

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 CHICAGO HOUSING AUTHORITY,)
)
 Defendant.)

RECEIVED
No. 66 C 1459
Chief Judge Aspen

JUN 25 1997

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**FEDERAL DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO
MODIFY CHA'S JUDGMENT ORDER^{1/}**

Plaintiffs' motion asks that the "order in this case be modified to provide that CHA's Section 8 certificates^{2/} be used to provide relief to plaintiff class families". Motion To Modify Judgment Order at 4. Additionally, plaintiffs ask that the court require CHA to use the certificates "in a manner comparable to the companion case's Gautreaux program". Id. The latter reference is

^{1/} The Department of Housing and Urban Development submits this response to present factors this court may consider in deciding whether to exercise its equitable powers to modify CHA's judgment order as requested by plaintiffs' motion.

^{2/} There are two forms of Section 8 Existing programs involved in plaintiffs' motion: rental certificates and rental vouchers. Under 42 U.S.C. § 1437f(b), which governs the certificate program, HUD is authorized to enter into annual contributions contracts with public housing agencies (PHAs) such as the CHA, which then would enter into contracts to make assistance payments to private landlords. The voucher program is authorized by 42 U.S.C. § 1437f(o) and like the certificate program provides in subsection 1437f(o)(5) for funding through an annual contributions contract with PHAs. The regulations governing those programs are contained in 24 CFR Parts 882 and 982. For purposes of this memorandum, HUD is referring to both programs when it uses the term "certificates".

to the Leadership Council for Metropolitan Open Communities' program under which HUD, pursuant to its consent decree with the plaintiffs, has provided a separate pool of certificates in addition to what has been provided in the normal course to public housing agencies in the Chicago SMSA. This program is available only to "eligible persons" as defined in the HUD consent decree and precludes recipients from using certificates to rent apartments in the racially concentrated "Limited Areas". Plaintiffs' motion now seeks to apply this Gautreaux restriction to Section 8 certificates that have been given to CHA in the normal course of its business.

A. Because Gautreaux class members living in CHA's family public housing projects will be the primary recipients of the 7340 certificates HUD has granted CHA recently and because the class has had equal opportunity to apply to CHA's Section 8 program, it would be inequitable to require that CHA target any further certificates away from other applicants.

Plaintiffs state that over 15,000 families are currently using CHA certificates. Motion To Modify Judgment Order at 3. However, plaintiffs fail to acknowledge that recently HUD has made available to CHA 7340 certificates for use by the tenants of the CHA's family public housing projects, which are primarily Gautreaux class members.^{3/} Declaration of Madeline Hastings at 2. Ex. 1. In addition, there is little likelihood, with a few limited exceptions, that if CHA receives additional certificates from HUD in the future they would be made available to anyone except the tenants of the family public housing projects. Id.

^{3/} Class members are defined as African American tenants in or applicants for public housing. Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907 (1969).

Because so much of CHA's Section 8 program will be directed towards providing certificates to Gautreaux class members, it would, therefore, be inequitable to provide Gautreaux class members with any further special right to receive CHA's certificates.^{4/} It should be noted that class members have always had the same right to apply as other eligible tenants for assistance through the Section 8 program, if they were interested in receiving that type of rental assistance. Those that have applied and will apply^{5/} will be considered in accordance with the date and time of their application and any applicable preferences.

If on the other hand, plaintiffs are seeking to move Gautreaux class members who are already on CHA's Section 8 waiting list or who apply in the future to the top of the waiting list (e.g., by creating a preference for them) it would run afoul of the court order in Latinos United v. Chicago Housing Authority, No. 94-C1229 (N.D. Ill. filed June 21, 1996), pgs. 14-17, see Ex. 3, which grants preferences to Latinos. Additionally, such a preference would be prejudicial to existing Section 8 applicants who have

^{4/} Because no new Section 8 funding is expected to be given, except for accommodating public housing tenants, families who have applied to the Section 8 program will essentially be offered only "turnover" certificates, i.e., funding that becomes available when Section 8 certificate holders leave the program, and any unused certificates that had been previously been awarded for CHA's regular Section 8 program.

^{5/} The Section 8 waiting list which has been closed for a period of time, is expected to be opened in the near future. Gautreaux class members will, therefore, be able to apply to be put on the waiting list just like any other eligible family. Declaration of Jennifer O'Neill, Deputy Executive Director, CHAC, Inc. Ex. 2.

previously applied and have been waiting for years for housing assistance. In this regard, there are approximately 5,800 applicants presently on the Section 8 waiting list and those with application dates of 1991 are presently being placed. Declaration of Jennifer O'Neill, Deputy Executive Director, CHAC, Inc. Ex. 2.

B. Because the law precludes certificate holders from being denied the opportunity to select where they want to live, the court should insure that class members are given the opportunity to object to having their legal entitlement waived.

Besides seeking certificates for Gautreaux class members, the motion additionally seeks that class members who receive certificates be directed to use their certificates only in General Areas. Thus, the motion necessarily is asking that this Court endorse denying class members who receive the certificates the opportunity to choose where they want to live. Yet, no explanation has been provided as to why it would be necessary for this Court to mandate where a class member can live or why it will not have any adverse consequences.^{6/} Indeed, if a class member wants to live in

^{6/} The Gautreaux program created through HUD's Consent Decree precludes families from using their certificates in Limited Areas. Such a program, under which 150 certificates per year was provided by HUD separate from normal allocations, allowed families who want to move from where they were presently living and who were interested in moving to a General Area the opportunity to apply for the certificates. In contrast, unlike the Gautreaux program under HUD's consent decree, the geographical restrictions here would apply primarily to class members who will be required to vacate their public housing units pursuant to the replacement and relocation program and who may not want to live in General Areas. This distinction may be critical, since there is a shortage of affordable rental housing. See, "Housing Affordability In The Chicago Metropolitan Area: A Study Of The Potential Supply Of Fair Market Rent Units In Low Poverty Areas", dated August 2, 1995, by Paul B. Fischer, Professor of Politics, Lake Forest College (Ex 4). Therefore, restrictions that would limit where the 7340 families, (continued...)

a General Area he or she is permitted to do so under regular Section 8 program rules.

Should the Court decide, however, to restrict where certificates can be used, the Court should consider changes that have been made in federal housing law. At the time the Court approved the HUD consent decree in 1981, there was only a HUD regulation, which could be waived, that established a "Finders-Keepers" policy.^{7/} In 1988, however, Congress made certificates "portable" so that they could be used in areas outside of the area in which the issuing PHA can under state law operate (i.e., the "PHA's jurisdiction").^{8/} That law guarantees that a certificate can be used anywhere in the same State as the issuing PHA and same or abutting metropolitan statistical area as the issuing PHA's, even in a different State. 42 U.S.C. § 1437f(r); 24 CFR § 982.353(b). Therefore, a court order directing where certificate holders may use their certificates outside the City of Chicago, which is essentially the CHA's jurisdiction, would violate federal law. On the other hand, persons can voluntarily relinquish their legal entitlement, if they so wish. Accordingly, if the Court

^{6/} (...continued)
who must be displaced from their public housing units, could live would appear to adversely affect their ability to rent housing in the City if they wish to remain there, as well as their ability to rent in the suburbs.

^{7/} 24 CFR § 882.103 ("Finders-Keepers" policy) (1981); 24 CFR § 899.101 (Waivers) (1981).

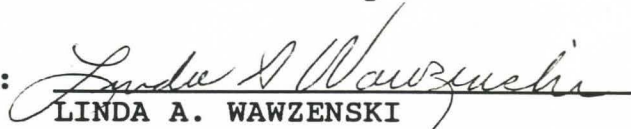
^{8/} Section 145 of the Housing and Community Development Act of 1987, Pub. L. No. 100-242, 101 Stat. 1815, 1852 (codified as 42 U.S.C. § 1437f(r)).

believes it is appropriate in this lawsuit to restrict housing choice, a process where all class members are given the opportunity to object to the restrictions would need to be afforded.^{2/}

Respectfully submitted,

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United States Attorney

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^{2/} HUD's regulations also convey to certificate holders the right to receive assistance to lease a unit "anywhere" in the jurisdiction of the PHA that first issued the certificate. 24 CFR § 982.353(a). Thus, a PHA "may not directly or indirectly reduce the family's opportunity to select among available units." 24 CFR § 982.353(f) (61 Fed. Reg. 157 at 42131 (August 13, 1996)).

Since the "freedom of choice" entitlement within a PHA's jurisdiction is regulatory, and not statutory, HUD can permit restrictions within a PHA's jurisdiction where HUD determines they are necessary to achieve desegregation goals under a court order. 24 CFR § 982.353(a) (61 Fed. Reg. 157 at 42131 (August 13, 1996)). On the other hand, HUD has no authority to waive the rights granted by the portability statute to families who want to use their certificates outside of Chicago. See 61 Fed. Reg. 157 at 41230 ("This rule does not revise the portability procedures set forth at 24 CFR 982.353(b). This final rule, therefore, does not authorize limiting the residential choice of a family renting outside the jurisdiction of the initial PHA.").

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
Eastern Division

DOROTHY GAUTREUX, et al.)
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 Plaintiffs)
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CHICAGO HOUSING AUTHORITY)
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 Defendant)

NO. 66 C 1459

DECLARATION OF MADELINE HASTINGS

I, Madeline Hastings, Associate Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, United States Department of Housing and Urban Development (HUD), do hereby declare under penalty of perjury that I am familiar with the purposes and circumstances of HUD's recent funding of Section 8 certificates and vouchers to the Chicago Housing Authority (CHA), and that the following statements are based upon my personal knowledge or information provided to me by my staff.

1. Pursuant to Section 14(p) of the United States Housing Act of 1937, 42 U.S.C. 14371, public housing agencies (PHAs) were provided with Section 8 vouchers and certificates to allow public housing families to move out of deteriorated or obsolete public housing developments. In addition to the vacancy consolidation certificates and vouchers, funds were reserved in the amount of \$1,000 per certificate or voucher for the purpose of providing counseling to increase housing opportunities for families



receiving the certificates and vouchers, and to promote higher success rates in moving these families into low-poverty areas.

2. In October 1995, CHA was granted approval for receipt of 4,000 vacancy consolidation vouchers and certificates. Pursuant to the CHA's Vacancy Consolidation Plan, CHA plans to use the 4,000 certificates and vouchers to provide for the relocation of public housing residents living at six developments and various scattered site units. CHA also plans to use the \$4 million in counseling funds that go with the certificates and vouchers to promote housing choices in low-poverty areas. It is HUD's present intention to have CHA contract out the counseling function to a separate entity. The low-poverty areas that are to be promoted under the vacancy consolidation program correspond substantially with the General Areas as defined in the Gautreaux Consent Decree.

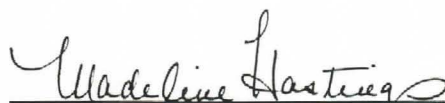
3. Under the Fiscal Year 1996 Appropriation, 42 U.S.C. 14371 note, Congress mandated the conversion of certain distressed public housing developments to tenant-based Section 8 assistance for those individuals living in the distressed units.

