

CCR
3
meet.
386
v.2

1

LIBRARY NEW YORK ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
U.S. COMMISSION ON CIVIL RIGHTS

- - -

**EQUAL HOUSING OPPORTUNITIES IN NEW YORK;
AN EVALUATION OF SECTION 8 HOUSING PROGRAMS IN
BUFFALO, ROCHESTER, AND SYRACUSE**

FACT-FINDING MEETING

- - -

T.J. Dulski Community Center
129 Lewis Street
Buffalo, New York

Tuesday,
December 17, 1996

9:00 a.m.

New York Advisory Committee Members

M.D. (LITA) TARACIDO, Chairperson

MICHAEL HANLEY

PAUL D.Q. NGUYEN

JUAN PADILLA

NORMAN WAGNER

DR. SETSUKO NISHI

GLORIA LOPEZ

Staff Members

FERNANDO SERPA

EXECUTIVE COURT REPORTERS, INC.
(301) 565-0064

CCR
3
Meet.
386
v.2

A G E N D A

<u>AGENDA ITEM:</u>	<u>PAGE:</u>
1) Welcome, Introduction of Committee and Guests	4
M.D. (Lita) Taracido, Chairperson New York Advisory Committee	
2) Background on Project	10
Michael Hanley New York Advisory Committee	
3) Panel 1: Quality and Quantity of Available Affordable Rentals and Accessibility to Transportation and Jobs	20
Moderator: Norman Wagner New York Advisory Committee	
Scott Gehl, Executive Director Housing Opportunities Made Equal	
4) Panel 2: Community Attitudes and Actual or Perceived Discrimination	53
Moderator: Gloria Lopez New York Advisory Committee	
Grace Andriette, Housing Unit Supervisor Neighborhood Legal Services, Inc.	
Jituan James, Section 8 Subsidy Holder	
Jim Morrissey, Executive Director Western New York Law Project	
Francisco Perez Fair Housing Officer City of Buffalo	
Sharon Smith Section 8 Recipient	

A G E N D A

AGENDA ITEM:PAGE:Afternoon Session

- 6) Panel 4: Federal Changes in Section 8 Programs and Their Impacts 143
- Moderator: Michael Hanley
New York Advisory Committee
- Larry Pearl, Director
Office of Program Standards and Evaluation
Department of Housing and Urban Development
- Charles Martin
Director of Fair Housing and Equal Opportunity
Buffalo Regional Office
Department of Housing and Urban Development
- 7) Conclusion 248
- M.D. (Lita) Taracido, Chairperson
New York Advisory Committee

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

9:10 a.m.

Welcome, Introduction of Committee and Guests

CHAIRPERSON TARACIDO: Good morning. My name is Lita Taracido. I'm a business person in my private life, and a chairperson of the New York State Advisory Committee of the United States Commission on Civil Rights.

Joining me today are the following committee members and commission staff. We have Michael Hanley. I think there are name plates in front of us. You'll know who we are. Michael Hanley, attorney and housing specialist at the Greater Upstate Law Project, serving Western New York. Gloria Lopez, attorney and Director of Human Services and Civil Rights Compliance Officer of the Urban League of Rochester. Setsuko Nishi, a Professor of Sociology at Brooklyn College, and Graduate Center of the City University of New York. Her academic specialties include American race relations and institutionalized discrimination, and Paul Nguyen, attorney with the Law Department of the Port Authority of New York and New Jersey. Juan Padilla, Administrator for the Rochester School District's Bilingual Education Program; and Norman Wagner, Safety and Health Inspector for the New York

1 Department of Labor.

2 With us also is Fernando Serpa, who is a
3 civil rights analyst at the United States Commission on
4 Civil Rights.

5 The United States Commission on Civil Rights
6 was created under the Civil Rights Act of 1957 as an
7 independent bipartisan fact-finding agency whose
8 mission is to protect and promote the civil rights
9 afforded us under the Constitution and the Acts of
10 Congress.

11 The New York State Advisory Committee is one
12 of 51 committees created to advise the Commission on
13 matters relating to discrimination or denials of equal
14 protection of the laws, based on race, color, religion,
15 national origin, age, disability or the administration
16 of justice.

17 The mandate of the SACs is to bring to the
18 attention of the Commission the civil rights issues of
19 concern to the various states and to assist the
20 Commission in its statutory obligations to serve as a
21 national clearinghouse for information on these
22 matters.

23 Our primary role here is to gather pertinent
24 information in our state and report to the Commission.
25 Today's fact-finding meeting is one -- is -- is the

1 third of three that have been held to inquire into
2 Section 8 Housing Programs.

3 The first was held in Syracuse, the second
4 was held in Rochester. We're here to investigate
5 allegations that minorities and other protected classes
6 are encountering barriers and experiencing
7 discrimination in Section 8 housing.

8 The focus of today's -- this is the second
9 time the New York SAC has actually looked into Section
10 8 housing. In a 1982 report, issued by the New York
11 SAC, "Fair Housing in America, Volume V, Section 8,
12 Housing in Buffalo and Syracuse", we found that
13 Hispanics were under-represented in Section 8 housing
14 in Buffalo as compared to their representation in the
15 community.

16 The focus of today's fact-finding meeting
17 will be to collect data and testimony to accomplish the
18 following: (1) to identify what barriers are faced by
19 the intended recipients of Section 8 Programs in
20 utilizing Section 8 vouchers and certificates; (2) to
21 determine what strategies may help remove or overcome
22 identified barriers faced by Section 8 protected class
23 recipients; and (3) to identify exemplary models of
24 Section 8 Programs' programs and practices.

25 This meeting is going to run from 9 a.m. to 5

1 p.m., and we're pleased to have the participation of a
2 number of knowledgeable persons who will address the
3 matter before us.

4 As time permits, we'll also hope to hear from
5 people in the audience if they so desire.

6 There's -- there are going to be four panels,
7 each of which will have a New York SAC member as the
8 moderator, and SAC, by the way, means state advisory
9 committee, in case you didn't know what that meant.

10 The first panel will deal with the Community
11 Attitudes and Actual or Perceived Discrimination. The
12 second will deal with the Quality and Quantity of
13 Available Affordable Rentals and Accessibility to
14 Transportation and Jobs. The third will deal with the
15 Relationship of Section 8 Administration of Fair
16 Housing, and the fourth will deal with the Federal
17 Changes in the Section 8 Programs and Their Impact.

18 Each panelist will be expected to make a
19 presentation that will be limited to about 10 minutes,
20 and the members of the Committee may ask questions of
21 the panelists, and the members of the audience may also
22 make presentations and ask questions or both.

23 We're asking members of the audience to limit
24 their remarks to about two minutes, so that everyone
25 who wants to speak will have the opportunity to do so.

1 If any of the panelists have a prepared
2 statement, please submit a copy to Fernando Serpa, our
3 staff person from the Commission. It will be
4 considered for our published report. On occasion,
5 prepared statements are actually printed in their
6 entirety, and those of you who are accustomed to
7 speaking without a statement, please help us by keeping
8 your presentations and comments sharply focused, and
9 also help us by abiding by our legal obligation to
10 refrain from defaming or degrading anybody in your
11 remarks, whether they're present or not.

12 This session is being taped, and a written
13 transcript will be generated from the taped
14 proceedings. To ensure that the statements are
15 correctly attributed to the person speaking, we ask
16 that before beginning your presentation, that you
17 indicate who you are and your affiliation, and,
18 moreover, the participants and the -- and I ask the SAC
19 members as well, should identify themselves by their
20 last name whenever they speak, again to ensure that the
21 commentary is attributed to the correct person.

22 Panelists here are voluntarily, offering
23 comments for the public record. Therefore, if there
24 were to be the presentation of the -- the appearance of
25 media, and they have been invited, the panelists or any

1 other speakers retain the right not to be photographed
2 while addressing us today, and should you wish to
3 exercise that right, please inform Mr. Serpa, so that
4 we can accommodate you.

5 Lastly, let me emphasize that as the eyes and
6 ears of the Commission in New York State, our first
7 duty is to listen in an impartial manner. If we fail
8 to understand a statement, we may ask for
9 clarification. Therefore, when we pose a question,
10 please don't feel that you're being subjected to "cross
11 examination".

12 If, later, it seems that we have continued to
13 misunderstand something that you've said, you'll have
14 an opportunity to review the draft of the report and
15 explain further prior to the completion of the report.

16 Moreover, after this meeting has adjourned,
17 we may ask for further clarification on information
18 submitted to us. So, we look forward to your future
19 cooperation should this prove necessary.

20 The record will remain open for about 30 days
21 to receive comments from any person who wishes to
22 contribute to our greater understanding of this
23 important subject, and as indicated earlier, our report
24 will be submitted to the Commission based on the facts
25 compiled.

1 We're going to begin today's meeting with a
2 presentation by New York SAC Member Michael Hanley, who
3 will provide an overview of the project, after which
4 we'll move into the first and -- the first panel, I
5 believe it is, right, and the second panels.

6 We will -- we will be breaking from about 12
7 to 1:30 p.m., and then we'll return for the third and
8 fourth panel discussions.

9 Michael?

10 Background on Project

11 MR. HANLEY: Good morning. Thank you all --
12 thank you, Madam Chair, and thanks to our speakers who
13 are here today. Several of you are here, but we --
14 we've had a conflict with some of the people who are
15 coming in for the afternoon -- or for the late morning
16 panel, who are reported tied up in court, and they'll
17 be here later. So, don't feel too lonely. More people
18 will be joining us.

19 We're privileged to hear today from
20 representatives from the community, from Section 8
21 subsidy holders or people who are eligible for Section
22 8 subsidy, and later on, the administrators of the
23 Section 8 Program, and especially here in Buffalo, I
24 think we're very privileged to be having some HUD
25 officials come in, additional HUD officials, including

1 the representative from the Fair Housing Office at the
2 HUD's Washington Headquarters.

3 Let me take just a minute to give some
4 context as to why an advisory committee to the U.S.
5 Commission on Civil Rights is here to look at a federal
6 housing subsidy program, particularly the Section 8
7 Program.

8 It would probably be obvious if the committee
9 had come here to -- or to Syracuse or to Rochester to
10 investigate allegations of overt discrimination as, for
11 example, that the Section 8 Programs were refusing to
12 serve minorities or if they were blatantly refusing to
13 accept black-Latino subsidy holders into the programs
14 or -- or referring them categorically to different
15 properties than -- than to non-minority subsidy
16 holders.

17 That, however, is not the case with respect
18 to any of the Section 8 Programs that we're examining
19 in the three cities where we're visiting.

20 The civil rights issues of -- of -- of this
21 decade by necessity require that we take a more
22 detailed look at how federal programs are administered,
23 not only the more subtle methods in which minorities
24 are -- may be treated differently, but just as
25 importantly the sort of more esoteric legal issue of

1 whether or not these programs are being used
2 affirmatively to promote fair housing as they are
3 required to do by law.

4 The -- let me briefly describe -- we talked
5 about this yesterday, but just for some additional
6 context for the speakers. There are two civil rights
7 laws that are particularly germane to what the Civil
8 Rights Commission is looking at.

9 The first would be the Civil Rights Act of
10 1964, and those who are familiar with it usually know
11 that it's a -- it's a statute that opened up a lot of
12 -- that very basic rights for minorities in the United
13 States. It's one of the most important civil rights
14 acts in our history.

15 But what isn't as commonly known is that
16 there was a part of that law in 1964, Title VI of that
17 law, that applied specifically to programs that receive
18 federal funds, such as the Section 8 Program, and
19 specifically prohibits discrimination in those
20 programs.

21 Now, every agency that has a federal program
22 to administer has a responsibility to interpret how
23 they will comply with Title VI, what they will require
24 of the agencies that run those programs, and HUD has
25 interpreted in its regulations the Title VI

1 requirements to say that a program, a federal housing
2 program cannot be operated in a manner that has the
3 effect of discriminating against minorities, even --
4 even though there may not be any blatant or overt
5 discrimination.

6 In that regard, any even facially-neutral
7 policies, such as preferences for local residences, can
8 violate Title VI, if they are applied to communities
9 where there's already existing patterns of residential
10 segregation, and the housing policy would have the
11 effect of excluding minorities and perpetuating that
12 segregation.

13 The second civil rights law that's extremely
14 important is the Fair Housing Act, and the Fair Housing
15 Act was actually part of the 1968 Civil Rights Act,
16 Title VIII of the 1968 Civil Rights Act.

17 Title VIII has the prohibitions that most
18 folks are aware of that make virtually all forms of
19 racial and ethnic discrimination in the private housing
20 market, most of the private housing market, illegal,
21 but Title VIII contains another provision, and that
22 provision is one that says -- directs the Secretary of
23 the Department of Housing and Urban Development to make
24 sure again that its federal programs are administered
25 in a way that affirmatively furthers fair housing, and

1 that part of the law is just as important and, for our
2 purposes today, perhaps more important than the
3 provision that says you can't discriminate against
4 minorities.

5 In 1988, that law was extended to protect
6 persons with disabilities and families with children,
7 and we talked in Rochester yesterday a little. We
8 heard from a representative from the Center for
9 Independent Living, who described the problems that
10 persons with disabilities in particular have accessing
11 federal housing subsidies and finding housing units
12 where they can use them.

13 There's a third provision that we're
14 interested in, and that we will probably be able to
15 speak to the fair housing representative from
16 Washington about this afternoon, and that's an
17 Executive Order that was signed in 1994. President
18 Clinton in January, January 14th, of 1994, issued
19 Executive Order Number 12892, which mandated that the
20 heads of all federal agencies assure that all forms of
21 federal funds are administered again in a way that
22 promotes fair housing, but this time, it extended
23 beyond the housing programs, which raises questions of
24 how federal transportation dollars and other federal
25 programs are spent that can be used to help further

1 fair housing, particularly in conjunction with the
2 housing programs, such as Section 8.

3 That Executive Order additionally created a
4 fair -- a fair -- President's Fair Housing Council,
5 which was to be a Cabinet-level agency, staff agency,
6 and it will be interesting to hear this afternoon, we
7 hope, what the -- what the status is of the Federal
8 Fair Housing Council and -- and status of
9 implementation of its efforts.

10 Okay. We are now charged with the
11 responsibility to take an honest and open-minded look
12 at how well the Section 8 Program is -- is serving
13 minorities, particularly since on an annual outlay
14 basis, the Federal Government is spending \$5 billion a
15 year on the Section 8 Program, and the question is, is
16 this money being spent in a way that will really open
17 doors for minorities, and in the words of the statute
18 itself, the Housing and Community Development Act,
19 which created the Section 8 Program, there were goals
20 established in that statute, and particularly the goals
21 described that the purpose of the program is to "reduce
22 the isolation of income groups within communities and
23 geographical areas", and the second goal is to "promote
24 an increase in the diversity and vitality of
25 neighborhoods through spatial de-concentration of

1 housing opportunities for persons of low income".

2 So, we will need to examine whether the
3 Section 8 Program is serving those goals.

4 Section 8 did not create residential
5 segregation nor did it create the "white flight" that
6 resulted in the mass exodus, frankly, from -- from some
7 of the Upstate New York cities that perhaps Scott Gehl
8 can inform us on later. Some of the data about how a
9 city like Buffalo, the changing demographic patterns
10 between the '50s and the '90s, that basically left
11 minorities in the central city in highly-
12 concentrated/high-poverty neighborhoods, with -- in the
13 three cities we've looked at, minority populations
14 between 27 and 40 percent, while they're surrounded by
15 suburban areas that have minority populations in the
16 case of Buffalo -- Erie County, that I don't think any
17 town exceeds 2.9 percent on African American
18 population, and in some of the other counties that
19 the -- the -- the situation was -- was basically the
20 same.

21 This issue becomes crucial as we look at
22 where the jobs are flowing. If there are no jobs left
23 in the cities, what are the opportunities for
24 minorities if they are to -- if they have no option,
25 what housing choices but to live in those cities?

1 We know now that there's tremendous potential
2 in the Section 8 Program, and hopefully we will hear
3 from Larry Pearl, the HUD representative, this
4 afternoon about HUD's efforts in moving to opportunity
5 program and some other models that it's undertaken to
6 affirmatively use the Section 8 Program to -- to assist
7 families in becoming acquainted with opportunities
8 outside of high-poverty areas.

9 Many urban planners believe that if we don't
10 open those doors, the very economic vitality of the --
11 of the entire metropolitan regions, not just the
12 central cities, is -- is at risk.

13 In Syracuse, we were somewhat surprised to
14 hear that the Section 8 Program administrators felt
15 that there's been no clear direction from HUD that they
16 were expected to address the need to promote mobility
17 opportunities for minorities.

18 We need to examine that issue further, and I
19 hope we'll be able to take that up this afternoon.

20 We are very fortunate to have here in Buffalo
21 later -- joining us later this morning, James Morrissey,
22 who's now with the Western Center -- Western New York
23 Law Center, a new agency name.

24 Mr. Morrissey is co-counsel in the Comer v.
25 Cisneros litigation, and in the interest of full

1 disclosure, I -- I'd indicate my -- my involvement in
2 that case, and for that reason, I will be abstaining
3 from some of the questioning of -- of the afternoon
4 panel which involves defendants in that case.

5 Even though the case is at the consent decree
6 stage, we -- there are still issues, continuing issues
7 of monitoring and enforcement.

8 Okay. The -- we'll finally hear -- this
9 fact-finding forum in these three cities, in each of
10 them, we've learned that despite the differences in the
11 demographics and the administrative structures, these
12 are translated to a distinctly different set of
13 problems for the Section 8 Programs, yet each of these
14 cities has a problem that's common, regardless of what
15 the explanations have been for the -- the anomalies
16 that occur between how blacks use Section 8 and how
17 whites use Section 8.

18 But the common issue here is that there is a
19 difference, that they're essentially -- the Section 8
20 Program means a different thing to -- to black subsidy
21 holders than it does to whites. There are different
22 benefits for white subsidy holders than for black
23 subsidy holders, and the real common denominator seems
24 to be the failure, sometimes the refusal, to recognize
25 the obligation to use the Section 8 Program as a tool

1 for affirmatively furthering fair housing.

2 In each city, we've learned that the efforts
3 that have been initiated recently to increase mobility
4 programs or otherwise address obstacles in the Section
5 8 Program that block minorities from getting subsidies
6 or using them well, each of those initiatives has
7 really been the result of direct pro-active efforts by
8 HUD to require that this be done or to provide
9 additional funding or to settle litigation.

10 Whether or not there will be continued
11 progress in that direction may depend on whether the
12 aggressive fair housing policies that have been
13 implemented by HUD over the last few years will survive
14 the transition to a new HUD Secretary, and whether
15 these efforts will ultimately just be a flash in the
16 pan or frustratingly just another example of the so far
17 frustratingly unsuccessful federal fair housing
18 enforcement effort.

19 We hope the efforts of this committee and the
20 fact-finding forums we've been holding will contribute
21 to ensuring that -- that this is not just a flash in
22 the pan, that progress continues.

23 Once again, I want to thank you all for
24 coming, and at this point, I'll ask -- turn it back
25 to -- to Ms. Taracido, who will introduce the moderator

1 for the first speaker.

2 CHAIRPERSON TARACIDO: The first panel, which
3 will deal with Quality and Quantity of Available
4 Affordable Rentals and Accessibility to Transportation
5 and Jobs will be moderated by Norman Wagner.

6 Mr. Wagner?

7 Panel 1: Quality and Quantity of Available Affordable
8 Rentals and Accessibility to Transportation and Jobs

9 MR. WAGNER: Thank you. Good morning. It's
10 my pleasure to introduce to you Mr. Scott Gehl, who is
11 the Executive Director of Housing Opportunities Made
12 Equal, who will make his presentation on the topic of
13 Panel 1.

14 Good morning, Mr. Gehl.

15 MR. GEHL: Good morning. I have brought
16 along a few copies of our newsletter to tell you a
17 little bit about our organization.

18 Members of the Advisory Committee, ladies and
19 gentlemen, my name is Scott Gehl. For nearly 15 years,
20 it's been my privilege to serve as Executive Director
21 of Housing Opportunities Made Equal, a not-for-profit
22 organization with more than 500 members in Western New
23 York.

24 Since 1963, HOME has led the struggle for
25 equal access to housing on the Niagara frontier. As

1 the only agency in Western New York providing
2 comprehensive services to victims of housing
3 discrimination, HOME operates under contract with the
4 City of Buffalo, the Town of Hamburg, and the 34
5 municipalities of the Erie County Community Development
6 Block Grant Consortium.

7 In the past, we've also had contractual
8 relationships with the New York State Division of Human
9 Rights, the New York State Division of Housing and
10 Community Renewal, and from 1990 through 1996, the
11 Federal Department of Housing and Urban Development.

12 I must confess that I was invited initially
13 to today's hearing to talk about community attitudes
14 and discrimination. Accordingly, I'm a little
15 surprised to find the change in the agenda, and Mr.
16 Serpa has indicated a certain flexibility.

17 If it is all the same to the Advisory
18 Committee, I'm going to confine my remarks to what I
19 know rather than what I think. So, I'm going to stick
20 with that initial topic, if I may.

21 Housing discrimination occurs with some
22 frequency in Western New York. In the last three years
23 alone, HOME has recorded more than 900 reported
24 incidents of discrimination.

25 According to our data, the most frequent

1 reason that otherwise qualified applicants are denied
2 housing was race, which was involved in 37 percent of
3 our complaints, familial status involved in 34 percent
4 of complaints, sex or marital status 20 percent of
5 complaints, and disability 13 percent of complaints.

6 In the last three years, we've also recorded
7 incidents of discrimination due to age, national
8 origin, religion, sexual orientation, and lawful source
9 of income. These latter two types of discrimination
10 are particularly troubling because they are perfectly
11 legal under existing state and federal law.

12 While HOME receives more complaints of
13 housing discrimination than does any other agency,
14 public or private, in Western New York, we are mindful
15 that our data represent only the tip of the iceberg.

16 Today, discrimination tends to be so subtle
17 that most often its victims are unsure when it has
18 occurred. Others may recognize it but be uncertain
19 about their rights or whom to call. Still others in
20 the midst of a frenzied search for housing, which is
21 when most discrimination occurs, simply can't afford to
22 take the time to report it.

23 Housing discrimination is a vastly under-
24 reported crime. While Buffalo was not among those 25
25 metropolitan areas included in the Urban Institute's

1 nationwide study, according to an analysis of 1990
2 Census data commissioned by USA Today, Buffalo is the
3 fourth most segregated metropolitan area in the nation.
4 We did not get that way by accident.

5 While the Federal Government's Section 8
6 Program theoretically provides low-income families with
7 the economic resources to escape concentrations of
8 poverty, reality falls short. Each year, HOME receives
9 a significant number of referrals from our colleagues
10 at Belmont Shelter and the Rental Assistance
11 Corporation, the two Section 8 agencies in the
12 metropolitan area here.

13 They report instances where their clients
14 have encountered sometimes blatant bias while applying
15 for housing, which, with the help of Section 8, they
16 can amply afford. Typically, the reason given is the
17 applicant family source of income, which, as I've noted
18 above, is perfectly legal.

19 Sometimes in owner-occupied housing,
20 applicants are turned away because of the presence of
21 children in their family. Under state and federal law,
22 that, too, is permissible in certain types of
23 dwellings.

24 It is a job of HOME to investigate and
25 determine whether the reasons given for denial are

1 subterfuge or legally prohibited -- are subterfuge for
2 legally-prohibited discrimination.

3 Last year, HOME filed 30 discrimination cases
4 with administrative agencies or in the courts as a
5 result of our investigations.

6 There are many barriers preventing black and
7 Hispanic families participating in the Section 8
8 Program from making the move to -- move from
9 predominantly minority and often impoverished
10 neighborhoods.

11 One involves the undeniable shortcomings of
12 mass transit in the Buffalo area, especially after you
13 cross the city line. A second involves the lack of
14 knowledge, both about housing opportunities in suburban
15 communities and about the matrix of services and
16 facilities existing there.

17 The third is generally the absence of a
18 support network of family and friends, which makes a
19 move to a suburban community seem all the more
20 forbidding. A fourth is the feeling that minorities
21 are not welcome.

22 Just last week, a nationally-known attorney
23 flew to Buffalo to file a suit against a host of
24 plaintiffs, including the Niagara Frontier
25 Transportation Authority, the Town of Cheektowaga, and

1 the owners of the Walden Galleria Mall in the wrongful
2 death of a young black mother.

3 Cynthia Wiggins was killed while crossing
4 seven lanes of traffic on her way to work in a fast-
5 food restaurant in the Walden Galleria Mall. After her
6 death, it was revealed that the developers of the mall
7 had refused permission for the NFTA to route their
8 Number 6 outbound Walden Avenue Bus on to mall
9 property. Reportedly, mall owners feared that such
10 access would increase the numbers of minority shoppers
11 who came to the upscale mall.

12 When the ABC News Program Nightline did a
13 week-long series on "Race in America", they chose to
14 spend an evening on Buffalo viewed through the prism of
15 Cynthia Wiggins' death. News footage illustrated the
16 sharp contrast which exists between Sycamore Street,
17 which becomes Walden Avenue in Buffalo, an area
18 characterized by segregation, poverty, boarded store-
19 fronts, vacant housing and graffiti, and the relative
20 affluence of neighborhoods off Walden Avenue in
21 Cheektowaga.

22 According to the 1990 Census, Cheektowaga, a
23 first-ring suburb with a population of just under
24 100,000, is more than 98 percent white. According to
25 Ted Koppel, the Cheektowaga Police Department has never

1 had a minority officer.

2 Earlier this year, HOME worked as a
3 subcontractor to a consultant conducting HUD-mandated
4 studies of impediments to fair housing for Buffalo and
5 the 34 consortiums of the Erie County -- 34 communities
6 of the Erie County Block Grant Consortium.

7 With the exception of the City of Lackawanna,
8 which grew up around the old Bethlehem Steel Works
9 immediately south of Buffalo, the first-ring suburbs
10 show what demographers would call a remarkable degree
11 of racial homogeneity.

