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

LUCILLE YOUNG, et al,	*	
	*	
Plaintiffs,	*	
	*	CIVIL ACTION NO.
v.	*	P-80-8-CA
	*	
HENRY G. CISNEROS, et al,	*	
	*	
Defendants	*	
	*	

PLAINTIFFS' PROPOSED ORDER FOR FINAL RELIEF

Plaintiffs' proposed order for final relief is attached.

Respectfully Submitted,

MICHAEL M. DANIEL, P.C.
3301 Elm Street
Dallas, Texas 75226-1637
214-939-9230

By: _____
Michael M. Daniel
State Bar No. 05360500
Laura B. Beshara
State Bar No. 02261750

East Texas Legal Services, Inc.
527 Forsythe, P.O. Box 2552
Beaumont, TX 77704-2552
409-835-4971
Tom Oxford
State Bar No. 15392200
Scott Newar
State Bar No. 14940900

Attorneys for Plaintiffs

Certificate of Service

I certify that a true and correct copy of the above document was served upon counsel for defendant by Federal Express delivery, on the 18th day of Nov, 1994.

_____
Michael M. Daniel

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PLAINTIFFS' PROPOSED ORDER FOR FINAL RELIEF

Plaintiffs' motion for final relief is granted.

I. HUD misstates the findings of the Court. The liability opinion did not limit liability to a finding that HUD had failed in its tenant selection and assignment policies.

The Court has found:

Referring to both the 1967 HUD tenant selection and assignment policy and the 1967 HUD site selection rules, "These HUD policies were ineffective in remedying past segregation or preventing segregated occupancy in new project sites." Young v. Pierce, 628 F.Supp. 1037, 1045-1046 (E.D. Tex. 1985).

"Plaintiffs in this action have alleged - and shown - that HUD has maintained a single, uniform policy of knowingly supporting segregated housing in East Texas in violation of ...." Id. at 1042.

"In a parallel to the second sentence of the footnote, HUD's policy of maintaining segregated housing, unquestionably supported here by significant proof, can fairly be characterized as a general policy of discrimination which manifests itself in a wide

range of HUD practices." Id. at 1043.

"The information produced by HUD indicates that the public housing sites it funds are segregated by race." Id. at 1043 - 1044,

"The history of HUD's involvement in the provision of East Texas housing - that is, a system of segregated housing - has been set out above and in the Appendix to this order. The history of public housing in the class action counties is simply that of HUD allowing PHA's to construct segregated housing projects and selectively enforcing its regulations in a way calculated to insure that these projects remain segregated." Id. at 1047.

"HUD's funding, regulation, and assistance of local PHA's is clearly unconstitutional support of segregation within the meaning of these cases." Id. at 1052.

"Second, the decisions which produce the racial makeup of public housing are heavily regulated by HUD: HUD has recognized its duty under Title VI to involve itself in these decisions, by forcing local providers of public housing to follow tenant assignment, site placement, and affirmative marketing plans designed to prevent racial segregation." Id. at 1053

"HUD's policies of ineffectively enforcing Title VI, of failing to supervise racially prejudiced local PHA's, of vetoing construction in minority neighborhoods, and of ignoring regulations requiring HUD to monitor affirmative action in marketing were simply a blueprint for segregation." Id. at 1054.

"HUD's intent to discriminate is established by the combination of HUD's disingenuous assertions of ignorance, its actual knowledge of segregation, and its continuing financial support of each public housing site in the class action counties." Id. at 1056

"HUD has consistently supported and funded each project instituted under its aegis. HUD's inactivity has been limited to those aspects of its affirmative action responsibilities which might have an actual impact in desegregating federally funded housing. It has actively employed race-conscious policies which result in segregation. In the area covered by this action, those who have administered these projects have done so in a way clearly animated by racial prejudice. HUD has a duty to know how its money is spent, and in fact has known that it is supporting segregated housing in East Texas. Notwithstanding, it has continued to actively support the system in perhaps the most effective possible way - by paying for it. HUD has thus played a crucial and continuing role in creating and maintaining a large system of publicly funded segregated housing." Id. at 1056-1057.

II. The record on federal involvement in segregated site selection in East Texas shows that the lack of desegregative housing opportunities is a vestige of de jure segregation.

Federal government and local officials did not put projects intended for black occupancy in white areas. The underlying purpose of the segregation was to keep blacks out of white areas

and for that purpose the public housing intended for black occupancy was located in predominantly black or racially concentrated areas. The conditions in the black projects and neighborhoods were not and are not equal to the conditions in and around the white projects and other HUD assisted low income housing.

Irving Statman, the director of HUD's Dallas Area Office testified,[1] in 1980 that:

a. A cause of racial segregation in HUD's public housing in the "old days", was that when faced with a site selection decision, HUD had to make a "moral decision". "And that moral decision was, are we going to produce housing for people, are we going to move people out of shanty houses with no water and no sewer and move them into areas -- while you had your safe, sanitary housing, it did have a propensity to become segregated -- or not to produce any housing. And in the late '60's and the early '70's that was the decision that was made." [deposition pages 33-34].

b. After HUD's site selection criteria came into play, neighborhood opposition kept the housing from being located in "better parts of town". [deposition pages 34-35].

c. When asked were there any other causes of segregated public housing, in the old days, other than site selection, Mr. Statman testified:

"No, other than we basically -- like I said before, it's my opinion that we had to respond to the locations given us by the

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[1] Plaintiffs' msj exhibit #15, Statman deposition excerpts.

people who proposed housing or risk having no housing." ....

Q. (By Mr Daniel) In the old days was it basically where the housing was placed in terms of a black community or a white community; did that determine what the race of the occupants was going to be?

A. That was -- you know, you're in a propensity toward blacks occupying a project in what is a traditionally a black neighborhood, yeah." [deposition page 36].

Q. (By Mr. Daniel) Okay, in terms of present day, what are some of the -- other than site selection and local opposition, what are some of the causes of segregated projects?

A. Well, okay, with your local opposition a fine site is hard to get. Okay. Your projects being put in all white areas tend to be populated by whites." [deposition page 38].

Mr. Statman testified that the only procedure taken to integrate the housing segregated by site selection was tenant selection and assignment procedures. He was not aware of the process resulting in any integrated projects. [deposition page 39].

Mr. Statman explained the process by using an example involving a hypothetical town divided by railroad tracks into a black neighborhood and a white neighborhood. [deposition page 50]. His conclusion was "But the key was location." [deposition page 51].

Elroy Flieller, another HUD Dallas Area Office official testified to the same effect. "The pre- '64 projects were all so

designed and so labeled, in the old plans and specifications under the separate but equal policy. And every attempt has been made since in site location like to insure that this didn't recur." [Plaintiffs' msj exhibit # 15 - Flieller deposition pages 40-41].

An example of the labeling in the old plans and specifications is the Development Program for Project No. Tex 48-1 The Housing Authority of the City of Paris, Texas. This is the application filed with the federal government for the initial funding of the public housing projects in Paris. It was filed in 1950. The documents states: "One hundred thirty-two units are to be constructed for White occupancy on blighted [vacant] area site. This blighted area is located in the Southwest section of the City approximately two-thirds mile from the center of the business district. Sixty-eight units are to be constructed for Negro occupancy on vacant land located in the Northeast section of the City approximately seven-eights mile from the center of the business district and located in a portion of the City where the Negro population predominates." [Plaintiffs' 5/30/90 exhibit # 1, page 3].

"224... (b) Site for TEX-48-1, for White occupancy, is located in an area predominantly by people of the White race, TEX-48-2, for Negro occupancy, will be located in an area predominated by people of the Negro race." [Plaintiffs 5/30/90 exhibit # 1, page 13].

Plaintiffs' msj exhibit #1 summarizes the early history of

public housing site selection. The discussion of the initial causes of discrimination in public housing concludes "Finally, because the 1937 Act placed primary responsibility for the administration of the program in the hands of the local authorities, the projects tended to reflect the segregated living patterns of the communities in which they were constructed, since site selection merely involved placing one project in the Negro neighborhood and one in the white neighborhood." [page 875].

The exhibit points out the obvious flaw in using only tenant selection methods to attempt to remedy the segregation caused by site selection. "First, the free choice plan approved by PHA goes only to the eradication of discriminatory tenant selection procedures; it completely neglects and has no effect upon past discriminatory site selection methods." [page 882].

The pattern established by the combination of de jure site selection and tenant selection and assignment continues to this day. Plaintiffs' 5/12/94 exhibit # 294 shows the pattern. The all white or racially identifiable white projects are in predominantly white areas. The all black or racially identifiable black projects are in predominantly black or racially concentrated black areas. 88.46% of the black family households are in projects located in minority impacted areas. 73.93% of the black elderly households are in projects located in minority impacted areas. Even projects built since the liability opinion in this case such as Marshall PHA site ab and Jasper PHA are located in predominantly black areas. HUD does not dispute the existence of

the unequal conditions which continue to affect the predominantly black projects.

The federal government's new assertions that the record does not show HUD and other federal government involvement in and knowledge of the location of projects for black occupancy in predominantly black or racially concentrated minority areas and that there is no record to support a remedy requiring the creation of desegregative housing opportunities are contradicted by earlier assertions of HUD's Office of General Counsel.

In Appendix 3 "East Texas" to Subsidized Housing and Race Office of General Counsel U.S. Department of Housing and Urban Development November 1985, page 6,[2] the OGC states:

"In early December 1983, William Wynn, Deputy Assistant Secretary for Enforcement and Compliance in the Office of Fair Housing and Equal Opportunity, traveled to Texas to personally survey public housing conditions in the East Texas area. In his oral report to Secretary Pierce of his survey of 20 housing authorities in East Texas, Mr. Wynn confirmed that housing patterns in East Texas authorities were segregated. He described many housing authorities where services and facilities were unequal between white and black projects and where executive directors of local authorities (the persons responsible for selecting and assigning applicants) exhibited ignorance and insensitivity to civil rights requirements and, in some cases,

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[2] This OGC report was put into the record at the time of the original fee application in 1985 and is referred to in the Court's May 5, 1986 Order awarding fees, page 11 n. 6.

admitted overtly discriminatory conduct. Mr. Wynn also reported from discussions with executive directors and tenants that poor management practices within the housing authorities had exacerbated racially segregated housing conditions and were a contributing primary factor to the continuation of segregated housing patterns.

On page 27, OGC states "With a few significant exceptions such as Texarkana, most of the East Texas authorities had several important factors in common: a history of separation of the races in public housing attributable to official purpose but to little else; ...."

The Report itself is clear on the part that site selection and location played in the original de jure segregation of federally assisted public housing. On pages 11 - 12, OGC states:

"In the years between the beginning of the program and the awakening to civil rights obligations in the 1960's, the siting and tenanting policies followed by local authorities reflected local desires and customs. In the South, public housing projects were established in accordance with "separate but equal" policies sometimes written specifically into State law. In other areas, the policy established at the Federal level was that the "character" of a neighborhood was not to be changed by the placement of public housing projects. Implicit in this was the idea that public housing in a locality would not be the agent of change, but should meld with existing patterns of racial occupancy." (emphasis added).

