IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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

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I. PRELIMINARY STATEMENT

1. This is a civil rights case brought by African American residents of Baltimore's family public housing, on behalf of themselves and more than 12,500 similarly situated families, as well as the tens of thousands of families who for decades to come will live in Baltimore's public housing.

2. The plaintiffs ask this Court to halt the defendants' policies and practices that deliberately created and perpetuated systemic racial segregation in Baltimore's family public housing, and to require them to eliminate the vestiges of unlawful segregation "root and branch".

3. Baltimore's public housing system was established in the mid-1930's as an officially segregated program. From 1934 to 1954, housing projects were planned and operated as exclusively "white housing" or "Negro housing". The housing projects designed as de jure segregated housing still form the core of Baltimore's public housing. Three quarters of the public housing units in use today were built or planned as de jure segregated housing.

Brown v. Board of Education decision in 1954, defendants have been under a clear constitutional duty to disestablish this racially segregated system and to eliminate the continuing effects of this segregation. Instead, and contrary to this constitutional duty, defendants have since 1954 and up to the present repeatedly engaged in segregative public housing site selection, public housing tenant assignment, urban renewal and relocation practices. These practices confined African Americans to segregated areas of the city, expelled them from racially mixed areas of the city, and denied them admission to white neighborhoods and the general housing market.

5. The defendants have carried out a deliberate policy to deny African Americans admission to white neighborhoods by confining placement of public and assisted housing sites to areas adjacent to existing concentrations of public housing. Defendants have repeatedly acquiesced to white opposition to placement of public housing projects in white neighborhoods by delaying or abandoning the development of public and assisted housing in predominately white areas.

6. The defendants' tenant assignment policies further denied African Americans admission to white neighborhoods and continue to confine minority families to segregated housing in segregated neighborhoods. As the result, the formerly de jure segregated "Negro housing" projects remain single race black projects to this day. At the same time, the defendants' tenant assignment policies have consolidated white families in two formerly de jure segregated "white housing" projects that remain predominately white.

7. As a result, poor African Americans from throughout the metropolitan area such as plaintiffs have been forced to live in virtually single race public housing projects in virtually all black city neighborhoods. These families have been forced to accept racial segregation as the price of obtaining much needed federal housing assistance.

8. Baltimore City, with the funding and participation of HUD, has now embarked on a major program to demolish and replace up to 3,000 housing units in segregated African American projects that were originally built or planned as de jure segregated housing. Once again, virtually all the sites under development for replacement housing are located in minority

areas and/or in areas where there are already large concentrations of low-income public housing. Some of the proposed sites include the same sites where de jure segregated high-rises were built in the 1950's.

9. If not halted by this Court, the defendants will rebuild segregation for generations of public housing families to come. In complete disregard of their constitutional duty, defendants will squander a rare opportunity to right a wrong of historic dimension. The plaintiffs ask this Court to intervene and order defendants to comply with their constitutional duty to dismantle segregation in Baltimore's public housing.

II. JURISDICTION

10. Jurisdiction is conferred on this Court by 28 U.S.C. Section 1331 and 1337 in that this action arises under the Constitution and laws of the United States; by 28 U.S.C. Section 1343(a)(3) because the plaintiffs seek to redress the deprivation of rights secured by the Constitution and Acts of Congress providing for equal rights; and by 1343(a)(4) because the plaintiffs seek equitable and other relief under Acts of Congress protecting civil rights, including the Civil Rights Act of 1871, as amended, 42 U.S.C. Sections 1981, 1982 and 1983.

11. Civil actions are also authorized by 42 U.S.C. Section 3613 and other provisions of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Section 3601 et seq. Actions for review under the Administrative Procedure Act against the federal defendants are authorized by 5 U.S.C. Section 701 et seq.

12. Declaratory and injunctive relief is sought as authorized by 28 U.S.C. Section 2201 and 28 U.S.C. Section 2202.

13. Venue is proper in this District pursuant to 28 U .S.C. Sections 1391(b), as this is the district in which the plaintiffs' claims arose.

III. PARTIES

A. Plaintiffs

14. The named plaintiffs, Carmen Thompson, Rhonda Harris, Doris Tinsley, Lorraine Johnson, Joann Boyd, and Isaac J. Neal are citizens of the United States and African American

residents of Baltimore City, Maryland. The plaintiffs are all low income persons who are eligible for and reside in rental units owned and operated by the Housing Authority of Baltimore City [HABC] and assisted by the United States Department of Housing and Urban Development [HUD] pursuant to the U.S. Housing Act of 1937.

15. Plaintiff CARMEN THOMPSON is a member of the Steering Committee of the Citizens Task Force for Metropolitan Housing, an organization of individuals and organizations that advocates for the development of housing in racially and economically integrated neighborhoods throughout the Baltimore area. She and her ten year old son live in a high rise building in HABC's Lexington Terrace development. Lexington Terrace was planned as "Negro housing" and has been virtually all black since it opened in 1958. Currently 100% of its residents and 99% of the surrounding neighborhood are African American.

16. Plaintiff RHONDA HARRIS was born and raised in Anne Arundel County, Maryland. She and her three young children now live in HABC's McCulloh Extension, an all black public housing development built in 1965 as an addition to McCulloh Homes, one of HABC's original "Negro housing" projects. From October 1991 to March 1993, Ms. Harris and her family lived in the 734 West Fayette Street building in Lexington Terrace.

17. Plaintiff JOANN BOYD and her three children have lived in HABC's Lafayette Courts development for the past ten years. Planned in 1950 as a "Negro housing" project, Lafayette Courts was the first development to open after HABC adopted an open occupancy policy in 1954, but has been virtually 100% African American since its opening in 1955.

18. Plaintiff DORIS TINSLEY and her three children live in a Rehabilitated Housing unit operated by HABC in Johnston Square, an entirely African American and extremely poor neighborhood. Johnston Square is in East Baltimore adjacent to the state penitentiary and adjacent to concentrations of public and assisted housing. Prior to moving to Johnson Square in 1987, Ms. Tinsley and her family lived in the Lexington Terrace and Poe Homes public housing developments.

19. Plaintiff LORRAINE JOHNSON and her ten year old daughter live in a

Rehabilitated Housing unit operated by HABC in a predominantly black area of Southwest Baltimore. This is the fourth HABC unit in which Ms. Johnson has lived. Each of the housing units to which she has been assigned has been located in a predominantly or exclusively black area of the inner-city.

20. Plaintiff ISAAC J. NEAL, his wife and three sons live in a low-rise section of HABC's Lafayette Courts development. Mr. Neal is a former President of the Lafayette Courts Resident Council and is active in many community service efforts to improve the neighborhood and its public schools.

B. Defendants

21. Defendant U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [HUD], is an executive department of the United States created by Congress pursuant to 42 U.S.C. Section 3532. HUD is responsible for the administration, funding and supervision of federal low-income housing programs, including the public housing, Section 8 Housing Assistance, and Community Development Block Grant programs.

22. HUD is the successor agency to the Public Works Administration [PWA] which operated the original federal public housing program begun in 1933. In 1937, the federal housing program was assumed by the United States Housing Authority [USHA] within the Department of the Interior. In 1965, HUD was created as an executive department to administer the U.S. Housing Act of 1937, 42 U.S.C. Section 1437 et seq. and other federal housing programs.

23. HUD is authorized by the United States Housing Act to provide federal financial assistance to local public housing agencies for the development and operation of public housing. 42 U.S.C. Sections 1437b, 1437c. Virtually every aspect of the development and operation of public housing projects by local housing authorities is financed by HUD and its predecessor agencies, subject to HUD oversight and approval and governed by federal law and regulation, including specifically the selection of sites for the construction and acquisition of new public housing and tenant selection and assignment policies.

24. Defendant MEL MARTINEZ is sued in his official capacity as Secretary of HUD. He is responsible for ensuring defendant HUD's compliance with the Constitution and laws of the United States. Secretary Martinez and HUD are hereinafter collectively referred to as the "federal defendants".

25. Defendant HOUSING AUTHORITY OF BALTIMORE CITY [HABC] is a public body corporate and politic, created by the State of Maryland pursuant to Art. 44A, MD. ANN. CODE, Section 3-101 et seq., and authorized by the Mayor and City Council of Baltimore City. HABC is a public housing authority funded under the U.S. Housing Act of 1937, 42 U.S.C. Section 1437.

26. Defendant PAUL GRAZIANO, is sued in his official capacity as Executive Director of the HABC and the Commissioner of the Baltimore City Department of Housing and Community Development [HCD]. He is responsible for the daily operation of both HABC and HUD, including the implementation of policies and projects consistent with the Constitution and laws of the United States. Executive Director Graziano and HABC are hereinafter collectively referred to as the "HABC defendants".

27. Defendant MAYOR AND CITY COUNCIL OF BALTIMORE [hereafter "City of Baltimore" and "city defendants"] is a municipal corporation and political subdivision chartered by the State of Maryland. Through its Department of Housing and Community Development, the Mayor and City Council is a recipient of federal Community Development Block Grant [hereafter CDBG] and other HUD funds. The city defendants and HABC defendants are hereinafter collectively referred to as the "local defendants".

IV. CLASS ACTION ALLEGATIONS

28. Plaintiffs bring this action on behalf of themselves and all other persons similarly situated pursuant to Fed. Rule Civ. Pro. 23(a) and 23(b)(2).

29. The class consists of all African Americans who presently reside, or will in the future reside, in Baltimore City family public housing units.

30. This is a proper class action in that:

(a) The class is so numerous that joinder of all members is impracticable. There are approximately 12,500 African American households presently living in HABC's family housing units; they comprise more than 90% of all families.

(b) There are questions of law and fact common to the class, including the legality of defendants' policies and practices which have resulted in the segregation of African American families in predominantly black public housing developments and neighborhoods.

(c) The claims of plaintiffs are typical of those of the class and they will fairly and adequately protect the interests of other class members. The plaintiffs' counsel are experienced in federal court class action litigation, including public housing and civil rights litigation.

(d) The defendants, in establishing and perpetuating segregated public housing in the City of Baltimore on the basis of race and minority status, in violation of the Constitution and laws of the United States, have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final equitable and declaratory relief with respect to the class as a whole.

V. FACTUAL ALLEGATIONS

A. EXTENT OF SEGREGATION IN BALTIMORE'S PUBLIC HOUSING

31. There are 20,521 public housing units in the Baltimore Statistical Metropolitan Area. HUD has concentrated 18,257 of these units (89%) in the City of Baltimore.

32. Baltimore's low-income public housing is racially segregated. In 1992, HUD found that 45 of the 48 public housing projects owned by HABC are radically identifiable. In December 1994, HUD found that Baltimore's public housing is among the most highly segregated in the nation.

33. Thirty-one of the projects operated by HABC provide housing for families. HABC also operates more than 2800 scattered site Rehabilitated Housing units for families, for a total of approximately 14,000 units of family public housing. These are the projects at issue in this case. The remaining projects house low-income elderly and disabled individuals.

34. Fourteen of the family projects, including the Lafayette Courts and Lexington

Terrace high rise projects, are 100% black. Another ten projects, including the Flag House and Murphy Homes high rises, are over 99% black. Another four projects are 90% to 98% black. Approximately 99% of the families living in the 2847 scattered site units are African American. Therefore, 28 of the 31 family projects, including all the projects originally built or planned as "Negro housing" during the period of de jure segregation, have a tenant population which is virtually all black.

35. These 28 black segregated projects are located in heavily segregated areas of the City that are at least 90% African American. The 2847 scattered site units are also virtually all located in heavily segregated inner-city areas.

