

Walker v HUD

Introduction:

Walker v HUD is a complex of cases that should prove very useful to the GOGP lawsuit, because it was set in Dallas and the surrounding area which means that the Dallas Housing Authority (DHA) follows the same State laws as the Galveston Housing Authority (GHA), and the case was heard in the 5th federal circuit, the same circuit where the GOGP case will be heard, making the precedents even more on point!

The Fair Housing violations committed by the DHA seem very similar to past, present and future violations by the GHA. The GHA rebuilding plan as now proposed will continue and increase their Fair Housing violations.

The court in Walker did not order a “regional solution” in precisely the same manner that the 4th Circuit court did in Thompson v HUD, but it did fashion a remedy that included the entire Dallas metropolitan area, so that the suburbs were clearly a part of the ultimate solution. It is not clear exactly how this was achieved. There are references to “requesting” participation by the suburbs, and other comments about using the leverage of CDBG funding to “persuade” the suburbs to participate.

At this point, it is difficult to say precisely how successful the “suburbanization process” was in implementing a regional solution, but it is clear that once the cases of the Walker complex gained momentum, the DHA did not hide behind the excuse that they had no authority to effect a regional Public Housing plan, as the GHA does; the DHA made substantial efforts to achieve it.

One of their proposals was to buy an apartment complex in a predominately White area and convert it to Public Housing, which was also proposed by Councilmember Greenberg as one method to create a regional solution in Galveston County.

The site selection methodology employed by the DHA was not nearly as sophisticated or robust as the Communities of Opportunity approach used in Thompson v HUD, but it seems clear that the proposed GHA sites would also be unacceptable using the more basic Walker methodology.

Example of site selection methodology:

<http://danielbesharalawfirm.com/Documents/JOINTEQP.doc>

When the DHA tried to build Public Housing in predominately White areas, they were often opposed by homeowners' groups, so, eventually, the court ordered the use of special Section 8 vouchers in lieu of building Public Housing, but these **“Settlement Vouchers” had to be used only in non-black, non-poverty, predominantly white areas.**

This “Substitution Plan” would be the ideal way to resolve the conflict over Public Housing in Galveston County, and its previous use by the court as the remedy in Walker should set a strong precedent for the GOGP case!

Like the GOGP case, Walker sought injunctive relief, so no damages were paid to the plaintiffs, however, portions of the eventual remedy proved costly to the defendants.

The key factors from Walker that will be very helpful to the GOGP case include:

1. The recognition that there was a concerted effort by HUD, the City of Dallas, and the DHA to maintain segregation.
2. The City of Dallas had full responsibility and culpability for the actions of its housing authority.
3. The site selection criteria was less sophisticated and robust than the Communities of Opportunity approach, but still emphasized the de-concentration of poverty and minorities, and many other metrics used by the Communities of Opportunity system.

4. The need to use the entire Dallas metro area for site selection, i.e. a regional approach.
5. The wisdom of using vouchers in lieu of building Public Housing.
6. Supplying Mobility Counseling and putting restrictions on the acceptable areas for voucher use to encourage minority clients to transition to integrated neighborhoods, especially in the suburbs.

Note the many similarities between Walker v HUD and the GOGP case in the references shown below!

Summary highlights by the law firm Daniel & Beshara, P.C.:

Objective:

*This case **sought injunctive relief** for a class against several defendants and did not seek damages on behalf of that class. When specific monetary amounts are mentioned, then those amounts are the funds provided by the defendants for the specific relief being provided. **The facts of this case involved decades of deliberate segregation by several governments.** The nature of the case and the injuries imposed by the segregation are very different from most fair housing or other housing discrimination cases brought by individual plaintiffs.*

Overview:

*The Walker public housing/Section 8 desegregation litigation **began in 1985** when one plaintiff, Debra Walker, sued one Dallas area suburb, Mesquite.*

*The process of obtaining these results involved at least **17 appeals to the Fifth Circuit** [15 between 1995 and 2005 - not all resulted in a decision], one petition for certiorari to the U.S. Supreme Court [denied], eight written appellate decisions [not all were formally reported opinions], and ten reported district court opinions. A Special Master was appointed, a receiver was appointed, and four neighborhood associations objecting to the placement of public housing in their areas were parties to motions or other pleadings attempting to stop such placements. Defendants or other parties opposing all or part of the relief sought were represented by at least 50 different attorneys.*

Liability findings:

The City of Dallas was subsequently found liable for its role in the segregation of DHA's programs in the Court's 1989 decision.