4. On December 1, 1996, HUD and CHA executed annual contribution contracts for the funding of 3,340 Section 8 certificates and vouchers given to CHA for the purpose of moving public housing tenants out of distressed public housing that is to be demolished.

5. In the past several years, Congress has authorized very little incremental funding of new Section 8 certificates and

vouchers, except for limited purposes, such as HUD litigation settlements, family unification, witness relocation, and relocation assistance to families living in assisted housing projects or replacement housing for public housing units being demolished or sold. Based on current budgetary constraints, this trend is likely to continue. Accordingly, it is unlikely that there will be additional funds available to CHA for use in its regular Section 8 certificate or voucher programs. Should Congress appropriate funds for Section 8 assistance it will likely be only for specific purposes such as replacement housing or mandatory conversion which would offer housing assistance to the Gautreaux class of public housing tenants.

Executed on May 23, 1997.


MADELINE HASTINGS, Associate Deputy
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451 Seventh Street, S.W.
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

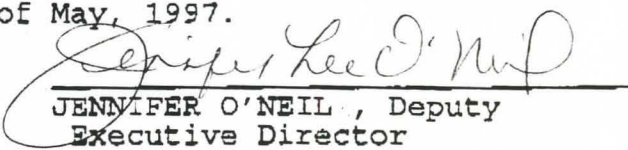
DOROTHY GAUTREUX, et al.)
)
 Plaintiffs)
)
 v.) NO. 66 C 1459
)
CHICAGO HOUSING AUTHORITY)
)
 Defendant)

DECLARATION OF JENNIFER LEE O'NEIL

1. I, Jennifer Lee O'Neil, Deputy Executive Director of CHAC, Inc., do hereby declare under penalty of perjury that my responsibilities include overseeing the Chicago Housing Authority's (CHA) Section 8 program which CHAC has, by contract, been administering since December 1, 1995. The following statements are based upon my personal knowledge or information provided to me by staff.

2. There are approximately 5,800 applicants on the waiting list for CHA's Section 8 certificates and vouchers, and those with application dates of 1991 are presently being placed. The waiting list for new applicants who wish to receive Section 8 assisted housing has been closed for several years, but it is expected that the list will be reopened later this year. Gautreaux class members will be able to apply to be placed on the waiting list just as any other eligible family.

Executed on this 23rd day of May, 1997.



JENNIFER O'NEIL, Deputy
Executive Director
CHAC, Inc.
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Lake Forest College

August 5, 1995

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Mr. John Herold
Associate General Counsel
Office of the General Counsel
United States Department of Housing and Urban Development
Washington D.C. 20410-0500

Dear Mr. Herold:

Enclosed you will find a copy of my paper titled, "Housing Affordability in the Chicago Metropolitan Area: a Study of the Potential Supply of Fair Market Rent Units in Low Poverty Areas". Alex Polikoff asked me to send it to you as soon as it left my printer. He and the Leadership Council staff have read it over and approved its content.

If you have any questions I can be reached at 708-735-5127.

Regards,



Paul B. Fischer
Professor of Politics



HOUSING AFFORDABILITY IN THE CHICAGO METROPOLITAN AREA: A STUDY OF THE POTENTIAL SUPPLY OF FAIR MARKET RENT UNITS IN LOW POVERTY AREAS.

PAUL B. FISCHER

August 2, 1995

I. THE ISSUE

Over the past twenty years, HUD has shifted its focus from financing the construction of new and rehabilitated low income units to providing rent subsidies for eligible families to be used in the existing private housing market. This shift is now accelerating, prompted by the severe departmental budget cuts pending in Congress. At the same time, HUD is trying to “deconcentrate” its low income housing and expand housing choices for its clientele, particularly in low poverty areas where jobs are more plentiful, public services are better funded, and neighborhoods are safer.¹ The purpose of this research is to determine the potential supply of affordable units in the Chicago metropolitan area that, theoretically, could be utilized by low income families with Section 8 certificates/vouchers in low poverty neighborhoods and communities.

II. THE RESEARCH METHODOLOGY

For the purposes of this study, the Chicago metropolitan area includes the city of Chicago, suburban Cook County, and the five “collar” counties in Illinois; DuPage, Lake, Kane, Will, and McHenry. Affordable housing is defined as units with rents that are at or below the fair market rent (fmr) maximum set by HUD. These limits vary, in part, based upon how much of the utilities

¹A recent example is Moving to Opportunity (MTO), a HUD program that targets particular low-income populations and facilitates their moves to low poverty areas in central cities and suburbs.

cost is paid for by the tenant. The fair market rent situation chosen for this study is one in which the tenant pays for electricity for lights and gas for cooking.² In addition, in the Chicago area, fair market rents vary by sub-housing markets. For example, the fair market rent maximum for a two bedroom unit in most of Cook County is \$686. In the more affluent north and northwest suburbs, the fair market rent maximum is \$824. But outside of north and northwest Cook County, the fmrs do not vary significantly. To simplify the study, two different sets of fmrs will be used, one for north and northwest Cook County and one for the rest of the metropolitan area.³

The 1990 Census was used to determine the potential supply of fmr units. The Census organizes units by different bedroom sizes into six different rent categories from less than \$200 to \$1000 or more.⁴ Since the fmr maximums are within a particular category, this Census variable had to be weighted.⁵ Unfortunately the Census combines all units, three bedroom or greater, into a single category whereas HUD has different fmrs for three, four, and five bedroom units. This issue was addressed by creating an fmr level for all three bedroom units and greater that was an

²This configuration was considered most typical by the Gautreaux staff at the Leadership Council.

³Outside of the north and northwest suburbs the maximum fmrs vary by only \$19 for two bedroom units, \$25 for three bedroom units, and \$34 for four bedroom units.

⁴There is an additional no cash rent category with relatively few responses that was dropped for this study.

⁵For example, the fmr for two bedroom units is \$686. The rent category that includes \$686 is five, ranging from \$500 to \$749. To determine the number of units within that limit of \$686, the first four categories, beginning with units under \$200 were added together. Since \$686 includes approximately 75 percent of the range from \$500 to \$749, I arbitrarily included 75 percent of the units in that particular rent category, as part of the aggregation. Thus the formula to determine the number of two bedroom units within fair market rents is (C=Category) $C1+C2+C3+C4+(C5*.75)$.

average of the three and four bedroom fmrs.⁶ Vacancy rates were also determined but they are not organized by rent levels so their usefulness is limited but useable in this study.⁷

The basic demographic unit of analysis utilized is the Census tract since it is the basis for much of HUD policy governing housing mobility and the most accessible from the Census Bureau. Data was gathered enumerating the number of persons with incomes below the poverty level for each tract. Two low poverty variables were created from tracts defined as 10 percent poverty or less and 15 percent poverty or less. Data was also gathered on the number of African-Americans in each Census tract. Census tracts with over 30 percent African-American were considered racially concentrated.⁸

Before describing the results it is important to state a number of caveats about the research methodology and the data. The original analysis for the study of the HACC service area was completed in 1992 when the 1990 Census information was fresh. Obviously that data is now over five years old. The rent structure has increased by at least a factor of inflation, so the Census data underestimates the actual rents by approximately 15 percent.⁹ On the other hand, the

⁶The three bedroom fmr is \$860 and the four bedroom fmr is \$966 so the three bedroom and greater fmr used was the mean of \$913. It was assumed that, in low poverty Census tracts, the disproportionate number of large bedroom rental units would be three bedrooms which was why the mean of three and four bedroom fmrs was chosen rather than the one for three and five bedroom fmrs.

⁷On vacancy rates, the Census includes vacant housing units by detached versus attached with categories of number of units in attached dwellings as well as vacancy rates by bedroom size but not by rent levels.

⁸The 30 percent figure is based on the Gautreaux criteria for an impacted Census tract that is used to determine which areas cannot be used for Gautreaux placements.

⁹Assuming a conservative three percent per year inflation in rents over five years.

inflation factor has not affected fmrs very much since the 1995 fmrs are very similar to the 1992 fmrs. Thus the actual number of units that are within the fmrs has probably declined and the totals discussed below probably overestimate the number of affordable units. But the results are still useful, particularly when comparing the number of affordable units in low poverty tracts with the remaining tracts. It should also be noted that the weighting of the fmr variables, while based upon careful and logical consideration, is still somewhat arbitrary. Small changes in the weighting formulas could change the resulting number of affordable units, although the general pattern should remain the same. Finally, the Census figures on affordable units do not take into account the vacancy rate. While the report does include some discussion of the vacancy rate by Census tract, the lack of vacancy data by rent levels limits its utility. Given the general impression that the rental market in the Chicago metropolitan area has "tightened" since 1989 when this data was gathered, factoring in the 1990 Census vacancy rates probably overestimates the "available" affordable units.¹⁰

III. THE FINDINGS

A. Poverty Census Tracts

There are 1738 Census tracts in the six county area, of which 1032 (59%) are 10 percent poverty and 1171 (67%) are 15 percent poverty.¹¹ Referring to **Table One**, Chicago has 50 percent of the Census tracts but only 23 percent of the below 10 percent poverty tracts and 30

¹⁰Obviously many other factors are involved in determining whether an fmr unit is actually available to a Section 8 family but those factors are beyond the scope of this study.

¹¹For the sake of readability, throughout the body of this report, all percents are rounded off to the nearest whole number. Ten percent or under in poverty will be denoted as 10 percent while 15 percent or under poverty will be denoted as 15 percent.

percent of the below 15 percent poverty tracts. Suburban Cook with 28% of the Census tracts contains 42 percent of the 10 percent tracts and 41 percent of the 15 percent tracts.

TABLE ONE: LOW POVERTY/BLACK CENSUS TRACTS IN THE CHICAGO AREA

	CTS	%	10%<	%	RANK	15% <	%	RANK	BLK <	%	RANK
CHI	851	50	234	23	2	342	30	1	475	38	1
CK	280	16	237	23	1	249	17	2	228	18	2
NW	204	12	194	19	3	199	22	3	200	16	3
DU	116	7	114	11	4	116	10	4	116	9	4
KN	64	4	51	5	7	55	5	7	63	5	7
LK	97	6	88	9	5	92	8	5	90	7	5
MC	26	1	26	3	8	26	2	8	26	2	8
WL	79	5	67	7	6	71	6	6	69	5	6
TOT	1717	101	1011	100		1150	100		1267	100	

SHARE % = SHARE OF THE METROPOLITAN AREA TOTAL
 NW = NORTH AND NORTHWEST SUBURBAN COOK COUNTY
 CK = THE REST OF SUBURBAN COOK COUNTY
 BLK< = 30 PERCENT AFRICAN AMERICAN OR LOWER

B. African-American Census Tracts

There are 1267 (74%) of the Census tracts that are 30 percent African-American or lower. Slightly more than one-third are in Chicago and the rest in the suburbs. In fact, only 17 percent of the Census tracts in the suburbs have high African-American concentrations and almost all of those are in south and west Cook County. There is also a strong correlation of .67 between the percentage of African-Americans in a Census tract and the percent of the population in poverty. There are 61 Census tracts greater than 30 percent black and 10 percent poverty and 103 Census tracts greater than 30 percent black and 15 percent poverty. But they represent only four percent of tracts at the 10 percent poverty level and six percent at the 15 percent poverty level. On the

other hand there are 316 (18%) low black and high poverty tracts at the ten percent poverty level and 219 (13%) at the fifteen percent poverty level.

