

PETER BUSCEMI'S OPENING STATEMENT
(Plaintiffs' Counsel)

10:06:03 In January of 2005, after 17 days of trial, on
2 liability, the Court issued a detailed extensive decision
3 making detailed and extensive findings of fact. And
4 concluding that the Federal Department of Housing and Urban
5 Development had breached its statutory duty, to affirmatively
6 further fair housing.

10:06:38 In short, the Court found that HUD had focused all
8 of its housing efforts or nearly all of its housing efforts
9 within the City of Baltimore and had ignored the need for
10 regional measures to further fair housing given the
11 population of the city and the population of the surrounding
12 suburbs, that a regional approach was necessary in order to
13 promote fair housing and integrated housing patterns.

10:07:09 Now we're here to discuss the remedy for the
15 violation that the Court has found. And we've submitted an
16 extensive pretrial brief, with proposed findings of fact, and
17 proposed remedial order.

10:07:26 I'd like to talk about that proposed remedial
19 order, why it contains what it contains, but before I do
20 that, I just want to take a moment to address one liability
21 issue that remains outstanding, and that concerns the
22 plaintiffs' claim of a constitutional violation, a violation
23 of Fifth Amendment, the equal protection component of the due
24 process clause.

10:07:56 In that, the federal defendants have not fulfilled

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1 their obligation to disestablish what the Court has already
2 found and what I believe to be uncontested, that there had
3 been de jure segregation in public housing in the City of
4 Baltimore.

10:08:18 That finding, and that fact, imposed an affirmative
6 obligation on the federal government to eliminate the
7 vestiges of that past de jure segregation, and it is our
8 position that the federal government has failed to do so.

10:08:36 We think that this is a straightforward claim. The
10 government has attempted in its filings to complicate it, to
11 make it more complex than it is.

10:08:47 The government helped to create the de jure
13 segregated system. It had an affirmative obligation to
14 eliminate that segregation. It didn't do it.

10:08:58 It is not, as the Court has already said, a
16 question of intent. It is not a question of racial animus.
17 Those matters are not necessary to the claim of a
18 constitutional violation when the claim is a failure to
19 eliminate the vestiges of prior de jure segregation.

10:09:23 What is a vestige within this context? What does
21 the word vestige mean? It has a simple meaning. It's not a
22 complicated meaning. It means the continuing segregation of
23 public housing in Baltimore City. The uninterrupted
24 segregation. The segregation that never has ceased since

25 1954.

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10:09:44 The government has attempted to say, no, a vestige
2 has some policy that we have to have had a policy prior to
3 1954 and the plaintiffs are obliged to trace that policy
4 through the intervening 50 years and establish that we still
5 have some lingering policy. That is false.

10:10:04 That is not what the case law teaches. It is not
7 what this Court has already held, and I'll refer the Court to
8 pages 443 and 461 of the Court's January, 2005 opinion, in
9 particular, there are other citations, but those are two of
10 the best.

10:10:31 Now, not only did the government fail to take a
12 regional approach in an effort to diminish the segregated
13 character of public housing in Baltimore, but in a variety of
14 ways, since 1954, the government has helped the segregated
15 character of public housing in Baltimore to persist, and I
16 won't go into all of the Court's factual findings that have
17 already been made, but I will simply mention that that many,
18 many instances, the government has participated in citing
19 additional public housing right in the areas of concentrated
20 poverty and minority population, right in the segregated
21 areas near or at the sites of public housing that was already
22 segregated. That has contributed to the problem.

10:11:32 The same thing has been true with Section 8
24 activities, construction activities, also located in the same

25 high poverty, high minority concentration districts, not an

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1 effort to create an integrate the settings for public housing

2 or publicly assisted housing in the Baltimore region.

10:11:59 The consequence of those failures is that our

4 clients, the residents of public housing in the City of

5 Baltimore, have been denied choices that are available to

6 others. They have not had the opportunity to go where others

7 can go. They have not had the opportunity to live anywhere

8 but in the poorest, most highly concentrated African American

9 areas of Baltimore City.

10:12:28 And the consequence of the government's failure to

11 disestablish the lingering effects of prior de jure

12 segregation is a violation of the Fifth Amendment.

10:12:40 Now, we urge the Court to find that constitutional

14 violation in addition to the statutory violation. And we do

15 that in part because, as the Court can see, from reviewing

16 the government's submissions, we have been treated to a

17 variety of protests about the imposition of any remedy

18 whatsoever, all of which seemed to stem from a very

19 convoluted intricate obscure arcane reading of various

20 statutory provisions and regulations. We don't see it that

21 way. We don't think the government is correct in its many

22 protests about what it can and cannot do.

10:13:27 But we think that the finding of a constitutional

24 violation, as well as the statutory violation that the Court
25 has already found, will help to avoid some of the

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1 government's arguments about the authority of the Court, the
2 specifics of a particular statute, or regulation, or internal
3 document, within HUD, in limiting the kind of remedy that the
4 Court can impose.

10:13:54 THE COURT: Mr. Buscemi, you seem to be saying, or
6 very close to saying that the finding of a statutory
7 violation equates or requires the finding of a constitutional
8 violation, so long as there are vestiges. I mean, I think
9 that's what you're saying.

10:14:15 MR. BUSCEMI: Your Honor, I guess what I am saying,
11 I wouldn't put it quite that way, but I understand why you
12 asked the question. I guess what I'm saying is, under the
13 circumstances of this case, where we do not have any time
14 period, the government doesn't even suggest that at any time
15 during the period from 1954 to the present that the
16 segregated character of public housing in Baltimore has been
17 altered.

10:14:44 The government does not suggest that the decisions
19 that have been made over the years between 1954 and the
20 present have not contributed to the persistence of the
21 segregated character of the public housing.

10:14:57 The government simply says we don't think
23 continuing segregation is a legitimate vestige. That doesn't

24 qualify as a vestige.

10:15:07 So I'm not saying that we're urging the Court to

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1 rule that any statutory violation committed by any

2 governmental entity in any circumstances equates to --

10:15:17 THE COURT: No, no, I meant in this case.

10:15:18 MR. BUSCEMI: I'm saying, under the circumstances

5 of this case, where there has been no elimination of the

6 lingering effects of the prior de jure segregation that

7 constitutes a constitutional violation.

10:15:33 The government has not done what it can do to

9 eliminate segregation.

10:15:38 THE COURT: I think what you're saying is that the

11 fact findings that supported the statutory violation are in

12 and of themselves enough to support the constitutional

13 violation, or are you saying that there has to be something

14 more for a constitutional violation, and there is something

15 more, other than the existence of the vestige component?

10:16:05 MR. BUSCEMI: Well, we are going to present

17 evidence, Your Honor, about the progress or lack thereof in

18 Baltimore throughout this period.

10:16:14 But to answer your question directly, yes. We

20 believe, and we've said in the submissions that we've made to

21 Your Honor, that Your Honor has already made adequate

22 findings to support the existence of a constitutional

23 violation.

10:16:26 THE COURT: Okay. Go ahead.

10:16:29 MR. BUSCEMI: Now, let me turn, please, to our

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1 proposed remedy. Let me say, first, that our proposed

2 remedy, which is contained in the remedial, draft remedial

3 order that we've attached to our pretrial brief, has both

4 procedural and outcome components.

10:16:50 THE COURT: Mr. Buscemi, before you do that, I'll

6 ask you what obviously you all think about this case, I'll

7 just ask you a broad question, we may come back to it.

8 Because I've said to myself, well, suppose I had

9 this case, and I was unrestricted by precedent, I was

10 unrestricted by any restrictions whatsoever, I was a

11 dictator; and, therefore, I could tell everybody what to do,

12 Congress, everybody, so no instructions at all, totally

13 unlimited budget, totally unlimited power, what would I do to

14 solve the problem that the plaintiffs present?

10:17:40 And I'd like to think that if I had totally, and

16 didn't worry about the Court of Appeals or didn't worry about

17 anything, that I would do X, Y, and Z.

10:17:47 Of course, we can talk about that totally

19 hypothetical situation, and I trust that your proposed

20 remedial order is something less than what I would do if I

21 had no restraints whatsoever.

10:18:04 But I do have a pretty good idea what I'd do with

23 no restraints whatsoever. I must say your proposed order

24 doesn't go that far.

10:18:08 (Laughter)

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10:18:12 THE COURT: But have you thought about it? You're

2 not suggesting a proposed order saying this is totally pie in

3 the sky, this is without regard to any restraints that this

4 is, at least from your point of view, within the restraints

5 imposed by the precedent, and that it is a -- it will survive

6 a trip to Richmond and the scrutiny of the Fourth Circuit?

10:18:42 MR. BUSCEMI: Your Honor, we wouldn't have proposed

8 it if we didn't think that.

10:18:52 We think that we have not only proposed a remedy

10 that is well within the Court's authority, but it is

11 supported by precedent of comparable remedies in other

12 situations.

10:19:06 THE COURT: I guess would you also agree this may

14 be the first case where the Court has had to impose a remedy

15 and the parties haven't reached an agreement? It may be.

10:19:17 MR. BUSCEMI: Well, I don't know, Your Honor. I

17 couldn't speak for the vast array of civil rights litigation

18 throughout the nation, but I quite agree with you, that many,

19 many such cases, as this, have resulted in settlements.

10:19:31 One of the puzzlements, in fact, that we were

21 talking about last night is just why the government has

22 chosen to take the course that it has.

10:19:38 THE COURT: That's their right.

10:19:39 MR. BUSCEMI: That's their right.

10:19:43 THE COURT: I have no interest, nor information,
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1 about the settlement discussions, and I will assume that it's
2 just as likely that you were unreasonably as stubborn as the
3 other side. I'm not going there.

10:19:55 I'm just saying it is peculiar that something that
5 is quite obviously better able to designed by the parties is
6 going to have to be designed by the Court, just does seem
7 unusual.

10:20:07 Now let's move on.

10:20:09 MR. BUSCEMI: Thank you, Your Honor.

10:20:13 I started to say that we have both process,
11 procedural aspects of our proposed order and outcome, actual
12 desegregative housing opportunities aspect of our proposed
13 order.

10:20:29 We think that it's important to do both. We
15 started with Your Honor's letter of April, 2005, in which
16 Your Honor urged us in no uncertain terms to investigate the
17 procedures employed within HUD to review housing proposals,
18 programs, grants, and the like, and we will be presenting
19 evidence to the Court about that. We hope that it fulfills
20 what the Court has requested.

10:21:00 And we have proposed a series of procedural

22 changes, or procedural methods to be devised by HUD and
23 submitted to the Court for its approval that we think would
24 at least ensure that fair housing considerations would be
25 addressed with more care and with more regularity, with more

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1 seriousness than they have been to date.

10:21:26 But, in addition, we think it's important, it's
3 important for our clients, it's important for the families
4 that are living in the segregated high poverty public housing
5 in the City of Baltimore to be given the same kind of
6 opportunity to live elsewhere that others have had for all
7 these years.

10:21:46 And that's why we also think it's important to have
9 a means of measure in progress. We're very concerned that if
10 the remedy that the Court imposes is limited to process, we
11 will create piles of paper. We will create dozens of
12 meetings. We will create committees and subcommittees and
13 reports, and memoranda. But we won't create real progress by
14 that alone.

10:22:14 And, therefore, we have asked that the Court
16 require certain amount, and I stress at the outset that what
17 we've done is a very modest amount. This is a problem that
18 is decades old. It is not going to be solved overnight. No
19 one's suggesting that it is. It's not going to be solved in
20 its entirety. No one suggests that it is. We have tried to
21 take a very measured approach, and I'll describe to the Court

22 what the witnesses will say about how we got there.

10:22:47 But, in any event, both because of the desirability
24 of having some real benefit for our clients, the members of
25 the plaintiff class, and for the purpose of having some real

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1 measurable progress, we think that a process-oriented remedy
2 alone is not sufficient.

10:23:05 What have we proposed?

10:23:08 First thing that we've proposed is that HUD itself
5 create an affordable housing desegregation plan. We've
6 suggested that that plan be developed by a working group
7 within HUD, selected by HUD, and we've tried to suggest some
8 of the components of what that plan should entail.

10:23:31 Those are listed in part 2 E of the proposed order
10 that appears at pages 4 to 6.

10:23:39 In essence, we seek a process to ensure that the
12 statutory requirement of affirmatively furthering fair
13 housing is actively and effectively considered throughout the
14 many decisionmaking steps that HUD employs and throughout its
15 many programs.

10:24:00 It's an effort to try to get away from what some
17 people have called the stove pipe nature of individual
18 programs and to have a more singular, more unified
19 decisionmaking process that considers the impact on fair
20 housing of a whole variety of HUD decisions.

10:24:27 Second, we've suggested that HUD put in place a
22 regional process for reviewing actions related to housing and
23 for affirmatively and furthering fair housing.

10:24:42 That part of the proposed remedy concerns
25 encouraging, taking steps to encourage the location of

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1 assisted housing in what we've called, for a shorthand label,
2 and I'll get to this in a moment, what we've called
3 "communities of opportunity."

10:25:04 That's not a -- that's a fancy label, but it just
5 means good neighborhoods. It means what we all know
6 constitute good neighborhoods. Good schools. Good
7 educational opportunity. Access to employment. Decent
8 transportation. Lower crime rates. We all know what a good
9 neighborhood is. We search them out for ourselves.

10:25:23 So when we talk about communities of opportunity,
11 that's what we mean. And Your Honor will hear from John
12 Powell, who testified at the liability phase of the case, and
13 he will explain how he provided a list of what he considers
14 to be communities of opportunity.

10:25:40 Could there be disagreement around the edges?

10:25:43 Could there be more communities of opportunity than
17 he's listed? Sure.

10:25:48 There's nothing magical about a specific list. But
19 what we're trying to do is to identify places where we think
20 public housing, publicly-assisted housing, where families

21 could move, that would give them a better chance in life than
22 they have because of the restrictions that they faced in the
23 high poverty, highly segregated public housing where they've
24 been living.

10:26:13 And that aspect of the remedial order talks about

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1 putting in place requirement for grant these plans and
2 programs. It talks about trying to analyze what the
3 impediments are to permitting public housing residents to
4 move to different communities, and what it will take to
5 eliminate those obstacles.

10:26:33 And it talks about putting in place requirements

7 for competitive grant applications, for plans to demolish or
8 redevelop public housing or assisted housing, and for
9 relocation plans associated with that redevelopment,
10 relocating the people who have been living in those places.

10:26:58 Now, let me turn to the what I called earlier the

12 outcome portion of the remedy. We have asked that the Court
13 impose a requirement that HUD see to it that there be an
14 actual number of desegregative housing opportunities brought
15 online, made available, to the members of the plaintiff class
16 over the next ten years, in addition to what has already been
17 required under the partial consent decree.

10:27:33 Now, how did we go about trying to figure out what

19 makes sense? We looked at the available set of family public

20 housing units in the Baltimore region. There are just over
21 17,000 of them, as of 1995.

10:28:03 Almost 92 percent of them, 91.8 percent, located
23 here in the City of Baltimore, only 8.2 percent, family
24 units, public housing units in this Baltimore region located
25 outside the City of Baltimore.

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10:28:21 Then we looked at the geographic distribution
2 within the Baltimore region of unassisted family rental
3 units. Not all of them, because we were very concerned to
4 take out units that might be too expensive that might house
5 people of much greater means. So we looked only at the
6 unassisted rental family units in the Baltimore region for
7 persons of modest means, persons with income well below the
8 median for the region.

10:29:09 And Jill Khadduri, who will testify today, will
10 explain how we did that. But what we've found was that more
11 than 60 percent, more than 60 percent of such units for
12 persons of modest means, persons substantially below the
13 median income in the region, were in the suburbs as of 2000.

10:29:36 So we compared that percentage, 60.2 percent in
15 suburbs in the year 2000, with the percentage of family
16 public housing units in suburbs, 8.2 percent.

10:29:53 And we said if HUD's policies, instead of building
18 and retaining public housing in the high poverty high
19 minority locations that they did, if they had taken the same

20 number of family units and dispersed them throughout the
21 Baltimore region in the same way that lower income renting
22 families live in the region, there would have been another 52
23 percent, a difference between 60.2 and 8.2, of those public
24 housing units dispersed throughout the region. And that
25 amounts to approximately 9,000 additional units.

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10:30:34 And so we looked, and we said the partial consent
2 decree requires the provision of 2250 additional housing
3 opportunities. We're looking to see what should be done
4 beyond that. And we subtracted. We took the 9,000, that we
5 came up with through Miss Khadduri's analysis, we subtracted
6 the 2250, and we came up with 667.50 over a 10-year period.
7 And so we've asked in our outcome portion that the
8 Court direct HUD to make available 675 housing opportunities
9 annually over and above those required under the partial
10 consent decree in the kinds of communities of opportunity
11 that we've talked about.

10:31:27 Now, what does that mean in real terms? Because
13 we're very conscious of the fact that in this area, criticism
14 can come from many corners, and opposition can come from many
15 corners, but what does it mean in the real world?