On pages 14 - 15, OGC states:

"The 810,000 public housing units authorized by the Housing Act of 1949 were not built quickly; it took until about 1965 to build half. As explained by Miss Wood, "The first and most important reason for the poor record was the difficulty encountered by authorities in securing local public approval of any site for public housing. Southern cities, still able to segregate projects, had less trouble than Northern cities, but the prejudice against public housing was social and economic as well as racial."

On pages 20 - 21, OGC states:

"Since the inception of the public housing program, standards of one type or another had been applied by HUD and its predecessor agency, the Public Housing Administration, to the selection of sites. However, those early standards did not reflect a concern for the impact of site selection on housing opportunities for minority families. By the mid-1960s, it had become evident that much of the public housing available to minorities was being constructed in areas of minority concentration. Acting pursuant Executive Order 11063 and the Civil Rights Act of 1964, the Department added a site standard in 1967 which addressed the responsibility of local housing authorities to provide for a balanced distribution of public housing projects within the locality, in order to promote housing for minorities outside as well as inside "areas of racial concentration."

On pages 31 - 32, OGC states:

"There are several ways in which current racial discrimination, or the effects or prior discrimination, may have an impact on the availability of equal housing opportunity in HUD-assisted housing....4. Location of HUD-assisted housing at a geographic site which tends to assure racial concentration within the project or to perpetuate, or increase, racial concentration in a neighborhood....5. Resistance to location of HUD-assisted housing at a geographic site which will promote an expansion of housing choice for minorities..."

HUD Secretary Pierce read the OGC study to show that the federal government was responsible for the segregated and unequal conditions in public housing. "It reveals, among other things, that program policies of the Executive Branch and Congress over a 40-year period have played a significant role in influencing the location and condition of assisted housing projects and the racial characteristics of program participants." [Nov. 19, 1985 letter from Secretary Pierce to Henry B. Gonzalez, printed in Discrimination in Federally Assisted Housing Programs, Hearings before the House Subcommittee on Housing and Community Development, Ninety-Ninth Congress [Serial No. 99-83], page 15, copy attached as Attachment A].

HUD clearly had knowledge that part of the segregation of public housing was location of the predominantly minority projects in predominantly or concentrated minority areas and that creating opportunities outside of these areas was a civil rights obligation. In 1977 HUD proposed a new site selection rule. As

part of the background for the rules, HUD made the following statements:

"By the mid-1960's, it became evident that much of the public housing available to minorities was being constructed in areas of minority concentration. Responding to this pattern, pursuant to authority conferred by Executive Order 11063 of the 1962 (42 U.S.C. 1983 note) and the Civil Rights Act of 1964 (see particularly 42 U.S.C. 2000d), the Department added a site standard in 1967 which addressed the responsibility of local housing authorities to provide for a balanced distribution of public housing projects within the locality, in order to promote housing opportunities for minorities outside as well as inside "areas of racial concentration." Criterion 2g of Par. 205.1 of the Low Rent Public Housing Manual." [Plaintiffs 4/18/94 exhibit # 23, page 1].

The Court has already found that this site selection policy was ineffective in remedying past segregation or preventing segregated occupancy in new project sites. Young, 628 F.Supp. at 1046.

III. The record shows that the location of such a high percentage of units in predominantly black areas is a vestige of the de jure segregation which must be eradicated.

In 1972, HUD's General Counsel, David Maxwell, wrote an article on HUD's site selection procedure. [Plaintiffs' msj exhibit # 53]. The article contains the following statements:

"Every additional low-income project HUD approves for

financial assistance in central cities inevitably reinforces segregated housing patterns." [article page 92].

One objective of the site selection criteria is explicitly stated to be "To open up nonsegregated housing opportunities that will contribute to decreasing the effects of past discrimination." [article page 93].

"HUD should include, among the various criteria by which applications are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This means that HUD should consider the impact of proposals on patterns of racial concentration." [article page 100].

In 1977 HUD considered a new policy for desegegration of its public housing projects. While the proposed policy focused on the tenant selection process, an additional requirement for each PHA was to utilize various methods to "create a more varied supply of housing as to type and locations with an improved environment which in turn could assist in reaching the goal set in Section 3 (policy)." [Plaintiffs' injunction exhibit # 6, attachment page 6].

The HUD Regional Administrator for Fair Housing and Equal Opportunity testified that a project location in a minority area was a barrier to nonminorities accepting a unit in a project in that area, particularly if the minority area did not have equal amenities. [Plaintiffs' msj exhibit # 15, Chaires deposition

pages 89-90].

The 1985 HUD OGC Report stated on page 39:

"There are, of course, further inherent limits on the ability of remedial efforts [referring to tenant selection and assignment remedies] to effect significant changes in the occupancy characteristics of a housing system fully in place. Geographic location of sites undeniably affects the willingness of applicants to accept unit assignments, even if the cost of rejection is denial of participation in the program. Moreover, racial character of a site is not the only factor which may affect the willingness of an applicant to accept assignment; proximity to family, social associations such as churches, friends, employment, and simply familiar surroundings also play a role that is difficult to quantify."

The OGC Report, page 39, also cites to and quotes from the IBS Desegregation Study which is plaintiffs' 4/18/94 exhibit # 261. The IBS study, commissioned by HUD, found:

a) that the origin and extent of segregation in public housing was based in the popular support for "Jim Crow" laws and separate but equal racial segregation. "From the program's inception, site selection for construction involved simply placing one project in a white neighborhood and one in a black neighborhood." [page 1-2].

b) in evaluating the barriers to desegregation, that "The effects of jurisdictional and neighborhood factors are obvious. A project will be harder to desegregate if it is located in a

segregated, unsafe, or unsightly neighborhood or in a jurisdiction where de facto segregation still is widely practiced. [page 4-1].

c) "The ease of desegregating clearly is shaped, in part, by the housing opportunities available outside public housing. If few housing opportunities generally are available to poor households in the jurisdiction, integrative offers are more likely to be accepted. When one race finds many options in the housing market while another finds few other opportunities as attractive as public housing, however, segregation is likely to resist change." [4-1, 4-2].

d) "o Conditions in the physical conditions of projects, with projects serving one race being in worse condition or of worse quality than those serving another race. o Disparities in the quality or availability of facilities and services at projects serving different races." [page 4-3].

Conclusion

The HUD assisted public housing in the class action area is and has been racially segregated, separate and unequal in terms of location, occupancy, and conditions. HUD, and its predecessors, have knowingly funded, supported, regulated, and supervised the origination and perpetuation of this separate and unequal system.

Final Relief

1. Since HUD's plans and plan amendments do not comply with the Court's 9/10/90 Order for Further Relief and do not meet the

standards for acceptable desegregation plans, the issue is what relief should be ordered. While the written plans and plan amendments are not approved, many of the specific items of appropriate relief have been proposed in some form by HUD either in the plans, the plan amendments, the Comprehensive Plan, the various declarations filed, or in testimony.

Reporting

2. HUD shall continue to report progress towards desegregation using the existing reporting system modified to include reports on each significant action taken under the requirements of this order for final relief. Each report shall be filed with the Court and served on plaintiffs' counsel within 30 days of the end of the quarter covered in the report. This deadline is necessary because HUD has consistently filed its reports months, and in some cases, more than a year, after the end of the period covered by the report.

For example, the 8th Quarterly Report for the period 1/90 - 3/90 was filed 6/25/91, the 11th Quarterly Report for 10/90 - 12/90 was filed 10/17/91, the 18th quarterly report for 7/92 - 9/92 was filed in July, 1993, and the 22nd Quarterly report for 7/93 - 9/93 was filed 11/26/93. The most recent report, the 24th for the period 1/94 - 3/94 was filed on June 30, 1994. No reports for the 4/94 - 6/94 and the 7/94 - 9/94 period have been filed. This delay significantly reduces the value of the reports for monitoring purposes.

Standard for Unitary Status

3. Unitary status cannot be attained until the remaining vestiges of racial segregation and other forms of discrimination against class members have been eliminated to the extent practical. The actions required in this order are practical measures to eliminate those vestiges. Hills v. Gautreaux, 425 U.S. 284, 297 (1976). HUD also has considerable discretion in the performance of its grant making and civil rights enforcement authority to determine and require other practical measures to eliminate the vestiges of racial segregation. In determining whether actions to the extent practical have been taken, the record of HUD's use of this discretion will be particularly relevant.

Equalization

4. HUD shall exercise its funding authority under the existing and any future programs for maintenance and improvements at PHAs to equalize the unit and project conditions for class members in PHA units to the same conditions in which the majority of white tenants receiving HUD low income housing assistance reside and to prevent such inequalities from arising in the future. The provision of the specific equipment, facilities, services, and improvements listed on Appendix 1 to this Order must be made before unitary status is achieved. The provision of the specific equipment, facilities, services, and improvements shall be completed at the historically designated black projects before provision of similar equipment, facilities, and improvements shall be funded at the historically all white PHAs.

5. Specific schedules are necessary for purposes of setting

and following priorities and for judicial monitoring of progress towards unitary status. HUD shall submit specific schedules for the actions required by this Order for Final Relief for Court approval within 60 days after the entry of the order.

6. HUD shall ensure, using the full extent of its authority, that the specific equipment, facilities, services, and improvements listed on Appendix 1 are in place within a reasonable time. A three year period is a more reasonable goal than seven to ten years.

7. HUD shall ensure that unit and project conditions at all PHA projects in which class members reside meet or exceed Housing Quality Standards within 3 years. This should not be taken to condone the existing conditions or to reflect approval of a three year period as a reasonable time within which to correct the conditions or to relocate the present residents. People should not be required to live in the substandard conditions at some of the projects for any period of time. [plaintiffs' exhibit # 285 - Maintenance Review of Beaumont HA, pages 6-10]. Rather, the three years is the longest possible period which can be condoned for providing replacement units.

8. If, at the end of the three year period, significant violations of Housing Quality Standards remain at any black project that was racially identifiable black when this lawsuit was filed, then HUD shall provide a new allocation of housing assistance for units of housing be developed or otherwise made available in predominantly white areas within a one year period.

The number of such units to be made available shall equal the number of units in each project and shall remain available until the project units are in compliance with Housing Quality Standards and any unequal conditions have been eliminated.

9. HUD shall use all of its funding, monitoring, and enforcement authority to accomplish the equalization of neighborhood conditions in and around the PHA projects in predominantly black or minority concentrated areas and to prevent such inequalities from coming into existence in the future. The equalization must be completed in black areas before improvements are funded in white areas.

10. Appendix 1 lists specific neighborhood conditions which have existed around predominantly black projects. While HUD has secured funding for the elimination of some of these conditions, there is no record that the conditions have actually been eliminated. HUD shall notify the Court and the plaintiffs in writing when each listed condition has been eradicated and state the facts upon which the assertion is based. HUD shall ensure, using the full extent of its authority, that the listed conditions are cured, remedied, and eradicated within three years of the date of this order, that any additional inequalities are cured, remedied, and eradicated, and that monitoring and enforcement procedures are in place to identify and remedy any such conditions which occur in the future.