C. The Supply of Affordable Units

There are over 312,000 two bedroom units and over 162,000 three bedrooms plus units within fmrs in the Chicago area. Chicago contains the most for both categories of units followed by Cook County outside of the north and northwest suburbs, then north and northwest Cook County. (See **Table Two**)

TABLE TWO: AFFORDABLE UNITS IN THE CHICAGO METRO AREA

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	175,121	202	56	1	865	106,889	124	66	1
CK	49,597	175	16	2	283	18,288	65	11	2
NW	33,118	162	10	3	204	13,329	65	8	3
DU	17,842	154	6	4	116	4,880	42	3	7
KN	10,773	158	4	6	68	5,369	79	3	5
LK	12,006	124	4	5	97	6,285	65	4	4
MC	4,041	155	1	8	26	1,973	76	1	8
WL	9,570	121	3	7	79	5,286	67	3	6
TOT	312,068	180	100		1738	162,299	93	99*	

AVG = MEAN NUMBER OF FMR UNITS WITHIN EACH CENSUS TRACT

NW = NORTH AND NORTHWEST COOK COUNTY

CK = THE REST OF COOK COUNTY

CTS = NUMBER OF CENSUS TRACTS

3BRMS = THREE BEDROOMS OR MORE

AFFORDABLE = UNITS WITHIN MAXIMUM FMRS

TOT = CHICAGO METROPOLITAN AREA

% = PROPORTION OF METRO AREA FMR UNITS IN THAT REGION

*THE TOTAL IS LESS THAN 100% BECAUSE OF ROUNDING TO NEAREST WHOLE NUMBER

For Census tracts 10 percent poverty, the Chicago metropolitan area has close to 152,000 two bedroom units and almost 58,000 three bedroom plus units within fmrs. By region, at 10

percent poverty, Cook County, outside of the north and northwest has the most two bedroom units within fmrs, followed by Chicago, north and northwest Cook County, DuPage, Lake, Kane, Will, and McHenry. For three bedrooms plus units in 10 percent poverty or less tracts, Chicago is first, followed by north and northwest Cook County, the rest of Cook County, Lake, DuPage, Will, Kane, and McHenry. (See **Table Three**)

For Census tracts 15 percent poverty, the Chicago metropolitan area has almost 184,000 two bedroom units and over 73,000 three bedrooms plus units within fmrs. (See **Table Four**) By region, at 15 percent poverty, Chicago has the most two bedroom fmr units, followed by Cook County outside of the north and northwest, then north and northwest Cook, DuPage, Lake, Kane, Will, and McHenry. For three bedrooms plus fmr units in the 15 percent tracts, the pattern is the same except that Lake has more than DuPage and Will has more than Kane.

TABLE THREE: AFFORDABLE UNITS IN 10 PERCENT POVERTY CENSUS TRACTS

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	34,275	138	23	2	248	15,259	62	26	1
CK	40,080	167	26	1	240	11,847	49	21	3
NW	30,990	160	20	3	194	11,950	62	21	2
DU	17,605	154	12	4	114	4,747	42	8	5
KN	7,724	140	5	6	55	3,405	62	6	7
LK	9,565	109	6	5	88	4,778	54	8	4
MC	4,041	155	3	8	26	1,973	76	3	8
WL	7,490	112	5	7	67	3,780	56	7	6
TOT	151,770	147	100		1032	57,739	56	100	

TABLE FOUR: AFFORDABLE UNITS IN 15 PERCENT POVERTY CENSUS TRACTS

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	58,352	64	32	1	356	26,716	75	37	1
CK	43,003	171	23	2	252	12,981	52	17	2
NW	32,634	164	18	3	199	12,914	65	17	3
DU	17,842	54	10	4	116	4,880	42	7	5
KN	9,146	155	5	6	59	3,987	68	5	7
LK	10,622	115	6	5	92	5,492	60	8	4
MC	4,041	155	2	8	26	1,973	76	3	8
WL	7,980	112	4	7	71	4,093	58	6	6
TOT	183,620	157	100		1,171	73,036	62	100	

AVG = MEAN NUMBER OF FMR UNITS WITHIN EACH BELOW POVERTY CENSUS TRACT

CTS = NUMBER OF CENSUS TRACTS AT PARTICULAR POVERTY LEVEL

NW = NORTH AND NORTHWEST COOK COUNTY

CK = THE REST OF COOK COUNTY

3BRMS = THREE BEDROOMS OR MORE

AFFORDABLE = UNITS WITHIN MAXIMUM FMRS

TOT = CHICAGO METROPOLITAN AREA

% = PROPORTION OF METRO AREA FMR UNITS IN THAT REGION

D. Vacancies and Affordability

In order to determine the actual number of fmr units available, vacancy rates have to be considered. Unfortunately, given the limitations of time and other resources, it is impossible to determine the current vacancy rates by census tract. The only readily available data is from the 1990 Census but that data also has problems. It is obviously out of date and it is not organized by rent category. Yet it does provide a rough estimate of what is rentable, keeping in mind the other problems limiting the supply like limited landlord participation and HUD health and safety requirements.

There are over 178,000 vacant units in the Chicago metropolitan area, of which almost 108,000 (61%) are located in Chicago. Most of the remainder are in north and northwest Cook County and DuPage. (See **Table Five**)

TABLE FIVE: VACANT UNITS IN THE CHICAGO METROPOLITAN AREA

	NUMBER	%	AVG	RANK
CHI	107,865	61	125	1
CK	19,413	11	69	2
NW	15,067	8	74	3
DU	13,193	7	114	4
KN	4,320	2	64	7
LK	9,317	5	96	5
MC	3,045	2	117	8
WL	5,937	3	75	6
TOT	178,157	99	102	

For two bedroom units within fmrs, the total number of vacancies is almost 28,000 with Chicago having the bulk, followed by the rest of Cook County, the north and northwest suburbs, and DuPage. (See **Table Six**) For three bedroom units within fmrs, the total number of vacancies is over 13,000, with the overwhelming number in Chicago (85%) and most of the remaining in suburban Cook County.

When limiting the analysis to low poverty Census tracts, the number of vacant units within fmrs drops dramatically. In 10 percent poverty tracts there are just over 9,000 two bedroom fmr units and only 1700 three bedroom plus units compared to 28,000 and 13,000 for all tracts. In 15 percent tracts the numbers improve to almost 12,000 two bedroom units and almost 2500 three bedroom units within fmrs. (See **Table Seven**)

TABLE SIX: VACANCIES AMONG FMR UNITS BY PLACE

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	18,953	23	68	1	841	11,274	13	85	1
CK	2,904	10	10	2	279	769	3	6	2
NW	2,181	11	8	3	202	302	1	2	4
DU	1,385	12	5	4	116	109	1	1	7
KN	590	9	2	7	64	175	3	1	6
LK	879	9	3	5	97	338	3	2	3
MC	252	10	1	8	26	69	2	1	8
WL	642	8	2	6	78	260	3	2	5
TOT	27,786	16	99		1,703	13,296	8	100	

TABLE SEVEN: VACANCIES AMONG FMR UNITS BY TEN PERCENT POVERTY

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	1,946	8	21	3	230	553	2	32	1
CK	2,047	9	22	2	236	294	1	17	2
NW	2,058	11	22	1	192	245	1	14	4
DU	1,373	12	15	4	114	106	1	6	6
KN	422	8	5	7	51	79	2	5	7
LK	689	8	7	5	88	253	3	15	3
MC	252	10	3	8	26	69	3	4	8
WL	442	7	5	6	66	118	2	7	5
TOT	9,229	9	100		1,003	1,717	2	100	

In 10 percent poverty tracts by place for two bedroom units within fmrs, north and northwest Cook have the largest number of vacant units, followed by the rest of suburban Cook

and the city of Chicago. DuPage and the other counties only have approximately 3300 vacant affordable two bedroom units in 10 percent tracts. For three bedrooms plus, the number of vacancies are quite small with Chicago having 550 and the Cook County suburbs about the same, representing 1100 of the 1700 two bedroom fmr units in ten percent tracts for the metro area.

At the fifteen percent poverty level for two bedroom units within fmrs, Chicago has the most vacant units followed by north and northwest Cook, the other Cook County suburbs and DuPage. (See **Table Eight**) For three bedroom plus fmr units, Chicago once again has the most vacancies, followed by suburban Cook, and Kane County with the other counties having approximately 500 vacant three bedroom plus units within fmrs.

TABLE EIGHT: VACANCIES AMONG FMR UNITS BY 15 PERCENT POVERTY

	2BRMS	AVG	%	RANK	CTS	3BRMS	AVG	%	RANK
CHI	3,845	11	33	1	338	1099	3	45	1
CK	2,296	9	20	2	248	342	2	14	2
NW	2,172	11	19	3	197	282	2	12	3
DU	1,385	12	12	4	116	109	1	4	6
KN	513	9	4	6	55	97	2	4	7
LK	763	8	7	5	92	280	9	12	4
MC	252	10	2	8	26	69	3	3	8
WL	477	7	4	7	70	145	3	6	5
TOT	11,703	10	100		1142	2423	2	100	

IV. CONCLUSIONS

The number of vacant affordable units, both two and three plus bedrooms, that are located in low poverty census tracts are few in number and represent a very small segment of the total

rental market in the Chicago area. There are only 11,000 two bedroom or more vacant affordable units in 10 percent tracts in the Chicago area, which represents just 2.3 percent of all of the affordable units. At the 15 percent poverty level, the number of vacant affordable two bedroom or more units increase to 14,000, representing three percent of all affordable units. It is important to note that these figures probably overestimate the actual supply of low poverty tract units, because the vacancy rates are probably lower than in 1989 when the Census was taken, particularly in low poverty tracts.

In the Housing Authority of Cook County (HACC) service area, there are over 6,000 families on the Section 8 program and roughly another 6,000 families in the other suburban Section 8 programs. In 1991 there were approximately 13,000 families in the CHA Section 8 program and the number is probably higher today, bringing the total number of Section 8 families in the Chicago area to over 25,000. Previous research indicates that most of those families do not live in low poverty tracts.¹² Assuming a turnover rate of at least ten percent, 2,500 returned family Section 8 certificates/vouchers are available for families to use in low poverty areas each year.¹³ An additional 1,000 new family certificates/vouchers on average have also been available in the Chicago area over the past few years.¹⁴ Assuming roughly 3,500 family certificate/vouchers available for new moves in a given year and a preference that these families move to ten percent

¹²See Paul Fischer, A Racial Perspective on Subsidized Housing in the Chicago Suburbs, 1992, South Suburban Housing Center. It is also commonly known that most of the CHA families do not live in low poverty tracts.

