



THE CASE OF THOMPSON V. HUD: A Briefing on Segregation and Public Housing in Baltimore

*"I used to hear gun shots outside my window
... now I hear birds chirping."*

--S.J., *Thompson* client, former resident of public housing
who moved to neighborhood outside Baltimore's center city

Nearly a century of segregationist policy in Baltimore's public housing has left thousands of low-income, African-American children and their families vulnerable, isolated and perpetually locked in unsafe, distressed neighborhoods, suffering the consequences of concentrated poverty.

Faced with gunfire in the streets, failing schools, and deteriorating housing, these families are living with the results of decades of disinvestment and determined neglect that ruined the social fabric in our urban center. Deprived of the fundamental opportunities that define America—economic vitality, civic networks and institutions, adequate schools—Baltimore's experience in public housing is nothing short of an urgent call to arms for immediate, proactive reform.

In 1995, public housing families sought to do just that by using litigation as a catalyst for solving a problem of racial segregation that has defied a political solution. Six families filed a landmark suit on behalf of 14,000 other low-income families in the face of the government's plan to demolish housing projects in the city and rebuild all units in the same segregated, economically depressed locations. Just one year later, *Thompson v. HUD* produced a sweeping partial settlement (consent decree) between the families and the government, calling for 3,000 new housing opportunities for public housing families, including the redevelopment of the high rise sites.

The partial consent decree set an ambitious agenda that, after seven years of delay, is now beginning to provide long-overdue opportunities. Most of the on-site replacement housing has been built, and despite foot dragging in implementing the desegregative programs called for in the decree, these have recently been contracted to independent organizations with sound track records. The infrastructure is now in place for each of the remedial programs, and families are starting to move to new homes and new communities.

Last summer, the judge presiding over the case denied the defendants' summary judgment motion, finding a "plethora of evidence" that racially discriminatory housing policies have continued. The case went to trial in December and a decision is expected soon.

Thompson v. HUD has become a national bellwether. Our efforts to date stand to help thousands of low-income families rebuild their lives and, in the process, permanently change the landscape of public housing in Baltimore and perhaps the nation.

WHY BALTIMORE PUBLIC HOUSING FAMILIES WENT TO COURT IN DECEMBER 2003

*"Anyone should get out of the trap of public housing. It's bondage."
--L.J., Thompson client*

Clustered next to older, segregated projects, public housing units have created a ring of racial isolation and concentrated poverty around downtown Baltimore.

BALTIMORE'S SYSTEM OF PUBLIC HOUSING IS FUNDAMENTALLY BROKEN. Over seven decades of segregationist policy in Baltimore's public housing has left thousands of low-income, African-American children and their families vulnerable, isolated, and perpetually locked in unsafe, distressed neighborhoods.

Public housing was established in the 1930s to offer families a leg up and a helping hand out of poverty. But city policy, which required official separation of the races before 1954 ("Negro Housing" versus "White Housing") ensured that this vision was merely an illusion for low-income African Americans. And since then, virtually nothing has changed. The prerequisites for getting out of poverty—good schools, available jobs, and a safe, supportive, economically diverse community—have been off-limits to African American families in public housing.

Deprived of economic vitality, civic institutions, and adequate schools—African American families in public housing are living proof of how decades of disinvestments and determined neglect can ruin the social fabric in our urban centers.

By 1995, when this case was filed, housing experts considered Baltimore to be one of the worst examples of that segregation. More than 70% of family public housing in use today in the City was built, by law, as segregated housing (officially designated as "white housing" or "Negro housing").

THE COURTS ARE THE ONLY WINDOW OF HOPE TO FIX THIS BROKEN SYSTEM.

From the 1930s through the 1990s, fixing the searing isolation public housing families endure has defied a political solution. Each time new public housing was constructed—whether large high rises or scattered site homes—it was placed in the poorest neighborhoods in Baltimore. (See attached 2000 map of public housing sites.) Each time new public housing was proposed in more affluent neighborhoods, it was vetoed by community opposition.

In 1995, African American families sued the federal Department of Housing and Urban Development ("HUD"), Baltimore City and the City's housing authority. It was a landmark suit on behalf of 14,000 low-income families, filed in the face of the government's imminent plan to demolish 3,000 housing units in the city and rebuild all the units in the same segregated, economically depressed locations as before.

Until Thompson v. HUD, no public housing had been built in white residential areas after Brown v. Board of Education.

IN DECEMBER 2003, THOMPSON V. HUD WENT TO TRIAL TO DECIDE WHETHER THE FEDERAL AND LOCAL GOVERNMENTS OWE AFRICAN AMERICAN FAMILIES A REMEDY FOR THEIR SEGREGATIONIST POLICIES OF THE PAST AND PRESENT. The public housing families proved two things at trial. First, before 1954 (the year of the landmark Supreme Court decision in *Brown v. Board of Education* that segregated government services are unconstitutional) Baltimore City operated, and the federal government supported, two separate public housing systems—one for “Negroes” and the other for “Whites”—in violation of the U.S. Constitution. Second, after 1954, both governments had an obligation to “disestablish” the segregationist system, and did not do so. Instead they allowed the systems to operate as they always had. The result? African American families live in the same neglected neighborhoods as they have for decades. And white families live in better ones.