36. Two projects, Brooklyn Homes and O'Donnell Heights, in white neighborhoods and originally established as de jure segregated white projects, remain predominantly white. A third project, Claremont Homes, is approximately 30% white.

37. This current racial segregation in Baltimore's public housing was caused by the purposeful actions of each of the defendants and their predecessors. Each defendant has knowingly created, promoted and funded segregated housing in Baltimore, each defendant has failed or refused to disestablish de jure racial segregation, and each has taken actions that have had the intent and effect of maintaining patterns of racial segregation and intensifying the separation of the races in Baltimore.

38. HUD recognizes the continued existence of racial segregation and its effects in its public and assisted housing system. In December 1994 HUD found high levels of segregation in public housing across the nation, including Baltimore. African American public housing residents typically live in African American neighborhoods, while white public housing residents live in white neighborhoods. Moreover, HUD found that the majority of African Americans living in public housing in Baltimore and the United States are living in poverty concentrated areas, while the majority of white public housing tenants --- both families and the elderly --- are living in neighborhoods with substantially lower poverty rates.

39. The local defendants, with the knowledge, funding, authorization and approval of

the federal defendants, used federal housing and slum clearance programs to develop a de jure segregated system of public housing for the express purpose of halting the migration of African Americans to white areas and confining them to areas of minority concentration. This purpose was accomplished through the use of an aggressive slum clearance and urban renewal program that displaced African Americans from racially mixed areas and relocated them to all black public housing projects located in black neighborhoods. This use of federal housing and slum clearance programs was part of an explicit policy and practice of the City of Baltimore to establish and reinforce racially segregated neighborhoods. This policy included enactment of the nation's first racial zoning ordinance, and when such ordinances were declared unconstitutional by the United States Supreme Court, the active promotion of racially restrictive covenants and use of public clearance and construction projects.

40. The defendants have intentionally continued these discriminatory policies and practices and have perpetuated racial segregation in public and assisted housing by:

a. failing and refusing to disestablish the effects of the original explicit policy of racial segregation under which HABC operated its low income housing;

b. knowingly adopting and implementing tenant selection and assignment procedures for public housing that have had the intent and effect of perpetuating the segregation of black families in black neighborhoods and the concentration of white families in two former white projects located in white neighborhoods;

c. deliberately locating housing intended for black occupancy in black neighborhoods;

d. failing and refusing to locate public housing, especially public housing for families, in predominantly white areas;

e. displacing African Americans from racially integrated areas and relocating them to all black public housing projects in black neighborhoods;

f. demolishing housing occupied by African Americans and displacing the occupants to all black public housing projects and/or to black neighborhoods;

g. demolishing housing occupied by African Americans and failing or refusing to restore the supply of housing available to the minority occupants;

h. demolishing housing built as "balancing units" to satisfy civil rights requirements and failing or refusing to restore the supply of such those units in order to avoid siting public housing in non-minority areas;

i. adopting admissions policies and procedures for the Section 8 certificate and voucher program that deny the disproportionately black occupants of public housing access to Section 8 assistance and the opportunity to live in integrated communities or in housing of their choice.

41. The federal defendants were and are full participants in the practices that maintained and increased residential segregation in Baltimore. Federal housing agencies including the Federal Housing Administration [FHA] fostered racial segregation in Baltimore's housing market generally. HUD and its predecessors approved and financed the discriminatory practices and policies of the local defendants, including site selection, tenant assignment, urban renewal and relocation. HUD continues to fund the local defendants with full knowledge of the discriminatory purpose and effect of those practices, and has failed to require that the local defendants comply with the law.

42. HUD admits that the high levels of segregation in large cities such as Baltimore was shaped by federal public housing and Federal Housing Administration (FHA) policies which concentrated poor minority households in poor and minority neighborhoods, limiting choice and exacerbating racial segregation.

43. In 1997 HUD admitted that "[f]or the first 25 years of the public housing program the federal government permitted, if not encouraged, segregation by race in public housing developments." Active attempts by the Federal government to desegregate public housing did not begin until 1962. Thereafter, HUD actions to implement civil rights laws through tenant selection and assignment policies "did not address the effects of the site selection process, by which developments had been located in all white and all-black areas with tenants assigned

accordingly" and "did not effectively address the complexities of the legacy of segregation." Moreover, newer low income housing programs disproportionately serve non-minorities in privately owned developments, leading to further isolation and segregation of minority tenants in public housing, and making reliance on public housing tenant assignment policies to promote integration even more ineffective. As a result, the "resident populations of large PHA's today are predominantly of one race." 62 Fed Reg. 1026,1027 (January 7, 1997).

44. In 2000, HUD admitted that decades of what it called "discriminatory local political processes" resulted in the concentration of public housing in predominantly low income, minority neighborhoods, "geographic areas that tended to be -- already -- older, more dilapidated, higher in poverty, less politically powerful, and more poorly supported by public services than other areas, " and that "[l]ocal actions might not have been undertaken to counteract discriminatory siting over the years." 65 Fed. Reg 20686 (April 17, 2000).

45. Despite its acknowledgment of the discriminatory and segregative effects of its own practices and those of local authorities, and the continuing high level of segregation in its public housing system, HUD deliberately tolerates and maintains segregation in public housing in Baltimore and the system generally. The agency has adopted a long range strategic plan for 1999 to 2003 that calls for steps to reduce the incidence of segregation in public housing by a mere 5% and only in half of the localities where segregation has been identified as a barrier to fair housing.

A. The actions of the defendants have and will continue to:

a. force the plaintiffs and the class they represent to live in single race public housing projects located almost exclusively in areas of minority concentration if they are to obtain housing assistance at all,

b. deny the plaintiffs and other public housing residents the choice to live in decent, safe and racially integrated housing; and

c. continue and strengthen residential racial segregation in the Baltimore housing market.

A. SELECTION OF ORIGINAL SLUM CLEARANCE AND LOW-RENT HOUSING SITES – 1933 TO WORLD WAR II

47. HUD's predecessor agencies, the PWA and USHA, directed local governments and housing authorities in their written policy manuals that public housing site selection and tenant selection policies should aim to preserve community social structures and racial segregation surrounding project sites. Baltimore followed this direction and established a de jure segregated system of public housing.

48. Between 1937 and 1943, the federal and local defendants built eight de jure segregated low-rent housing projects in Baltimore. Five of the projects were designated as "Negro housing" (Poe, McCulloh, Douglass, Gilmore and Somerset Homes) and three were set aside exclusively for whites (Latrobe Homes, Perkins Homes and Armistead Gardens). See map of public housing sites ("Attachment A") and chart of Development of Family Public Housing by Housing Authority of Baltimore City ("Attachment B").

49. Beyond operating segregated projects, the local defendants also, with the full knowledge and approval of federal housing agencies, aggressively used the federal slum clearance and the actual siting of public housing projects to foster, shape and reinforce patterns of housing segregation.

50. The local defendants selected sites for the "white" projects in racially mixed areas on the border of the African American ghetto for the explicit purpose of "reclaiming" the areas for white occupancy and providing a barrier to African American migration. "Negro housing" was deliberately sited in areas deemed appropriate for Negro occupancy thereby confining African Americans to the existing "ghetto".

51. Three of these first public housing projects, Latrobe and Perkins Homes (white) and McCulloh Homes (black), were built on slum clearance sites chosen by the City of Baltimore in concert with a state agency, the Maryland Emergency Park and Housing Commission, between 1933 and 1935. Federal officials concluded in a 1934 memorandum that the purpose behind selection of the sites was "not slum clearance but rather using the projects to block the

Negro from encroaching upon white territory." The federal defendants approved these sites and financed the projects built on them.

52. Latrobe Homes was intentionally sited to block the northward expansion of the black population of East Baltimore and to protect property values in white residential areas. African Americans living on that site protested the closure of a Negro school and displacement of black families to accommodate Latrobe.

53. Perkins Homes, opened in 1940, was intended to remove blacks from an area of East Baltimore the local defendants deemed inappropriate for "Negro" occupancy and to provide housing for "foreign born whites". An evaluation of the site undertaken by the State Commission and City defendants in 1934 reported:

> This area by its location should house lower income industrial employees, and from a point of view of city wide balance of racial areas should be occupied by white families probably largely foreign born. It is not naturally a negro area but has through obsolescence, been partly repopulated with Negroes immigrating to Baltimore . . . . The Negro inhabitants which would be evacuated from this area should form a part of similar development for low rental families in a more desirable location.

54. McCulloh Homes, known as the "colored housing project on McCulloh Street in Baltimore," was built on the northwest side of the central business district. Adjacent white and "Negro" housing projects were originally planned to "offer a splendid barrier against the encroachment of colored" into an adjacent "good white residential neighborhood", the Bolton Hill area, according to a federal inspection and study of the sites done in 1934. High land costs forced abandonment of the white project. However, the site where the white project was planned was later cleared of its predominantly African American population for construction of the Preston Street state office building complex.

55. The availability and proximity of "Negro" schools, parks and recreation facilities, were also considered in selecting sites for "Negro housing". Sites outside areas of concentrated black population were rejected because they were miles away from schools accepting "colored pupils" and no funds were available for constructing "colored schools".

56. Suburban sites proposed by the publisher of the Afro-American newspaper and several landowners, were not considered even though public housing could be built more cheaply on these vacant land sites than on slum clearance sites.

57. In 1939, in response to white opposition, HABC abandoned plans to build a "Negro housing" project on a vacant land site in the Washington Boulevard area of Southwest Baltimore. Instead, HABC and the City cleared land in the African American neighborhood of Sandtown to build the project now known as Gilmor Homes. The defendants deliberately designed Gilmor Homes for the highest possible density because they considered it politically impossible to acquire vacant land sites for "Negro" housing.

58. Armistead Gardens was a white de jure segregated project built on vacant land in an outer city area. When it was completed in 1941 it was sold to the federal government as white war housing, and subsequently conveyed to a cooperative of its tenants. It remains to this day a highly segregated white community that was found in the late 1980's to practice racial discrimination in sales and admissions. Pinchback v. Armistead Homes Corporation, 689 F. Supp. 541 (D. Md. 1988), aff'd, 907 F.2d 1447 (4th Cir. 1990), cert. denied, 498 U.S. 983.

59. The defendant's policy and practice was to build equivalent numbers of "white" and "Negro" housing units even though the vast majority of the homes destroyed were occupied by African Americans. Because fewer units were built for African American occupancy than were demolished, the rents for many displaced families who did not move into public housing doubled and the shortage of housing open to African Americans became even more severe.

C. SITE SELECTION AND DISPOSITION OF WAR HOUSING PROJECTS

60. Four of the HABC public housing projects currently in use, Cherry Hill Homes, O'Donnell Heights, Brooklyn Homes, and Westport Homes, as well as the recently closed Fairfield Homes, were built during World War II as de jure segregated housing for defense workers.

61. In 1940, Congress enacted the Lanham Act, authorizing the USHA, the War and Navy Departments, and local housing authorities, to construct housing for defense workers.

62. During the war years, the African American population of Baltimore increased 25% as thousands of families moved from the rural south to work in defense plants. Little new housing was constructed for these "immigrant" defense workers. Plans to make undeveloped areas in the city and counties available as "Negro expansion areas" were blocked by the objections of white property owners. Among the plans scrapped in response to white opposition was a "Negro housing project" planned for the Herring Run area of Northeast Baltimore.

63. In early 1943, the federal government, HABC and the City of Baltimore jointly selected sites in white areas of eastern Baltimore City and Baltimore County to build housing for African American war workers. These sites were vehemently opposed by white community residents, Baltimore City Council members and the congressional representative from Baltimore County. More than 800 opponents turned out for a meeting called to protest "Negro war housing" planned for a site in Northeast Baltimore known as the Herring Run site.