¹³This figure is based on the experience of HACC and may not be generalizable to other housing authorities.

¹⁴Although the CHA did not get an allocation this year, it's allocation was added to that of the HACC Section 8 program.

or less Census tracts, Section 8 families would have to rent approximately 3,500 out of the 9,000 (39%) vacant two or more bedroom affordable units in those tracts. If efforts were made to encourage the existing Section 8 families to move to low poverty tracts, there are almost three times as many families as there are vacant units. (9,000 units for 25,000 families) That assumes that all of these units meet HUD health and safety standards and that the landlords would be willing to rent to Section 8 families. The situation is a little better at the fifteen percent poverty level but the number of affordable units is still far below the number of Section 8 families.

It is clear that a successful housing mobility program that covers all Section 8 families must take the limited supply of vacant units into account. It is unrealistic to rely on this housing market to provide housing choices for low income families in low poverty areas. Even a voluntary program, focusing on new certificates/vouchers, will probably be constrained by the limited supply of available units. If a serious attempt is to be made to expand housing choices and provide housing opportunities for Section 8 families in low poverty areas, new units must be built, older dilapidated units must be rehabilitated, and greater efforts must be undertaken to involve more low poverty tract landlords in the Section 8 program.

AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

RENEE A. WARD being first duly sworn on oath deposes and says that she is employed in the Office of the United States Attorney for the Northern District of Illinois; that on the 25th day of June, 1997, she placed a copy of **FEDERAL DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO MODIFY CHA'S JUDGMENT ORDER** in a government franked envelope addressed to each of the following named individual(s) and caused each envelope to be deposited in the United States mail chute located in the Everett McKinley Dirksen Building, Chicago, Illinois on said date at the hour of 5:00 p.m.

To: See Attached Service List

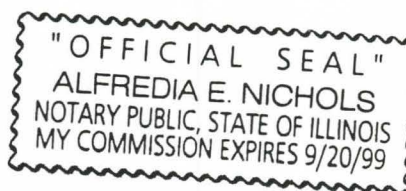
Renee A. Ward

SUBSCRIBED AND SWORN TO before me
this 25th day of June 1997

Alfredia E. Nichols

NOTARY PUBLIC

My Commission Expires: _____



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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LATINOS UNITED, EIGHTEENTH STREET)
DEVELOPMENT CORPORATION, HISPANIC)
HOUSING DEVELOPMENT CORPORATION,)
BICKERDIKE REDEVELOPMENT)
CORPORATION, and COMITE LATINO;)
and ROSALIA RIVERA, RAQUEL)
GONZALEZ SYPIEN, GLORIA CARDONA)
QUINONES, and NILDA ORTIZ,)
individually and on behalf of all)
persons similarly situated,)

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY, UNITED)
STATES DEPARTMENT OF HOUSING AND)
URBAN DEVELOPMENT, VINCENT LANE,)
ROBERT D. WHITFIELD, and HENRY)
CISNEROS,)

Defendants.

No. 94 C 1229

Judge Lindberg

CONSENT DECREE WITH CHICAGO HOUSING AUTHORITY

WHEREAS, plaintiffs have filed a Complaint in this action alleging that, as a result of actions and inactions of the Chicago Housing Authority ("CHA") and its officials, in the operation, administration, supervision and funding of housing assistance programs in Chicago, Latinos have been and are being deprived of housing assistance on the basis of race, color and national origin, in violation of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VIII of the Civil Rights Act of



1968 (42 U.S.C. §§ 3604, 3608), and 42 U.S.C. §§ 1981, 1982 and 1983.

WHEREAS, the Court has determined that plaintiffs may maintain this action as a class action pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure. The class certified by the Court consists of all Latino residents of Chicago who were, have been, or will be denied participation in or equal access to any CHA program as a result of the policies and practices challenged in the Complaint.

WHEREAS, the plaintiffs have previously entered into a Consent Decree in this action with the United States Department of Housing and Urban Development ("HUD"), and this Consent Decree (the "HUD Decree") was approved by the Court on July 13, 1995. The HUD Decree states, among other things, that HUD will provide funding for 500 rent-subsidy vouchers under the Section 8 program for the exclusive use of members of the plaintiff class, together with \$1,100,000 of funding over five years for outreach and counseling to promote the use by Latinos of these vouchers and of any vouchers that may be made available to class members as part of the relief obtained from the CHA. ?

WHEREAS, the plaintiffs and the CHA have stipulated to the facts set forth in Exhibit A hereto ("the Stipulation"). The CHA has not admitted that it violated the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, or 42 U.S.C. §§ 1981, 1982 and 1983; however, the CHA acknowledges that the Stipulation sets forth facts from which the Court may infer a

violation of those constitutional and statutory provisions as set forth in the Complaint, and the CHA does not object to a finding by the Court that it violated those constitutional and statutory provisions as set forth in the Complaint.

NOW, THEREFORE, the plaintiffs and the CHA agree as follows:

1. Jurisdiction. This Court has jurisdiction over plaintiffs' claims against the CHA pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 3612.

2. Injunction Against Discrimination. The CHA and its officers, employees, agents, successors and assigns are hereby enjoined from discriminating against Latinos in the operation, administration, supervision and funding of housing assistance programs in Chicago, in violation of the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3604 and 3608), and 42 U.S.C. §§ 1981, 1982 and 1983.

3. Translation of Forms and Telephone Messages. The CHA shall ensure that all forms, written materials and recorded telephone messages used now and in the future in dealings with current and prospective tenants and registrants are available in both the English language and the Spanish language. Without limiting the generality of the foregoing, the CHA shall take the following actions:

(a) The translation requirements of Paragraph 3 shall apply to forms, leases, notices, posters, brochures

and mailings related to registration, intake, eligibility and suitability determinations, marketing, outreach, certification and recertification, inspections of housing, retention of tenants and registrants, communications with prospective tenants and registrants, tenant services and public safety. The translation requirements of Paragraph 3 shall apply to all current and future housing assistance programs, including but not limited to conventional housing, elderly housing, the Section 8 program and the scattered site program.

(b) In order to comply with this Paragraph, the CHA shall contract with a professional translator or translation firm, which will be selected through a Request For Proposal process for an annual requirements contract to meet the CHA's translation needs. The first such contract shall take effect within six months from the entry of this Consent Decree. The translation of all materials described in subparagraph (a) that are in use as of the time that the CHA enters into the first such contract shall be completed by the contractor selected as soon as reasonably feasible following the effective date of the contract. The ability of a potential contractor to complete translation of such materials within 90 days from the effective date of the contract shall be one of the selection criteria on which potential contractors are evaluated in the procurement process.

(c) To the extent feasible, the Spanish-language version will appear on the same document as the English-language version.

(d) The CHA shall require in all contracts entered into or renewed following the entry of judgment in this matter that all its contractors and subcontractors provide and use Spanish-language translations of the forms and written materials described in subparagraph (a). The CHA shall request that existing contractors and subcontractors provide and use Spanish-language translations of such forms and written materials as soon as such translations are available.

(e) The CHA shall provide Spanish-language versions of all recorded telephone messages. In any English-language version, within the first ten seconds, the listener shall be informed what to do in order to hear the Spanish-language version (e.g., to wait or call a different number).

4. Bilingual Staffing. The CHA shall ensure that an adequate bilingual (Spanish-English) staff at all levels of employment is available in those offices and locations where Spanish-speaking individuals residing in or registering for public housing may need assistance in Spanish; provided, with respect to management offices serving residents of specific buildings and developments (or groups of commonly managed buildings and developments), that the CHA's obligations to maintain bilingual staff shall be as stated in subparagraph

(a)(vii). Without limiting the generality of the foregoing, the CHA shall take the following actions:

(a) The CHA shall provide employees fluent in Spanish in the following positions on or before August 1, 1996 or six months from entry of this Consent Decree, whichever is later:

(i) At least one telephone system operator to assist Spanish-language speakers who call during normal business hours;

(ii) At least four staff employees in Occupancy to assist persons applying for conventional public housing;

(iii) At least five individuals on the CHA's Emergency Services dispatch staff, at least one of whom is scheduled for duty at all times;

(iv) At least five individuals on the Police Services dispatch staff, at least one of whom is scheduled for duty at all times;

(v) At least one administrative staff employee at the Operations Office (currently located at 47th and State Streets);

(vi) At least one staff employee in any office responsible for performing outreach functions; and

(vii) At least one administrative staff employee at the management office for each development (or group of commonly managed buildings or developments) with a resident population that is at least 10% Latino or has at least 20 Latino leaseholders. Upon implementation, this requirement shall apply to Lathrop, Bridgeport, Trumbull Park, and any elderly development (or group of commonly managed buildings or developments) meeting the criteria in the preceding sentence. Beginning one year after implementation, and at annual intervals thereafter, the CHA shall redetermine the management offices to which this subparagraph applies, using the most recent available data.

(b) In selecting personnel for police, security and maintenance positions, the CHA (and its successors, contractors and administrators) shall give due regard to the need for Spanish-speaking personnel in these developments with a significant Latino resident population.

(c) Within six months from the entry of this Consent Decree, the CHA will open two site registration and information offices, which will be staffed at all levels with bilingual personnel, and which will assist individuals seeking information about or wishing to register for CHA programs. One office will be in the West Town, Humboldt Park or Logan Square area. The other will be in the Lower West Side (Pilsen) or South Lawndale (Little Village) area.

(d) The Latino Community Liaison designated pursuant to Paragraph 10 of this Consent Decree will, on an annual basis, evaluate and report on (i) areas within the CHA where additional bilingual staff may be necessary, and (ii) the need for additional site registration and information offices.

(e) To the extent the CHA contracts with one or more outside contractor(s) to provide any of the functions addressed by subparagraphs (a) or (c), the CHA shall require such contractor(s) to adhere to the bilingual staffing requirements contained herein.

5. Updating of Waiting Lists. Not later than six months following the execution of a contract between the CHA and the translator or professional translation firm as required by

Paragraph 3(b) of this Decree, the CHA will conduct surveys of the registrants on its waiting lists for conventional and Section 8 housing to determine whether those registrants are still interested in CHA housing. All forms and notices sent to registrants in connection with such surveys shall be in both English and Spanish, and shall clearly and conspicuously notify registrants of all actions they must take to avoid being removed from the waiting lists. These registrants will also be notified that they are required to notify the CHA of any change in address. Any registrant who does not respond or who responds by saying that he or she is no longer interested will be removed from the pertinent waiting list.