10:31:48 In our proposed remedial order in appendix A, we
17 have listed nearly 200 specific census contracts, 196 to be
18 precise, I think I counted them correctly, we've listed

19 nearly 200 specific census tracts, that qualified as

20 communities of opportunity.

10:32:14 And, as I say, people can make changes at the

22 margins, disagree is this census tract, should this group be

23 added, but we've identified approximately 200.

10:32:26 So per census tract, Your Honor, we're talking

25 about three or three and a half families a year. That is not

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1 going to destabilize or change any neighborhood.

10:32:36 THE COURT: What's the population of a census

3 tract, typical?

10:32:39 MR. BUSCEMI: Well, Your Honor, this amounts to

5 approximately 40 percent of the census tracts in the

6 Baltimore region.

10:32:49 And I understand that the population of the entire,

8 so that you have, if this is 200, 20 percent would be 100,

9 you have about 500 census tracts in the Baltimore region, you

10 have a total population of about two and a half million, so a

11 census tract population would be about 50,000, if my

12 arithmetic is correct.

10:33:07 THE COURT: All right.

10:33:13 MR. BUSCEMI: I'm sorry, did I add an extra zero

15 there?

10:33:14 THE COURT: I don't think so.

10:33:16 MR. BUSCEMI: 500 into two and a half million,

18 5,000. I'm sorry. 5,000. Apologize.

10:33:23 But, in any event, Your Honor, the point is the
20 same. Three, three and a half, four families in a census
21 tract in a year is not going to change, alter the character,
22 destabilize any neighborhood.

10:33:39 And, Your Honor, let me say something else before I
24 go further into the details of this proposal, and that is, it
25 is not in plaintiff's interest to do anything that would

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1 alter the character of the neighborhoods that we are urging
2 that they be permitted to move to.

10:33:58 THE COURT: No. Both the hysterical fear by those
4 opponents is the same fear that you have, which is you
5 accomplish nothing if we take a step that drags an existing
6 good neighborhood down to something less than a good
7 neighborhood, we've done nothing for you, we've done nothing
8 for anybody.

10:34:16 MR. BUSCEMI: Exactly right, Your Honor. Our
10 clients want the opportunities to live in good neighborhoods.
11 They want the opportunities that living in good neighborhoods
12 bring, and they want those opportunities to continue to be
13 available once they get there.

10:34:30 THE COURT: At the very beginning of this case, and
15 I had a public hearing of this, and I heard from people who
16 were opposed to what we're doing. And I got some resistance
17 from the plaintiffs' side, but I recognize your clients also

18 have responsibilities here. I mean, you, we, if it's a court
19 effort, have to be in a position to make assurances to the
20 fullest extent possible that, in fact, the people who are
21 going to be given the opportunity will be successes.

10:35:08 And we're going to have failures, because as I
23 think I said to as to experts on your side back in the old
24 days, is that I can go to a hundred homes in whichever
25 neighbor neighborhood, I'll take Roland Park, I'll guarantee

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1 two or three people you don't want to live near, and these
2 are wealthy people.

10:35:32 If we're going to pick a hundred families, there
4 are going to be two or three families that aren't going to be
5 good neighbors.

10:35:42 Recall that, Mr. Buscemi, it isn't a perfect world.
7 We have to build a mechanism. When we have the failures,
8 we'll take care of that, too, without having another war.

10:35:51 I assume that's what you're talking about, is a
10 system whereby there is protection for the neighborhood, too.

10:35:58 MR. BUSCEMI: It certainly is, Your Honor. We want
12 to avoid undue concentrations of poverty. We don't want to
13 permit a disproportionate number of class members to move to
14 any particular place, whether it's in terms of a hard unit or
15 in terms of vouchers that go with a particular individual.
16 We very much want to preserve the very advantages that make
17 these communities of opportunity attractive in the first

18 place.

10:36:34 And we think, Your Honor, that there is a benefit
20 to the communities themselves. You'll hear testimony from
21 persons who have analyzed the employment market here in the
22 Baltimore region, that there is a mismatch between the need
23 for persons to fill service jobs and the persons in the
24 locale to fill those jobs. And we think that part of the
25 benefit that this remedy will bring is that there will be not

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1 only for the public housing residents themselves being closer
2 to employment, but for the persons seeking to employ those
3 people having them near by, less in need of taking an hour or
4 hour and a half to get to work.

10:37:23 Now, what have we suggested with regard to these
6 675 additional housing opportunities annually? We think that
7 it's important not only there be an outcome component, but
8 that it involve both hard units and some form of voucher.

10:37:46 We say that primarily because this is a very tight
10 housing market. The government has so stated. The Court has
11 noted the government's statements to that effect. There need
12 to be a certain number of units available of the size that is
13 needed to accommodate families.

10:38:08 And when the housing market tightens, when fewer
15 and fewer units are available, having some units that have
16 been devoted to families from public housing, publicly

17 assisted housing, provides at least some assurance that there
18 would be some units that are in fact available.

10:38:29 Now, this doesn't have to be done in any one
20 particular way. We don't have to have necessarily new
21 construction. We could achieve this portion through
22 rehabilitation of existing housing.

10:38:40 We're not looking to create large concentrations.
24 We're hoping that this can be done on a smaller scale to
25 accommodate smaller numbers of families in particular

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1 locations.

10:38:53 But we have proposed that under half of these
3 housing opportunities that we've asked for be through the
4 creation of new hard units, one way or another.

10:39:08 300 two or more bedroom units of which at least two
6 at least 200 annually would be three or more bedrooms, the
7 size needed for a family.

10:39:18 And we have said that in any complex where these
9 units are located, there should be no more than 20 percent of
10 the total number of units that would be used for former
11 public housing or assisted housing residents, it would
12 probably be lower than that.

10:39:33 THE COURT: All right. I think we're close to the
14 time. And I have taken up some of your time, but it may not
15 be necessary for you to develop more of your opening to the
16 level of detail, because we're certainly going to be going

17 into that.

10:39:46 MR. BUSCEMI: Fine, Your Honor. Let me just finish
19 up by making a few points about a couple more points about
20 the remedy that we've proposed and tell you a little bit
21 about what you're going to hear and what the government has
22 said.

10:40:01 We have proposed a region-wide system for
24 administering vouchers so that the explanation that Your
25 Honor has already found that came in at the liability phase

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1 of trial will no longer be the case; that is, as Your Honor
2 knows, there were many, many house of unused vouchers, and
3 Baltimore City could not find a place for those vouchers to
4 be used. And, as a consequence, they were defunded. And HUD
5 recaptured money from Baltimore City because vouchers weren't
6 used.

10:40:35 So we want to have a region-wide system for
8 administering the vouchers to help avoid undue concentrations
9 of poverty.

10:40:42 We want to have voluntary participation by
11 families. That's a very important point. We don't want to
12 force people to go places.

10:40:49 And we want to have some mobility counseling. We
14 want to have a system by which families can be aided in
15 finding places to go, finding places to live, that would

16 fulfill the objectives.

10:41:02 We want to have community input. So you'll see at
18 the very end of our proposed remedial order, we've asked the
19 Court to put in place a system for community input to this
20 process from all players in the housing market, the creation
21 of an advisory council through which issues can be discussed,
22 problems can be identified before they occur, and assistance
23 can be obtained in finding appropriate locations.

10:41:29 We think that, with that kind of involvement, this
25 can be a situation in which everyone benefits.

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10:41:39 Now, let me just talk briefly about the witnesses
2 that you're going to hear from. You're going to hear from
3 Jill Khadduri, she will be our first witness. She is the
4 former director of HUD's Division of Policy Development. She
5 worked at HUD in various capacities for more than 25 years.

10:41:56 She's going to describe the decisionmaking
7 processes at HUD, and what could be done to help them focus
8 better on achieving greater degree of integration and greater
9 housing opportunities for persons in the plaintiff class.

10:42:18 And she'll recommend some specific changes that we
11 think would be beneficial.

10:42:25 She also will comment on the authority that HUD has
13 to implement those changes.

10:42:33 The Court will also hear from Margery Turner and
15 Xavier Briggs. Miss Turner is the Director of the

16 Metropolitan Housing and Communities at the Urban Institute.

17 Professor Briggs is associate professor of Urban

18 Planning at MIT.

10:42:49 And they will testify about the benefits and the

20 positive impact of living in a low poverty integrated

21 neighborhood. We all know that. We all know it ourselves

22 from where we look for housing for ourselves.

10:43:02 They will testify about their work in that area.

24 They'll also testify about the importance of a supply side

25 strategy, as well as vouchers.

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10:43:11 As I mentioned earlier, you'll hear from Professor

2 Powell, professor at Ohio State University, who will talk

3 about communities of opportunity, and he will also talk

4 about, as I mentioned a moment ago, the mismatch that

5 currently exists between employment opportunities and where

6 people live who could fill those jobs.

10:43:31 He'll identify the considerations that went into

8 his identification of communities of opportunity, the

9 different factors related to employment and education,

10 quality of neighborhood, crime statistics, et cetera.

10:43:46 We also present the testimony of Gerald Webster,

12 who's the Chairman of the Geography Department at the

13 University of Alabama, and he has done a historical analysis

14 of public and assisted housing throughout this region. And

15 he's going to testify about the continuing segregation

16 decade-by-decade failure to disestablish segregation.

10:44:11 We will present of Anirban Basu, who's an expert

18 economist, chairman and CEO of the Sage Policy Group here in

19 Baltimore, who will testify about the difficulties for low

20 income African Americans to find housing and the need for

21 assistance in this tight rental market.

10:44:28 We have a couple of other experts that we intend to

23 present, including Stephanie De Luca, Professor of Sociology

24 here at Johns Hopkins, and Camille Charles Assistant

25 professor at the University of Pennsylvania.

27

10:44:43 And they will talk about, among other things, their

2 study of the mobility program, the importance of quality of

3 neighborhoods, the fact people do tend to stay in neighborhoods

4 they move to. When they have a positive effect in the new

5 neighborhoods, they tend to say, and there's a lasting

6 improvement.

10:45:04 And then you will also hear from actual people who

8 have moved, residents of Baltimore City who have actually

9 relocated and will talk about their experiences, as well as

10 some local community members, and administrators who are

11 supportive of the integrative members that we're talking

12 about.

10:45:26 Now, let me conclude, Your Honor, by saying just a

14 few words about what the government has said in response to

15 what we've presented.

10:45:36 The government has not proposed an alternative
17 remedy. They have proposed no remedy at all. They have
18 submitted a piece of paper to Your Honor, after Your Honor's
19 January, 2005 ruling, and after Your Honor's January 2006
20 opinion on the government's renewed motion for summary
21 judgment, they have once again submitted to Your Honor papers
22 asking that judgment be entered for HUD.

10:46:05 That, in our view, is not constructive.

10:46:10 They have asked in the alternative for a remand to
25 HUD.

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10:46:14 That, in our view, is also not constructive. It
2 was rejected by the Court at page 26 of the January 10th 2006
3 opinion.

10:46:23 THE COURT: But I don't fault them for taking the
5 position that they should get judgment, and they're going to
6 have that, and we'll move on.

10:46:32 I think that it would be unconstructive if they
8 said we're so right that the Fourth Circuit's going to so
9 hold; therefore, we're not going to show up and participate
10 in the trial. Well, there you go. They're participating.

10:46:45 I assume they will address the remedy on the vague
12 hypothetical theory that somehow, somehow some court decides
13 that maybe there should be some remedy, I assume they'll

14 participate.

10:46:55 MR. BUSCEMI: In any event, Your Honor, the bottom
16 line, from our perspective, is that the government appears to
17 be satisfied with the status quo, and we don't think that
18 that is acceptable.

10:47:08 The status quo is not good. The status quo is
20 segregated public housing. And there is absolutely no
21 discussion about how to help people who are affected.

10:47:17 There's all kinds of discussion about statutes and
23 rules and regulations and APA, and all of this stuff, but
24 there's no discussion about the human beings that are in
25 public housing and how to help them get out of the poverty

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1 and segregation in which they're currently living.

10:47:34 THE COURT: I'm sure we're going to have a lot back
3 and forth on that.

10:47:36 MR. BUSCEMI: I'm sure we will.

10:47:39 One thing that the government does do, they point
6 the finger at others then say the problem is with the local
7 housing authorities. We really can't do much, it's the local
8 housing authorities, and they haven't done this, and they
9 haven't done that, and therefore we can't do anything. We
10 are helpless.

10:47:56 This is a huge federal agency, and they're
12 submitting to Your Honor what we think is simply not accurate
13 when they say they're totally powerless to effect change.

10:48:08 The other argument that they make is somewhat
15 inconsistent. They say the Court should not interfere with
16 their discretion. Well, one might wonder what discretion
17 they're talking about if they really can't do anything.

10:48:20 THE COURT: I've wondered about it.

10:48:23 MR. BUSCEMI: Now, what else did they say? Well,
20 they say this kind of remedy that we've asked for would
21 improperly burden non party jurisdictions.

10:48:35 They say that we have no business asking the Court
23 do anything that might have any effect on anybody other than
24 the parties in this case.

10:48:43 Well, there are two answers to that, probably more

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1 but at least two.

10:48:49 First, our proposed remedy is addressed entirely to
3 HUD. Our proposed remedy directs HUD to do things with the
4 powers that it has available to it. HUD conditions its
5 grants, its approvals, its programs, on agreement to a
6 variety of conditions all the time. And that's part of what
7 we're asking for.

10:49:11 But, in any event, Your Honor, this is, the Court
9 is not writing on a blank slate on this score. The exact
10 same argument, exact was made by the government and rejected
11 by the Supreme Court in the Gautreaux case.

10:49:29 Justice Stuart, writing for a court that voted 8 to

13 nothing, Justice Stephens didn't participate because he was
14 on the Seventh Circuit when the Gautreaux case came up,
15 writing for an 8 to nothing court, quoted from Solicitor
16 General Bork oral argument, and the solicitor general said
17 exactly what the government says, if you order a metropolitan
18 regional remedy against HUD, this will improperly interfere
19 with other non party jurisdictions, and the Supreme Court
20 unanimously rejected that.

10:50:04 So we don't think there is any basis for that

22 argument, both in terms of the specifics of our proposed
23 remedy and in terms of the precedent that governs.

10:50:15 Then the government says, well, there are certain

25 statutory limits on what can be required. But the government

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1 doesn't identify those limits. You'll look in vain in the
2 two submissions that the government has made for quotations
3 from a statute that says the Court may not do this, or says
4 that this remedy cannot be ordered because the statute
5 prohibits it. It's not there.

10:50:37 Moreover, it ignores comparable remedies in other

7 cases that we've brought to Your Honor's attention.

10:50:43 Finally, the government says, well, all of this is

9 too speculative. It might not help. And if it does help, it
10 won't help everybody. And the Baltimore region concept
11 doesn't match reality. They say all those things.

10:51:01 Well, let's assume it won't help everyone. Is the

13 solution to help no one? That can't be.

10:51:10 There have been remedies of this kind. They have

15 taken place in cities around the country, if Chicago,

16 Minneapolis, Dallas. Have they been as hasty, as quick as

17 they should be to eliminate effects of segregation that's

18 existed for decades? No.

10:51:25 Have they made some progress? Yes.

10:51:28 And some progress is better than no progress, Your

21 Honor. And the government is asking for no progress, and we

22 don't think that's appropriate. We don't think the

23 government should be here asking for no progress.

10:51:38 We think that the government should be seeking

25 progress just like we are, and we hope that we can work

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1 together with the Court and with the government in achieving

2 an appropriate remedy, an appropriate resolution.

10:51:50 Thank you very much for your patience and for your

4 attention, Your Honor.

MARGERY TURNER DIRECT EXAMINATION

(Expert Witness for Plaintiffs: Director of the Center on Metropolitan Housing and Communities at the Urban Institute, former HUD Deputy Assistant Secretary for Research Evaluation and Monitoring)

15:46:59Q. Miss Turner, what are the harms for families living in

4 distressed high poverty segregated neighborhoods?

15:47:06A. Well, there's a very large amount of evidence showing

6 that problems, problems like teen parenting and crime,

7 joblessness, have a much higher incidence in high poverty
8 neighborhoods, in highly segregated neighborhoods than in
9 other neighborhoods.

15:47:22 But that evidence of a high incidence all by itself
11 that doesn't prove that in fact the neighborhood is having a
12 bad effect.

15:47:29 So there's a very extensive research literature
14 exploring this issue of whether living in a segregated high
15 poverty neighborhood in and of itself contributes to bad
16 outcomes for families.

15:47:44 And I think of that research as having two big
18 components. One part of that research explores using a
19 variety of social science methods, what are the mechanisms?
20 What is it about high poverty, highly segregated
21 neighborhoods that would have a bad effect on families?

15:48:02 And then there's another set of research that's
23 highly quantitative, that establishes that there actually is
24 a negative effect for families after controlling for other
25 issues.

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15:48:18 So that first chunk of literature is really
2 focusing on what it is that high poverty, highly segregated
3 neighborhoods lack. What it is that they've been starved of
4 that makes a difference for families wellbeing.

15:48:36 And examples of problems those neighborhoods face,
6 reasons they don't function well for families are that they

7 typically lack quality services, schools in particular, but
8 not exclusively.