64. The opposition to Negro war housing in Baltimore City and County was explicitly racial. Opponents of the Herring Run site, for example, claimed that the area was a white community, and that housing for "colored people" should be located in other areas. Homeowners claimed their property values would decline if "Negro housing" was built in Northeast Baltimore, and even the clergy claimed that their investment in church facilities would be jeopardized. Opponents proposed the geographically isolated areas of Cherry Hill in Baltimore City and Turners Station in Baltimore County as preferred alternatives.

65. In response to this opposition, the City Council enacted legislation requiring that any sites be submitted to it for approval. The City also intervened in a federal condemnation action, seeking to halt the federal government's acquisition of land for the Herring Run site.

66. Federal officials complained that the segregative land use policies of local governments were "obstructing the total war effort" in Baltimore. Nonetheless, federal officials withdrew the Herring Run site from consideration and reached an accommodation with Baltimore City and County officials. The agreed upon package of sites included sites for "Negro housing" in Cherry Hill and Turners Station. These sites were opposed by civil rights leaders

and housing activists who complained that the sites were too isolated and that they were subject to industrial pollution and other adverse environmental conditions.

67. Ultimately, the federal government and HABC built officially segregated housing for war workers in the largely white areas adjacent to defense plants in Baltimore City and County. The housing built for whites in these areas was generally designed and constructed for continued use after the war. With the exception of Cherry Hill, the "Negro" war housing built in the same areas was designed and built only for temporary use during the war emergency.

68. The projects built by the federal government and operated by HABC included: in Southwest Baltimore O'Donnell Heights for whites and Holabird Homes for blacks; in South Baltimore Fairfield, Brooklyn and Westport Homes for whites and Bannister Homes and Cherry Hill Homes for blacks; in Southeastern Baltimore County Talbot Homes in Dundalk for whites and Earnest Lyon, Turner and Sollers Homes in Turners Station for blacks.

69. The only site outside the "ghetto" that was politically acceptable for the permanent introduction of "Negro housing" was Cherry Hill, an isolated peninsula adjacent to a city landfill and incinerator. After considerable controversy, HABC and the federal government opened the 600 unit Cherry Hill Homes in December 1945.

70. In 1953, HABC acquired four of the white war housing projects, O'Donnell Heights, Brooklyn Homes, Fairfield Homes and Westport, for use as segregated white low-rent public housing. With the exception of Cherry Hill, the "Negro" war housing projects located in outer-city and suburban areas were demolished, displacing thousands of African American families.

D. POST-WAR PUBLIC HOUSING SITE SELECTION AND URBAN RENEWAL

71. In April 1945, HABC announced its post-war housing plan to raze black inner-city neighborhoods and build higher density public housing projects on the slum clearance sites. According to an official HABC statement issued in 1945, the plan was explicitly intended to arrest "racial and group movements within the city", and to prevent "very violent neighborhood

resistance to any in-migration of Negroes".

72. The intent and effect of this public housing construction was to concentrate African Americans from throughout the city in large, high density public housing projects in exclusively black neighborhoods.

73. In 1950, the City Council enacted legislation authorizing HABC and the City to develop up to 10,000 units of additional public housing. The legislation required City Council approval of all future public housing sites, and put explicit restrictions on the construction of public housing on vacant land in white areas of the City.

74. The restrictions were added in response to racially motivated white opposition to HABC plans to construct the first three post war projects on outer-city vacant land sites, including two in white areas. In the wake of the Supreme Court's 1948 decision invalidating restrictive covenants, Shelly v. Kramer, 334 U.S. 1 (1948), opponents feared that "white" projects built in these areas would eventually be opened to African Americans.

75. Under the 1950 ordinance, HABC was allowed to build the de jure segregated Cherry Hill Extension for African Americans on vacant land in the outer-city Cherry Hill area, adjacent to the Cherry Hill Homes built as "Negro" war housing. In the face of stiff community opposition, HABC abandoned the initial sites for outer-city projects in Violetville and Belair-Edison. Instead, Westport Extension and Claremont Homes were built next to the white Westport Homes and Armistead Gardens projects. These two projects were restricted to white occupancy. All future construction of public housing was to be limited to slum clearance sites.

76. The Mayor signed the legislation only after obtaining HABC's assurance that the two vacant land projects in white areas, Westport Extension and Claremont Homes, would be limited to white occupancy.

77. The defendants were fully aware that the Cherry Hill site and the slum clearance sites approved by the City Council in the early 1950's were grossly inadequate to meet the need for "Negro housing" or even to rehouse the thousands of African Americans displaced by urban renewal projects in other areas of the city. They were aware that many of these displaced

African Americans would be forced out into a housing market in which pervasive discrimination and the severe shortage of housing open to African Americans would make it difficult for them to secure other housing.

78. The defendants knew that the restriction of public housing to these inner-city slum clearance sites, in areas of predominant African American residency, would create and perpetuate residential segregation in Baltimore.

79. Despite this knowledge, the local defendants abandoned efforts to obtain approval for a second vacant land site for Negro housing in addition to the Cherry Hill site approved by the City Council. After considering 39 possible vacant land sites, HABC concluded in a 1951 memorandum that "[a]ny other [vacant land] sites within the City would either be highly undesirable from a planning point of view or would precipitate a major political controversy", i.e. white opposition.

80. Between 1950 and 1956, Cherry Hill Extensions I and II were erected, adding 997 segregated African American units to the 600 unit existing segregated war housing project in the all-African American community of Cherry Hill.

81. The federal defendants funded the development of FHA subsidized rental housing limited to white occupancy in Baltimore and its suburbs while acknowledging in a 1950 report on the housing situation in Baltimore the urgent need for "Negro housing" and the "shortage of land that can be used for new housing for non-white occupancy". They acquiesced to the segregative land use practices of local governments, concluding "[t]raditional land use can be changed only gradually in this respect in Baltimore as in other cities."

82. Despite the housing shortage for African Americans, beginning in 1950 the City Council approved urban renewal projects that used federal funds to demolish black housing in areas near white neighborhoods or institutions, and replaced that housing with government buildings, private businesses and segregated housing for whites.

83. Throughout the period from 1950 to 1968, the City defendants screened the displaced families by race and referred them only to segregated public and private housing.

84. In 1950, Baltimore's first urban renewal projects, Waverly and Hopkins-Broadway, were approved by the City Council and funded by the federal defendants despite protests by the Baltimore Urban League in a 1950 letter to the Mayor and City Council that the planned urban renewal amounted to government sanctioned "segregation in the name of redevelopment."

85. The national NAACP and Clarence Mitchell joined local civil rights organizations in asking federal officials to halt the Waverly and Broadway/Hopkins urban renewal projects and to adopt policies that would prevent the use of federal funds to reinforce racial segregation. The Racial relations office within the federal Housing and Home Finance Agency (HHFA) described the Baltimore projects as "Negro clearance" and "Negro containment" and asked for an internal agency investigation.

86. Despite its knowledge of the segregative intent and effect of the Waverly and Hopkins/Broadway projects, HHFA approved the Baltimore projects and rejected policy changes sought by civil rights organizations and its own Racial Relations office. As a result, the federal government's urban renewal program was used by Baltimore to displace tens of thousands of African Americans, with many relocated to racially segregated public housing projects.

87. In Waverly, the defendants demolished a racially mixed area, one of the only residential areas available to African Americans in Northeast Baltimore, and replaced it with an FHA insured apartment complex for whites only. Similarly, in the Hopkins urban renewal area, the defendants demolished the homes occupied by several hundred African American families and replaced them with a walled enclave of housing for white medical students and interns.

88. HUD admits that federal urban renewal policies and their dependence on public housing as a relocation resource were a major factor causing the tenant population of urban public housing authorities to become predominantly minority.

The High Rise Projects.

89. In the 1950's and 1960's the defendants built four large high-rise public housing projects next to six older public housing projects in the central city area to house thousands of

families displaced for white housing and non-residential purposes and the closure of "Negro" war housing projects in Baltimore County and City. These high rise projects created a large and unreasonably dense cluster of poverty and segregation around downtown Baltimore.

90. The HABC and federal defendants designed high density, high rise structures in order to reduce the land cost per dwelling unit and to maximize the amount of housing that could be built on the few sites approved for Negro housing.

91. Three of the high rise housing projects were designed as "Negro" housing (Lafayette Courts, Lexington Terrace and Murphy Homes), while one project (Flag House Courts) was designated as "white" housing.

92. The construction of Lafayette Courts for African Americans and Flag House Courts for whites, on nearby sites adjacent to Douglass Homes, Somerset Court, Latrobe Homes and Perkins Homes, was approved by the City Council on June 28, 1950. The two projects removed African Americans from the Flag House site, located on the edge of the "Little Italy" community, and built replacement "Negro housing" three blocks north at Lafayette Courts.

93. Lafayette Courts, six high rise buildings of 11 stories each and seventeen low rise buildings, were designed to accommodate 816 families, 30% more than the 582 families that had formerly lived on the site.

94. The sites for HABC's third and fourth high rises, Lexington Terrace and Murphy Homes, were approved by the City Council in 1952. Designed to house 677 black families in five high rise and several low rise buildings, Lexington Terrace was built on an urban renewal site adjacent to Poe Homes.

95. Murphy Homes was built on the George Street urban renewal site, fifteen acres sandwiched between McCulloh Homes and the Lexington Terrace high rises. At the urging of federal officials, HABC increased the size of the project from 634 to 758 units, an unreasonable density of more than 50 families per acre and far more than the 539 families that had been displaced from the site.

I. THE DEFENDANTS' DISCRIMINATORY TENANT SELECTION AND

ASSIGNMENT POLICIES

96. During the period of de jure segregation, tenant selection was made explicitly on the basis of race. During that period, HABC maintained a substantially equal number of housing units for blacks and whites. Since demand among African Americans exceeded white demand, there were long waiting lists for "Negro" projects and vacant units in projects reserved for whites.

97. It was not until June 25, 1954, in the wake of the historic decision in Brown v. Board of Education, that the HABC Board of Commissioners adopted an "open housing" policy.

98. Pursuant to the "open housing" policy, HABC adopted the "freedom of choice" tenant assignment policy, under which tenants were permitted to chose the projects for which they wished to apply.

99. The "freedom of choice" policy was not intended to disestablish the racially segregated dual public housing system. It did not provide for the assignment of prospective tenants to vacant units without regard to race. From the outset, HABC's "freedom of choice" policy was intended to result in only "limited integration" that would not damage existing segregated residential patterns in Baltimore.

100. HABC was aware that whites would not choose to move to the historically "Negro housing" projects and that those projects would remain all black. Nevertheless, HABC never contemplated assignment or transfer of whites to these projects.

101. The "freedom of choice" policy was also not intended to integrate the white projects located in all white neighborhoods. HABC was aware that African Americans would be deterred from selecting these projects by the fear of harassment or because public accommodations in those areas was still off limits to them. Nevertheless, HABC deliberately decided not to take any steps to integrate these projects. In fact, under the "freedom of choice" policy, Brooklyn Homes, O'Donnell Heights and Claremont Homes remained segregated for whites only.

102. The defendants also knew the "freedom of choice" policy was likely to result in resegregation of white projects opened to African Americans.

103. In 1955 and 1956, HABC opened four formerly de jure white projects to black occupancy. Two of these projects were located in older neighborhoods in the central city area that had already become predominantly black (Latrobe and Perkins Homes). The other two were in isolated industrial areas (Fairfield and Westport Homes). All four projects quickly became resegregated, converting from "white housing" to "Negro housing". Today these four projects remain virtually all black.