6. Reinstatement of Purged Latinos. Within 90 days of the entry of this Consent Decree, the CHA will take all steps feasible to identify and prepare a list (the "Purge List") showing the names (in alphabetical order) and last known addresses of individuals who have been "purged" or removed from any CHA waiting list since January 1, 1980, because of their failure to respond to any notification from the CHA or to notify the CHA of changes in address. The CHA shall inform a designated representative of the plaintiffs about all steps taken to create the Purge List. The individuals on the Purge List shall be reinstated on the pertinent waiting list, in the same positions and with the same priorities as if they had never been removed from the list, in accordance with the provisions of this Paragraph.

(a) Any Latino on the Purge List (and any Latino who establishes that he or she was removed from any CHA

waiting list since January 1, 1980, because of his or her failure to respond to any notification from the CHA or to notify the CHA of changes in address) shall, upon such person's request, be reinstated if that person can affirmatively establish that his or her removal from the list was due to the failure of the CHA to provide bilingual notification regarding that person's obligations and not for some other reason not attributable to the CHA. A person can satisfy the foregoing burden of proof by establishing that he or she did not have sufficient English language skills to understand the CHA's notifications.

(b) The Purge List shall be furnished to all offices that accept registrations for CHA programs (whether operated by the CHA or by any contractor or other administrator), and the individuals responsible for providing information to prospective registrants shall be instructed to inquire whether they have registered previously, and if so advise them that they may be eligible for reinstatement.

(c) The CHA shall mail a bilingual (English and Spanish) letter to (i) all persons on the Purge List identified in CHA records by race code or self-identification as Latino, Hispanic, or Spanish-surnamed, and (ii) all other Spanish-surnamed persons on the Purge List. This letter shall notify such persons of their right to request reinstatement and shall include a form to request reinstatement. The CHA shall also arrange for the

publication of advertisements (in English and Spanish language newspapers) that contain a list of such persons and a notification of their right to request reinstatement.

7. Remedial Section 8 Waiting List. As a remedy for the discrimination against Latinos in the Section 8 program (described in the Complaint), a separate "Remedial Section 8 Waiting List" shall be created for the distribution of Section 8 Vouchers. The term "Voucher" as used herein refers to Section 8 vouchers and certificates.

(a) Eligibility. The Remedial Section 8 Waiting List shall be limited to (i) heads of household of Latino families and Latino expectant mothers ("Conventional Registrants") who would have registered for the CHA's Section 8 program between 1974 and 1985 if the CHA had not unlawfully discriminated against Latinos and had taken affirmative steps to market the Section 8 program to Latinos and Spanish-speaking persons as required by federal regulations, and (ii) Latino single persons who are 62 years of age or older or handicapped, disabled, or displaced as defined by applicable regulations ("Elderly Registrants") who would have registered for the CHA's Section 8 program between 1974 and 1994 if the CHA had not unlawfully discriminated against Latinos and had taken affirmative steps to market the Section 8 program to Latinos and Spanish-speaking persons as required by federal regulations.

(b) Certification of Eligibility. To be included on the Remedial Section 8 Waiting List, a Conventional

Registrant must certify that he or she would have registered for the Section 8 program between 1974 and 1985 if he or she had been adequately informed about it. To be included on the Remedial Section 8 Waiting List, an Elderly Registrant must certify that he or she would have registered for the Section 8 program between 1974 and 1994 if he or she had been adequately informed about it.

(c) Ranking of Eligible Persons. The "Eligibility Year" for a registrant shall be the earliest year (but not prior to 1974) as to which the registrant certifies that he or she would have registered for the Section 8 program if he or she had been adequately informed about it.

Registrants for the Remedial Section 8 Waiting List shall be ranked in accordance with their Eligibility Years, starting with the year 1974. Persons with the same Eligibility Year shall be ranked in random order.

(d) Registration. Pursuant to Paragraph 4 of the HUD Decree, HUD or a HUD-approved designee will enter into one or more contracts with firms that will conduct marketing and outreach designed to inform Latinos about the availability of Section 8 Vouchers under both this Consent Decree and the HUD Decree and provide counseling for the use of such Vouchers once they are issued. The contractor selected (or one of the contractors selected, if multiple contractors are selected) will also be responsible for (i) accepting and processing registration forms submitted by persons seeking placement on the Remedial Section 8 Waiting

List; (ii) determining each registrant's Eligibility Year; (iii) compiling and maintaining the Remedial Section 8 Waiting List; (iv) examining each registrant's proof of eligibility under the terms of this Consent Decree and making a final determination of eligibility for each registrant; and (v) providing to the Section 8 Administrator, as defined in Paragraph 8 of this Consent Decree, on a rolling basis, the names of eligible Conventional Registrants and Elderly Registrants from the Remedial Section 8 Waiting List, ranked in accordance with the provisions of subparagraph (c), for the Section 8 Administrator's use in distributing Section 8 Vouchers pursuant to Paragraph 8 of this Consent Decree. The terms "eligible" and "eligibility" as used herein refer to the criteria set forth in Paragraph 7(a) and do not refer to any generally applicable federal requirements for receipt of Section 8 Vouchers.

(e) Proof of Eligibility. Prior to being placed on any list provided to the Section 8 Administrator, a Conventional Registrant for the Remedial Section 8 Waiting List must present to the contractor performing the functions listed in subparagraph (d) proof of the registrant's residence in Chicago between 1974 and 1985. Prior to being placed on any list provided to the Section 8 Administrator, an Elderly Registrant for the Remedial Section 8 Waiting List must present to the contractor performing the functions listed in subparagraph (d) proof of residence in Chicago

between 1974 and 1994. Acceptable proof of residence shall include documentary evidence (such as a lease, school records, work records, utility bills or visa documents) or affidavits from the registrant and another person unrelated to the registrant attesting to the registrant's residence in Chicago during such period. It is not necessary for a person to establish proof of eligibility at the time he or she first registers for the Remedial Section 8 Waiting List; however, such proof of eligibility must be provided before such person is placed on any list provided to the Section 8 Administrator.

8. Distribution of Vouchers. All functions related to the actual distribution of Section 8 Vouchers to persons placed on the Remedial Section 8 Waiting List, including the responsibility for certifying that registrants are eligible for Section 8 Vouchers under HUD and CHA regulations, shall be performed by the CHA's Section 8 Administrator. As used herein, the term "Section 8 Administrator" refers to the CHA or any entity selected by the CHA or HUD to administer what is currently the CHA's Section 8 certificate and voucher program.

(a) Vouchers Subject to This Decree. Beginning as of the date that this Consent Decree is executed by plaintiffs and the CHA, all Section 8 Vouchers that are then available or subsequently made available to the CHA (or any successor, administrator or contractor) or to any program that heretofore has been administered by the CHA shall be distributed in accordance with this Paragraph, except for

Section 8 Vouchers not available for distribution to current registrants on the Section 8 waiting list because of restrictions imposed by federal law.

(b) Manner of Distribution. The recipients of the Vouchers shall be selected both from the existing Section 8 waiting list (as updated, and as supplemented if the waiting list should be re-opened) and from the Remedial Section 8 Waiting List, in accordance with the following rules:

(i) A Conventional Registrant on the Remedial Section 8 Waiting List with a particular Eligibility Year may not be awarded a Voucher before any person on the existing Section 8 waiting list who registered for the Conventional Section 8 program prior to that year. An Elderly Registrant on the Remedial Section 8 Waiting List with a particular Eligibility Year may not be awarded a Section 8 Voucher before any person who registered for the Elderly Section 8 program prior to that Eligibility Year. For example, a person who registered for the Conventional Section 8 program on December 31, 1981, will have priority over all Conventional Registrants on the Remedial Section 8 Waiting List with an Eligibility Year of 1982 or later.

(ii) Subject to rule (i), the percentage of Vouchers distributed to persons on the Remedial Section 8 Waiting List with a given Eligibility Year shall be no greater than the Latino percentage of poverty-level

Chicago residents for the relevant year^{*}; provided, however, that if the Remedial Section 8 Waiting List contains a sufficient number of registrants in a given category (Conventional or Elderly) who are eligible under this Consent Decree and are otherwise eligible for Vouchers in either the Conventional or Elderly Section 8 Program under applicable CHA and HUD regulations, then the percentage of Vouchers distributed by the Section 8 Administrator under that program (Conventional or Elderly) to persons on the Section 8 Remedial Waiting List shall equal the Latino percentage of poverty-level Chicago residents for the relevant year. Those percentages, based on linear extrapolation from the 1970 Census (9.0%), the 1980 Census (16.9%), and the 1990 Census (21.7%), are as follows:

<u>Registration Year</u>	<u>Latino % of Chicagoans Below the Poverty Line</u>
1974	12.1 %
1975	12.9 %
1976	13.7 %
1977	14.5 %
1978	15.3 %
1979	16.1 %
1980	16.9 %
1981	17.4 %
1982	17.9 %
1983	18.3 %
1984	18.8 %

* The "relevant year" refers to the year of registration for the persons who are next on the existing Section 8 waiting list.

1985	19.3 †
1986	19.8 †
1987	20.3 †
1988	20.7 †
1989	21.2 †
1990	21.7 †
1991	22.2 †
1992	22.7 †
1993	23.1 †
1994	23.6 †

Illustration: As of the date of the execution of this Consent Decree, Vouchers under the Conventional Section 8 Program are being issued to individuals on the existing Section 8 waiting list who registered in 1981. Thus, the "relevant year" is 1981, and therefore 17.4% of the Conventional Section 8 Vouchers issued after the execution of this Consent Decree shall be distributed to Conventional Registrants on the Remedial Section 8 Waiting List, provided that such list contains a sufficient number of eligible persons with an Eligibility Year of 1981 or earlier. When the Section 8 Administrator begins issuing Vouchers under the Conventional Section 8 Program to individuals on the existing Section 8 waiting list who registered for that program in 1982 -- in other words, when the "relevant year" is 1982 -- the percentage of Conventional Section 8 Vouchers distributed to Conventional Registrants on the Remedial Section 8 Waiting List shall be 17.9%, again provided that such list contains a sufficient number of eligible persons with an Eligibility Year of 1982 or earlier.

(iii) Any local preferences adopted by CHA for use in awarding Section 8 Vouchers shall not apply to registrants on the Remedial Section 8 Waiting List.

(iv) For purposes of calculating percentages and determining the number of Vouchers to be distributed to persons on the Remedial Section 8 Waiting List, the 500 Vouchers to be provided by HUD pursuant to the HUD Decree shall not be taken into account. The

500 Vouchers provided by HUD constitute a remedy in addition to the remedies provided for under this Consent Decree.

The Section 8 Administrator shall be responsible for developing the specific procedures and mechanisms for the distribution of Vouchers consistent with the foregoing rules.

(c) Delays in Implementation. The plaintiffs and the CHA recognize that a period of time will be required to put this Section 8 remedy into effect, and that for a period of time the Section 8 Administrator will not be able to distribute Vouchers to persons on the Remedial Section 8 Waiting List. The parties agree that the time required to implement this remedy should not be to the prejudice of the plaintiff class. To the extent that the Section 8 Administrator issues Vouchers after the date of execution of this Consent Decree and prior to the time that it begins distributing Vouchers to individuals on the Remedial Section 8 Waiting List, the Section 8 Administrator shall hold back or otherwise ensure the availability of the percentage of Vouchers to be distributed to Conventional and Elderly Registrants on the Remedial Section 8 Waiting List.