15:48:52 They often because of the distress of so many
10 families in those neighborhoods don't have effective
11 mechanisms for social controls, social norms that help
12 essentially govern people's behavior and set standards for
13 young people.

15:49:09 Often peer networks in those neighborhoods are weak
15 or counterproductive, as are the social networks that adults
16 might use to find out about jobs or get job referrals.

15:49:20 These neighborhoods typically have very high crime
18 rates. So not only do residents have a higher risk of being
19 a victim of a crime, they also have a very high risk of being
20 traumatized by exposure to and fear of crime and violence.

15:49:38 Finally, as jobs in many regions have
22 decentralized, getting farther and farther way from the
23 central city, many high poverty segregated neighborhoods
24 simply lack access to good job opportunities.

15:49:53 So that's a whole array of mechanisms, causal
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1 mechanisms, that make high poverty highly segregated
2 neighborhoods bad places to grow up, bad places to raise a
3 family.

* * * * *

16:41:48 THE COURT: Could you just explain a little bit?

22 The last thing you said was the portability is critical [to the Section 8 voucher program].

23 And earlier on you said some things about portability is

24 problematic, can you just reconcile that?

16:42:02 THE WITNESS: Okay. By saying portability is

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1 critical, I meant that the statutory right to portability,

2 the right to take your voucher and go to another

3 jurisdiction, I think is a critical element of the program.

16:42:19 The way in which portability works administratively

5 is awkward and clumsy. So while the right is there,

6 statutorily, it's hard to exercise it, hard for both the

7 housing.

16:42:35 THE COURT: Explain that. Explain that to me, in

9 the context of Baltimore.

16:42:42 THE WITNESS: If a family living in Baltimore

11 thought that it would -- that it needed housing assistance,

12 and it would like to use that housing assistance to move to a

13 suburban community, it could -- it could maximize its chances

14 of getting a voucher by putting itself on as many waiting

15 lists as possible. It would have go around in person to all

16 those different jurisdictions, put its name on the waiting

17 list.

16:43:16 So suppose its name finally comes up to the top of

19 Baltimore City's waiting list, it's not completely clear from

20 what I know of many jurisdictions whether the briefing that

21 that family attended would fully inform that the family

22 really could use its voucher anywhere, sometimes housing
23 authorities don't really come through with that information
24 in the briefings.

16:43:39 But suppose the Housing Authority did make that

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1 understandable, they would make it clear to the family that
2 moving to another jurisdiction is going to be difficult, they
3 would have to probably go to another briefing at the other
4 housing Authority. There could be paperwork delays. That
5 other housing authority might have a different set of
6 screening criteria.

16:44:00 In fact, the family who chooses to move to another
8 jurisdiction might be risking that all those delays would
9 screw things up so that they actually lost their voucher
10 before they got the new unit in the other jurisdiction.

16:44:15 If the family perseveres through all of that, it's
12 also administratively complex and somewhat costly for the two
13 housing authorities. There are a number of different
14 administrative mechanisms for passing the family and the
15 money back and forth, but none of them are completely
16 seamless.

16:44:33 THE COURT: Thank you. All right.

RICHENDA DICKEY DIRECT TESTIMONY
(Fact Witness for Plaintiffs: MBQ Voucher Recipient Mover)

10:14:32 MR. BUSCEMI: Yes. We'll call Miss Dickey as our

3 next witness.

10:14:56 (The Witness is sworn.)

10:14:59 THE CLERK: Ma'am. Adjust yourself there, speak
6 into the microphone, and state your name and spell your name
7 for the record.

10:15:09 THE WITNESS: My name is Richenda Dickey, D I C K E
9 Y.

10:15:10 THE CLERK: Thank you.

10:15:11 DIRECT EXAMINATION

10:15:11BY MS. CLARK:

10:15:14Q. Good morning, Miss Dickey.

10:15:15A. Good morning.

10:15:15Q. Where do you live in?

10:15:16A. Towson.

10:15:17Q. Towson, Maryland?

10:15:18A. Yes.

10:15:19Q. Are you currently employed?

10:15:19A. Yes.

10:15:21Q. And where are you employed?

10:15:30A. I work retail at Staples, in Towson, and I'm also a GNA.

10:15:33Q. What is a GNA?

10:15:35A. Geriatric nurse assistance.

10:15:35Q. Do you have children?

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10:15:39A. Yes, I have two boys. One that's one year old, that's

2 Todd, and I have one that's 12, that's Jarell.

10:15:45Q. Are you the recipient of a voucher?

10:15:46A. Yes.

10:15:49Q. What type of voucher is that?

10:15:49A. MBQ.

10:15:52Q. Which stands for?

10:15:56A. Metropolitan Baltimore QUADEL.

10:16:02Q. And how long ago did you receive your MBQ voucher?

10:16:02A. Two years ago.

10:16:04Q. You've been living in Towson since that time?

10:16:05A. Yes.

10:16:11Q. Miss Dickey, why did you apply for an MBQ voucher?

10:16:15A. A friend had told me about it, and the environment I was
15 living in, I wanted to change.

10:16:20Q. And where were you living at the time you applied for the
17 voucher?

10:16:24A. Latrobe Projects in East Baltimore.

10:16:27Q. Is Latrobe Projects a public housing development?

10:16:28A. Yes.

10:16:31Q. And how long were you living at Latrobe?

10:16:31A. Three years.

10:16:36Q. Can you describe for us your experience at Latrobe?

10:16:40A. It was a experience that I don't want to experience no
25 more, I mean, drug traffic, shooting, killing, finding

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1 bodies, not to mention the first night I stayed there, they

2 was shooting, next night they found a body. It was just

3 experience I don't want to experience anymore.

10:16:59Q. Did that -- I know your young son wasn't born at that

5 time, did that environment have an effect on your son Jarell?

10:17:06A. Yes, it did. He was jumping in his sleep at night from

7 the shooting. Actually, he was scared to ride his bike,

8 didn't know if kids was going to take it. As far as

9 schooling, he wasn't doing too well in school.

10:17:18Q. How did the environment affect you?

10:17:21A. It affect me because I was seeing that it was affecting

12 my child, and also it was depressing to me. I mean, you have

13 a prison right there, and traffic just coming home, and

14 people on your front shooting dice, and selling drugs, it was

15 just horrible, depressing.

10:17:40Q. When you say a prison right there, there was?

10:17:42A. Jail, several jails right there, sit right there.

10:17:47Q. Okay. Now, can you describe for us your experience as

19 living in Towson?

10:17:52A. Oh, goodness. It's a big difference. It's a great

21 experience for me.

10:17:58Q. Tell us how was it different.

10:18:02A. I'm currently working two jobs in walking distance of my

24 house.

10:18:08 My son is doing well in school. His grades have

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1 come up a lot since then. And I do have another baby. And

2 they have more activities to offer both of us, and it's just

3 a great experience for us.

10:18:22Q. Let's talk about some of the things you've just

5 mentioned, in some detail. Now, one of the things you

6 mentioned were the two jobs you had, so are those jobs in

7 Towson?

10:18:32A. Yes. It's so many job opportunities, that's another

9 thing, is so many jobs. It's retail, you have nurses, you

10 have janitorial, hospital, it's just totally different.

10:18:46Q. Did you have a job before you moved to Towson?

10:18:47A. No, ma'am.

10:18:51Q. And when you arrived at Towson and applied for a job,

14 what was your experience, was it easy to get a job, not easy?

10:19:00A. It was very easy. Well, when I first got to Towson, I

16 was pregnant with my son so I wasn't working. But when I did

17 go apply actually, they had called me before I got in the

18 door from filling out the application, he had called me for

19 an interview.

10:19:12Q. You mean they call you the same day?

10:19:13A. Yeah.

10:19:19Q. Now, you mentioned that you work at Staples, that's one

23 of the jobs you have. What do you do there specifically?

10:19:24A. Cashiering.

10:19:25Q. Do you like that job?

10:19:25A. I love it.

10:19:27Q. What do you like about it?

10:19:32A. The people. I like the feel of -- I have made friends,

4 different races, and that's a new experience for me. It's

5 close to my home. It's just a good environment to work in.

10:19:44Q. Is it important to you that the friends you've made are

7 of different races?

10:19:50A. Actually, yeah, because it's a new experience for me. I

9 never had the opportunity to meet friends or friends in

10 different race.

10:20:03Q. You've also told us that you are a geriatric nursing

12 assistant. Where are you a nursing assistant?

10:20:12A. I actually work for the Smith Healthcare, which is up on

14 Allegheny Avenue, which is in Towson.

10:20:19 That's the great experience for me, too, there. I

16 like that workplace, too.

10:20:24Q. What population do you work with, what types of people?

10:20:31A. Elderly people. I care for them. I assist them. I do

19 things for them that they are unable to do for themselves

20 anymore, dress them, feed them, put them to bed, get them up.

21 Everything.

10:20:45Q. And are the elderly that you help with those tasks, are

23 they residents of Towson?

10:20:48A. Yes.

10:20:54Q. You've mentioned, in addition to the job opportunities

1 that you've just discussed, you also mentioned the school, I
2 suppose you were talking about Jarell, correct --

10:21:03A. Yes.

10:21:05Q. -- Because Todd is not in school yet.

10:21:07 What school does Jarell attend?

10:21:09A. He goes to Loch Raven Academy Middle School.

10:21:12Q. What school did he attend when you lived in Latrobe
8 homes?

10:21:14A. Johnson Square Elementary.

10:21:17Q. Can you compare for us his experience at these two
11 different schools?

10:21:25A. He also had new friends and different races that's
13 something new to him, too.

10:21:32 He has more activities now. He's trying to get on
15 a football team, but they say he's under weight. He's in a
16 band. He's in boy scout. And it's just a whole, I mean the
17 teachers is more caring. It's just a whole another
18 environment for his grades that came up. His behavior even
19 changed.

10:21:51Q. When you say his teachers are more caring, can you give
21 us an example?

10:21:56A. I mean, for example, his teacher, they call you and let
23 you know that his grades have -- is coming down. They just
24 don't fail them, they give you a warning. They let you know.
25 And then in the city they don't, when I was, when he was

1 going to Johnson Square, they didn't do that, they just
2 failed him.

10:22:14 And he was suspended every week there. He don't go
4 through them things there.

10:22:21Q. What about the school buildings themselves, can you
6 compare those for us?

10:22:28A. The building itself is different, because up there is
8 like you feel welcome walking in the door. And it's like
9 down there it's like you go through the door, you got kids
10 running through the halls, the school is unpainted, not
11 painted.

10:22:43 And then as far as school supplies, you don't have
13 to provide as much. Down there you have to provide this,
14 that, this, that, to help like extra tissue, extra Kleenex,
15 bottled water, helping other people and their kids. Out here
16 it's different, you get your child your school supplies, and
17 that's what it is.

10:23:01Q. When you say down there, you're referring to?

10:23:03A. Johnson Square Elementary.

10:23:05Q. When you say up here, you're referring to?

10:23:07A. Towson, Maryland.

10:23:12Q. Okay. And you've told us about the jobs that you had in
23 the school in Towson. Is there anything else that you like
24 about living in the neighborhood?

10:23:22A. Yes. It's a lot of things. It's just a whole another

1 experience, the neighbors, living in the nice apartment, I
2 mean, I have -- I love my apartment, compared to where I was
3 living.

10:23:39 The people and it motivates me to want me, you
5 know, I'm currently working, I have two jobs, and I have a
6 car. It's like things is just working out. It make me want
7 more, it motivates me to want more.

10:23:53Q. You mentioned the apartment is better. How does the
9 apartment compare to the place that you lived in, in Latrobe?

10:24:01A. Oh, it was a lot different. Even down to the
11 maintenance, you know. You call maintenance, maintenance
12 there. You don't have to wait two and three weeks. You
13 don't have to let your toilet over flow and run down the
14 walls before they consider it as emergency.

10:24:18 You don't have to come home and get off the bus and
16 being depressed about going to your own home. You don't have
17 to say excuse me because there's a gang on your front. It is
18 totally different.

10:24:32Q. I'd like to circle back about the time you were living in
20 Latrobe And you have just been telling us a bit about that.
21 Why did you choose to move into Latrobe?

10:24:44A. Actually, my name had came up on the HUD list, and they
23 only give you three times to turn down, you know, three
24 places they offer you. And they offer me Cherry Hill. That

25 was one I turned that down. And they offered me Gilmore

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1 projects, and I turned that down. They called me with
2 Latrobe, and I took that, because first of all, he was going
3 to another school, and it was going to be closer to his
4 school.

10:25:09Q. Let me, let's just clarify a few thing. When you said
6 you were on the waiting list, you were on the waiting list
7 for what?

10:25:13A. Public housing.

10:25:17Q. Okay. And when you talked about he was -- you said
10 something about you the school, you mentioned he, who were
11 you speaking about?

10:25:22A. Jarell Carter.

10:25:26Q. Okay. So I understand that the three choices that you
14 were provided, when your name came up on the waiting list,
15 were Cherry Hill, Gilmore and Latrobe; is that correct?

10:25:33A. Yes.

10:25:37Q. Are these places all located in the Baltimore City?

10:25:38A. Yes, ma'am.

10:25:41Q. Do you think there's any real difference between these
20 choices?

10:25:47A. No. All of them was the same. But being as though I
22 didn't have -- that was my last time, I couldn't turn down
23 nothing else. I took it. I had no choice but to take that.

10:25:56Q. And in what way were the places the same?

10:26:01A. The crime, the drug, the shooting and killing, all of it

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1 was the same. Neither one is better than the other.

10:26:08Q. Did you feel that you were offered any choices in what

3 you felt would be a good neighborhood to raise your children?

10:26:12A. No.

10:26:16Q. Did anyone at the time give you any information on HUD

6 assisted housing in the region?

10:26:19A. No.

10:26:23Q. Miss Dickey, have you ever seen or heard of something

9 called the Locator?

10:26:24A. No.

10:26:27Q. Given a choice, would you want to live in neighborhoods

12 with high crime?

10:26:29A. No.

10:26:32Q. How about one with poor performing schools?

10:26:34A. No.

10:26:38Q. Do you have any desire to move back to the city, Miss

17 Dickey?

10:26:39A. Not at all.

10:26:41 MS. CLARK: Thank you, Your Honor. I have no

20 further questions.

10:26:50 THE COURT: Okay. Counsel?

10:26:50 CROSS-EXAMINATION

10:26:51BY MR. DEAN:

10:27:01Q. Good morning, Miss Dickey.

10:27:02A. Good morning.

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10:27:06Q. My name is Paul Dean. I believe we met a few weeks ago
2 at your deposition.

10:27:07A. Yes.

10:27:10Q. I just have a few questions for you this morning.

10:27:14 First I just want to clarify, the waiting list that
6 you were on --

10:27:15A. Yes.

10:27:17Q. -- was that for the Housing Authority of Baltimore City?

10:27:17A. Yes.

10:27:22Q. You're familiar with the Section 8 program; is that
11 correct?

10:27:23A. Yes.

10:27:26Q. And in fact you have a Section 8 voucher now; is that
14 right?

10:27:28A. Yes.

10:27:34Q. You like where you live now; is that correct?

10:27:35A. Yes.

10:27:37Q. And you like the neighborhood you're in?

10:27:38A. Yes.

10:27:40Q. And you also like the apartment that you're in?

10:27:41A. Yes.

10:27:47Q. Do you recall in your deposition, when I asked you about
23 the Section 8 program, you said that you loved it --

10:27:49A. Yes.

10:27:50Q. -- is that correct?

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10:27:53 Thank you, Miss Dickey.

10:27:55A. Uh-huh.

10:27:57 THE COURT: All right. Fine. Counsel, any other
4 questions.

10:28:05 MS. CLARK: Sorry, yes, Your Honor.

10:28:05 REDIRECT EXAMINATION

10:28:05BY MS. CLARK:

10:28:11Q. Miss Dickey, do you understand that the MBQ voucher that
9 you have is not a regular Section 8 voucher?

10:28:15A. Yes, that's what I like about it.

10:28:18 MS. CLARK: Thank you. No further questions.

10:28:20 THE COURT: All right. Counsel, could you explain
13 that so I don't forget what you mean?

10:28:25 MS. CLARK: Miss Dickey is the recipient of a
15 voucher she received under the partial consent decree, and
16 it's allows people to move into the suburbs, which is
17 different.

10:28:40 It provides an opportunity to move into the suburbs
19 and as opposed to living in the city. And also, excuse me,
20 and also provides mobility counseling.

10:28:51 THE COURT: Okay. Thank you.

10:28:53 Yes, counsel.

10:28:55 MR. DEAN: A regular Section 8 voucher also allows
24 you to move into the suburbs.

10:29:01 MS. CLARK: But there's no counseling with the

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1 regular Section 8 voucher.

10:29:03 THE COURT: I understand the difference. Thank

3 you. All right. Thank you, Miss Dickey.

REVERAND KWAME ABAYOMI DIRECT TESTIMONY

(Fact Witness for Plaintiffs: Pastor at Unity United Methodist Church in Harlem Park and Mover from Harlem Park to Glen Burnie)

14:26:50Q. Have you had an opportunity, either in your role as

8 pastor, or in your role as city council person, to observe

9 the effects of the concentration of the region's public

10 housing in Baltimore City?

