parties.

22.8 No statement, remark, agreement or understanding, oral or written, which is not expressly contained herein, shall be recognized or enforced. This Decree shall not be subject to

any change, modification, amendment, or addition without the express written consent of all the parties.

CONSENTED TO:

THE PLAINTIFFS, CARMEN THOMPSON, ET AL.

BY:

[Signature]
ACLU Foundation of Maryland
Counsel for Plaintiffs

[Signature]
Jenner & Block
Counsel for Plaintiffs

THE HOUSING AUTHORITY OF BALTIMORE CITY AND ITS EXECUTIVE DIRECTOR

BY:

THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY

BY:

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND ITS SECRETARY

BY:

[Signature]
MICHAEL SITCOV
JOSEPH V. JEST
Attorneys
U.S. Department of Justice
Civil Division
Federal Programs Branch
901 E Street, N.W.
Washington, D.C. 20004

Of counsel:

Nelson Diaz 3/29/96
NELSON A. DIAZ
General Counsel
U.S. Dept. of Housing and Urban Dev.
SARA MANZANO
Deputy General Counsel for Civil
Rights and Litigation
CAROLE W. WILSON
HOWARD M. SCHMELTZER
STEPHEN I. SHAW

IT IS SO ORDERED.

Honorable Marvin J. Garbis
United States District Judge

APPENDIX A

CRITERIA FOR THE EVALUATION AND RANKING OF PROPOSALS FOR PROJECT-BASED REDEVELOPMENT HOUSING

In response to RFPs issued by the HABC for project-based Redevelopment Housing, sponsors may submit proposals for newly constructed units or existing units (with or without rehabilitation). All proposals must meet the threshold criteria in order to be considered for selection. Proposals meeting the threshold criteria will then be evaluated and ranked on a point system. Sponsors may submit proposals specifically for 15-year URD rental subsidies and/or shorter-term Section 8 rental subsidies; each category shall be separately evaluated and ranked. Proposals not selected for URD subsidies may be considered and ranked for shorter-term Section 8 subsidies.

Threshold Criteria

1. Location of site in a Non-impacted Area as defined by the Partial Consent Decree.
2. Commitment to select tenants for subsidies/subsidized units from among HABC residents and applicants referred by HABC and/or the mobility contractor.
3. Compliance with general development criteria and federal mandates applicable to URD and/or Section 8 project-based assistance projects.
4. Proposed rents must be no more than 120% of FMR.
5. The sponsor must submit a detailed schedule for completion of the project. If the sponsor does not have site control and/or required zoning approval(s), the sponsor shall submit a schedule for obtaining site control and/or necessary approval.

Rating and Ranking Criteria

In addition to threshold criteria, each proposal will be rated and ranked based on the extent to which it is calculated to achieve the desegregative purpose of the Decree (see Section 1.4) and the following specific objectives:

1. Development of housing on a scattered-site and mixed-income basis that integrates redevelopment units with market rate housing and surrounding communities (20 points).

- Proposals for single family or duplex units should be located on widely scattered sites. To achieve maximum points, sites should be at least two (2) blocks from other sites.

- Multi-family or townhouse developments should be physically integrated with market rate units, and to achieve maximum points may not exceed 20% of units in the development.

2. Development of housing in locations that will diversify HABC's inventory and provide HABC families with housing opportunities in safe neighborhoods that are well served by public and commercial facilities (20 points).

To achieve maximum points, proposals should:

- maximize production of redevelopment housing in areas and types of neighborhoods where assisted housing is not currently available and avoid areas where assisted housing is already concentrated (5 points);

- avoid concentration of its housing redevelopment units in the same areas and neighborhoods (5 points);

- maximize production of units in stable neighborhoods and/or growth areas and avoid location of sites in areas that are experiencing racial transition toward minority concentration, declining rates of homeownership or economic decline (5 points);

- maximize production of units in neighborhoods with quality public and commercial services (including schools, public safety, transportation, social services, and retail facilities) and proximate or accessible to major employment centers for entry level, blue collar and clerical job opportunities; avoid areas that are poorly served and/or have high rates of unemployment (5 points).