11. HUD shall require each recipient of its funding operating in the class action area, including the State of Texas, to

take all actions necessary to eliminate the unequal conditions identified in Appendix 1 which includes the unequal conditions identified in HUD's desegregation plans. Until each entity has adopted a plan that realistically provides for the remedy of all unequal conditions within one year from the date of the order for final relief, HUD shall refuse to accept that entity's certification of compliance with Title VI, Title VIII and the other fair housing equal opportunity requirements. If an entity fails to implement its plan, HUD shall also refuse to accept that entity's certification of compliance with Title VI, Title VIII and the other fair housing equal opportunity requirements until the plan is implemented. HUD shall monitor and investigate each entity's performance and include the actions taken and the specific disparities eliminated in the Quarterly report to the Court. Because the entities are not parties to this action, HUD's refusal to accept any entity's certification shall be without prejudice to any of that entity's rights to challenge the refusal in the appropriate forum.

12. HUD's amended plans called for the provision of air conditioning equipment, laundry facilities, community centers, and playgrounds. These facilities shall be part of the improvements provided. The laundry facilities shall include an appropriate number of washers and dryers. The air conditioning shall include an increase in the utility allowance for each air conditioned unit so that the utility allowance at least equals the utility allowances in the predominantly white HUD assisted pro-

jects which furnish air conditioning.

13. HUD shall also be ordered to ensure the provision of carpeting, dishwashers, and garbage disposals in the predominantly and historically black projects. If HUD chooses to provide these furnishings and applicances in predominantly white projects in order to eliminate racial identifiability or for other purposes, it shall do so only after installation in the black projects.

14. HUD's Comprehensive Plan lists various actions that HUD may take under ¶ 2. o) of the 9/10/90 Order for Further Relief. The listed actions include the provision of adequate security and police protection. The listed actions shall not be optional. If security and police protection are needed, HUD shall be required to take all action within its power to fulfill the need.

Magnet projects

15. The following projects shall receive Magnet Project improvements:

Beaumont - Magnolia, Concord; Clarksville - Durham, Cheatam; Cleveland - site AC: Crockett - Lewis Circle with demolition and replacement of Prince Hall; Gladewater - sites AA, AB; Jefferson - both projects; Orange - Robinson Homes; Port Arthur - sites AA, AB; Texarkana - sites AA, AB, AC.

16. These projects are historically black projects located in historical black neighborhoods. The projects and the neighborhoods are marred with high vacancies, crime, and other substandard conditions. The provision of magnet project amenities and improvements are clearly necessary if there is to be any

chance of reducing or eliminating the racial identifiability of the projects.

17. The purpose of a magnet project policy is to focus physical improvements and tenant services on predominantly black projects in order to increase acceptance rates by whites offered units in these projects. In order to increase white acceptance rates, the conditions in these projects must be seen as "better" than the housing in the predominantly white projects. Some of the tenant support services recommended by HUD in its general guidelines for magnet projects as a desegregation tool are on-site medical services and on-site day care. The specific improvements for the magnet projects and a schedule for making the improvements shall be developed in conjunction with the affected PHA. HUD shall submit the proposed improvements and schedule to the Court for approval within six months of the date of this order for final relief.

18. Other projects may require magnet project improvements depending on the results achieved by the affirmative action waiting list procedures.

Increased Desegregative Housing Opportunities

19. A purpose for the racial segregation in HUD's public housing program was to prevent African-Americans from using HUD's assisted housing programs in white areas and neighborhoods. In order to accomplish this purpose, projects intended for occupancy by African-Americans were located in traditional black neighborhoods or in racially concentrated neighborhoods or in areas

outside of any residential neighborhoods or areas. In order to disestablish this vestige of racial segregation, HUD must provide and maintain, in each jurisdiction, the number of desegregative housing opportunities substantially equal to the number of housing opportunities in the traditional black neighborhoods, racially concentrated areas, and in areas outside of any racially concentrated areas.

20. The approximate total number of units needed to provide a number of desegregative housing opportunities for class members equal to the number of public housing units which are not desegregative housing opportunities is 1,282 elderly and 3,852 non-elderly. This is an overall total that represents the imbalance in public housing throughout the class action area. HUD's mandate is to produce the comparable number of opportunities needed in each jurisdiction where there is a deficiency. [See plaintiffs' exhibits ## 287, 288 summary and individual PHA desegregative housing opportunity tables; HUD exhibit # 119]. The 1,000 additional units of Section 8 certificates or vouchers which HUD has indicated it will provide for use in the class action counties is a significant start towards meeting this goal.

21. Any new allocation of project based assisted units shall count towards meeting this goal if, in addition to meeting the location requirements, the actual occupancy of the project as well as the waiting list and the location of class members within the project show that class members have access to the units in the project and actually reside in the units on a non-discrimina-

tory and equal basis. An indicator of this status is the comparison of the African-American need and demand for the housing as shown by waiting lists, census data, or other reliable indicators of need and demand and the number and percent of units actually occupied by African-Americans. Units allocated to PHAs or other entities in areas where racial hostility or the perception of racial hostility limits African-American participation shall not count towards the goal except to the extent that class members actually reside in the units.

22. A unit of tenant based assistance such as a Section 8 certificate or voucher will count towards meeting this goal if, in addition to being used to obtain housing in a white area, it is actually used by a class member. HUD must provide the Court and plaintiffs' counsel with the documentation or other evidence that the assistance is actually used by a class member in a white area.

23. HUD must use all of its housing assistance programs in the effort to create these additional opportunities. But the desegregative purpose of this order would not be served by merely substituting an African-American class member for an African-American tenant already using a unit of assistance in a predominantly white area.

24. There is a current imbalance of desegregative housing opportunities in HUD's other programs of approximately 268 elderly HUD Assisted Units, 2,049 non-elderly HUD Assisted Units, and 1,204 Section 8 certificate or voucher units. [plaintiffs'

exhibits # 21, 24-81]. In order to claim that a unit of assistance in these or any other federal or state supported low income housing program is available for a new desegregative housing opportunity, HUD shall provide the court with the documentation or other evidence that the unit or units are in addition to the desegregative housing opportunities that the relevant program is providing African-American households as of the date of the order for final relief.

25. HUD's efforts to provide the needed desegregative housing opportunities shall not end when the 5,135th class member moves into a white area. In order to achieve unitary status, HUD must show that there is a relatively stable balance of opportunities which will continue in the future.

26. HUD must report to the Court and the plaintiffs the information necessary to evaluate HUD's claims for the creation of the additional desegregative housing opportunities in each quarterly report. The information shall include the documentation necessary to establish that class members are using the assistance, that the assisted unit is in a predominantly white area, and that the additional desegregative housing opportunities are in addition to the desegregative housing opportunities in existence as of May 31, 1994.

27. The State of Texas and several cities in the class action area receive HUD low-income housing assistance under programs, e.g. HOME 42 U.S.C. 12701, et seq., which have come into existence since the beginning of this lawsuit and the remedy

orders. Other programs may be instituted during the pendency of this remedy. Unless the State and each class action area recipient of any HUD low-income housing assistance funds agrees to implement and actually does implement its HUD funded housing assistance programs in such a manner as to further the desegregation of the housing opportunities afforded to class members and to avoid inhibiting and frustrating the desegregation of the PHAs in the class action area, HUD shall refuse to accept that entity's certification of compliance with Title VI, Title VIII and the other HUD fair housing and equal opportunity requirements. Each entity's agreement to give class members the same preference and referral treatment in its assisted housing that is required of other HUD assisted low income housing programs under ¶ 5. of the March 3, 1988 Interim Injunction is an example of actions required to meet this standard. HUD shall monitor and investigate each entity's performance and include a report of the monitoring and investigation in the Quarterly report to the Court. Because the entities are not parties to this action, HUD's refusal to accept any entity's certification shall be without prejudice to that entity's rights to challenge the refusal in the appropriate forum.

28. HUD has recognized, and communicated to FmHA, the white flight potential of the low income housing funded by FmHA in the class action area. [plaintiffs' exhibits ## 198 - 205]. There is no record of FmHA taking any action to prevent or minimize white flight from public housing.

29. HUD has no oversight authority with regard to the FmHA assisted housing. HUD shall monitor the development of all FmHA low income housing projects in the class action areas and notify the private sponsors of such housing, the Secretary of the Department of Agriculture, the State of Texas Commission on Human Rights, and the U.S. Department of Justice Civil Rights Division of any development which will tend to inhibit or frustrate the desegregation of the public housing in the class action counties. The specifics of this monitoring and any notices given will be included in HUD's quarterly report for the relevant time period.

30. There is a federal forum for resolution of any differences between HUD and other federal executive agencies such as FmHA which disagreements arise out of the desegregation of public housing in East Texas. The U.S. Attorney General has been given the explicit authority and responsibility to resolve legal disputes between two or more Executive Agencies. 1-4 Resolution of Interagency Legal Disputes, Executive Order No. 12146 (July 18, 1979, 44 F.R. 42657, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617). The extent to which this forum is used when such intra-government disagreements are an obstacle to desegregation shall be considered on the issue of unitary status if HUD asserts that all practical steps have been taken to eradicate the vestiges of segregation but other federal agency actions have hindered actual elimination of the vestiges.

31. The actions required by the order for final relief shall not limit the scope of HUD's enforcement actions against

the entities described in this section in the event such entities refuse to cooperate with HUD.

32. If HUD is able to achieve 700 to 800 additional desegregative housing opportunities a year, the imbalance can be substantially corrected within 7 years. This period, while long, reflects an accommodation of the need for a final remedy in this case with the competing demands on HUD's resources throughout the country.

Elimination of racially identifiable projects.

33. The presumption used in this case to date has been that a project is racially identifiable if it is 75% or more one race. A substantial number of projects, 104 of 189, continue to be racially identifiable. [plaintiffs' exhibit # 264]. Except for those locations where racial hostility makes it unlikely that class members will use the housing, the predominantly white projects are easier to desegregate than the predominantly black projects if the unit mix in the project includes a substantial number of units with 2 or more bedrooms. However, there are not enough small, typically elderly, African-American households to desegregate the white projects with only 0 and 1 bedroom units or with a substantial number of 0 and 1 bedroom units.

34. Because there are some areas in the class action counties where there are significant numbers of other racial minorities, a racially identifiable project is one which is either 75% or more white or 75% or more non-white.

35. In order to eliminate the racially identifiable charac-

ter of many of the predominantly black projects, the equalization and magnet project improvements must be completed. In projects of either race, considerations of fear and anxiety about being a racial pioneer suggest that successful tenant selection and assignment practices will concentrate on moving groups of applicants instead of isolated individuals.