104. The "freedom of choice" policy served simultaneously to maintain segregated living and ameliorate the shortage of "Negro housing" by converting these least desirable "white housing" projects to "Negro housing". This reduced pressures to build housing for African Americans on vacant land in white residential areas.

105. The "freedom of choice" policy served to maintain O'Donnell Heights, Brooklyn Homes and Claremont Homes as all white housing by consolidating whites in these three projects. This reduced the chronic vacancy problem in these white projects and reduced the financial pressures to allow black families to fill these vacancies.

106. The "freedom of choice" policy did not integrate the new high-rise projects that were originally planned during the period of de jure segregation but opened under the new "open housing" policy. These projects opened with a racial composition that reflected their planned occupancy before Brown. Lafayette Courts opened with 99% African Americans in April 1995. Flag House, planned as de jure segregated white, opened three months later a few blocks away and was 70% white. As at Latrobe and Perkins, the "freedom of choice" policy quickly produced segregated black occupancy at Flag House.

107. Lexington Terrace, planned as de jure segregated black, opened with 99% black occupancy in 1958. A 1959 HABC memorandum warned that Murphy Homes, because of its location in an area of "substantial Negro occupancy" would be segregated black. It opened in 1963 under the "freedom of choice" policy virtually all black and has remained virtually all

black.

108. The "freedom of choice" policy and tenant assignment practices provided white applicants greater access to public housing than black applicants. Blacks waited longer to be housed. In 1964, for example, the number of blacks applying for public housing was only double that of whites, but there were ten times as many blacks on HABC's waiting list as whites.

109. HABC and HUD adhered to the freedom of choice policy to avoid assigning blacks to white projects in white neighborhoods, despite the long waiting list of black families and vacancies in white projects. While black families waited for housing, Claremont Homes, O'Donnell Heights and Brooklyn Homes remained all white and consistently experienced the highest vacancy rates in the HABC system. In 1966, vacancies at O'Donnell Heights and Brooklyn Homes accounted for half of the vacancies in all HABC projects.

110. It was not until 1966 that HABC began to take affirmative efforts to fill vacancies in the white projects with black applicants, including security measures to assure their safety. When HABC finally began making these affirmative efforts to desegregate Claremont, Brooklyn Homes and O'Donnell Heights, black families accepted housing in the three all white projects.

111. HABC opened the three *de jure* white projects to African Americans only after Baltimore civil rights activists complained to the media and HUD Secretary Robert Weaver that HABC remained racially segregated, citing the all white occupancy of the three *de jure* white projects and the continued restriction of new public housing to minority areas.

112. During the first three months of desegregation at Brooklyn Homes, black families were met by an escalating campaign of violence directed by the Ku Klux Klan and white supremacist groups. Notwithstanding this harassment, by August 30, 1968, there were 53 black families in residence at O'Donnell, 19 at Brooklyn, and 18 at Claremont.

113. On July 28, 1967, HUD ordered local housing authorities to replace the "freedom of choice" plan with a "first come, first served" plan, which would have provided that all future tenant assignment be made without regard to race.

114. In response to this directive, HABC applied to HUD for a waiver, asking to be

able to keep its freedom of choice tenant assignment plan. After HUD denied the waiver, HABC submitted to HUD its "three choice" tenant assignment plan which was intended to continue to allow applicants to exercise choice without penalty.

115. The plan grouped HABC's family projects into four "locations" (Northwest, Central, East and Southeast), with the Southeast "location" consisting of two predominantly white projects, Claremont Homes and O'Donnell Heights, situated miles apart and in different parts of the city. The plan allows applicants to choose one or more "locations", and to reject two offers of housing without penalty in order to wait for a preferred project.

116. The federal defendants approved HABC's "three choice" tenant selection and assignment plan, notwithstanding its intent and foreseeable effect of facilitating the ability of white tenants to exercise the choice of the three historically white projects.

117. The same "three choice" plan and practices, with minor modifications, remain in effect today.

118. HABC only recently changed its application form to eliminate a question asking applicants to select the projects for which they wished to apply.

119. The effect of HABC's tenant selection and assignment plan and practices is predictable. HABC's tenant assignments continue to perpetuate the occupancy patterns established under de jure segregation.

120. At the end of 1991, 86% of the 2388 whites in HABC's family public housing developments lived in either O'Donnell Height, Brooklyn Homes or Claremont Homes.

121. For the period July 1, 1991 to December 31, 1991, 75% of the 43 white families assigned to HABC's family and mixed elderly/family public housing developments were assigned to a former de jure white development.

122. Under HABC's tenant selection and assignment policies and practices, whites and other races receive preferential treatment over African Americans in tenant selection for vacancies in the predominantly white O'Donnell Heights project. During the first half of 1988, all 43 new families were white (including Hispanic). Only three of the 88 new families admitted

to O'Donnell Heights during the year were African American.

123. In 1990, HUD found that HABC was still allowing applicants to state project or location preferences in violation of Title VI, and ordered it to cease using such preferences. In 1992, HUD found that HABC's tenant selection and assignment practices violated Title VI in that they allowed applicants to turn down offers until they are offered the development of their choosing.

124. In 1997, HUD conducted a formal Title VI compliance review of HABC's tenant selection and assignment policies and practices. The review confirmed earlier monitoring reports that HABC was failing to comply with HUD's Title VI civil rights record keeping regulations. HUD concluded that without the required records and data, it could not determine whether HABC was otherwise in compliance with Title VI. In 1998 HABC signed a voluntary compliance agreement, promising again to correct the record keeping violations.

125. Upon information and belief, this was the first time, since enactment of Title VI in 1964, that HUD had conducted a formal Title VI compliance review of HABC. The 1997 Title VI compliance review was limited to tenant selection and assignment practices. Despite HUD's prior findings that HABC is operating racially identifiable projects, and its knowledge that HABC's public housing development was limited almost exclusively to minority areas, HUD has never conducted a Title VI review of these areas.

126. HABC operates one program that has the potential to provide expanded housing opportunities for minorities. The tenant based Section 8 housing certificate and voucher programs, 42 U.S.C. Section 1437f, are intended to disperse federally assisted housing and to allow low income minority families to obtain housing in neighborhoods of their choice throughout the metropolitan area and state.

127. However, as a matter of policy and practice, HABC denies or delays Section 8 certificates and vouchers to the mostly African American public housing residents, including those who originally applied for both programs and accepted the earlier offer of public housing.

128. HABC also discourages public housing residents from applying for Section 8.

Public housing residents are advised that they are unlikely to ever receive Section 8 assistance because they do not qualify for one of the "federal preferences" accorded to families with urgent housing needs. 42 U.S.C. Section 1437d(c)(4)(A)(i). In fact, many public housing residents could qualify for a federal preference because of the substandard condition of their housing.

129. In 1992, HUD found that HABC was using a special code to flag Section 8 applicants from public housing. HUD instructed HABC that federal law permits public housing residents to apply for Section 8 assistance and directed HABC to stop using the special code. However, HUD permitted HABC to deny preference to public housing residents, and encouraged HABC to advise them that they would probably not qualify for a federal preference.

F. POST TITLE VI SEGREGATIVE SITE SELECTION PRACTICES

130. Even after enactment of Title VI of the Civil Rights Act of 1964, the defendants failed to remedy the effects of their policies and practices of funding, siting and operating racially segregated public housing. Instead of alleviating racial separation, the defendants' policies of restricting new public housing to minority areas and sites adjacent to existing public housing projects became even more pronounced and aggravated the patterns of residential segregation.

132. From 1964 to the present, HUD has continued to fund HABC's operation of segregated public housing and to finance and approve HABC's acquisition and construction of additional housing with full knowledge that the intent and effect of local defendants' site selection policies were to restrict public housing and its residents to African American areas. HUD has repeatedly approved new sites in minority areas and failed to force local defendants to comply with legal mandates requiring the development of new public housing in non-minority areas.

133. During the period from 1965 to 1971, 97% of the families displaced from public housing construction sites were African American, compared to 86% during the earlier post-war construction program.

134. Of the nearly 4000 units of family public housing added to HABC's inventory

since 1964, none was sited in a white residential area.

135. Seven of the eleven family housing projects built or acquired by HABC since 1964 have been sited within four blocks of another family housing project: McCulloh Extension, Mt. Winans, The Broadway, Somerset Extension, Albert Spencer Gardens, Emerson Julian Gardens, and Charles K. Anderson Village.

136. During the 1960's, HABC considered several parcels located in, or adjacent to, predominantly white areas as potential sites for public housing construction. These sites, which were already owned by the city or were proposed by private developers, were located in Southeast Baltimore, Irvington, Northeast Baltimore, Medfield, Hampden, Morrell Park, Upper Park Heights and Glen Burnie. None of the sites were used to develop public housing.

137. In several instances, sites were approved by HABC's Board of Commissioners and HUD but were dropped from consideration after consultation with members of the City Council. In one case, the City Council approved and then vetoed a site after HABC had already acquired the land. In some cases, when the City Council effectively vetoed the sites, HUD authorized HABC to transfer the planned units to substitute sites adjacent to formerly *de jure* "Negro housing", thereby intensifying the segregation at the substituted sites and neighborhoods.

138. In other cases, the City Council authorized HABC to acquire sites in predominantly white areas, but limited the use to housing for the elderly. The senior housing projects built in predominantly white areas include the Wyman House, Chase House, Govans Manor and Primrose Place. HABC relied upon these new senior housing buildings as evidence of the deconcentration of public housing to outer-city areas.

139. Local Defendants also made land and financial support available to private entities for residential development. These sites were located in a broad range of neighborhoods, including outer-city and non-minority areas. The Local Defendants failed or refused to make these sites available for construction of family public housing units. For example, during the 1980's the Local Defendants made surplus city-owned land available to a private developer to build market rate townhouses in the Canton and the Mt. Washington/Cheswolde neighborhoods.

During the 1980's and 1990's another surplus site in Cheswolde was transferred to private entities and used for a religious facility and senior housing. During the late 1990's city land and financial assistance were made available to a private developer to build market rate townhouses in Federal Hill.

140. The segregative and discriminatory nature and effects of the Local Defendants' policy and practice of restricting family public housing to minority areas, and avoiding its placement in predominantly white areas, has been obvious and well known to both the federal and local defendants. During the mid-1960's, civil rights groups publicly charged that Baltimore's public housing, relocation and urban renewal programs were racially discriminatory and were causing and perpetuating racial segregation. In letters to the Secretary of HUD, civil rights activists specifically challenged the continued restriction of public housing sites to black or "fringe" neighborhoods. Internally, HABC officials also questioned the expansion of existing projects and urged a review of of the "continuing policy of ringing the center of the city with permanent economic ghettos."

141. In 1965, the federal defendants approved the construction of McCulloh Extension, which added 516 units of public housing adjacent to McCulloh Homes, a former "Negro housing" project, including both low rise units for families and a senior citizen high rise. They did so with full knowledge that its location and intended use as relocation housing for urban renewal displacees would cause it to be de facto segregated. The development application for the project discloses that the site was next to five existing public housing projects housing 2,754 families, and that "all of these projects currently house Negro families." The NAACP contested the loss of homes and property imposed on African American property owners when the Local Defendants condemned and cleared large portions of Upton to build McCulloh Extension.

142. In the spring of 1967, HABC submitted development plans to HUD and the City Council for approval of the Mt. Winans project. The Mt. Winans site was a former African American enclave isolated from other residential areas by industry, railroad tracks and two formerly white public housing projects, Westport and Westport Extension, that had by 1967

become all black resegregated projects.