12 Tonawanda is 98 percent non-white -- 98
13 percent white non-Hispanic, and perhaps -- perhaps Mr.
14 Hanley can tell us a little about the Town of
15 Tonawanda, where he's from originally.

16 Cheektowaga, as I've said, is -- is 98
17 percent white non-Hispanic. West Seneca, another
18 first-ring suburb, is 99 percent white non-Hispanic.
19 Only Amherst, whose growth has been fueled by the State
20 University campus, falls to 92 percent white non-
21 Hispanic.

22 Indeed, of the -- indeed, 31 of the 34
23 municipalities of the Erie County Consortium are more
24 than 95 percent white non-Hispanic. Most, as Mr.
25 Hanley indicated, are more than 98 percent.

1 The exceptions are the City of Lackawanna,
2 which I referred to above, the Town of Brant, which has
3 a sizable Native American population, and the Town of
4 Collins. It's interesting. The Town of Collins has
5 a -- is -- has a substantial minority population only
6 because of the location of the county prison and the
7 New York State Correctional Facility.

8 The contrasts in the Buffalo metropolitan
9 areas are stark. Why is the metropolitan area so
10 segregated? Well, according to the impediment studies,
11 developers of affordable housing have met with
12 resistance in a number of suburban communities, both in
13 terms of the syndrome resistance by residents and in
14 terms of government policies which discourage
15 development.

16 According to that impediment study, whereas
17 once opposition was focused primarily against housing
18 for low-income families, now there is also resistance
19 to housing for senior citizens and even tenant-based
20 Section 8.

21 Zoning in many suburban communities virtually
22 precludes the construction of affordable housing. Some
23 communities have no areas zoned for multifamily
24 housing. Some communities prohibit the construction of
25 single-family homes on less than a half acre of land.

1 Some will not permit relatively affordable manufactured
2 housing or mobile home parks at all.

3 At the time of the impediment study, apart
4 from the Cities of Buffalo and Lackawanna, every
5 municipally-appointed planning board in Erie County was
6 100 percent white.

7 It would be both inaccurate and unfair to
8 accuse every municipality of intentional discrimination
9 or racial exclusion. Certainly there are good people
10 in many communities who welcome greater diversity and
11 are working actively toward that end.

12 But there are many more who apparently accept
13 the stereotypes which our culture unfortunately
14 perpetuates, who believe that racial integration leads
15 inexorably to community decline.

16 Several years ago, one public official in a
17 remarkably candid moment explained that the town
18 fathers -- explained to me that the town fathers of his
19 community believed HOME to be a "radically pro-
20 integrationist organization", which wanted to introduce
21 undesirable elements into his community.

22 Whether or not such a sentiment was actually
23 shared by the speaker, the message could be not much
24 more apparent.

25 In a democracy, governments theoretically

1 reflect the opinions of their citizens. Until
2 government attitudes toward fair housing change,
3 minority families will not feel welcome in suburban
4 communities, and the increased opportunities in choice,
5 which are the benefits of the Section 8 Program, will
6 remain an unkept promise.

7 Thank you. Those -- that's the end of my
8 prepared remarks. I didn't know if anyone might have a
9 question.

10 MR. WAGNER: Thank you, Mr. Gehl. I have one
11 question for you. Of the 30 cases you referenced that
12 were brought to agency administrative levels or to the
13 courts, do you have a thumbnail breakdown as to the
14 disposition?

15 MR. GEHL: Pending.

16 MR. WAGNER: Pending, all of them?

17 MR. GEHL: Practically. The -- the -- the
18 wheels of justice, especially when it comes to
19 administrative adjudication, move very slowly.

20 MR. WAGNER: Mr. Padilla?

21 MR. PADILLA: I really want to congratulate
22 you for being so honest and clear as to the issue that
23 we are concerned about, and I had a question for you.

24 I learned that the Department of Housing is
25 going to be funding a new center, mobility center, and

1 my question is, why then they are funding your
2 organization? What is the difference between both?

3 MR. GEHL: Well, I think that, you know, in
4 -- in fairness -- in fairness to HUD, funding for
5 organizations under the Fair Housing and Issues Program
6 is -- is -- is, you know, competitive. Funding awards
7 are made on a national basis.

8 HOME has always done very well in the past in
9 administering its contracts. We've never missing a
10 contract objective, but, you know, I have no way of
11 knowing the quality of the other applicants selected,
12 and -- and it would be unfair of me to -- to -- to cast
13 aspersions on the selection process, although it has,
14 you know, -- the loss of that support has had a
15 devastating effect on our agency.

16 We are hopeful that -- that the -- that the --
17 - that the settlement in Comer will be consummated, if
18 you will, and that -- and that HUD will be funding the
19 mobility center, which I think is -- is essential if
20 we're going to see, you know, a significant change of
21 existing patterns of racial separation here.

22 MR. PADILLA: Well, in your organization, do
23 you see any role for your organization in the planning
24 or the implementation of those programs?

25 MR. GEHL: HOME is -- is contemplating a

1 joint proposal with another organization to -- to be
2 operators of the -- of the community housing center,
3 you know. Again, you know, I -- I don't know who the
4 -- who the other, you know, agencies may be, and what
5 the decision will be.

6 MR. PADILLA: Okay.

7 MR. WAGNER: Mr. Hanley?

8 MR. HANLEY: Mr. Gehl, I was wondering, in
9 Syracuse and Rochester, we've looked at how the cities
10 are spending their -- their -- not just their Section 8
11 dollars but their other community development dollars
12 to -- affirmatively for their fair housing, and I'm
13 wondering if, since your agency is in such jeopardy,
14 whether there have been any indications from the City
15 of Buffalo that they might use their other forms of
16 funding, perhaps their other federal funding programs,
17 to -- to assist in continuing operation of -- of your
18 agency.

19 MR. GEHL: Well, actually, the -- I mean the
20 City of Buffalo has been our most stalwart supporter,
21 although in the previous administration, which was not
22 as supportive of fair housing, there were some -- there
23 were some difficulties, but the City of Buffalo is
24 talking to us about the possibility of -- of the -- of
25 the first small increase in our contract in -- in five

1 years, which would -- which would hopefully help us
2 through this difficult time.

3 As I said, we also have a contract with the
4 -- with the Town of Hamburg, which has -- which has
5 enacted its own municipal fair housing ordinance, and
6 -- and we have a contract with -- with Erie County, the
7 Erie County Consortium.

8 Remarkably, after our role in assisting to do
9 the impediment study for the Erie County Consortium,
10 and a study which showed significant problems in many
11 consortium communities, Erie County has seen fit to
12 reduce their funding for fair housing, a reduction of
13 four percent last year, and -- and a proposed reduction
14 of another two percent in the year to come.

15 It's interesting to me that the -- that Erie
16 County, where -- where we're dealing with -- and the
17 Erie County Consortium has a population base of about -
18 - about 293,000, which compares to the City of
19 Buffalo's population base of -- of -- of 328,000.

20 The Erie County Consortium funds us at a --
21 at a per capita rate of approximately one-fifth of what
22 the City of Buffalo provides, and less than one-half
23 even of what the Town of Hamburg provides, and -- and
24 as I say, indications are that -- that the county is
25 trying to reduce that support further.

1 However, there are three large entitlement
2 towns around Buffalo, first-ring suburbs Tonawanda,
3 Amherst and Cheektowaga, which have through all my time
4 at HOME resisted efforts to deal with our agency at
5 all, and in fact, I think personally make only marginal
6 efforts to affirmatively further fair housing, and
7 that's -- that's a -- that's a -- that's a problem for
8 us.

9 HOME, because we are driven by our mission
10 and our mission was around even before the -- before
11 the Fair Housing Act and even before the New York State
12 Human Rights law, long before the -- the -- the
13 Community Development Act of 1974, we serve everyone in
14 Erie and Niagara Counties, although -- and sometimes in
15 -- in adjacent counties, too, depending on what
16 resources they need and what our resources are at a
17 particular moment in time, although we get paid to --
18 to -- to provide services, you know, to many fewer
19 people.

20 We have again applied for funding to -- to
21 Tonawanda and Cheektowaga and Amherst. Last time, when
22 we wrote to them about the numbers of residents that we
23 had served in their communities, there was not so much
24 as a -- as a response from the -- from the supervisors,
25 you know, whom we had -- whom we had written to.

1 MR. WAGNER: Ms. Taracido?

2 CHAIRPERSON TARACIDO: In this research study
3 that you did of the impediments, did you address the
4 question of what kind of solutions there might be to
5 the impediments that you listed? And you had a number
6 of things that you've listed.

7 MR. GEHL: We did, and -- and as I say, one
8 of the -- I -- I think what -- one of the things that's
9 -- that's symptomatic about -- about the Buffalo
10 metropolitan area is -- is that I know that HUD has --
11 from -- from my readings of information which Mr.
12 Martin was kind enough to provide to me just last week,
13 I know that HUD encourages metropolitan studies of --
14 of impediments to fair housing. That makes sense
15 because that's how the housing market theoretically
16 should work.

17 In the Buffalo area, four different entities
18 did their own studies of impediments to fair housing.
19 Now, HOME was involved in studies conducted for the
20 City of Buffalo and for the Erie County Consortium.

21 We have -- we have formulated an action plan
22 for both studies, and -- and what -- and -- and it's --
23 it's a lengthy document, and I -- and I don't want to
24 take up too much time here, but I'll make copies of the
25 action plans for each available to the Advisory

1 Committee.

2 We have run -- whereas the city has been
3 largely supportive of the -- of the action plan
4 presented by HOME and the -- and the other elements of
5 the consultant's team, there has been some resistance
6 within Erie County, and we'll have to see, you know,
7 ultimately what, you know, county officials, you know,
8 do with the action plan.

9 I've -- it's my understanding --

10 CHAIRPERSON TARACIDO: What kind of -- what
11 kind of resistance from Erie County? Can you be more
12 explicit?

13 MR. GEHL: Erie County convened an advisory
14 committee to work with the consultant's team, and let
15 me say that Erie County began -- Erie County hired the
16 contractor to do their impediment study in, I believe
17 it was, October of 1995, and the due date of the study,
18 I believe, the due date of the studies nationwide was
19 January 22nd.

20 I'm told that -- that all communities knew
21 that this was an obligation that -- that was coming.
22 So, there was not a -- not a great deal of time to
23 work, and the -- the consultant's team was criticized
24 by county officials within the forum of this advisory
25 committee, who -- and those county officials suggested

1 that -- that the consultants went into the -- went into
2 the study with the preconceived notions, and that in
3 fact the -- the actions proposed were not -- were not
4 valid actions, and really called into question the
5 integrity of -- of the consultant's teams.

6 Whether -- whether that conflict and -- and
7 the defense raised by -- by HOME to that is related to
8 the reduction in -- in -- in -- in funding from Erie
9 County, you know, I could only speculate about. I
10 can't say.

11 But, you know, there has -- you know, again,
12 in fairness to the county, the Erie County Government,
13 through the Department of Environment and Planning, is
14 an agent for the 34 villages, towns and small cities of
15 the Erie County Consortium. So, they are -- in some
16 ways, the County Department of Environment and Planning
17 does not have decision-making authority, and -- and --
18 and I think that some county officials were very
19 concerned about what the constituent governments would
20 say when things like, you know, zoning standards were
21 called into question.

22 MR. WAGNER: Dr. Nishi?

23 DR. NISHI: Aside from the legal mandates and
24 the obligations for promoting fair housing in publicly-
25 funded projects and activities, has your organization

1 been able to empirically establish evidence/data that
2 it has -- fair housing has positive impacts in
3 communities where this is carried out, and where you
4 have, have you been able to persuade persons -- persons
5 in positions of decision-making to be more favorable to
6 it?

7 MR. GEHL: I'm sorry to say that HOME's --
8 that due to the limited nature of our resources, which,
9 you know, before the cuts was -- was a budget of
10 approximately \$275,000, and a staff of seven, to
11 attempt to serve a two-county area of, you know, 1.2
12 million people. Now, it is about -- now, our resources
13 are -- are about 60 percent of that.

14 We have never had the ability to really do
15 those sorts of -- those sorts of studies which -- which
16 I think would -- you know, could -- could lead to
17 some -- some interesting -- very, very interesting --

18 DR. NISHI: Yes.

19 MR. GEHL: -- answers.

20 DR. NISHI: Have there been any other
21 organizations that you may know about which has tried
22 to do economic impact study of fair housing?

23 We assume, and I think that the remark was
24 made earlier by Michael Hanley, that fair housing
25 promotes vitality through the diversification of the --

1 of areas.

2 Do we have solid empirical data of that
3 economic -- positive economic impact?

4 MR. GEHL: Yeah. I -- I believe we have no
5 local data that I am aware of, you know, and -- and,
6 you know, let me -- let me just say that, you know,
7 there are some good people out in suburban communities
8 who take very seriously their -- their -- their
9 statutory obligation to affirmatively further fair
10 housing, and -- and, you know, in -- you know, those
11 people -- you know, those people are to be commended
12 because sometimes -- sometimes there are political
13 difficulties, and -- and, you know, -- and -- and they
14 are continuing championing -- championing of this
15 cause, you know, may be in the short term at least not
16 to their, you know, benefit.

17 MR. WAGNER: Ms. Lopez?

18 MS. LOPEZ: Good morning.

19 MR. GEHL: Good morning.

20 MS. LOPEZ: I have probably -- possibly two
21 questions. The one question that I have is, besides
22 Erie County, what other problems, if any, have you
23 encountered in implementing your plan, if you have?

24 MR. GEHL: I'm -- I'm -- I'm sorry. I -- I
25 missed the -- the -- the -- the end of your question.

1 I --

2 MS. LOPEZ: What other problems, if any, have
3 you encountered in implementing this action plan that
4 you said you created?

5 MR. GEHL: Well, the action plan is -- is --
6 there was -- there was one action plan for the City of
7 Buffalo, and the city is moving to implement elements
8 of -- of that plan anyway.

9 Erie County, to the best of my knowledge, has
10 not thus far, and the -- and the -- the action plan was
11 -- was finished in February.

12 The -- the other communities in -- in the --
13 in the area, it's my impression that -- or my under-
14 standing that they have all conducted impediment
15 studies. I do not even have copies of -- of the
16 impediment studies, you know, done by, you know, other
17 communities.

18 MR. WAGNER: Mr. Nguyen?

19 MR. NGUYEN: Yes. I just want to get back to
20 the question that the Chairperson just raised with you
21 before. With respect to the impediments, and you have
22 an action plan, can you just summarize what are your
23 recommendations?

24 I understand that it's lengthy, but can you
25 just summarize for us what are the solutions that you

1 propose in your action plan?

2 MR. GEHL: All right.

3 MR. NGUYEN: For Buffalo and for Erie County.

4 MR. GEHL: All right. Well, let me say that
5 they've -- they focus on a number of -- on -- on -- on
6 some -- if I could try and pull them into -- pull them
7 into general topics because in the Erie County plan,
8 for example, there are 28 recommendations.

9 You know, some are involved in, you know,
10 attempting to unify the housing market, to have a
11 common listing source of -- of -- of -- of assisted
12 housing, of -- of -- of private housing.

13 Several of the recommendations deal with
14 zoning. One -- one involves an effort to -- to -- to --
15 - to recruit racial minorities and persons with
16 disabilities for -- for some of those zoning and
17 planning boards which have no such people, to -- to re-
18 examine the rationality of minimum lot requirements
19 that would require a half-acre of land to build a
20 single-family home, and -- and I'm sure that -- I'm
21 sure -- I mean this is -- this is amazing to me, and I
22 come from -- from -- from Buffalo.

23 I can just imagine what a half-acre of land
24 seems like to somebody who's -- who's lived in New York
25 City, but it's -- it's -- it's -- it's more grass than

1 I would ever want to mow.

2 The -- to -- to -- to look at -- to look at
3 -- at -- you know, to -- to -- to examine measures
4 which could be used to -- to encourage the development
5 of -- of -- of affordable housing, you know, the
6 negotiation of -- of tax abatements and -- and pilot
7 agreements with -- with developers, the use of -- of
8 density bonuses.

9 We would -- we -- we have some steps in here
10 that talk about encouraging lenders to -- to work at --
11 at -- at doing lending which would benefit low- to
12 moderate-income census tracts, and there are -- there
13 are low- to moderate-income census tracts outside the
14 City of Buffalo. It's just very few of them have any
15 minorities in them at all, with the exception of the
16 City of Lackawanna.

17 We talk about a -- we -- we talk about a
18 county-wide fair housing ordinance, which would cover
19 some of the dwellings which are exempted by -- by
20 current federal and state law, and consider the
21 addition of lawful source of income and sexual
22 orientation, two types of discrimination not illegal
23 generally here in Western New York.

24 We have -- some of my colleagues in their
25 sections of the impediment studies found that local

1 building inspectors were not enforcing requirements,
2 accessibility requirements of the Fair Housing
3 Amendments Act, and -- and ADA. So, we -- we saw a
4 need for training for them.

5 We talk -- we talk about a -- a fund to
6 provide loans to disabled tenants, so that they can
7 make their housing physically accessible because under
8 the Fair Housing Amendments Act in private housing, it
9 is the -- it is the disabled tenant who must bear the
10 -- the burden of making housing accessible.

11 It's a different ball game completely in --
12 in -- in assisted housing, where -- where -- where
13 the -- where the -- where the landlord has an
14 obligation for accessibility.

15 We also talk about a -- a county-wide effort
16 to provide a clearinghouse to facilitate the
17 establishment of community residences. We have seen in
18 areas of -- areas in and around Buffalo considerable
19 resistance to group homes.

20 In the City of Buffalo, there was an effort
21 by some members of the Common Council to pass a
22 moratorium preventing the establishment of new group
23 homes. When HOME pointed out that that would be a
24 violation of the Fair Housing Act, and the -- and the
25 Buffalo News wrote a supporting editorial, legislators

1 backed away from that. However, they have put in its
2 place a city-wide restrictive use permit ordinance.

3 So, now any time you want to establish a
4 group home or you want to open a social service
5 facility or a halfway house or a counseling facility or
6 whatever, even if your -- even if the -- the building
7 is appropriately zoned, you essentially have to go
8 through a public hearing before the Buffalo Common
9 Council in which all the neighbors within 400 feet are
10 notified, etc.

11 The -- the -- you essentially have to go
12 through a process analogous to rezoning in order to
13 provide services. We believe that that, as it -- as it
14 restricts the abilities of persons with disabilities
15 and -- and -- and -- and other protected classes under
16 the Fair Housing Act, is -- that in -- in the way that
17 that creates, you know, additional hurdles to be
18 surmounted, that, you know, that -- you know, that that
19 is a -- that is a violation of the Fair Housing Act.

20 In the Town of Amherst, about the time the --
21 the restricted use permit ordinance fight in the City
22 of Buffalo was heating up, someone opened a group home
23 on Cheshire Lane in East Amherst, a very affluent
24 newly-developed section of East Amherst.

25 There was -- there were -- there was graffiti

1 at the site. There were threats made against the staff
2 of this new facility, and in fact, just, I believe it
3 was, in Saturday's Buffalo News, there was an article
4 written about this group home on Cheshire Lane a year
5 later, and everybody was saying, well, we were all very
6 frightened of it, but it's been no problem. Not -- not
7 surprisingly, but -- but, you know, nevertheless, there
8 -- you know, there have been, you know, those sorts of
9 reactions to group homes, and we think that it's --
10 that it makes sense to -- to have a county-wide body,
11 you know, facilitating the establishment of -- of -- of
12 group homes, and -- and -- and I could probably go on
13 and on, but let me not.

14 MR. NGUYEN: But do you have any specific
15 recommendations with respect to Section 8?

16 MR. GEHL: There have -- as -- as -- as -- as
17 I -- as I'm certain that Ms. -- Ms. Andriette from
18 Neighborhood Legal Services and Mr. Morrissey from the
19 Greater Upstate -- or -- I'm sorry -- from the Western
20 New York Law Center, you know, will tell you, there
21 have been some problems in -- in -- in -- in the
22 Section 8 administration in the Buffalo area.

23 Policies which certainly have had the effect
24 of -- of -- of -- of promoting segregation and limiting
25 housing opportunities for minority participants.

1 You know, thanks to -- thanks to their
2 lawsuit, the Comer suit, those -- those problems, I
3 think, have -- have largely been -- been taken care of.
4 I think that there is an affirmative piece which must
5 follow, and that is -- and that is the community
6 housing center and the continued cooperation, you know,
7 of the -- of the -- of the Section 8 agencies.

8 Beyond the very innovative, you know,
9 remedies agreed to by the parties in Comer, you know, I
10 wouldn't have any more suggestions about Section 8.

11 MR. NGUYEN: How about transportation? You
12 mentioned in -- earlier in your statement, you cite
13 transportation.

14 MR. GEHL: Yes, and -- and I -- and I -- and
15 I also -- I also mentioned that I was running from this
16 topic because I knew very little about it.

17 MR. NGUYEN: Okay.

18 MR. GEHL: You know, let me say that the mass
19 transit system in -- in the Buffalo metropolitan area
20 is still configured for a time when people -- people
21 commuted downtown and into the city to work. In fact,
22 in the Buffalo metropolitan area, as in -- as in many
23 communities, much of the new employment, the new
24 centers of employment, are outside the city.

25 The NFTA is to -- is to its credit attempting

1 to grapple with some of those issues. They have a new
2 program that they're talking about called Hub-Link,
3 that I have read a bit about, which talks about
4 transportation to -- to centers of employment, perhaps
5 even the use of -- if -- if there aren't enough people
6 for a bus, perhaps we have to talk about a mini-bus or
7 a van, and -- and I think that -- that that's really
8 important because as we -- as -- you know, as we get
9 ready to -- to experience this -- this bounty that's
10 been misnamed welfare reform, people are going to have
11 to find a way to get to jobs, you know, which, of
12 course, assumes the jobs exist, and I don't know that
13 we can -- we can assume that, but people are going to
14 have to find a way to get there, and -- and, you know,
15 public transit is going to be very important to people
16 who -- you know, who are low-income people, who, you
17 know, can't afford to -- to, you know, own an
18 automobile.

19 You know, there -- there is in our -- in
20 our -- I think it was our city impediment study, a
21 section dealing with, you know, an example of one
22 person who was offered employment at a -- at a suburban
23 location, lived in the City of Buffalo, and would have
24 had the choice of coming to work two hours early each
25 day or a half hour late each day. Those were the best

1 bus connections that could be made, and ultimately
2 that, you know, that wasn't a feasible job for that
3 person to accept.

4 MR. WAGNER: Dr. Nishi?

5 DR. NISHI: The impediment study and the
6 solutions that you've just outlined for us, they seem
7 commendable. However, what do you anticipate as the
8 resources to be able to carry this out, and what sort
9 of monitoring of your progress is going to be made, as
10 I understand it, in your impediment studies, you are
11 required by HUD, and is there any provision and for
12 monitoring your progress on the -- overcoming these
13 impediments?

14 MR. GEHL: Well, let me say it's -- it's --
15 it's likely not to be HOME's progress, but the -- but
16 the progress of -- of the city and the county and --
17 and the other funded entities.

18 It's -- it's my understanding that -- that
19 the impediment studies, interestingly enough, do not
20 even have to be furnished to HUD, but, rather, that HUD
21 might request them if there is a complaint or might
22 request them in the course of periodic monitoring of --
23 of entitlement community.

24 Presumably, you know, the -- the -- you know,
25 the communities will provide the action plans to and

1 HUD will -- HUD will ask those communities to -- to --
2 to assess their -- their progress.

3 DR. NISHI: In other words, there's no HUD
4 monitoring of the -- of the achievement of goals in the
5 action plans?

6 MR. GEHL: Right. There is -- there is no --
7 there is no direct HUD monitoring absent -- absent --
8 absent a complaint.

9 DR. NISHI: Yes.

10 MR. GEHL: And, you know, perhaps -- you
11 know, I'm -- Mr. Martin is here, and he's much more
12 qualified to speak on this than I am.

13 DR. NISHI: Yes. The other thing is what is
14 your assessment of the availability of resources to
15 carry out the action plans?

16 MR. GEHL: Well, --

17 DR. NISHI: Are there allocated
18 responsibilities for carrying out these -- these
19 actions?

20 MR. GEHL: I think that if a number -- some
21 of the resources -- some of the elements that we talked
22 about are expensive, and -- and most of those are --
23 you know, we're involved in the -- in unifying -- in
24 attempts to unify the housing market.

25 At the -- at the time the impediment studies

1 were written, we talked about participation by all
2 entitlement communities in Erie County, including
3 Amherst, Cheektowaga and Tonawanda, whom thus far have
4 not participated. You know, that would certainly bring
5 additional -- additional resources to bear, but -- but
6 many of those same sorts of remedies that we have
7 talked about are remedies that the -- that plaintiff's
8 counsel have -- have, you know, wisely, you know, put
9 into the settlement document of the -- of the Comer
10 suit, and HUD has, you know, committed, you know,
11 substantial resources, you know, at least for a period
12 of -- of five years. That -- that could certainly get
13 the ball rolling.

14 In terms of things like, you know, re-
15 examining laws and -- and, you know, in zoning
16 requirements, I don't think there's a big -- there's a
17 big cost, you know, --

18 DR. NISHI: It will --

19 MR. GEHL: -- attached to that, but -- but
20 you must have the will, and -- and -- and I think, you
21 know, we'll -- we'll have to -- we'll have to see, you
22 know, what happens. It would be unfair of me to
23 speculate.

24 DR. NISHI: Thank you.

25 MR. WAGNER: Ms. Lopez?

1 MS. LOPEZ: Hi, Mr. Gehl. Gloria Lopez
2 again. I guess what I'd like to know is you mentioned
3 some remedies, such as unifying the housing market to
4 have a common listing. What kind of barriers,
5 persistence, or problems do you think you'll have to
6 overcome to obtain this remedy?

7 MR. GEHL: Well, I think that, you know,
8 first of all, you have to find someone, you know, who's
9 willing to pay for, you know, whatever your central
10 listing, you know, mechanism is -- is going to be.