14:27:00A. I'd say yes.

14:27:04Q. What have you observed about that?

14:27:08A. Well, not just my observation, but I guess literally

14 that's what you're asking, the majority of the persons who

15 suffered the afflictions of concentrated poverty because of

16 either racial or other practices that were germane to this

17 whole housing industry, the results have been studied ad

18 infinitum.

14:27:35 We know that, and I've observed, that when you put

20 that many people together who are impoverished, the first

21 intransient, intangible thing, you lose is hope.

14:27:48 Beyond that, people's despair can cause them

23 literally to not just give up hope, but to turn on
24 themselves. So we see in the high concentrations of poverty,
25 a plethora of, shall we say, self-inflicted violence almost.

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14:28:06 Violence mentally, where family abuse and spouse
2 abuse is commonplace, where alcoholism and what might be
3 termed self-medicating by the population is prevalent.

14:28:20 We also suffer on the concentrations of poverty an
5 interesting phenomenon, the correlation between poor
6 schooling and the prison system are well known. And in
7 concentrated areas, we've noticed that only out of the ten
8 children who enter the middle school grade, perhaps three
9 graduate, while the other seven seem to be the -- seem to be
10 directly headed toward the prison system, if not a fact, they
11 wind up there.

* * * * *

14:35:26Q. Professor Clark described that, according to his surveys,
2 or according to the various studies he cited, that most black
3 people would prefer to live in neighborhoods that are 50/50
4 black white and so they won't move to predominantly white
5 neighborhoods.

14:35:39 Based on your own personal knowledge and
7 observation, can you comment on that assertion with respect
8 to poor African Americans in Baltimore?

14:35:49A. I can't speak to his conclusion or his information, but I

10 can certainly speak to my own observation and experience.

14:35:54Q. Please do.

14:36:03A. We are not plagued with any such notion that we have to

13 be among our own in order to be happy. There are among all

14 groups certain numbers I'm sure who prefer to lay and play

15 with their own type.

14:36:18 But in a world reality, where work and employment

17 and living accommodations are by the very nature of this

18 country and its history have forced us to live in segregated

19 communities, more often than having the opportunity for

20 anything else, some might say that we've been, some have been

21 almost forced to live that way.

GERALD WEBSTER DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Geography Department Chair and Professor at the University of Alabama)

10:15:50 Could you briefly summarize the major conclusion of

12 your analysis in this case?

10:15:56A. Yes, sir. Between the original report and the rebuttal,

14 there are a lot, 11 conclusions, four of which I think are

15 the most important.

10:16:04 First, family public housing projects in the

17 Baltimore region from 1960 through 2000 were largely

18 concentrated in Baltimore City, in large part located in

19 census tracts that are heavily African Americans, and

20 comparatively poor.

10:16:24 Secondly, the use between black voucher holders and

22 white voucher holders contrast geographically. Black voucher
23 holders largely use their vouchers in Baltimore City in
24 census tracts that are largely African American and poor.
25 White voucher holders largely use their vouchers in the five

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1 surrounding counties in tracts that are less proportionately
2 African American and less comparatively poor.

10:16:56 Third, if we look at the pattern of public housing
4 in the Baltimore region, it contrasts geography to the
5 pattern of total population and the pattern of total housing.

10:17:10 And, finally, if we look at the pattern of whites
7 and blacks that have incomes below the poverty level that
8 contrast in terms of their residential patterns quite
9 dramatically, poor whites overwhelmingly located in one of
10 five surrounding counties, and poor blacks overwhelmingly
11 located in Baltimore City.

STEPHANIE DE LUCA DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Professor of Sociology at Johns Hopkins University)

11:58:19Q. Tell us what you learned, Professor De Luca [from your study of Gautreaux].

11:58:22A. What we learned was that, despite the fact that some of
17 these women may have had difficulties navigating in their
18 new suburban neighborhoods, because we know these were
19 radically different places we're talking about low income
20 black families moves to white Chicago neighborhoods in the
21 late '70s early 80s, some of these neighborhoods never had

22 any black people in them to begin with. We have here pretty
23 extreme change of environment.

11:58:48 We have, you know, as expected, some of the white
25 residents had a little bit of trouble with their new

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1 neighbor.

11:58:56 But what we found out from the stories these women
3 were able to navigate these social relationships and
4 eventually leverage new friendships with neighborhoods, to
5 increase their information about getting jobs.

11:59:07 They saw examples of people who were going to
7 school as adults in improving their lives. Their
8 neighborhoods provided them with additional child care.
9 These were women who said to us in the interviews,
10 in the projects they couldn't take their eyes off their kids
11 to get anything else done. They had to keep make sure their
12 kids weren't running around in front of the buildings.

11:59:29 Here they say my kids can walk around and enjoy
14 themselves. I don't have to worry about them getting hurt,
15 that gives me peace of mind and allows me to, you know, do
16 some additional things.

11:59:41 And these women said I think more suburban now, I
18 feel like a change inside of me. You know, I used to party a
19 lot in the city, and now I'm focused on other things.

11:59:50 When I first was reading these interviews, I
21 couldn't believe that this is what people were saying,

22 because you know it was almost as if it was a miracle to some
23 of them.

11:59:59 We see these differences. We know that

25 neighborhoods work looking out for your kids, helping out,

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1 giving gifts even at some point. And this is unexpected.

* * * * *

12:11:57Q. In your opinion, Professor De Luca, is it a good idea to

20 intervene in the residential choice process in connection

21 with the special mobility program?

12:12:03A. Absolutely.

12:12:06Q. Okay. Please explain why?

12:12:13A. If we care about the problems these families are facing

25 in inner city Baltimore and inner city neighborhoods across

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1 the country, we-- I think we're obligated to do something

2 about that, because the residential choice process as it

3 works right now isn't helping these families.

12:12:29 We need to do better than what we've done. The

5 research evidence that I'm presenting, and I'm not alone in

6 this, suggests that if we do intervene, and we give

7 counseling, and we help families relocate to better

8 neighborhoods, that we can help these families improve their

9 outcomes in the long run.

12:12:47 In the absence of this help, these families are

11 losing out in the residential choice process relative to more
12 affluent families in this country. So I don't think it's
13 wise if we stand back and do nothing.

MICHELLE ROBINSON DIRECT TESTIMONY
(Fact Witness for Plaintiffs: MBQ Voucher Recipient Mover)

14:03:13 MR. BUSCEMI: Your Honor, the plaintiffs would call
17 as their next witness Michelle Robinson, and Miss Clark will
18 be doing the examination.

14:03:32 THE CLERK: Raise your right hand.

14:03:40 (The Witness is sworn.)

14:03:48 THE CLERK: Please be seated. Ma'am, if you would,
22 I need you to adjust that microphone down to yourself. There
23 you go.

14:03:54 State your name and spell your name for the record.

14:03:59 THE WITNESS: My name is Michele Robinson. My

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1 first name Michele, M I C H E L E. R O B I N S O N.

14:04:07 THE CLERK: Thank you.

14:04:08 DIRECT EXAMINATION

14:04:08BY MS. CLARK:

14:04:10Q. Good afternoon, Miss Robinson.

14:04:10A. Good afternoon.

14:04:14Q. Can you please tell us where you live?

14:04:16A. I live in the Columbia area.

14:04:18Q. Is that in Howard County?

14:04:18A. Yes, it is.

14:04:23Q. How long have you lived in Columbia?

14:04:26A. I've been living in Columbia for a year and two months

13 now.

14:04:29Q. And are you the recipient of a voucher?

14:04:30A. Yes, I am.

14:04:33Q. Is that a regular Section 8 voucher, or is that a voucher

17 that you receive through Metropolitan Baltimore QUADEL, or

18 another type of voucher?

14:04:43A. It happens to be a voucher from the Metropolitan QUADEL.

14:04:47Q. Do you use your voucher to move out to Columbia?

14:04:49A. Yes, I did.

14:04:51Q. Miss Robinson, do you have any children that live with

23 you?

14:04:56A. Yes. Unfortunately, I have two.

14:04:58Q. You say unfortunately?

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14:05:00A. Yeah, I have two children.

14:05:02Q. How old are they?

14:05:05A. One is 13, and one 16.

14:05:10Q. Before you and your family moved to Columbia, where were

5 you living?

14:05:15A. I was living in Baltimore City.

14:05:19Q. Can you tell us specifically the location that you were

8 in before moving to Columbia?

14:05:26A. Well, I had been living in the city different places,

10 west side, east side, several different shelters, different

11 areas like that.

14:05:37Q. And they're all of -- before moving to Columbia, are all

13 the places that you lived in, in Baltimore City?

14:05:40A. Yes, it was.

14:05:45Q. And can you tell us the -- when you actually had the

16 voucher and were ready to move to Columbia, what specific

17 place were you in at that time in Baltimore City?

14:05:55A. Well, at the time, I lived in Park Heights and Belvedere

19 area.

14:06:00Q. Okay. Can you please tell us, now that you've been in

21 Columbia for over a year, can you tell us your impressions of

22 Columbia?

14:06:10A. Oh, wow. Columbia is, it's like paradise. It's a

24 wonderful place to live in.

14:06:16 It's very different from where I've been.

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14:06:18Q. How so?

14:06:21A. Well, I've lived in the city different -- most of the

3 areas that I've lived in were very, well, high maintenance in

4 crimes, and a lot of you know trashy areas.

14:06:37 Whereas though now where I live in Columbia, it's

6 very nice, peaceful, clean. It's not a lot of traffic or

7 anything going on there.

14:06:50Q. Perhaps so we can get a picture of what you're saying, if

9 you were going to describe the surrounding at Park Heights

10 and Belvedere, the location you describe being at right

11 before Columbia, what were the surroundings of the place that

12 you were in?

14:07:07A. Well, basically, where I lived at on Park Heights and

14 Belvedere, when you come out your door there was huddles of

15 guys maybe sitting on the steps playing dice or maybe selling

16 drugs.

14:07:18 When you walked to the corner, you have a lot of

18 liquor stores, a lot of people. There were abandomiums.

14:07:28Q. Can you describe what you mean by that word?

14:07:33A. Abandomiums? Vacant places. Places that were boarded

21 up. No one lived there. Empty.

14:07:42Q. And how about Columbia, what's it look like when you walk

23 outside your door in Columbia?

14:07:47A. Would you. Columbia, it's a total different picture.

25 When I come outside my door, there's no one sitting there.

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1 And there's a lot of beautiful different apartment complexes.

2 The scenery is nice. It's not a lot of trash. People are

3 very pleasant. It's really nice.

14:08:10Q. Is it an apartment that you're living in now?

14:08:12A. I'm living in a condo unit.

14:08:16Q. Okay. And did anyone help you find the particular unit

7 that you're living in now, in Columbia?

14:08:22A. Well, MBQ did, they helped me.

14:08:25Q. In what way? What was the manner in which they helped
10 you?

14:08:30A. Well, we had an option. They had given us an option
12 where you could look for a place on your own or maybe that
13 they could assist you.

14:08:38Q. Okay.

14:08:41A. Basically the worker that I had, she was there to assist
16 me.

14:08:45Q. In what way did she assist you?

14:08:49A. Well, one way she assisted me, she actually gave us a
19 tour. Not only me, but it was several other clients. We
20 will get together, some willing to meet down at MBQ, and they
21 would take us right into different cites, different places in
22 the county, different counties, and just show us the
23 varieties of ways that we could live.

14:09:14Q. Did they took you out in a van, or --

14:09:16A. Well, it was alike a bus.

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14:09:17Q. Okay.

14:09:17A. Yeah.

14:09:21Q. And did they show you only places in Columbia, or did
4 they show you many places?

14:09:26A. No. They had different places that they showed. Some
6 places were in Anne Arundel County. They had places in

7 Baltimore County. One of the sites was Ashley in Prince

8 George's County, and Columbia was one of them, also.

14:09:44Q. Were there any other ways in which they assisted you in

10 finding the place where you live now?

14:09:50A. Well, yes. They would sit down with you and maybe, you

12 know, when you get some booklets or different apartment

13 complexes, and they will sit down and help me, you know, call

14 the landlords, give them a little bit of information about me

15 as a person. And, you know, we had insight on what you was

16 looking at, what you was looking for.

14:10:13Q. And of the ways in which they helped you, what did you

18 find to be the most helpful --

14:10:16A. Oh.

14:10:17Q. -- if anything?

14:10:22A. Well, the most part, they helped me, helped me with

22 convincing the landlord that I will be a person that would be

23 on time with my rent. Because for me personally, I had a lot

24 of problems with my credit.

14:10:38 So when I was on my search alone without the help,

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1 I didn't find me getting any results.

14:10:44 So basically what I did was, you know, I took them

3 up on their offer of helping me. And once the worker was

4 able to help me and see that and get them to understand that

5 I would be, you know, a person that would pay my rent on

6 time, and that I would need just another chance at paying my

7 rent, it helped a lot.

14:11:04Q. And just to clarify for the record, so you first

9 attempted to find a place on your own without assistance?

14:11:10A. Yes, I did.

14:11:12Q. And you were not successful?

14:11:13A. Not at all.

14:11:17 Because basically they gave us a time, well, with

14 MBQ vouchers, they gave you a deadline. They gave you a

15 certain amount of time within that you could, you know, look

16 for your place. And I had took the initiative, and I looked

17 several different places by myself. And I didn't find that I

18 got any results.

14:11:37 So in turn of me not getting the results at the

20 time that my voucher had allowed me to, I had to in turn ask

21 for an extension.

14:11:43Q. Okay.

14:11:48A. Within my extension and me getting my help, I found a

24 place in no time.

14:11:53Q. How long did that actually take once you got help?

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14:11:55A. Basically, three to four weeks.

14:11:59Q. And how long was it taking when you were just trying to

3 find place on your own?

14:12:05A. Wow, I'd been looking at least 8 or 9 months by myself,

5 and I was getting a lot of nos. And nobody really would take

6 me.

14:12:18Q. Okay. Now, you mentioned you had two sons. Are they
8 currently in school?

14:12:19A. Yes, they are.

14:12:22Q. What schools are they attending?

14:12:29A. Well, my 13-year old, he attends Mayfield Middle School
12 in Ellicott City.

14:12:30Q. Uh-huh.

14:12:35A. Maryland. And my 16-year old, he attends Long Beach,
15 Long Beach High School.

14:12:38Q. And are those different schools than the ones they
17 attended when you lived in the city?

14:12:42A. Excuse me, can you repeat that?

14:12:46Q. When you moved to Columbia, did they change schools?

14:12:47A. Yes, they did.

14:12:51Q. Can you describe for us their experience at the new
22 schools that they're at in Columbia?

14:12:58A. Well, now that they're in Columbia, which is good, that
24 the schools, they have a lot to offer my two boys.

14:13:07 They have, you know, a lot of programs and I can

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1 give you a scenario. My oldest son, my 16-year old, he's in
2 the 11th grade, so he's looking forward to maybe going to
3 college after school.

14:13:21 Whereas though when I was in the city, he didn't
5 have that I have enthusiasm.

14:13:27Q. And where did enthusiasm come from?

14:13:30A. Well, basically, I think it was from the different people

8 and representatives that they had come to the schools, and

9 let him know the opportunities and the different programs

10 that he could get into, which made him think, well, maybe I

11 can, you know, get into this and go to college. So that kind

12 of helped him out there.

14:13:51Q. Didn't they have this same type of -- are you aware of

14 whether that type of information was provided at the school

15 he was at in the city?

14:14:01A. Well, I think it was given to him in the city, but not as

17 much as they did here in the county.

14:14:07 Basically, in the county, the schools are, they

19 take the time out and deal with them individually. And my

20 reason for saying that is because my sons would come home,

21 and they would be very excited like, mom, this lady showed me

22 this and told me about this, and I didn't even know that they

23 had this type of thing going on.

14:14:29 Whereas though in the city, they wasn't taking out

25 too much time with them as they should have.

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14:14:34Q. And now we were talking about your son that's thinking

2 about going to college, how are his grades?

14:14:42A. Oh, well, basically he's a 90, 95 average. He's a good

4 student, yeah.

14:14:47Q. Have your sons made friends in Columbia, in the

6 neighborhood or in the schools that they're at?

14:14:54A. Yes, they have. As a matter of fact, they have a variety

8 of friends. Different types. Whites, blacks. As a matter

9 of fact my 13-year old actually has a friend, he's Chinese,

10 which is different for him.

14:15:10Q. Had they had those type of friends from different races

12 when they were in the city?

14:15:15A. Oh, no. It was just -- it was just African Americans in

14 the city that they associated with.

14:15:21Q. Have you had the opportunity yourself to meet your sons'

16 friends?

14:15:27A. Yes, I have. Basically, like on the weekends, you know,

18 they like to have company. So us as a parent, you know, we

19 get together we might call each other on the phone. Or you

20 know the child's mom would be like wanting to meet me and try

21 and to get to know who each other is we might decide they can

22 come over Saturday, Sunday. They have pizza night, watch the

23 movies then get acquainted like that.

