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DJ. 175-54-15
#32-191-9

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: United States of America v.
Goldsboro Housing Authority,
(E.D. N.C.)

I attach a complaint of housing discrimination by the defendant local public housing authority in violation of the provisions of Title VIII of the Civil Rights Act of 1968. I also enclose a justification memorandum from the Chief of the Housing Section.

This is a straightforward case. The housing authority has four projects in Goldsboro, North Carolina. Segregation is complete. Two projects were built in all-Negro sections of town, and have, and always have had, only black tenants. Similarly, the other two projects have only had white tenants, and are located in white areas. The black projects have slightly more than half of the 825 total units.

Total segregation remains despite existence of the following factors which would ordinarily contribute to desegregation were there no deliberate policy of racial assignment: (1) an assignment procedure which is purportedly based on a first-come-first-served principle; (2) a system of priorities based on nonracial factors such as those for the elderly, those on welfare, disabled veterans, and active military personnel; and (3) an annual turnover rate of approximately 34%.

In 1967 HUD found that unrestricted freedom of choice in public housing assignments contributed to segregation in

cc: Records
Chrono
Mr. Turner
Mr. Kennedy
Trial File
USA, Raleigh, N. C.

housing in violation of Title VI of the 1964 Civil Rights Act and as a result changed its tenant assignment rules by putting some limitations on freedom of choice. (Our three previous public housing authority cases were referred to us by HUD because the Authorities refused to adopt HUD's 1967 tenant assignment rules.) The Goldsboro Authority, though purporting to use HUD's 1967 rules, has assigned all tenants on an unrestricted freedom of choice basis and one of their officials admitted as much to agents of the FBI.

Segregated public housing pervades a broad spectrum of communities across the nation, and is a sizable problem with respect to number of persons affected.

I recommend and urge that the attached complaint be filed.

JERRIS LEONARD
Assistant Attorney General
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United States of America v.
Housing Authority of the City of
Goldsboro, North Carolina (E.D. N.C.)

RECOMMENDATION

We are prepared to file the attached complaint charging the public housing authority of Goldsboro, North Carolina with discrimination in housing in violation of Title VIII of the Civil Rights Act of 1968.

I. FACTS

(A) The Defendant.

The Housing Authority of the City of Goldsboro is a public corporation organized and existing under North Carolina law. It is authorized to sue and be sued in its corporate name (North Carolina General Statutes, §157-9). It was created in 1950 and since that date has been operating low income public housing units in Goldsboro.

(B) Coverage.

The Authority presently operates 825 apartment units which it rents to the public, thus making its operations covered under 42 U.S.C. §3602(b).

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(C) The Housing Projects.

The Authority presently operates completely segregated units. Each of the four projects is composed of a number of apartments, all located on one piece of common ground. Two of the projects, Fairview Homes and Woodcrest Terrace, have 253 and 75 units respectively; only white persons have ever resided at these projects. The other two projects, Lincoln Homes and Elmwood Terrace, have 347 and 150 units respectively; only black persons have been assigned there. The two white projects are located in predominantly white areas of the city and the two black projects are located in predominantly Negro areas. The longest distance between any two projects is three miles and the shortest distance between an all-white project and an all-Negro project is 1-1/2 miles.

(D) Discriminatory Practices.

1. Pre-Act Discrimination.

A Negro, who was formerly a manager of one of the all-black projects stated to the FBI that in 1967 he was instructed by the Authority's Director not to take applications from white persons. Mrs. Dorothy Tyndall (white), who is the Authority's Occupancy Supervisor and who has been employed by the Authority for 18 years, stated to the FBI that before the 1968 Act became effective some assignments were made on a racial basis at the request of the individual. Both the Negro manager and Mrs. Tyndall stated that there had been in the past a few unsuccessful attempts by applicants to get into projects where they would have been in the racial minority.

2. Tenant Assignment Practices.

Until July 1967, the Authority assigned applicants to the project on the basis of freedom of choice under then-existing HUD regulations. In October 1967, HUD regulations were revised to eliminate freedom of choice and substitute a system which attempted to provide for the assignment of applicants on a first-come-first-served basis. In theory, this system provided that an applicant on the waiting list would be offered the first available unit, in any of the Authority's projects, that was of the size determined to fit the applicant's need. Under one of two alternative systems allowed by HUD the applicant could make but one refusal and if he made a second refusal he would be placed at the bottom of the waiting list; under the second alternative, the applicant could refuse up to three offers before being placed at the end of the waiting list. 1/ (The second system would only be used in cases where the Authority had a large number of projects. We have learned from HUD and other investigations that the local Authorities have a practice of lumping several projects together in an offer so that when an applicant refuses an offer he rejects several projects instead of one.)