11 You also have to find a way to encourage
12 housing providers to participate.

13 MS. LOPEZ: You've met with resistance from
14 them?

15 MR. GEHL: Many -- pardon me?

16 MS. LOPEZ: You've met resistance from these
17 housing providers?

18 MR. GEHL: Yeah. Well, HOME -- HOME -- I
19 guess part of HOME's business is dealing with
20 resistance from housing providers, and we've been doing
21 that for -- for a long time now.

22 MS. LOPEZ: Such as?

23 MR. GEHL: Well, you know, we have -- one of
24 the -- one of the common elements that we have when
25 we -- when we settle a case, you know, be it with -- be

1 it with a court order or with a -- with a HUD
2 conciliation agreement, is that we ask, you know,
3 respondents to -- to list vacancies which occur for a
4 period of years, with -- with a -- with a not-for-
5 profit agency that provides a no-cost listing service.

6 You'd be surprised at the resistance that --
7 that -- that you get to that, something that is not
8 going to -- that is not going to cost housing providers
9 a nickel, that is going to be an additional way to
10 advertise vacancies, and yet there is this resistance.

11 Sometimes I wonder whether there is that
12 resistance because they don't want their vacancy to be
13 known to -- to a -- a population of housing consumers
14 that, you know, might include racial minorities, for
15 example, and -- and that's a -- that's -- you know,
16 that's -- that's a real issue for a lot of people.

17 You also find housing providers who will only
18 advertise papers or only advertise listings in -- in
19 suburban, you know, weeklies, and if you -- and if you
20 advertise your listings in a suburban weekly that's --
21 that's read by a population that's -- that's 98 percent
22 white non-Hispanic, odds are that is going to affect
23 your applicant pool, and, you know, I mean, you know,
24 certainly one factor is that the -- that, you know, we
25 have, you know, one real metropolitan daily, and -- and

1 they charge an arm and a leg to advertise, you know,
2 and -- and, you know, there's -- there's an undeniable
3 cost factor there.

4 But it's interesting how -- how, you know,
5 rental vacancies especially are -- are -- are put on
6 the -- put on the market.

7 CHAIRPERSON TARACIDO: Could I just ask one
8 question? Mr. Gehl, I have one last question that has
9 nothing to do with what you've been testifying about,
10 but, rather, --

11 MR. GEHL: I hope it's not about
12 transportation.

13 CHAIRPERSON TARACIDO: Well, recommendations
14 as to who should be talked to about this other question
15 of quality and quantity of affordable rentals and
16 accessibility to transportation and jobs. Is there
17 anybody that you would recommend that we get in touch
18 with?

19 MR. GEHL: Well, I -- I believe that you have
20 Mary Shine and Elizabeth Huckabone from -- from the
21 Section 8 agencies coming in this afternoon, and they
22 can speak about -- a little bit about the rental
23 market.

24 Transportation, I think it would make sense
25 to, you know, speak with some planners from the Niagara

1 Frontier Transportation Authority.

2 CHAIRPERSON TARACIDO: Thank you very much.

3 MR. WAGNER: Mr. Gehl, on behalf of the
4 Committee, thank you very much for your presentation
5 and willingness to answer questions this morning, and
6 we invite you to spend the rest of the day with us.

7 MR. GEHL: Thank you very much.

8 MR. WAGNER: Thank you.

9 Madam Chairman?

10 CHAIRPERSON TARACIDO: The second panel is
11 going to be -- continues actually, Community Attitudes
12 and Actual or Perceived Discrimination. So, we're
13 actually continuing with this same topic at this point,
14 and the first person is Grace Andriette, Housing Unit
15 Supervisor, Neighborhood Legal Services.

16 Panel 2: Community Attitudes and Actual or
17 Perceived Discrimination

18 MS. ANDRIETTE: Thank you, and good morning.
19 My name is Grace Andriette. I am a staff attorney at
20 Neighborhood Legal Services.

21 The death of Cynthia Wiggins, I believe, lies
22 heavily on the minds of many of us here in Buffalo, and
23 it is perhaps for that reason that both Scott Gehl and
24 I spoke of this situation.

25 As Mr. Gehl noted, Ms. Wiggins was killed as

1 she was leaving a city bus stop to cross a six-lane
2 highway to go to one of the largest shopping malls in a
3 suburban area just outside of Buffalo.

4 As I was preparing my testimony for you, I
5 came across an article in the Buffalo News, and what
6 interested me most was a quote buried on Page 816 by
7 one of the mall officials, who admitted or confirmed
8 that he had blocked access to the Number 6 bus.

9 The Number 6 bus travels through Buffalo's
10 east side, a predominantly African American section of
11 Buffalo, and the mall had blocked access to that bus.

12 This particular mall official rejected the
13 allegations that his decision to block the bus was
14 racially motivated. He said instead that the mall
15 simply did not want the crime problems that the company
16 believed were troubling other malls, and for that
17 reason, they had blocked the bus.

18 It is these attitudes and underlying
19 assumptions that I believe under-score the problems
20 that people of color face when they travel from the
21 city to the suburbs, whether it be to work, to shop or
22 to find housing.

23 As an attorney at Neighborhood Legal
24 Services, I think my observations on the impediments to
25 housing mobility are heavily influenced by the work

1 that I do. Every day, I speak with individuals who are
2 victims of housing discrimination.

3 At Neighborhood Legal Services, we receive
4 funds from the city through a community block --
5 through community block grant monies to investigate
6 allegations of discrimination with the assistance of
7 Housing Opportunities Made Equal, to provide advice and
8 counsel to victims of discrimination, to provide
9 representation for victims of discrimination, and also
10 to provide community education on the issues of fair
11 housing and housing discrimination to consumers of
12 housing and also to housing providers.

13 Today, I was going to speak a little, give
14 you some anecdotal information about some of the
15 experiences that my clients have had as they go out in
16 the community to search for housing.

17 I think the -- the history that
18 discrimination and segregation have played in the
19 Buffalo area becomes immediately apparent when one
20 views the demographics, the racial and ethnic
21 demographics of -- of Buffalo and the surrounding
22 community, and that's been described by Mr. Gehl.

23 We live in an area where the African American
24 and Hispanic populations are concentrated in the city,
25 predominantly on the east side and west side, and where

1 the surrounding suburbs are predominantly non-Hispanic
2 and white.

3 In the public and subsidized housing market,
4 these demographic trends historically have been
5 reinforced and perpetuated by a segregated public
6 housing system, and through the existence of two
7 separate Section 8 programs, one that primarily serves
8 the white suburban community, and the other which
9 serves the city and its minority population.

10 These two agencies, the Belmont and the
11 Rental Assistance Corporation, maintain separate
12 waiting lists, and as I mentioned serve two distinctly
13 different racial populations.

14 As a result of the Comer litigation, which I
15 believe James Morrissey will be speaking more about, and
16 the ensuing settlement agreement, the city housing
17 authority and the Section 8 Programs, Belmont and the
18 Rental Assistance Corporation, have come together to
19 end some of the systematic administrative
20 discrimination that has previously existed.

21 One of the proposals in the consent decree is
22 to open a community housing center or a mobility center
23 which will provide assistance and -- and advocacy to
24 individuals who seek to take their Section 8 subsidies
25 and move from the city into the suburbs, and I think

1 that this is an important first step to opening doors
2 to greater access to housing in this area.

3 Discrimination in the '90s, as Mr. Gehl has
4 alluded to, can be a very subtle affair, and often
5 victims of discrimination are not aware that they have
6 been discriminated against.

7 It is for that reason that testing is so
8 important, and that's one of the services that Housing
9 Opportunities Made Equal as historically provided.
10 Unfortunately, there have been funding cuts which
11 impact the amount of testing that is currently being
12 done in this area, and that's something that needs to
13 be addressed if we are to prove -- if we are able to
14 prove to -- to prove that discrimination has occurred
15 in litigation and administrative hearings, testing is a
16 very important component.

17 Another problem that -- that victims of
18 discrimination face is sort of this feeling of
19 futility, of is it really worth pursuing a fair housing
20 claim or discrimination claim in situations where
21 discrimination is more blatant or overt.

22 Education on the issue of -- of tenants
23 rights or prospective tenants rights, education on fair
24 housing laws, education to landlords or providers of
25 housing services are all necessary.

1 Another problem that Section 8 recipients
2 encounter is the limited amount of time that they often
3 have to secure housing. Section 8 Program regulations
4 limit the time that a housing consumer has to find
5 housing, to enter into a lease agreement, to have the
6 landlord enter into a housing contract.

7 Studies have shown that minority households,
8 it takes much more time for a minority household to
9 find replacement housing than for a majority household,
10 and Mr. Gehl alluded to an Urban Institute report done
11 on a national level which showed that Hispanic and
12 black families tended to encounter discrimination 50
13 percent more frequently than white families in
14 searching for available housing.

15 From a victim's perspective, there's often
16 simply not the time to immediately address a situation
17 of discrimination when it occurs. The family's often
18 under stress, needing to move or to -- to find new
19 housing, whether it be because of the Section 8 time
20 limitations that are imposed, perhaps because they've
21 given notice to move to their current landlord or
22 perhaps because of the conditions that are requiring
23 them to move quickly from one place to another, and it
24 is this limited time period that also serves to
25 discourage people, I think, from pursuing fair housing

1 remedies when they are faced with instances of
2 discrimination.

3 Ellen Moore, who is a client of our office,
4 was going to speak with you today about some of her
5 experiences as she used her Section 8 benefits, which
6 she received through the Belmont Program, to move from
7 the City of Buffalo to the surrounding areas.
8 Unfortunately, she's taken ill and is not able to come
9 to speak with you today, but she has given you a --
10 given me authority, rather, to speak on her behalf.

11 Ms. Moore is a client of our office, as I
12 mentioned, and approximately six years ago, she
13 received her Section 8 benefits and decided to use them
14 to move to Lancaster, a community in the, I believe,
15 north -- northeast of Buffalo.

16 When she moved there, she moved to a
17 townhouse, and in the first two weeks of her move, she
18 had racial slurs painted on her door and a fire set in
19 her doorway. This is not necessarily a common
20 occurrence for -- for individuals of color who decide
21 to move out of the Buffalo area, but I use it to
22 illustrate the point that discrimination still occurs
23 in Buffalo, and that it often occurs in very dramatic
24 ways.

25 Ms. James is going to speak later about her

1 experiences in moving from Buffalo to Amherst, and I
2 think she's had some very favorable experiences, but
3 the fact that discrimination continues to occur in
4 Buffalo is a very real one.

5 Ms. Moore, my client, decided to stay where
6 she was. Several years later, without further
7 incident, she decided to move to a community,
8 Cheektowaga, closer to Buffalo, because she was
9 concerned about transportation issues.

10 As -- as Mr. Gehl has mentioned,
11 transportation in the City of Buffalo is -- we have a
12 fairly comprehensive system, but as you travel out to
13 the suburbs where people tend to have their own cars,
14 the transportation system is -- is fairly linear, and
15 it's difficult for people without cars, and low-income
16 people and Section 8 recipients often do not have their
17 own vehicles to get to schools, to get to jobs, and to
18 enjoy some of the shopping opportunities, the social
19 opportunities, the economic opportunities that a move
20 to a more affluent suburban area might offer.

21 For that reason, Ms. Moore decided to move to
22 Cheektowaga, an area closer to the city and closer to
23 the transportation hub, and it is that move -- because
24 of that move that she and I became acquainted, that she
25 reached out to Housing Opportunities Made Equal and

1 to -- and to our office for assistance and
2 representation.

3 Using her Section 8 benefits, she attempted
4 to -- she applied to enter an apartment building on the
5 bus line, and for many years was rejected. She finally
6 met with the landlord who told her that he was
7 concerned because she had a daughter. She was a single
8 mother, and he did not know what she was going to do
9 with her daughter during the day, even though she
10 reassured him that she had child care, etc.

11 The landlord also said that he was concerned
12 that she was not financially able to rent the
13 apartment, although her Section 8 benefits would
14 clearly cover the rent.

15 There is a lawsuit pending, and through our
16 investigations, we have discovered that the landlord
17 had in fact rented to other Section 8 recipients who
18 were white, Ms. Moore is African American, and that he
19 had rented to individuals on public assistance who were
20 actually financially less able to afford the apartment
21 that she was applying for, but again, as Mr. Gehl
22 mentioned, there's no prohibition on discrimination
23 based on income.

24 This is a basis that landlords can use to
25 deny an applicant, often this is not -- this is simply

1 subterfuge and not the actual reason why people are
2 being denied, but it's often difficult to get to the
3 bottom of that, and that's why testing again is so
4 important.

5 Given the history of racial discrimination
6 and segregation in Buffalo, I don't believe that it's
7 surprising that many low-income individuals decide not
8 to venture out of known neighborhoods when they are
9 given Section 8 benefits.

10 I think that it's not simply enough for
11 Section 8 providers to advise recipients of Section 8
12 benefits that they can now use their vouchers and
13 certificates to travel outside of the Buffalo
14 metropolitan area. There needs to be active
15 participation by the Section 8 providers in encouraging
16 housing mobility.

17 In terms of -- of solutions, I think that's
18 an important first step, that Section 8 providers take
19 an active role in educating housing consumers,
20 recipients of Section 8 benefits, about the
21 alternatives.

22 Secondly, I think that a coalition -- I
23 hesitate to use the phrase "it takes a village" because
24 it's been so over-used, but I think in talking about
25 housing discrimination, it does, and in talking about

1 housing mobility issues, if we're going to confront
2 these problems, it takes the gathering together of the
3 various agencies that have historically worked to
4 prevent discrimination, to investigate discrimination
5 claims, to provide benefits to individuals.

6 There's a necessity that these groups come
7 together to explore the alternatives and the solutions
8 to the obstacles that -- that many individuals
9 confront, and this sort of acquiescence to fair housing
10 concepts is not enough. There must be active
11 participation and active encouragement by subsidized
12 housing providers, by public housing providers, by the
13 city government, and also by the various agencies that
14 provide legal services, such as Neighborhood Legal
15 Services, Housing Opportunities Made Equal, the City
16 Fair Housing Office, etc.

17 As I mentioned earlier, a community housing
18 center or a mobility center is anticipated as a result
19 of the settlement or the consent decree entered into in
20 the Comer lawsuit, and I believe that this is a very
21 necessary component if we are going to embark on a
22 campaign to increase mobility and to open more doors to
23 housing here in the area.

24 A mobility center can service both individual
25 -- could encourage individuals to explore other areas,

1 could give people information about transportation,
2 which is often the obstacle that -- that ultimately
3 discourages people from moving out. Not only is
4 transportation an issue -- an issue for a person who's
5 going to live in the suburban area, it also becomes an
6 issue when someone's looking for housing.

7 A person who doesn't have a car, who's
8 traveling to unfamiliar communities, where bus lines --
9 that bus lines don't service, often has a difficult
10 time in securing housing. It's very expensive, for
11 example, to rent a taxi to travel to one available
12 apartment to the next.

13 A mobility center that provided information
14 about public transportation would be very important,
15 that provided information about shopping centers, about
16 schools, about churches, would similarly assist people
17 in their attempts to find housing.

18 Again, a community center that offered
19 support services in conjunction with Housing
20 Opportunities Made Equal and Neighborhood Legal
21 Services for victims of discrimination would be
22 essential.

23 Right now, we have a number of -- of agencies
24 that do refer clients one to the other; but a central
25 source where people can get information on the services

1 that they require would be -- would be a very important
2 component of -- of a fair housing plan.

3 The obstacles that Cynthia Wiggins
4 experienced as she attempted to travel from the city to
5 Cheektowaga have -- have not gone away, and I think
6 that a comprehensive plan and a community dialogue is
7 necessary if we are to confront them adequately.

8 Thank you.

9 CHAIRPERSON TARACIDO: Thank you very much.

10 Gloria Lopez is actually the moderator of
11 this panel. So, I'll turn it over to Gloria.

12 MS. LOPEZ: Thank you very much, Ms.
13 Andriette.

14 MS. ANDRIETTE: Thank you.

15 MS. LOPEZ: Can we ask Ms. Jituan James to
16 please come up? Before we answer questions -- ask
17 questions, we'd like to hear your story as well.

18 MS. JAMES: Hi, everybody. My name is Jituan
19 James. I had applied for Section 8 back in -- I'm a
20 little nervous. Excuse me. I applied for --

21 MS. LOPEZ: So are we.

22 MS. JAMES: -- Section 8 back in -- it was in
23 '88, the end of '88, and I was waiting to hear, and I
24 would call, and I never received it. They said they
25 didn't have my application.

1 I called in '92. I called all the way up to
2 '92. I waited that long because I was always told that
3 it was a long waiting list. So, there was no need for
4 me to hurry up and call them.

5 So, when I called, they said they didn't have
6 my application. I never applied. So, I went back, and
7 I reapplied in '92, which I am still waiting now, and
8 in that, I have a 16-year old son, and I lived on
9 Combs, off of Genesee, on the east side, and it's like
10 really bad over there now. I mean like drug
11 trafficking. They have prostitutes out, and my son
12 just kept asking me if we could please move because the
13 more -- majority of the kids that he was around, they
14 was selling drugs now and stuff, and he's not that type
15 of kid, and, so, he was like, Mom, you know, it's like
16 peer pressure. They was calling him a Mom's boy
17 because I make him come in at a certain time and stuff
18 like that.

19 So, I have been trying to find me a place,
20 and I was trying to find a place out at Amherst since
21 '94, and I finally did luck up on the apartment out
22 there, which the lady wanted \$610, and I couldn't
23 afford that, but I was willing to take a chance if it -
24 - because I'm on public assistance, to sell some of my
25 food stamps to pay my rent, I was willing to do that

1 because I wanted to get my child out of that area, you
2 know.

3 So, I told him, I said, well, I'm going to
4 take the apartment, and we'll just do whatever we have
5 to do because that was the lowest that I could find.
6 Everything else they wanted -- 625 was the lowest.
7 675, and -- and, so, I was just like, well, we'll just
8 wait, and that was like in '94.

9 So, I just gave up on it, and I just ride
10 like now and then out there because I do have a car, to
11 see if I could find something. When I went by paper
12 and I would call, people would say we already rented
13 the apartment, you know, and stuff like that. So, I
14 just started riding and combing the streets, and it was
15 this apartment on Sweet Home Road, and that's where I
16 lucked up and got the apartment.

17 I told the lady -- after I was going to take
18 it, she wanted the security and the first month rent,
19 and I told her I would do it, and I tried to get the
20 money, and I couldn't. So, I called her back and told
21 her I was sorry to inconvenience her, but I explained
22 my situation, that I was on public assistance, and I
23 really was trying to find somewhere to put my kids in a
24 better area and stuff, and, so, like three -- it was
25 about three weeks later, she called me back, and she

1 said and her husband had discussed it, and she knew I
2 was a single parent, and she said that they decided
3 they would go down to 525 if I could afford it, and I
4 just thought that was a blessing, and, so, I was able
5 to, you know, work it out where I could -- my son was
6 working then, but now he's not working. He work in the
7 summer, but he's not working now because he's in
8 school, and he's in basketball, and it doesn't -- he
9 can't do all three.

10 And transportation, being that I have a car,
11 it's convenient for me, but sometimes I don't have gas.
12 So, then it doesn't be convenient because I have to
13 stay home or either I walk down to Sweet Home and North
14 Branch where I can catch the 34, but it doesn't run
15 regularly.

16 Like my car was down, and I took my daughter
17 recently to the doctor, and we went to the doctor at 3.
18 We left at 5. We didn't get home till like 9. We were
19 waiting for a bus, the way the bus route ran, for me to
20 be able to get us home, and then I had to walk a ways
21 down Sweet Home Road to get there because no bus goes
22 down Sweet Home Road.

23 But I enjoy living out there, and I just
24 called recently to find out where I was at on the list
25 for Section 8, and they said that they still were on

1 '91, you know, and they've been on '91 for awhile, and
2 I'm like -- it's like really slow, and it's really
3 getting tight for me to pay my rent and stuff, you
4 know, and my bills because I would do like -- I do
5 whatever I have to do, odd jobs somebody will give me,
6 you know, to clean houses, to work a case for somebody,
7 you know, I'll do that.

8 Public assistance -- I was working, but when
9 I started working, they cut my check to where I
10 couldn't even pay the rent, you know. So, I had to
11 quit my job in order for me to go back on public
12 assistance and be able to come closer to paying the
13 rent than I was me working, you know, and it's not that
14 I want to be on public assistance, you know, and just
15 stay on there, but it's hard for me to pay for day
16 care. They said they wouldn't pay for the day care. I
17 had to start paying it myself, and I was only bring
18 home like \$54 some weeks, \$80 another week, and that
19 was no where for me to be able to pay my rent, but I'm
20 still out there, and I just keep calling, hoping that
21 it's -- that they is moving up.

22 They have sent out this letter on Cisneros v.
23 Comer, and I have read that, and I put it away because
24 I didn't really understand what it was, you know, what
25 was going on. So, then I said, well, let me just call

1 and find out, you know, what happened with the case
2 because they said September 5th, anybody could come to
3 the hearing, but you had to call the 1-800 number, and
4 I kept calling, and I never got anybody. So, I didn't
5 go to the hearing. So, I said I'm going to call just
6 to see what they would tell me or what's happened here,
7 and they were saying that the case was won, but the
8 funds weren't given out yet, and they weren't sure what
9 was going to happen with that situation.

10 So, I called Section 8 again to find out
11 because I called in the summer time, and the guy said
12 that they were on '91, April, and I just recently
13 called, and they still on '91, April, and I'm like what
14 is going on, you know. So.

15 MS. LOPEZ: Thank you. Ms. James, Combs is a
16 low-poverty area?

17 MS. JAMES: Hm-hmm.

18 MS. LOPEZ: Okay. Two questions. Now that
19 you live in this new area, what kind of positive
20 effects have you felt for your son, for yourself, if
21 any?

22 MS. JAMES: I feel safer about going out. I
23 don't like smothering now like I always did. I would
24 make him come in when the street lights came on. He
25 wasn't allowed to go off Combs where I could not see

1 him, and out there, I don't worry like that.

2 Like my cousin and them live a distance, they
3 moved here from Chicago, they live out there, too, and
4 they live with assistance, but I don't feel worried
5 that he's going to be in the drive-by shooting, you
6 know, or mistaken for somebody else or somebody jumping
7 on him because of the clothes that he wear, you know,
8 or to that effect.

9 I don't have to worry about anything like
10 that. I have a three-year old little girl. I'm not
11 scared of her being able to be out swinging on the
12 swing set, where I can see her, you know, and I'm
13 sitting on the porch while she's swinging or even in
14 the kitchen because the way my house is made, I can
15 stand in the kitchen window, you know, doing dishes,
16 and I can see her still at the swing set because the
17 house sit back from the road.

18 I -- I love it myself. I'm just hoping that
19 my Section 8 come through, so I can stay there, and I
20 was just telling her recently, I don't want to have to
21 move back in the city if I don't have to, you know, but
22 need be, if I have to, then we will.

23 MS. LOPEZ: Why?

24 MS. JAMES: Because I really like it out
25 there. It's like peace and tranquility for me. Peace

1 of mind. I like being off like I am to myself. Where
2 I live, it's not just a tenant live next door to me,
3 but I'm next door to a school, and then there's nothing
4 else right there, and I like that, and I really
5 appreciate that, because where I lived at, all night
6 long, it would be hollering, you know, to -- like
7 there's a guy where I lived next door, he sold drugs.
8 So, they would be hollering all night, calling him,
9 trying to get him to sell packages, and it's like they
10 might as well sit in my house right with me because
11 that's how loud it would be. It was just really loud
12 over there, you know, and I was like enough is enough,
13 whatever I have to do, I'll just do it, you know. It
14 was time for me to go.

15 MS. LOPEZ: Dr. Taracido? Excuse me. Dr.
16 Nishi? Excuse me. I can't see from where I am.

17 Dr. Nishi?

18 DR. NISHI: May I ask both of the panelists
19 here? Ms. James, you indicated that you were a little
20 suspicious about the loss of your initial '88
21 application, and then that still now as -- as compared
22 to -- to April, that they were still on '91 applicants.

23 Are you -- is there any testing that is being
24 done of this as to whether it takes longer for minority
25 applicants to be approved for Section 8? Do you know

1 of any -- but that is your suspicion or the implication
2 --

3 MS. JAMES: Yes.

4 DR. NISHI: -- that there is something
5 strange going on here, and whether there's a
6 differential waiting list -- waiting time for people
7 who apply at the same time. Do you -- are you -- do
8 you know possibly of any testing that has been done of
9 that?

10 MS. ANDRIETTE: No, I'm not aware of any
11 testing --

12 DR. NISHI: I see.

13 MS. ANDRIETTE: -- that has been done on that
14 issue.

15 DR. NISHI: That would be interesting. I
16 have another kind of question. Ms. James, you seem to
17 have made a very successful move into an area, but I
18 understand that your sister is not too far away. So,
19 you have some --

20 MS. JAMES: No, they're not my sister. It's
21 my brother's son. They moved here from Chicago.

22 DR. NISHI: Oh, I see. So that they are in
23 that same general area, is that right?

24 MS. JAMES: Yeah. They live in the area.

25 DR. NISHI: So that you went there with the

1 awareness that you would have some support and some
2 social contact and things of that sort.

3 MS. JAMES: No. I went there that it would
4 be a better area for my child.

5 DR. NISHI: Yes, yes.

6 MS. JAMES: They just moved there recently.

7 DR. NISHI: I see.

8 MS. JAMES: You know.

9 DR. NISHI: I see.

10 MS. JAMES: My purpose for moving there was
11 to get myself from out of the area, so that --

12 DR. NISHI: Yes.

13 MS. JAMES: -- you know how it could just be
14 pressure put on your kids, so that he want to fit in.

15 DR. NISHI: Right.

16 MS. JAMES: So, he ends up selling drugs or
17 sneaking behind my back to do it, to please his
18 friends, and I didn't want that pressure put on him at
19 all.

20 DR. NISHI: Yes. Well, that's certainly
21 commendable and admirable.

22 I was going to ask Ms. Andriette what you
23 thought of the possibility of using volunteer --
24 voluntary organizations as possible, oh, you might say,
25 support centers or contact centers who could enlarge

1 and make -- or enhance the possibility of the -- of the
2 areas into which people might be more encouraged to
3 move.