14:15:55Q. And let's talk about the friends you might have made in

25 the community. Have you made friends yourself?

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14:16:00A. Yes, I have.

14:16:02Q. Go ahead.

14:16:05A. Wow, my neighbors, I mean, just going out to the mailbox,

4 basically I meet people like that.

14:16:14 My neighbors. And I'm a churchgoer. I go to

6 church. So it's a lot of people in the church that I've

7 met. Basically, when I go out to the doctors, or the

8 community there, I meet people there, also.

14:16:27Q. And you mentioned that you attend church. What church is

10 it that you attend?

14:16:30A. I happen to be going to the Church of Christ.

14:16:32Q. And where is that church located?

14:16:32A. It's in Columbia.

14:16:35Q. Is that a church that you had gone to before living in

15 Columbia?

14:16:37A. No.

14:16:38Q. Did you --

14:16:43A. Basically I was going to a church in the city. And,

19 yeah, it's different, going to the church I'm at now.

14:16:49Q. How so?

14:16:54A. Well, the city is more radical. I could say more, it's

22 more exciting type of church, you know.

14:17:03 When I came to the County, it was a little bit more

24 quiet, just looking at a book type church.

14:17:12 I didn't think I was going to make it there. But

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1 unfortunately, I have. I have, I've adjusted.

14:17:17Q. You've adjusted?

14:17:18A. Yeah.

14:17:22Q. Have you -- have the people been welcoming in the
5 congregation?

14:17:27A. Well, I find them to be very loving people. I didn't
7 think they were going to open their arms like that. My
8 perception of it was different before I got there. But once
9 I got there, they welcomed me, and they treat me like a
10 person.

14:17:42Q. And can you be specific in terms of the ways in which
12 they welcomed you? Do you have any examples or --

14:17:52A. Oh, well, they would tell me that this is your home. You
14 can relax, and they would do things like invite me to the
15 different bible studies, and things that they go, events that
16 they was having. They even offered to pick me up, and they'd
17 come out and get me and stuff like that.

14:18:11Q. And what's the racial composition in the congregation
19 that you attend? Is it many white people, or mostly black
20 people or some other type of race?

14:18:19A. There's different kind of people there, but the majority
22 of are whites.

14:18:24Q. And can you describe for us the type of jobs that the
24 church members have, to the extent you know them?

14:18:32A. Well, the church that I go to, you have a couple

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1 psychologists, lawyers, doctors, teachers. They have
2 different -- they have different fields of work of the work
3 world.

14:18:46Q. When you were in the city, did you have the opportunity

5 to interact with people with those different types of jobs?

14:18:56A. Well, I wasn't really -- I didn't really know what the

7 people did at the church that I was at in the city. I'm

8 quite sure they might have been working different places, but

9 I didn't -- I wasn't aware of it, like I am now.

14:19:10Q. Miss Robinson, do you have a car?

14:19:11A. No, I don't.

14:19:14Q. How do you manage to get around?

14:19:22A. Well, there's a bus route. Or sometimes my neighbor, I

14 have a neighbor that might take me if I need to go, taxi, or

15 then I also have where I'm set up with medical assistance,

16 they have like a mobility where they have the transportation

17 to come pick me up, and my children, and take us back and

18 forth to the doctors.

14:19:48Q. In fact, how do your children get to school?

14:19:52A. Well, one of the schools for my 16-year old, it's just

21 walking distance just a couple blocks up.

14:20:00 And for my 13-year old, they have a yellow bus, a

23 bus that comes and gets them right at the top of the complex.

14:20:07Q. Did you have a bus that came for your children when you

25 lived in the city?

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14:20:14A. No. Basically, they caught the buses, and they had to

2 pay, you know, reduced fare, or maybe they would give them

3 bus tickets.

14:20:19Q. When they were in the city?

14:20:22A. When they were in the city, uh-huh.

14:20:24Q. Miss Robinson, was access to transportation important to

7 you when you moved to Columbia?

14:20:28A. Yes, it was.

14:20:31Q. Was it the most important thing to you?

14:20:34A. Not the most important thing. I mean, it's other things

11 more important than a bus, riding a bus.

14:20:41Q. Miss Robinson, have you ever heard of anything called the

13 Locator?

14:20:44A. No.

14:20:49Q. Finally, has living in Columbia, would you say it has had

16 an impact on your life?

14:20:59A. Well, tremendously. I've been through many different

18 neighborhoods in the city. And a lot of the neighborhoods

19 I've been, most of them, were either the crime rate was high,

20 or there were a lot of, like I said, drug traffic, like I

21 emphasized. A lot of trashy areas.

14:21:30 Whereas though now, where I stay, it's very clean.

23 I don't worry as much if I leave outside my door, if

24 something is going to hit me or if somebody's going to mug

25 me.

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14:21:44 I feel more freer and more relaxed here in

2 Columbia.

14:21:48 It's given me a whole different way of looking at
4 life --

14:21:51Q. And --

14:21:52A. -- than we have been.

14:21:54Q. how has it done that?

14:22:01A. Well, basically, it gives me a sign of hope. It shows me

9 that I can live better than what I have lived, you know. I

10 can give examples like different units I've been in, they

11 have mice, they have roaches, whereas I'm home and I leave a

12 lid off of my food, I know that it's nothing going to crawl

13 in it, because it's clean, and it's a good setting.

14:22:30 So that makes me look at a lot of things different

15 than what I have been.

14:22:36 MS. CLARK: No further questions, Your Honor.

14:22:37 THE COURT: Okay. Go ahead.

14:22:40 MR. DEAN: Your Honor, federal defendants have no

19 questions for Miss Robinson.

14:22:45 THE COURT: Okay. Thank you, Miss Robinson. Okay.

21 Step down.

JILL KHADDURI DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Principle Associate at Abt Associates,
Inc. and former Director of the Division of Policy Development at HUD)

12:04:07Q. Directing your attention, then, to your proposals with

12 respect to the affordable housing desegregation plan, could

13 you briefly describe your rationale for that proposal?

12:04:29A. Well, my rationale for that proposal relates in part to

15 the HUD decision-making processes that I've already
16 described, because they are -- as complex and fragmented as
17 they are, with many different actors making decisions that
18 affect regional housing opportunities, I think that HUD needs
19 to lay out for itself a road map that describes for itself
20 and also for the Court exactly how those decisions are going
21 to be made in a way that considers fair housing issues and
22 considers the effect of decisions on the creation or loss of
23 desegregated housing opportunities in the region.

12:05:23 I also think that an affordable -- such a plan
25 needs to be set forth so that the Court, without making in

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1 the remedy the detailed decisions about achieving the
2 objectives, nonetheless has a way of looking at a document
3 and saying, yes, HUD's plan is adequate. HUD's plan does
4 have -- is likely to achieve the Court's objectives.

12:05:57 And then finally, a reason for proposing an
6 affordable housing desegregation plan is that it can also
7 serve as the factual information that HUD itself and the
8 Court use to track progress in implementing the goals set
9 forth by the remedy.

12:06:26 So all of those comprise my rationale for charging
11 HUD with creating its own plan within guidelines established

12 by the Court.

12:06:41Q. And what do you propose be the components of this plan?

12:06:48A. The components of the plan would include a description of

15 how the resources under the control of the Secretary of HUD

16 in the Baltimore region will be used in order to meet the

17 objectives of the remedy. It would also set forth in detail

18 the decision processes, and the points in the detailed

19 decision processes which would be subject to a determination

20 by HUD decision-makers, that the particular decision being

21 taken would support the Thompson remedy and not act in such a

22 way as to frustrate it.

12:07:38 The plan would also lay out the factual information

24 about where housing opportunities for members of the

25 plaintiffs' class already exist in the Baltimore region, and

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1 updates of the plan annually, for example, would track

2 progress in meeting both the explicit numeric objectives of

3 the remedy and of the broader picture of how housing

4 opportunities for members of the plaintiff class in the

5 Baltimore region were changing over time during the life of

6 the remedy.

* * * * *

12:36:17A. Well, I think you know that probably the most important

13 recommendation that I make is that, to the extent

14 practicable, HUD should establish regional administration of

15 the voucher program in the Baltimore region.

12:36:38 My rationale, I've got a couple of rationales for
17 that. One of them is precisely what I was just talking
18 about, which is that since there are impediments to people
19 from one jurisdiction actually using their vouchers in
20 another jurisdiction under the way the program is currently
21 administered, a very good way of overcoming those impediments
22 is to simply administer the program on a region-wide basis.

12:37:12 I also, it is also my opinion that, in this
24 context, in the Baltimore region, regional-wide
25 administration of a substantial number of housing vouchers is

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1 important, because the Housing Authority of Baltimore City
2 has demonstrated that it has been unable to use all of the
3 Housing Choice Vouchers that have been allocated to it by
4 HUD, and indeed has lost -- I think the number which I got
5 from an Inspector General report is that, 4,000 units were
6 not placed under lease by the Housing Authority of Baltimore
7 City.

12:38:00 As a result of that, HUD recaptured the funds for
9 those 4,000 units, and they are no longer available as of now
10 to members of the plaintiff class who might want to use
11 Housing Choice Vouchers to locate housing in good
12 neighborhoods.

* * * * *

12:49:37Q. You have also made specific recommendations with respect

11 to an outcome remedy, and by that I mean the establishment of
12 a fixed number of units that HUD should be required to meet
13 in providing desegregative housing opportunities for the
14 class; have you not?

12:49:59A. Yes, I have.

12:50:05Q. And what is the basic rationale for that recommendation?

12:50:12A. Well, the basic -- I came at that recommendation from a

18 couple of standpoints. One is the rationale that has already
19 been articulated by plaintiffs' counsel, which is to look at
20 the number of public housing units that existed in the
21 Baltimore region as of the beginning of this case, and to see
22 how just what fraction of them, a very high fraction, were in
23 the City of Baltimore, and what fraction were in the suburbs,
24 and then to look at where low and moderate income families
25 who are not assisted by public housing or by either of the --

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1 any kind of Section 8 program, where do unassisted families
2 of low and moderate income who are renters live in the
3 Baltimore region?

12:51:14 And having discovered by analysis of a public use

5 database that 60 percent of the unassisted renters were
6 living in the suburbs, rather than living in the city, I then
7 went on to say, well, you know, what if a comparable
8 percentage of those public housing units had been in the
9 suburbs rather than in the city, how many additional units of

10 housing would that have amounted to?

12:51:46 And that's where I came to a total of 9,000 units.

12 And I understand that those 9,000 units, I'm not proposing
13 that those 9,000 units be created all in a single year. I
14 proposed a 10-year period, or 900 units a year, which is not
15 a very large number of units, given the size of the Baltimore
16 rental housing stock and the large number of rental housing
17 units that already exist within communities of opportunity.

12:52:33 So it seems to me that dividing those 9,000 units
19 into annual 900-unit segments makes a fair amount of sense.

12:52:44 And then I subjected that to a reality check by
21 looking at the recent history of the low income housing tax
22 credit program and how many units the State of Maryland has
23 created in the Baltimore region through the tax credit
24 program, how many of those units were in communities or, n
25 this case, low poverty locations, which I used as kind of a

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1 shorthand for communities of opportunity.

12:53:18 And if a larger number of those tax credit units,
3 but not all of them in the Baltimore region, went into
4 communities of opportunity, is that consistent with the idea
5 of 900 units a year? And it is completely consistent.
6 This 900 units a year, even if quite a high fraction
7 of them were hard units, could even be envisioned as created
8 through the low income housing tax credit and HOME programs.

JOHN POWELL DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Professor of Law at the Ohio State University, and Executive Director of the Kirwan Institute for the Study of Race and Ethnicity)

10:50:25 Could you describe there for the Court, please, and

3 tell us what makes you think that people in public housing

4 would want to choose to move to some of the areas that you

5 have called communities of opportunity?

10:50:40A. Well, I'll start with the second part of your question

7 first, in terms of people's choice, or preference.

10:50:47 Not everybody, but a substantial number would, in

9 terms of choice, in terms of willingness and interest to live

10 in these kinds of communities, there have been a number of

11 studies done.

10:51:02 And one thing that's a little bit of an anomaly,

13 low income African Americans are more interested and willing

14 to live in these communities than middle class and upper

15 middle class African Americans.

10:51:17 But if you look at people's preferences, which is

17 not the same as behavior, but if you look at people's

18 preferences, the number one preference for low income African

19 American communities especially in public housing is to live

20 in a safe neighborhood.

10:51:34 And after that I think comes schools, public

22 benefits. There's a long list. And the racial composition

23 of the neighborhood is actually fairly low down the list.

10:51:43 Even when you get to the racial composition,

25 African Americans actually like the idea of living in a

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1 integrated neighborhood racially, while middle class African
2 Americans would prefer the neighborhood be 50/50. Almost 90
3 percent of them say they would move to a neighborhood where
4 the African American population was as low as 10 or 15
5 percent.

* * * * *

11:13:13 Because it is clear to me, if we leave these
22 families where they are, we will be thwarting the lives of
23 them and their children and their children's children, for
24 the next 20 and 30 and 40 years.

ANIRBAN BASU DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Chairman and CEO of Sage Policy Group)

12:38:52Q. Did you look at the relationship between poverty and

9 race?

12:38:54A. I did.

12:38:58Q. And what, if any, is the relationship in the Baltimore

12 metropolitan area?

12:39:03A. In suburban Baltimore, whites that live in poverty

14 outnumber African Americans that live in poverty two to one.

15 In Baltimore City, African Americans in poverty outnumber

16 whites in poverty four to one.

12:39:16 Moreover, we also noted that if you look at

18 impoverishment in Baltimore City alone, impoverishment in

19 Baltimore City was more an African American phenomenon in
20 2000 than it even it was in 1990.

* * * * *

14:13:20 Before the break, we were speaking of the tight
7 rental, tight rental market in Baltimore.

14:13:29 Why do you believe a tight rental market is
9 important to the remedy in this case?

14:13:36A. Because the tightness of the rental market in recent
11 trends in rent increase in the Baltimore area suggest that
12 the private sector, the invisible hand market forces, will
13 not take care of the situation itself.

14:13:49 In fact, if anything, existing market forces will
15 exacerbate the racial isolation of low income African
16 Americans living in Baltimore City.

14:13:56Q. And why is that?

14:14:02A. Because rents are rising generally throughout region.

19 And as a result, low income African Americans will be more
20 induced even than they have been to continue to reside in
21 majority African American low income areas of Baltimore City.

* * * * *

14:19:02A. Four out of five roughly of low wage and very low wage
6 jobs to be created, or opened up to job seekers over the next
7 ten years will be in suburban Baltimore. One out of five
8 will be in Baltimore City.

DOREEN BROOKS DIRECT TESTIMONY
(Fact Witness for Plaintiffs: MBQ Voucher Recipient Mover)

16:03:53Q. Did your voucher come through while you were living with
9 your friend?

16:03:56A. Yes, it did.

16:04:02Q. Let's talk about your MBQ voucher, Miss Brooks, did you
12 have counseling?

16:04:04A. Yes, I did.

16:04:07Q. Did your counselor help you find your apartment?

16:04:08A. Yes, he did.

16:04:15Q. Were you planning to move out of Baltimore City when you
17 applied for your voucher?

16:04:20A. No, I wasn't.

16:04:23Q. Do you have any family in Baltimore County, Miss Brooks?

16:04:25A. Not to my knowledge.

16:04:29Q. What were your first impressions of your apartment
22 complex, that apartment that you're currently living in?

16:04:44A. My impressions was unbelievable. It was -- I couldn't
24 have dreamed of a better place. I didn't believe places like
25 that existed.

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16:04:57Q. If we were looking at a picture of your current apartment
2 complex, what would we see?

16:05:09A. You will see beautifully lawn, grass, you would see clean
4 streets. You will see development buildings and neatly
5 manicured.

16:05:27 You would see trees. You would see plants growing.

7 You would see place that you just wouldn't believe exist for

8 low income people, basically.

16:05:45Q. Do you like living in Baltimore County, Miss Brooks?

16:05:46A. I love it.

16:05:49Q. What do you like about it?

16:05:57A. Excuse me. I like the safety, the security, the

13 surroundings.

16:06:06 I like -- I don't fear coming home. I like that I

15 don't fear coming to my front door. I don't feel fear going

16 in the building, in the apartment building. I like that I

17 feel safe. I feel free. I feel normal, if you understand

18 what I mean.

16:06:28Q. Do you live near public transportation?

16:06:29A. Yes, I do.

16:06:31Q. Do you live near shopping centers?

16:06:32A. Yes, I do.

16:06:33Q. Do you live near hospitals?

16:06:34A. Yes, I do.

16:06:36Q. Do you live near banks?

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16:06:38A. Yes, I do.

16:06:39Q. Is all of that important to you?

16:06:41A. Yes, it is very important to me.

16:06:45Q. How is living in your current apartment complex different

5 from living in Cherry Hill?

16:06:57A. Very different. It's different because, like I stated, I
7 don't feel fear of going to the market, versus when I lived
8 in Cherry Hill.