143. Somerset Extension opened in July 1974, adding sixty units to the 257 units at Somerset Court, a former "Negro housing" project, near Douglass Homes, Lafayette Courts, Flag House Courts and Perkins Homes. These units were originally proposed for a site in a predominantly white area of Southwest Baltimore. After HABC was unable to obtain City Council approval of the site, HUD authorized the transfer of the units to the Somerset site, expanding this former *de jure* segregated project.

144. In 1969, HUD's Assistant Secretary for Renewal and Housing Assistance reversed action by its regional fair housing division and allowed HABC to go forward with Oswego Mall, a 35 unit project in lower Park Heights, an area which was undergoing rapid racial transition at the time and is now 97% minority. This site was originally tied to two "turnkey" proposals by private developers for development of family public housing in Medfield and Northeast Baltimore. All three projects were approved by HABC's Board of Commissioners, however, the City Council failed or refused to approve the two projects located in white neighborhoods. 145. In 1975, the construction of two projects, the Rosemont and the Dukeland, in a West Baltimore community of African American homeowners, added another 136 units in 98% black neighborhood. The Rosemont and Dukeland sites were proposed by HABC and approved by HUD over the opposition of community associations that the projects would intensify segregation in the neighborhood and its schools, and despite questions raised by HABC officials concerning the suitability and desirability of the sites.

146. In contrast, the local and federal defendants abandoned development of a companion site located near Hilton Street, bordering the then predominantly white Irvington neighborhood. HUD originally approved the Hilton site in 1969 as part of a "scattered site" package that included the Rosemont/Dukeland sites, and the City Council extended the 1950 cooperation agreement to all three sites.

147. After HABC purchased the Hilton land, the project met with strong opposition by neighborhood residents and elected officials. HABC defended the site and argued the

importance of locating some public housing outside of the inner-city. HUD deferred, telling a state senator in 1969 that the issue was a matter of "local concern." Immediately thereafter, the City Council passed an ordinance withdrawing its earlier approval and deleting the site from the cooperation agreement. HUD authorized HABC to transfer forty three of the Hilton units to urban renewal lots in Upton where HABC's formerly *de jure* segregated Murphy Homes and McCulloh developments were already located.

148. In 1979, HABC added forty-three townhouse units in two small projects, Emerson Julian Gardens, and Spencer Gardens, immediately adjacent to the all black Murphy Homes and McCulloh Homes. Barely twenty years later, citing the blighting influence of Murphy Homes, HABC asked HUD for permission to tear down Emerson Julian Gardens along with the larger Murphy project. HUD approved the demolition application and awarded HABC a $31 million grant under the HOPE VI program to fund construction of 75 Murphy Homes replacement units and 185 units to be offered for sale on the site and in the adjacent neighborhood. However, in order to avoid developing public housing in predominantly white and non-poor neighborhood(s), the defendants have failed or refused to replace any of the now demolished Julian/Hilton units.

149. The 1965 development proposal for the Rosemont/Dukeland/Hilton units also included a proposal to build public housing on Greenspring Avenue in Lower Park Heights, an area that had recently undergone white flight and rapid resegregation. The new African American residents severely criticized the project, charging that HABC's development program was limited to black areas, while excluding lower density white areas. HABC eventually withdrew the site, but only after after community residents threatened litigation.

150. In 1980, HABC acquired the 121 unit Charles K. Anderson Village adjacent to Cherry Hill Homes, bringing the total number of segregated public housing units in that former "Negro" housing community to 1,718. In 1997, citing an excessive density of public housing in Cherry Hill, HUD authorized the demolition of 193 family housing units in the Cherry Hill Extension II project ("MD 2-17" or "Cherry Hill 17"). In 2000, HABC closed Charles K.

Anderson and included plans to demolish it in the agency's capital plan. Without first obtaining HUD's approval to demolish the project and relocate the residents, HABC allowed the project to fall into severe disrepair and then moved the residents to other public housing projects within Cherry Hill. The partial demolition of Cherry Hill Extension II and closure of Charles K. Anderson has resulted in the loss of 315 units of public housing rental units for low income families.

151. HABC has failed and refused to replace the demolished Cherry Hill 17 units, and has no plans to replace the Charles K. Anderson units, in a manner that will remedy the discriminatory site selection policies that resulted in the excessive concentration of public housing and, eventually, the demolition of the housing. This refusal is not due to a lack of available funding. In 1999 Local Defendants had available public housing modernization funds allocated for the rehabilitation of the now demolished Cherry Hill 17 units. Local defendants requested HUD approval to redirect these public housing funds to a private developer for the purpose of construction of houses that would be offered for sale to persons with incomes substantially above those of the displaced Cherry Hill public housing residents and other HABC tenants and applicants. HABC has, to date, rejected requests by the Cherry Hill Homes Tenant Council that the homes constructed with these public housing funds be made available and affordable to displaced families and other public housing residents.

152. The Cherry Hill 17 plan was designed by Local Defendants to avoid the use of available funds to develop replacement housing for the minority families displaced by the demolition of Cherry Hill 17, and is especially intended to avoid the use of the funds to develop public housing in non-minority and non-poor areas.

153. Over the objections of the Cherry Hill Homes Tenant Council, HUD has approved the partial demolition of Cherry Hill 17, has authorized the modernization funds to be used to build for-sale housing, and has given preliminary approval to the project proposed by HABC and the private developer.

152. Hollander Ridge which opened in 1975 is the only family public housing project

built since the end of de jure segregation that was not located in an existing minority area. However, it created one. It was a 1000 unit development combining 522 townhouse units for families with a 448 unit high rise apartment building for the elderly. It was built on the eastern border of the City in return for HUD approval of public housing sites in minority inner-city areas. HUD authorized Local Defendants to build 1000 units on this single site and cleared the way for HABC to avoid placing any of its other new developments in non-minority areas.

153. The Hollander Ridge site was selected by the local defendants because it was deemed the only non-minority area acceptable to the City Council. The site is located in an industrial area of the city. It is separated from the rest of the City by the Harbor Tunnel Expressway (I) and by I-95. It is separated from white neighborhoods in Baltimore County by a chain link fence.

154. Hollander Ridge created an enclave of black public housing, isolated from both city and county. There are no schools in the neighborhood, and its police, recreation and other municipal services are sparse. Its residents, 89% African American, constituted a segregated neighborhood, with only limited access to services in other neighborhoods. The entire 1000 unit development was demolished in July 2000.

155. The Hollander Ridge project was approved by HUD and built by HABC despite concerns noted by both HUD and local officials about the suitability of the Hollander Ridge site for public housing. These issues included the isolation of the site from services and other residential neighborhoods, environmental concerns, drainage problems and erosion issues. In 1996, just twenty years after it opened, the same longstanding issues were cited by HUD's Baltimore staff and an independent expert retained by the agency in questioning the viability of the development. Both "viability assessments" were also highly critical of HABC's management, finding that HABC had no program for routine maintenance of the development and was, as a matter of "unwritten policy", not filling vacant units.

156. From the beginning, the existence of Hollander Ridge adjacent to the white Rosedale neighborhood in Baltimore County generated opposition from the white Rosedale

community and its elected officials. The racial tension and opposition grew more intense during the 1990's, as the defendants allowed conditions at Hollander Ridge to deteriorate. In 1996, Rosedale residents and elected officials demanded that HUD and HABC erect a wall or perimeter fence to keep public housing residents within the Hollander Ridge development and out of Rosedale.

157. HUD, the Local Defendants and Hollander Ridge residents all viewed the demands for the fence as racially motivated. The defendants initially resisted mounting pressure to erect a fence, believing that it would intensify the racial isolation of Hollander residents. In 1997, however, HUD bowed to mounting political pressure and awarded HABC $300,000 in HOPE VI planning funds for the express purpose of constructing a fence to completely surround the Hollander Ridge development. Baltimore County also contributed $300,000 in federal Community Development Block Grant funds toward the fence, and the Maryland Department of Housing and Community Development contributed $300,000 in state funds. HABC initially resisted, and then capitulated to, the pressure from HUD, Baltimore County and the Rosedale community to build the fence. A six foot iron fence completely surrounding Hollander Ridge was constructed in 1998 at a cost of approximately $1.3 million. The sole exit and entrance is a guarded gate at the location most distant from Rosedale.

158. In 1996, at the urging of HUD, HABC applied for funds to rehabilitate Hollander Ridge under HUD's HOPE VI program. HUD's independent expert, Abt Associates, cautioned that rehabilitation was unlikely to assure the long term viability of the site given its the isolation and topographic problems. HABC decided to modernize Hollander Ridge rather than demolish it and replace the units in non-minority and non-poor areas as recommended by HUD's expert.

159. Throughout 1996 and 1997, residents of Rosedale and their elected officials voiced opposition to the modernization and continued existence of family housing on the Hollander Ridge site and urged HUD to reject the plan. In response, HUD officials instructed the Local Defendants to develop a plan in "consensus" with Rosedale and Baltimore County.

160. In December 1997, Local Defendants acquiesced to the mounting pressure from

Rosedale, Baltimore County and HUD, and dropped the plan to modernize the Hollander family public housing. Local Defendants announced that the entire HOPE VI grant and other available funds would be used to demolish the entire development and rebuild housing restricted to the elderly on the Hollander Ridge site.

161. The purpose of the "Hollander Ridge Senior Village" plan was to silence white community and political opposition to family public housing on the Hollander Ridge site, avoid development of replacement family public housing units in other locations, particularly non-minority and non-poor areas, and achieve "consensus" with community and political opponents on a compromise plan. These goals were achieved.

162. HUD was aware of the discriminatory purpose of the plan and that it would eliminate, without replacement, family public housing units built specifically to counterbalance the concentration of such housing in minority, inner-city areas. HUD was also aware that the plan was inconsistent with the recommendation of its own experts, Abt Associates, that the HOPE VI grant be used to build replacement housing in other locations that would provide 'non-impacted' housing opportunities for minority families and/or community development benefits. Rather than reject the plan, however, HUD gave it preliminary approval.

163. Beginning in June 1998 HUD also allowed HABC to move existing residents and vacate the Hollander Ridge development. HUD was fully aware that HABC was carrying out these activities contrary to law without obtaining prior approval of a demolition and relocation plan and without providing required relocation assistance. As a result, almost all the residents moved to predominantly minority areas where Section 8 voucher holders are already concentrated, rather than to non-minority areas of Baltimore City and County that are closer to the Hollander Ridge site. By the time HUD approved a relocation plan for Hollander Ridge, few residents remained to be relocated.

164. In July 2000, the defendants, with Baltimore County officials in attendance, imploded the Hollander Ridge senior high rise building and celebrated the demolition of Hollander Ridge. Days later, a decision by the United States Court of Appeals for the Fourth

Circuit halted the Senior Village plan.

165. The defendants knew or should have known that the restriction of sites for low-income public housing projects to predominately black urban renewal areas would continue occupancy patterns established in the formerly de jure segregated projects, and would intensify, rather than ameliorate, the effects of historic segregation.

166. Although HUD questioned a number of the above projects, it ultimately approved them although their placement perpetuated a decades-long pattern of restricting HABC housing to minority areas.

167. In 1967, HUD temporarily withheld approval of funding for HABC's participation in the Section 23 Leased Housing program established by the Housing and Community Development Act of 1965, PL No. 89-117, in response to City Council legislation restricting the program's area of operation to urban renewal areas. This legislation had the intent and effect of restricting Leased Housing units to heavily minority areas of the city.

