

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

PARIS DIVISION

**FILED**  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

**OCT 11 1983**

LUCILLE YOUNG and VIRGINIA  
WYATT

v.

MARTHA WHITEMAN, HOUSING  
AUTHORITY OF THE CITY OF  
CLARKSVILLE

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NO. P-82-37-CA

MURRAY L. HARRIS, CLERK  
BY DEPUTY *[Signature]*

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
PRELIMINARY INJUNCTION

Findings of Fact

1. Plaintiff Lucille Young is an eligible applicant for housing in the Housing Authority of Clarksville (HAC).

2. Plaintiff Young is the black head of a household which includes herself and her six children.

3. Plaintiff Young's only source of income is a monthly Aid for Families with Dependent Children (AFDC) check of \$248.00.

4. Plaintiff Young and her family presently reside in a dilapidated three-bedroom house in the City of Clarksville, Texas. There is no hot water or gas utility service available in the house, and the ceiling in one room is collapsed because of roof leaks.

5. Plaintiff Young has been advised by the owner of the house in which she and her family reside that he desires to sell the house, and that she and her family must vacate the premises

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by October 31, 1983.

6. At plaintiff Young's request, her present application for housing in HAC was filed on May 16, 1979, by her father. Plaintiff did not personally sign the application. However, plaintiff filed this civil action in February 1980; and if defendants previously were unaware of such plaintiff's desire for housing--which does not appear credible to the court--, they were so notified by means of the lawsuit.

7. Based on her family size, under guidelines of the U. S. Department of Housing and Urban Development (HUD), plaintiff Lucille Young is eligible for placement in either a three or four-bedroom apartment.

8. At the time plaintiff Young filed her application, HAC did not follow the HUD required Method of Administration for tenant selection and assignment.

9. At the time of plaintiff Young's 1979 application, tenants were assigned on the basis of race, with all black applicants being offered vacancies in the Cheatham Heights and Dryden sites, located in black neighborhoods, and all white applicants being offered vacancies in College Heights, located in a white neighborhood.

10. HAC first came into existence in 1961. From its inception, HAC has maintained racially segregated projects. White tenants have been assigned to vacancies in the site in the white neighborhood, and black tenants have been assigned to vacancies in the sites in the black neighborhoods.

11. The white site has paved streets, concrete curbs and gutters, and sidewalks. The black sites have unpaved streets, no drainage, and no sidewalks.

12. No black has ever been offered a vacancy in the white site, and no white has ever been offered a vacancy in the black site.

13. In 1981, HUD did a Title VI review of HAC, which found that HAC was maintaining historically racially identifiable housing developments, and that race was a factor in assigning tenants to housing.

14. HAC did not contest these findings, but, rather, entered into a compliance agreement that called for an end to the assignment of tenants on the basis of race, as well as affirmative efforts to desegregate the projects.

15. Since the signing of the compliance agreement in 1981, there has been no black tenant assigned to the white College Heights site, and no white tenant has been placed in the apartments at the two black sites.

16. Since the HUD finding of apparent non-compliance, there have been twenty-four vacancies in HAC, ten at the Dryden and Cheatham sites and fourteen at the College Heights site.

17. An analysis of the assignment of available one-bedroom units by race and date of application since August 17, 1981, indicates a pattern of assignment of tenants by race, rather than by date of application.

18. One result of the assignment of tenants by race is that a number of units, in both black and white sites, are occupied by inappropriately sized family units, thereby reducing the number of available larger (two to four-bedroom) units.

19. At the College Heights site, there are two two-bedroom and two three-bedroom household units. Presently, both of the three-bedroom units are overhousing two-person households, and one of the two-bedroom units is overhousing a one-person household. There are black families, including plaintiff, who are in need of units of these sizes.

20. On April 11, 1983, an efficiency unit at the College Heights site was given to a non-elderly white with an application date of March 18, 1983, in spite of the fact that there were numerous one bedroom units in Cheatem and Dryden that were occupied by one person eligible for an efficiency sized unit.