HUD officials have repeatedly admitted HUD’s active role in establishing and perpetuating racially segregated public housing
-- ACLU of Maryland legal brief in *Thompson*

GOOD HOMES FOR GOOD FAMILIES: HEALING OUR CITY AND OUR REGION

"I want to contribute to the community—to learn, be in a safe environment. I don't want to be judged in other communities because we're black. We're not seen as human beings!"

--Isaac J. Neal, Thompson client

"In the Gautreaux case, public housing families viewed housing mobility certificates as a 'glass slipper' -- a passport to a new life. The first year, families wanting to get them jammed the Chicago Public Housing Authority phone lines. In the next years, hundreds of families lined up the night before the lottery that would determine who would get to use certificates."

--Professor Gary Orfield, Co-Director of the Civil Rights Project, Harvard University

FAMILIES WILL HAVE MORE REAL CHOICES ABOUT WHERE TO LIVE. Demographics of the Baltimore region show that low-income African American families—in stark contrast to their low-income white counterparts—do not have a real choice about where they live. The judge in the case has already stated, "For the economically disadvantaged, applying for public housing is very likely to be the only method of attaining liveable shelter."

Consider the following: If ability to pay determined where the low-income families in the region lived, whites and blacks alike would be concentrated in low-income city neighborhoods. However, most low-income whites (60%) live throughout Baltimore's suburbs and enjoy the advantages of suburban schools and job opportunities. But 86% of low-income African Americans are concentrated in Baltimore City.

Poor African American families don't all live in the City because they want to. Some families want to live in the City and some want to leave. All want to have a choice. Until now, their only choice has been segregated, isolated neighborhoods—89% of the region's public housing and 71% of the subsidized housing is concentrated in a few areas of the City.

If the judge decides that the federal and local governments did indeed force African American families to live in isolation and concentrations of poverty, he will then consider how to make them "whole" by ordering a remedy.

IN AN EARLIER PHASE OF THOMPSON V. HUD, THE GOVERNMENT HAS ALREADY AGREED TO REPLACE 3,000 OF THE 14,000 BALTIMORE PUBLIC HOUSING UNITS WITH A WIDE RANGE OF HOUSING CHOICES. Just one year after *Thompson v. HUD* was filed, it produced a sweeping partial settlement (consent decree) between the families and the government, calling for 3,000 new housing opportunities for public housing families, including the distribution of 1,200 special certificates with counseling available for families to move to more economically vibrant areas. Certificates with counseling use the private housing market to provide new opportunities.

The partial consent decree set an ambitious agenda that is succeeding. Most of the on-site replacement housing has been built. Despite foot dragging in implementing the desegregative programs called for in the decree, these have recently been contracted to independent organizations with sound track records. The infrastructure is now in place for each of the remedial programs, and families are starting to move to new homes and new communities.

Families continue to demonstrate a strong level of interest in these programs. Even though outreach to families has yet to begin in earnest for some programs, the City housing authority received 260 applications for just 40 new units—230 during a one-week window. Another program received nearly 1,900 applications, with 300 to 400 applications coming monthly, despite a limited number of available units.

“The ACLU settlement for the first time permits poor African Americans to make their own housing decisions. . . .It is truly empowering.”

-- Parren J. Mitchell (1996)

WE ALL WIN WHEN HOUSING FOR WORKING FAMILIES GOES REGIONAL

"Housing policy is health policy"

-- Brian S. Schwartz, M.D., M.S. Professor,

Department of Environmental Health Sciences, Johns Hopkins Bloomberg School of Public Health

HOUSING POLICY IS HEALTH POLICY. More and more scientific studies support the idea that people's lives and health are shaped by things going on in their streets and communities. Concentrations of poverty are easy to ignore, but poor areas hurt everyone in Baltimore and the surrounding region. We are all connected to the health of our neighborhoods. Sick neighborhoods suffering from concentrated poverty demand expensive social services and increase the risk of depression, asthma, and other chronic diseases, which, in turn, require late-stage medical services for which all of us pay.

What can we do about this? Healthy places are created by economics, policies, and laws. If unhealthy places make people sick, then one answer is to redesign places using policies to help improve the health of all Baltimoreans. If we tear down a problem building and replace it without changing the things in the neighborhood that caused it to become "sick" in the first place, we can only expect the same problems. For many, the best prescription for better health may be moving to a healthier neighborhood.

"Housing policy is school policy."