36. The race conscious tenant selection and assignment procedure mandated by the 1988 Interim Injunction has not been successful in eliminating racially identifiable projects. HUD has proposed using an affirmative action waiting list procedure where other processes have failed. The following PHAs shall be required to use a modification of HUD's affirmative action waiting list procedure. The procedure shall be modified to provide an actual alternative housing unit for each household skipped over because of the race of the household. The criteria for the use of the procedure is whether or not it is likely to eliminate or reduce the racial identifiability of the projects and to maintain the lack of racial identifiability. The implementation of the procedure for any specific tenant selection decisions shall take into account the degree of integration which can be achieved compared to the number of alternative housing units which would be necessary.

37. The procedure shall be implemented at the following PHAs:

Alba, Atlanta, Avery, Beaumont, Big Sandy, Blossom, Bogota, Bowie County, Clarksville, Cleveland, Cooper, Corrigan,

Crockett, Como, Cumby, Daingerfield, Dayton, Deport, Diboll, Edgewood, Fruitvale, Garrison, Gilmer, Gladewater, Grand Saline, Grapeland, Henderson, Jefferson, Kirbyville, Linden, Malakoff, Marshall, Maud, Newton, Orange City, Orange County, Paris, Pittsburg, Port Arthur, Tenaha, Timpson, Trinidad, Texarkana, Van, Winnsboro, Wills Point, Woodville.

38. The procedure shall not be implemented for the predominantly black sites in the above PHAs until the equalization and magnet improvements are completed.

39. If HUD, or the PHA, decides that the use of the procedure is not appropriate in a given PHA, then an application for the modification of the order for final relief can be filed.

40. Any such modification request shall be accompanied by a proposal for other actions to remedy the racial identifiability of the project.

41. Because race is being used as an explicit criteria in this procedure, scrupulous attention must be taken to insure that the alternative housing provided to those skipped over because of their race is decent, safe, sanitary and suitable for the families. Thus the mere provision of a Section 8 certificate or voucher to a skipped over family does not provide acceptable alternative housing unless a decent, safe, and sanitary unit is actually obtained by the family. The offer of a unit which is not readily accessible to the family because of racial hostility, transportation problems, or other reasons does not provide acceptable alternative housing.

42. Even this affirmative action waiting list procedure will not work to reduce racial identifiability of the projects with few 2 or more bedroom units. HUD shall, following the guidelines for conversion set out in the September 10, 1990 Order for Further Relief, convert 0 or 1 bedroom units to units with more bedrooms and remove any age related restrictions on those units. These conversions will also provide additional desegregative housing opportunities for class members.

43. The September 10, 1990 Order for Further Relief required HUD to determine if any class members have been adversely affected by violations of court ordered tenant selection and assignment procedures and provide a remedy for each class member adversely affected. Several of the original HUD desegregation plans stated that such determinations had been made and remedies provided. There are other PHAs for which there is no record on the determination or remedies provided. HUD shall, within 90 days of the date of the order for final relief, provide the Court and the plaintiffs with documents or other evidence showing that such determinations have been made in each PHA and remedies provided where appropriate.

Housing Mobility Program.

44. HUD included in its Comprehensive Plan a housing mobility program to be operated by a Fair Housing Service Center [FHSC], a private non-profit to be funded by HUD. HUD also proposed that the FHSC also function as the private, non-profit fair housing organization for the East Texas area. Both of these

functions are practical means for eliminating the vestiges of racial segregation in HUD's public housing program.

45. HUD may either provide funding for the FHSC through its own funds or by requiring recipients of HUD funds such as CDBG or Section 8 to provide funding.

46. The organization will be responsible to the Court for the results achieved. U.S. v. Yonkers Board of Education, 635 F.Supp. 1577, 1578 (S.D. N.Y.) affirmed 837 F.2d 1181 (2d Cir. 1987), cert. denied 486 U.S. 1055 (1988)(court supervision of fair housing office). The organization shall use the funding to provide mobility services for class members who seek assisted units in predominantly white areas and to provide fair housing counseling and advocacy services. The first priority for the fair housing and counseling services shall be to serve class members. Given the large geographic area covered by this case, special efforts will be necessary to ensure that all class members have access to the mobility and fair housing services of the organization.

47. The appointment of the three original board members of the Fair Housing Service Center shall be approved by the Court. HUD, plaintiffs, and the Texas Chapter of the NAACP shall each be given the opportunity to nominate one initial member. If HUD, the plaintiffs, or the Texas Chapter of the NAACP fail to file their nomination with the court within 15 days of the date of service of this order, then the Court will appoint a person or persons after soliciting recommendations of the parties.

48. Plaintiffs' counsel shall provide initial representation to the organization for purposes of incorporation and other preliminary matters. The organization shall, after consultation with other organizations or persons operating mobility programs or otherwise knowledgeable about such programs, submit an initial budget request to the Court for approval. The budget request shall be submitted within thirty days after incorporation. The parties will have 15 days to object to or comment on the budget request. Any expenses reasonably incurred in this initial organizational stage may be advanced by plaintiffs' counsel and reimbursed when the initial funding is received.

49. The Court will set the initial funding and funding period for the organization in an amount sufficient to provide for the start up and operating costs necessary to provide each class member with the opportunity to receive mobility services within a reasonable time. The funding shall also be sufficient to provide for effective and efficient fair housing counseling and advocacy services to the class action area. HUD's proposed initial year's funding of $500,000 may be sufficient for the start up of the organization. Subsequent year's funding and operational goals will also be set by the Court subject to the parties right to object or comment. HUD has indicated its willingness to provide $500,000 a year for a five year period. The terms of the contract between HUD and the FHSC shall comply with all legal requirements for the funds used for the program. In the event of a dispute, the Court shall decide any contested

issues.

50. After the initial period's funding and operation, HUD may seek to change the funding to another entity through a competitive grant process. Any subsequent entity chosen shall not be funded by HUD nor shall funding for the original entity be terminated until the Court has approved the transfer of the funding. Gautreaux v. Landrieu, 523 F.Supp. 665, 675 (N.D. Ill. 1981) affirmed 690 F.2d 616 (7th Cir. 1982). Funding for a mobility and fair housing organization shall continue at least until unitary status is obtained for the PHAs in the class action counties.

51. HUD shall require the PHAs to provide the FHSC with reasonable access, in person and in writing, to class members.

Racial hostility.

52. The September 10, 1990 Order for Further Relief states that if there is racial hostility in a locality making it unlikely that blacks will actually use the existing public housing, then, while that hostility limits black participation, HUD shall provide an equivalent amount of housing in locations where blacks can use it. HUD's own investigations have found that racial hostility will make it unlikely that blacks will use public housing in Vidor, Bridge City, Grand Saline, Bogota, Bowie County, Avery, and Fruitvale. The 9/10/90 Order does not require or imply that the federal government should give up and give in to the overt racism in these locations. The federal government should be exercising its considerable power to at least end the

provision of federal and state funding to these communities. But, the federal government should also comply with the 9/10/90 Order.

53. The 9/10/90 Order does require interim relief in the form of housing assistance that can be used for class members while the federal government is securing access to these units for class members. As HUD's experience with the Vidor project shows, successful desegregation of racially hostile locations can take a long time. Class members should not bear the burden of this delay while whites continue to enjoy exclusive access to the units.

54. Desegregation of the racially hostile areas has the clear potential for exposing class members to at least intimidation and harassment and possibly to physical injury.[3] In past attempts HUD has knowingly deceived persons about the existence of racial hostility and violated class members' privacy rights. HUD shall be required to provide any specific plans for desegregation of the racially hostile areas to the Court for approval before implementation.

55. HUD shall provide the housing assistance required by ¶ 2. k) of the September 10, 1990 order within one year of the date

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[3] The job descriptions for the positions in the HUD Beaumont office contain the following statement. "FACTORS 9, WORK ENVIRONMENT In addition to work in an office setting involving everyday risks and discomforts, the work regularly includes visits to geographical areas posing a threat of physical violence that involves moderate discomforts or risks....". [HUD exhibit # 33 page 3 of position description sheet for Community Planning and Development Specialist](emphasis added).

of the order for final relief.

Monitoring and enforcement.

56. The new HUD Beaumont Office with the direct chain of authority to the Assistant Secretary for Fair Housing and Equal Opportunity has the potential for improving monitoring and enforcement. The location of the office in the class action area is a clear symbol of HUD's commitment to the area. The direct link for civil rights enforcement matters may help provide quicker responses from the final decision makers. There is still the potential for intra-HUD bureaucratic problems on matters which involve both fair housing and programmatic issues. The operation of this office as outlined by HUD in the Comprehensive Plan and the testimony of Assistant Secretary Achtenberg is a practical step which may assist in the eradication of the vestiges of the prior segregation.

57. The Court has already ruled that "HUD should use all available powers to ameliorate the situation that it knowingly created." Young v. Pierce, 685 F.Supp. 975, 978 (E.D. Tex. 1988). The Court has already ordered HUD to require affirmative actions to provide class members with desegregative housing opportunities from the owners and operators of other HUD assisted projects in the class action area. Id. at 685 F.Supp. 979 - 982. The State and local governments receiving HUD assistance have a pre-existing obligation to affirmatively further fair housing in their housing and community development related activities. Walker v. HUD, 734 F.Supp. 1289, 1293 (N.D. Tex. 1989). HUD's proposal to

enforce the state and local obligation to affirmatively further fair housing by requiring effective planning for and implementation of actions to eradicate the vestiges of segregation in the class action area public housing is a practical means of eradicating those vestiges [Comprehensive Plan page 9]. The vestiges which can be addressed through implementation of this obligation are the unequal neighborhood conditions and the lack of desegregative housing opportunities in predominantly white areas. HUD shall implement the requirement that the State and the cities and towns in the class action area prepare and implement effective plans for the eradication of the vestiges of segregation in the class action area public housing.

58. Rather than direct additional specific monitoring and enforcement actions by HUD other than those specified here, the Court recognizes that HUD's achievement of unitary status is dependent upon progress by the local PHAs, other HUD housing providers, local, and state jurisdictions. HUD, in its desegregation plans, has set out a number of enforcement procedures to ensure this progress. The federal government's appropriate use of these procedures to bring about the changes necessary to disestablish the vestiges of racial segregation in its public housing program will be a factor in deciding whether or not HUD has eliminated the vestiges of segregation to the extent practical.

59. HUD's monitoring efforts should balance the need to gather the information needed to comply with its responsibilities

under this order and the need to eliminate needless paperwork to the extent possible. Results are more important than reports.

Other actions to eliminate the vestiges of segregation

60. The federal government has the obligation to take all practical actions to eliminate the vestiges of prior segregation. The specific inclusion of a procedure in this order shall not serve to prevent the government from taking other actions, consistent with the terms of the orders of this court, which may help eliminate such vestiges. One example of such other actions is the action necessary to eliminate racial segregation within a project site such as in the Alto, Center, and Livingston PHA projects. [plaintiffs' exhibits # 267, 268, 283, 284]. If tenant assignment has caused such segregation, then transfers and race conscious tenant assignment in the future can remedy it. If unit size distributions have contributed to the segregation, then conversions to and from small and larger size units can help remedy the situation.