3. Continuation of Freedom of Choice.

Under the "refusal" system described above, a housing authority could maintain segregation by seeing to it that blacks rejected offers in the white projects and vice-versa; however, the Goldsboro Authority has maintained segregation by the simple method of retaining freedom of choice. Wiley Smith, the Executive Director of the Housing Authority, stated that the only change in assignment practices in the last 12 years has been

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1/ The regulation provided that refusals for "hardship" reasons such as proximity to job and family would not be counted as refusals.

the elimination of the freedom of choice form. Mrs. Tyndall told the FBI that she could not supply the names of any Negroes and whites who refused the first offer because applicants are placed in the project <u>of their choice</u>. She stated that Negroes prefer the Negro projects because their friends and their employment are in the area and that in her 18 years there have been only a few persons interested in a housing project of the opposite race.

4. <u>Assignments Since the Act</u>.

Since January 1968, 176 white tenants have moved into the all-white projects and 129 blacks have moved into the all-black projects. Since there is a long waiting list (presently over 140 applicants are on the list), vacancies are filled as they arise. The racial assignments have continued without exception despite the existence of several nonracial priorities such as those for the elderly, those on welfare, disabled veterans, and active military personnel. (As of April 1, 1969, there were 41 white and 14 black military persons in the housing projects assigned on a segregated basis).

HUD investigators have found some indications that white persons on the waiting list have been assigned to a project before similarly qualified blacks who were ahead of them on the waiting list. In addition, the Housing Authority's applicant files are kept in alphabetical order rather than chronological order, thus facilitating racial assignments and indicating that assignments are not made on a first-come-first-served basis. HUD regulations prohibit the use of a purely alphabetical system.

II. <u>LAW</u>

Segregation in housing whereby all Negroes are assigned to one area and all whites to a separate area, is prohibited under Section 804 (a) and (b) of Title VIII, 42 U.S.C. §3604 (a) and (b). The Goldsboro authority's freedom of choice assignment method amounts to assignment on the

basis of race. Just as in the school desegregation cases, the assignment of black tenants to one set of projects and of white tenants exclusively to another set, is the same as if the housing authority had maintained six inch high signs reading "colored" and "white" over the respective projects. Brown v. County School Board, 245 F. Supp. 549, 560 (W.D. Va. 1965); Kier v. County School Board of Augusta County, Va., 249 F. Supp. 239, 245 (W.D. Va. 1966). If it is discriminatory, under the Fourteenth Amendment, for either pupils (Brown v. Board of Education, 347 U.S. 483 (1954); 349 U.S. 294 (1955) or teachers (Rogers v. Paul, 382 U.S. 198 (1965); Bradley v. School Board, 382 U.S. 103 (1965)), then the housing assignment policies resulting in discriminatory patterns identical to those of pupils and teachers, are transparently discriminatory. The racial results of the assignments, especially when coupled, as at this local authority, with very high annual turnover, establishes the discriminatory nature of the assignments. Wheeler v. Durham County Board of Education, 363 F. 2d 738 (4th Cir., 1966).

The long line of cases upholding the right to nondiscriminatory treatment in public facilities is especially instructive in this case. Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961); Marsh v. Alabama, 326 U.S. 501 (1946); United States v. City of Jackson, 318 F. 2d 1 (5th Cir. 1963). For it is clear that the Goldsboro Housing Authority, as a public body corporate of the state, was obliged under clear constitutional principles not to segregate or discriminate. This requirement was clear in court decisions by the year 1962 so that it was discriminatory to locate the two housing projects in 1962 one in the black residential area, and the other in the white part of town. If the state cannot, for example, direct that courtroom spectators be segregated by race, then the same result cannot be tolerated. For segregation in housing by race, simply speaking, serves no legitimate governmental purpose. Cf. Anderson v. Martin, 375 U.S. 199, (1964).

The housing segregation in this case is in 1969 at about the same degree of compliance with the law, as were the near unanimous majority of former de jure segregation school systems in the period roughly 1954-60. But years ago the Supreme Court outlawed schemes that were "sophisticated as well as simple minded" which were used to thwart the right to be treated no differently because of one's race in activities under the Fourteenth and Fifteenth Amendment. Lane v. Wilson, 307 U.S. 268, 275 (1939). The principles of those constitutional cases are applicable to the case at hand.

CONCLUSION

Segregation in housing at this public authority is complete and total. Also the officials of the Authority, even after the passage of the 1968 Act and after being required by HUD to adopt an assignment plan designed to end the segregated nature of these projects, have continued to operate under a policy of assignment of tenants by race through the use of freedom of choice. In view of the Authority's continuation of its racial assignment practices and its bad faith dealings with HUD, there would be no useful purpose served by sending a notice letter. HUD is in the process of notifying the Authority to modify its filing system but HUD does not contemplate requiring the Authority to change its tenant assignment plan, which is a major contributing factor to the segregated facilities. Segregated public housing, some of it as complete as in this case, still persists in many cities throughout the country. In order to take the first steps in beginning to put an end to discrimination in public housing the attached complaint should be promptly filed.