(d) Bilingual Staffing. The CHA will ensure that the Section 8 Administrator has sufficient bilingual staff to carry out its responsibilities and provide services, both with regard to individuals on the Remedial Section 8 Waiting

(b) Within 90 days of the entry of this Consent Decree, the CHA will prepare and issue a Request for Proposals to perform outreach functions with respect to CHA housing programs. The firm selected ("Outreach Contractor") must have prior experience performing outreach in the Latino community. Not-for-profit organizations shall be given preference in the selection process. The Outreach Contractor will be responsible for informing individuals in the Latino community about the CHA's housing programs, meeting with and making presentations to the constituencies of church, school, and other community groups and organizations, and actively encouraging the registration of eligible Latinos for all of CHA's housing programs.

(c) The RFPs issued for the contracts described in subparagraphs (a) and (b) shall give preference to proposals that coordinate the outreach and marketing functions into an integrated, cooperative effort.

(d) The CHA will consult with a designated representative of the plaintiffs about the contents of the Requests for Proposals described in this Paragraph, about the selection of the Marketing and Outreach Contractors, and about the marketing and outreach plans developed by those contractors; provided, however, that nothing in this subparagraph shall be construed as requiring the CHA to reveal the contents of the Requests for Proposal or to otherwise discuss the contents of the proposals in a manner that would violate and state of federal laws or regulations

related to the procurement process. This Consent Decree shall not be construed to prevent CHA from designating the same firm to fulfill the functions of both the Marketing Contractor and the Outreach Contractor or from issuing a single request for proposals combining both functions.

10. Monitoring. The CHA will designate a Latino Community Liaison, who (a) must be fluent in Spanish, (b) shall be a full-time employee of the CHA, and (c) must have a direct reporting relationship with and access to the senior CHA officer responsible for day-to-day operations (currently, the deputy executive director of operations). Among other responsibilities, the Liaison shall monitor the compliance by the CHA and its contractors with the provisions of this Consent Decree, and shall prepare quarterly reports regarding such compliance. The Liaison will be available to meet with the plaintiffs regarding compliance with this Consent Decree.

11. Consultation with Plaintiffs' Representatives. The leadership of the CHA shall meet with one or more representatives designated by the organizational plaintiffs in this action on a regular basis, at least quarterly, to discuss the implementation of this Decree and other matters of concern to Latinos in Chicago, and shall consult with such representative(s) before proposing or announcing any major initiative or program.

12. Retention of Jurisdiction. The Court will retain jurisdiction over this matter for the purpose of enabling plaintiffs or the CHA to apply to the Court for such further orders as may be necessary or appropriate for the construction, implementa-

tion or enforcement of this Consent Decree; however, this Consent Decree may be modified only with the prior written consent of plaintiffs and the CHA. In addition, at least 21 days prior to submission of any dispute under this Consent Decree to the Court, the parties shall consult in an effort to resolve the matter informally.

13. Termination of Decree. The CHA's obligations under this Decree shall terminate as follows:

(a) The injunction issued pursuant to Paragraph 2 shall terminate ten years after this Consent Decree is approved by the Court.

(b) The obligation to provide translations pursuant to Paragraph 3, bilingual staffing pursuant to Paragraph 4, and monitoring pursuant to Paragraph 10 may be terminated after January 1, 2006, upon motion of the CHA if the Court determines that these remedies are no longer necessary for the CHA to serve the needs of the Latino community. The specific provisions of Paragraphs 3, 4, or 10 may be modified after January 1, 2000, upon motion of the CHA if the Court determines that equivalent relief will be provided.

(c) The distribution of Section 8 Vouchers to persons on the Remedial Section 8 Waiting List shall terminate when the Remedial Section 8 Waiting List is exhausted.

14. Entire Agreement. The terms of this Consent Decree constitute the entire understanding of the Parties, and no

statement, remark, agreement or understanding, oral or written, which is not contained herein, shall be recognized or enforced.

15. Fees and Costs Reserved. The issue of the CHA's liability for attorney's fees and costs, including the costs of notice, is reserved for later resolution by the parties or determination by the Court. Nothing contained in the stipulation attached hereto as Exhibit A or in the third full paragraph on page 2 (continuing onto page 3) beginning, "WHEREAS, the plaintiffs and the CHA have stipulated to the facts set forth in Exhibit A," shall be construed as conferring "prevailing party" status upon the plaintiffs for the purpose of an award of attorney's fees. Notwithstanding this reservation and the retention of jurisdiction in Paragraph 12, this Consent Decree is a final judgment on all claims between the plaintiffs and defendant CHA, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, and the Court hereby determines that there is no just reason for delay and directs the entry of judgment.

16. Binding Effect. This Consent Decree is binding on the CHA, its officers, employees, agents, successors and assigns, as well as any person or entity that, by contract or otherwise, administers, manages or supervises any program currently under the jurisdiction of the CHA, or any program that is the successor to or replacement of such a program.

EXECUTED THIS 19th DAY OF April, 1996, IN CHICAGO, ILLINOIS.

LATINOS UNITED, EIGHTEENTH STREET DEVELOPMENT CORPORATION, HISPANIC HOUSING DEVELOPMENT CORPORATION, BICKERDIKE REDEVELOPMENT CORP. and COMITE LATINO; and ROSALIA RIVERA, RAQUEL GONZALEZ SYPIEN, GLORIA CARDONA QUINONES, and NILDA ORTIZ, on behalf of themselves and all persons similarly situated

CHICAGO HOUSING AUTHORITY

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One of their Attorneys

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ENTER:

George W. Lindberg
United States District Judge

Date: JUN 21 1996

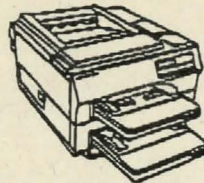


Linda A. Wawzenki
Assistant United States Attorney

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LATINOS UNITED, EIGHTEENTH STREET)
DEVELOPMENT CORPORATION, HISPANIC)
HOUSING DEVELOPMENT CORPORATION,)
BICKERDIKE REDEVELOPMENT)
CORPORATION, and COMITE LATINO;)
and ROSALIA RIVERA, FILOMENA SEDA,)
RAQUEL GONZALEZ SYPIEN, GLORIA)
CARDONA QUINONES, and NILDA ORTIZ,)
individually and on behalf of all)
persons similarly situated,)

No. 94 C 1229

Judge Lindberg

Plaintiffs,)

v.)

CHICAGO HOUSING AUTHORITY, UNITED)
STATES DEPARTMENT OF HOUSING AND)
URBAN DEVELOPMENT, VINCENT LANE,)
ROBERT D. WHITFIELD, and HENRY)
CISNEROS,)

Defendants.)

CONSENT DECREE

WHEREAS, plaintiffs have filed a Complaint in this
action alleging that, as a result of actions and inactions of the
Chicago Housing Authority and its officials ("CHA"), and the
United States Department of Housing and Urban Development and its
Secretary, Henry G. Cisneros ("HUD"), in the operation,
administration, supervision and funding of low rent housing
assistance programs in Chicago, Latinos have been and are being
deprived of housing assistance on the basis of race, color and
national origin, in violation of the Fifth and Fourteenth
Amendments to the United States Constitution, Title VI of the

Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3604, 3608), 42 U.S.C. §§ 1981, 1982 and 1983, and the Administrative Procedure Act (5 U.S.C. §706).

WHEREAS, in 1990 HUD prepared an Occupancy Audit of CHA (the "1990 HUD Audit Report"), and in 1991 HUD prepared a preliminary Final Investigative Report after an investigation conducted pursuant to Title VI and HUD implementing regulations (the "1991 HUD Preliminary Title VI Investigative Report"); these reports contain factual findings resulting from investigations made pursuant to authority granted by law.

WHEREAS, in its answer to plaintiffs' complaint, HUD admitted: (1) that the representation of Latinos in CHA programs and on the waiting lists for CHA programs is much lower than the percentage of persons of Hispanic origin in the income eligible population as reported by the Bureau of the Census, and has been so for at least 10 years, and that HUD has been aware of this fact for at least 10 years; (2) that the 1990 HUD Audit Report found that CHA was administering its waiting lists and transfer lists improperly and that some of the discrepancies between CHA's actual practices and its tenant assignment plan produced "seriously inequitable results"; (3) that the 1990 HUD Audit Report found that CHA was assigning units through improper ad hoc procedures which "may have had the effect of excluding certain groups from participation in Public Housing;" and (4) that the 1990 HUD Audit Report found that CHA was not properly administering the Gautreaux scattered site units, including the

Neighborhood Preference for those units, which may have had the effect of discouraging Latinos from applying for such housing.

WHEREAS, the 1991 HUD Title VI Preliminary Investigative Report concluded that based on 1980 census data, Hispanics constituted approximately 11 percent of the population in Chicago eligible for low income housing assistance, but that as of 1984, Hispanic families occupied only 1.6 percent of public housing units, and only 2.2 percent of Section 8 units.

WHEREAS, the 1991 HUD Preliminary Investigative Report contained the following conclusions:

"The Chicago Housing Authority is in violation of Title VI of the Civil Rights Act of 1964 and HUD's implementing regulations, 24 CFR 1.4(a) and (b)(1)(vi) and (2)(i) as follows:

- o "Failing to provide adequate Spanish language telephone services to limited or non-English-speaking Hispanic persons.
 - o "Failing to provide Spanish-speaking persons to conduct eligibility and suitability interviews with limited or non-English-speaking Hispanic persons, and placing the burden on these applicants to provide their own interpreters or run the risk that their inability to give or receive relevant information may impede their opportunity to obtain housing.
 - o "Disadvantaging limited or non-English-speaking Hispanic registrants and applicants by failing to provide written material, letters, notices and other forms of written communication in Spanish.
- * * *
- o "Discriminating against limited and/or non-English speaking Hispanic persons, by failing to use Spanish language versions of forms for, and correspondence with applicants for scattered site housing in the Uptown, North Center and Lake View Community areas and/or conducting eligibility and suitability interviews in Spanish.

* * *

- o Selecting and assigning tenants on the bases of race and national origin violates Title VI and 24 CFR 1.4(a) and (b)(v)."