4 So, well, I -- I -- I think of the -- the
5 kind of goodwill that exists certainly in many
6 voluntary organizations, such as religious
7 organizations, who have at least in their ideological
8 statements a very strong commitment to fair opportunity
9 and non-racial discrimination and etc.

10 What are the possibilities of -- of that kind
11 of voluntary association involvement and volunteers
12 to -- to help monitor the situation, function as sort
13 of people can help guide and orient people as they come
14 into areas?

15 I wonder if -- whether you are -- whether you
16 know of any such models of welcome and sometimes
17 protection and legitimacy, etc.

18 MS. ANDRIETTE: I think the churches play a
19 very important role in the African American community
20 here in Buffalo, and they're very well organized and
21 can provide and do provide a variety of support
22 systems.

23 In the outlying areas, though, there's very
24 little religious network of that nature. There are,
25 however, programs that do run under a system that

1 you've described.

2 At Neighborhood Legal Services, we have
3 something called the Dandelion Project, and we couple
4 mentors, individuals who have moved from welfare to a
5 working situation, with individuals who are attempting
6 to make the transition, and to assist them in -- in
7 locating other types of benefits, just in
8 transitioning, you know, from -- from one economic
9 situation to another.

10 I think that model could work as people move
11 from a city to a -- to a suburban location.

12 DR. NISHI: In other kinds of efforts, there
13 have been teaming of a suburban church and an inner
14 city church in which they cooperate in some kind of
15 goal that they think is consistent with their religious
16 concerns, including such things as non-racial
17 discrimination, that -- do you know of any situations
18 in which there's been that kind of cooperative
19 relationship, you know, starting with even things as --
20 as tried and true as exchange of pulpits and visiting
21 and things of that sort, but then it would make
22 possible people from the -- from the city to become
23 more familiar with various areas.

24 Is that a kind of thing that has occurred or
25 could occur? What would you think of its potential?

1 MS. ANDRIETTE: I think it has huge
2 potential. I know of situations, one specifically,
3 where a synagogue, I believe in Amherst, has programs
4 in the Buffalo inner schools, where they act as
5 teaching mentors, etc. I think the program that you
6 suggested could have great impact in the city.

7 Just in terms of -- of talking about
8 volunteers in general, Housing Opportunities Made
9 Equal, HOME, does employ volunteer testers, and that's
10 another area where volunteers could play a role, but
11 I -- but I think in -- in sort of mentoring or support
12 services, there's definitely a role for the churches to
13 play.

14 In fact, they may be playing that role to a
15 greater extent than I'm aware of.

16 DR. NISHI: Yes. I think that the -- of the
17 experience during World War II, when Japanese-Americans
18 were coming out of camp. There was an extraordinary
19 kind of -- of assistance provided by various voluntary
20 organizations, including religious organizations, to
21 assist the -- the -- assist Japanese-Americans as they
22 came out of camps to resettle in various areas where
23 they had never been before, where there was no social
24 network of contact, etc., but they provided a very
25 important kind of context for entry into a new

1 situation, and I wondered whether that would provide
2 some kind of -- it would have the value of introducing
3 and would have the contact of -- of resources or
4 people, established institutions. There's a network of
5 people involved, etc.

6 MS. LOPEZ: Mr. Padilla? Excuse me, Mr.
7 Padilla. If -- before each of you speak, if you could
8 identify yourself, please, for our record.

9 Mr. Padilla?

10 MR. PADILLA: Juan Padilla. I want to raise
11 the question from a different angle. In the
12 testimonies, we have heard a lot about impediments for
13 furthering the goals of fair housing, but we have heard
14 little about the remedies that -- the legal remedies.
15 What are the impediments to you, the appropriate legal
16 remedies that are in place, what really the Federal
17 Government is doing, you know, to implement those legal
18 regulations or those laws.

19 So, I think it's important if we could get
20 your opinion or share your view on the little
21 discussion on that issue because I think that's a very
22 important element of our inquiry, is to find out if the
23 enforcement mechanisms are working, if there is
24 appropriate monitoring, so we don't put all the burden
25 on the big things or on just the complaints, you know.

1 The government may use the audits or other
2 means to really enforce these things. So, I would like
3 to see if we could discuss a little bit about that.

4 MS. ANDRIETTE: Certainly. Under the Fair
5 Housing Act, victims of discrimination can file suits
6 in the courts or administratively with HUD. I think
7 there's been some perception that filing with HUD often
8 has disadvantages when a person -- a victim of
9 discrimination is interested in retaining the house
10 that they acquired, or a person applies for an
11 apartment, feels that they have been discriminated
12 against, and they don't want that apartment to be
13 rented to somebody else while an investigation is
14 pending.

15 In court, you can bring an injunction,
16 preventing the landlord from renting the property to
17 somebody else. Unfortunately, the HUD process,
18 although it moves much more quickly now, is slow in
19 comparison, and -- and injunctive relief, although it's
20 available as a practical matter, is not often provided.

21 So, in situations where a person, you know,
22 wants the apartment that they've just looked at, it
23 means going to court, and there's a question or a
24 problem in Buffalo just with the availability of
25 attorneys who are willing or able to take those cases.

1 Neighborhood Legal Services does -- as I
2 mentioned, we get money from the City of Buffalo to
3 prosecute fair housing cases, but we only have one
4 attorney on that grant, and we have another who
5 services only the City of Buffalo.

6 We have another attorney who provides
7 representation to victims of discrimination outside the
8 city in the outlying areas. There are attorneys fees
9 provisions in the Fair Housing Act. A private attorney
10 who takes a case on a pro bono basis without -- without
11 charge can, if he or she or his or her client prevails,
12 recoup the attorneys fees, but there's been some
13 reluctance by the private bar, and I know that Scott
14 Gehl refers many cases out, but I know that it's often
15 difficult to -- to make those referrals, especially in
16 cases where there is a possibility that the suit will
17 not be successful, and as I mentioned earlier,
18 discrimination is often subtle. It's often difficult
19 to prove. There's no assurance that when you bring a
20 case, you're going to be successful, and then there
21 aren't attorneys fees available obviously.

22 So, while there are enforcement mechanisms,
23 there is the possibility of filing in court. There is
24 the possibility of filing administratively. There's
25 also a need for advocates, and -- and that's one

1 problem in enforcement.

2 MR. PADILLA: Because I -- excuse me. I
3 heard you say in the past, there are many mechanisms,
4 fill out complaints, you know, and at that time that I
5 did that, I -- I saw that the reply was immediately.

6 So, if -- if a community has a legitimate
7 complaint based on the statutes, on the legal
8 interpretation of -- of the fair housing laws, there
9 should be some way to handle that without delay because
10 everybody can't spend four or five years, right, to go
11 through the courts or -- or -- or be spending so much
12 time to --

13 MS. ANDRIETTE: And I neglected to mention
14 there's also a state administrative system, and both
15 systems, both HUD and -- and the New York State
16 Division of Human Rights assist individuals who don't
17 have advocates, you know. They provide the
18 investigative -- they do the investigation, etc., and
19 the system -- you know, HUD is supposed to -- and --
20 and usually -- often does investigate a claim within
21 100 days.

22 So, the administrative process can move more
23 quickly than -- than the court process. It really
24 depends on what type of remedy the -- the complainant
25 is looking for, and if they're looking to preserve the

1 housing opportunity, that doesn't always but often
2 requires litigation, an attorney, court intervention,
3 etc.

4 MS. LOPEZ: Ms. Taracido?

5 CHAIRPERSON TARACIDO: I have a question for
6 Ms. James, and it has to do with your move and your
7 prior situation.

8 Did you find yourself in a situation in the
9 past that you were having to move fairly frequently or
10 were you mostly settled in a place?

11 MS. JAMES: Yeah. I'd been there for about
12 10 years.

13 CHAIRPERSON TARACIDO: All right. So, then
14 it isn't a stability question. It was really a
15 question of moving into a place that was better.

16 How about the educational piece? Did you
17 find that the school system where you came from was
18 better, worse, the same as the one you moved into? Has
19 it been a positive influence in terms of your son's
20 life since he's the elder of the two children?

21 MS. JAMES: Yes.

22 CHAIRPERSON TARACIDO: That changed?

23 MS. JAMES: Yeah. He's doing really well in
24 school. Well, Dwayne is -- my name is Jituan James
25 again. Excuse me. But Dwayne is -- he was like in a

1 special ed class in the city schools, too, and they
2 helped him there, but where he's at now, he's like
3 getting the one-on-one help that he really needs. So,
4 he's come up to the level that he's supposed to be at,
5 at a 10th grade level, that he's doing really good.
6 He's three points from the merits this marking period,
7 and I thought that was really good.

8 When he first went last year in the ninth
9 grade, though, he didn't do well. He failed every
10 subject. So, then they seen that he needed the help,
11 and, so, they got him the help that he needed, and he's
12 doing very well.

13 CHAIRPERSON TARACIDO: Do you think he would
14 have gotten that same help in the school district you
15 came from?

16 MS. JAMES: Well, I'm not sure because he had
17 graduated from the academy. So, he was going into a
18 different school that year. So, I don't know how it
19 would have been at -- he was going to go to -- I think
20 he got accepted in Seneca. So, I don't know. He never
21 did --

22 CHAIRPERSON TARACIDO: You don't know what
23 would have happened there.

24 MS. JAMES: No.

25 CHAIRPERSON TARACIDO: Are both of these

1 schools integrated schools?

2 MS. JAMES: Yes, I believe. I've never been
3 to Seneca. I went to Sweet Home myself where Dwayne is
4 at now.

5 CHAIRPERSON TARACIDO: Hm-hmm.

6 MS. JAMES: After I graduated, then I moved
7 back into the city, because, you know, you get grown,
8 and you want to move out your mother house type of
9 thing, which I wish I would have stayed at home, but
10 that's how that happened, and then me myself, I like
11 both. I like the suburbs, and I like the city. So --
12 but now, it's not like it was when I was younger living
13 in the city.

14 CHAIRPERSON TARACIDO: Thank you. And I have
15 another question for the -- for Ms. Andriette, and
16 that's having to do with the kinds of things you might
17 want to see happen with respect to this mobility
18 center.

19 Did -- did we talk at all about affordable
20 housing and knowing where it is? Do you have any -- do
21 you personally have any knowledge of that? Is that
22 something that is a problem that needs to be addressed,
23 and, if so, what's -- what would you recommend?

24 MS. ANDRIETTE: I think certainly the issue
25 of affordable housing, especially in the outlying

1 areas, is an issue. Ms. James alluded to the fact that
2 if she does not get her -- her Section 8 subsidies,
3 that she might be forced to move back into the city,
4 and I think one of the reasons for that is that housing
5 in the city tends to be less expensive than housing
6 outside the city.

7 The condition of housing within the city is
8 problematic and an advantage to moving away is the
9 newer housing stock outside.

10 Because there is -- because housing tends to
11 be more expensive outside of the city, because there
12 tends to be less rental property outside of the city
13 compared to in the city, the search for housing can be
14 very challenging for somebody, especially who's new to
15 the area.

16 So, I think part of the role of the mobility
17 center or the community housing center would be to
18 provide information on available, affordable housing in
19 -- in outlying communities.

20 CHAIRPERSON TARACIDO: Thank you.

21 MS. LOPEZ: Ms. James, I have a question for
22 you. Assuming that you were to get your Section 8
23 housing next week, would you require some sort of
24 assistance to help you find property that would take
25 the Section 8 housing or would it help you if you

1 received some assistance to find property --

2 MS. JAMES: If they had like a center or
3 something I could go to?

4 MS. LOPEZ: Yes.

5 MS. JAMES: Yeah. I would have went there.

6 MS. LOPEZ: Why?

7 MS. JAMES: Because there was -- than for me
8 to have to comb up and down the street, they can help
9 me more, you know, to know what I'm going into than me
10 going myself to look. Not being funny, but when I was
11 going for apartments, I believe a lot of people turned
12 me down because I was like a single parent, like they
13 would ask me are you single, yes. How many children,
14 two, you know, the ages, and then I'll say, well, we
15 already rented the apartment, that type of stuff, you
16 know, and if I went to a center, and they could tell me
17 they have this, that and the other, then I'll know. I
18 want to move in this area, and this is what I'm looking
19 for, and then I think my chances are better than me to
20 go by myself, you know, like I went.

21 MS. LOPEZ: Mr. Hanley?

22 MR. HANLEY: Just a couple questions, Ms.
23 James. I -- you -- you pointed out that you actually
24 grew up in -- in Amherst?

25 MS. JAMES: Yes.

1 MR. HANLEY: And then you moved back to the
2 city?

3 MS. JAMES: Yes.

4 MR. HANLEY: You were in the city for about
5 13 years?

6 MS. JAMES: Hm-hmm.

7 MR. HANLEY: During that time, you lived
8 mostly on the east side?

9 MS. JAMES: I lived right there, 450 Combs.

10 MR. HANLEY: One spot. Now, obviously you --
11 you made friends, and you had acquaintances in -- in
12 the area where you were living in in Buffalo on the
13 east side.

14 MS. JAMES: Yes.

15 MR. HANLEY: Have -- are those -- did you
16 talk with those folks while you were looking for
17 housing out in Amherst about what you were trying to
18 do?

19 I'm wondering what their reaction was as to
20 whether they thought it was a good idea or a bad idea
21 or if they were interested in it.

22 MS. JAMES: Well, excuse me, yes, I did. I
23 talked to a lot of them, and I was telling how I was
24 going to look for apartments and things like that, and,
25 you know, the aggravation that it was, you know, for me

1 to go out there and go up and down the street, you
2 know, and not finding nothing, waiting again.

3 A lot of them have moved themselves because
4 the area has gotten so bad. You might be sitting on
5 the porch, and somebody ride past, and they're having a
6 fight with somebody else, and you get shot, and you
7 ain't got nothing to do with it. Just sitting out
8 there.

9 So, a lot of my friends have moved
10 themselves. Some have moved out of town. Some have
11 moved to other apartments still on the east side, and
12 like my sister, for one, she -- she did -- she do have
13 Section 8, and she moved from the house that she stayed
14 downstairs on Combs, but she still in the city. She
15 moved on Kimbough in an apartment there. But she said
16 it's because she don't have transportation.

17 MR. HANLEY: Did you talk to people about
18 whether they had any concerns about moving outside of
19 the city at all?

20 MS. JAMES: A lot of them was like telling me
21 go ahead. They thought it was really good, and they
22 would move, too, if they could afford it.

23 MR. HANLEY: If they could?

24 MS. JAMES: Hm-hmm.

25 MR. HANLEY: How many apartments would you

1 say you looked at before you finally found --

2 MS. JAMES: I been looking at apartments
3 since '94. I mean --

4 MR. HANLEY: Could you make a guess? I mean
5 is just something like you would do every few months,
6 to look at apartments, or was it an on-going basis?

7 MS. JAMES: No. It was like when my finances
8 would allow me to have extra gas to go, I would go, you
9 know. It was like I got to move, that type of thing.
10 Whew. I don't know really. A lot of apartments I
11 looked at. I even tried to get in an apartment complex
12 like the Sutton Place Apartments, and that's on
13 Sutton -- that's in Amherst, too. It's on Sutton Ridge
14 and Trailer, I think it's called. It's right off of
15 Gulf Ridge. I didn't have success with that either.

16 MS. ANDRIETTE: Sutton Place is a subsidized
17 housing development in Amherst.

18 MS. JAMES: Hm-hmm. Well, maybe about --
19 maybe about 35 houses or something like that. I mean I
20 was really looking hard, trying to find a house, but
21 everything that I did, it was like when they tell me it
22 was 675, I was like gee, I can buy a house. I couldn't
23 even afford to even think that I could take my public
24 assistance and that would help, and when I applied for
25 the subsidized housing in Sutton Place, that didn't

1 work because -- I don't know what it was. I put an
2 application in, and I was like -- I even wrote to
3 Dennis Gorsky about it because I was really hurt. I
4 put in the application. I was on a waiting list and
5 had been waiting, and then it was all of a sudden, I
6 never was on the waiting list, and I'm like what is
7 this, just throw my application away, you know,
8 everywhere I applied or something, my application would
9 get gone.

10 And, so, with Sutton Place, the lady said I
11 had to reapply, and when she did, I called the
12 councilman for Amherst, and then they directed me
13 because I was moved from Amherst to the city, they
14 directed me to Dennis Gorsky, which I wrote him a
15 letter, and then he wrote me back and said that they
16 would look into the matter. Then they said that -- at
17 Sutton Place, they said that being that I was on public
18 assistance, that I would be on the waiting list for
19 four years because they take the people that have the
20 income that was able to pay cash first. So, --

21 MR. HANLEY: Just one more question.

22 MS. JAMES: -- I'm still on the waiting list.

23 MR. HANLEY: Mike Hanley. The -- one of
24 the -- I mean to be -- just to get right to the point
25 here, we've talked with a lot of Section 8

1 administrators about why minorities, blacks in
2 particular, haven't been able to use their Section 8
3 subsidies in areas that are not predominantly black,
4 and the response I've gotten in many conversations I've
5 had, and I think it's come out in the testimony in the
6 last few days we were in Syracuse and in Rochester is
7 -- is that people live where they want to live, and
8 that it's a choice for people not to move outside of
9 the city.

10 Is it your evaluation that -- that that's the
11 reason people stay in high-poverty neighborhoods, is
12 because --

13 MS. JAMES: No. I think a lot of us don't
14 move because we can't afford to move, you know. Well,
15 at least I know a lot of them that are friends that I
16 have, it's -- we can't afford it. It's not that we
17 don't want it, you know. We just can't afford it.

18 Some people may choose to do that, you know,
19 to stay in the city because they like the city, but it
20 all depends on where you live at in the city, too.

21 MR. HANLEY: Thank you.

22 MS. LOPEZ: Any other questions?

23 (No response)

24 MS. LOPEZ: Thank you. I'm sorry. Lita?

25 CHAIRPERSON TARACIDO: Could I have one

1 question of you, Ms. Andriette?

2 MS. LOPEZ: We're going to take a five-minute
3 break, and then we'd like to move on. Lita?

4 CHAIRPERSON TARACIDO: Ms. Andriette, you
5 mentioned that minorities have more time to find
6 housing. Yesterday, I heard that the public housing
7 can be extended to about a 120 days to give people the
8 time.

9 Do you know of any instances or are you aware
10 of what the policy of public housing in extending the
11 time to help people find housing?

12 MS. ANDRIETTE: Grace Andriette. I assume
13 when you talk about public housing, you mean subsidized
14 housing?

15 CHAIRPERSON TARACIDO: Right.

16 MS. ANDRIETTE: I believe that -- and I'm not
17 sure of the new regulations, if there are some. I
18 believe they may have changed recently, but upon a
19 showing of good cause, an individual may extend, I
20 believe, once or twice the time period.

21 I'm not sure exactly what level of good cause
22 is necessary, but Ms. James just testified that for two
23 years, I believe, she was looking for housing outside
24 of the City of Buffalo.

25 CHAIRPERSON TARACIDO: Right.

1 MS. ANDRIETTE: And I think that points to
2 some of the difficulties that -- that people have, the
3 transportation costs involved, the unfamiliarity with
4 the neighborhood, discrimination, you know. The
5 incidence of discrimination certainly frustrates the
6 system, and that it does take a long time, and -- and
7 because the discrimination is not always something
8 that's -- that's easily proven, a person who does have
9 to meet this good cause standard to extend their time
10 period may not always be able to meet it because it's
11 -- because it's, you know, -- things that are not
12 easily documented that may cause this --

13 CHAIRPERSON TARACIDO: But does half of
14 public housing, subsidizing housing, extended the time,
15 do you know of a pattern? Because we heard in
16 Rochester that it generally doesn't occur that often.
17 So, how is it here?

18 MS. ANDRIETTE: I'm not sure that people are
19 given liberal extensions. If there's a situation where
20 there's an illness or a death in the family or -- or,
21 you know, -- or sort of a traumatic incident, yes.

22 CHAIRPERSON TARACIDO: So, it's probably just
23 a little tiny bit, if anything:

24 MS. ANDRIETTE: Yeah. I don't think, you
25 know, the general problem of it taking a long time for

1 people to secure housing is addressed by that kind of a
2 good cause requirement.

3 MS. LOPEZ: Okay. Dr. Nishi?

4 DR. NISHI: Just to follow up on that, under
5 what authority is that time limit set? And who has
6 discretion to change that? Under what circumstances?

7 MS. ANDRIETTE: I'm not sure --

8 DR. NISHI: Because we had a fairly dramatic
9 incidence of change which was announced at our hearing
10 to extend the amount of time, just standard amount of
11 time.

12 MS. ANDRIETTE: I believe those time limits
13 are in the federal regulations that govern the Section
14 8 Program. I couldn't point you to the specific
15 sections at this point.

16 DR. NISHI: We had an administrator yesterday
17 announce then to the surprise of all present to double
18 the amount of time that would be permitted, and, so, --

19 CHAIRPERSON TARACIDO: For the mobility.
20 Just for the mobility.

21 DR. NISHI: Yes.

22 MS. ANDRIETTE: This is just for the
23 mobility.

24 DR. NISHI: Just that new mobility center.

25 MS. ANDRIETTE: Yes. I think the people who

1 are speaking this afternoon from Belmont and the Rental
2 Assistance Corporation could probably answer your
3 questions in that regard.

4 DR. NISHI: Thank you.

5 MS. LOPEZ: Thank you very much for your
6 testimony. Oh, there's one more question.

7 CHAIRPERSON TARACIDO: We have one more
8 question.

9 MR. WAGNER: It's not really a question.
10 It's a comment and a request of the Chair. Picking up
11 where Mr. Hanley left off on the issue of choice, we've
12 also heard about transportation and jobs and
13 educational factors that have entered into the picture
14 in all -- in all three of our fact-finding meetings,
15 and again here today.

16 What I'd like to suggest, so that we get a
17 factual approach to all of these areas, is request of
18 the state labor department in Syracuse, Rochester and
19 Buffalo to give us an overview of the jobs picture and
20 transportation to those jobs, as well as information
21 requested from each metropolitan transportation agency
22 as to the transportation system that they have in each
23 of the individual areas, and the third is that if -- if
24 -- if my -- if my remembrances are correct, this is the
25 time that educational comprehensive assessment reports

1 come out for all school districts.

2 We could also ask each of the school
3 districts in the areas that we've been visiting for a
4 copy of the comprehensive assessment reports which not
5 only deals with standardized test results, it also
6 deals with that city and the breakdown of the ethnicity
7 in their various schools that are in the districts.

8 So, I think we might want to request that
9 officially and add it to the report.

10 MS. ANDRIETTE: Just a comment on your
11 comment. Mr. Gehl mentioned that the Niagara Frontier
12 Transportation Authority is expanding services to the
13 suburban areas, and I read in the paper that \$700,000
14 is going to be allocated for that purpose, and I know
15 that they're just now looking at, you know, how that
16 expansion is going to work, and a recommendation that
17 they look at that in conjunction with job
18 opportunities, etc., could be an important one.

19 MS. LOPEZ: Thank you.

20 CHAIRPERSON TARACIDO: We'll take a five-
21 minute break and come back to this topic again.

22 (Whereupon, a recess was taken.)

23 MS. LOPEZ: We'd like to reconvene.

24 At this time, I'd like to introduce Mr.
25 Perez.

1 MR. PEREZ: My name is Francisco Perez. I'm
2 the City of Buffalo Fair Housing Officer, and what I'm
3 doing today, I want to thank the group for coming to
4 Buffalo. Obviously it's something that we need, and
5 again thank you for showing up, and thank the rest of
6 the group here for showing up.

7 What I'm going to be talking about
8 specifically is the City of Buffalo's role as it
9 applies to fair housing in some instances. One is
10 particularly about funding.

11 We currently fund three agencies at a little
12 bit over a quarter of a million dollars for fair
13 housing. The agencies are Neighborhood Legal Services,
14 Legal Aid and Housing Opportunities Made Equal. They
15 are contract agencies, third party agencies, that work
16 on behalf of the city.

17 My role essentially at that part is to
18 monitor the agencies and make sure the money is coming
19 in and make sure that the -- as much politics stays out
20 from the agencies that has to, you know, -- so we keep
21 things clean.

22 The agencies have the specific role. The
23 only agency that isn't here today to testify is Legal
24 Aid. Legal Aid specifically serves another role in the
25 fair housing, even though they don't do discrimination

1 cases, they do NRAM. They do code violations. They do
2 things before it becomes a fair housing issue, and this
3 is one of the things that we have to look at, is what
4 do we do prior to becoming fair housing? What -- why
5 is it happening?

6 And Legal Aid is an agency, I guess, that is
7 essential in -- in the fair housing strategy that
8 Buffalo has.

9 I'm not going to take a lot of time. I
10 only -- I promised only five minutes. I'm one of those
11 people that love to talk. I was born in Puerto Rico
12 but raised on the lower west side of Buffalo, and being
13 a Puerto Rican, I have developed a sense of who wants
14 me and who doesn't want me, and as far as fair housing,
15 that's the sense that we -- we have.

16 Where do you want to live? I -- I
17 particularly -- I live in the City of Buffalo, not only
18 because I have to, but because I like to live in
19 Buffalo. I've always lived in Buffalo, but many people
20 are not as fortunate as I am to have a job and to have
21 strong parents that raised me in a certain way and made
22 sure that my character was of such that I can develop
23 my children that way, also, and growing up in a family
24 of 15, we developed a sense about what was right and
25 what was wrong.

1 One thing that we did was as children, we ate
2 lead because it was sweet, and this is something that's
3 very common in minority communities, children who grow
4 up in these houses that -- that we call Section 8
5 properties.

6 Section 8 properties in some cases are
7 painted over, and lead still remains under these
8 paints, even though you have -- you've painted them
9 over, the -- New York State and the EPA have not set
10 guidelines and rules strong enough. I mean recent
11 rules by the EPA, okay, now you're coming down to some
12 realities, but these houses still contain high amounts
13 of lead wherever they are, but getting back to Section
14 8, I don't want to deviate, the Section 8 Program in
15 Buffalo currently, as far as I know, still does not
16 have a Hispanic American on its staff.