61. The "other actions" listed in the Comprehensive Plan ¶ 2. o) section such as funding for security measures and police protection shall not be options. Where needed, HUD shall ensure that the equipment, facilities, and services listed are actually provided.

Common sense and good faith.

62. The federal government's creation of and perpetuation of the racially segregated system of public housing in the class action area was massive effort of social engineering. Young v.

Pierce, 628 F.Supp. 1037 (E.D. Tex. 1985). Disassembling the status quo will affect many people, African-American and white. The Court has already stated that relief should not worsen the conditions of or force inequitable conditions on the innocent and uninvolved. Young v. Pierce, 628 F.Supp. 975, 980, 981, 982 (E.D. Tex. 1988).

63. No matter how detailed the Court may get in a remedial order, the application of that order to the real world will require a flexible and reasonable approach. As a practical matter, enforcement of the remedy in cases such as these falls first on the parties. The Court usually has neither the time, personnel, or other resources to keep track of the day to day or even month to month results and consequences of the remedy. If any party believes that such application will create avoidable hardships on innocent persons, then that party and its attorneys shall immediately notify the Court.

Persons responsible for compliance

64. 5 U.S.C. 702 requires each order for injunctive relief against the United States to name the official or officials personally responsible for compliance with the injunction. HUD Secretary Henry Cisneros, HUD Assistant Secretary Roberta Achtenberg, the HUD Regional Administrator for Region VI, the individual in charge of the HUD Fair Housing Office in Beaumont, and their successors shall be named personally responsible for compliance with the order for final relief and the other orders of the Court. Except to the extent previous orders have been

explicitly modified by the order for final relief or other orders, those orders shall continue in effect.

_____ _____

Date United States District Judge

Appendix I

Attachment A of plaintiffs' motion for final relief is set out below in regular print. The **bold** print that follows each section of Attachment A states whether or not the problem is addressed by HUD in the Comprehensive plan, the plan amendments, or the original desegregation plan.

1. The disparities referred to for each PHA include the items listed in the desegregation plan for each PHA.

HUD has presented no evidence of what has actually been done to remedy the disparities. The record reflects, in limited instances, only whether some funding has been granted to a pha to address certain disparities, but there is no evidence that the disparities have been eliminated to the extent practical.

The individual plan amendments are an effort by HUD to narrow what must be accomplished for equalization of the predominantly black projects. The individual plan amendments, for the most part, assume that the disparities in the original plan have been addressed. For example, only certain individual plan amendments call for the pha to continue to remedy the disparities listed in the original desegregation plan. [See plan amendments for Jefferson, Linden].

Because of the vagueness of the individual plan amendments, housing authorities will have no clear idea of what improvements they are supposed to make.

2. The lack of PHA supplied air conditioning and reasonable utility allowances to operate the air conditioning is a disparity

that must be remedied within the two year time frame for each unit of non-elderly family housing in the class action counties with the exception of those units in areas where racial hostility bars class member occupancy.

HUD is going to provide air conditioning to both the elderly and non-elderly public housing units. [Comprehensive plan, page 5; individual plan amendments]. HUD will also be providing air conditioning, under the guise of a desegregation plan, to all white, racially hostile communities where it is unlikely that class members will be able to actually use the existing public housing. There is no priority for funding for the racially hostile places after the predominantly black projects.

HUD is not going to provide a utility allowance for the extra cost of the air conditioning.

3. Each unit of non-elderly family housing, with the exception of those units in areas where racial hostility bars class member occupancy, must be provided with laundry facilities, carpet, disposal, and dishwasher.

Laundry facilities are to be provided in many of the phas according to the individual plans. While Assistant Secretary Achtenberg's Third Declaration states that washer and dryers will be included with the facilities [page 5], this is not a requirement in the individual plan amendments. Laundry facilities are another amenity that will be provided to racially hostile communities without priority for the black projects to receive these facilities first.

HUD refuses to provide carpet, garbage disposals, and dishwashers. The predominantly white low rent public housing project in Gladewater has garbage disposals in every unit and carpeting in the elderly units. [Gladewater original desegregation plan, page 9]. Gladewater pha did not apply for funds to carpet the elderly units in the predominantly black public housing projects. [HUD's exhibit # 112, HUD interrogatory response for Gladewater].

4. In addition, the disparities include the following project and neighborhood conditions for each listed PHA:

Alto PHA: no playground equipment, abandoned dilapidated buildings and dilapidated dwellings adjacent to the project, a history of inadequate maintenance for the units and the grounds.

There is nothing in plans addressing inadequate maintenance.

Atlanta PHA: The width and quality of street construction (including curbs and gutters) depend on the income and race of the occupants of each site neighborhood. The predominantly minority neighborhood streets are narrow, poor quality streets without sidewalks, curbs, or gutters. Site 1 has no playground equipment.

The plan amendment only says "street improvements" and does not address the width and quality of the streets including curbs and gutters.

Even where HUD calls for street improvements in the plan amendments, this means to the "township" standard and not to the standard of where a majority of whites receiving low income

assistance live. [plaintiffs' exhibit # 197 - Devito deposition, pages 23-25]. Thus, while the plan amendment may call for "street improvements," this does not necessarily mean that street improvements equal to the conditions of where a majority of whites receiving low income assistance reside are required. In many instances, as in the case of Atlanta's plan amendment, it is unclear exactly what is meant by "street improvements."

Avinger PHA: The PHA's site is surrounded by "jungle-like" conditions harboring vermin and breeding mosquitos. There is no playground equipment or community center.

The plan amendment only requires the HA "to seek agreement with the City" to clean vacant lots, effect mosquito control and improve drainage in the immediate vicinity of pha sites. Once agreement has been sought, this is all that is required.

Beaumont PHA: The streets around the black projects do not have curbs and gutters and are in need of upgrading, maintenance and repair. The Neches Park project is immediately adjacent to the docks and railroad. Maintenance in the black projects is historically inadequate. There are longstanding drug problems at the Magnolia Gardens and Concord sites. See exhibit #9 to the Beaumont PHA desegregation plan for a listing of the disparate conditions affecting the predominantly black projects. The area surrounding the Magnolia, Grand Pine, and Neches Park projects has numerous sites listed on the EPA's CERCLIS file. This listing indicates potential environmental health hazards.

The original plan identifies as disparate neighborhood

conditions substandard streets around four black family sites - Concord, Grand Pine, Neches Park, Magnolia instead of all the streets around all the black projects. Exhibit 9 to the original plan does not state that curbs and gutters are required for these sites. None of the plans require upgrading, maintenance, or repair of the streets.

The docks and railroad next to Neches Park are not mentioned as problems that need to be addressed in the plans.

While the original plan stated that BHA must develop a plan to address the maintenance, management, and vacancies problem [page 2], there is nothing specific in the plans for addressing the historical inadequacy of the maintenance at the black projects.

The plan amendment calls for the HA "to seek agreement with the City to establish police mini-stations and to undertake other anti-crime measures at HA sites where criminal activity interferes with tenants peaceful enjoyment of their dwellings and threatens their safety" without identifying which sites are problems. It does not require BHA to apply for anti-drug money for the drug problems the Magnolia Gardens and Concord sites.

Exhibit 9 of the original plan lists neighborhood disparities around the black projects but neither the original plan nor the plan amendment require that these disparities be addressed. [See actions required for unitary status in original plan, pages 1-3; and Beaumont plan amendment]. The disparities listed include the following:

Concord Homes - The majority of the housing in this area is in need of rehabilitation. Dilapidated units are prevalent throughout the neighborhood. The streets lack curbs and gutters. There are no public facilities adjacent to or near the site. The neighborhood lacks the amenities that are prevalent in the west end of Beaumont. [Ex. 9, page 1].

Magnolia Gardens - Most of the housing in the neighborhood needs rehabilitation. Adjacent to the site is an area that has an abundance of boarded-up, dilapidated structures in need of demolition. Streets need improvement throughout the neighborhood. Amenities are not conveniently located. There is a need for economic development. [Ex. 9, pages 1-2].

Neches Park - The area is bounded by the Port to the north and by Mobil Oil to the east. The area is economically depressed. Unemployment and poor housing conditions prevail. The neighborhood has a need of better housing and more demolition to rid the area of dilapidated structures. Poor drainage is a problem. The area has virtually no amenities within the neighborhood. [Ex. 9, page 2].

Northridge Manor - Most public facilities are not located near the site. The playground equipment is in need of repair or replacement. The project's sidewalks need improvement as do the neighborhood's streets and drainage. Neighborhood amenities are not within the immediate area. Some units in the neighborhood require rehabilitation. [Ex. 9, page 3].

Grand Pine - The neighborhood houses are in need of rehabil-

itation. The area has an abundance of dilapidated structures. Sidewalks are nonexistent around the public housing complexes. Drainage is a problem. The area is economically deprived. [Ex. 9, page 4].

The plans leave these disparities in place.

There is nothing in the plan amendment about the CERCLIS sites near the Magnolia, Grand Pine, and Neches Park projects.

Big Sandy PHA: Streets and street lighting are in poor condition and sidewalks are non-existent. There is no playground equipment.

The plan amendment calls for the HA "to seek agreement with the city to provide street and drainage improvements in the immediate vicinity of the HA sites, including Beck and Pearl Streets." It is not clear if the poor condition of all the streets around the site will be addressed. Once agreement has been sought, this is all that is required.

There is nothing in the plans addressing street lighting in poor condition and the lack of sidewalks.

Clarksville PHA: Site lighting, parking, street conditions, and dilapidated buildings around the black projects are disparate conditions.

The plan amendment states that the "HA shall complete all actions previously noted to correct disparities in the public housing sites and neighborhoods." The original plan did not require any actions be taken with regard to street improvements [page 10], so there is no requirement that the street conditions

be addressed. Since the original plan stated that only the streets around Dryden were poor, there is no requirement that the unpaved roads around Cheatham will be addressed. [Original plan Exhibit 10]. Since the original plan stated that only Cheatham did not have as much site lighting, then there is no requirement that the site lighting around all the black projects be addressed. [page 9].

There is no requirement in the plans to address the parking disparity.

There is no requirement in the plans to address the dilapidated buildings around the black projects.

Cleveland PHA: The predominantly black sites are located adjacent to neighborhoods that are blighted and considered undesirable because of drug and crime related activities. The tenants are directly exposed to criminal activity at the Boston Circle and Lamar sites. There are junked cars, substandard houses, an absence of street lighting, and narrow, poorly maintained streets around the black projects. There is no playground equipment or community space. In 1985 HUD described the conditions around sites 198-001 C and 198-002 B as "deplorable and depressing" [March 5, 1985 trip visit report]. In the neighborhood that includes the two historically predominantly black sites there is a listing on EPA's CERCLIS file indicating possible environmental health hazards.

While the original plan recommended that the pha apply for a drug elimination grant [page 1], there is nothing in the plans to

address the criminal activity that the residents at the Boston Circle and the Lamar sites are exposed to.