HUD and DHA were subsequently found liable for knowingly and willingly perpetuating and maintaining racial segregation in DHA's low income housing programs. HUD was found liable not

just for its failure to affirmatively further fair housing under the Fair Housing Act but also for purposeful violations of the Fifth Amendment to the U.S. Constitution, Title VI of the 1964 Civil Rights Act, 42 U.S.C. §§ 1981, 1982, and 1983. The district court found that the defendants had the remedial obligation to not only cease any present discrimination but to also eliminate the lingering effects of past segregation to the extent practical.

The requests and the responses show a detailed history of the specifics of the social engineering by the federal government and the local governments to maintain overt racial segregation in DHA's programs.

The Court's findings of the specific vestiges of racial segregation in DHA's programs:

The primary basis for the Court's findings of liability for all three defendants included the massed volume of historical and current documents showing DHA's, HUD's, and the City's historical and current support for overt racial segregation in DHA's programs.

Vestige A: 2,876 (92%) of the 3,116 black households in DHA's non-elderly public housing projects reside in predominantly black or minority concentrated projects in predominantly black or minority concentrated areas where the poverty rate exceeds 40%.

The unequal conditions affecting the black DHA families were stark and included high levels of crime, exposure to industrial uses and environmental hazards, unsatisfactory municipal and private services and facilities, little or no standard single family housing in the neighborhoods, high concentrations of poverty households and households on public assistance and public schools in which high percentages of students failed minimum competency tests.

NIMBY and Walker desegregation:

The order required the use of court approved sites that would not perpetuate racial segregation and **prohibited the practice of building public housing only in black areas rather than build in white areas or not build public housing at all.**

See Site Selection order Item B:

<http://danielbesharalawfirm.com/Documents/walker%20revised%20site%20selection%20order.pdf>

2001 HUD Settlement Stipulation and DHA's Substitution Plan Order:

The Court had invited both HUD and DHA to propose plans for the **substitution of Section 8 units for all or part of the 3,200 public housing units** that the 1995 and 1996 Remedial Orders set as the benchmark for eliminating a vestige of the prior segregation. As set out in the NIMBY section above, HUD, in 2001, proposed the provision of the 3,200 Settlement Vouchers and the accompanying **\$9.95 million in mobility funding** and financial assistance including landlord bonuses, security deposit payments, moving expenses, utility deposits, and lease applications fees. The Settlement Vouchers can be used only by class members. **The Settlement Voucher can be used only in non-black, non-poverty, predominantly white areas.** HUD agreed that the rents paid for the Settlement Vouchers could be for amounts up to 125% of the fair market rents set for the regular Section 8 Voucher program. **HUD offered this agreement in return for the plaintiff class' agreement to dismiss HUD from the case.**

All copied sections above from:

<http://danielbesharalawfirm.com/walkervhud.aspx>

1987 Consent Decree:

10. During the period of the Court's jurisdiction over HUD, **HUD will provide technical assistance:**

A. **to promote DHA's efforts to market HUD-assisted housing projects in all parts of the Dallas metropolitan area to black Section 8 applicants and certificate holders, including areas and complexes where their race does not predominate.**

<http://danielbesharalawfirm.com/Documents/1987%20consent%20decree.doc>

1990 Consent Decree:

3.7 Suburban Participation. Each time the City negotiates a new contract or modification or extension of an existing contract with a suburban city, the City shall provide the suburban city with a copy of the Statement of Position attached as Exhibit J. In addition, at least annually, the City shall contact each suburban city listed on Schedule 3.7 to this Decree and **request that it enter into a cooperation agreement with DHA to develop a reasonable number of low income family housing units in that suburban city in order to further the desegregation purposes of this Decree.**

EXHIBIT J

The City of Dallas supports the provision of assisted housing for low-income persons as an important human service requiring careful municipal attention and effective action. It is the view of the City of Dallas that all of its suburban neighbors should provide their fair share of assisted housing for low income persons. In that connection, the City has urged and continued to urge its municipal neighbors to enter into cooperation agreements with the Housing Authority of the City of Dallas (DHA) for the provision of assisted low-income family housing.

The City of Dallas urges the City of _____ to undertake the efforts necessary to enter into such a cooperation agreement with DHA as soon as possible.

The national policy of “deconcentration”.

The remaining national objectives all reflect a concern for the welfare of the prospective residents of the proposed new subsidized housing. Taken together these objectives clearly state **the national policy is (and has been since 1974) that new subsidized housing units may no longer be concentrated in low-income areas.**

http://danielbesharalawfirm.com/Documents/9_24_90_Walker_Consent_Decree.pdf

Remedial Order:

A.5. 350 of the currently available new public housing units and 50% of all subsequent allocations **shall be tentatively reserved for use in predominantly white areas of the Dallas suburbs.** DHA shall request that the suburbs enter into a cooperation agreement with DHA to allow the development of a reasonable number of public housing units in each suburb. If there are not enough suburban cooperation agreements signed or suburban sites available for acquisition within 6 months of the date of this order, then DHA shall develop the units in **predominantly white areas** of the City of Dallas.

