

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

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

SEP 10 1990

LUCILLE YOUNG, et al, *
Plaintiffs, *
v. *
SAMUEL R. PIERCE, et al, *
Defendants *

CIVIL ACTION NO.
P-80-8-CA

MURRAY L. HARRIS, CLERK
BY *Jessie K. Kuyper*

ORDER FOR FURTHER RELIEF

Plaintiffs have moved the Court for an injunction requiring:

- a) effective action by HUD to remove, to the extent practical, the vestiges of HUD's purposeful discrimination,
- b) effective monitoring and reporting to insure compliance with the obligations of the order, and
- c) effective action to prevent future violations.

The factual predicate for the motion is supplied by the remaining vestiges of racial segregation affecting the class members. These vestiges include: racially identifiable projects in racially identifiable neighborhoods, a lack of desegregated housing opportunities for class members, and unequal conditions in the predominantly black projects and surrounding neighborhoods. The legal predicate for the motion is HUD's unsatisfied constitutional and legal duty to eradicate the lingering effects of its past discrimination.

The specific relief requested is granted.

- 1. HUD shall submit, for Court approval, an information

gathering and reporting system which will allow HUD, the master, the Court, and the plaintiffs to efficiently monitor compliance with desegregation measures and the results obtained in providing class members with desegregated housing opportunities. The system shall be submitted for Court review within ninety days. HUD shall timely implement the information system as approved by the Court.

2. HUD shall submit to the Court for approval an individual desegregation plan or an assertion of unitary status under paragraph 3 below for each PHA in the class action area. Each individual desegregation plan shall include the following elements:

a) a reasonable time schedule for achieving unitary status and for implementing the actions set out in the plan,

b) the racial occupancy data, current and historical, of the PHA's projects, programs, waiting lists, neighborhoods within which the assistance is provided, the racial occupancy and neighborhood data for the other HUD assisted projects and programs and waiting lists for those projects and programs within the relevant market area, and any other information relevant to the issue of the adequacy of the desegregation plan submitted,

c) the specific desegregation measures adopted by the PHA to date, the PHA's compliance with those measures, the specific HUD actions to provide class members with a desegregated housing opportunity, the results obtained by the PHA

and HUD actions, and the factors which inhibited or obstructed complete desegregation,

d) a plan for funding and implementation of actions and improvements designed to equalize the conditions in the predominantly black projects and the neighborhoods within which those projects are located to the same conditions in which the majority of white tenants receiving HUD low income housing assistance reside,

e) use of the HUD concept of "magnet projects" to promote stable desegregation of the predominantly black projects in the public housing system,

f) conversion of efficiency or one bedroom units in projects in white neighborhoods to 2, 3, or 4 bedroom units where the need or demand for public housing indicates that the pha is disproportionately serving small or single person households and such conversions will provide class members with a desegregated housing opportunity in a white neighborhood. The plan for conversions should not result in the displacement of current tenants in the units to be converted unless and until a transfer to an appropriate sized unit is available,

g) use of HUD's Community Development Block Grant or other program funding and authority and HUD's legal authority under Title VIII, including enforcement of the cooperation agreement between the city and the PHA to obtain the elimination of municipal services disparities affecting PHA sites

and surrounding neighborhoods,

h) after equalization of the projects and neighborhoods, use of race conscious tenant selection and assignment practices for all projects and programs administered by the PHA to attain and maintain non-racially identifiable projects. This element shall include the provision of alternative housing for any applicant skipped over because of the need to secure or maintain a non-racially identifiable project. This element shall include consolidation of the waiting lists for any separate programs operated by the PHA if appropriate for desegregation purposes and shall include the use of vacancies created in a project by the provision of additional resources as a means of creating and maintaining the non-racially identifiable nature of the project,

i) review of the PHA's past tenant selection and assignment practices in all of a PHA's programs to determine if any class members have been adversely affected by violations of the court ordered requirements and provide a remedy for each class member adversely affected by such violations and measures to prevent such violations in the future,

j) an allocation of project based or other forms of low income housing assistance if such an allocation is necessary to provide class members with non-elderly designated housing opportunities in white neighborhoods which are comparable in number to the housing opportunities in black neighborhoods. The allocation should be conditioned upon such terms as

necessary to insure that the housing assistance is actually provided in a timely fashion and actually provides desegregated housing opportunities for class members,