3. Development of housing that is not physically identifiable as "subsidized housing" to minimize objections from the surrounding community and help market the development for racial and economic integration (15 points).

To achieve maximum points, the proposed developments should:

- incorporate sound design principles for maximizing resident satisfaction, privacy, responsibility, stability, and security (5 points);

- be compatible in design and scale with the surrounding community (5 points);

- offer amenities in individual units that exceed those usually found in public housing and are comparable to those provided in market rate units in the development and/or surrounding community (5 points).

4. Development of a supply of housing in Non-impacted Areas for families that are more difficult to serve through the

Special Certificate program, i.e., large families and families requiring handicapped accessibility. Maximum points will be awarded for proposals that maximize production of three or more bedroom units and exceed minimum requirements for wheelchair accessible units (10 points).

5. Cost effectiveness: The reasonableness of project costs and requested rents shall be considered in relation to the overall quality of the project. HABC shall not be bound to accept proposals based on the lowest cost and may take into account higher costs to acquire sites in Non-impacted Areas and to produce housing that is compatible with surrounding market rate communities. Proposals projecting rents up to 120% of FMR's will not be penalized, provided appropriate documentation for approval of exception rents is submitted (10 points).

6. Continued use as affordable housing after the expiration of the subsidy period. Points will be awarded to proposals based on the extent to which they are structured to assure low-income use and rent restrictions beyond the term of the subsidy contract and/or those structured for potential resident homeownership (5 points).

7. Capacity of the sponsor: maximum points will be awarded to proposals submitted by owners/managers with a demonstrated record of high quality management with respect to construction, maintenance, security, affirmative marketing, tenant relations, community accountability, and fiscal practices (15 points).

8. Selection of developers/owners with a demonstrated commitment to Section 3 resident employment and contracting requirements, as well as compliance with Minority Business Enterprise and Women's Business Enterprise requirements (5 points).

9. Overall quality of proposal: Maximum points will be awarded to those proposals that best demonstrate a commitment to the goals and objectives of the program and a viable plan to meet them, including proposals that offer extraordinary or innovative features (5 points).

APPENDIX B

1. The site and development proposal would rank highly if evaluated under the rating and ranking criteria of Appendix A.

2. The proposed units will be developed on a scattered-site or mixed-income basis that integrates redevelopment units with market rate housing.

- Proposals for single family or duplex units should be located at least two (2) blocks from another redevelopment or other subsidized housing site.

- Multi-family or townhouse units must be physically integrated with market rate units, and redevelopment and other subsidized housing units may not exceed 20% of units in the development.

3. The site must meet the poverty impaction standard of the Decree.

- If the site is located in a non-residential tract or block newly developed for residential use, it must be located in a mixed-income or market rate development;

4. The site may not be located in a neighborhood experiencing economic decline, racial transition toward minority concentration, or decline in homeownership; and

5. The site may not be located in a neighborhood that does not have municipal services comparable to services in neighborhoods lacking concentrations of assisted housing.

APPENDIX C

THE MOBILITY COUNSELING SERVICES CENTER: DUTIES OF THE CONTRACTOR

I. Purpose of the Program

The purpose of the Mobility Counseling Services Program is to remove barriers which may impede the exercise of informed choice by eligible families receiving Section 8 assistance in determining where they utilize such assistance.

These barriers may include lack of information about other neighborhoods, lack of information about portability features and exception rents in the Section 8 program, lack of transportation, lack of child care, difficulty in effectively applying for available units, difficulty in satisfying tenant screening requirements, lack of a comprehensive listing of housing units produced with various forms of governmental assistance that are located in Non-impacted Areas, lack of affirmative marketing efforts by owners of such units, landlord unfamiliarity or misconceptions regarding the Section 8 program, illegal discrimination, and lack of assistance with transition--related problems following a move.

Nothing in the preceding paragraphs constitutes an admission of any kind by any defendant.