16:07:08 I don't fear my son going to school to the bus
10 stop. I don't fear -- I don't worry as much. I'm not under
11 a lot of stress as far as worrying, is he going to make it to
12 the bus stop? Is he going to get shot on his way home from
13 the bus stop?

16:07:32 Can you ask me that question again?

16:07:36Q. Yes. I asked you how is it different from living at
16 Cherry Hill?

16:07:41A. It's different because, oh, well, I don't have a lot of
18 worries. I don't have a lot of fear. I'm comfortable. And
19 again I'm free. I feel free. It's different. In Cherry
20 Hill, I did not feel what I teal, what I'm describing.

16:08:01Q. Have you gotten involved in your new community, Miss
22 Brooks?

16:08:02A. Yes, ma'am.

16:08:04Q. Do you volunteer?

16:08:05A. Yes, I do.

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16:08:07Q. Where do you volunteer?

16:08:13A. I volunteer at the Assistance Center of Towson Churches.
3 I volunteer Franklin Square Hospital. I volunteer at my
4 church. I've joined a church in Towson. Well, it's on Loch
5 Raven Boulevard, actually called Friendship Baptist Church.

16:08:30Q. What do you do at the assistant center? I'm sorry.

7 Assistance Center of Towson Churches?

16:08:38A. Okay. I assist the director with helping people, if

9 their gas and electric bills, with their rent evictions. I

10 do intake, I do applications. I work on the computer. I

11 help with food.

16:08:52 It's a number of things that need to be done, and

13 we as volunteers and myself do it.

16:08:58Q. Do you help people find employment opportunities?

16:09:05A. Employment. We help with prescriptions. Again, we help

16 homeless people with food as well as people with a place to

17 live that can't afford to buy food.

16:09:13Q. What do you do at Franklin Square Hospital?

16:09:16A. At Franklin Square Hospital, we help homeless people,

20 mothers, children, men, women, single. We help them with

21 computers. We help them with job skills. We help them with

22 training programs to get established and get on their feet.

23 For whatever reason, a lot of them has fallen on hard times,

24 and some of them don't know how to fill out application or

25 how to start the process for public housing or a job. We

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1 help with clothing. We help with self esteem.

16:09:52Q. What does Steve think about the move to the county?

16:09:53A. Steve?

16:09:54Q. Yes.

16:10:00A. My son is very happy. He's -- his built his self-esteem

6 up. He's enrolled in college, which is a blessing in itself.

16:10:12 Steve's wonderfully happy.

16:10:13Q. Has Steve made friends?

16:10:16A. Yes, he has.

16:10:20Q. Was Steve thinking about going to college when you were

11 living in Cherry Hill?

16:10:28A. No. That was definitely not. It wasn't even my option

13 in Cherry Hill.

16:10:31Q. Why wasn't it an option?

16:10:33A. Because we didn't feel as though he could enroll in

16 college. He was just coming into the 12th grade, finishing

17 up the 12th grade in school. And college wasn't promoted as

18 far as something to him.

16:10:51 I myself have gone to college. I have taken

20 college courses, but hadn't gotten into college, so college

21 wasn't looking too bright for him to get into college. He

22 was more interested in getting a job and helping me pay bills

23 and getting out of Cherry Hill.

16:11:06Q. So how did Steve come to apply to college?

16:11:12A. Well, when we got involved with metropolitan Baltimore

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1 QUADEL, we call it MBQ, the counselor that was helping us to

2 find a place that was suitable for us had mentioned to Steve

3 why aren't you in college? Well, are you in school now? He

4 said he just finished school. And he wanted to go to you

5 college, but he hadn't gotten opportunities. He told him you
6 can go to college.

16:11:37 And we looked at each other and kind of just really
8 looked at one another. And we heard him, and he said I'm
9 serious, you can go to college. All you got to do is apply.
10 And we asked where? He said any college, city college. You
11 can go to state college, city college, whichever one you
12 wanted. He chose a college go to. And my son been enrolled
13 in college for four semesters now. He's been doing wonderful
14 in college. He has wonderful grades. He's working and going
15 to school.

16:12:11Q. How do you feel about Steve attending college?

16:12:16A. I feel wonderful. I'm proud of my son. He's never been
18 in trouble. He don't do drugs. He's never been involved in
19 gangs. He's been in school. He goes to church. He's
20 academically involved in colleges. As a matter of fact, as
21 well as working.

16:12:35Q. Miss Brooks, do you want to move back to Baltimore City?

16:12:38A. No, no, not at all.

16:12:41Q. Would you like to stay in the county?

16:12:43A. I would love to stay in the county.

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16:12:46Q. Why do you want to stay in the county?

16:12:53A. Because I really don't think that I would have gotten
3 opportunities I've gotten since I've been in the what county.

4 I have met people. I've gotten involved in things there. As
5 well as I did when I lived in Cherry Hill, but in Towson, the
6 opportunities are there, if you take a chance and get to know
7 the people. And go into the community that, I like, I like,
8 I love what's going on in, where I live. It's opportunities
9 there. It's a wonderful place. I feel good about myself. I
10 feel good about the community I call home.

16:13:36Q. Thank you, Miss Brooks.

MICHAEL SARBANES DIRECT TESTIMONY

(Fact Witness for Plaintiffs: Executive Director at CPHA, Citizens Planning and Housing Association)

16:22:22A. We've been involved with a number of organizations for

13 several years working on a range of initiatives to try to
14 address the housing patterns and the situation of where
15 housing is located relative to an opportunity region.

16:22:40 Over the past year and a half or so, we've helped
17 to convene a coalition of organizations, the name of it is a
18 fairly informal coalition, but it is the Baltimore Regional
19 Housing Campaign. It consists of CPHA, a bridge, which is a
20 coalition of congregations about 25 congregations throughout
21 the Baltimore region representing about 20,000 parishioners.

16:23:12 The Greater Baltimore Urban League, which has a
23 long history of working on questions of work force and
24 connecting people to jobs.

16:23:21 The Faith Fund, which is a community development

1 finance institution also operating on a regional basis that
2 seeks innovative ways of dealing with financing challenges.

16:23:34 The Poverty and Race Research Action Council, which
4 is a national group, that looks at questions of mobility and
5 segregation of opportunity.

16:23:49 The Innovative Housing Institute, which is also a
7 national group, that it has a lot of expertise on
8 inclusionary housing policies and Maryland ACLU. Those are
9 the current members of that coalition.

16:24:04Q. And when did the Baltimore Regional Housing Campaign
11 begin as an organization?

16:24:11A. As an organization, about a year ago. A number of the
13 groups have been working together on different small
14 initiatives. And there was a real coming together, partly
15 around this opportunity framework, and I think that the
16 decision in this case a year ago was acted as catalyst to say
17 let's pull these different efforts together, and figure out
18 what would be a strategy to address the way that affordable
19 housing options link up with opportunity throughout the
20 region.

16:24:51Q. And what are the goals of the coalition of groups?

16:24:53 MR. SUBAR: Objection, relevance.

16:24:55 THE COURT: I don't think so. I think that the
24 purpose of this I assume is to state factually what resources
25 are available in terms of the community.

16:25:03Q. You're right.

16:25:05 THE COURT: I think it's all right for him to say

3 what the objective is.

16:25:11A. The coalition came together around the vision that all

5 families are to be able to live in communities of high

6 opportunity. That ought to be the goal all through the

7 region.

16:25:22 There are a number of guiding principles. One is

9 that people ought to be able to live in the communities where

10 they work. One is that school policy and housing policy are

11 linked.

16:25:39 And the coalition, and the other is that focus only

13 on community development within the city is not going to be

14 adequate to address the problem so that an emphasis on

15 finding affordable housing options in areas of high

16 opportunity has to be part of the solution, as well as

17 continuing to look at how to redevelop communities in the

18 city to make them higher opportunity areas.

16:26:07Q. What particular activities has the Baltimore regional

20 housing campaign undertaken in the past year?

16:26:14A. Well, in the last year, we've really come together around

22 a strategy to try to create those affordable housing options,

23 in higher opportunity areas. And there are a couple key

24 parts to it. one is organizing institutions, particularly

25 congregations throughout the region to help with that. And

1 that can mean either sponsoring families or providing support
 2 to families that may be interested in making a move. It
 3 could also mean developing land that congregations may have.
 4 There is a lot of congregations actually have a fair amount
 5 of land. And so making sure that may be can get developed in
 6 a way that will provide opportunities is another of those, is
 7 another thing that we're looking at.

16:27:04 So we're currently in the process of talking with
 9 leaders of denominations, with bishops and judicatories and
 10 others and beginning the outreach to congregations
 11 themselves.

16:27:15 And what we are asking at the moment is we're
 13 asking congregations to be part of a process that will bring
 14 representatives from those congregations in high opportunity
 15 areas together with residents, members of the plaintiff class
 16 here, but together with residents to really formulate what
 17 would an effort to be a good neighbor look like? How that
 18 would work from the perspective of the congregations and to
 19 make sure that the residents' perspective is involved in
 20 that.

16:27:46 So we've begun, we've met with a number of the
 22 leaders, bishops and judicatories last summer, and the
 23 organizing process for that is under way. We've contacted
 24 about 10 or so congregations directly now.

16:28:01 The goal is to talk with 50 -- have contacted 50 by

1 the summer, where we would try to pull together the
2 congregations with families.

16:28:11 Another aspect of what we were working on is to
4 develop inclusionary housing policies throughout the region,
5 so that includes efforts in Anne Arundel County, Howard
6 County, and in Baltimore City currently.

* * * * *

16:33:53 What from your own experience have you observed
17 regarding the value or lack of value in providing
18 opportunities for city residents to access communities of
19 opportunity and redevelopment within the city?

16:34:30A. Well, there are a number of responses that I'd like to
21 make.

16:34:34 One is, I had the occasion in my work with the
23 state to see virtually every major open air drug dealing
24 market in the state, because that's a lot of the work that we
25 were doing, and in every jurisdiction in the state. And

1 virtually, without exception, those were areas where there
2 was a concentration of poverty and where there was an
3 isolation from opportunity.

16:34:59 And that was very striking.

16:35:05 Personally, I live in the Irvington neighborhood in
6 Southwest Baltimore, and that's a neighborhood that I love

7 dearly, but that has many challenges, almost half of families

8 with children under 5 are in poverty in that neighborhood.

16:35:25 And I -- my experience every day is that in the

10 absence of having networks of support that have some

11 resources to it in the neighborhood, those sort of informal

12 networks of support, that children can miss out on very, very

13 basic things that cumulatively make an enormous difference.

16:35:47 I told a story about something that happened right

15 at the beginning of the school year where a young girl I know

16 who lived right around the corner from me, and the family

17 income is about \$8,000 a year, and she, she's a very

18 resilient child, who's come through some tremendous

19 challenges already.

16:36:11 She, her great love is to play the trumpet. She's

21 very skilled musically and was looking forward to playing in

22 the middle school band where she was.

16:36:18 When you get to middle school, you have to bring

24 your own instrument, and she had no one in her entire

25 network, \$25 a month if you've got credit to rent a trumpet.

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1 There was no one in her entire network who had either the

2 credit or \$25 a month to be able to do that. I happened to

3 run into her around there I've known her for many years she

4 reluctantly described what was going on.

16:36:46 So I was able to, I contacted someone I knew whose

6 son who played the trumpet and asked if he knew of any

7 trumpets. He said when my son started playing a trumpet, I
8 sent on e-mail at his law firm, saying does anyone have
9 trumpet? I got eight responses that I'm trying get rid of my
10 trumpet that's in my closet, will you take it?

16:37:09 So the point is for this girl Crystal those
12 trumpets might as well be in a different planet all together.

16:37:17 And my sense is that -- I would real like to see
14 her in a place where it's not just the a that she happened to
15 run into me there, but there are networks there that can
16 support a child like that, to have something as basic as just
17 being able to develop that musical skill.

16:37:33 And if you multiply that by thousands of kids and
19 thousands of issues like trumpets, I think it can have an
20 enormous impact over time.

16:37:43 So those informal networks I see it every day the
22 importance of it, and I see how difficult it is to make that
23 work where poverty is concentrated.

XAVIER DE SOUSA BRIGGS DIRECT TESTIMONY

(Expert Witness for Plaintiffs: Associate Professor of Sociology and Urban Planning at MIT, Former
Acting Assistant HUD Secretary for Policy Development and Research)

A. The voucher program is run primarily to minimize costs
and to meet basic shelter needs. This in spite of the fact
that desegregating and promoting access to quality locations
or livable environments is also a long-stated goal of the
program.

So while that's a goal on paper, it's the stepchild on the list. It's the objective that gets lost and overwhelmingly the program is run to minimize expenditures, as I say, to get families into communities that meet the sort of minimal quality threshold that the program has.

Q. In practice, where do desegregation efforts fall amongst those competing priorities?

A. They fall on the bottom. And there's specific reflections of that.

On one hand, HUD provides few incentives and resources to enable to local housing agencies that run the voucher program to desegregate more effectively and to get families to quality locations and help them stay there.

In addition, it offers no real penalties if they fail to do so, and, in fact, includes in the way the voucher program is run, several perverse incentives.

In other words, not only does it not advance the cause of desegregation, but in some ways the program is run in ways that exacerbate it.

* * * * *

So if you want something better than business as usual, if you want to change the things that lead Section 8 or housing vouchers to largely fail as a tool for desegregating at least in many communities, these locational targets together with the counseling are very important.

Q. Some believe that the use of locational targets restricts choices for families. Do you agree with that viewpoint?

A. I think that opinion needs to be understood, that assertion needs to be understood in context.

We all face constraints for income and family size and other reasons. No one faces absolutely unconstrained choices in the housing market.

The most serious constraints are faced by families on the bottom of the economic ladder families who have limited information and little experience, looking, for example, in the private market for housing, who lack transportation and lack other resources, for example, many middle class people have.

They face long odds to begin with.

What we're talking about is creating opportunities that families don't have meaningful access to through the standard voucher program, let alone through public housing where it currently lies, and including a set of fairly modest targeting provisions that help people meaningfully desegregate.

Does that channel the choices? Perhaps to some degree. But Baltimore, greater Baltimore, is a vast housing market with strong counseling with good planning tools.

I think the approach should be understood as expanding people's choices. And my understanding is, and enabling them, by the way, to exercise the choices in

meaningful ways that actually deliver opportunity-rich communities, not just the promise of those opportunities.

And my understanding is that should a family want to use a standard housing voucher, it would have the opportunity do so. No one would be absolutely compelled to use the opportunity focus, the remedial voucher.

* * * * *

Q. As we discussed earlier, Dr. Briggs, in your opinion, does the regular Section 8 program provide unlimited choice?

THE COURT: Yes. Okay. Are you ready to answer that question?

A. I am, am I allowed to? Okay.

There are several reasons. First of all, any program, like the voucher program that's founded on consumer choice, which is why the program was launched to begin with, it assumes that the consumer has great information. Look at any economics textbook in the land, and it will explain the choice mechanisms depend on that.

That is, to a significant degree, not the case. I know this from talking to the families. Not because I'm making any assumptions about the knowledge that they bring or don't bring.

So adequate information is a key assumption that often does not obtain.

You hear this in the way families make choices and

how poorly they understand choices.

Number two, the landlords being willing to accept the voucher when they're not obliged to.

Number three, it depends on finding units at acceptable rent levels. There's a certain geography to that. There are more of those units in particular communities than other, which is why Section 8s cluster, to some degree, especially for minority voucher users.

I don't know what number we're up to now, but in the series, there's discrimination in the marketplace. The leading evidence from HUD's own funded national test is that housing discrimination continues in America, in both housing sales and in renting, minorities suffer disproportionately from this, blacks as well as Hispanics.

By the way, one of the most common barriers for renters is lack of provision of information for white apartment seekers, the unit is available. For the black person that came 10 minutes before, it isn't available, landlord or agents telling a different story based on evidence. We have very rigorous evidence of that.

So we have a series of barriers. And I mean, the analogy I would give is you take someone into a candy store and you say officially you can have anything you want, but most of what you want is out of reach, and a lot of what's in reach is not affordable.

I mean, in principle, you haven't officially

constrained a person to live in a particular community, but nor have you delivered meaningfully on choice.

And if we had no evidence about counseling, its effects, if we had nothing to go on in the way of years of Gatreaux program, Moving to Opportunity program, other less nationally and rigorously evaluated, but nevertheless other programs about which practitioners have mined important lessons, some of them published, if we have nothing to go on, you'd simply be speculating about whether you can do anything to change these barriers.

But we have a lot to go on. We have very clear evidence that the outcomes are different when you provide counseling. The outcomes are different when you have locational targets, when you're deliberate about seeking to desegregate, or to deconcentrate, as the case might be, if you're using poverty rate to help people move to better locations.

Those are the important ways, I hope I've been clear in which there are a series of things, which in fact constrain choice, discourage people from making a wider array of choices, fail to provide them with information about what is out there. None of which, by the way, center on their preference for on their own, but all of which constrain the choices that they in effect can make and do tend to make.

