

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OPEN COMMUNITIES ALLIANCE,
et al.,

Plaintiffs,

v.

BENJAMIN S. CARSON, SR., Secretary,
of Housing and Urban Development, in his
official capacity, *et al.*,

Defendants.

Case 1:17-cv-02192-BAH

STIPULATED JUDGMENT AND [PROPOSED] ORDER

WHEREAS on October 23, 2017, Plaintiffs Open Communities Alliance, Crystal Carter, and Tiara Moore filed this action against Defendants the Secretary of Housing and Urban Development and the Department of Housing and Urban Development (“HUD”), challenging HUD’s August 10, 2017, suspension of Small Area Fair Market Rent (“Small Area FMR”) designations in twenty-three metropolitan areas;

WHEREAS on November 8, 2017, Plaintiffs filed a motion for a preliminary injunction to enjoin HUD to rescind its August 2017 notices of suspension of the Small Area FMR designations and to take all other necessary steps to timely implement the Small Area FMR Rule;

WHEREAS Defendants opposed Plaintiffs’ motion for a preliminary injunction on December 1, 2017, and the Court held oral argument on the motion on December 19, 2017;

WHEREAS on December 23, 2017, the Court granted Plaintiffs’ motion for a preliminary injunction and ordered:

that the Memorandum, entitled *Suspension of Small Area Fair Market Rent (FMR) Designations* (Aug. 10, 2017), by which the defendants Ben. S. Carson, Sr., Secretary of Housing and Urban Development, in his official capacity, and U.S. Department of

Housing and Urban Development delayed by two years the effective date of the final rule *Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs*, 81 Fed. Reg. 80,567 (Nov. 16, 2016), is held unlawful and set aside as arbitrary, capricious or otherwise not in accordance with law and as without observance of procedure required by law. *See* 5 U.S.C. § 706(1)–(2)(A), (D);

WHEREAS Defendants have set aside the August 10, 2017, memorandum entitled *Suspension of Small Area Fair Market Rent (FMR) Designations*; and

WHEREAS HUD is currently in the process of implementing the Small Area FMR program on an expedited basis and has communicated to the affected Public Housing Agencies (“PHAs”) and their industry groups to immediately begin implementation;

THEREFORE the parties hereby stipulate and agree as follows:

1. The memorandum entitled *Suspension of Small Area Fair Market Rent (FMR) Designations* (Aug. 10, 2017), by which the defendants Ben. S. Carson, Sr., Secretary of Housing and Urban Development, in his official capacity, and U.S. Department of Housing and Urban Development delayed by two years the effective date of the final rule *Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs*, 81 Fed. Reg. 80,567 (Nov. 16, 2016), is permanently set aside.
2. This Court enters judgment in favor of Plaintiffs.
3. Plaintiffs shall submit a motion for attorney’s fees and costs in accordance with Rule 54(d) by March 15, 2018.

Respectfully submitted,

By: /s/ Sasha Samberg-Champion
Sasha Samberg-Champion, D.C. Bar #981553
Sara Pratt (D.C. bar admission pending)
Michael G. Allen, D.C. Bar #409068
RELMAN, DANE & COLFAX PLLC
1225 19th Street, NW, Suite 600
Washington, District of Columbia 20036
Telephone: 202 728 1888
ssamberg-champion@relmanlaw.com
spratt@relmanlaw.com
mallen@relmanlaw.com

Samuel Spital, D.D.C. Bar #NY0248
NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.
40 Rector Street, 5th Floor
New York, New York 10006
Telephone: 212 965 2200
sspital@naacpldf.org

Coty Montag, D.C. Bar #498357
Ajmel Quereshi, D.C. Bar #1012205
NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.
1444 I Street, NW, 10th Floor
Washington, District of Columbia 20005
Telephone: 202 682 1300
aquereshi@naacpldf.org

Philip Tegeler, D.C. Bar #1002526
POVERTY & RACE RESEARCH ACTION
COUNCIL
740 15th Street, NW, Suite 300
Washington, District of Columbia 20005
Telephone: 202 360 3906
ptegeler@prrac.org

Respectfully submitted,

JESSIE K. LIU, D.C. Bar #472845
United States Attorney

DANIEL F. VAN HORN, D.C. Bar #924092
Chief, Civil Division

By: /s/ Johnny Walker
JOHNNY H. WALKER, D.C. Bar #991325
Assistant United States Attorney
555 4th Street, N.W.
Washington, District of Columbia 20530
Telephone: 202 252 2575
Email: johnny.walker@usdoj.gov

Counsel for Defendants

Jon Greenbaum, D.C. Bar #489887
Joseph D. Rich, D.C. Bar #463885
Thomas Silverstein (D.C. bar admission
pending)
LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW
1401 New York Avenue, NW
Washington, District of Columbia 20005
Telephone: 202 662 8331
jrich@lawyerscommittee.org

Allison M. Zieve, D.C. Bar #424786
PUBLIC CITIZEN LITIGATION GROUP
1600 20th Street, NW
Washington, District of Columbia 20009
Telephone: 202 588 1000

Counsel for Plaintiffs

It is **SO ORDERED**.

Dated: _____

The Honorable Beryl A. Howell
Chief Judge