168. On February 15, 1967 HUD Secretary Robert Weaver authorized approval of Baltimore's application for Section 23 funds, but warned HABC: " . . . you are expected to be constantly alert to prevent leasing only in areas which will perpetuate Negro concentration." HUD approved the application despite the objection of civil rights groups that the restrictions imposed by the City Council would perpetuate discrimination and segregation.

169. On June 27, 1968, HUD found the local defendants in violation of Title VI of the Civil Rights Act of 1964, based on evidence that all of the 75 units under lease after one year were located in areas ranging from 80% to 95% black, and that 88 of the 132 units leased after 18 months were concentrated in a single black neighborhood, Reservoir Hill. HABC subsequently conceded that the restriction to urban renewal areas prevented it from securing sites in white areas and relinquished funds for 105 Leased Housing units remaining from its original allocation since the City barred it from siting the housing in integrated areas.

170. Even after the enactment of the Fair Housing Act in 1968, HUD continued to approve and finance the development of public housing in urban renewal and other minority

neighborhoods of Baltimore, despite the local defendants' acknowledgment in their 1967 Model Cities application that "[t]here is presently no systematic and widespread effort by public or private organizations to promote open occupancy and to increase the supply of housing in the city or suburban areas available to low and moderate income nonwhites."

171. Beginning in 1967 and continuing to the present, HABC acquired vacant scattered site rowhouses in high poverty minority areas from the City defendants for operation as public housing units under HUD's Rehabilitated Housing program. The first units rehabilitated, like the Leased Housing program, were restricted to urban renewal areas.

172. Almost all of these "scattered site units" are in fact clustered in deteriorated, poverty concentrated areas. In most instances, the HABC acquired the units from the City. The units selected were generally located in the most blighted neighborhoods, were in severely deteriorated condition, and required costly repairs, and were therefore not desired for other purposes. The Local Defendants consciously decided not to use available properties located in less impoverished neighborhoods and/or in non-minority areas.

173. HUD expressly reviewed and approved sites for the development of the 2848 scattered site units despite the fact that virtually all of the units were sited in predominantly minority neighborhoods. In order to approve the sites, HUD granted a series of waivers of its site selection criteria. These criteria, known as "site and neighborhood standards", were ostensibly standards designed to require the expansion of housing opportunities for minorities in non- minority areas and to prohibit the concentration of public and assisted housing in minority neighborhoods and areas that already have high rates of poverty and assisted housing. HUD explicitly authorized HABC to develop 79% of the scattered site units in minority concentrated areas. HUD also agreed to consider census tracts with minority populations up to 60% to be considered "non-minority areas." This definition allowed sites on blocks that were entirely minority to be approved as "non-minority" units if they were in or near areas undergoing racial transition, and allowed HABC to avoid placing public housing in predominantly white outer-city neighborhoods.

174. In August 1979 alone, HUD approved waivers for six packages of scattered site properties (MD 2-64,65,66,67,68, and 76) , a total of almost 1000 units developed over a period from 1979 to 1983.

175. One of these packages, MD 2-66, was originally intended to provide for the acquisition of sound units in a variety of neighborhoods ("acquisition without rehabilitation"), an approach well suited to the acquisition of properties in predominantly white, outer-city areas. HUD subsequently authorized HABC to reformulate the development project as "acquisition with rehabilitation," the method used by HABC to acquire deteriorated properties in the most blighted inner-city areas.

176. By 1985 it was abundantly clear that HABC's scattered site program had concentrated public housing units in distressed minority areas. Nonetheless, during the period 1985 to 1990, HABC acquired and HUD approved approximately 200 occupied properties in Park Heights and other minority areas from investors for additional scattered site public housing. In 1988, HABC also rehabilitated several old schools in distressed inner-city areas and added them to its inventory of scattered site public housing.

177. Although this scattered site program provided an opportunity to disperse public housing throughout the city, HABC, with HUD's knowledge, approval, and continued funding, concentrated the scattered site units in urban renewal areas in heavily segregated neighborhoods adjacent to other public and assisted housing. As a result, the vast majority of the 2800 families in HABC's Rehabilitated Housing program, almost all of whom are African American, live in the most racially segregated and economically depressed areas of the city. HABC now describes most of the units in its scattered site inventory as "obsolete as to physical condition and location."

178. In September 1998 HABC applied to HUD for approval to demolish or otherwise dispose of more than one third of the scattered site inventory, approximately 1000 units. On October 7, 1999 HUD conditionally approved the demolition of 300 units and deferred a decision on the remainder.

179. In 1989 and 1990, a HUD monitoring review of the City of Baltimore found that the City was not complying with its statutory duty to affirmatively further fair housing. HUD cited as impediments to fair housing HABC's site selection practices, the lack of public housing units non-minority areas, and the lack of housing for large families.

180. In response, the City committed to target its efforts and those of HABC to make units available in "areas with little or no minority representatives" and to develop housing for large families through the state's public housing program, the Partnership Rental Housing Program (PRHP). The identified PRHP projects, West Lexington Street (44 units) and Somerset Chase (22 units) are both located in minority concentrated areas.

G. CURRENT SITE SELECTION POLICIES AND PRACTICES

181. The defendants are currently engaged in the process of site selection and development of replacement housing for formerly de jure segregated projects that will be demolished, including Fairfield Homes and Lafayette Courts. Beginning in 1988 and continuing to the present, all of the replacement housing sites selected by the local defendants and approved by HUD are located in areas of minority concentration and/or adjacent to concentrations of existing public housing.

182. In 1987 HABC filed an application with HUD for public housing development funds to replace Fairfield's 300 housing units. HUD granted HABC funding for 100 of the 300 units on September 30, 1987 and approved funding for the remaining 200 replacement units in 1991. The City defendants agreed to contribute an additional $765,315 in Community Development Block Grant Funds to fill the gap between HUD funding and actual costs.

183. By October 1990, when HUD approved the Fairfield demolition application and relocation and replacement housing plans, HABC had already relocated most of the Fairfield residents. Almost all of the Fairfield residents were relocated to other highly segregated black public housing projects, most in black neighborhoods, including high rise projects, despite the requests of some residents for a broader choice of housing options.

184. The fund reservations for Fairfield replacement units are conditioned on the local

defendants' assurances of compliance with Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968, and bind the local defendants to make affirmative efforts to locate replacement units outside areas of minority or poverty concentration and to help low-income residents move into neighborhoods with little or no subsidized housing.

185. Despite these assurances and their constitutional obligation to disestablish segregation, HUD explicitly authorized the local defendants to place two-thirds of the Fairfield replacement units in areas of minority concentration.

186. Even the sites that HUD has approved as "non-minority" are in fact in segregated neighborhoods or adjacent to large public housing projects.

187. Approximately twenty of these units would be located on the edge of a large black segregated area in the Baltimore Street corridor of Southwest Baltimore. Most of the remainder of the "non-minority" units approved by HUD would be located within four blocks of HABC's 900 unit O'Donnell Heights and 500 unit Brooklyn Homes public housing projects.

188. The 200 units approved on "minority" sites include 20 units under construction in the 700 to 900 blocks of East Preston Street in Johnston Square neighborhood of East Baltimore. The Preston Street sites are located in an area that has 99% minority residents, a high rate of poverty, and many vacant and boarded up buildings. The neighborhood already has more than 225 scattered site public housing units, one of the largest concentrations in the city, the 700 unit Latrobe Homes project, and 223 units of federally assisted housing.

189. HUD approved the Preston Street sites despite a 1990 site review conducted by the Fair Housing and Equal Opportunity Division [FHEO] of the HUD Baltimore Area Office recommending disapproval based on the sites' location "in a 100% minority concentrated area" and the absence of comparable housing opportunities in non-minority areas.

190. The Public Housing Division of HUD's Baltimore office also recommended rejection of the Preston Street sites in February 1993 because it was found to be a "very undesirable area" with a lot of suspected drug activity. In 1992, HUD's Baltimore staff recommended that unsafe areas with heavy drug activity be rejected from consideration for

future locations of public housing based on inspections of several scattered site units, including one immediately adjacent to the Preston Street sites. Regarding that unit, HUD's inspector reported:

> The biggest problem with this unit was its very poor location. There were three boarded up units directly across the street. The resident said there was so much shooting (of guns) that she had to put her children on the floor, and that people run up and down the street shooting at one another.

191. The federal defendants approved these sites despite full knowledge the local defendants refused to consider, and withdrew from consideration, sites located in white neighborhoods that do not already contain public housing projects.

192. For example, in September 1992, responding to racially motivated community and councilmanic opposition, the local defendants dropped plans to renovate a former school building in white Southeast Baltimore that had been approved by HUD for 34 units of Fairfield replacement housing.

193. Citing community opposition to the use of the school site, the local defendants requested a waiver of HUD's site and neighborhood selection standards to allow all of the Fairfield replacement units to be developed in minority areas. The waiver request contends that sites acceptable to HUD have been and will continue to be opposed by neighborhoods, and that placement of public housing in those neighborhoods would cause "middle class flight".

194. Although HUD rejected HABC's waiver request, in the end almost all of the Fairfield replacement sites approved by HUD are located in minority areas.

195. The defendants are also engaged in a project to demolish 771 units at Lafayette Courts, HABC's first high rise development, and plan to use nearly $110 million in federal, state and local funds to redevelop the site and build replacement housing.

196. On information and belief, the federal defendants have or are about to approve HABC's demolition and replacement housing plan for Lafayette Courts, despite their knowledge that the sites on which HABC and the City propose to build replacement housing are all located in minority areas that will perpetuate racial segregation.

197. HABC and the City plan to rebuild 424 of the new units right back on the Lafayette site, a former de jure "Negro" high rise project. An additional 347 units will be built or acquired off-site. The first 157 of the off-site units now in development are all in areas of the city that range from 74% to 100% African American.

198. The construction of replacement housing on the Lafayette Courts site will recreate, rather than disestablish, the segregation of African Americans in all black public housing in the very same location designated for "Negro" housing by the de jure policies of the past.

199. The Lafayette site is surrounded by 3200 public housing units in formerly segregated and still single race all black projects, almost 1900 HUD assisted units in fifteen developments that are virtually all black occupied, and several homeless shelters. The planned redevelopment of Lafayette Courts will reduce the concentration of public housing units in the immediate vicinity by only 8%, and the number of HUD assisted units by approximately 5%.

200. The demolition and replacement housing plan will, however, result in a significant loss of housing assistance for families. The Lafayette Courts redevelopment plan calls for 196 of the units in the Lafayette Courts family housing development to be replaced with 196 one bedroom units designated for senior citizens. As a result, HABC will have 196 fewer housing units available for African American families with children, the population group that constitutes the vast majority of HABC's waiting list.

201. The HOPE VI program presents a new opportunity for HUD and local housing authorities to fulfill their obligations to remedy segregation and the results of past discriminatory site selection by developing public housing outside areas of minority and poverty concentration. However, instead of encouraging and requiring the use of HOPE VI and other public housing capital funds for this purpose, HUD discourages and seeks to avoid development at new locations in non-minority and non-poor areas.

202. In fiscal year 2000 HUD adopted project selection criteria in its Notice of Funding Availability (NOFA) for the award of HOPE VI funds that give just one point (out of a

total of 100 possible points) to plans that include off-site housing that will "create opportunities for desegregation by locating such housing in neighborhoods with low levels of poverty and/or concentrations of minorities." HUD explicitly required applicants to demonstrate that "community acceptance is likely" in order to receive even this single point, despite HUD's knowledge of the long history of community resistance to public housing in white neighborhoods. The HOPE VI NOFA for fiscal year 2001 also included this limitation on replacement housing at "off-site" locations in non-minority areas and went further, adding criteria to facilitate location of off-site units in minority areas.