k) If the PHA is in a locality where local racial hostility makes it unlikely that blacks will actually use the existing public housing, an allocation of project based or other forms of low income housing assistance sufficient to provide comparable housing opportunities in locations where class members will be likely to use the opportunities. The allocation should be given to an entity that will develop or administer the assistance in a manner to actually provide desegregated housing opportunities for class members and under grant conditions which require the development and administration of the assistance in a manner which timely provides desegregated housing opportunities for class members,

l) use of a housing mobility program and Section 8 Existing Housing Program certificates or vouchers to provide class members with a desegregated housing opportunity, through effective mobility counseling for each class member, resident or applicant, which will inform them of all available or potential desegregated housing choices in the relevant market areas and which will provide the landlord recruiting, transportation, referral, and other assistance necessary to allow the class members an effective opportunity to obtain an available or potential desegregated housing oppor-

tunity,

m) alternative actions if the PHA does not agree to follow the desegregation plan or fails to implement plan as approved by the Court,

n) an effective monitoring and enforcement process,

o) any other actions necessary or appropriate to the elimination of the vestiges of segregation.

The plan shall be implemented by HUD as approved by the Court. HUD shall begin submitting desegregation plans or unitary status assertions under paragraph 3 within ninety days of the order and shall have submitted all such plans or assertions within 180 days of the order except the plans for the nine PHAs listed below. The plans for the nine PHAs shall be submitted within 120 days of the date listed for each PHA. Beaumont - March 1, 1991, Bowie county - November 1, 1990, Corrigan - February 1, 1991, Grapeland - March 1, 1991, Livingston - April 1, 1991, New Boston - December 1, 1990, Omaha - January 1, 1991, Overton - November 1, 1990, and Port Arthur - April 1, 1991.

3. If HUD chooses to assert that HUD has achieved unitary status with regard to any PHA, then in lieu of an initial desegregation plan or at any time during the pendency of this decree after an approved plan has been implemented, HUD may submit to the Court, with a copy to plaintiffs, a detailed, factual account upon which the assertion is based and all documents upon which the facts are based. The account shall

include: all steps taken to achieve unitary status by HUD or the PHA, any housing desegregation procedures which were not used and the explanation for the failure to use those procedures, the basis upon which HUD relies for the assertion that no further action to remove the vestiges of prior segregation is practical or required, whether or not actions by an organization, entity or person other than HUD or the PHA could further desegregation, what such actions are and the steps taken by HUD or the PHA to secure such actions and the results of those steps and any other information relevant to the determination of unitary status.

4. HUD shall conduct an analysis of non-PHA agencies' compliance with the interim decree requirements, and where non-compliance is found or has been found in the past, identify each class member adversely affected by the non-compliance and remedy, to the extent practical, those effects and take effective action to prevent future violations by the non-PHA agencies and remedy the effects of future violations on class members. HUD's reports to the Court shall detail the actions taken and results achieved under this section. The analysis of all such agencies should be completed within one year.

5. HUD shall provide, either from its own resources or resources which it provides to local governments, funding for an effective non-profit fair housing organization for the class action area. The organization shall have as a priority

the provision of fair housing counseling and advocacy services to class members. HUD shall submit a plan for the funding and development of this organization to the Court for approval and shall implement the plan as approved by the Court. The plan shall be submitted within ninety days.

6. HUD shall file quarterly reports giving specific results achieved by each element of the remedy. The report shall be in a format approved by the Court. Each party should submit proposals for the format and content of the report to the Court within thirty days.

7. Paragraph 5(c) of the interim injunction is modified to drop the preference for class members in non-low rent public housing projects operated by PHAs which also operate low rent public housing projects and which have a single waiting list for both the low rent public housing projects and the non-lrph projects.

8. The interim injunction is modified to name Jack Kemp, Secretary of HUD, and Sam R. Mosely, Regional Administrator of HUD, Region VI and their successors in office as personally responsible for compliance with the interim injunction.

9. Except as modified by this order or court approval of a specific PHA's desegregation plan, the interim injunction shall continue in effect. Jack Kemp, Secretary of HUD, and Sam R. Mosely, Regional Administrator of HUD, Region VI and their successors in office are personally responsible for compliance with this injunction order.

September 9, 1990

Date

Ann. Wynne Justice
United States District Judge