WHEREAS, given the risks and uncertainties of further litigation, the plaintiffs and HUD desire to settle plaintiffs' claims against HUD in order to avoid the expense, inconvenience and burden of protracted litigation and to put to rest plaintiffs' claims against HUD and the Secretary asserted in this action:

NOW, THEREFORE, the undersigned parties ("Parties") agree as follows:

1. Jurisdiction. This Court has jurisdiction over plaintiffs' claims against HUD and its Secretary, Henry G. Cisneros, pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.
2. Class Action Settlement. The Parties stipulate to the certification of a Settlement Class, as defined in the Complaint, pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure. The Settlement Class consists of all Latino residents of Chicago who were, have been, or will be denied participation in or equal access to any CHA program as a result of the policies and practices challenged in the Complaint. HUD agrees that the certification of such a Settlement Class is necessary and appropriate to achieve a fair and reasonable settlement of the claims asserted in the Complaint on behalf of such class. The Parties agree, and the Court finds, that the

Consent Decree is fair and equitable and in the best interests of the Settlement Class.

3. Funding for Vouchers. HUD will provide to CHA or a HUD-approved designee funding for 500 five-year Section 8 vouchers, for use by eligible Latino applicants in accordance with a plan to identify the recipients to be determined by the Court. The plan shall be developed by plaintiffs and submitted to the Court within 30 days of the entry of this Order. HUD shall have 15 days following submission of the plan to file comments or objections with the Court; provided that HUD will have no objection to any determination by the Court to provide vouchers to the individual plaintiffs.

4. Funding for Outreach and Counseling. HUD will provide \$1,100,000 in funding, to be routed through CHA or a HUD-approved designee, to be utilized over a five-year period for outreach and counseling to promote use by Latinos: (1) of the vouchers provided in paragraph 3 above, in accordance with the plan to identify the recipients that will be developed under paragraph 3; and (2) of additional vouchers or Section 8 certificates that may be provided or made available to members of the Settlement Class in connection with any relief granted by or against CHA in this litigation. It is anticipated that approximately \$350,000 of such funding will be utilized during the first year, and the remainder of the \$1,100,000 will be utilized in approximately equal increments over the next four years. The outreach and counseling will be performed by one or more not-for-profit entities, which will be identified by

competitive procurement under terms and conditions to be approved by the Court. HUD shall consult with the organizational plaintiffs in the preparation of, and provide them with an opportunity to review and comment on, the proposed Request for Proposals (RFP) to invite applications from not-for-profit entities to perform the outreach and counseling. The cost of providing notice to the Settlement Class of this Consent Decree pursuant to an order of the Court under Rule 23(e) will be considered outreach, and payable out of the funding provided under this paragraph, without prejudice to any claim by plaintiffs that such expenses should be taxable against HUD as a cost of litigation, pursuant to Paragraph 13 hereof.

5. Other Assisted Housing. HUD will provide to the not-for-profit entity or entities selected pursuant to paragraph 4 above the names and addresses of all privately owned HUD-assisted and/or subsidized housing projects in the Chicago SMSA (including project-based Section 8 developments, buildings receiving assistance under the Section 221(d)(3) Below-Market Interest Rate Program and the Section 236 Program, and other HUD-assisted or subsidized housing programs that may be established in the future), together with the name and address of the manager of each such project, for use in promoting the availability of such housing to Latinos. This paragraph does not apply to CHA-managed projects.

6. Monitoring. Upon request by plaintiffs, and subject to any privileges that may apply, HUD will provide to plaintiffs documents that HUD prepares or develops through

monitoring of the CHA's HUD-assisted housing programs that relate to CHA's utilization of funding provided under paragraph 3 above, or generally as to Latino participation in the programs or CHA efforts to promote such participation. Representatives of HUD shall meet with representatives of plaintiffs semiannually (beginning in the second half of 1995) to review the status of Latino participation in the programs of the CHA and efforts to promote such participation.

7. Scope of Settlement. This Consent Decree, upon its approval by the Court, resolves all claims alleged in the Complaint brought on behalf of the Settlement Class against HUD. This Consent Decree does not affect or limit any claims asserted in this action against CHA or its officers. HUD agrees that it will respond to discovery requests in this action as though it continued to be a "party" pursuant to Rules 26-37 of the Federal Rules of Civil Procedure.

8. Limit on HUD Obligations. Nothing in this Decree shall be construed to require HUD to perform the obligations of a public housing agency. In addition, HUD shall not be obligated to provide any additional funding to carry out the terms of this Decree.

9. Retention of Jurisdiction. The Court will retain jurisdiction over this matter for the purpose of enabling plaintiffs or HUD to apply to the Court for such further orders as may be necessary or appropriate for the construction, implementation or enforcement of this Decree; however, this Consent Decree may be modified only with the prior written

consent of counsel for all Parties. In addition, at least 21 days prior to submission of any dispute under this Consent Decree to the Court, counsel for the Parties shall consult in an effort to resolve the matter informally.

10. Termination of Decree. HUD's obligations under this Decree shall terminate on December 31, 1999, except (a) HUD's obligations under this Decree with respect to providing funding for vouchers will end thirty days after the conclusion of the five-year term of the last of the 500 vouchers made available pursuant to paragraph 3 hereof, and (b) HUD's obligations under this Decree with respect to providing funding for outreach and counseling will end 30 days after HUD's disbursement of all funds made available pursuant to Section 4 hereof.

11. Entire Agreement. The terms of this Decree constitute the entire understanding of the Parties, and no statement, remark, agreement or understanding, oral or written, which is not contained herein, shall be recognized or enforced, nor does the Decree reflect any agreed-upon purpose other than the desire of the plaintiffs and HUD to reach a full conclusion of this action as between them and to resolve this matter without the time and expense of further litigation.

12. Binding Agreement. This Consent Decree, upon its execution by the Parties, is an enforceable agreement binding upon the Parties. The Parties recognize that Rule 23(e) of the Federal Rules of Civil Procedure requires Court approval of class action settlements. The Parties shall use their best efforts to obtain such approval. In the event that the Court decides not to

approve a settlement on behalf of the Settlement Class on substantially the terms set forth in this Consent Decree, the Parties shall have no further obligations pursuant to this Consent Decree and the plaintiffs shall be entitled to continue asserting all claims, and HUD and the Secretary shall be entitled to continue asserting all defenses, in this action.

13. Fees and Costs Reserved. The issue of HUD's liability for attorney's fees and costs, including the costs of notice, is reserved for later determination by the Court. Notwithstanding this reservation and the retention of jurisdiction in paragraph 9, this Consent Decree is a final judgment on all claims between the Parties hereto pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, and the Court hereby determines that there is no just reason for delay and directs the entry of judgment.

EXECUTED THIS _____ DAY OF _____, 1995, IN CHICAGO,
ILLINOIS.

LATINOS UNITED, EIGHTEENTH STREET DEVELOPMENT CORPORATION, HISPANIC HOUSING DEVELOPMENT CORPORATION, BICKERDIKE REDEVELOPMENT CORP. and COMITE LATINO; and ROSALIA RIVERA, RAQUEL GONZALEZ SYPIEN, GLORIA CARDONA QUINONES, and NILDA ORTIZ, on behalf of themselves and all persons similarly situated, Plaintiffs

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT and HENRY G. CISNEROS, Defendants

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One of their Attorneys

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On Behalf of the Plaintiffs

NELSON A. DÍAZ
General Counsel
United States Department
of Housing and Urban
Development
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Washington, D.C. 20410
(Of Counsel)

On Behalf of Secretary
Henry Cisneros and the
U.S. Department of
Housing and Urban
Development

ENTER:

George W. Lindberg
United States District Judge

Date: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LATINOS UNITED, EIGHTEENTH STREET)
DEVELOPMENT CORPORATION, HISPANIC)
HOUSING REDEVELOPMENT CORPORATION,)
BICKERDIKE REDEVELOPMENT CORPORATION,)
and COMITE LATINO; and ROSALIA RIVERA,)
FILOMENA SEDA, RAQUEL GONZALEZ SYPIEN,)
GLORIA CARDONA QUINONES, and NILDA)
ORTIZ, individually and on behalf of)
all persons similarly situated,)

Plaintiffs,)

v.)

CHICAGO HOUSING AUTHORITY, UNITED STATES)
DEPARTMENT OF HOUSING AND URBAN)
DEVELOPMENT, VINCENT LANE, ROBERT D.)
WHITFIELD, and HENRY CISNEROS,)

Defendants.)

EXHIBIT A

No. 94 C 1229

Judge Lindberg

STIPULATIONS

Plaintiffs, by their attorneys, and defendant Chicago Housing Authority, by its attorneys, hereby stipulate to the following facts and agree that these facts are supported by substantial evidence.

1. CHA operates several distinct housing programs ("CHA Programs"), including:
 - (a) apartment developments operated by CHA directly ("Conventional Family Program");
 - (b) apartment developments for senior citizens and handicapped persons ("Elderly Program");
 - (c) programs established under Section 8 of the Housing and Community Development Act of 1974, 42 U.S.C. § 1437f, and

similar provisions, subsidizing rental of units in privately owned apartment buildings to families and to elderly persons ("Section 8 Program");

(d) development of new small-scale projects on individual sites throughout the city ("Scattered Site Program").

Latino Participation in CHA Programs

2. Eligibility for CHA Programs is restricted to Chicago residents with incomes below an eligibility level established pursuant to federal regulations. This income level is higher than the federal poverty level as defined by the Bureau of the Census.

3. According to the 1980 census, Latinos constituted approximately 16.9% of all Chicago residents with income below the federal poverty level.

4. According to the 1990 census, Latinos constituted approximately 21.7% of all Chicago residents with income below the federal poverty level.

5. As of December 14, 1995, there were 21,605 family units rented in CHA's Conventional Family Program. Of these units, 265 were rented to Latinos. This amounts to 1.23% of all units in the Conventional Family Program.

6. All but 15 of the 265 Latino leaseholders lived in one of three Conventional Family projects (Bridgeport, Trumbull Park, and Lathrop Homes). Most of CHA's Conventional Family projects have no Latino leaseholders.

7. Vincent Lane, while Chairman of CHA, stated in testimony given to the United States Commission on Civil Rights on June 24, 1992, that the participation of Hispanics in CHA's Conventional Family Program was "remarkably low."

8. As of December 14, 1995, there were 9,244 housing units rented in CHA's Elderly Program. Of these units, 334 were rented to Latinos. This amounts to 3.61% of all units in the Elderly Program.

9. As of March 31, 1995, there were 15,664 vouchers and certificates issued and in use under CHA's Section 8 Program. Of these vouchers and certificates, 302 were held by Latinos. This amounts to 1.93% of the total vouchers and certificates.

10. According to the most recent records available as of December 14, 1995, there were 1,297 housing units rented in CHA's Scattered Site Program. Of these units, 210 were rented to Latinos. This amounts to 16.2% of all units in the Scattered Site Program.

Latino Representation on CHA Program Waiting Lists

11. CHA maintains waiting lists for each of its programs ("CHA Program Waiting Lists") and uses those lists to fill vacancies in CHA Conventional Family and Elderly Program buildings, to fill vacancies in Scattered Site Program buildings, and to issue vouchers and certificates to families and elderly persons under the Section 8 Program.