203. Since 1996, HABC has proposed and HUD has approved the demolition of more than 1000 family housing units, beyond the demolition approved under the Partial Consent Decree, including a substantial portion of its inventory of large units. HUD approved demolition of these units despite its knowledge that HABC did not intend to replace the demolished units and/or intended to replace units only on the original sites and in other minority areas.

204. Aside from the replacement housing specifically mandated by the Partial Consent Decree, it is HABC's policy and practice to develop replacement housing units only on the same sites where public housing has been demolished and in other minority areas, and to avoid non-minority areas where community opposition is likely.

205. In 1997, over the opposition of the Cherry Hill Tenant Council, HUD approved HABC's application to demolish 193 family public housing units at Cherry Hill Extension II (MD 2-17) and explicitly supported and facilitated HABC's plan to use funds set aside to renovate the units to build 80 units of housing for the elderly and 76 units that would be offered for sale on the Cherry Hill site. HABC does not intend to replace any family rental units for occupancy by displaced households, and does not intend to build any replacement housing off-site.

206. In mid-1996, HUD advised HABC to apply for a HOPE VI grant to address the problems of the Hollander Ridge project, and subsequently awarded $20 million to be used

primarily for renovation of the existing housing. Shortly thereafter, a "viability assessment" conducted by a HUD consultant concluded that revitalization of the project would not be cost effective. Citing the isolated location, the unsuitability of the site and extraordinary costs that would be incurred to stabilize it, and the deteriorated condition of the facilities, HUD's consultant recommended that the project be demolished and that replacement housing be built or acquired off-site in non-impacted areas or areas that would provide community development benefit.

207. HUD failed to advise or direct HABC to follow the recommendations of its own consultant that replacement housing be developed in non-impacted areas, even though public housing could only be constructed in such areas under the Partial Consent Decree in this case. Contrary to the consultant's recommendation, the City and HABC reached agreement with Baltimore County officials on a plan to remove families from the Hollander site and rebuild only elderly housing on-site. No replacement housing would be built for the displaced families, nor would any housing be built to restore the equal opportunity "balancing units" that were destroyed by the demolition of Hollander Ridge.

208. Although the senior housing plan was halted by a court order in July 2000, the federal and local defendants have failed to use available resources to restore the demolished Hollander Ridge units in non-minority areas. Instead of requiring and facilitating such development, HUD has instead impeded the few efforts made by HABC to do so. On February 28, 2001, HABC proposed, with the support of the plaintiff class, that the bulk of the Hollander Ridge HOPE VI grant funds be used to develop replacement housing in non-impacted areas and other strong neighborhoods and to comprehensively rehabilitate one of HABC's former *de jure* white outer-city projects, Claremont Homes. Under the HOPE VI statute, 42 U.S.C. 1437v, both purposes are eligible uses of HOPE VI grant funds. Nonetheless, on April 18, 2001 HUD rejected the new plan and recaptured the Hollander Ridge grant, stating without explanation, that the plan "...is generally not consistent with the spirit and requirements of the HOPE VI program." 209. Combined with the defendants' policies promoting the demolition of

public housing and the on-site redevelopment of fewer units to serve a mixed income population, the failure and refusal of defendants to restore demolished housing in other non-impacted locations, is further resulting in a massive loss of housing available and affordable to the minority families displaced by demolition, living in other distressed HABC public housing or waiting on HABC's public housing waiting lists. In Baltimore alone, approximately 1000 units have already been lost as a result of actions taken by the federal and local defendants to demolish and not replace family public housing at Hollander Ridge (522 units), Cherry Hill Extension II (193 units), Emerson Julian Gardens (23 units) and scattered sites (300 units). Additional public housing units were vacated and allowed to fall into an uninhabitable condition before submission of a demolition application to HUD, including Charles K. Anderson Village (122 units) and scattered sites (more than 700 units).

210. The Local Defendants admit that there is a severe shortage of housing units affordable and available for occupancy by very low income families, and especially African American families. According to a recent HABC housing needs assesment, there are approximately 12,000 households on HABC's waiting list for public housing and 25,000 households waiting for Section 8 assistance. African Americans comprise 95% of these households, the vast majority of them families with children. Moreover, there are 70,000 African American families and 22,000 white families in Baltimore City with housing needs.

211. A 1996 Analysis of Impediments to Fair Housing conducted by the Baltimore Metropolitan council on behalf of Baltimore City and other jurisdictions in the Baltimore Housing Market found that there exists a shortage of public and assisted housing and that this shortage is an impediment to fair housing. The analysis found that African Americans are impacted by the lack of affordable housing because of their relative poverty status. Almost 20% of African American families in the Baltimore region were below the poverty level in 1990 compared to 3.5% of white families.

212. HABC admits that the supply of housing available to African American families and others with very and extremely low incomes severely limits housing choices for those

families to particular locations, notably areas of poverty and/or minority concentration. The Analysis of Impediments to Fair Housing also found that much of the public and assisted housing that now exists in the region is racially segregated.

213. HABC is required by law to examine its programs or proposed programs, to identify any impediments to fair housing choice within those programs and to take action to address those impediments. To date, HABC has failed to conduct such an examination and has failed to take steps to address impediments to fair housing in its programs.

214. As a condition of its receipt of federal Community Development Block Grants, the City defendants are also required by law to conduct an analysis of impediments to fair housing choice within the jurisdiction's housing market and the programs and policies of in the city and to take actions to overcome the effects of any impediments identified. In 1996 the Baltimore Metropolitan council prepared an analysis on behalf of the CDBG entitlement jurisdictions in the Baltimore region. The city defendants have failed to develop a plan or to take actions to overcome impediments identified in the 1996 analysis of impediments. The city defendants have not conducted an analysis of impediments to fair housing since 1996.

215. The defendants' actions to restrict replacement housing to black neighborhoods where it is already concentrated will continue to restrict the housing opportunities of public housing families, will deny them the choice to live in diverse neighborhoods and send their children to integrated schools, and will perpetuate the racial segregation and concentrated poverty for another fifty years.

216. The defendants' current intentional failure to locate replacement housing in non-minority areas perpetuates racial segregation in the City and the Baltimore metropolitan area.

217. The defendants' current demolition of public housing occupied by African American families, and failure or refusal to develop replacement housing in non-minority areas or elsewhere, has the intent and effect of perpetuating and exacerbating racial segregation, and makes housing unavailable to low income African Americans families because of their race.

H. FACTS RELEVANT TO THE NAMED PLAINTIFFS

218. Plaintiff CARMEN THOMPSON accepted HABC's offer of a high rise unit in Lexington Terrace in 1987 because she was homeless and living in a shelter. Although her application indicates a preference for several of HABC's outer-city developments, Lexington Terrace was the only option offered to her.

219. Ms. Thompson has endured years of racial segregation in a dangerous and substandard high rise building in the Lexington Terrace development. Ms. Thompson and her ten year old son are exposed to drug trafficking in the stairwells, common areas and vacant apartments. She frequently has to chase drug dealers away from the corridor in front of her apartment.

220. To remove her son from the dangers of the Lexington Terrace environment, Ms. Thompson arranged for him to attend school in Cherry Hill and to stay with her mother after school. She has also applied to HABC for a transfer and for Section 8 housing assistance. Ms. Thompson wants to move to a racially integrated area of the city or suburbs with better schools and public safety.

221. Ms. Thompson has been informed by HABC that Lexington Terrace will be completely redeveloped and the current residents relocated. She does not want to be relocated to another all black public housing project in Baltimore City.

222. Plaintiff RHONDA HARRIS was raised in suburban Anne Arundel County where her family has lived for two generations. She has applied for Section 8 through the Anne Arundel County Housing Authority but was first offered public housing in Baltimore City.

223. The 734 West Fayette Building at Lexington Terrace high rise was the only housing offered to her by HABC. Ms. Harris was terrified to move to a high rise building but accepted the offer because she was in desperate need of affordable housing.

224. Ms. Harris and her family were relocated from the 734 West Fayette Building in March 1993, when HABC and HUD closed the building, rather than invest in costly repairs to its failing elevators, plumbing, heating and mechanical systems. She was moved to HABC's McCulloh Extension development.

225. Ms. Harris was not offered Section 8 or housing in an integrated neighborhood. She and the other residents were only offered relocation housing in all black developments located in black neighborhoods.

226. Although her apartment at McCulloh Extension is in better condition than the Lexington Terrace unit, Ms. Harris is still afraid to let her children play outside. She takes her children to her mother's home in Anne Arundel County to play.

227. If she had been offered Section 8 when she was relocated from Lexington Terrace, Ms. Harris would have used the assistance to move to an integrated area with better employment opportunities and police protection. She wants to live in an area where her children can enjoy the same opportunity that she had to attend integrated schools with children of diverse backgrounds.

228. Since living at Lafayette Courts, Plaintiff JOANN BOYD and her children have been exposed to extreme segregation, unrelenting poverty, crime and violence. Lafayette Courts has the highest rate of children in poverty in the entire state. Its rates of death among young children and venereal disease in teenagers are among the highest in Baltimore City.

229. At Lafayette, Ms. Boyd and her children are prisoners in their own home. Ms. Boyd constantly fears for her children's safety and believes they have already suffered emotional harm as a direct result of the shootings, stabbings and drug activity they have witnessed. Several years ago, Ms. Boyd's son was approached by drug dealers and beaten up because he refused to sell drugs. She is afraid that she will eventually lose him to gangs, drugs or violence. Ms. Boyd also believes that her daughter's school performance declined as a direct result of the detrimental environment of Lafayette Courts.

230. While she waits for an opportunity to move, Ms. Boyd has attempted to shelter her teenaged children from the environment at Lafayette Courts. She even sent her daughter to parochial school in Northeast Baltimore, but then lost her job and could no longer afford the tuition.

231. Ms. Boyd has applied for a transfer from Lafayette and has repeatedly written to

elected officials, describing the conditions in which she lives and requesting assistance in finding a more stable environment for her children. In 1993, she applied for Section 8 assistance to enable her to move to a safer neighborhood with good schools, outside areas of minority concentration.

232. Ms. Boyd has been informed by HABC staff that she will be relocated in connection with plans to demolish and redevelop Lafayette Courts. Ms. Boyd does not want to relocate to HABC housing in an inner-city area.

233. Plaintiff DORIS TINSLEY and her family live in a scattered site Rehabilitated Housing rowhouse on Forrest Street in the shadow of the Maryland Penitentiary in one of the city's most highly segregated, dangerous and drug infested areas. She and her children, ages 15, 12 and 9 have witnessed a killing in front of their home and each child has experienced the violent death of a close friend. As a result of the violence that surrounds them, Ms. Tinsley and her children have suffered emotional damage, anxiety and stress for which they all receive mental health counseling.

234. Hoping to improve conditions in her neighborhood, Ms. Tinsley formed a community group, Johnston Square Positive Force. The group provided recreational activities for neighborhood children and cleaned trash from alleys and vacant lots. Many neighbors were reluctant to participate because they feared they would become targets for drug dealers.

235. Ms. Tinsley believes that her efforts and those of the Johnston Square Positive Force have been impeded by the defendants' policies that concentrated assisted housing and poor African Americans in and around Johnston Square, the clustering of state prison facilities in the neighborhood, and inadequate and unequal educational, police, sanitation and other public services.

