

LAWYERS & SOCIAL CHANGE: TAKING THE LONG VIEW IN BALTIMORE



THIS PAST JANUARY, A FEDERAL JUDGE in Baltimore, Marvin Garbis, issued a major housing desegregation ruling that explores the ways in which many American metropolitan areas have become—and stay—so racially and economically segregated. The lawsuit, *Thompson v. HUD*, was filed by the Maryland ACLU more than ten years earlier, on behalf of a class of African-American public housing residents in Baltimore. Thompson challenged the government’s policy of social engineering the ghetto: the plaintiffs claimed that the city and housing authority acted in concert with the Department of Housing and Urban Development (HUD) over many decades to create a deeply segregated system of public housing, one in which project siting decisions were largely driven by the desire to avoid community opposition in white neighborhoods. Attorneys were already preparing for the case in the early-1990s, but expedited their filing of it when the Baltimore city government demolished a high-rise pub-

lic housing development and made plans to locate replacement housing in neighborhoods with similar levels of segregation. In its decision, the court did not find the city and local housing authority liable, but instead focused responsibility squarely on HUD, which had both the power and duty to provide housing choices for low-income African American residents outside of segregated, high poverty zones in the city.

The Thompson decision doesn’t break new legal ground—it follows similar cases challenging the many instances in which the federal government, often acting in concert with state and local governments, played a key role in the racial and economic segregation of American metropolitan areas. The first major case, *Gautreaux v. Romney*, was filed in 1966 and reached the U.S. Supreme Court in 1976. *Gautreaux* established that HUD shared responsibility with local defendants for intentional housing segregation, and could be required to promote regional

housing integration in both a city and its surrounding suburbs as part of a comprehensive court remedy. Since that time, several landmark cases have reached similar results in the federal Courts of Appeals, notably *Walker v. HUD* (Dallas) and *NAACP v. City of Yonkers*. The Thompson case is the first new liability ruling in many years: while over a dozen other housing desegregation cases were pending when the Thompson case was filed, the Clinton Administration was able to settle almost all the others. In Baltimore, though a partial settlement was reached in 1996, the issues proved too large and intractable to obtain a full settlement of the case.

While the legal principles in Thompson may be clear, what happens next is not. Barring a last-minute settlement overture by HUD, the case will proceed toward hearings, scheduled to take place in March 2006, about remedies that would give low-income public housing residents access to housing in “opportunity areas.” The hearings will include appear-

ances by professor John Powell, of Ohio State's Kirwan Institute on Race & Ethnicity, and Xavier de Sousa Briggs, a professor at M.I.T. and former research director at HUD, among other leading national experts on metropolitan housing desegregation. In this phase of the case, the NAACP Legal Defense Fund has joined the Maryland ACLU in advocating a strong court-ordered remedy.

Although the liability portion of the litigation in Thompson took over ten years to complete, many experts think that implementing a remedy in the case may take even longer, and will need to involve a multitude of players beyond the courtroom. Institutional reform lawsuits like Thompson can only succeed if they are part of a larger advocacy effort that includes strategies in grassroots community organizing, coalition-building, financing, housing development, public education, and legislative and administrative advocacy. The lawyer is only one player in a larger drama of change, although litigation often serves as important catalyst and guide for that change to occur.

Thus, in Baltimore, while the lawyers move forward with their case, a coalition has begun to organize support for a regional remedy and develop plans to augment the eventual court-ordered ruling. Even prior to the Court's decision, some local leaders saw the case as an opportunity to break the jurisdictional logjam that had stifled equitable regional development in Baltimore for so many years. The process they began is gaining momentum: the newly formed "Baltimore Regional Housing Campaign" now includes the Citizens Planning and Housing Association, BRIDGE (an interfaith urban-suburban coalition of congregations affiliated with the Gamaliel Foundation), the ACLU, the Innovative Housing Institute, the Faith Fund, the Greater Baltimore Urban League, and the Poverty & Race Research Action Council. The Baltimore Regional Housing Campaign's plan goes beyond the scope of the lawsuit in its vision of a regional plan, but also depends on the impetus created by the Court's decision.

Designing the components of a successful remedy and regional plan raises a set of basic questions: Where should housing policy provide opportunities for families to move, and how do we make sure there's housing

available for them there? Does making up for a long legacy of segregation require opening opportunities in suburban areas—traditionally places where people have better schools and employment and the potential to build assets, and the places historically most closed off due to government segregation? Should the options also include urban neighborhoods that seem on the brink of gentrification? Should a remedy purposefully avoid creating housing options in older suburbs with increasing levels of poverty?

One approach to answering these kinds of locational questions is through "opportunity mapping," being developed with the assistance of John Powell and the Kirwan Institute. While this analysis incorporates traditional racial segregation and poverty indicators, the major goal is to identify "areas of opportunity"—which can include redeveloping urban areas as well as high-income suburban areas. The map of these areas also evolves constantly with changing market conditions and neighborhood dynamics. Our hope is that such mapping will not only help guide the relocation work done as part of the remedy, but will also help guide the options that are available to all low-income families in the Baltimore region in the future.

An effective remedy will also include a "housing mobility" program that will strengthen the ability of families using housing vouchers to make voluntary moves to areas offering substantially better opportunities. An enhanced program—building off of twenty years of experience in "mobility programs" since Gautreaux—will include new strategies for expanding landlord participation in high-opportunity areas in the region, and for improving the chances for success of former public housing residents after they move—creating liaisons with local schools and churches and providing assistance with transportation, security deposits, and credit.

Moreover, since the majority of new jobs for low-income workers in the Baltimore region are in the suburbs (two-thirds of all new hires in industries like retail, manufacturing, and services, according to a 2002 Transportation Equity Study published by the Urban League), the Coalition is looking into ways to help such employees live closer to their work. One option is to ask HUD to provide additional housing vouchers for mem-

bers of the plaintiff class in Thompson working or seeking work in the suburban counties. This approach should be combined with intensive job counseling to help interested members of the plaintiff class connect with and maintain job opportunities in the surrounding counties.

Because housing mobility is dependent on housing supply, we are also looking to ensure that appropriate housing is available for Thompson class members who wish to move to those opportunity areas. For example, with new construction increasingly difficult in suburban areas where land is increasingly scarce, an effective remedy will need to acquire existing housing, including smaller single family and duplex and units in multifamily housing in higher-opportunity areas, often in the suburban counties surrounding Baltimore. Recognizing that homeownership is also a possibility for some Thompson class members, we are also promoting the use of "Home Equity Participations," in conjunction with a HUD low-income homeownership program. Faith Fund, a Baltimore-based CDFI (community development finance institution) is pioneering the use of this concept, which uses investor dollars to lower the monthly payments needed to buy a home, to address affordability issues in different communities throughout the region.

We know that decades of government-supported segregation cannot be undone overnight, and that to achieve real progress, all the region's participants in housing development and finance, transportation, planning, zoning, and community development need to be working together with residents over a period of many years toward a common goal of an equitable and desegregated region. That said, we hope one day to look back on Thompson the way we now look back on the Gautreaux case—as a remarkable testimony to the way that lawyers and community advocates can come together to address one of our country's most intractable problems. ●

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