CAROLINE QUEALE DIRECT TESTIMONY
(Fact Witness for Plaintiffs: Baltimore Suburban Resident)

Q. Good morning, Miss Queale.

A. Good morning.

Q. Where do you live?

A. I live in northeast Baltimore.

Q. And how long have you lived there?

A. About 13 years.

Q. Do you have any children?

A. I do.

Q. How many?

A. I have three.

Q. Howl are your children?

A. They're 12, 9, and 6.

Q. Do they live with you?

A. Yes, they do.

Q. Can you describe your neighborhood for the Court, please?

A. I describe my neighborhood as housing wise, mixed single
homes, duplexes, some apartments, and fairly racially
diverse.

Q. Did there come a time when the house --

THE COURT: Could you just describe, tell me what
the neighborhood is.

THE WITNESS: My specific neighborhood is kind of
known as Parkville Hamilton.

THE COURT: Okay. Off of York Road?

THE WITNESS: Harford Road, near Harford Road and Northern Parkway.

THE COURT: Okay. Thank you.

BY MS. WOODS:

Q. Miss Queale, did there come a time when the house next door to you became vacant?

A. Yes.

Q. Why did that happen?

A. There was a foreclosure on the home.

Q. How long did the house remain vacant?

A. It was vacant all told probably close to two years.

Q. Did you become aware at some point during that time that the house next door was going to be used as a public housing residence?

A. Yes, I did.

Q. How did you find that out?

A. There were some gentlemen standing outside the house next to me, and I went and asked them if they knew what was happening with the house, because nobody ever really seemed to know. And they informed me that it was to become a public housing unit.

Q. What was your first reaction to this news?

A. My first reaction is I was very unhappy about that. I didn't want that to happen.

Q. Why were you unhappy?

A. Oh, I think at the time my perception of public housing

was based on the fact that I worked at Hopkins and generally parked on Orleans Street and Wolfe Street, and also what I heard in the news most of the time which was generally not favorable.

Q. And you're talking about what you knew of and heard about public housing?

A. Yes.

Q. What, if any, perception did you have about people who lived in public housing?

A. Probably my perception at the point was that they probably didn't work. But they probably didn't mind being in the situation they were in, and probably usually involve in illicit activities, based on the media.

Q. And what type of illicit activities are you talking about?

A. You used to hear about specially the high-rises and violence and drugs pretty much what was shown on TV, so that's what I knew.

Q. Were you familiar with public housing developments within Baltimore City?

A. I was familiar with really the places that were on the news, and places again that were near where I worked at Johns Hopkins, that is what I knew of them.

Q. Do you think that your perception of public housing could have been based on popular racial stereotypes about public housing residents?

A. Oh, I'm sure, yeah. I'm sure that had something to do with it.

Q. Did your feelings about the house next door becoming part of public housing change at any point?

A. Oh, yes, they did.

Q. Why did they change?

A. Oh, they changed really for a variety of reasons, but I'd gotten involved in looking into what was to happen next door, and I actually met one of the public housing residents, got to know him, and gained a big education I think is really what helped change my line of thinking.

* * * * *

Q. You mentioned earlier that your views about the public housing plan changed over time. What was the turning point?

A. The turning point was meeting Ike Neal. That was the turning point.

Q. How did that experience change your views?

A. Well, I -- to put it the best way I can, that public housing was no longer a faceless institution. In my mind, I was just calling it public housing. And I met a person who lived there And experienced what life was like in public housing, and he was married, and he and his wife both worked, kids went to school and did their homework. He was block captain.

And all these things just didn't fit into the box I had created for public housing in my mind. So I met a person

who was involved in this process.

Q. Did you later join an organization called Northeast Good Neighbors?

A. Yes.

Q. What was the goal of that organization?

A. It started as really in reaction to the meeting at Hamilton middle school, just some people who wanted to change the tone in northeast Baltimore and create some hope conversations with people, and ultimately our goal was to try to help find a way to make something work for the public housing residents and for our community.

Q. Did you think that your community could be more receptive to public housing residents?

A. Yes, I did.

Q. How did your group go about trying to create a more receptive environment in northeast Baltimore?

A. Well, we educated ourselves, first of all, and learned -- we learned about communities where this had been done successfully. And not only they kind of just done it successfully, but the communities were thriving themselves.

I think we all gained a big education in just how Baltimore developed itself, how the city had developed over time and how public housing residents had not been permitted really for a long time move from where they were as the city developed and spread out and jobs moved out, then literally were told you can't move.

And I think that certainly appealed to me enormously in terms of social justice, but I think it appealed to people who we went and shared information with.

So we educated ourselves, and then we went to some churches in northeast Baltimore and community association meetings. And at that point we had also drafted a petition that we were trying to get people to sign, that we wanted to present to the mayor, of people who wanted to work with him at trying to find a solution to this, and also create a more welcoming environment in northeast Baltimore.

Q. And when you say a petition, what do you mean?

A. We were trying to gather signatures to present to the city, because we felt that the impression, especially after that meeting in Hamilton Middle school, was that the program was absolutely not accepted, nobody wanted it in the neighborhood, and we just didn't feel that that was the case. And we wanted our public officials to know that there were people in the community that wanted to work with them at trying to help resolve this in the best way possible not only for public housing residents but for the referring community.

MS. WOODS: Your Honor, at this point I would like to enter exhibit 5 -- plaintiffs' exhibit 513.

THE COURT: Very well, I don't know what it is, but if there's no objection, it's admitted.

(Received in evidence.)

BY MS. WOODS:

Q. Do you recognize plaintiffs' exhibit number 513?

A. Yes, I do.

Q. What is this?

A. This is a proposal that actually the Northeast Good Neighbors created to offer to the City of Baltimore as way to implement a plan that we thought could be successful in our neighborhoods.

Q. And why did your group take on the task of developing a proposal?

A. It was at that point we felt it was the right thing to do. I think we'd just become kind of driven and passionate about the subject and realized that nothing was the right thing to do, it was going to happen, and had been mandated to happen.

And instead of being left out of the process, we wanted to be involved and be a part of it, because we thought we'd give the program its greatest chance of success if we had some input and said this is what we think will work in our community.

Q. Can you give the Court some highlights of what your proposal contained?

A. Yes. We -- basically, we wanted to address two things. We wanted to find -- we wanted to meet the scattered site housing criteria.

We also wanted to help quell some of the fears that were very real in northeast Baltimore, and that was a huge

number of foreclosures that we were dealing with in the community.

So we thought how can we create a program that will not only find places for public housing residents to live, but also strengthen our community at the same time?

So what we proposed was there would be 20 homes, total of 10 northeast and 10 in northwest Baltimore, that these would be homes that came from inventory of FHA foreclosed homes.

But then, in addition to those total 20, there would be 80 as well that would be rehabbed by reputable non profits and then also -- and then sold to home buyers in the community.

Q. Did you share your proposal with members of the community?

A. We shared this with members of the community. Again, ministers of northeast ministry, people at the community association meetings, and then we also shared it with some city officials.

Q. And, in general, what were their reactions to your proposal?

A. The reactions generally were fairly favorable. I think they saw it as something that would help everybody involved. And, at that point, again, in combination with educating them about things like how Baltimore developed, and things that I'd learned, particularly about Mr. Neal, and I shared the

kind of person that he was, and the fact they'd be having vacant houses in their neighborhood, have homeowners in them, it was really generally received fairly favorably.

Q. Do you know whether the plan was implemented?

A. Yes.

Q. Yes, it was implemented?

A. Yes, it was implemented.

Q. Do you know whether any scattered site units have been located in northeast Baltimore?

A. There have been, yes.

Q. Have you, or are you aware of any problems that have occurred in your community since those sitings?

A. No, not in relation to that.

Q. What has happened to the property values in your community since those sitings?

A. Generally, they've gone up.

Q. Has your neighborhood become unstable?

A. No.

Q. Do you understand that this phase of the Thompson case is focused on developing a regional plan to provide desegregative housing opportunities for public housing residents?

A. Yes.

Q. What, if any, lessons did you learn from your experience that might be relevant to achieving a regional plan in this case?

A. I think there were a couple really important things learned, and that I think getting a community involved in the process is really critical, because a lot of our issues were that we felt that something was happening that we were unaware of.

And the people will come up with, they obviously want their neighborhood to thrive, and they'll come up with something they think will work.

And it's not a situation where people should be asked if this is to happen because it needs to happen. It's more of a matter of saying this is something that needs to happen, and what do you think would work well in your community?

So I think having community involvement, I think again I can't stress, to me, the educational aspect, the things that changed my mind. Because I really went from being, you know, opposing the whole thing to really trying to create a plan to make it work was meeting somebody who was a public housing resident. That was a critical turning point.

And I think giving people the opportunity to meet residents or people who could be their future neighbors opens their eyes a little bit when it's a real person that you're dealing with and their lives and children's lives, I think that makes a big difference.

And, again, I think particularly at least in this city, how the city developed in the first place really

applies to a lot of people's sense of social justice, that this situation has developed over a long period of time, and we need to do something to right the situation.

I think having -- what we learn about communities where this had been done really successfully, the public officials were very vocal in favorable ways. They didn't express any fear. They were advocates for it happening. They would create things like stable integration governing boards. They said this is going to be happen, let's make it as successful as it can be.

Having me call my city council person and him having no idea this was going to happen was pretty scary. Maybe if I'd made that first phone call on Monday and Ken Harris was able to say, yes, I did realize this was going to happen, and I think we have a plan in place that is going to work well in your community, I think that again through meeting Ike, that you realize that, regardless of race or class, we all so much want the same things for our kids. We want them to be able to go to good schools and go outside to play without being afraid. We want a place to call home.

Again, I think the barriers come down if you get some personal interaction involved in that.

And probably my biggest lesson in the end, particularly with Ike, was probably one of the very people who could have ended up being my neighbor, one of the best neighbors I could ever ask for, he's a wonderful person.

He's a good dad. He takes care of his property. He's, you know, he would have been a wonderful neighbor.

So I think in the end it was -- I'm glad he ended up in a good place. But in the end I probably missed out because of the opposition that was created to the plan.

Q. Did you have any reactions to the original scattered site plan for your neighborhood that you altered in your proposal for the siting of the scattered housing?

A. Well, yes. I think, oh, yeah, one of the other issues, too, was if you're going to do this, then you need to include all of the eligible neighborhoods that are available to receive public housing. And I think that northeast Baltimore was feeling very targeted, and that was a huge issue, because we felt like this was the first 15, so look around us, we've all these foreclosures, looks like the other 25 will probably end up here, too.

And there were neighborhoods who obviously, based on the criteria of a non impacted neighborhood, were excluded particularly the higher income neighborhoods, you know, around Baltimore, you know, Guilford, Roland Park, Homeland, Mount Washington. There were places within the city limits where people could have lived that were obviously excluded from the initial plan.

So there needs to be fairness to it. You know, this is kind of a social responsibility of everybody's, and that was a very important thing. And that was something that

was very much vocalized initially when this all came out and people were very angry, why is this all happening here?

WILLIAM CLARK CROSS-EXAMINATION
(Defendant Expert Witness, Professor of Geography, UCLA)

12:04:00Q. Okay. So you would agree with me that objectively public

10 housing in Baltimore is segregated?

12:04:02A. Yes.

12:04:10Q. Okay. Now, you've testified that we're making, I think

13 your words are, continuing progress toward a more integrated

14 society, right?

12:04:17A. Correct.

12:04:21Q. But that's not true in public housing in Baltimore,

17 right?

12:04:22A. That's correct.

WILLIAM TAMBURRINO CROSS-EXAMINATION
(Defendant Fact Witness, Director, Baltimore Public Housing Program, HUD)

11:46:07Q. Now, I think you testified about the Section 8 Management

20 Assessment Program, or SEMAP.

11:46:20 My understanding is that the Housing Authority of

22 Baltimore City failed the SEMAP assessment in 2001, in 2002,

23 and in 2003; is that right?

11:46:36A. I believe that's correct, yes.

* * * * *

12:06:24Q. And in particular, if you look at the first sentence of

7 the last paragraph on the page, the Inspector General reports

8 that because of the authority's delay in fully implementing
9 our recommendations, it was not able to effectively and
10 efficiently manage its Section 8 program to ensure it fully
11 used its available Section 8 funding from HUD, from 2001
12 through 2004.

12:06:54 Right?

12:06:57A. Yes, that's what it says.

12:07:04Q. And in particular, the next sentence reports that for the

16 three-year period beginning in fiscal year 2001, and ending
17 in fiscal year 2003, the authority's average annual budget
18 utilization rate was only in the 80 percent level, right?

12:07:29A. I will highlight that's correct specifically using the

20 word average.

12:07:38Q. And as you testified earlier, that HUD ordinarily expects

22 a housing authority to use at least 95 percent of its
23 available funding, right?

12:07:47A. Correct.

12:07:56Q. And as a consequence of the failure to use the available

1269

1 funding, the Inspector General reported that in fiscal year
2 2002, HUD recaptured 42 million of unused Section 8 funds
3 from Baltimore City, right?

12:08:18A. That makes the same statement to that effect, yes.

* * * * *

12:14:34Q. Now, staying with the page 14 for a moment, in addition

18 to the 15,000 persons on the authority's Section 8 waiting
19 list, the IG found that the authority, as of June, 2004, end
20 of its 2004 fiscal year, had approximately 14,609 total
21 authorized vouchers.

12:14:59 Right?

12:15:03A. I see that, yes.

12:15:10Q. And of those authorized vouchers, the IG further found
25 than average of 10,373 were being used, right?

1272

12:15:17A. Yes.

12:15:27Q. And that left approximately 4,236 available vouchers?

12:15:29A. That's their calculation, yes.

12:15:34Q. And they further calculate that to be a 71 percent unit
5 utilization rate, right?

12:15:40A. That's correct. That's their calculation.

12:15:45Q. And once again, as they report in the next sentence, to
8 be a standard performer, HUD normally expects an authority to
9 achieve a utilization rate of 95 percent, right?

12:15:52A. Correct.

* * * * *

14:37:23Q. Are you aware that the Court in this phase of the trial
6 is considering the possibility of imposing a remedy against
7 HUD for the violation of law that the Court has found?

14:37:37A. Yes.

14:37:43Q. If the Court were to order such a remedy, would you do

10 your utmost to see to it that it was properly implemented?

14:37:48A. Yes.

ROBERT FISHMAN CROSS-EXAMINATION

(Defendant Expert Witness, Professor of Architecture and Urban Planning, University of Michigan)

16:16:07Q. And in fact 50 percent of the African American renters

5 experience discrimination in their search for housing,

6 correct?

16:16:15A. Yes. That was one of the findings of that 1990 study.

16:16:19Q. And so, therefore, discrimination remains a significant

9 constraint on freedom of choice for African American renters

10 in the housing market, isn't that right?

16:16:30A. Yes.

VIRGINIA SARDONE CROSS-EXAMINATION

(Defendant Fact Witness, Director, Program Policy Division in the Office of Affordable Housing Programs in Community Planning and Development, HUD)

15:34:58Q. Do you agree that HOME funds have the potential to

16 provide opportunities for African American families in

17 Baltimore City public housing to move to housing in

18 predominantly white neighborhoods throughout the region?

15:35:09A. Yes, I believe that's possible.

15:35:18Q. Do you believe one way minute that's possible is that

21 HOME funds could be used to provide tenant-based rental

22 assistance to help Baltimore City public housing residents

23 move to predominantly white areas in other jurisdictions,

24 correct?

15:35:33A. Yes, I believe that's possible.

1604

15:35:37Q. Okay. HOME funds could also provide subsidies to
2 landlords in the surrounding jurisdictions and then require
3 those landlords to accept Baltimore City public housing
4 residents, or Baltimore City residents who receive housing
5 vouchers to go live in those surrounding jurisdictions,
6 right?

15:35:55A. You're referring to development subsidies to landlords?

15:35:58Q. Yes, yes, ma'am, rental subsidies?

15:35:59A. Yes.

15:36:06Q. And HOME funds can also be used to for affirmative
11 marketing of HOME funded units to Baltimore City public
12 housing residents, correct?

15:36:15A. Yes. HOME administrative funds can be used in that way.

15:36:26Q. And you also mentioned, I just want to confirm, that the
15 HOME program has the potential to extend and strengthen
16 partnerships among all levels of government in the region,
17 correct?

15:36:34A. That's correct.

15:36:38Q. And part that of potential to promote a regional approach
20 to furthering fair housing?

15:36:44A. I believe I would need regional approach defined.

15:36:47Q. Sure. That could help the regional jurisdictions take a
23 regional approach to allow -- an approach that would allow

24 Baltimore City public housing residents to move out of the
25 city and to areas of opportunity throughout their region?

1605

15:37:01A. Yes, I believe that's possible.

* * * * *

1606

15:39:32Q. In practice, you don't know if HOME funds have ever been
24 used in that way, do you, in Baltimore?

15:39:42A. We do not know where the people that we've assisted have

1607

1 come from, no. We do not keep track that of.

15:39:47Q. So you don't know if a single African American family
3 from Baltimore City public housing has ever moved to a HOME
4 unit in a predominantly white neighborhood, do you?

15:39:59A. I don't know to what extent we've assisted people from
6 public housing in Baltimore.

15:40:06Q. In fact, you don't know if you have assisted people from
8 Baltimore, from public housing in Baltimore, do you?