21. The overhoused tenants in both of the three-bedroom College Heights units would be appropriately housed in smaller one-bedroom units.

22. One of the four-bedroom units in Cheatham is occupied by a family of five, which is eligible for a three-bedroom unit.

23. No effort has been made by HAC to utilize vacancies to reassign tenants to more appropriately sized units, even though to do so would have a positive effect on desegregation of the projects.

24. Given her date of application, plaintiff is at the top of the list for a four-bedroom unit and second from the top for a three-bedroom unit.

25. But for the purpose of maintaining racially segregated projects and the manipulation of the tenant selection and assignment process to that end, an appropriately sized unit would be available to plaintiff.

#### Conclusions of Law

1. The Fourteenth Amendment to the Constitution of the United States prohibits local housing authorities such as HAC from using a tenant selection plan which is adopted for the purpose of, and has the effect of segregating tenants by race. Detroit Housing Commissioner v. Lewis, 226 F.2d 180 (6th Cir.1955); Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907 (N.D. Ill. 1969).

2. Because of her exclusion from HAC, plaintiff Young and her family have been forced to live in seriously dilapidated and unsafe housing. Her eviction from this shelter is imminent. She has been excluded by the de jure segregationist policies and practices of HAC. The wrongful exclusion from public housing is an irreparable injury. Battle v. Municipal Housing Authority, 53 FRD 423, 429 (D.C. N.Y. 1970). HAC's continued use of segregation is also an irreparable injury. U.S. v. School District No. 151, 404 F.2d 1125 (7th Cir. 1968); Keyes v. School District No. 1, 303 F. Supp. 279, 289 (D. Colo. 1969) (unreported stay of preliminary injunction vacated at 396 U.S. 1215 (1969)).

3. The requested relief -- integrative transfers, use of a non-segregative tenant selection and assignment plan, and

admission of Plaintiff Young into the projects -- will impose no legally cognizable harm on defendants. They will have to perform the administrative tasks necessary to end the segregation, steps which should have been taken years ago.

4. From its inception, HAC has flouted the law of the land by purposefully selecting and assigning tenants by race for the purpose of segregating them by race. The public has no interest that will not be served by the requested relief.

5. A preliminary injunction pursuant to Rule 65, F.R.Civ.P., should be issued granting to plaintiffs the relief they seek.

#### Preliminary Injunction

Based upon the above findings of fact and conclusions of law set out above, it is

ORDERED, ADJUDGED, and DECREED, pursuant to Rule 65, F.R.Civ.P., that defendants, their officers, agents, and employees, as well as those persons in active concert or participation with them who receive actual notice of this preliminary injunction by personal service or otherwise, are preliminarily enjoined to comply immediately with the following steps:

(a) Within five days of the date of service of this order upon them, defendants shall draw up and submit to this court for approval a mandatory tenant transfer plan. This plan shall contain the following elements:

i. The name, race, number of persons in the household, the number of bedrooms in the presently occupied unit, unit number, date of initial application, date of initial occupancy, and site identification for each HAC unit that is presently occupied.

ii. The unit number, number of bedrooms, and site location for HAC unit that is presently vacant.

iii. A list of tenants to be transferred to appropriate sized units in a site where their race does not presently predominate. Enough tenants must be transferred to insure that the racial make up of each site is within five percent. of fifty percent. white and fifty percent. black -- the present racial composition of the entire HAC tenant population.

(b) All transfers shall be accomplished within twenty days of the court's approval of the transfer plan. Any tenant not desiring to transfer shall be evicted. Defendants will provide any necessary moving assistance to all transferring tenants.

(c) Immediate offer of a unit to plaintiff Young.

It is further ORDERED that, because of their financial inability to post bond, no bond is required for the issuance of this injunction.

SIGNED and ENTERED this 11<sup>th</sup> day of October, 1983.

Wm. Wayne Justice

Chief Judge