The plan amendment calls for the HA "to seek agreement with the City to provide code enforcement and street and drainage improvements in the immediate vicinity of the HA sites where such improvements have not already been funded." There is no requirement that the junked cars, substandard houses and blighted neighborhood be fixed. Since Cleveland has received some CDBG funding there is no further requirement for the pha. [HUD's exhibit # 30].

There is nothing to address the absence of street lighting around the black projects.

The original plan recommended that the pha apply for funds to widen and improve condition of streets adjacent to sites b and c (black neighborhood sites). [page 15]. Cleveland did not receive funding for this. [HUD's exhibit # 31]. There is no requirement in the plan amendment that addresses the narrow, poorly maintained streets around the black projects.

There is nothing in the plans to address the "deplorable and depressing" conditions around the black sites.

There is nothing in plan amendment about the CERCLIS site near the two predominantly black sites.

Cooper PHA: The units are in poor condition. The streets are in poor condition and do not have curbs and gutters. The housing around the historically black sites is dilapidated. There is no playground equipment or community center.

Crockett PHA: poor condition of streets, sidewalks, and drainage facilities, dilapidated dwellings [including a HUD assisted project adjacent to a black project], drug and crime problems.

There is nothing in the plans to address the poor condition of the sidewalks. It is unclear what the "street improvements" mean in the plan amendment.

There is nothing in the plans to address the dilapidated HUD assisted project, Prince Hall, that is adjacent to a black project.

The plan amendment only requires the pha to "work" with the City to address the drug and crime activities around the HA sites. There is no requirement that there be a remedy for the drugs and crime.

Daingerfield PHA: The conditions listed in exhibits 11 and 12 to the Daingerfield PHA desegregation plan,

Exhibit 11 lists, among other things, no playgrounds at the sites. There is no requirement in the plan or the plan amendment for playgrounds. There is no requirement that the items in exhibit 11, a comparison of the sites, be made equal to the conditions where the majority of whites receiving low income assistance reside.

Dayton PHA: Some of the streets are not paved, there are no curbs and gutters, and the predominantly black projects do not have street lighting.

The plan amendment only requires the pha "to seek agreement

There is nothing in the plans to address the poor condition of the units, the poor condition of the streets, the lack of curbs and gutters, and the dilapidated housing around the historically black sites.

While the original plan states "The PHA has serious, continuing management problems which have contributed to an unacceptable number of substandard and vacant public housing units and the perception of racial bias," [page 1] later in plan it says that since there are no racially identifiable sites there is no need to equalize the conditions. [page 20]. The original plan also identifies poor streets and lack of curbs and gutters but does not require them to be fixed. [page 23].

Corrigan PHA: The physical conditions listed on Exhibit 5 of the Corrigan PHA desegregation plan, drug activity, lack of playground and community center.

The items listed in Exhibit 5 of the original plan include a comparison of assisted housing sites in Corrigan. There is no requirement that the items that were rated unsatisfactory or nonexistent, such as landscaping or area lighting, be remedied. [Exhibit 5, pages 6-7].

The plan amendment only asks for the HA "to seek agreement with the City" to address drug activity around the sites. Once agreement has been sought, this is all that is required.

According to HUD, the family sites have been funded for playground equipment but it has not been installed yet. [HUD's exhibit # 112 - HUD's response to interrogatories - Corrigan].

with the City to provide street, sidewalk, and drainage improvements in the immediate vicinity of the HA sites where such improvements have not already been funded." There is no requirement that if streets are not paved or there are no curbs and gutters that it be remedied.

There is nothing in the plans to address the lack of street lighting at the predominantly black projects.

DeKalb PHA: The conditions of the streets, curbs/gutters, sidewalks and street lights are much better in the non-PHA neighborhoods.

There is nothing in plan amendment or the original plan to address the conditions of the streets, curbs/gutters, sidewalks, and street lights around the pha sites.

Diboll PHA: The 221d3 project is dilapidated. The streets around the black projects do not have curbs and gutters. The Site AC neighborhood needs a program to clear trash, debris, and abandoned automobiles. The Site AC neighborhood is immediately adjacent to the city dump which is listed on the EPA's CERCLIS file indicating potential environmental health hazards. Site AD is better landscaped and maintained.

There is nothing in the plans to address the dilapidated 221d3 project (Site AC) that is in the neighborhood of another historically black project, Site AA.

The Site AC black neighborhood is also the Site AA neighborhood. While the original plan recommended a concentrated code enforcement program to clear trash, debris, and abandoned automo-

biles, this recommended item does not make into the plan amendment. Thus, there is no requirement to clear trash, debris, and abandoned automobiles.

There is nothing in the plan amendment to address the CERCLIS site that is also near Site AA.

There is nothing to remedy the disparate landscaping.

Edgewood PHA: The neighborhood around the Austin Street site has dilapidated housing, debris, and abandoned cars. There is no playground equipment.

The plan amendment only requires the HA "to seek agreement" with the City to provide code enforcement activities including the clearing of debris and abandoned cars, the demolition or repair of abandoned houses near project sites. Once agreement has been sought, this is all that is required.

Garrison PHA: The predominantly black site has worse streets, curbs/gutters, sidewalks, street lights, and drainage than the rest of the city. There is no fencing at the black site. The black site is in a neighborhood with dilapidated housing, debris, and overgrown lots. There is suspected drug activity adjacent to the black site.

While the plan amendment requires the HA to complete security fence and lighting work, it is unclear for which site this work is to be done.

The plan amendment calls for the HA "to seek agreement with the City" to demolish dilapidated structures and rehabilitate substandard structures in the immediate vicinity of the HA sites.

Once agreement has been sought, this is all that is required.

There is no requirement in the plan amendment or the original plan that the streets, curbs/gutters, sidewalks, street lights, and drainage problems be addressed. While the original plan noted that "Improvements to the streets would be worthwhile and should be concentrated in the area adjacent to Site 2 [black site in black neighborhood]" [page 14], Garrison did not receive CDBG funding for street improvements. [HUD's exhibit # 30].

Gilmer PHA: There are no playgrounds or equipment. The Ervins Hills site is adjacent to an empty, wooded lot that is used as a dump site and for drug activity. There is an abandoned house which is also used for drug activity. The site is also in the immediate vicinity of two locations listed on the EPA's CERCLIS file indicating possible environmental health hazards. The streets, curbs/gutters, and street lights are not as good around the black projects as they are in the rest of the City.

The plan amendment only requires the pha "to seek agreement with the City" for code enforcement and/or mowing and cleaning of vacant properties. Once agreement has been sought, this is all that is required.

The plan amendment only requires the pha "to seek funding for drug elimination program" and "to seek agreement with the City to eliminate drug activity on adjacent properties." Once the pha has sought funding and sought agreement, this is all that is required.

The plan amendment also only requires the pha "to seek

agreement with the City" for the "completion of street, curb and lighting improvements." It is unclear what "completion" means because the original plan stated that "no additional CDBG funding is needed to correct deficiencies in neighborhood conditions or public facilities." [page 8]. Again, once agreement has been sought, this is all that is required.

There is no requirement that gutters around the black project be addressed.

There is nothing in the plan amendment about the CERCLIS sites.

Gladewater PHA: The disparities listed on page 9 of the Gladewater PHA desegregation plan, including the lack of laundry facilities. The housing conditions in the neighborhoods around the black projects are significantly worse than conditions in other areas of the city. Project 1 is adjacent to "a wooded area which unsavory people tend to congregate in". The streets around the black projects are not well maintained. The predominantly black projects are too densely populated and the apartments are too close together. The predominantly black projects are contaminated with lead based paint.

The disparities on page 9 are the disparities between the black sites and the lrph white site. The white lrph site has carpeting for the elderly and garbage disposals in all units. Gladewater pha did not apply for funds to carpet the elderly units in the predominantly black public housing projects. [HUD's exhibit # 112, HUD interrogatory response for Gladewater]. HUD

refuses to require equalization of the black projects to the same standard as the white project. [page 9].

The plan amendment only requires the pha "to seek agreement with the City" to undertake code enforcement in the neighborhoods surrounding the Julia Woods and Weldon sites. Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the fact that Project 1 is adjacent to "a wooded area which unsavory people tend to congregate in".

There is nothing in the plans to address the lack of maintenance for the streets around the black projects.

There is nothing in the plans to address the disparity that the predominantly black projects are too densely populated and the apartments are too close together.

Grapeland PHA: The predominantly black Site 1 has no playgrounds or community centers. The historically predominantly black project Site 1 has a history of inadequate maintenance and repairs. The neighborhood around site 1 has substandard structures, debris, and junk cars. The streets around Site three are not paved.

There is nothing in the plans to address the history of inadequate maintenance and repairs at Site 1.

The original plan recommended code enforcement for the removal of debris, junk cars, and substandard structures around Site 1. Grapeland was not funded for code enforcement. [HUD's exhibit # 30]. This recommended item did not make it into the

plan amendment to be a required item, so it has not been addressed.

Hemphill PHA: The black project is located in the forest accessible only by a narrow, poorly maintained road and adjacent to a cluster of dilapidated, one-room rental houses lacking indoor plumbing with junk and debris. The lack of sanitary facilities in the neighborhood adjoining the site may pose potential health threat to the tenants. The site needs a new sewer line, and fencing. There is an adjacent Texaco terminal. There is no community center.

The plan amendment only calls for the pha "to seek agreement with the City" to provide streets, proper drainage facilities, curbs and curb-cuts, gutters, sidewalks, and demolition of substandard housing surrounding site AB. Once agreement has been sought, this is all that is required. Hemphill applied in 1990, 1991, 1992 for street, drainage, and sewer CDBG funds and was denied each time. [HUD's exhibit # 30].

There is nothing in the plans to address the fact that the lack of sanitary facilities in the neighborhood adjoining the black site may pose a potential health threat to the tenants.

There is nothing in the plans to address the fact that the black site needs a new sewer line.

There is nothing in the plans addressing the adjacent Texaco terminal.

Henderson: The neighborhoods around the black projects have inadequate drainage, substandard and dilapidated housing and

other code violations. The streets are not well maintained. There is a serious drug and crime problem at the Flanagan Heights project. The predominantly black neighborhood has poor streets, no sidewalks, no curbs/gutters. There is a history of inadequate maintenance and repair of the black projects. There is no community center.

The plan amendment states that the "HA shall be required to make all required and recommended improvements at all project sites." It is unclear what this means.

There is nothing in the plans addressing the poor street maintenance around the black projects.

The plan amendment calls for the pha "to seek agreement with the City" to provide street, drainage, curb-cut, gutters, storm drainage and code enforcement including demolishing, replacing or upgrading substandard housing. The plan amendment does not say where these neighborhood improvements are to be directed. Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the history of inadequate maintenance and repair of the black projects.

Hughes Springs PHA: project disparities listed in Exhibit 13 of the Hughes Springs PHA desegregation plan. The neighborhood streets around the black projects are of poorer quality and less well maintained. There are no playgrounds or equipment. The adjoining properties have junk, debris, and high weeds on the lots. There are no street lights.