17 For years, I have talked to the powers there
18 to ask them if there could be a Hispanic person. I was
19 a child that was brought up as the interpreter in my
20 family, and other Hispanics will tell you when -- and
21 this is why we're quite versed now. We're able to
22 speak in public because you are the interpreter. You
23 will run with your father, mother, to city court.
24 You'll run here, you'll run there, and you're six and
25 seven years old, telling people what your parents are

1 saying, and the reality is we still have that happening
2 in our Section 8s. That is an injustice.

3 Recent -- well, the prior director of Section
4 8 told me when I asked her why don't you have a
5 Hispanic on board, says all you good ones are taken.
6 Obviously she didn't realize there's a lot of good
7 ones. There's a lot of us that are good, and
8 currently, I'm -- I still don't know if there is a
9 Hispanic person on staff at this local Section 8 office
10 in Buffalo. That's the Rental Assistance Corporation.

11 Belmont has recently as, I guess, two years
12 ago did hire a Hispanic American, Mr. Morales. So, now
13 we have someone there, and I'm not -- I'm not
14 advocating for the Hispanic community at all, but I'm
15 saying that we need to sensitize many of these offices,
16 like the Section 8 offices, sensitize them and their
17 boards of directors to who are you serving and how are
18 you making do with the money that you're getting.

19 Obviously the situation is -- and I'm sure
20 you're here to find out what's going on. I'd like to
21 find out also because many of these board meetings are
22 closed, and many of the proceedings are not something
23 that are generally opened to the public.

24 I think that the -- the whole process of
25 mobility as it applies to Buffalo and Erie County now

1 is great. I think that what the Greater Upstate Law
2 Project did and Neighborhood Legal Services in bringing
3 to task what's happening in Buffalo and the area in
4 terms of discrimination was essential, and it's great
5 it happened, and it's good we're going to remedy the
6 situation. But obviously there's a lot of work to do.

7 Again, I want to thank you for coming to
8 Buffalo. I'm not going to take up a lot of your time.
9 Thank you.

10 CHAIRPERSON TARACIDO: Anybody have any
11 questions of Mr. Perez?

12 MR. HANLEY: One question, if you don't mind.
13 You mentioned that -- you started by saying you have a
14 sense of -- of who wants me and who doesn't, and I
15 wasn't quite sure --

16 MR. PEREZ: Well, I meant in general. I mean
17 as a community. Who loves me, who doesn't in terms of
18 the community. What -- what that means is where you're
19 wanted and where you're not wanted, and one of the
20 things the other speaker says -- said that was very
21 interesting is that we like to be with each other.

22 Well, Hispanics in general like to be
23 wherever there's a bodega so we can -- we can go to get
24 our groceries that fit us, but not necessarily in -- in
25 -- in the black community because that doesn't apply in

1 some sense. It doesn't apply to Hispanics either
2 because we get in the car and go, but who loves me
3 basically means if you're going to feel comfortable
4 in -- in a community, if you're going to be a neighbor,
5 if you're going to meet the people next door.

6 Recently, my sister had a -- had to move to a
7 new home in the suburbs, and no one came to greet her,
8 and then she had a neighbor across the street who also
9 moved who happened to be white, and she's -- they had
10 vans and people bringing cakes and -- and meeting the
11 other person across the street, and she said she felt
12 bad, but we prevail. We -- we -- we -- we go beyond
13 this because eventually they'll find out that we're not
14 the people they think we are.

15 We're not out with our hands out. We're not
16 bad people. We don't beat our children. We don't
17 drink a lot. We don't do a lot of drugs, you know. We
18 -- we have to get past the stereotypes that are
19 typically attached to us.

20 The reality is and the sad reality is that we
21 have to -- we have to show every day to people that are
22 not those people that you have perceived us to be,
23 okay, because there are people in your community or in
24 white communities also that have the same problems we
25 do, but ours are greatly magnified.

1 We're -- we're -- we're -- we're looked at
2 through microscopes, and that's the sad situation.

3 MS. LOPEZ: Thank you. Any other questions?

4 (No response)

5 MS. LOPEZ: Thank you, Mr. Perez.

6 At this time, I'd like to introduce Mr. Jim
7 Morrisey, who's the Executive Director of the Western
8 New York Law Project, together with a Ms. Sharon Smith.

9 Good morning.

10 MR. MORRISEY: Good morning. If this is your
11 first time at the Dulski Community Center, it's my
12 first time as well.

13 Good morning. My name is Jim Morrisey, and
14 I'm the Director of the Western New York Law Center.

15 Western New York Law Center was created in
16 August of this past year. Prior to that time, I was
17 the Executive Director of Neighborhood Legal Services.

18 The Western New York Law Center was created
19 because Congress has restricted the work that legal
20 services offices can do, and in fact, that may have a
21 ramification on the availability of counsel to bring
22 fair housing cases because the corporation has said
23 specification that legal services offices may not bring
24 class action lawsuits.

25 The center was created, at least in part, to

EXECUTIVE COURT REPORTERS, INC.
(301) 565-0064

1 handle class action lawsuits throughout Western New
2 York, and one of the cases I worked fairly closely on
3 was Comer v. Cisneros.

4 Comer v. Cisneros sought to address a serious
5 impediment to fair housing, and that was the use of a
6 local preference, at least the use of a local
7 preference within the factual situation that I'm going
8 to describe here today.

9 Buffalo has two Section 8 Programs, Buffalo
10 and Erie County. There's the Rental Assistance
11 Corporation that historically dealt with city
12 residents, historically gave Section 8 subsidies to
13 city residents, and historically maintained landlord
14 lists of only city properties.

15 The clientele served by the Rental Assistance
16 Corporation was overwhelmingly minority, African
17 American and Hispanic, and the vouchers that they gave
18 out could only be used in the City of Buffalo.

19 To the extent at one point we had a client
20 who lived in the suburbs who was minority, who was
21 instructed by the Rental Assistance Corporation that
22 she must move back into the City of Buffalo, if she
23 wanted to continue to use that Section 8 certificate.

24 The second program is called the Belmont
25 Shelter Corporation, and Belmont deals with suburban

1 applicants, aka white applicants, not exclusively but
2 overwhelmingly white applicants.

3 Belmont did two things, maintain landlord
4 lists of landlords largely who would participate in the
5 Section 8 Program located in the suburbs, and they also
6 created a local preference, and through that local
7 preference, they gave preference to Section 8
8 applicants who lived in or worked in the jurisdiction
9 that Belmont operated.

10 Now, Belmont actually represents a consortium
11 of towns that surround the City of Buffalo, and if you
12 think of a doughnut, the City of Buffalo is the hole of
13 the doughnut, and Belmont was the ring that surrounds
14 it.

15 If you looked at the clientele that were
16 served by the two programs, the hole of the doughnut
17 was black, and the rest of the doughnut was white.

18 The effect was to prevent almost entirely,
19 almost without exception, African Americans from using
20 their subsidies outside of the City of Buffalo. Under
21 the local preference policy, if Sharon Smith had gone
22 in to Belmont in 1990 and asked for a subsidy; she
23 would -- in the event that she wasn't discouraged from
24 applying in the first place, she -- dutifully her name
25 would have been put on the list, but Sharon's a

1 resident of the City of Buffalo.

2 A resident of the Town of Amherst comes in
3 six years later, I want an apartment, also a four-
4 bedroom. Four-bedroom apartment comes up, who gets it?
5 Not Sharon Smith. The resident of Amherst, and that's
6 one of the reasons that the Comer lawsuit was brought.

7 The Comer lawsuit eliminates the local
8 preference. Actually, more accurately, I should say
9 that both programs now have a county-wide preference.
10 The reason that's important is that now those
11 preferences can be used in the City of Buffalo or --
12 not the preferences, but subsidies can be used in the
13 City of Buffalo or throughout the county, so that if
14 Sharon goes in to Belmont now, she is no longer going
15 to be punished because she's from the City of Buffalo.

16 It requires that the two Section 8 Programs
17 cross list their applicants. It brings in 800 new
18 Section 8 subsidies, the intent of which is at least to
19 start remedying the grievous damage that was done by
20 the local preference policy, and it requires that a
21 percentage of the Section 8 certificates that are
22 turned into Belmont be turned over to minority
23 residents of the City of Buffalo, again in hopes of at
24 least partially remedying the damage that was done by
25 this local preference policy.

1 Now, we understood full well that removing
2 barriers from living in the City of Buffalo or not
3 living in the City of Buffalo, removing those legal
4 barriers was only half the job, because the fact is
5 unless we remove the practical barriers or at least
6 addressed the very practical barriers, that that
7 lawsuit was all for naught, and that's the reason that
8 the lawsuit calls for the creation of a community
9 housing center.

10 Although in relative terms, the community
11 housing center, and I say financially, is a tiny part
12 of the settlement, this settlement calls for literally
13 tens of millions of dollars in relief, but for the
14 community housing centers only \$2 to \$3 million in that
15 relief.

16 It is in our view perhaps the most critical
17 element of it because we realize that lack of
18 information about available neighborhoods, if you come
19 from center city Buffalo and want to move to
20 Cheektowaga, and you don't know about bus routes, and
21 you don't know about schools, and you don't know about
22 availability of housing, the fact that you
23 theoretically have that right to do it frankly doesn't
24 mean much.

25 If you have a lack of information about the

1 portability of those subsidies, the fact that you
2 simply can, if you so choose, live in the suburbs, the
3 lawsuit didn't mean much, and if you don't know
4 anything about how to get there, you can't exercise
5 that right.

6 So, the community housing center, although
7 relatively speaking a small part of the lawsuit in
8 financial terms, is perhaps the most important.

9 Now, it seeks to do four things, the
10 community housing center. One is to provide
11 information on the potential benefits of living in non-
12 poverty concentrated neighborhoods, kind of a
13 motivational counseling, and I think we know what those
14 are.

15 I mean oftentimes better housing stock,
16 oftentimes better job opportunities, oftentimes better
17 schools for children are just three examples of
18 potential benefits that may exist in the suburbs when
19 compared to the City of Buffalo, and I say that as a
20 resident of the City of Buffalo.

21 Frankly, I don't know why people want to live
22 in the suburbs, but that's okay. I love living in the
23 City of Buffalo as well. I grew up in the country, and
24 I never returned.

25 But, you know, that -- that playing field has

1 to be level. So, you know, part of it is saying here
2 are some of the benefits, and, listen, when you figure
3 out where you're going to use that certificate, why
4 don't you think about those benefits, because if they
5 fit your lifestyle, if they fit where you want to be,
6 if they fit where you want your children to be, this is
7 available.

8 The second thing it has to do is provide some
9 logistical information. I mean where are the available
10 units? Where are the apartments located? How do you
11 get to them? They're near what bus routes? Where are
12 the local schools? Are you interested in churches?
13 Where are the local churches? What are some local
14 players? Very practical, logistical information.

15 Third, to the extent that it's needed, the
16 community housing center has to engage in skills
17 development. I mean what are good interviewing skills
18 when you go out there and try to find an apartment?
19 What is it that a landlord is looking for? What does a
20 landlord expect from a good tenant? How do you clear
21 up a bad credit report in the event that you have a bad
22 credit report? And how do you complete those rental
23 applications?

24 To the extent that it's needed, those skills
25 are really important.

1 Fourth and last, but critically, is follow-
2 up. One of the places where as lawyers, as advocates,
3 we so often fail is that we are able -- we are
4 successful in cases that we bring. We get relief on
5 behalf of people, but we don't follow up to make sure
6 that the relief has had some positive impact.

7 This housing center has to do exactly the
8 same. It has to provide transportation services,
9 escort services, child care, while people are looking
10 for apartments. It has to assist the families after
11 they move. School applications, churches, where child
12 care is located and employment.

13 It has to reduce what Frank spoke to just a
14 minute ago, the sense of isolation that can so often
15 attend a move not only to a strange neighborhood but a
16 completely different neighborhood, and it has to
17 mediate in any disputes that may arise.

18 The community housing center is critical. It
19 needs a broad base of community support. It needs to
20 have complete and utter credibility within the African
21 American and Hispanic community, and it can't be
22 patronage as usual.

23 The last comments I'd like to make are about
24 HUD because HUD has a role to play, too. We are
25 delighted that we have settled this lawsuit, but I was

1 in court today, and I was on the Comer lawsuit, and
2 here's why I was in court.

3 Belmont Shelter Corporation, as I have
4 indicated, historically dealt with people in the
5 suburbs, and its landlord list consists in large part
6 -- well, let me not say in large part. It has many
7 listings of suburban landlords who are participating in
8 the Section 8 Program. The Rental Assistance
9 Corporation has virtually none.

10 Sharon Smith is going to tell her story about
11 how she asked Belmont for its list of available units
12 and Belmont refused to give it to her because she was a
13 Rental Assistance client.

14 What is the effect of that Belmont decision?
15 It is to deny its list of suburban landlords to Rental
16 Assistance clients. Who are Rental Assistance Clients?
17 They are from the City of Buffalo. They are
18 predominantly minority. The effect of Rental
19 Assistance is to utterly defeat the whole purpose of
20 this decree, and they absolutely refuse to give up the
21 list.

22 Incredibly. And where was HUD? HUD has
23 evinced at least in my view a startlingly -- I can't
24 even say the word -- it startles me, whatever the
25 adverb would be to that. Lack of political will to do

1 the right thing.

2 HUD is a funding source, and it should tell
3 Belmont Corporation we provide you with X millions of
4 dollars a year in funding, give her the list, and it
5 refused to do it. It has such a timid approach to
6 these matters, it seems so unwilling to use its bully
7 pulpit to bring some of these programs into line that
8 we end up in court, and, so, HUD in my view has -- has
9 a critical oversight obligation, and it needs to
10 exercise it in a serious fashion, not, if you'll excuse
11 the vernacular, in a wimpy fashion, which in my view is
12 all it's done up to this point.

13 Thank you.

14 MS. LOPEZ: Thank you, Mr. Morrissey.

15 Ms. Smith? Before we ask questions, I'd like
16 to hear from Ms. Smith.

17 MS. SMITH: Okay. Well, back in October of
18 this year, I decided I want to move. I live in
19 downtown Buffalo, behind City Hall, and I have a four-
20 bedroom voucher, and I live in the Pine Harbor
21 Apartments, and I also -- I'm raising my two
22 grandchildren, one is nine and one is 14, and I take
23 care of two mentally-disabled ladies in my home.

24 So, I decided back in October that I wanted
25 to move because we're so close-knitted where we live

1 at, and also where I live, it's a real nice place, but
2 we have no washing facilities. We have to go out to
3 wash, and I have a big family.

4 So, I was thinking about all these different
5 things, and I said I would like to move. So, I
6 decided, well, I would like to move maybe out a little
7 bit, not so much way out, just way out so my
8 grandchildren could have freedom because where we live
9 at, I have to watch those boys. I have to watch them.
10 I can't let them run around and play and do a lot of
11 different things they want to do because there's so
12 many children around in the area where we live at, and
13 I'm just scared for the boys.

14 So, I decided I wanted to move maybe on the
15 border line of Buffalo and Cheektowaga or out in DePugh
16 or somewhere like that, so they could have space, a lot
17 of space, and I could get my washing and drying and all
18 that kind of stuff.

19 So, anyway, what I did first is I -- I found
20 out about Belmont. See, I didn't know that much about
21 Belmont before, but I read in the paper where Belmont
22 gears towards the suburban areas. So, then what I did
23 is I went to the HUD office on Main Street. That's the
24 first thing that I did, and I talked to the people
25 there, and I told them I wanted my case to be

1 transferred to Belmont, since they were geared toward
2 where I want to live at, and they told me -- I talked
3 to two or three different -- two people down there.

4 They told me to go to Rental Assistance and
5 see my worker, Joan Verone, and tell her to have my
6 case transferred to Belmont. So, I did. I went to
7 Joan Verone. I told her what I wanted. She told me
8 no. She said what you -- and -- and I told her, I said
9 I might want to move to Grand Island. She said, well,
10 Sharon, what you do is you go find a house first, then
11 you find a house if it's the suburbs or wherever it --
12 wherever, then come back to me, and then we will
13 transfer your case over to Belmont if the house that
14 you get falls into their line of suburban areas.

15 So, I told her, I said, well, there's a lot
16 of houses out here. How am I supposed to know exactly
17 where to look or where to call for these houses?
18 Because I was looking in the papers, and a lot of
19 times, when you call in the paper about an apartment, a
20 lot of people don't accept Section 8.

21 So, Joan told me that. So, what I did is I
22 decided just to walk into the Belmont office myself and
23 get a listing of housing. So, I went down to Belmont.
24 I walked into the office, asked the lady, said could I
25 please have a house listing, a listing of your housing.

1 She said who's your worker? I said Joan Verone. She
2 said Joan Verone is not in this office. She's in the
3 Rental Assistance office. You have to go back to your
4 own program.

5 I said what difference do it make? It's all
6 under HUD. She said we can't give you a listing. Then
7 I told her, I said, well, what I would like to do while
8 I'm here, I would like to talk to somebody because I
9 would like to have my case transferred over here. She
10 said you have to go back to your own program. That's
11 what she told me.

12 So, I went -- I went back to Joan Verone, and
13 I told Joan Verone what she said. Joan talked to the
14 boss there, I think, and she called me a couple days
15 later. She said we can't make them give you a list of
16 housing. I said, well, -- she was telling me to take
17 their list that they have. I said I don't want that.
18 That's not what I want, which I do have one. I said
19 but that's not what I want because I do not want to
20 stay in the City of Buffalo.

21 So, what I did then, I went home, and I
22 called HUD in Washington, Washington office. I talked
23 to about eight people at the office. They -- they
24 transferred me from one person to another person to
25 another person. I talked to all these different

1 people, and then I finally talked to a man, and he told
2 me that he would get back in touch with me in a couple
3 days, and he did, and he told me that he wanted me to
4 talk to Mr. LeBean, Ken LeBean, who's the area
5 coordinator here in Buffalo at the HUD office. He said
6 he wanted me to talk to him about my situation about
7 getting the list.

8 So, Mr. LeBean called me the next day, and I
9 explained the whole situation to him and everything,
10 and he said, well, we're going to investigate into it
11 and try and get you that list of housing in the
12 suburbs. So, I said okay. So, about a week or so went
13 by, I called him. I couldn't get him, and I called,
14 and I couldn't get him.

15 Then, finally, he called me back, and he told
16 me a lady in his office would be taking care of me.
17 She would be calling me back to try to look into the
18 situation. She called me, and I told her the whole
19 story, then she said okay, she'll be back. So, this
20 went on till maybe the -- the -- the middle of
21 November.

22 So, she finally called me back, and she said,
23 Sharon, we cannot make Belmont give you the list. We
24 cannot do that. So, I told her, I said, well, where
25 can I go from here as far as the listing is concerned?

1 I said I did the papers, and I said I even thought
2 about hiring me a realtor to find me a place in the
3 suburbs. She said, well, I don't know what you're
4 going to do, but we can't help you. We -- she said we
5 don't have the jurisdiction to make Belmont give you
6 that list, and I was trying to ask her why. What is
7 the difference? If I walk into the Rental Assistance
8 office, which I did yesterday, I walked up to the
9 counter, I said could I have a listing of houses, and
10 they gave it to me. They didn't ask me anything,
11 period.

12 So, I said what is the difference? She said,
13 well, there's really no difference, and they should
14 give you a list, but we can't make them give you the
15 list. So, I said okay.

16 Then she called me back about three days
17 later, and she gave me -- she told me Mr. Morrisey
18 would be -- for me to call him about my situation and
19 maybe he could help me, and also before I got in touch
20 with Mr. Morrisey, Mr. Perez, the man that was just
21 here a few minutes ago, he called me. I don't know how
22 he got my name, but he called me, and he told me to
23 come to his office so I could tell him the whole
24 situation, and then he said we're going to file a
25 lawsuit because they're discriminating because they

1 won't give you this list, so you can live wherever you
2 want to live.

3 And, so, then I went -- I didn't go to Mr.
4 Perez's office. I talked to Mr. Morrisey, and I went
5 to his office. We did a letter. We signed it. We
6 sent the letter to Judge Curtain, and we're in court
7 today about that.

8 MR. MORRISEY: And one other point about
9 where you live, what was discovered there recently?

10 MS. SMITH: Contamination. I live in Pine
11 Harbor, and the school my grandchildren go to is right
12 behind Pine Harbor, and they've had things in the
13 paper, and they did have a meeting over to the school a
14 couple weeks ago, it's contaminated. It's all -- they
15 found a lot of contamination underneath. They -- even
16 doing the school, they found in the basement of the
17 school, but they try to keep a lid on it. They're
18 trying to keep it close right now.

19 They said they've been knowing about the
20 contamination since 1993, but they didn't want to get
21 everybody in an uproar and all this kind of stuff, but
22 they're doing things about it now, and they're supposed
23 to have a lot more meetings and stuff. But where I
24 live in the Pine Harbor, they wrote us letters and said
25 they were going to have a meeting for the tenants,

1 also.

2 The reason why we had to go to the school, we
3 had children in the school. So, I went to that meeting
4 at the school, but where I live at, it's just like a
5 hundred feet from the school. So, the whole place is
6 contaminated over there with all kind of chemical waste
7 and all kind of stuff, and they're looking into that
8 right now.

9 But the bottom line is I'm going to move.
10 I'm going to move, you know. I'm not going to stay in
11 the Pine Harbor because I feel like I have a four-
12 bedroom voucher, and I can live anywhere I want to
13 live, any place. I could take that voucher anywhere,
14 all over the United States, if I want to. So, I am
15 going to move, but I do need the list because the list
16 would help me.

17 In other words, I could sit down, call four-
18 five-six landlords and make appointments and go see
19 them and see the apartments. Why should I scout all
20 over the suburbs and all different places just looking
21 around? That's not going to do me any good.

22 MS. LOPEZ: Ms. Smith, where you live now, is
23 there a high crime rate there?

24 MS. SMITH: It's kind of -- it's kind of --
25 yes, it's kind of -- not real, real high because we

1 don't live in -- in the worse part of Buffalo. We live
2 downtown Buffalo, and the place where I live at, it's
3 -- it's kind of -- the drug situation is there. It's
4 there. So, that's why I can't let the boys go out and
5 mingle and stuff like that, because I have to watch who
6 they associate with, but it is there. The drugs is
7 there.

8 MS. LOPEZ: So, one of the factors that
9 you're considering to move out to the suburbs is to get
10 away from these drugs and the high crime rate?

11 MS. SMITH: And I know it's out there, too,
12 but it's different than it is in the city. It -- it --
13 my children -- my grandchildren need space. They need
14 space. They want a dog. They want a basketball court.
15 They want these different things. They want their own
16 things, and I had that stuff when I was growing up, and
17 I think they should have the same thing, and I
18 shouldn't have to watch them all the time, you know,
19 watch where they are, where they're going. They can't
20 go roller-blading, different stuff like that, because
21 I'm scared for them.

22 MS. LOPEZ: Hm-hmm.

23 MS. SMITH: So, that's why I would like to
24 move where it's just more open for the boys.

25 MS. LOPEZ: And safer for them.

1 MS. SMITH: Yeah. And safer. Hm-hmm.

2 MS. LOPEZ: Thank you, Ms. Smith.

3 Do we have questions? Mr. Padilla?

4 MR. PADILLA: I really was very impressed at
5 the way you articulated the issue for this hearing, Mr.
6 Morrissey. I wonder if you have any impediments to the
7 implementation, the actual implementation of the center
8 as you describe it.

9 MR. MORRISEY: I think the impediment --
10 potential impediments would be it being awarded to an
11 organization that has no community credibility. That
12 would be to me the single greatest impediment, is that
13 the center be viewed as a patronage dumping ground, you
14 know, a \$3 million contract to buddy the elected
15 politicians.

16 MR. PADILLA: Who would be making that
17 decision, that final decision?

18 MR. MORRISEY: City of Buffalo under the
19 consent decree, although we have input on the decision,
20 and HUD has an ultimate veto power, and again -- but --
21 but HUD's willingness, political will in these things
22 has not been something that's impressed us, and, so,
23 what we will be very careful to do is when the request
24 for proposals are issued, and they'll be issued
25 shortly, is that we will make sure it's a very, very

1 broad distribution among groups within the City of
2 Buffalo that have credibility.

3 The other problem will be, will it be funded
4 well enough, and that depends in large part on the
5 number of people who seek to use it, and that's hard to
6 know at this point.

7 MR. PADILLA: Is there any way that you could
8 recommend that an independent group takes and reviews
9 the proposals and make recommendations to the City of
10 Buffalo and have the staff from the city to know that?

11 MR. MORRISEY: We will be reviewing the
12 applications ourselves and writing our own
13 recommendations. They're not binding. We have been
14 told by HUD that they will carry great weight, but
15 they're not binding.

16 MS. LOPEZ: Ms. Taracido?

17 CHAIRPERSON TARACIDO: Actually, my question
18 was answered. So, I will pass. I was wondering what
19 the state -- what stage you were in terms of this
20 formation of this center.

21 MR. MORRISEY: The RFP should be issued
22 within the next week or two, request for proposal.

23 MS. LOPEZ: Dr. Nishi?

24 DR. NISHI: Would you please clarify for me?
25 I understand that the settlement of the Comer case

1 required that the two programs cross list --

2 MR. MORRISEY: Yes.

3 DR. NISHI: -- their resources. Now, how is
4 it that you're back in court today?

5 MR. MORRISEY: They are cross listing not
6 their -- not their resources or even their landlord
7 lists. What they are cross listing are applicants.

8 DR. NISHI: Uh-huh.

9 MR. MORRISEY: And, so, that -- the
10 applicants will be drawn chronologically from a single
11 list by the two organizations.

12 DR. NISHI: I see.

13 MR. MORRISEY: And this shows you just how
14 arbitrary their decision is. So, the -- the chance
15 that someone will obtain a landlord list with suburban
16 properties depends on the fortuity of who draws you off
17 the list.