236. Ms. Tinsley holds little hope for a normal life for her children unless they are able to escape the environment of Johnston Square. She applied to HABC for a transfer but was advised by HABC staff that all of their units are in similar inner-city areas. Ms. Tinsley has applied for Section 8 housing assistance so that she can move her family to Baltimore or Harford

counties.

237. Plaintiff LORRAINE JOHNSON has lived in four different public housing units. In each, she and her daughter have been exposed to substandard conditions and/or adverse neighborhood conditions. In each instance, HABC has relocated them to another unit located in an entirely African American neighborhood. HABC has never offered Ms. Johnson a unit in an integrated area.

238. HABC first transferred Ms. Johnson from a high rise building at Murphy Homes after an incident in which a chronically malfunctioning elevator prevented paramedics from reaching her 13th floor apartment where her daughter was having a seizure. She was relocated to the segregated Latrobe Homes, immediately next door to a state correctional institution. During her tenancy at Latrobe, Ms. Johnson and her daughter were constantly subjected to lewd and harassing comments by prison inmates who peered from the prison windows into her home.

239. Ms. Johnson's current home, a Rehabilitated Housing rowhouse in Southwest Baltimore, is located in a segregated black neighborhood on a dead end street adjacent to an industrial area. People dump trash and debris in the vacant lot at the end of the street, and as a result of poor drainage, stagnant water accumulates after a heavy rainfall.

240. Ms. Johnson does not allow her daughter to play outside because of the crime and traffic hazards caused by people who drive into the neighborhood to buy drugs. The school that her daughter attends serves almost exclusively students from the poor neighborhoods that surround it; 88% of the students qualify for free or reduced school lunch. Accordingly to performance measures devised by the Maryland State Department of Education, the school is failing to meet the needs of its students.

241. Ms. Johnson wants to live in a neighborhood outside areas of minority concentration so that her daughter can attend a well equipped school with children of varying races and economic backgrounds. She has requested a transfer but HABC has informed her that it does not have housing to offer her except in inner-city neighborhoods such as the one she lives in now.

242. Plaintiff ISAAC J. NEAL and his family have lived at Lafayette Courts for more than eight years. Mr. Neal originally applied for both Section 8 and any available public housing unit. The only unit offered to him was in a high rise building at Lafayette Courts. Six years ago, the family was transferred to a low-rise building that abuts HABC's Douglass Homes development.

243. Mr. Neal's young sons attend a neighborhood school that serves almost exclusively children from Lafayette Courts and the surrounding all black developments. They have asked him why only black people live in public housing and why they never see any white children.

244. Mr. Neal devotes much of his time to volunteer efforts in an attempt to benefit the children of Lafayette Courts and improve the surrounding community. He is a member of the School Improvement Team at Dunbar Middle School where he is employed as a custodian, and volunteers in his sons' school.

245. Mr. Neal believes that his efforts are impeded by the defendants' policies that concentrated segregated public housing in East Baltimore. He believes that the children would benefit from attending schools with children of diverse racial and economic backgrounds, and that the public housing neighborhoods would receive better public services if they were integrated.

246. Mr. Neal and his family will be relocated as part of the Lafayette Redevelopment project. Mr. Neal believes he should not have to leave the neighborhood in order to live in an integrated community and wants to remain near his job and volunteer activities.

247. On account of the defendants' actions and inaction, the individual named plaintiffs, and the class they represent, have suffered segregation and discrimination on the basis of their race and minority status. The plaintiffs and class members have been denied safe, affordable and integrated housing and have suffered the loss of social, economic and educational advantages from interracial associations produced by living in an integrated neighborhood.

248. On account of the defendants' racially discriminatory actions and inactions, the

plaintiffs and the class they represent have been denied the opportunity to live in neighborhoods of their choice and have been restricted to racially segregated neighborhoods where they are subjected to concentrated poverty, unemployment, drug trafficking and criminal violence.

249. As a result of defendants' actions, plaintiffs' children attend schools that are racially segregated and attended by high concentrations of low-income children.

250. As a result of the defendants' actions and inactions, the individual plaintiffs and the class they represent have suffered and will continue to suffer irreparable harm for which no monetary damages or other legal remedy could compensate them. This includes the loss of their civil rights, the continued denial of safe, affordable and integrated housing opportunities, and the denial of integrated educational opportunities.

251. Plaintiffs have no plain, speedy or adequate remedy at law. Unless this Court grants the relief requested, defendants' actions will result in irreparable harm to the plaintiffs and their families.

VIII. CLAIMS FOR RELIEF

A. COUNT ONE: VIOLATIONS OF THE UNITED STATES CONSTITUTION

252. The defendants have, as described above, intentionally created, perpetuated and refused to disestablish racially segregated family public housing in Baltimore City in violation of plaintiffs' and class members' rights under the Fifth, Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Sections 1981, 1982 and 1983.

B. COUNT TWO: VIOLATIONS OF TITLE VIII

253. The defendants have, as described above, created, perpetuated and failed to disestablish racially segregated family public housing housing in Baltimore by engaging in discriminatory practices that denied or othewise made rental housing unavailable to the plaintiffs and that discriminated against plaintiffs in the terms, conditions and priviledges of the rental of housing, because of plaintiffs' race, in violation of plaintiffs' and classmembers' rights under the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Section 3604 (a) and (b), including but not limited to discriminatory public housing site selection and approval,

discriminatory tenant selection and assignment, discriminatory demolition and displacement and discriminatory relocation practices, policies and omissions.

254. The federal defendants have, as described above, violated their affirmative obligation to administer programs and activities related to housing in a manner affirmatively to further fair housing opportunities and to prevent and eliminate discriminatory housing practices, in violation of plaintiffs' and classmembers' rights under the Fair Housing Act, Title VIII, 42 U.S.C. 3608 (d) and (e)(5), by their discriminatory and segregative practices and policies, by their continued funding and approval of the discriminatory and segregative policies and practices of the local defendants, including but not limited to the federal defendants' repeated actions to approve, facilitate and fund sites for public housing exclusively in minority areas, and by their failure to take steps to remedy the effects of these discriminatory and segregative policies and practices.

255. The local defendants have, as described above, violated their affirmative obligation to administer programs and activities related to housing in a manner affirmatively to further fair housing opportunities and to prevent and eliminate discriminatory housing practices, in violation of plaintiffs' and classmembers' rights under the Fair Housing Act, Title VIII, 42 U.S.C. 3608 (d) and (e)(5), by their discriminatory and segregative practices and policies, including but not limited to discriminatory public housing site selection, discriminatory tenant selection and assignment, discriminatory demolition and displacement and discriminatory relocation practices and policies, and by their failure to remedy the effects of these discriminaory and segregative policies and practices.

C. COUNT THREE: VIOLATIONS OF TITLE VI AND HUD REGULATIONS

256. The defendants have, as described above, excluded plaintiffs and class members from participation in, denied them the benefits of, and subjected them to discrimination under programs receiving federal financial assistance, on account of plaintiffs' and class members' race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d., and HUD implementing regulations, 24 C.F.R. Sections 1.4(a), 1.4(b)(1), 1.4(b)(2)(ii), 1.4(b)(3) and

1.4(b)(6)(i).

257. The local defendants, acting under color of state law, have, as described above, excluded plaintiffs and class members from participation in, denied them the benefits of, and subjected them to discrimination under programs receiving federal financial assistance, on account of plaintiffs' and class members' race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d., and HUD implementing regulations, 24 C.F.R. Sections 1.4(a), 1.4(b)(1), 1.4(b)(2), 1.4(b)(3) and 1.4(b)(6)(I), for which plaintiffs and classmembers seek relief pursuant to 42 U.S.C. Section 1983.

D. COUNT FOUR: VIOLATION OF UNITED STATES HOUSING ACT AND HUD REGULATION

258. The local defendants, acting under color of state law, as described above, have deprived plaintiffs and class members of their their rights under the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. , and implementing regulations, for which plaintiffs seek relief pursuant to 42 U.S.C. Section 1983. Specifically, local defendants have violated 42 U.S.C. Section 1437c-1(d)(15) and 1437v by maintaining, promoting and failing to remedy racial segregation in the Baltimore public housing program, and failing to act so as to affirmatively further fair housing opportunities as described above; have violated 42 U.S.C. 1437p and 24 C.F.R. Part 970 by demolishing existing public housing resources without first satisfying statutory standards; and have violated 24 C.F.R. Section 941.202 by their acts and failures to act in locating public housing units virtually exclusively in areas of minority, low income and assisted housing concentration.

259. The federal defendants, as described above, have violated plaintiffs' and class members' rights under the United States Housing Act of 1937, 42 U.S.C. 1437 et seq., and implementing regulations, by failing to require that local defendants affirmatively further fair housing as required by 42 U.S.C. Section 1437c-1(d)(15) and 1437v, by allowing, ratifying, or approving demolition of public housing and displacement of residents that do not comply with the requirements of 42 U.S.C. 1437p and 24 C.F.R. Part 970, and by their acts and failures to act in financing, authorizing and approving public housing units virtually exclusively in areas of minority, low income and assisted housing concentration, in violation of the requirements of 24 C.F.R. 941.202.

E. COUNT FIVE: VIOLATION OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AND HUD REGULATIONS

260. By promoting and failing to remedy racial segregation in the Baltimore public housing program, and by failing to act so as to affirmatively further fair housing opportunities as

described above, defendants Graziano and Mayor and City Council, acting under color of state law, have deprived plaintiffs of their rights under the Community Development Block Grant program requirements of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. Section 5304(b)(2), and 24 C.F.R. 91.225(a)(1) and 570.303 for which plaintiffs seek relief pursuant to 42 U.S.C. Section 1983.

261. The defendants HUD and Martinez in failing to administer the CDBG program in a manner affirmatively to further fair housing opportunities in the City of Baltimore, have violated the Housing and Community Development Act of 1974, as amended, 42 U.S.C. Section 5304(b)(2), and 24 C.F.R. 91.225(a)(1) and 570.303.

F. COUNT SIX: THE ADMINISTRATIVE PROCEDURE ACT

262. The Federal Defendants have abused their discretion and otherwise acted contrary to law in creating, authorizing, permitting and supporting the creation and perpetuation of segregated public housing in Baltimore and in failing to consider all relevant factors in carrying out their responsibilities, thus calling for relief from this Court pursuant to the Administrative Procedure Act, 5 U.S.C. Section 701 et seq.

VIII. REQUEST FOR RELIEF

WHEREFORE, the plaintiffs respectfully request that this Court:

A. Certify this action as a class action on behalf of the proposed class pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure;

B. Pursuant to 28 U.S.C. Sections 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure, declare that defendants' policies, practices, acts and omissions have deprived plaintiffs of their rights under the Constitution and laws of the United States, as enumerated in Counts One through Six;

C. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, enter preliminary and permanent injunctive relief ordering the defendants to cease immediately their violations of plaintiffs' rights, and to remedy the invidious effects of their violations;

D. Award equitable relief to the plaintiffs and the class to remedy the invidious effects of the defendants' discriminatory acts and omissions, to restore the plaintiffs and the class to the positions they would have enjoyed had housing assistance been provided in a nondiscriminatory manner free from de jure and de facto segregation, and to ensure that sufficient and comparable opportunities for public and assisted housing are provided to them outside areas of minority concentration;

E. Order reasonable attorneys' fees to be paid by the defendants HUD and Cisneros pursuant to 28 U.S.C. Section 2412 and 42 U.S.C. 3612, and by the other defendants pursuant to 42 U.S.C. Section 1988 and 3612;

F. Order the defendants to pay the reasonable costs of this litigation; and

G. Grant such other and further relief as the Court deems just and equitable.

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