The plan amendment calls for the pha "to seek agreement with

the City to provide street improvements in the immediate vicinity of the HA sites where such improvements have not already been funded." Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the disparity that the adjoining properties to the black projects have junk, debris, and high weeds on the lots.

There is nothing in the plans to address the disparity that there are no street lights in the neighborhood around the black site.

In the original desegregation plan, HUD says that the city should be alert for funds for lighting, code enforcement, garbage collection, animal control, and that increased police protection around Pecan Circle should be investigated, but HUD does not require anything to be done [page 13].

Jefferson PHA: The project disparities set out in Exhibit 3 to the Jefferson PHA desegregation plan. The streets in the neighborhoods are inferior to the other streets in the city. There is an industrial nuisance at Site 1. There are dilapidated structures and overgrown lots in the project neighborhoods. There is a lack of police cooperation regarding gambling and drugs within the PHA.

The plan amendment states that "the HA shall be required... to complete work identified in the original desegregation plan." It is unclear what this means. The original desegregation plan called for magnet improvements at site 2. [pages 1, 15-16]. HUD

now states that it will not do magnet projects. [Comprehensive Plan, page 7].

The plan amendment requires the HA to facilitate the installation of a noise barrier at site 1, but does not otherwise address the industrial nuisance at site 1.

The plan amendment requires the pha "to seek agreement with the City to provide street, sidewalk and drainage improvements in the immediate vicinity of site 2 if such improvements have not already been funded." HUD does not require the problem to be fixed. Again, once agreement has been sought, this is all that is required.

Part of the magnet improvements for site 2 was for the city to condemn and remove houses beyond repair and mow weeds. [page 16]. It is unclear if these improvements need to continue now that HUD is no longer requiring magnet projects and improvements. There is nothing in the plan amendment to address dilapidated structures and overgrown lots in the project neighborhoods.

There is nothing in the plans to address the lack of police cooperation regarding gambling and drugs within the PHA.

Kirbyville PHA: There has been an historical flooding problem at the Lanier site. The surrounding streets do not have curbs or gutters.

While the original plan notes that the city has tried to address flooding problem at Lanier, nothing is required by HUD. [page 8].

There is nothing in the plans to address the lack of cubs

and gutters in the surrounding streets to the Lanier project.

Linden PHA: The white neighborhoods generally have wider, better constructed, better maintained streets with curbs/gutters/sidewalks than the project neighborhoods.

The plan amendment requires the HA "to continue improvements identified in the original plan." It is unclear what this means.

The plan amendment calls for the pha "to seek agreement with the City to provide street, sidewalk and drainage improvements in the immediate vicinity of all sites where such improvements have not already been funded." Once agreement has been sought, this is all that is required.

The original plan states that curbs and gutters are adequate, so there is no requirement for curbs and gutters. [page 8].

Livingston PHA: The project disparities listed in Exhibit 12 of the PHA's desegregation plan. The HUD profile states "One should not walk down the street alone there." referring to a site where illicit drugs are sold in the neighborhood.

Exhibit 12 in the original desegregation plan shows a need for playgrounds. The plan amendment does not call for playgrounds.

There is nothing in plan to address the drugs and crime in the site neighborhood.

Malakoff PHA: The site disparities noted on pages 21 and 22 of the PHAs desegregation plan. "Although streets throughout the entire city are bad, they appear to be worse or non-existent in

the Black neighborhoods." The Black neighborhood has burned and dilapidated structures with debris and abandoned cars.

The plan amendment calls for the pha "to seek an agreement with the City to remove trash from all HA sites" and "to seek agreement with the city regarding the removal of dilapidated structures, debris, and trash surrounding the public housing sites. Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the streets in the black neighborhoods.

There is nothing to address the disparities noted in the comparison of the sites on pages 21-22 of the original desegregation plan. HUD has not funded landscaping or parking spaces that HUD required as a result of this comparison. [HUD's exhibit # 112 - HUD response to interrogatories for Malakoff].

Marshall PHA: The predominantly black project is in a neighborhood with substandard structures and other code violations. The other disparities are set out in exhibits 10 and 11 to the PHA's desegregation plan.

The disparities noted in exhibit 10 have not been required by HUD to be addressed.

The original plan notes that Marshall is an entitlement city [page 7] and recommends CDBG be used to address demolition or repair of substandard structures adjacent to the east boundary of site 2 and some code enforcement around site 2. These recommended activities do not make it into the plan amendment to be

required items; thus, there is no requirement to address the substandard structures and other code violations around site 2.

Maud PHA: The disparate conditions in exhibit E and page 7-8 of the PHA's desegregation plan. The lack of adequate fire protection for the black site.

The disparities noted in exhibit E and pages 7-8 have not been required by HUD to be addressed.

The original plan stated that HUD will work with the city to provide fire protection for black site. [page 1]. Maud did not receive CDBG funds for fire protection at black site [HUD's exhibit # 30]. There is no mention of fire protection in the plan amendment.

Mineola PHA: The streets and the street lighting in the project neighborhood are inferior to the streets in the white part of town.

The plans do not require the inferior streets and street lighting in the project neighborhood to be addressed. While the original plan noted that there were fewer street lights in the project neighborhood and that the streets in south part of the city were inferior to the white part of town, HUD does not recommend that anything be done about it. [page 18].

Mt. Pleasant PHA: inadequate drainage and street maintenance. The buildings at the predominantly black site are crowded together with small yards and little privacy when compared to the predominantly white site. The predominantly black site is adjacent to property with high weeds/grass/brush and is most likely a

breeding ground for vermin, snakes, mosquitos and other insects. There is no playground or equipment at the predominantly black site. There is an out of business refining company located at the southeast corner of the Buster-Holcomb site neighborhood which is on the EPA's CERCLIS file indicating potential environmental health hazards.

The plan amendment calls for the pha "to seek agreement with the City to conduct code enforcement, provide increased police protection and street drainage and lighting improvements in the immediate vicinity of the HA sites." Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the disparity that the predominantly black site is adjacent to property with high weeds/grass/brush and is most likely a breeding ground for vermin, snakes, mosquitos and other insects.

There is nothing in the plans to address the inadequate maintenance of the streets around the predominantly black site.

There is nothing in the plans to address the disparity that the buildings at the predominantly black site are crowded together with small yards and little privacy when compared to the predominantly white site.

There is nothing in the plan amendment about the CERCLIS site.

Mt. Vernon PHA: The streets at the PHA sites were not as well constructed or maintained as the streets in the non-PHA neighborhoods. The predominantly white elderly units are better

landscaped, maintained and repaired than the predominantly black non-elderly units.

There is nothing in the plans to address the disparity that the streets at the PHA sites were not as well constructed or maintained as the streets in the non-PHA neighborhoods.

There is nothing in the plans to address the fact that the predominantly white elderly units are better landscaped, maintained and repaired than the predominantly black non-elderly units. The original plan notes that there are disparities in the condition of the units between Site C and Site F, including maintenance, but states that equalization of the two sites is not necessary. [page 12].

Nacogdoches PHA: The black project neighborhood has much more housing in disrepair or in dilapidated condition. The streets do not have curbs or gutters.

The plan amendment calls for the pha "to seek agreement with the City to remove or rehabilitate dilapidated housing in the area of the project." Once agreement has been sought, this is all that is required.

There is nothing in the plans to remedy the lack of curbs and gutters in the streets around the black project neighborhood.

There is nothing in the plan amendment requiring a playground or community center or room.

Naples PHA: There is a need for an increase in police protection in the black projects neighborhood. Improvements in street maintenance, housing rehabilitation, and code enforcement

are necessary to eliminate disparities in these conditions between the neighborhood in which the black units are located.

The plan amendment calls for the pha "to seek agreement with the City to conduct code enforcement, provide increased police protection and street, drainage and lighting improvements in the immediate vicinity of the HA sites." Once agreement has been sought, this is all that is required.

New Boston PHA: The roofing, fascia/soffit, and area lighting conditions at site AB are inferior to the conditions at site AA.

Newton PHA: the conditions which are listed on pages 13 and 14 of the desegregation plan for the PHA. The neighborhood adjacent to the Odom site has dilapidated housing and other structures, weed lots, and abandoned cars.

The original plan recommended CDBG for revitalization of the Odom neighborhood including removal of dilapidated housing, weeds, and abandoned cars. These recommendations do not make it into the plan amendment to become required items, so there is no requirement that the dilapidated housing and other structures, weed lots and abandoned cars be remedied.

Omaha PHA: There is no playground or playground equipment available for the black projects.

There is no requirement that playgrounds or playground equipment be installed for the black projects. The original plan states that playground equipment, while not required for unitary status, is recommended, and the pha should apply for CIAP money

to install playground equipment. HUD did not fund the playground equipment when the pha applied for it. [HUD's exhibit # 112 - HUD's response to interrogatories for Omaha]. The plan amendment does not call for playgrounds.

Orange City PHA: Inadequate community centers and playground equipment. Inadequate maintenance of units, grounds, streets, and street lights. Location in a high crime area, particularly drug related violence. Deplorable conditions on the sites and in the surrounding neighborhoods. The disparate conditions identified on pages 15 to 17 and exhibit #10 of the desegregation plan for the PHA.

The plan amendment, unlike most of the other plan amendments, does not require community centers or rooms at all sites. The original plan required the community rooms at Craig and Alexander to be repaired and reopened [page 16], but there is no requirement for community rooms or centers, or improvements to existing ones, at Pine Grove or Arthur Robinson Homes.

This plan amendment, unlike most of the other plan amendments, does not require playgrounds. While the original plan required playgrounds for Pine Grove and Arthur Robinson [page 15], it was at a level of funding that HUD now considers inadequate. [plaintiffs' exhibit # 197 - Devito deposition, page 13].

There is no mention of the need for drug elimination money or anti-crime money in the plan amendment. The original plan only required the pha to apply for a drug elimination grant. [page 2].

There is no requirement in the plans to address the streets and street lights.

There is no requirement in the plans to address the deplorable conditions on the sites and in the surrounding neighborhoods.

One of the conditions listed in Exhibit 10 is the housing conditions in the neighborhood of Arthur Robinson homes. There is no requirement that this be remedied.

Overton PHA: No community center or playing fields. Maintenance problems which are adverse and obnoxious conditions. The streets are in poor condition without curbs/gutters or adequate street lighting. Junk, high weeds, and debris are on the lots adjacent to the sites. The black sites lack handicapped access facilities. The disparities identified in Exhibit 5 to the desegregation plan for the PHA.

The plan amendment requires the HA to make "all recommended improvements at project sites." It is unclear what this means.

There is nothing in the plans to address the maintenance problems.

The plan amendment calls for the HA "to seek agreement with the City of Overton to provide street, drainage sidewalk improvements and code enforcement activities including the clearing of debris." The plan amendment does not specify where these improvements are to take place. It is not clear if curbs and gutters are part of those improvements. Once agreement has been sought, this is all that is required.

There is no requirement in the plans to address street lighting.