18 DR. NISHI: Hm-hmm.

19 MR. MORRISEY: And that is -- and -- and
20 that's prospectively.

21 DR. NISHI: Yes.

22 MR. MORRISEY: And again, because of -- and
23 -- but because that RAC list is largely minority, the
24 consequences of that are devastating.

25 The other impediment to the community housing

1 center, if Belmont refuses to give to the community
2 housing center its landlord list of suburban
3 apartments, we'll be back in court, first of all, but,
4 secondly, that community housing center might as well
5 shut its doors because nobody is going to know --

6 DR. NISHI: So, that's not part of the
7 settlement, that they're required to provide that list?

8 MR. MORRISEY: Well, you know, it's also not
9 part of the settlement that Belmont can't use racial
10 epithets when people come in. It's not part of the
11 settlement that Belmont can't set up separate waiting
12 rooms for black and white people. It's not part of the
13 settlement that Belmont can -- these are -- you know,
14 there's a spirit to the settlement that says you cannot
15 harm the very group that it was charged to do, and if
16 we attempted to draft a settlement that would divide
17 the things that Belmont could do to harm our clients,
18 we would never have a settlement, and no.

19 Is there an explicit provision in the
20 settlement that says Belmont, you shall give your
21 landlord list to African Americans? No, there is not.
22 But I'll tell you, I never imagined for a second that
23 it would refuse to do so, and I believe that you have
24 testimony before you on other Section 8 providers who
25 are more than willing to do so.

1 DR. NISHI: Hm-hmm.

2 MR. MORRISEY: It springs from a very serious
3 resistance from the Belmont Shelter Corporation to
4 implement this decree.

5 DR. NISHI: Okay. I want to -- I wanted to
6 understand well that the cross listing of the
7 applicants in these two Section 8 Programs. Now, the
8 effect of that is that they then would be required to
9 go by order?

10 MR. MORRISEY: Chronologically.

11 DR. NISHI: Okay. So that -- so, that's by
12 strict chronological application moment, right? So
13 that they are now to be merged. Then theoretically,
14 the available listings are supposed to be from that
15 agency, such as Belmont, for -- and the -- let us say,
16 a city resident who is on the now-merged list will now
17 be eligible to have access to the Belmont list?

18 MR. MORRISEY: That's -- if they are drawn
19 off the list by Belmont.

20 DR. NISHI: Yes.

21 MR. MORRISEY: Yes.

22 DR. NISHI: Yes.

23 MR. MORRISEY: That's correct. But the cross
24 list won't actually go into effect for several years
25 because it discussed how new subsidies were coming in,

1 and how turn-in subsidies are already accounted for to
2 try to do remediation for the harm it has already done.

3 So, while there's cross listing actually
4 began a few days ago in terms of actually maintaining
5 the list, it's unlikely that that cross list will be
6 gotten to during the life of this decree.

7 At the point when the decree is over, Belmont
8 is going to be free to say that's all.

9 DR. NISHI: So, I'm not a lawyer.

10 MR. MORRISEY: That's okay.

11 DR. NISHI: Though I've worked on class
12 action discrimination suits. Now, when the decree is
13 over, what does that mean? When is that?

14 MR. MORRISEY: There's a sunset date of the
15 decree, and it's approximately four and a half years.

16 DR. NISHI: Four and a half years.

17 MR. MORRISEY: Yes.

18 DR. NISHI: Hm-hmm. Is that enough time?

19 MR. MORRISEY: Is that enough time? It is
20 enough time -- is it enough time for what? To add to
21 the cross list?

22 DR. NISHI: Yes.

23 MR. MORRISEY: Probably not, and in fact, you
24 know, we were unable to settle the lawsuit without a
25 sunset provision, and everyone, including HUD, insisted

1 on a sunset provision. Frankly, we are ready in the
2 event that they institute the same policies, frankly
3 we'll sue them again, if that's what we need to do.

4 DR. NISHI: But that will be another eight
5 years. That's another --

6 MR. MORRISEY: If that's --

7 DR. NISHI: You can't --

8 MR. MORRISEY: If that's what it takes. When
9 we -- when we judged -- judged the subsidies and the
10 relief that flowed to class members as against a sunset
11 provision, the subsidies are between the two sides of
12 the lawsuit worth a \$127 million over 15 years.

13 When we judged that, you know, against the
14 sunset provision, it was a fairly easy decision for us
15 to make, but, yes, we will accept a sunset provision,
16 understanding full well that once the decree sunsets,
17 that we may be back in court again, and we will be back
18 in court again, if Belmont reinstitutes its local
19 preference.

20 DR. NISHI: Hm-hmm.

21 MR. MORRISEY: And that is just a commitment
22 that we as lawyers have to make.

23 DR. NISHI: Okay. So, at this time, the
24 current consent arrangements are for local preference
25 not to operate?

1 MR. MORRISEY: That's correct.

2 DR. NISHI: Thank you.

3 MR. MORRISEY: It's -- it's kind of -- but I
4 think overall, that -- that's -- that's an accurate
5 understanding.

6 DR. NISHI: Okay.

7 MS. LOPEZ: Ms. Taracido?

8 CHAIRPERSON TARACIDO: Just to get
9 clarification, I don't know if anybody else understood
10 it, and I didn't. The current list now -- there are
11 two separate lists. The people who have applied for
12 and have been turned away get preference in effect?

13 MR. MORRISEY: The people who were not turned
14 away, the people who -- there were two lists, and
15 people were passed over as a result of the preference
16 policy.

17 CHAIRPERSON TARACIDO: Of the preference --

18 MR. MORRISEY: The people who were passed
19 over --

20 CHAIRPERSON TARACIDO: Now come up front?

21 MR. MORRISEY: -- will come up front.

22 CHAIRPERSON TARACIDO: Come to the top.

23 MR. MORRISEY: That's correct.

24 CHAIRPERSON TARACIDO: And when the cross --

25 MR. MORRISEY: And those -- those are the

1 class members that we sought to make sure that they get
2 subsidies out of this lawsuit.

3 CHAIRPERSON TARACIDO: And that list, you
4 think, will take at least the four and a half years to
5 fill?

6 MR. MORRISEY: It's hard for us to know
7 because throughout the lawsuit, we were prohibited from
8 engaging in extensive discovery by the judge, and --
9 but we think that there's a likelihood that -- that the
10 people who were actually passed over -- we think
11 there's a strong likelihood that people who were -- and
12 class members who were actually passed over while these
13 preference policies were in operation will get relief.
14 In fact, we're near certain that they will get relief,
15 and in fact, we think that the relief will extend far
16 beyond the group that were actually passed over because
17 in fact, a number of, you know, people were also
18 discouraged from applying as a result of these
19 policies, and, so, the relief -- the relief seeks to go
20 to those folks as well.

21 CHAIRPERSON TARACIDO: And if you reach the
22 point within the four and a half years that you have
23 the cross listing, is it going to be Belmont gets one -
24 - in chronological order, one is Belmont, the next one
25 is RAC, Belmont, RAC, Belmont --

1 MR. MORRISEY: In proportion to how they hold
2 certificates. I -- I think relatively speaking, the
3 number that they have are relatively equal.

4 CHAIRPERSON TARACIDO: Pretty equal.

5 MR. MORRISEY: Hm-hmm.

6 CHAIRPERSON TARACIDO: Thank you.

7 MR. MORRISEY: The decree actually -- and
8 Ellen can help me on this. I believe that once the
9 relief extends, the decree could also come to an end at
10 that point, and, so, it's possible that -- if all of
11 the class members that we have sought to get relief
12 obtain the Section 8 subsidies, then the decree could
13 come to an end before the four and a half year period.

14 CHAIRPERSON TARACIDO: And some of those
15 things you laundry listed, are they for real? Separate
16 waiting rooms?

17 MR. MORRISEY: No. No, but they're also
18 not -- but there's also not a -- there's not a
19 provision in the decree that says you shall --

20 CHAIRPERSON TARACIDO: Okay.

21 MR. MORRISEY: You know, and -- and, so, I
22 mean -- and that's what Belmont said, and that's -- but
23 I think that's precisely my point. There is -- an
24 impediment to this program is you contract with people
25 who perhaps don't believe that, and if they don't

1 accept the spirit of it, and they are going to ferret
2 out every possible reason that they can to block it,
3 then it's going to be defeated, and you can have all
4 the lawyers in the world on the case, and it's not
5 going to do any good, and I cannot think of a better
6 example than this.

7 If this corporation was interested in seeing
8 African Americans have an opportunity to find housing
9 in the suburbs, you tell me why. Why would they not
10 give that landlord list to Sharon Smith? What possible
11 reason would they not do it?

12 MS. LOPEZ: Any other questions?

13 DR. NISHI: As I --

14 MS. LOPEZ: Dr. Nishi?

15 DR. NISHI: As I understand it, it is within
16 the law for landlords to use income source as a -- as
17 an exclusionary criterion, is that correct?

18 MR. MORRISEY: I'm not an expert on that. I
19 don't know.

20 DR. NISHI: Oh. Well, I was going to ask
21 whether Ms. Smith's case would fall in that category.

22 MS. SMITH: No, because by them automatically
23 having a four-bedroom voucher, automatically qualifies
24 for a four-bedroom home, regardless of what the rent
25 is.

1 DR. NISHI: I see.

2 MS. SMITH: That's to be worked out between
3 me and Belmont -- I mean me and Section -- I mean the
4 Rental Assistance as far as the income is concerned.

5 DR. NISHI: I see.

6 MS. SMITH: Because like where I live now, I
7 pay like maybe 289 for rent. My rent is almost \$700.
8 So, the people there at the office are not so much
9 concerned about me as they are the Rental Assistance
10 because they get all the information from the Rental
11 Assistance.

12 DR. NISHI: Hm-hmm. Yes.

13 MR. MORRISEY: Well -- and the other point is
14 the reason the list is so important is that those are
15 landlords who have agreed to participate in the
16 program. So, were Sharon to go to a suburban landlord,
17 and he would say I'm not happy with your income source,
18 I've got a fair housing case filed within 48 hours.
19 That's the -- I mean that's one of the precise reasons
20 that list is so important because they have recruited
21 landlords who have indicated the willingness to
22 participate in the program. So, income source should
23 -- would have no application.

24 DR. NISHI: Could I ask one more question?
25 From your experience, what do you think the potential

1 or what would make HUD do a better job of monitoring?
2 What would be required to get HUD to monitor that --
3 the million -- billions that are spent -- are spent
4 fairly?

5 MR. MORRISEY: I can only speak to when --
6 when situations are brought to HUD's attention as
7 contrasted with a general monitoring. When HUD became
8 aware of the fact that Belmont was refusing to give
9 this lady the list, my full expectations is they would
10 have no starch in their back to order Belmont to do it,
11 and that's not what we've found.

12 I mean HUD funds millions and millions of
13 dollars. These not-for-profits would go out of
14 existence were it not for HUD's funding. If HUD
15 doesn't have a bully pulpit to require these agencies
16 to operate in a manner that furthers fair housing, no
17 one has a bully pulpit to do so.

18 It just has to show the will to use it, and
19 it's critical that it show the will to use it, so that
20 it's viewed as a serious actor.

21 DR. NISHI: Well, the political climate of
22 support for civil rights issue, of course, issues is
23 not hot at the moment or for quite awhile, and are you
24 suggesting that we need to have a general improvement
25 in the civil rights climate --

1 MR. MORRISEY: I'm suggesting --

2 DR. NISHI: -- in order for HUD to be able to
3 have the will?

4 MR. MORRISEY: I'm suggesting that in that
5 climate, the importance of HUD having backbone is even
6 more important. That's why it's there. I mean we
7 all -- you know, we all make decisions about what it is
8 that we're going to do. If you work for housing -- the
9 United States Department of Housing and Urban
10 Development, in my view, you have made a commitment to
11 further fair housing regardless of the political
12 climate.

13 I mean if the effectiveness of HUD were to
14 vary, depending on the support, the political support
15 for civil rights, then we're all in lots of trouble. I
16 mean it's -- it would seem to me that if the point
17 where that support lays, that its obligation is
18 increased. It's almost inversely proportional in my
19 view.

20 CHAIRPERSON TARACIDO: My question. I have a
21 question. Lita Taracido. So, it's fair to say that
22 you believe that HUD has an affirmative obligation to
23 further fair housing?

24 MR. MORRISEY: Absolutely.

25 CHAIRPERSON TARACIDO: It's their duty and

1 their responsibility under the laws, is that correct?

2 MR. MORRISEY: Absolutely.

3 CHAIRPERSON TARACIDO: Thank you.

4 MR. MORRISEY: And I hate to use a corny
5 term, but it's also their moral obligation as well, and
6 I know there is a moral obligation that it do so.

7 CHAIRPERSON TARACIDO: And they --

8 MR. MORRISEY: It has a fiduciary
9 responsibility to the folks that use the Section 8
10 Programs. It has a trust relationship with them, that
11 it will act in ways that affirmatively and meaningfully
12 further fair housing.

13 CHAIRPERSON TARACIDO: And they have fallen
14 down on the job?

15 MR. MORRISEY: In my experience, yes.

16 CHAIRPERSON TARACIDO: Thank you.

17 MS. LOPEZ: Mr. Nguyen?

18 MR. NGUYEN: Why doesn't HUD have the
19 political will to do that with respect to the -- it
20 seems to be the main issue here.

21 MR. MORRISEY: I can't answer that.

22 MR. NGUYEN: Not in my backyard.

23 MR. MORRISEY: I can't answer that. I don't
24 know. It perplexes me. I know that as Executive
25 Director of Neighborhood Legal Services, you know, much

1 of what I did was to try to raise funding for the
2 organization, and when a funding source called me, they
3 were never put on hold. If I wasn't in, the call was
4 returned right away, and I was very attentive to what
5 it is that the funding source asked me to do.

6 With funding, you know, wields terrific
7 power, and it perplexes me why they're unwilling to say
8 to a place like Belmont Shelter Corporation that you
9 get literally millions of dollars in administrative
10 fees to this program, you are at risk of having them
11 yanked in the event that you don't turn this around.

12 Belmont Shelter Corporation during the course
13 of this lawsuit was the single greatest impediment to
14 it being settled. Guess what corporation recently got
15 an award from HUD for exemplary Section 8 Programs.
16 Belmont Shelter Corporation. What message does that
17 send?

18 And throughout the litigation, when we would
19 say you are in a position of power with respect to
20 these other defendants, use it, they declined to use
21 it, and I can't understand why.

22 MR. NGUYEN: Have you tried to get a meeting
23 to talk to Andy Cuomo or Henry Cisneros?

24 MR. MORRISEY: We sure did.

25 MR. NGUYEN: Yes.

1 MR. MORRISEY: And -- and when we -- frankly,
2 when we were able to get a little bit higher in HUD,
3 our experience was bad, frankly. That's -- you know,
4 we were fortunate to be able to do that. Many others
5 are not so fortunate.

6 MR. NGUYEN: Yes.

7 MR. PADILLA: I was going to --

8 MS. LOPEZ: Juan Padilla.

9 MR. PADILLA: Juan Padilla. I was going to
10 ask you another question. As we know, every area is
11 supposed to be working on impediments for fair housing.

12 Would you state that the elements of the
13 settlement should be part of that process? I mean not
14 that HUD should probably condition the funding for --
15 for the City of Buffalo and the county, if they are not
16 incorporating, you know, those provisions that are made
17 in the settlement into the plan because you could had a
18 plan that say something, then you have your case
19 situation that said something different, but there's no
20 harmony there, you know.

21 So, in order to find harmony, how this
22 results are part of that process of planning for fair
23 housing?

24 MR. MORRISEY: Sure I do, and -- but I think
25 we have to be realistic. I mean HUD is not going to

1 know of every situation where this is going on, and I'm
2 not sure one can reasonably expect with funding
3 cutbacks and the like that it's going to be able to
4 affirmatively ferret out every instance where there is
5 a real dissidence between what someone says they're
6 doing and what they're actually doing.

7 What disturbed me is when it's brought
8 affirmatively to their attention, that they have been
9 unwilling to do it, and that -- and that disturbs me a
10 lot, and, so, again, I get back to HUD and using its
11 bully pulpit to bring people in line because
12 ultimately, you know, it's where the money is.

13 I mean let's be honest. I mean this power
14 flows -- power flows with that money. There's no ifs,
15 ands or buts about it.

16 MS. LOPEZ: Just one more question. Ms.
17 Smith, if you had assistance in helping you find
18 neighborhoods to live in, housing to live in, if you
19 had assistance to help you find housing out in the
20 suburbs, would you use it?

21 MS. SMITH: Help me to have assistance for
22 what?

23 MS. LOPEZ: To help you find a place to live
24 out in the suburbs, would you use it?

25 MS. SMITH: Oh, yes. Oh, yes. Hm-hmm.

1 MS. LOPEZ: Okay.

2 MS. SMITH: Yes, I would use it. That's what
3 I need. I mean because how do I know? There's a lot
4 of suburban areas surrounding Buffalo. So, how do I
5 know where to begin. Like if I have a list in front of
6 me that describes something I like, then I would, you
7 know, get on that, but you don't find that in the
8 newspaper, and I just wanted to add something to what
9 Mr. Morrissey just said as far as HUD is concerned.

10 I've had dealings with HUD for awhile on
11 different things, and just talking to the people in
12 Washington, I get the impression it's like this. HUD
13 is here, we're here in Buffalo, and there's a Rental
14 Assistance, and there's Belmont, and to me, it's like
15 they can do what they want to do, just like, in other
16 words, they can do what they want to do, we really are
17 not bothering them. We're not, you know, really trying
18 to make them do this or do that. They can do what they
19 want to do, and I didn't understand that because I do
20 know that Belmont and Rental Assistance both are
21 agencies for HUD, and, to me, it seemed like one should
22 be no different than the other, but as far as the
23 people here in the City of Buffalo, the citizens,
24 especially the black people, we look at Belmont as more
25 like a higher class agency than the Rental Assistance

1 is. That's the way it's looked at because, in other
2 words, when you walk into the Rental Assistance office,
3 you hardly see any white people in there. It's all
4 blacks.

5 When you go down Main Street to Belmont,
6 that's all that you see going in the Rental -- I mean
7 in Belmont.

8 MR. MORRISEY: How far -- how many blocks
9 of --

10 MS. SMITH: Okay. Well, --

11 MR. MORRISEY: They're pretty close, aren't
12 they?

13 MS. SMITH: Oh, yeah. It's maybe like --
14 maybe five blocks.

15 MR. MORRISEY: Five blocks.

16 MS. LOPEZ: When you said that you don't
17 see -- that you only see blacks in RAC, you're
18 talking -- are you talking about the clientele or about
19 the staff?

20 MS. SMITH: Talking about the clientele --
21 I'm talking about the people.

22 MS. LOPEZ: The people, the tenants who go in
23 and who --

24 MS. SMITH: Right. The staff is kind of
25 mixed like. Yes, the staff is mixed.

1 MS. LOPEZ: All right.

2 MS. SMITH: But the people that's going in
3 there, they are. So, the people in the inner city of
4 Buffalo uses Rental Assistance. The majority of them.

5 MS. LOPEZ: Hm-hmm.

6 MS. SMITH: And the people that's eligible --
7 there's a lot of people out in the suburbs, there's
8 white people that comes into the City of Buffalo to
9 take care of their business at Belmont because, you
10 know what, after they wouldn't give me a list, I went
11 to Belmont like four times and sat in their parking
12 lot, and I was actually going to pay somebody to go in
13 there and get me a list. I sat there, and all I seen
14 was white people going in.

15 MS. LOPEZ: And coming out with a piece of
16 paper.

17 CHAIRPERSON TARACIDO: Gloria, just one more
18 question.

19 MS. LOPEZ: Ms. Taracido?

20 CHAIRPERSON TARACIDO: Just one last
21 question. Lita Taracido. When you went into that
22 office, you noticed a difference between the
23 populations that were being served. So, you had black
24 in the RAC, and you had whites in Belmont. What about
25 the staff? What do they look like in each of those

1 offices?

2 MS. SMITH: Okay. In Belmont, the staff is
3 totally white. In Rental Assistance, it's a mixture
4 because I know when we -- okay. There's like three
5 ladies that I know that's at Rental Assistance who are
6 black, and the rest of them are white. So, there's a
7 staff there, I guess, maybe of about 15 people.

8 CHAIRPERSON TARACIDO: Thank you.

9 MS. LOPEZ: Thank you. Thank you for coming,
10 all of you.

11 MR. MORRISEY: Thank you.

12 MS. LOPEZ: You're welcome to stay for the
13 rest of the day if you like.

14 (Whereupon, at 12:20 p.m., the meeting was
15 recessed, to reconvene this same day, Tuesday, December
16 17th, 1996, at 1:30 p.m.)

17

18

19

20

21

22

23

24

25

1 we'd like to hear from you about that.

2 Thank you.

3 MR. PEARL: Thank you, Mr. Presiding Officer,
4 and I thank the Advisory Committee for the invitation.
5 It happens to be my first trip to Buffalo. It's hard
6 to believe, but it is, and I see it's getting ready to
7 snow anyway. So, I'll feel as if I've been properly
8 treated coming to this city.

9 I heard a number of comments about HUD this
10 morning, and I can't -- I can't deal with all of them.
11 You may ask me some in your questions, and I am not in
12 a position to speak for the Secretary certainly or for
13 all the arms of the department, but I'll -- I'll do my
14 best to answer your questions.

15 I did want to say a word about HUD's
16 monitoring of action plans. The analysis of
17 impediments was discussed at some length this morning,
18 and as was pointed out, the analyses are not submitted
19 to the department, although we can look at them and --
20 either on complaint or when we do routine monitoring,
21 and in many cases, a fair number of the plans were
22 late. They were due on February 6th of this year, and
23 particularly where the plans were late, many of them
24 were required to be submitted, and in many cases,
25 communities sent them in seeking technical assistance

1 and help. So, we were aware generally of what -- there
2 were about a thousand plans involved nationwide.

3 The analysis of impediments is only the first
4 step. Obviously the action plan to deal with the
5 impediments is the other side of the coin and a very
6 important part of it.

7 We indicated in our fair housing planning
8 guide that if actions were inappropriate to meet the
9 stated impediments, then HUD would raise a question.
10 Since looking at it a little further, we realized that
11 there are other -- can be other problems.

12 Clearly, that's one problem. In other words,
13 if the -- if the action to address the impediment
14 simply doesn't -- doesn't make any sense, there's a
15 problem of getting credit to the minority community,
16 and the solution is let's have lunch with the bankers.
17 That's not going to do it.

18 On the other hand, the action might be
19 appropriate, but it might not be taken over time. We
20 don't expect all actions to be taken immediately. Some
21 are easier to take than others, but if, after a certain
22 period of time, an action has been identified but not
23 taken, then it seems that the department would have to
24 say okay, what's going on here?

25 The other problem is the action might be

1 taken, but the impediment doesn't go away, and there
2 again, you would have to look at, okay, what
3 alternative steps or additional steps should be taken.

4 Now, a lot of that is down the road. This is
5 clearly a long-term project on the part of HUD, and
6 we're currently looking at our regulations trying to
7 make them a little tighter in terms of providing the
8 department with sufficient authority to question
9 communities if the situations that I just described
10 occur.

11 In the meantime, this year, we have -- we
12 have challenged the affirmatively fair -- affirmatively
13 furthering fair housing certifications of two
14 communities and have held up money in those communities
15 until they make their impediment studies complete.
16 That's two out of a thousand admittedly, a very small
17 percentage, but we feel that it's a start, and we are
18 looking at a number of other situations, trying to get
19 out in front of them, and tell communities in advance
20 of submitting their action plans that we believe they
21 have a problem. I wanted to say a bit about that.

22 HUD had -- has done a study back in May of
23 1996 which I want to summarize very briefly, a study of
24 where Section 8 recipients live nationwide. African
25 American and Hispanic Section 8 recipients are much

1 more likely to live in high-poverty neighborhoods than
2 are white recipients.

3 25 percent of blacks and 18 percent of
4 Hispanics live in neighborhoods that are more than 30
5 percent poor compared to only eight percent of whites.

6 Correspondingly, more than half of white
7 Section 8 recipients, 53 percent to be exact, live in
8 low-poverty neighborhoods, compared to only 28 percent
9 of blacks and 40 percent of Hispanics.

10 As far as racially-mixed neighborhoods are
11 concerned, African American Section 8 recipients are
12 much more likely to live in racially-mixed or majority
13 black neighborhoods than either whites or Hispanics.
14 35 percent of African American recipients live in
15 tracks that are less than 15 percent black, compared to
16 91 percent of white recipients and 88 percent of
17 Hispanic recipients.

18 In addition, 15 percent of African American
19 recipients live in tracks that are more than 85 percent
20 black, no white or Hispanic recipients live in such
21 predominantly black tracks.

22 Depending on how long your record is open, I
23 will see if we can develop the figures for the three
24 communities where you held hearings. These are
25 nationwide figures, and I can't suggest that they

1 necessarily apply in these three communities. We
2 didn't find these findings -- these results surprising,
3 and I don't think you will either, but it suggests the
4 dimension of the problem in terms of dealing with those
5 disparities.

6 MR. HANLEY: Will we be able to arrange to
7 hold the record open to make sure we get that?

8 CHAIRPERSON TARACIDO: Well, we have at least
9 30 days after which point?

10 MR. SERPA: After today.

11 MR. HANLEY: After today?

12 MR. PEARL: I'm pretty sure we can -- we can
13 make a run in that period, and I'll -- I'll try to do
14 so.

15 I want to talk a little bit about the
16 mobility programs Mr. Hanley referred to that we've
17 been involved in. Obviously knowing about some of the
18 barriers that you've been hearing about over the last
19 couple of weeks and this morning as well, mobility
20 counseling. It's been called a number of things,
21 opportunity counseling, mobility counseling we called
22 it for awhile. Choice and residency was the name of a
23 statutory program that we tried to get passed a couple
24 of years ago unsuccessfully. Moving to opportunity is
25 the name of a statutory program that did get passed and

1 then ran into a whole lot of trouble but still exists.

2 I'm sure you know that the Guttreau lawsuit
3 in Chicago was sort of the granddaddy or grandparent, I
4 should say, of mobility settlements. Guttreau dates
5 back many years, and in fact, this current fiscal year
6 will probably house its 7,100th family, bringing to a
7 close the consent decree that's been operating there
8 for some 15 years.