All duties, services, optional services, obligations and tasks of the Mobility Counselor enumerated in this Appendix or in Section VIII of this Decree shall be on behalf and for the purpose of assisting families who hold Special Certificates as meant by this Decree.

II. Housing Counseling Services to Families Holding Special Certificates

On behalf of families holding Special Certificates, the Contractor shall:

1. Provide families with detailed information about locational options in Non-impacted Areas and maintain listings of available vacancies;
2. To the extent feasible, refer each family to at least three (3) identified vacancies in Non-impacted areas that are located in neighborhoods selected by the family;
3. Provide services to assist families as they look for housing, including transportation, escort services and child care;

4. Provide individual counseling and advocacy, as needed, to families to assist them to pass standard tenant screening procedures;

5. Assist families with needed transitions after the move, including help in locating schools, churches, child care, employment, and social services, and assistance in reducing the sense of isolation or in resolving disputes with neighbors;

6. Provide assistance and appropriate referrals to families who encounter illegal discrimination or harassment;

7. Counsel families regarding homeownership options if and when HUD implements a program permitting the use of Section 8 assistance with homeownership; and

8. In determining an appropriate placement for a family with school age children, take into account the schooling needs of each child in the family and attempt to place the family in an area where those needs will be best met.

III. Mobility Administration for the Special Certificates

On behalf of families holding Special Certificates, the Contractor shall:

1. Apply the HUD Section 8 screening and eligibility criteria found at 24 C.F.R. § 982.552(b), 60 Fed. Reg. 34715 (July 3, 1995) to determine which families will be eligible for Special Certificates, provided that the HABC will apply all other eligibility criteria, such as income criteria, and avoid placing families with landlords who have defaulted on any obligation to HUD or have a history of serious code violations.

2. Develop and implement a strategy to market the program and families to landlords in Non-impacted Areas and coordinate market-wide recruitment of landlords in Non-impacted Areas for the Special Certificate program.

3. Serve as a clearinghouse for information on housing located in Non-impacted Areas of the Baltimore Housing Market that is financed, in whole or in part, with Low Income Housing Tax Credits, mortgage or industrial revenue bonds, FHA mortgage insurance, or federal or state loans or grants, which are eligible to accept families with Special Certificates. These clearinghouse activities shall include compiling and updating the following data: units becoming available at initial rent-up, vacancies and turnover, location, unit size, rent levels and utility costs, security deposits, application and tenant selection procedures and any residency preferences used.

4. Monitor the affirmative marketing, advertising, and outreach efforts of the owners of such housing, including commitments made by owners in connection with the allocation of

jurisdiction prior to each placement within that jurisdiction. The contractor will also provide, with the assistance of the HABC, eligibility information about a Special Certificate holder upon the request of the local jurisdiction.

APPENDIX D

Listed below are the replacement plans for Lexington Terrace, Flag House Courts, and Murphy Homes, if federal law retains or restores the one-for-one replacement requirement and the 50% cap on the tenant-basing of replacement units.

LEXINGTON TERRACE

- 33 limited-capital funded hard units on-site;
- 35 hard units on-site suitable for elderly housing (PRHP-funded), concerning which the local defendants intended to submit an allocation plan for such use;
- 188 off-site hard units (PRHP-funded) at the following locations: 25 "Stricker Street" units in Sandtown; 11 "Mutual Housing" units on Old Frederick Road; 30 "Norwood Gardens" units; 60 "Sandtown Packages 4 and 5" units; 62 "Mount Pleasant" units;
- 338 tenant-based Section 8 certificates; and
- 83 project-based Section 8 certificate units.
- 677 Total Replacement Units

FLAG HOUSE COURTS

- 130 on-site hard units (PRHP-funded);
- 239 tenant-based Section 8 certificates; and
- 109 project-based Section 8 certificate units.
- 478 Total Replacement Units

MURPHY HOMES

- 75 on-site hard units (PRHP-funded);
- 379 tenant-based Section 8 certificates; and
- 304 project-based Section 8 certificate units.
- 758 Total Replacement Units