Paris PHA: The neighborhood around Site 2 has a higher concentration of abandoned nonrepairable structures and the streets have fewer curbs. Security problems are created by the night clubs adjacent to the site. The interior streets of both projects are not maintained to the same standard as the city streets outside the projects. There is an EPA CERCLIS file site immediately adjacent to the Booker T. Washington project site which indicates possible environmental health hazards.

The plan amendment states that the "HA shall complete all actions previously noted to correct disparities in the public housing sites and neighborhoods." It is unclear what this means.

The original plan recommended but did not require code enforcement/demolition program in the site 2 neighborhood and public street repairs in the vicinity of site 1 and site 2. It is unclear if the plan amendment makes these things required.

The plan amendment states that the "HA will be required to work with the City to address the drug and crime activities in the areas around the HA sites and to apply for anti-crime funds from HUD and other sources." All that is required is for the pha to work with the City. The security problems from the nightclubs may or may not be remedied.

There is nothing in the plan amendment about the CERCLIS site adjacent to the Booker T. Washington project.

Pineland PHA: The disparate conditions listed on pages 4 and

5 of the desegregation plan for the PHA.

The plan amendment calls for the HA "to seek agreement with the City of Pineland to provide streets, proper drainage facilities, curbs and curb-cuts, gutters, sidewalks, rehabilitation and demolition of housing and the abandoned school (across from site AB) for the neighborhoods surrounding the 3 sites." Once agreement has been sought, this is all that is required.

The disparate conditions listed on pages 4 and 5 of the desegregation plan are not required to be addressed by either the original plan or the plan amendment. The disparities in the original plan at pages 4-5 include a sewer treatment plant near the black projects; Temple Industries, a lumber mill is located 1/4 mile from Denning site; a blighted neighborhood for where the Denning and Knighton sites are located with deteriorated houses, abandoned cars, and trash and an abandoned school; dirt roads by Knighton; lack of amenities at the black sites; lack of area lighting at Knighton; lack of landscaping; no fence to separate the back yards at Knighton from the wooded area that borders the sewage treatment plant. The original plan did not require any action to be taken to address these disparities.

Port Arthur PHA: The lack of a community center. The oil refinery adjacent to site 1. The predominantly black public housing tenants pay gas and electric utility expenses while the predominantly white elderly Section 8 new construction tenants pay no utility expenses. The predominantly black projects need parking spaces, improved streets and more street lights to be

comparable to the predominantly white elderly site. The disparities listed on pages 12 and 15 of the desegregation plan for the PHA.

The plan amendment, unlike most of the other plan amendments, does not require a community center or room or playgrounds at the sites.

While the original plan notes heavy industry next to Carver [page 11], HUD does not require anything to be done about it.

There are still higher utility allowances for the Section 8 new construction tenants.

There is nothing in the plans to address the fact that the predominantly black projects need parking spaces, improved streets and more street lights to be comparable to the predominantly white elderly site.

The disparities listed on pages 12-15 are comparisons to Stonegate Manor but HUD does not require that the public housing be equalized to the conditions at Stonegate Manor. The amenities that Stonegate Manor has include a pool, master tv antenna, laundry facilities, carpets, central a/c, dishwashers, disposals and drapes. [page 15].

Talco PHA: There are dilapidated structures and high weed lots adjacent to the project.

There is nothing in the plans to address the dilapidated structures and high weed lots adjacent to the project. The original plan recommended housing rehabilitation, demolition, and code enforcement for the city as a whole, but HUD did not require

it for unitary status. [page 6]. This recommendation does not make it into the plan amendment.

Tatum PHA: The only disparities are the unit disparities between the public housing units and the HUD assisted units.

There is nothing in the plans to address the unit disparities between the public housing units and the HUD assisted units.

Tenaha PHA: The site 1 disparities referred to on pages 6 and 10 of the desegregation plan for the PHA.

The plan amendment calls for the HA "to seek agreement with the City to provide code enforcement, demolish dilapidated structures, and provide housing rehab assistance in the immediate vicinity of the HA sites. Once agreement has been sought, this is all that is required.

There is nothing in the plans to address the disparities at site 1. On page 10, the original plan states that site 1 is disparate, but since it is a Section 8 new construction project, it is not eligible for CIAP to remedy the disparities.

Texarkana PHA: Drug and other crime problems at the predominantly black projects. A history of inadequate maintenance and repairs at the black projects has led to the deplorable and hazardous living conditions in the predominantly black projects. There is inadequate pest control at the black projects. The disparate conditions referred to on page 21 of the HUD 1990 Joint Review Report of the PHA. The disparate conditions referred to on page 19 of the desegregation plan for the PHA. The disparities referred to in the HUD Jan. 10, 1992 Letter of Findings to the

PHA. The area surrounding the central city THA projects has two locations listed on the EPA National Priority List as Superfund sites and another location listed on the EPA CERCLIS file indicating possible environmental health hazards.

There is nothing in the plans to remedy the drug and other crime problems at the predominantly black projects.

There is nothing in the plans to address the history of inadequate maintenance and repairs at the black projects which has led to the deplorable and hazardous living conditions in the predominantly black projects.

There is nothing in the plans to address the inadequate pest control at the black projects.

There is nothing in the plans to address the disparate conditions referred to on page 21 of the HUD 1990 Joint Review Report of the PHA.

There is nothing in the plans to address the disparities referred to in the HUD Jan. 10, 1992 Letter of Findings to the PHA. The findings include: lack of a maintenance policy or a preventative maintenance process; maintenance responses are by the central maintenance department for all sites, while the elderly highrise has two maintenance mechanics assigned full time to it; poor grounds at the family sites; inoperable or no playgrounds at the family sites; no window screens and screen doors on units at Bowie Courts and Stevens Courts due to a stated inability to procure these screens because of oversized openings dimensions and the provider being out of business; the elderly black resi-

dents at Bowie Courts, Stevens Courts, Griff King Homes and West 15th St., are responsible for their own lawn care while the predominantly white elderly sites are furnished lawn care by THA; the tenants at Bowie Courts, Stevens Courts, Griff King Homes, and West 15th St. are required to furnish their own lawn care and there is the dangerous condition of power mowers and gasoline having to be stored within the units due to lack of other storage facilities; the elderly highrise and the elderly scattered sites and the other 2 elderly sites have a better general appearance and landscaping; inadequate community room and equipment as compared to the elderly highrise; high crime and drug problem at Bowie Courts and Stevens Courts; there is only one security guard that rotates patrol between three projects - Bowie Courts, Stevens Courts, and Griff King Homes and no security for West 15th St.; the West 15th St. residents have to use chained dogs to ward off burglars; there are no high crime or drug problems at the elderly highrise or the elderly duplexes or at the elderly scattered sites.

The plan amendment, unlike most plan amendments, does not mention community centers or rooms. The original plan only called for "modernization" of community facility. [page 19].

There is nothing in the plan amendment on the Superfund sites or the CERCLIS site near the central city THA projects. While the original plan called for the pha to recommend to the City that the vacant lots around black sites be mowed and "made free of any waste that might present a health hazard to the

residents living in adjacent sites" [page 2], HUD did not require that anything be done.

Trinidad PHA: The streets around the predominantly black project are inferior to the streets in the white areas.

There is no requirement that the streets around the predominantly black project be remedied. The plan amendment for Trinidad requires the housing authority to apply for funding for street repair at sites A and B and for housing rehabilitation in the site A neighborhood. The housing authority cannot apply for CDBG for street repair in the neighborhood or for housing rehabilitation in the Site A neighborhood.

Wills Point PHA: There is a history of substandard landscaping and maintenance of the grounds at the predominantly black site [December 6, 1984 trip report; Management Review/Occupancy Audit Feb. 9-10, 1988 page 5; page 6 of the desegregation plan]. The tenants at the predominantly white project do not pay gas utilities while the tenants at the predominantly black project do pay for gas utilities. The disparities in neighborhood conditions also include those listed on pages 8-10 of the desegregation plan for the PHA.

There is nothing in the plans to address the fact that the tenants at the predominantly white project do not pay gas utilities while the tenants at the predominantly black project do pay for gas utilities.

The original plan on page 10 recommended that pha work with the City to apply for CDBG for code enforcement, demolition of

dilapidated structures, replacement housing and housing rehabilitation, but HUD did not require this for unitary status. The plan amendment does not make these recommendations a requirement, and is silent on the issue. Wills Point received some CDBG funding for code enforcement and removal of dilapidated housing [HUD's exhibit # 31], but the neighborhood conditions have still not been remedied.

Winnsboro PHA: The streets, sidewalks, curbs and gutters in the black neighborhood are inferior to the facilities around the white project. There is a drainage problem in the neighborhood. There is a higher incidence of substandard housing, dilapidated buildings, and other code violations in the black site area. The black site is not as well lighted as the white site. The site disparities listed on page 1 of exhibit 6 to the desegregation plan for the PHA.

HUD recommended in the original plan that the substandard housing, the dilapidated buildings and other code violations be addressed. [page 6]. The plan amendment does not make this recommendation a requirement.

The site disparities referred to are in exhibit 7 in the original plan instead of exhibit 6. HUD does not require that these disparities be remedied in either the original or the amended plan. Exhibit 7 in the original plan shows a lack of laundry facilities and a lack of community rooms. The plan amendment, unlike most of the other plan amendments, does not require either laundry facilities or community rooms.

Woodville PHA: There are no recreational facilities for children in the southern part of the city.

5. The HUD plans are silent on the plans necessary to correct a serious substandard condition in the predominantly black lrph projects - the presence of lead based paint and the accompanying lead contaminated soil and dust. HUD has the obligation to test for the presence of lead based paint and provide funds for the safe and thorough abatement of any lead based paint hazard found.

The PHAs of Gladewater, Beaumont, Daingerfield, Texarkana, Pittsburg, and Cooper have uncorrected lead based paint problems which is a disparity that must be remedied.

The individual plan amendments for Beaumont, Daingerfield, Texarkana, Pittsburg, and Cooper do not require the correction of lead based paint. The only individual plan amendment that even mentions abatement of lead based paint is the one for Gladewater.

In addition, all units of family housing in the class action area that have not already been tested for lead based paint must be tested immediately and abatement of the lead based paint hazards must be performed before any class members with children under 6 years old may reside in these units. Alternative housing must be given to the class members while abatement is taking place.

The status of lead based paint hazard testing and abatement in the PHAs is to be included in the Quarterly Report to the Court.

Respectfully Submitted,

MICHAEL M. DANIEL, P.C.
3301 Elm Street
Dallas, Texas 75226-1637
214-939-9230

By:_____
Michael M. Daniel
State Bar No. 05360500
Laura B. Beshara
State Bar No. 02261750

East Texas Legal Services, Inc.
527 Forsythe, P.O. Box 2552
Beaumont, TX 77704-2552
409-835-4971
Tom Oxford
State Bar No. 15392200
Scott Newar
State Bar No. 14940900

Attorneys for Plaintiffs

Certificate of Service

I certify that a true and correct copy of the above document was served upon counsel for defendant by Federal Express delivery on the ____ day of _____, 1994.

_____
Michael M. Daniel