9 Hartford, Cincinnati, Memphis are a few of
10 the other communities that have had on-going mobility
11 programs, in many cases stemming from longstanding
12 litigation of -- of quite some time ago.

13 The moving to opportunity program was a
14 congressionally-mandated program to try to measure the
15 impact -- some of the questions this morning talked
16 about the impact on neighborhoods, of people moving,
17 particularly minority people moving into white
18 neighborhoods or moving to suburban or lower-poverty
19 neighborhoods.

20 There have been a number of studies done in
21 Chicago with Guttreau families that have received a lot
22 of publicity. James Rosenbaum and others have done
23 those studies, and they do show -- they don't really
24 get at the issue you were raising, Ms. Lopez, about the
25 impacts -- some of the broader community impacts. They

1 got more at the issue of the economic impact on the
2 families themselves; that is, the likelihood of
3 employment of the parent who was involved, usually a
4 female -- a female heading a household.

5 Also, the employment possibilities for the
6 children, the percentage of children that went to
7 college or if they didn't that were employed after
8 college and so on, and those -- those kinds of
9 measurements, and by -- by all of those standards, the
10 Guttreau movers were -- were very statistically
11 significantly superior, if I can use that term, to
12 folks who stayed behind, and that's -- the Guttreau
13 program, because there's so much experience, has been
14 the most studied program.

15 The moving to opportunity or MTO was designed
16 to try to get a fairly scientific test of the
17 propositions that Guttreau seemed to indicate.

18 Now, I should point out that in Guttreau, the
19 requirement was that people move to low -- to --
20 sorry -- to areas of very low minority concentration.
21 That was a requirement in Guttreau.

22 In the moving to opportunity program, the
23 requirement was to move to areas of low poverty; that
24 is, census tracks under 10 percent poverty, and that
25 was a requirement for one of the three groups.

1 In the MTO program, participants in these
2 five cities that were selected, Boston, New York,
3 Baltimore, Chicago, and Los Angeles, were divided into
4 three groups randomly.

5 One group received a Section 8 voucher or
6 certificate with what I'll call heavy counseling, which
7 I'll describe in a minute. Another -- another group,
8 that is, another third, got a Section 8 certificate but
9 without any counseling, other than what the PHA would
10 usually provide, which is usually quite little, as I
11 think you know, and the third group, these are people
12 in public housing in these -- in these areas, the third
13 group is simply tracked. They get no assistance, but
14 they make a commitment to make themselves available to
15 be interviewed to see what their experience will be
16 presumably over the next 10-year period.

17 It's -- since the program has been operating,
18 I believe, in at least four of the five cities have
19 pretty much filled up their -- their different quotas
20 in terms of the numbers of families involved.

21 The numbers of families are small. There's
22 about a 150 families in each group in each city. So,
23 that's 450 families all together in each of five
24 cities, only 300 or so of whom are getting Section 8,
25 and only a 150 or so of whom are getting this heavy

1 counseling, and the heavy counseling consists of really
2 providing all the things that were described to you
3 this morning in a counseling program, the hand-holding,
4 the raising of the horizons, I'll call it, in terms of
5 giving people an idea of what's out there, and we do
6 know that many people who have lived in the cities all
7 their lives, to them, suburban jurisdictions are just
8 names. They have -- they have no meaning. They don't
9 know where they are. They wouldn't know how to get to
10 them.

11 In Baltimore, for example, Columbia, which is
12 about 15 miles from Baltimore, is seen as another
13 world. In fact, a number of the people in the MTO
14 program in Baltimore have gone to Columbia and have got
15 units out there, and the job situation in Columbia is
16 much better than it is in downtown Baltimore.

17 So, all of those things go together to
18 provide a program which provides those families that
19 were selected in that group with the kind of counseling
20 that we think is necessary, the kind of counseling that
21 will be done in the Cómer settlement among the other
22 litigation settlements, which I'll talk about in just a
23 minute.

24 The other -- the other aspect of MTO, of
25 course, is to try to deal with the supply side and get

1 more landlords to participate in the Section 8 Program
2 because you really have to deal with both the demand
3 and the supply, and since the supply in MTO is limited
4 to low-poverty areas, that's another difficulty. That,
5 plus landlords willing to participate in Section 8, but
6 there have been some successes with that, and having
7 talked to some of the families in Los Angeles who have
8 been in the program and who have moved, it's -- it is
9 indeed a very exciting program.

10 Somebody asked this morning or I guess it was
11 actually the representative of the City of Buffalo was
12 talking about sort of going to places where you're not
13 wanted and so on or whether Hispanics like to be with
14 other Hispanics, and one of the families in L.A. that
15 we spent some time with, he was -- the gentleman who
16 was the father was asked, are there other Hispanic
17 families in the area where you moved, and he said no,
18 and said, well, what language is spoken in that
19 neighborhood, and the answer was Russian.

20 So, that's L.A. for you. The melting pot,
21 but that didn't seem to bother that family at all.
22 Everybody has their own -- their own needs and desires,
23 but we were -- we were interested in that response.

24 There's a good deal of research being done in
25 the MTO program. A number of colleges and universities

1 are participating in studying the families so that we
2 get the same kind of data that we -- for those families
3 that we have on the Guttreau families, and we'll be
4 able to develop that and share it with -- with the
5 Commission, with the Congress, with -- with everyone.

6 As I say, it's a very long-term program. The
7 first report representing the first two years of the
8 program was recently issued by HUD, and we expect to do
9 programs every two years hereafter.

10 Vacancy consolidation is another area where
11 we've been doing mobility counseling. These are the
12 situations where in many cases public housing is being
13 demolished, the number of units that replace the
14 demolished units is usually far fewer, and as a result,
15 there are people who need to be dealt with in terms of
16 relocation, and we now have 17 counseling grants under
17 this category. They will involve some 9,500 families
18 and about \$9.5 million.

19 In very round figures, we estimate that
20 counseling costs a thousand dollars a family. Now,
21 that's likely to be -- that's likely to be an under-
22 estimate. It really dates back a few years to the
23 costs in Chicago, but since then, there's been
24 inflation, and the other aspect of -- of counseling is
25 that you really do need to do follow-up, and I would

1 certainly associate myself with what, was it, Mr.
2 Morrissey said this morning.

3 Counseling -- counseling follow-up is very
4 important. When the families move, you can't simply
5 say okay, you've moved, that's it, and --

6 MR. HANLEY: May I interrupt you?

7 MR. PEARL: Sure.

8 MR. HANLEY: This is Mike Hanley. Mr. Pearl,
9 the program you just mentioned, is that part of the
10 Hope 6 --

11 MR. PEARL: It's often involved with Hope --
12 most of the -- most of those 17 grants are going to
13 communities that got Hope 6 money. That's correct.

14 MR. HANLEY: Is there a separate funding
15 stream for counseling for the relocation -- Section 8
16 -- relocation of persons displaced by demolition of public
17 housing?

18 MR. PEARL: I don't -- I don't think there's
19 a separate fund. I think they generally try to do that
20 out of the allocation, but in this case, we provide
21 extra -- I'm sorry. These are not providing extra
22 certificates. This is just providing the counseling
23 money --

24 MR. HANLEY: I see.

25 MR. PEARL: -- to counsel the families.

1 MR. HANLEY: Okay. Thank you. I'm sorry for
2 the interruption.

3 MR. PEARL: Sure. The next area I want to
4 talk about is -- is the litigation area. In addition
5 to Comer, there are 13 other lawsuits that are in the
6 process of being settled. This is part of Secretary
7 Cisneros' objective to settle these longstanding
8 lawsuits where there are legitimate claims.

9 Pretty much, there may be one or two
10 exceptions, almost all of those lawsuits involve some
11 form of mobility counseling, a vehicle like the one
12 that was described to you this morning in the Comer
13 case. The 14 settlements involve in total some 23,000
14 families and about \$23 million.

15 I want to say in connection with the follow-
16 up for a minute that one of the really important things
17 when you have a mobility counseling agency is the
18 counselors themselves, and I've met counselors from the
19 MTO programs. These folks are -- are really committed
20 people, and they are advocates for their clients.

21 In the L.A. program, for example, a woman --
22 a Latino woman moved into the suburbs, into the San
23 Fernando Valley, and had some trouble registering her
24 child in school. I believe the child -- I believe it
25 was kindergarten, and she shared that with her

1 counselor, and the counselor took it upon herself to go
2 out and in effect test the school. The counselor, who
3 happened to be white Anglo, and the counselor went out
4 and said I need to register my child and had absolutely
5 no problem at all, and finding that disparity then went
6 to the principal and said I think you have a problem.

7 Not every counselor would take the time or
8 effort to do that kind of thing, but that's the kind of
9 -- I wasn't surprised to hear that because these folks
10 are -- are, as I say, committed and work for their
11 clients.

12 In some cases, the counseling agencies either
13 use people who have already moved to -- as instructors
14 for their sessions or in some cases hire them as
15 counselors because who knows better the kind of
16 barriers that are faced than somebody who's actually
17 gone through it, and obviously such people have a lot
18 of credibility with people who are still sort of
19 getting up the -- the spirit and -- and everything else
20 that it takes to make such a move.

21 The final category is sort of a catchall
22 category called regional opportunity counseling
23 initiative. HUD recently announced some 16 grants
24 which will involve some 37,000 families and about \$37
25 million.

1 Rochester is the recipient of one of those
2 grants. Those communities were selected based on the
3 response to a notice of funding availability which HUD
4 published last year, 1995, in March of '95.

5 At the time, we had hoped to make the grants
6 in 1995, but a number of things happened that made that
7 not possible, and we'd also hoped to fund at a much
8 higher level in terms of numbers of grants and -- and
9 dollar figures as well, but a number of things came
10 along, including the rescission and a few other things
11 that made us reduce the program in scope, and we
12 decided rather than -- than forcing the communities to
13 go through a new competitive process, and it wasn't
14 entirely competitive, although we did rate and rank
15 them as we would ordinarily, we took the applications
16 that we received in 1995, looked at the money that we
17 had in 1996, and funded all that we could, and these 16
18 were the ones that were selected for that.

19 There again, the -- the requirements in -- in
20 the regional opportunity counseling, there are no
21 requirements as to the communities where people moved.
22 As I said, MTO is low poverty. The vacancy
23 consolidation program, there's no requirement in terms
24 of a limitation, in terms of either the racial
25 composition of an area or the poverty composition.

1 Where the litigation settlements are
2 concerned, it varies widely. Often there is a
3 requirement of moving to areas that are -- that have
4 less of a racial concentration. Sometimes it's a sort
5 of a combination because we do believe that the choice
6 of the family is very important.

7 So, in some cases, we've negotiated in the
8 settlement things like for the first 120 days, and
9 you'll notice that's longer than the typical 60-day
10 period, I might add, for the first 120 days, you may
11 use this certificate or voucher only in a non-minority
12 neighborhood. After that, for the -- for the next and
13 last 60 days, you may use it anywhere. That's a way of
14 sort of compensating for the fact that in the past,
15 it's -- it may have been very difficult to use those --
16 those vouchers and certificates in non-minority areas.

17 MR. HANLEY: Just another point --

18 MR. PEARL: Yes?

19 MR. HANLEY: -- of clarification. Mike
20 Hanley again. You're describing the regional
21 opportunity counseling initiative as the 60 --
22 restricted 60, non-restricted on the search period?

23 MR. PEARL: I'm sorry. Would you say --

24 MR. HANLEY: Are you currently describing
25 what's the regional opportunity counseling initiative?

1 MR. PEARL: I was -- I was really trying to
2 run down each one. The -- the regional opportunity
3 counseling has no restriction in terms of
4 neighborhoods.

5 MR. HANLEY: But with respect to the search
6 period, that's no restriction whatsoever?

7 MR. PEARL: Oh, no. I'm sorry. I don't -- I
8 don't believe that that -- that we changed the standard
9 period in that. I don't -- there -- there may be
10 more -- there may be more flexibility, but I believe
11 that's just the standard --

12 MR. HANLEY: Well, the reason I'm asking the
13 question is that we heard yesterday in Rochester that
14 Rochester is using a 120-day search period for its
15 regional opportunity counseling program, and I guess
16 I'm trying to determine whether that came from HUD or
17 whether it was locally initiated.

18 MR. PEARL: Well, I guess the -- one -- the
19 thing about that is we have not yet received the plans.
20 We've only just announced the grants, and there's going
21 to be a conference next Spring, probably in March in
22 Washington.

23 In the meantime, we've asked the recipients
24 to work with their non-profit agencies and develop a
25 plan to be submitted. If that's in the plan, I'm sure

1 we'll look at it. Anything that we can do short of a
2 statutory requirement, I'm sure we'll consider.

3 MR. HANLEY: But it was not a HUD mandate of
4 the program?

5 MR. PEARL: It was not, so far as I know, no.

6 MR. HANLEY: Thank you.

7 CHAIRPERSON TARACIDO: I just need a
8 clarification. So, where do you have this 120 days,
9 the use of a 120 days in the non-minority areas, and
10 then the 60 for --

11 MR. PEARL: In -- in the --

12 CHAIRPERSON TARACIDO: Which program?

13 MR. PEARL: In -- in -- in the litigation --
14 in some of the litigation settlements. For example, in
15 the Young case in East Texas, that was what was
16 negotiated.

17 CHAIRPERSON TARACIDO: And here, I don't know
18 what it is here in Buffalo.

19 MR. HANLEY: There is a mix in Buffalo.

20 CHAIRPERSON TARACIDO: Thank you.

21 MR. PEARL: Yes. I want to mention one more
22 thing, and that's about landlords. There was 'quite a
23 discussion, of course, about the availability of the
24 landlord list this morning.

25 One of the -- I did mention earlier the

1 necessity to recruit landlords in a variety of areas,
2 whether that be low-poverty or low-minority
3 concentration.

4 One of the things that -- that made the
5 leadership conference in Chicago, which was the
6 administering agency for Guttreau, so successful was
7 the credibility that they built up with landlords over
8 time.

9 The idea was that when they referred clients,
10 tenants, that the landlords would know that the tenants
11 had been screened to a degree, and that they were
12 getting tenants who would have good credit and -- and
13 could meet the requirements of tenancy. That was --
14 that was also discussed this morning, I believe, and
15 that credibility, of course, takes time to build up.

16 The comment of Mr. Morrissey again that --
17 that it would be important to have someone selected who
18 would have a credibility. He wasn't speaking with
19 landlords but just generally in the community.

20 I think I would -- I would underscore that
21 because it -- it is going to be very important to
22 increase the supply of landlords in non-traditional
23 areas. I mean that's just a -- that's a general
24 statement with respect to Section 8, and it will
25 certainly be true with respect to these regional

1 counseling initiatives.

2 Another -- one other topic I'd like to talk
3 about briefly is -- is one-stop shopping. Mr. Hanley
4 was one of the co-authors of the article that appeared
5 in your background piece that was circulated to people
6 testifying and originally appeared in the Harvard Civil
7 Rights and Civil Law Review or perhaps originally it
8 appeared in connection with that '94 mobility
9 conference. I'm not sure.

10 In any event, it had a hypothetical Ms.
11 Griffin faced with a variety of barriers trying to find
12 a place to live, having -- holding a low-income voucher
13 or certificate, and I think the department is well
14 aware of these difficulties. It's -- it's sort of as
15 if we sort of try to deal with them one-by-one.

16 There was a time when, if you wanted to apply
17 for public housing, you would go here, that is one
18 place, and if you wanted to apply for Section 8, you
19 would go somewhere else. So, already you had two
20 places to go.

21 If you start to think that's -- that's
22 relatively easy compared to looking at the assisted
23 housing because there, you're talking about literally
24 dozens of projects all over a metropolitan area, and in
25 a really large metropolitan area, I don't know how many

1 projects there are in the Buffalo area, Chicago or New
2 York or L.A. or Philadelphia, you're talking about
3 probably hundreds of projects, all of which are
4 available for Section 8 recipients, and -- and yet --
5 and they're out there, but you would have to -- first
6 of all, you would have to find them.

7 Second, you would have to get there to apply,
8 and, of course, the -- the waiting lists would be of
9 varied durations. It -- it seems obvious that if you
10 want to talk about being user-friendly, you're going to
11 have to talk about a different system, and we would
12 like to see a system where you could have one place to
13 go for a person, and the agency to which you went would
14 check out eligibility, and then make available to you
15 all known vacancies in the area.

16 Of course, the cross listing aspect gets at
17 another part of that in terms of -- of integrating the
18 list between city and suburbs, between Section 8 and
19 public housing and all the rest of it.

20 This is clearly not going to happen
21 overnight. HUD is currently funding a study in Chicago
22 looking at the possibility of getting assisted housing
23 providers to participate in such a list on a purely
24 voluntary basis. This is -- this is not going that
25 well. This is not an easy task.

1 Whether HUD could require them to participate
2 under the terms of our regulatory agreement with these
3 assisted projects is a question that we have certainly
4 batted around with the lawyers, but for purposes of
5 this study, we are asking them to participate
6 voluntarily.

7 Another problem with that is that some of the
8 providers who will participate voluntarily are the ones
9 who are most likely to have vacancies which often reads
10 the ones most likely not to be in very good condition,
11 whereas the best projects have long waiting lists and
12 therefore really have no need to participate in this
13 kind of -- of enterprise.

14 So, you're sort of fighting yourself since
15 you want to provide a full choice for -- for potential
16 tenants and not simply end up steering them to the
17 projects that are the most questionable.

18 MR. HANLEY: Mr. Pearl, --

19 MR. PEARL: Yes?

20 MR. HANLEY: -- may I interrupt again? You
21 said that your attorneys are playing with that issue,
22 and I wonder if sometimes if -- if in looking for the
23 detail, the specific authority to do that, sight hasn't
24 been lost of the very broad, very -- but nevertheless
25 very clear provision in Title VIII itself, that just

1 says HUD has an obligation to administer all of its
2 programs in a manner that affirmatively furthers fair
3 housing.

4 Why -- why -- why has it been determined that
5 that's not sufficient legal authority to do that?

6 MR. PEARL: Well, I think -- I think the
7 feeling is that the regulatory agreement is -- is the
8 operative document, and I think myself that there's
9 probably enough -- the regulatory agreement, I don't
10 believe, recites the affirmatively furthering
11 requirement, but it obviously recites the requirement
12 to comply with Title VIII and Title VI.

13 Title VIII obviously includes the
14 affirmatively furthering requirement. We have not been
15 shy about requiring landlord participation in the
16 context of litigation, and that's true both in East
17 Texas in the Young case and in the Sanders case in
18 Allegheny County, Pennsylvania.

19 So, I think the lawyers have really -- and in
20 those cases, the private providers were not parties.
21 So, arguably, the only authority that HUD has would be
22 the same authority we would have with assisted --
23 assisted providers generally.

24 However, outside the litigation context, we
25 haven't -- we haven't chosen to -- to do the same thing

1 we have with the litigation.

2 CHAIRPERSON TARACIDO: Why not?

3 MR. HANLEY: We have a question from Ms.
4 Taracido.

5 CHAIRPERSON TARACIDO: Why not?

6 MR. PEARL: Well, --

7 CHAIRPERSON TARACIDO: If you have to wait
8 for litigation for these things to fall into place, --

9 MR. PEARL: Well, you don't, but to the
10 present time, I mean that's a dispute within the
11 department. We have not -- we have simply not decided
12 that that is necessary to -- to go forward.

13 CHAIRPERSON TARACIDO: Even if they're
14 affirmatively told about a problem? In other words,
15 something is brought to your attention.

16 MR. PEARL: If you've got a landlord or a
17 provider who's discriminating, obviously that's the
18 easy case, and we can act on that either with or
19 without a complaint.

20 If you're talking about a landlord who simply
21 chooses not to participate in some community-wide
22 enterprise, I'm not so sure it's as clear as that.

23 CHAIRPERSON TARACIDO: Well, we're not
24 talking about a landlord not participating because
25 landlords apparently don't have to participate in

1 anything if they don't want to. We're talking about
2 the situation that was described this morning, which is
3 something that's brought to your attention regarding
4 the fact that you have a consent decree which requires
5 one whole county, no residential preference across a
6 county, and one piece of that saying no, we're not
7 going to give out our landlord list, which --

8 MR. PEARL: Well, --

9 CHAIRPERSON TARACIDO: -- basically under-
10 mines --

11 MR. PEARL: Okay.

12 CHAIRPERSON TARACIDO: -- the ability --

13 MR. PEARL: That's --

14 CHAIRPERSON TARACIDO: -- to move people
15 around.

16 MR. PEARL: That -- let me make clear. That
17 was not the subject of my answer. My understanding had
18 been that HUD had directed that. I am not in public --
19 the Office of Public Housing. I was trying to find out
20 with our short lunch break what the answer to that was.
21 I was not able to do so in the time that I had.

22 I can't -- I can't -- I cannot answer that
23 question. That is not the question I was addressing
24 before, which dealt with assisted providers, which
25 typically HUD has treated at more -- as on -- at more

1 arm's length than public housing.

2 MR. HANLEY: I may have confused the issue by
3 asking him my question at that point, but you were
4 describing, say, the Section 236 Programs, the -- the
5 HUD --

6 MR. PEARL: 221(d)(3) and Section 8, yes, new
7 Section 8.

8 MR. HANLEY: So, it's apart from the Section
9 8 Program we were talking about this morning. There's
10 this whole other inventory of non-public housing
11 privately owned that HUD in one way or another assists.

12 MR. PEARL: That's right. And because it's
13 privately owned, I think that's why -- that's one
14 reason why the department is a little more reluctant to
15 get into that area in terms of mandating things.

16 At this point, let me -- let me stop and take
17 the questions.

18 MR. HANLEY: I think we're going to maybe
19 allow one question per each member that has a question
20 because I would like to have Mr. Martin address the
21 panel, so we can have some economy in our time. I know
22 some people have to leave early for flights and things.

23 Let's start at the end with Dr. Nishi, I
24 suppose.

25 DR. NISHI: Oh, okay. What is the regulatory

1 agreement, and is that the Executive Order?

2 MR. PEARL: No. The regulatory agreement is
3 the -- is the contractual arrangement between these
4 private owners that Mr. Hanley referred to --

5 DR. NISHI: I see.

6 MR. PEARL: -- and the department. In many
7 cases, those agreements were entered into 20 -- as much
8 as 20 years ago.

9 DR. NISHI: I see.

10 MR. PEARL: But they spell out all of the
11 substantive requirements, including civil rights. It's
12 not just limited to civil rights.

13 DR. NISHI: How about the Executive Order?
14 Is that enforced?

15 MR. PEARL: Okay. Are you talking about
16 11063, the old Kennedy order, or the -- the --

17 MR. HANLEY: Let me clarify that perhaps.
18 It's Mike Hanley. We referred to 12 --

19 DR. NISHI: 12892.

20 MR. PEARL: Okay.

21 MR. HANLEY: The January '94 order that was
22 decreed, the President's Fair Housing Council.

23 MR. PEARL: Right.

24 MR. HANLEY: What is the status of the
25 implementation on that?

1 MR. PEARL: Okay. The -- the order that's
2 referred to authorized the setting up of a President's
3 Fair Housing Council in which the Secretary of HUD
4 would be the lead Cabinet official.

5 There have been a number of meetings at the
6 staff level by all the -- pretty much all the domestic
7 agencies. We've had a number of conversations with the
8 other departments.

9 What -- what we're looking at at this point
10 is an approach that would be -- would be problem-
11 specific. It's -- it turns out, and we knew this was
12 so, that it's -- it's very difficult to get Cabinet
13 members to the table. You -- you tend to work at the
14 staff level, and in fact, in connection with the
15 regional opportunity counseling initiative that I
16 referred to, and where Rochester is one of the
17 communities, HUD has asked these 16 communities where
18 there might be problems from their standpoint in
19 coordination among federal agencies that would help
20 them deal with local fair housing problems.

21 In other words, we asked them to do an
22 analysis, all the communities to do an analysis of
23 impediments to fair housing, plus an analysis of local
24 impediments. But we know good and well that there are
25 impediments that come from the federal level as well.

1 One example was mentioned in an editorial I
2 saw in the St. Louis Post-Dispatch last month that
3 talked about job training programs. The way the job
4 training programs are set up right now, it's to the
5 benefit of individual communities to apply
6 individually, so that if St. Louis applies and several
7 of the St. Louis suburbs apply, each of them gets a
8 grant.

9 If they were to consolidate their application
10 even indicating that it would serve the same number
11 of -- of -- of -- of persons, they would get less
12 money. Now, why is that so? Well, I don't know.
13 Probably -- presumably it's not a statutory problem.
14 It's some kind of regulatory thing, and you would think
15 that could be fixed so that it would encourage the kind
16 of -- of community-wide or metropolitan-wide training
17 programs that would be of interest and, of course,
18 would support an initiative like the -- like the
19 counseling initiative, especially with the problems
20 that we are likely to have as the Welfare Reform Act
21 kicks in.

22 So, what we are asking these 16 communities
23 is whether a couple of them, three, two or three, would
24 identify -- would be willing to do an analysis of
25 federal impediments, and we will then -- once they say

1 okay, here's a problem at Labor, here's a problem at
2 Transportation, because we're not getting -- because of
3 the transportation system, the kinds of problems we
4 talked about this morning, or problem with -- with --
5 with Commerce or -- or whoever, we would then take it
6 upon ourselves to work with those other departments
7 under the auspices of the Executive Order and try to
8 cut through those problems and solve them with those
9 local communities.

10 Now, obviously those local communities are
11 not the only ones which have problems with federal
12 impediments. But we figured that that would be a --
13 that would be a good place to start. So, that's --
14 that's about where that is. It's not as far long as we
15 would like it to be, but we have --

16 DR. NISHI: But that's only one aspect of
17 that Executive Order.

18 MR. PEARL: That's --

19 DR. NISHI: As I understand it, I have not
20 had an opportunity to read the Executive Order, but
21 it's my understanding that it specifies the steps that
22 must be taken, and as I under -- would you inform us as
23 to the state of enforcement of that Executive Order?