15:40:10A. No, we don't know that we haven't.

15:40:13Q. That's fine. You don't know if you haven't, but you also
11 don't know if you have assisted --

15:40:15A. Absolutely.

15:40:18Q. -- a single Baltimore City public housing resident,
14 correct?

15:40:19A. That's correct.

15:40:25Q. No one in the national Community

1608

15:40:27P. Planning and Development Office, your office, even monitors

2 whether HOME funds are being used to affirmatively further

3 fair housing; isn't that correct?

15:40:37A. I don't believe that that -- I don't believe that we do

5 that in CPD. I am unsure whether that happens in FHEO.

15:40:45Q. You work in CPD?

15:40:45A. Correct.

15:40:49Q. And you're familiar with what CPD does, correct?

15:40:49A. Correct.

15:40:53Q. And CPD does not monitor whether HOME funds are being

11 used to affirmatively further fair housing?

15:40:58A. Not to my knowledge, no.

* * * * *

15:53:58Q. And what your office's data shows us is that tenant-based

12 rental assistants provided 460 units outside of Baltimore

13 City in the 14 years since 1992, correct?

15:54:17A. That's correct.

15:54:32Q. And of those 460 units, 150 of them were initially

16 occupied by African Americans, right?

15:54:35A. Correct.

15:54:40Q. So over 14 years, that's a little over 10 units a year,

19 outside of Baltimore City, that were made available to

20 African American tenants, correct?

15:54:49A. That would be on average. I have no information about

22 how long Baltimore County has been doing tenant-based rental

23 assistance.

15:54:56Q. But on average, 10 a year?

15:54:58A. If you averaged it, yes.

1618

15:55:02Q. And all of these numbers are 14-year totals, correct?

15:55:03A. Correct.

15:55:09Q. And just to confirm, all 150 of those units for African

4 Americans in the Baltimore region, since 1992, have been in

5 Baltimore County and not in any of the other surrounding

6 jurisdictions, correct?

15:55:17A. I don't know that.

15:55:18Q. You don't know that?

15:55:19A. I don't know that.

15:55:25Q. Why don't we turn to exhibit 156.

15:55:37 Exhibit 156 is this same data for Baltimore County,

12 correct?

15:55:38A. Yes.

15:55:41Q. So if we turn to the bottom of page 2 and the top of page

15 3, that will tell us how many tenant-based rental assistance

16 units were provided in Baltimore County and how many were

17 occupied by African Americans, correct?

15:55:55A. No. It tells us how many tenant-based rental assistance

19 vouchers were provided by Baltimore County.

15:56:00Q. Okay.

15:56:02A. We have no information on this report as to where these
22 people ended up renting units.

15:56:05Q. Fair enough.

15:56:10 I stand corrected. Baltimore County provided 150
25 -- provided 460 tenant-based rental assistance units over 14

1619

1 years, and 150 of them went to African Americans, correct?

15:56:20A. Correct.

15:56:24Q. And that's the same -- there's 150 provided by Baltimore
4 County, 150 for the region.

15:56:29 So would you now agree with me that all 150
6 tenant-based rental assistance units in the region were
7 provided by Baltimore County?

15:56:36A. By Baltimore County, yes.

15:56:40Q. You don't know where those units were used, correct?

15:56:40A. That's correct.

15:56:44Q. So you don't know, as far as you know, all of those units
12 could have been used in predominantly white -- in
13 predominantly black areas, correct?

15:56:54A. My personal knowledge, I don't know where they were used.

* * * * *

15:58:34 So do you have any knowledge that any tenant-based
21 rental assistance in the region went to any Baltimore City

22 public housing family?

15:58:41A. I'm not family with Baltimore County's program design for
24 its tenant-based rental assistance program.

15:58:45Q. So the answer is, no, you have no such information?

1621

15:58:47A. I have no such knowledge.

15:58:55Q. So the bottom line is, that you don't know if

3 tenant-based rental assistance funds provided even a single
4 opportunity for a black Baltimore City public housing family
5 to move to a predominantly white neighborhood anywhere in the
6 Baltimore region, correct?

15:59:09A. I would not have that knowledge, no.

* * * * *

16:01:11 I have a little more math four, if we subtract

15 2,538 from 2,660, that is just over 14 years, just 1022

16 rental units were occupied by African Americans outside of

17 the Baltimore City, as the result of HOME funds, HOME rental

18 funds, correct?

16:01:35A. That is correct. And I believe that that and would

20 constitute 31 percent of all of the rental units produced

21 outside of Baltimore City.

16:01:43Q. Right.

16:01:46A. So, in other words, of all the units, rental units that

24 were produced outside of Baltimore City, 31 percent were

25 occupied by black households.

1623

16:01:55Q. And another way to break that down is that of all of the
2 rental units produced outside of Baltimore City, that were
3 occupied by African Americans, they averaged fewer than 9
4 units a year over 14 years, right?

16:02:09A. That's correct.

* * * * *

16:23:02Q. Were you HUD's designee to speak for the whole agency
11 with respect to HOME, correct?

16:23:03A. Yes.

16:23:06Q. And you knew this was a case in which Judge Garbis has
14 found that HUD has failed to affirmatively further fair
15 housing on a regional basis, correct?

16:23:11A. That's my understanding.

16:23:15Q. So I assume that you did your best to find examples of
18 how HUD has provided technical assistance regarding
19 affirmatively furthering fair housing on a regional basis?

16:23:26A. No. Actually, I did not have a lot of time to prepare in
21 that respect.

16:23:29 If I had, I might have gone through all of the
23 products that we have, but they're very numerous.

16:23:36Q. Okay. Well, you've had, it is now April, you've had
25 since February, you knew that you were going to be testifying

1638

1 here for the past two months, right?

16:23:43A. Yes.

16:23:49Q. And have you found anything that HUD has offered in the

4 way of technical assistance regarding affirmatively

5 furthering fair housing that recommends or in any way, shape,

6 or form reaches out to help public housing residents move

7 from the inner city to the suburbs?

16:24:04A. I've found some other materials that we've prepared with

9 respect to affirmatively furthering fair housing. I don't

10 believe that those materials reference any particular group.

* * * * *

16:30:45Q. Maybe I didn't understand you, Miss Sardone. Local

7 jurisdiction is receiving HOME funds, okay?

16:30:53 And if that jurisdiction is failing to

9 affirmatively further fair housing on a regional basis, do

10 you agree that HUD can take some steps to encourage that

11 jurisdiction to further fair housing on a regional basis?

16:31:09A. If HUD determines, after examination of the evidence and

13 reasonable notice to the participating jurisdiction, that it

14 is not affirmatively furthering fair housing, HUD can reject

15 the certification that accompanies the consolidated plan.

16:31:23Q. And you don't know -- HUD also maybe able to take

17 remedial actions or impose sanctions under 92.551 or 92.552,

18 but you're not sure about that?

16:31:33A. I don't know if that's the case or not.

16:31:36Q. It is, however, the case that you've never heard of HUD

21 ever taking a regional approach to encouraging, persuading,

22 remedying, or sanctioning, any participating jurisdiction

23 regarding the jurisdiction's failure to use HOME funds to

24 further fair housing, correct?

16:32:00A. Repeat the question, please.

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16:32:01Q. Sure.

16:32:06 Have you ever heard of HUD ever taking any actions

3 to encourage, to persuade, to remedy, or to sanction local

4 government participating jurisdiction for failing to further

5 fair housing?

16:32:28A. I have not heard of that being the case, which is not to

7 say that conversation may not have taken place at the field

8 level or with Fair Housing Equal Opportunity.

16:32:37Q. So it might be possible do that, but you've never heard

10 of it being done?

16:32:42A. If such things have occurred, I've not been informed of

12 them.

RICHARD KENNEDY CROSS-EXAMINATION

(Defendant Fact Witness, Director of the Office of Block Grant Assistance, HUD)

10:41:01Q. Now, you told Mr. Hall that there are 1,059 households

9 assisted through the use of CDBG funds for the program year

10 starting July 2003 ending June 2004?

10:41:13A. That was what was reported in IDIS, yes.

10:41:18Q. Now, you don't know the race of any of those

13 beneficiaries households, correct?

10:41:23A. I don't know them now, no. But there is data reported on

15 that.

10:41:26Q. And this document does not show the race of any of these

17 benefiting households?

10:41:27A. That's correct.

10:41:32Q. It also does not show the neighborhoods in which any of

20 these activities were located?

10:41:36A. This document does not.

10:41:39Q. Okay. And you wouldn't know, for example, whether any of

23 these households were Baltimore City public housing families?

10:41:44A. I wouldn't personally know.

10:41:47Q. Okay. And this document doesn't show it?

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10:41:50A. This document clearly does not attempt to show that.

10:41:54Q. Okay. In fact, because you testified earlier based on

3 the income eligibility limits that are set by the statute,

4 there's no requirement that any of these benefiting

5 households are Baltimore City public housing families,

6 correct?

10:42:08A. That's correct. There's no requirement that it -- that

8 they have to fund those.

10:42:12Q. Okay. So it's possible that none of them are?

10:42:12A. It's possible.

PETER SHUCK CROSS-EXAMINATION

(Defendant Expert Witness, Professor of Law, Yale Law School)

16:09:14Q. All right. And in your Diversity in America volume, you

5 concluded, did you not, that the Gatreaux remedy seemed to

6 quote "have succeeded in moving a significant number of

7 blacks to previously white suburbs."

16:09:28A. Yes.

16:09:36Q. And you further have stated that "Gatreaux employed a

10 very different approach to integrating minorities into white

11 suburbs, than did Mt. Laurel or Yonkers. In doing so, it

12 seems to have succeeded where the others failed."

16:09:52 Haven't you said that?

16:09:58A. Yes. It's exceeded in moving a number of families to

15 less concentrated minority areas. That's true.

16:10:11Q. And let's talk about the number of families that the

17 Gatreaux remedy succeeded in moving.

16:10:20 Is it not the case that by the end of 1998, when

19 HUD's obligations under the Gatreaux decree ended, the

20 program had moved 7,100 low income black families out of

21 inner city neighborhoods that were over 90 percent black.

22 And that most program participants in the Gatreaux remedy

23 moved to more than 100 suburban communities that were over 96

24 percent white on average?

16:10:57A. I don't know the latter part, I can't confirm the latter

1910

1 part of your statement, but that may well be the case.

16:11:02Q. All right.

16:11:07A. The 7100 families number is what I recall from the study.

16:11:11Q. All right. Well, let me just direct your attention to
5 page 229.

16:11:15 James, can you help me there?

16:11:24 Page 229 of your volume Diversity in America. If I
8 can, if you've got that on the screen, and if I can direct
9 you to the first paragraph, beginning at the top of 229?

16:11:35A. All right. I did see that. All right.

16:11:41Q. And does that indeed confirm, this is your own
12 description of what Gatreaux accomplished; is that not
13 correct?

* * * * *

1925

16:40:00Q. All right. You have been critical of the remedy that was
24 imposed in the Yonkers case; isn't that correct?

16:40:04A. Yes.

1926

16:40:09Q. And you have also written that better alternatives
2 existed?

16:40:10A. Yes.

16:40:20Q. And you see the Gatreaux remedy as a better alternative;
5 do you not?

16:40:23A. Than Yonkers? Yes.

16:40:35Q. You have described the results of the Gatreaux remedy as

8 encouraging; have you not?

16:40:38A. Yes.

16:40:48Q. You have you have stated, have you not, that Gatreux has

11 improved housing opportunities for thousands of low income

12 minority families?

16:40:54A. Yes.

16:41:00Q. Who now enjoy some of the hoped for social economic and

15 educational benefits of integration?

16:41:02A. Yes.

CHARLES HALM CROSS-EXAMINATION

(Defendant Fact Witness, Director of the Community Planning and Development Division in the HUD
Baltimore Office)

10:33:02Q. You've been at HUD you said since 1980?

10:33:02A. That's correct.

10:33:04Q. And the entire time you've been in the Baltimore field

23 office?

10:33:05A. Yes.

10:33:09Q. And for the entire time that you've been at HUD, the

2056

1 Baltimore region's public and assisted housing has been

2 located almost exclusively in neighborhoods that are

3 overwhelmingly African American; correct?

10:33:20A. Yes. That's correct.

10:33:23Q. For the entire time you've been at HUD, the Baltimore

6 region public assisted housing has been located in

7 neighborhoods that are overwhelmingly poor as well as African

8 American, correct?

10:33:33A. I believe that's probably the case.

10:33:37Q. So for African American families in Baltimore City, who

11 need to live in public housing the only places that they've

12 been able to live have been in neighborhoods have been

13 overwhelmingly black and overwhelmingly poor?

10:33:52A. Generally, that's the case. There is some public

15 housing, senior public housing, I believe, in another more

16 diverse neighborhoods, yes. But that's correct.

10:34:01Q. My question was about families.

10:34:03A. Families, okay. Yes, that's true.

10:34:06Q. And that was true in 1980 when you started at HUD?

10:34:07A. Yes.

10:34:09Q. And that's true today, correct?

10:34:10A. Yes, that's true.

10:34:14Q. That's been true every year between 1980 and today,

24 today?

10:34:15A. As far as I know, yes, sir.

* * * * *

4 Q. Okay. Now, I've got your figures provided by your

5 counsel that since 1989 CDBG has disbursed approximately \$450

6 million in funds within Baltimore City and over \$140 million

7 in the Baltimore region outside of Baltimore City, does that

8 sound about right to you?

9 A. Since what year?

10 Q. 1999?

11 A. That sounds, about 30 million a year, yeah, that sounds
12 about right. Yeah.

13 Q. Now, do you know of that \$600 million how much was used
14 to help African American public housing families move from
15 Baltimore City to any predominantly white area?

16 A. As far as I know, not a penny..

DAVID VARGAS CROSS EXAMINATION

(Defendant Fact Witness, Director of Housing Choice Voucher Programs, HUD)

10:17:26 Mr. Vargas, to your understanding that the HUD

18 requests that the administration make budget requests to
19 Congress?

10:17:31A. Yes.

10:17:36Q. And it's your understanding that, in the 2006 request,

22 included in that request, were requests for funding for
23 vouchers for the Walker case in Dallas, correct?

10:17:47 MR. HALL: Objection on relevance grounds, Your
25 Honor.

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10:17:50 THE COURT: Oh, contrary. I can't think of
2 anything more relevant than that question.

10:17:54 MR. HALL: May --

10:17:56 THE COURT: I can't think of anything more
5 relevant. Overruled.

* * * * *

10:18:33Q. In the 2006 request -- included in that request were a

19 request for funds to -- for vouchers for the Walker case in

20 Dallas?

10:18:44A. Yes, in the president's budget in 2006 was a \$12 million

22 dollar request for funds to complete the department's

23 commitment under the Walker litigation.

10:18:53Q. And it's your understanding that Congress provided those

25 funds; is that correct?

2351

10:18:55A. That is correct.

WILLIAM ROHE CROSS-EXAMINATION

(Defendant Expert Witness, Professor of City and Regional Planning, University of North Carolina)

16:45:03Q. You support the development of hard units, correct?

16:45:03A. I do.

16:45:07Q. And specifically you support mixed income development,

22 correct?

16:45:09A. I do.

16:45:11Q. And you agree that it is possible to develop

25 well-designed housing on a scale appropriate for the

2530

1 surrounding neighborhoods?

16:45:16A. Yes.

* * * * *

17:03:04Q. You would also agree with me that the remedy should be

16 administered by a regional agency; isn't that correct?

17:03:08A. Yes.

17:03:13Q. And you would agree that HABC in particular should not

19 administer this remedy; is that correct?

17:03:16A. Yes.

17:03:21Q. And you would also agree with me that families need

22 counseling in order to help them find units?

17:03:25A. Yes.

PAMELA WALSH CROSS-EXAMINATION

(Defendant Fact Witness, Director of the Program Standards Division, Office of Fair Housing and Equal Opportunity, HUD)

2200

9 Q. But HUD, in fact, has not used its leverage to convince a

10 jurisdiction, as far as you know, to cure an inadequate

11 analysis of impediments in that jurisdiction, has it?

12 A. Not to my knowledge.

13 Q. And, similarly, to your knowledge, HUD has not sanctioned

14 any jurisdiction for failing to take action to overcome

15 impediments to fair housing that have been identified?

16 A. Not to my knowledge.

17 Q. And, similarly, to your knowledge, HUD has not denied

18 funding or grant assistance to entities for a failure to

19 affirmatively further fair housing?

20 A. Not to my knowledge.

* * * * *

2204

8 Q. Okay. Now, let me ask you to look, please, at page 125

9 of your deposition, starting at line 14. And at line 14, you

10 were asked “In the course of your work at HUD, have you ever
11 been involve in any discussions about regional approaches to
12 desegregating public and assisted housing?”

13 And you answered “No.”

14 Right?

15 A. That’s correct.

16 Q. And then you were asked the very next question, “Have you
17 ever heard about discussions involving regional approaches to
18 desegregating that you might not have personally been
19 involved in?”

20 And after another objection from Mr. Subar, you
21 answer was “No.”

22 Right?

23 A. That’s right.