

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
BOSTON CHAPTER,
Plaintiff,

v.

CIVIL ACTION
NO. 78-0850-S

JACK KEMP, SECRETARY,
HOUSING AND URBAN DEVELOPMENT,
ET AL,
Defendants.

DECLARATORY JUDGMENT AND FINAL DECREE

June 23, 1989

SKINNER, D.J.

After a trial in this action for declaratory and injunctive relief, and after consideration of the parties' submissions with respect to remedies and in accordance with the memorandum filed herewith:

I. Declaratory Relief

It is Declared that:

A. During the period 1977 to 1982, in administering its programs and activities relating to housing and urban development in the City of Boston ("the City"), HUD did not satisfy **minimum** levels of compliance with Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3608(e)(5), as amended, to administer its programs and activities in a manner affirmatively to further the policies of fair housing by:

1. Failing to promulgate regulations or guidelines which adequately

set forth standards for HUD's administration and recipients' use of funds under HUD programs;

2. Failing to secure a minority needs assessment from the City in a timely manner;

3. Failing adequately to condition and monitor use of its funding by grantees and recipients, so as to assure the use of these monies to produce an adequate supply of affordable integrated family housing; and

4. Failing to require effective fair housing enforcement by the City.

B. In light of HUD's failure to comply with its statutory mandate, and the resultant lack of affordable desegregated housing, Metropolitan Area relief is appropriate under these circumstances, and to the extent provided in this Decree.

II. Remedial Order

It is **Ordered** that:

A. Metropolitan Area Relief

HUD shall require the owners and managers of any assisted public or private housing within any city or town within the Boston Metropolitan Statistical Area, including ~~Boston~~ ("the Metropolitan Area"), to participate fully in available programs designed to ~~facilitate~~ access to suburban housing opportunities for low-income minority households now living in the City. These programs shall include, without limitation, the listing requirements and affirmative marketing programs created pursuant to Section

II.C.3 of this Decree.

The requirements of this Decree shall apply with equal force to all assisted housing in the Metropolitan Area. "Assisted Housing" means housing the cost of whose purchase, development, operation or rehabilitation is subsidized in whole or in part with public funds or other resources, whether such funds or resources derive from federal, state or local government.

In enforcing this Decree, HUD shall use any power it possesses to impose conditions on grantees, recipients, or beneficiaries, pursuant to any grant or any other program.

B. Fair Housing Conditions Upon Funding to the Commonwealth of Massachusetts.

Following entry of this Decree, HUD shall include in any approval of an application for funding by the Commonwealth, under any grant or other program administered by HUD pursuant to which it has the power to impose conditions upon grantees or recipients, the following conditions:

1. That the Commonwealth require owners and operators of any state-assisted public or private housing available for rental or sale in the Metropolitan Area to participate fully in programs designed to enhance access to low-income housing by Black households, including but not limited to, Section 8 rental subsidies and the listing and affirmative marketing programs created pursuant to Sections II.C.3 of this Decree.

2. That the Commonwealth promulgate legislation granting the Boston Fair Housing Commission ("the Commission") effective enforcement powers, including but not limited to, the power to issue subpoenas, levy fines and institute civil actions;

3. That the Commonwealth prepare and provide such reports and statements regarding assisted housing in the Metropolitan Area as are required from time to time by HUD. Such submissions shall include, without limitation, reports on the racial and family composition of state-assisted housing, and a statement of the projected use of funds and community development plan, as required by 42 U.S.C. § 5304.

C. Fair Housing Conditions Upon Funding to the City

Following entry of this Decree, HUD shall include in any approval of an application for funding by the City, under any grant or other program administered by HUD pursuant to which it has the power to impose conditions upon grantees or recipients, the following conditions:

1. That the City require the owners and operators of any City-assisted public or private housing available for rental or sale to participate fully in programs designed to enhance access to low-income housing by low-income Black households, including but not limited to Section 8 rental subsidies and the listing and affirmative marketing programs created pursuant to Section II.C.3 of this Decree.

