

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**MARY HAWKINS, RODRIGUEZ HARGETT,** )  
And **ERSALENE DAVIS**, on behalf of )  
themselves and others similarly situated, )

CIV No. 90-0-55

Plaintiffs, )

v. )

**ALPHONSO JACKSON<sup>1</sup>**, Secretary of Housing and )  
Urban Development; **THE UNITED STATES** )  
**DEPARTMENT OF HOUSING AND URBAN** )  
**DEVELOPMENT; HOUSING AUTHORITY** )  
**OF THE CITY OF OMAHA;** and the **CITY** )  
**OF OMAHA,** )

Defendants. )

**MODIFICATION TO CLARIFY SETTLEMENT AGREEMENT**

**WHEREAS**, the parties hereto entered into a Settlement Agreement on or about January 21, 1994, and

**WHEREAS**, Paragraph 21 of the Settlement Agreement provides that the Agreement may be modified “by the consent of all of the parties to this Agreement,”

**WHEREAS**, all remaining<sup>2</sup> Parties to the Settlement Agreement have consented that the Settlement Agreement should be modified in the manner indicated below, for the following reasons:

1. The Settlement Agreement provides that the Housing Authority of the City of Omaha (hereinafter “OHA”) will “demolish and replace with alternate forms of housing” public housing complexes in Omaha known as Logan Fontenelle

---

<sup>1</sup> The current HUD Secretary, in his official capacity, is substituted for the former HUD Secretary under Fed. R. Civ. P. 25 (d)(1)

<sup>2</sup> As of January 21, 2001 the City of Omaha was longer under the jurisdiction of the Court.

South, six or more buildings in Hilltop Homes, and Pleasantview Towers East and West.

2. The Settlement Agreement did not include any express deadlines or time periods for OHA's completion of the replacement housing, but instead incorporated by reference the U.S. Housing Act of 1937 and Section 18 thereof, which, at the time of the settlement, required that OHA's replacement housing plan provide that a project to be demolished "includes a schedule for completing the plan within a period consistent with the size of the proposed demolition or disposition, except that the schedule shall in no event exceed 6 years." 42. U.S.C. § 1437p(b)(3)(E)(1994).
3. All the parties agreed by a Modification of Settlement Agreement dated March 27, 2000, that due to changes in the governing laws and the circumstances encountered by OHA, the Settlement Agreement should be modified to establish express **deadlines for completion of the replacement housing**; that additional time, but not unlimited time, was required for OHA to complete the development pursuant to the Settlement Agreement; and that OHA should have an extension of four years to complete the replacement housing , until October 31, 2005.

**WHEREAS**, the Parties have agreed that for purposes of clarification, planning and guidance, the Settlement Agreement, as modified by the March 27, 2000 Agreement, should establish a clear definition of the term "completion" when referring to deadlines for completion of replacement housing.

**NOW, THEREFORE**, in consideration of the above and foregoing preambles which are hereby made a part of this Modification, the parties hereby agree to the following

modifications to the Settlement Agreement which shall take effect upon execution hereof by all the parties:

The term "completion" of replacement housing shall be defined as follows.

- A. For a replacement housing project that requires rehabilitation of the project after acquisition, "completion" shall mean the date on which the rehabilitation commences. Such date shall be certified, in writing, by an architect or contractor retained to conduct the rehabilitation.
- B. For a replacement housing project that involves the construction of replacement housing from the ground up, the term "completion" shall be defined as the date that construction commences on the project. Such date shall be certified, in writing, by an architect and/or contractor retained to conduct the construction.
- C. For a project that is an acquisition that requires no rehabilitation or construction but is occupied by person(s) other than Public Housing residents, the term "completion" shall be defined as the date that OHA commences relocation efforts of person(s) who qualify for relocation as set forth in the Uniform Relocation Act, as amended. Such date shall be certified, in writing, by the appropriate person at the OHA.
- D. For projects that might require both rehabilitation/construction and relocation, "completion" should be defined by whatever event occurs first, construction/rehabilitation or relocation. Such date shall be certified, by the nature of the triggering event that renders the project "complete" as defined above in paragraphs A, B and, C of this modification of the Settlement Agreement.

Respectfully submitted:

Date: February 14, 2005

**FOR THE PLAINTIFFS**

s/Mary P. Clarkson  
Mary P. Clarkson  
Broom, Johnson & Clarkson  
1722 St. Mary's Avenue  
310 Flatiron Building  
Omaha, Nebraska 68102  
(402) 346-8323

**FOR DEFENDANT HOUSING  
AUTHORITY OF THE CITY OF  
OMAHA**

s/ D. C. Bradford  
D.C. Woody Bradford  
Bradford Coenen  
First National Center  
1620 Dodge Street Suite 1800  
Omaha, Nebraska 68102  
(402) 342-4200  
Attorney for Defendant Housing  
Authority of the City of Omaha

**FOR FEDERAL DEFENDANT JACKSON  
AND THE U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT**

s/ Herbert E. Forrest  
Michael Sitcov  
D.C. Bar No. 308692  
Herbert E. Forrest  
D. C. Bar No. 4432  
Civil Division – Room 7112  
U.S. Department of Justice  
20 Massachusetts Avenue, N.W.  
Washington DC 20530  
Tel: (202) 514-2809  
Fax: (202)616-8470  
email: Herbert.forrest@usdoj.gov

**Of Counsel**  
Patricia Sharin Flagg  
U.S. Department of Housing and  
Urban Development  
51 Seventh Street, S.W.  
Washington DC 20410  
Attorneys for Federal Defendants  
Alphonso Jackson and HUD