-- Dr. David Rusk, urban policy expert, former mayor of Albuquerque, NM, author of *Baltimore Unbound*

HOUSING POLICY IS SCHOOL POLICY. A generation ago in his massive study on Equality of Educational Opportunity (1966), sociologist James Coleman found that "the social composition of the student body is more highly related to achievement, independent of the student's own social background, than is any school factor." In other words, who the kids are, as measured by the educational attainment and income of their parents and of their classmates' parents, is vital. A second key finding was that low-income children learn best in middle class schools.

Nothing else—expenditures per pupil, pupil-teacher ratios, teacher experience, instructional materials, age of school buildings—came close. "The educational resources provided by a child's fellow students," Coleman summarized, "are more important for his achievement than are the resources provided by the school board." Yet, despite some progress, the Baltimore region is still highly segregated racially. Racially segregated neighborhoods produce racially segregated neighborhood schools. And racially segregated schools are economically segregated schools. The greatest improvement in economic school integration would come from implementing a region-wide inclusionary zoning policy to assure mixed-income housing in all new housing developments.

HOUSING MOBILITY PROGRAMS HAVE PROVEN THAT THEY WORK—AND ARE COST EFFECTIVE. Programs allowing families to move to areas of opportunity are working in cities like Boston, Hartford, Yonkers, Chicago, Cincinnati, Dallas, New Haven, Allegheny County (outside Pittsburgh), and Minneapolis. Not one of these cities has experienced the problems predicted by some politicians. These programs are not the only answer, but they have proven to be a win-win opportunity for families and communities.

Over the past 20 years, over 6,000 families have moved from the Chicago housing projects to predominantly white neighborhoods. Results have shown that the mothers who moved to the suburbs were more likely to get

jobs than those who remained in the city. But it has been the children who show dramatic long-term gains in education and employment compared to those who stayed. School dropout rates were 5% instead of 20%. College attendance was 54% instead of 21%. Full-time employment rates were 75% instead of 41%. Those holding jobs with eligibility for benefits were 55% instead of 23%. And those earning over \$6.50 per hour were 21% instead of 5%.

At a one time cost of only \$2,000-3,000 per family, housing mobility programs are one of the better investments that taxpayers can make.

"There's nothing in this neighborhood for my family. All the jobs are out in the county. I cannot teach my children the value of human life in this environment. I teach them one thing and the neighborhood teaches them another."

-- Doris Tinsely, *Thompson* client speaking about her home on Forrest Street in the shadow of the Maryland Penitentiary (1995)

MONTGOMERY COUNTY, MARYLAND OFFERS A MODEL FOR WEAVING LOW-INCOME FAMILIES INTO THE FABRIC OF THE LARGER COMMUNITY. For almost 30 years, Montgomery County, Maryland has had the country's most extensive mixed-income housing policies. Its "Moderately Priced Dwelling Unit" (MPDU) law requires that 15 percent of every major housing development must be affordable for families in the lowest third of the income scale. Furthermore, the county directs its public housing authority to buy or rent one-third of the MPDUs to assist very low-income families. To offset a builder's cost of setting aside affordable units, the county provides up to a 22 percent density bonus.

Since 1976, private, for-profit home builders have produced over 11,000 MPDUs integrated seamlessly into middle class neighborhoods. The housing authority has bought 1,700 widely scattered MPDUs and rents another 1,500. As a result, Montgomery County is one of the nation's most racially and economically integrated communities.

What if an MPDU-type policy had been in effect for the Baltimore region over the last 20 years? Of the 316,000 new housing units built over that time (about half of which were in developments too small for the policy to apply), an MPDU-type policy would have produced about 15,800 "workforce" housing units and another 7,900 "welfare-to-workforce" housing units. Income eligibility for "workforce" housing corresponds roughly to the income limits for partially subsidized school meals. Income eligibility for "welfare-to-workforce" housing (that is, the housing authority-owned units) corresponds roughly to the income limits for fully subsidized meals.

Such an inclusionary zoning law would have lowered the level of segregation in Baltimore schools.

RESTRICTING CHILDREN AND THEIR FAMILIES TO AREAS OF CONCENTRATED POVERTY HAS HUGE SOCIAL COSTS – AN UNEDUCATED WORKFORCE, A LARGER CRIMINAL JUSTICE SYSTEM, THE LOSS OF THE AMERICAN DREAM FOR OUR CHILDREN – AND WE ALL PAY FOR THOSE COSTS. Our overarching goal must be to fix the broken public housing system and to end the isolation of families, weaving them back into the fabric of the community and the economic mainstream. Any remedy we achieve must do two things: First, expand the families' housing opportunities throughout the region in neighborhoods with good schools, access to jobs, and safe streets. Second, target investments in neighborhoods where public housing now exists to knit the families there back into the economic mainstream.

We can do far better. We know what works. Now it is a question of will.