2. That the City promulgate an amendment to its Fair Housing Ordinance eliminating the exemption of housing consisting of five or fewer units;

3. That within 60 days after HUD's approval of the application, the City design and submit to HUD and the plaintiff and, upon HUD's approval, implement a Fair Housing Program, to be administered by the Commission, including, without limitation, the following components:

a. A Boston Housing Opportunity Clearing Center, in which shall be listed all assisted public or private housing units available for sale or rental in the Metropolitan Area, which are required to be listed by this Decree or any other authority, or any private units which are offered for listing by their owners or operators;

b. A Fair Housing Law Enforcement Program, designed to identify and alleviate racially discriminatory practices in the sale and rental of housing in the City, which shall, without limitation:

(i) Hear and investigate complaints of discriminatory practices;

(ii) Bring administrative and judicial proceedings against persons engaging in discriminatory practices;

(iii) Assist victims of discrimination by providing information as to rights and available remedies, and referrals to legal services organizations and private attorneys available to assist in discrimination claims.

c. An Affirmative Marketing Program pursuant to 24 C.F.R. 200.620, which requires the owners and operators of assisted housing in the City to pursue affirmative fair housing marketing policies in soliciting buyers

and tenants, in determining their eligibility, and in concluding sales and rental transactions.

The Plan shall be designed to enhance the availability to persons of color of housing in neighborhoods which are now predominantly white. The goal of the Plan and its measure of success shall be to achieve a racial composition in assisted housing, in neighborhoods which are predominantly white, which reflects the racial composition of the City as a whole.

d. A Fair Housing Public Education Program designed to make use of various public forums, such as broadcast media, bill boards, and community and social service organizations, to inform the public of rights and available remedies under applicable fair housing and anti-discrimination laws and regulations, including but not limited to, the existence and functions of the Commission, the Clearing Center, and of the other components of the Fair Housing Program;

4. That the City prepare and submit to HUD such reports and statements regarding assisted housing as are required from time to time by HUD. Such submissions shall include, without limitation, a report on the racial and family composition of assisted housing, and a plan for the projected use of funds for community development, as required by 42 U.S.C. § 5304.

D. Stock of Affordable Housing

1. HUD shall use its best efforts and available resources to increase the supply of affordable integrated family housing in the City, whether public, public-assisted, or private.

2. HUD shall not agree to any disposition of HUD-assisted housing which has the effect of reducing the supply of affordable family housing in the City available as of the effective date of this Decree.

III. Monitoring and Reports

Commencing three months after the effective date of this Decree and every six months thereafter, HUD shall submit to the court and serve upon the plaintiff:

A. A report prepared by HUD or its grantees setting forth the current racial makeup, family composition and vacancy rate of HUD assisted housing projects or units in the City;

B. A report describing the activities carried out and the results achieved in implementing this Decree.

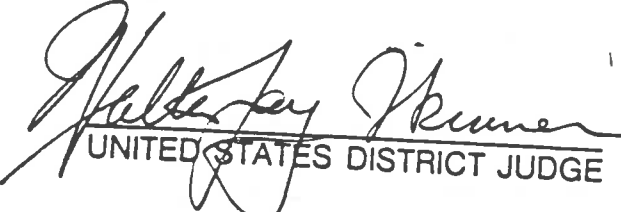
IV. Retention of Jurisdiction.

A. Jurisdiction is retained by the court for the purpose of enabling the plaintiff and HUD to apply to the court at any time for such further orders as may be necessary or appropriate for the construction, implementation, modification or enforcement of this Decree.

B. At any time after the fifth anniversary of the effective date, either HUD or the plaintiff may request the court to review the progress made in implementing this Decree,

and, based upon such review, to modify or terminate any and all rights or obligations provided therein.

C. If HUD is unable to comply with its obligations under this Decree, for lack of authorization or any other reason, the plaintiff may move for such comparable alternative relief as is appropriate.


UNITED STATES DISTRICT JUDGE