12. HUD conducted an occupancy audit of CHA in 1990 and prepared a report that contains factual findings resulting

from an investigation made pursuant to authority granted by law ("1990 HUD Audit"). The 1990 HUD Audit found that CHA's waiting lists did not "include applicants from all racial and ethnic groups represented in the low income population" -- "e.g., Hispanics."

13. The Latino percentage of persons on each of CHA's various waiting lists is substantially lower than the Latino percentage of the eligible population.

CHA Practices Relating to the Administration of its Program Waiting Lists and the Effect of Those Practices on Latinos

14. On one or more occasions from 1980 to the present, CHA, using its own personnel or through subcontractors, has conducted purges of its Conventional Family Program Waiting List(s) designed to remove registrants who cannot be located or do not indicate a continuing interest in remaining on such lists.

15. CHA or its agents sent English-only communications to persons on the Conventional Family Program Waiting List(s), requiring them to respond in writing within a specified time period.

16. The communications contained no Spanish language instructions and made no reference to the availability of Spanish-speaking CHA personnel to answer questions.

17. Numerous persons were removed from these waiting list(s) as part of the foregoing purge or purges.

18. These actions diminished the number of Latinos on the Conventional Family Program Waiting List(s).

19. On one or more occasions from 1980 to the present, CHA, using its own personnel or through subcontractors, has conducted purges of its Section 8 waiting list designed to remove registrants who cannot be located or do not indicate a continuing interest in remaining on that list.

20. CHA or its agents sent English-only communications to persons on that waiting list, requiring them to respond in writing within a specified time period.

21. The communications contained no Spanish language instructions and made no reference to the availability of Spanish-speaking CHA personnel to answer questions.

22. Numerous persons were removed from that waiting list as part of the foregoing purge or purges.

23. These actions diminished the number of Latinos on that waiting list.

24. CHA is required to fill units in its Scattered Site Program pursuant to the provisions of a tenant assignment plan approved by the court on November 24, 1969 in the Gautreaux litigation, and amended thereafter from time to time ("Tenant Assignment Plan").

25. Since its inception in 1969, and until it was amended in October 1994, the Tenant Assignment Plan provided that "eligible applicants who reside at the time [a unit is filled] in the community area within which the project is located shall have a priority to occupy 50% of the dwelling units in such project," less the number of units, if any, occupied by tenants transferring thereto from certain formerly segregated projects.

This provision is commonly referred to as the "Neighborhood Preference." In October 1994, the Neighborhood Preference was revised so that applicants residing in the census tract where the project was constructed were given a priority to occupy 50% of the dwelling units in the project.

26. Until 1990, CHA interpreted the Neighborhood Preference as establishing a preference only for community area residents who were already on CHA Program Waiting Lists.

27. This interpretation of the Neighborhood Preference was criticized in the 1990 HUD Audit, which noted that "the Court-approved plan clearly calls for ... the maintenance of Gautreaux waiting lists completely separate from the General Waiting List."

28. CHA's interpretation of the Neighborhood Preference had the effect of reducing the availability of public housing to persons, such as Latinos, who have historically been underrepresented on CHA Program Waiting Lists and have historically been discouraged from applying for public housing and thus securing a place on a CHA Program Waiting List.

29. The 1990 HUD Audit found also that CHA was administering its waiting lists and transfer lists improperly and that discrepancies between CHA's actual practices and the Tenant Assignment Plan were producing "seriously inequitable results."

30. The 1990 HUD Audit also found that CHA was assigning units through improper ad hoc procedures such as referrals from aldermen and ward committeemen and that such

steps to market such programs to such families. 24 C.F.R. § 882.207.

36. A HUD manual for the administration of Section 8 programs, entitled Public Housing Agency Administrative Practices Handbook for the Section 8 Existing Housing Program, states that Latinos may be less likely to apply and recommends specific marketing techniques and procedures to encourage Latinos to apply, including use of Spanish language radio stations, Spanish language newspapers, and Spanish language brochures, and enlisting assistance from community organizations, including interpreters for the application-taking process.

37. The CHA closed the Section 8 waiting list to new registrants for its Family Participation Program in 1985 and closed the Section 8 waiting list to new registrants for the Elderly Participation Program in 1994. Since those dates, persons eligible for those programs have not been able to secure places on the waiting lists for these programs. As of April 25, 1995, there were 48,347 persons on the waiting list for Section 8 vouchers and certificates.

38. During the time period that the Section 8 waiting list was open, CHA never used the specific marketing techniques and procedures recommended by the HUD handbook for outreach to Latinos in a systematic and ongoing manner.

39. During the time period that the waiting list was open, CHA never used, in any systematic and ongoing manner, any marketing techniques or procedures designed to encourage Latinos to apply.

40. CHA's 1985 Section 8 Equal Opportunity Housing Plan does not identify Latinos as a group less likely to apply.

41. CHA received a copy of the Equal Opportunity Monitoring Review report prepared by HUD in 1985 stating that all groups represented in the community were not applying to CHA's program and specifically reporting that "[o]nly 2% of Section 8 units are currently utilized by Latino families."

42. CHA's 1986 Section 8 Existing Housing and Moderate Rehabilitation Equal Opportunity Housing Plan does not identify Latinos as a group less likely to apply.

43. CHA's 1987 Section 8 Existing Housing and Moderate Rehabilitation Equal Opportunity Housing Plan does not identify Latinos as a group less likely to apply.

44. CHA's 1989 Section 8 Existing Housing and Moderate Rehabilitation Equal Opportunity Housing Plan does not identify Latinos as a group less likely to apply.

45. CHA's current Section 8 Administrative Plan does not identify Latinos as a group less likely to apply.

46. CHA's current Section 8 Administrative Plan prescribes certain procedures for outreach to potential registrants, but does not include procedures for outreach to Latinos.

47. Prior editions of CHA's Section 8 Administrative Plan do not identify Latinos as a group less likely to apply.

48. Prior editions of CHA's Section 8 Administrative Plan do not address marketing CHA's Section 8 Program to Latinos.

49. The 1990 HUD Audit found that CHA had not properly publicized the availability of new Scattered Site Program housing units.

50. In conducting outreach with respect to the Scattered Site Program in November 1990, CHA sent English language versions of advertisements to Spanish language newspapers and asked them to translate the advertisements.

51. CHA never checked the accuracy of the translations before those advertisements were published.

52. The translations printed by Spanish language contained some language that was inaccurate and could therefore have conveyed misleading or unclear information regarding the availability of housing in the Scattered Site Program.

53. The 1990 HUD Audit found that following this outreach program, CHA failed to obtain sufficient applications to fill units in newly available Scattered Site Program housing.

Failure to Provide Spanish-Language Forms and Assistance

54. From at least 1980 through 1990, CHA had no policy of staffing its switchboard with Spanish-speaking operators and did not consistently have any such operators in its employ, nor did it advise members of the public that a Spanish-speaking operator was available in the event that such assistance was needed.

55. HUD investigators visited four CHA central offices in 1991: the CHA headquarters office, the Central Rental Office, the Scattered Site North Development Office, and the Senior

Housing North Development Office. At the time of HUD's 1991 investigation, none of these offices provided Spanish language information and assistance telephonically on a methodical and on-going basis. Spanish-speaking callers were routinely told to get their own interpreters.

56. CHA currently has no policy of ensuring the availability of Spanish language personnel to answer telephone inquiries. The assistance and information available to Spanish-speaking callers remain far inferior to that available to English speakers, and there is frequently no one available to speak with Spanish-speaking callers.

57. Since at least 1980, CHA has required registrants for CHA programs to come in to a CHA office for a personal interview before a housing unit, voucher, or certificate is offered. Prior to 1990, this interview function was conducted by project management personnel at CHA's development offices. CHA's current procedure is to contact registrants by letter, sent in the English language only, and require them to call to schedule an interview at a central office. The application of a person who does not schedule an interview is treated as withdrawn.

58. In 1991, HUD investigators spoke with project management personnel who had been responsible for personal interviews. The manager of CHA's Trumbull Park development told HUD investigators that Hispanics "don't apply because they don't want to live with Blacks." At CHA's Scattered Sites North Office, a CHA employee told HUD investigators that the office had

no Spanish-speaking staff, but that the staff's practice was to find a janitor to help if Spanish translation was necessary.

59. HUD found that as of February 1, 1991, CHA had nine full-time interviewers, none of whom spoke Spanish.

60. CHA still has no policy of ensuring the availability of Spanish language personnel at offices at which tenant registration forms are accepted, application forms are completed, and suitability and eligibility interviews are conducted.

61. At all relevant times, and continuing to the present, CHA's applications for housing have been printed exclusively in English.

62. CHA has never had a policy requiring the translation into Spanish of forms and written notices.

63. CHA has no policy of ensuring that the limited number of forms and notices that have been translated into Spanish are available at CHA offices where such forms and notices are used and distributed.

HUD Findings

64. HUD prepared a preliminary Final Investigative Report after an investigation conducted pursuant to Title VI and HUD implementing regulations (the "1991 HUD Preliminary Title VI Investigative Report"), containing factual findings resulting from investigations made pursuant to authority granted by law.

65. The 1991 HUD Title VI Preliminary Investigative Report concluded that based on 1980 census data, Hispanics

constituted approximately 11 percent of the population in Chicago eligible for low income housing assistance, but that as of 1984, Hispanic families occupied only 1.6 percent of public housing units, and only 2.2 percent of Section 8 units.

66. The 1991 HUD Preliminary Investigative Report contained the following conclusions:

"The Chicago Housing Authority is in violation of Title VI of the Civil Rights Act of 1964 and HUD's implementing regulations, 24 CFR 1.4(a) and (b)(1)(vi) and (2)(i) as follows:

- "Failing to provide adequate Spanish language telephone services to limited or non-English-speaking Hispanic persons.
 - "Failing to provide Spanish-speaking persons to conduct eligibility and suitability interviews with limited or non-English-speaking Hispanic persons, and placing the burden on these applicants to provide their own interpreters or run the risk that their inability to give or receive relevant information may impede their opportunity to obtain housing.
 - "Disadvantaging limited or non-English-speaking Hispanic registrants and applicants by failing to provide written material, letters, notices and other forms of written communication in Spanish.
- * * *
- "Discriminating against limited and/or non-English speaking Hispanic persons, by failing to use Spanish language versions of forms for, and correspondence with applicants for scattered site housing in the Uptown, North Center and Lake View Community areas and/or conducting eligibility and suitability interviews in Spanish.
- * * *
- Selecting and assigning tenants on the bases of race and national origin violates Title VI and 24 CFR 1.4(a) and (b)(v)."

AGREED TO:

LATINOS UNITED, EIGHTEENTH STREET DEVELOPMENT CORPORATION, HISPANIC HOUSING DEVELOPMENT CORPORATION, BICKERDIKE REDEVELOPMENT CORP. and COMITE LATINO; and ROSALIA RIVERA, RAQUEL GONZALEZ SYPIEN, GLORIA CARDONA QUINONES, and NILDA ORTIZ, on behalf of themselves and all persons similarly situated

CHICAGO HOUSING AUTHORITY

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