A.6. DHA shall request the assistance of Dallas County, Texas, as part of the County's **compliance with its obligation to affirmatively further fair housing** in its housing and community development related activities, in **securing cooperation agreements between DHA and the area suburbs.**

A.7. Given the applicants' and residents' stated **preference for Section 8 units**, DHA is urged to devise and submit for court approval a plan which would **use Section 8 certificates and vouchers to substitute for at least part of the future allocations of new public housing in predominantly white areas.**

http://danielbesharalawfirm.com/Documents/Walker_Remedial_Order_Affecting_DHA%5B1%5D.pdf

Open Jurist:

8. **The decree also recognizes "an unbroken pattern of purposeful racial segregation and discrimination by DHA dating from the inception of DHA's program to the present day...." Essentially, DHA traditionally had operated its housing program to prevent blacks from moving into white areas of the city, and it purposefully maintained separate, racially identifiable housing projects.**

9. **The demolition at West Dallas would be coupled with the issuance of a like number of section 8 certificates and vouchers to replace demolished units and to house displaced families.**

<http://openjurist.org/912/f2d/819/walker-v-united-states-department-of-housing-and-urban-development>

Find A Case:

This is a class action that **involves racial discrimination in low-income public housing in the City of Dallas and its suburbs.**

- (i) that the City of Dallas will be joined as a party defendant in this case;

". . . We believe that there is strong sentiment by all parties with whom we have talked that **the City has had an active, historical**

involvement in the DHA's operations and, therefore, bears some responsibility for the condition of public housing in Dallas.

- (ii) the long, unbroken history of deliberate segregation and discrimination in public housing by DHA and by the City of Dallas

4) The City of Dallas was a substantial cause of the creation and maintenance of racial segregation and discrimination in the housing assistance programs administered by the Housing Authority of the City of Dallas [DHA]."

- (iii) require the City to provide "the counseling and transportation services" necessary to help black families move to non-minority areas in Dallas and its suburbs under DHA's § 8 assistance program"

"So while it is true that there are times when public officials in the City Council claim we have no direct responsibility or authority over that (DHA) board, that is not true. As a matter of fact, we make those appointments. And I have no doubt whatsoever that **the policies and traditions which have been developed by the Dallas Housing Authority are a direct reflection of what has been the spoken or unspoken political climate in the city.** I do not think that the DHA has been out on a limb in the development of those policies over many years."

Similarly, DHA Executive Director Jack Herrington testified that, in his experience, **"members of the [DHA] Board have been responsive to the Mayor who appoints them."**

In addition, under the **"Cooperation Agreement"** between the City of Dallas and DHA, "the City agrees to "cooperate with [DHA] by such action as the City and [DHA] may find necessary in connection with the development and administration of the public housing" in Dallas. Accordingly, the City has described its relationship with DHA in this manner:

"The Housing Authority of the City of Dallas was created by City Council resolution. It provides a specific public service in

response to a need found by the Dallas City Council. State law recognizes this relationship as different from relationships the City has with other legal entities or governments. . . . The Authority is, in effect, an 'arm of convenience' of the city government."

Because of its receipt of these CDBG funds, the City had these obligations: to refrain from racial discrimination in its housing-related activities; to eliminate the effects of any past housing-related discrimination; and to administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing. 42 U.S.C. ? 5304(b)(2); 24 CFR ? 570.601.

Under these CDBG requirements, it is clear that the City of Dallas also had an obligation to prevent DHA from engaging in racial discrimination and segregation in its public housing programs -- and to further the goal of "fair housing" by requiring DHA to eliminate the effects of its past discrimination in public housing.

III. Deliberate Segregation in Public Housing by DHA and by the City of Dallas

From its beginning, the primary purpose of DHA's public housing program was to prevent blacks from moving into white areas of this city. The City of Dallas knew of this intentional segregation; and, it repeatedly took actions either to cause this racial discrimination and segregation, or to help DHA maintain it.

17. Summary: "This City Has Not Been Kind to the Poor and to Minorities "

It is obvious, from this history of public housing in Dallas, that the City knew of DHA's deliberate discrimination and segregation in its ? 8 assistance programs and in its public housing projects. The City of Dallas could have intervened to stop these illegal practices of DHA -- but it did not.

In addition, the undisputed facts establish that the City itself was a substantial cause of this racial discrimination in public housing in Dallas. These are just some of the examples discussed above:

http://tx.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19890804_0000035.NTX.htm/qx