24 MR. PEARL: Well, --

25 DR. NISHI: In terms of the steps that are

1 required to be taken. Corresponding, I am assuming, to
2 the -- the requirements with regard to employment non-
3 discrimination, that Executive Order 11206, is it? I
4 don't remember exactly.

5 MR. PEARL: Right.

6 DR. NISHI: But at any rate, it specifies
7 that, for example, with regard to recruitment, what
8 must be done affirmatively in order to be more
9 inclusive if there is a record exclusion, etc., and all
10 along the way, in the -- all the processes, which end
11 up in the cumulative -- cumulation of exclusions from
12 employment and employment opportunity.

13 Now, my understanding is that the Executive
14 Order with regard to housing, fair housing, contains
15 such steps. Could you inform us as to the state of its
16 enforcement?

17 MR. PEARL: Well, when you say steps, I'm not
18 sure. I mean I know there are steps in that order
19 which talk about inter-agency cooperation where
20 violations have been found. But I'm -- and if that's
21 what you're referring to, we've -- we've certainly had
22 discussions with other agencies, but in fact, as you
23 probably know, there are rarely -- there are rarely
24 findings of discrimination.

25 I mean people often settle rather than --

1 than have findings lodged against them, and although
2 this would certainly be a sanction that would carry
3 some weight with respect to a local community, I'm not
4 aware that -- that we've had to invoke it at all to
5 date.

6 If that's what you're talking about, there --
7 there's a lot of -- there are other things in the order
8 which talk about pilot studies and a number of other
9 things, and we've been trying to do this -- this --
10 this analysis of federal impediments in a sense as one
11 response to that, and that's -- that's really that and
12 various staff level meetings that we've had with other
13 agencies to discuss these issues. That's -- that's
14 really about the state of it as far as I'm aware.

15 DR. NISHI: Since you've raised the matter of
16 the -- the requirement of an impediments analysis, --

17 MR. PEARL: Yes.

18 DR. NISHI: -- which conditions the granting
19 of funds, is there anything required by HUD in terms of
20 reporting, which you've indicated that there's not
21 unless there's a complaint or -- the other is what sort
22 of monitoring is built in, by what evaluative criteria
23 in carrying out that -- the -- that is, what follows
24 up, so that they are required to do impediments
25 analysis than an action plan, and then --

1 MR. PEARL: Hm-hmm.

2 DR. NISHI: -- what are the criteria by which
3 you can monitor whether or not those action plans or
4 those goals were achieved?

5 MR. PEARL: Okay. Let me -- I said before
6 that in terms of reporting, I left out -- I mentioned
7 one step, which I'll -- which I'll mention again, and I
8 left out one thing, which is that in addition to doing
9 the analysis and developing actions to overcome any
10 impediments, the third requirement is to keep records
11 in that regard; that is, records of actions taken, and
12 that would all be on file locally.

13 As far as reporting to HUD is concerned, as I
14 said, with each action year plan, they're supposed to
15 state their plans for the coming year, and their
16 accomplishments for the past year specifically with
17 respect to fair housing. Obviously there are many
18 other requirements, but that's what -- that's what
19 you're referring to.

20 DR. NISHI: Yes.

21 MR. PEARL: So, that's -- that's something
22 for the department to work with. Now, as far as
23 monitoring is concerned, the monitoring will really
24 largely address that information; that is, that
25 information comes in on a routine basis. I believe

1 it's 60 days before the next funding year cycle would
2 begin. So, it gives the department a chance to -- to
3 digest that information and look at it and see if there
4 might be a problem.

5 In addition to that, we do on-site, limited
6 because of travel budgets, and off-site monitoring, and
7 that can be done for any reason, either because we get
8 a complaint or because we haven't been to a community
9 for awhile or because we read something in the
10 newspapers, such as racial incidents when minorities
11 move into white neighborhoods or -- or, you know, for
12 any of those reasons.

13 We are aware, and I think Assistant Secretary
14 Julian has indicated, that HUD does not have the staff
15 to do a thorough monitoring job. If we did, then we
16 would be looking at these plans and requiring HUD
17 review and approval, but we don't do that, and -- and,
18 frankly, we were not in a position to do that.

19 DR. NISHI: How much was involved in the
20 expenditure for these impediments analysis plans?

21 MR. PEARL: I'm sorry. I didn't --

22 DR. NISHI: How much was involved? What was
23 the cost involved of the expenditure of HUD?

24 MR. PEARL: Of the expenditure --

25 DR. NISHI: In order to -- in requiring that

1 these impediment study be done?

2 MR. PEARL: I guess I'm not sure --

3 MR. HANLEY: Dr. Nishi, perhaps at this
4 point, we could ask Mr. Martin to join the discussion.
5 He's perhaps more familiar with what efforts the cities
6 we've been looking at and other cities in New York
7 State have allocated, what expenditures they've
8 allocated towards the analysis of impediments and
9 development plans, and I think I'll back up a little
10 bit and ask you to -- to -- to go ahead with your
11 presentation, and then we will go back to the
12 monitoring issues and your involvement with that.

13 MR. MARTIN: Okay. Thanks, Mike.

14 As I come before you to bring you information
15 pertaining to the Federal Changes in the Section 8
16 Programs, I think first you must understand what the
17 procedures were before the changes took place, and I
18 would be talking to you about the equal opportunity
19 housing plan requirement in the Section 8 Program and
20 how it evolved and the changes that came about in the
21 final conforming rules.

22 As you know, the equal opportunity Housing
23 plan served as the tool for which the housing
24 authorities utilized to say how they were going to go
25 about assuring non-discrimination within the program,

1 and the plan composed of several objectives.

2 The first objectives was that they had to
3 identify how they were going to conduct their outreach
4 to low-income families. Through that method, they had
5 to identify what newspaper or other medias that they
6 were going to use, and also identify within that
7 particular objectives were there any groups that they
8 considered least likely not to apply to participate in
9 the program, and if so, that they had to identify some
10 special outreach that they were going to undertake to
11 make sure that that particular group or groups were
12 brought into the program.

13 They also had to look at the special areas of
14 persons expected to desire it to determine from --
15 based upon employment within that locality, whether
16 low-income individuals that might have been working in
17 that locality but reside in other places to determine
18 how they were going to provide assistance to them, so
19 that they can find units of their choice within that
20 locality.

21 The second objective of the equal opportunity
22 plan that was promoting greater housing opportunities
23 outside of the low-income and minority-concentrated
24 areas, and in this particular objectives, housing
25 authorities are required to identify again the source

1 of contact of media to making available to the general
2 public, to the homeowners, the landlords, that what the
3 Section 8 Program is all about, and also to encourage
4 the landlords to participate in the program.

5 Now, that method of encouraging the landlords
6 to participate in the Section 8 Program could take on
7 different aspects, such as special meetings with
8 landlords, special printing of information pertaining
9 to the Section 8 Program, providing them literature and
10 brochures and etc., and also to explain to them what
11 the requirements were on the program and the civil
12 rights requirements that dealt with the program.

13 They're also required to provide to all of
14 the participants in the program, the certificate
15 holders, what is called a briefing package, and in that
16 package, they provide them documentation, first of all,
17 pertaining to civil rights, the 903 form, the
18 information about where housing are available, provide
19 them a list of the landlords that they have gotten to
20 participate in -- a committee themselves to participate
21 in the program, and they also give -- provide them
22 assistance if they have problems in locating units to
23 suit their needs.

24 They also have to provide them information
25 pertaining to the geographical use of the certificates,

1 meaning that if there's a portability application --
2 certificate, they had a right to go anywhere, and that
3 if there were some restrictions on the application,
4 they would have to notify them whether that it was
5 restricted to a certain area or not.

6 Objective 3 dealt with the -- ensuring that
7 equal opportunity to the applicants to be able to
8 participate in the program. This took on a system of
9 how they would actually accept applications, whether
10 they would accept an application, how they process
11 applications, how they establish the waiting list, and
12 how they use federal preference or priority categories
13 which utilize in selecting.

14 The fourth category dealt with the provisions
15 of services to families, and that dealt with the
16 provision of services to families who have alleged to
17 have been discriminated against in searching for a
18 unit.

19 And then the final category, Objective 6 of
20 the equal opportunity housing plan, dealt with the --
21 whether or not they subcontracted out to a local fair
22 housing organization or community organization that
23 might have provided services to disabled individuals to
24 perform certain services that they were not capable of
25 performing.

1 Then they had --

2 MR. HANLEY: If I may interrupt --

3 MR. MARTIN: Yes.

4 MR. HANLEY: -- at this point just for
5 clarification, the objectives you just described, are
6 those the provisions of the current regulation?

7 MR. MARTIN: No, no. Those are the
8 provisions of the equal opportunity housing plan.

9 MR. HANLEY: In the current regulation?

10 MR. MARTIN: They are -- yeah. They're in
11 the current regulation, but they are not in what we
12 know as equal opportunity housing plan. With the
13 conforming regs, all of that was merged together, okay,
14 and under the old procedure, they had to submit an
15 equal opportunity housing plan and administrative plan,
16 which the department would review and approve.

17 Under the conforming, there is now the equal
18 opportunity housing plan requirement, and the
19 administrative plan requirements are all merged in one
20 document.

21 MR. HANLEY: The reason I asked the question
22 is I remember these items being listed under the old
23 regulation, and admittedly, I've not looked at the
24 conforming regulation in some time, but I remember
25 concern that I had when I did see it that -- that in

1 this merger process of the administrative plan and the
2 equal opportunity plan, I don't recall that the same
3 specificity was there on these elements.

4 MR. MARTIN: That -- that -- they're not
5 spelled out like Objective 1, Objective 2, but the same
6 things are still inclusive in the administrative plan
7 requirement.

8 MR. HANLEY: Now, how would an administrator
9 know that if it's not in the regulation anymore?

10 MR. MARTIN: How would the --

11 MR. HANLEY: How would --

12 MR. MARTIN: How would the housing authority
13 know that?

14 MR. HANLEY: Yes. How does the Section 8
15 administrator under -- how are they advised that these
16 six objectives remain, if it's no longer in the
17 regulations?

18 MR. MARTIN: It's part of the ACC, and the
19 administrative plan requirement that say when they have
20 to go back and revise the administrative plan, they was
21 told to revise the administrative plan to include all
22 of that requirements that was in the old equal
23 opportunity housing plan. So, no administrator,
24 housing authority administrator, should say that they
25 are not aware of the requirement.

1 MR. HANLEY: Okay. Just to summarize, even
2 if it's not spelled out in the regulation anymore, it's
3 still -- it's not a change in policy, it's still part
4 of HUD's instructions to the administrators, and it's
5 in their contract?

6 MR. MARTIN: It's part of the HUD
7 instructions. It's part of the regs. It's spelled out
8 specifically. In fact, in part of the regs, it states
9 the housing authority responsibility and -- and lists
10 the first three items that they list includes the items
11 that was covered in the equal opportunity housing plan.

12 MR. HANLEY: Okay. Thank you.

13 MR. MARTIN: And as I said, the -- the
14 administrative plan itself now, since it merges all of
15 the things that's in the -- that was previously in the
16 equal opportunity housing plan, must describe in detail
17 all of that information.

18 What the EOHP used to require for them to
19 identify the news media, the outreach efforts to
20 contract -- excuse me -- to homeowners and landlords,
21 all of that must be specifically identified in the
22 administrative plan.

23 So, it's no longer you have to look at two
24 documents to determine what a housing authority is
25 supposed to do. You look at one document, and all of

1 it should be spelled out.

2 And also, in the -- in prior years, prior to
3 the conforming regulations, the -- each plan had to be
4 approved. Now, they are just submitted. The
5 administrative plan is submitted, but it's not approved
6 by the department.

7 CHAIRPERSON TARACIDO: So, if it is not
8 approved, what's -- tell me what -- what do you do with
9 it?

10 MR. MARTIN: What do we do with it?

11 CHAIRPERSON TARACIDO: Yeah.

12 MR. MARTIN: We use it as a tool to determine
13 how the -- the housing authority is running the -- the
14 program. We -- we look at it when we go out to
15 monitor, --

16 CHAIRPERSON TARACIDO: So, you have a
17 monitoring piece?

18 MR. MARTIN: Oh, we have a monitoring piece,
19 yes. We will go out to monitor, and we will see, and
20 that's what Mr. Pearl referred to as recordkeeping. We
21 would look at the records to see if they see advertise
22 in the Buffalo Evening News, if they advertise in the
23 West Side Journal. We will want to see if they
24 advertise in those journals, the dates that they
25 advertise, and to see if they had contact to special

1 community organizations. We would check to see if they
2 contacted those community organizations. What efforts
3 they did to encourage the landlords to come to
4 participate in the program, if they did special
5 outreach to them.

6 MR. HANLEY: I think there's a strong
7 interest in the committee of -- of going ahead with
8 some questioning at this point. If you -- do you have
9 other --

10 MR. MARTIN: No. That's it. I -- I didn't
11 --

12 MR. HANLEY: Okay. Then I will open it up to
13 the committee, and we'll start with Dr. Nishi again.

14 DR. NISHI: Yes. Now, when you review these
15 plans, when you review -- you use this as a tool --

16 MR. MARTIN: Yes.

17 DR. NISHI: -- in working with the various
18 housing authorities in their Section 8 Program. Now,
19 when you find that these are not being carried out, do
20 you condition any further grants? What -- what
21 leverage -- what is the basis of leverage for getting
22 these -- these administrative -- these programs to
23 conform to their -- these plans? So, you approve the
24 plans.

25 MR. MARTIN: Right.

1 DR. NISHI: Suppose you find that they're not
2 conforming, --

3 MR. MARTIN: Then what --

4 DR. NISHI: -- then what do you do?

5 MR. MARTIN: Well, when we go out to monitor,
6 if we have a finding, we discuss it at the exit
7 interview with the executive director of our concerns
8 and findings, okay, let them know. We come back, and
9 we write them a letter. We give them X number of days
10 to take corrective actions to begin either to implement
11 something that they have said that they were going to
12 do in their administrative plan or give us some
13 justification as to why not, and then we will review
14 that information and make a determination whether we
15 feel that they have met compliance, and if we feel that
16 they are not in compliance, then we refer to our
17 compliance division for them to go out and -- and make
18 a determination of compliance and non-compliance.

19 DR. NISHI: Okay. Now, in the actual
20 operations of your office here in Buffalo area, have
21 you -- have you undergone such a procedure in terms of
22 getting the programs to come to compliance?

23 MR. MARTIN: Have we done that?

24 DR. NISHI: Yes, in Rochester -- in Buffalo.

25 MR. MARTIN: Well, I'm assuming when you're

1 saying in the Buffalo area, I have 48 counties and 54
2 PHAs. Yes, we do that, yes, yes.

3 DR. NISHI: Oh, I see.

4 MR. MARTIN: Yes.

5 DR. NISHI: Okay. Now, you are identified
6 here on this -- that you are the Buffalo Regional
7 Office.

8 MR. MARTIN: Yeah. But we cover from here
9 all the way to the Hudson River.

10 DR. NISHI: Oh, all right. Fine. In that
11 case, now I can enlarge my question to include
12 Syracuse, Rochester and Buffalo.

13 MR. MARTIN: Yes, yes, ma'am.

14 DR. NISHI: Have you had occasion to -- to
15 apply these -- what do I mean to say?

16 MR. MARTIN: The monitoring?

17 DR. NISHI: Yes, these monitoring devices and
18 procedures.

19 MR. MARTIN: Yes, we have.

20 DR. NISHI: You have?

21 MR. MARTIN: Yes.

22 DR. NISHI: And what sort of penalties are
23 there?

24 MR. MARTIN: And what -- and we --

25 DR. NISHI: Can you condition grants? Have

1 you ever conditioned grants?

2 MR. MARTIN: We haven't gotten to the point
3 to condition them because they have come in compliance.
4 When we bring something to their attention that they
5 have neglected to carry out according to the equal
6 opportunity housing plan or the regulation, they have
7 taken steps to implement those things.

8 DR. NISHI: Yes. I see.

9 MR. MARTIN: Yeah.

10 MR. PEARL: Could -- could I comment in sort
11 of a follow-up to that answer? The question really was
12 about following procedures, --

13 DR. NISHI: Yes.

14 MR. PEARL: -- and -- and it's also true with
15 respect to -- somewhat true with respect to the
16 analysis of impediments, our monitoring in the -- in
17 the community development area as well.

18 The -- the Government Performance and Results
19 Act is -- is an act that was passed a couple of years
20 ago, and it requires federal departments and agencies
21 in their budgeting to actually show the results of
22 their programs, and I think over the next couple of
23 years, I believe it actually takes full effect in
24 fiscal '98 or '99, but -- but what I -- what I'm
25 referring to is the idea that it's one thing if you're

1 simply doing all the things that are required, it's
2 another thing to have some kind of goal which -- which
3 spells out, for example, in the area of affirmatively
4 furthering fair housing, okay, what is the objective
5 that we're trying to reach.

6 It's -- it's a little easier to describe, I
7 think, in -- in the community development context
8 because my feeling would be that testing is what
9 measures the level of discrimination in a community.

10 If you actually send testers out in the
11 rental market, let's say, although it's true of sales
12 as well, it was mentioned that our HUD study in 1989
13 showed discrimination at levels above 50 percent with
14 respect to both black and Hispanic renters and, for
15 that matter, home purchasers, and it seems to me if you
16 really wanted to measure a community's progress, one
17 way to do it is to say okay, we've identified 18
18 impediments, and in the course of time, we reduced it
19 to five, but the question remains what has been the
20 actual result of reducing the impediments, and it seems
21 to me the answer couldn't be given, except by doing
22 some kind of test, and over time, you would actually be
23 able to measure hopefully an increase in compliance
24 by -- by providers, whether as the result of your -- of
25 your steps to overcome impediments or for whatever

1 other reason, and I -- I say this as part of really a
2 much more general comment, that I think in government,
3 we are going to be required to justify our resources by
4 showing this kind of progress, and inevitably it will
5 move departments more toward performance objectives and
6 goals rather than simply saying have you complied with
7 these regulations.

8 DR. NISHI: Yes. In other words, the
9 ultimate -- ultimate consequence of it being examined
10 is how many people have been moved into fair housing.

11 MR. PEARL: That's right, or in the Section 8
12 Program, how many people have moved -- how many
13 minority individuals have moved into -- into, say, low-
14 poverty areas, for example.

15 DR. NISHI: Yes, yes.

16 MR. PEARL: Yes.

17 DR. NISHI: Yes.

18 MR. HANLEY: Just a comment in that regard
19 more than a question, is I -- I would like to relay to
20 you a concern I've heard expressed, not in my capacity
21 in the committee here, but as -- as a person
22 participating with the City of Rochester in its
23 development of a fair housing plan, and from the point
24 of view of the municipal officials, they have been
25 concerned that when they set their own goals, and --

1 and I think they've been aggressive in trying to set
2 goals probably more descriptively than -- than many
3 other communities, that by doing so, that they're --
4 they're essentially opening themselves up to sanctions
5 later on, if they are unable to fulfill those goals,
6 and therefore feel that they may be better -- they
7 might -- they might be better off if they were doing
8 the same thing as other communities who have taken
9 the -- the -- the mission less seriously.

10 How do you address that?

11 MR. PEARL: Well, I -- I -- I think as we
12 sort of lurch into this stage, perhaps other
13 communities -- you -- you get a sort of the lowest
14 common denominator phenomenon, and -- and what -- and
15 when that happens, then you get a Rochester or someone
16 who wants to do more, saying why should we do it when
17 no one else is.

18 But I really believe, and I may be wrong and
19 maybe -- maybe this real whole process is -- isn't
20 feasible, but for the moment, it's required by law that
21 as -- as time passes, and we move toward the deadlines,
22 that the laggard communities are going to have to come
23 along.

24 I don't think -- I -- I -- in a sense, I
25 think it's less important that the goals are set than

1 that progress be shown, if you understand my point. I
2 mean -- which is not to say that I would accept, you
3 know, a two-percent level of -- of compliance as better
4 than a zero level, but at the same time, it seems to me
5 one wants progress, and -- and as in all goals and time
6 tables, as I'm sure members of the committee know,
7 that's what goals and time tables are for, to measure
8 progress.

9 Without that, what do you have, except for
10 good faith efforts, which is very difficult to measure?

11 MR. HANLEY: Ms. Lopez?

12 MS. LOPEZ: These are questions to both of
13 you. So, if -- whoever answers, if you could please
14 state your name. There's just -- how often -- what's
15 your frequency of this monitoring?

16 MR. MARTIN: Charles Martin. It all depends.

17 MS. LOPEZ: Thank you.

18 MR. MARTIN: We do what we call a risk
19 analysis within our office to determine where problems
20 are at, and it depends. If a particular city has a
21 problem, then we would go in and monitor that
22 particular program, based upon the other constraints
23 that the department has as far as staffing and travel.

24 I would say a particular city probably could
25 be monitored at least within the four years. A city

1 can be monitored every four years.

2 MS. LOPEZ: Just once every four years?

3 MR. MARTIN: Yes, but you understand that our
4 monitoring is monitoring of CDBG block grant, Section 8
5 Program existing, public housing conventional program,
6 and the conventional 236s and the 237s, 221(d)(4)
7 programs.

8 So, we have, as I said earlier, we have 48
9 counties. We only have a staff of four individuals to
10 monitor all of the 48 counties which includes 27
11 entitlement communities. We have the responsibility of
12 monitoring 207 small cities communities that no other
13 state has to worry about.

14 So, we have to spread ourselves around to try
15 to monitor as many as possible.

16 MR. HANLEY: We have the service end of the
17 table. Mr. Padilla?

18 MR. PADILLA: You know, I want to ask you a
19 question, but I get involved in all these federal
20 programs in cities, you name it, and I find out
21 regardless being the city or rural areas or the
22 suburbs, that there always been differences for poor
23 people, minority people, to really maximize the
24 benefits for these programs.

25 And my question is in regards to the present

1 situation in Buffalo. What type of commitment you can
2 make really, both of you, to support the public good,
3 you know, that come out from these recommendations,
4 because, as you said, you have limited resources, and
5 if you had to put all those resources without
6 prioritizing in a huge area, then the real issue that
7 is very important here is going to be neglected?

8 So, what kind of commitment you could make to
9 really help these communities to overcome those
10 obstacles that have been put in their way for -- to
11 fair housing? Because, otherwise, we could talk in
12 general, but we had a specific situation here that I
13 think requires immediate action and support, and I want
14 to make a particular commitment to these communities on
15 that.

16 MR. HANLEY: For the tape, Mr. Martin is
17 responding.

18 MR. MARTIN: Yeah. The department is
19 committed. I -- I understood some of the things that
20 were said by the various presenters this morning, but I
21 can say that the department and the office here in
22 Buffalo is -- is totally committed with it.

23 One of the things is that the awareness of
24 individuals, citizens, within the jurisdiction of
25 Buffalo and the surrounding areas of what the rights

1 are, and how to pursue those rights, and one of the
2 things is that we're trying to bring in now more
3 community organizations into the program, so that they
4 are aware of what they are, so that they can also offer
5 assistance to them.

6 MR. PADILLA: Well, to make sure that, you
7 know, those elements of the agreement are really
8 implemented.

9 MR. MARTIN: Oh, okay. You have been talking
10 about Comer v. Cisneros -- okay. The particular
11 issue --

12 MR. PADILLA: Yeah.

13 MR. MARTIN: -- in the Comer v. Cisneros.

14 MR. PADILLA: The real commitment that is
15 needed.

16 MR. MARTIN: Okay. And as it was mentioned
17 also that, you know, the RFP will be coming out for the
18 counseling agency to be selected. The local office
19 will be totally involved in that. We will be
20 monitoring that -- that progress, yes.

21 MR. PADILLA: The last thing is that as there
22 was -- they wanted this process to be contaminated, and
23 you really had a significant role to play to make sure
24 that is not contamination here, --

25 MR. MARTIN: We understand that, and he also

1 alluded to the fact that he -- that there might be some
2 political impacts in the appointing of -- yeah. And
3 his comments is due into the department, and his
4 comments will be taken under consideration. We will be
5 looking closely.

6 MR. HANLEY: All right.

7 MR. PEARL: I need to respond to a question,
8 if I may. Lawrence Pearl. We at headquarters are
9 mindful -- excuse me -- of the obligations placed on
10 the department by these decrees.

11 In the case of Young in East Texas, we
12 actually set up a HUD -- special HUD office in
13 Beaumont, which is -- which has 15 people in it, and
14 that's -- happens to be in the decree down there, but
15 that's a guarantee that that office will have 15 people
16 in it whose job will be to oversee what is admittedly a
17 monstrous geographical area.

18 Similarly, in Allegheny County, in the
19 Sanders case, we provided extra resources to the
20 Pittsburgh office, and if it proves necessary to do
21 that here or in any other community in order to monitor
22 those decrees, we will do so.

23 MR. HANLEY: I'm very glad to hear that. We
24 have some questions back up on the panel. I want to
25 get the order first -- first, I think Lita Taracido was

1 --

2 CHAIRPERSON TARACIDO: I was -- I was
3 concerned about getting some sense of how it's been --
4 the cities we've been to, Syracuse, Rochester and
5 Buffalo, with respect to any monitoring aspects of your
6 program, and how -- you know, whether or not you wish
7 the court would send it to a compliance unit. I mean
8 if you did, what happened at that level, and how long
9 does this process take?

10 And I'm especially interested in some of the
11 stuff that happened -- that came out of this meeting
12 today, which I guess would be your office, Mr. Martin,
13 is that correct?

14 It's a question of having brought to your
15 attention the issue of the -- of the landlord list.

16 MR. MARTIN: Okay. That -- that was brought
17 to the Buffalo office's attention, not to my division.
18 That's public housing.

19 CHAIRPERSON TARACIDO: Section 8?

20 MR. MARTIN: Yes.

21 MR. HANLEY: Mr. Martin, I believe you're
22 referring to the fact that the HUD office is divided
23 into a program side and a fair housing office.

24 MR. MARTIN: And within Buffalo office, you
25 have the equal opportunity division, which I'm

1 responsible for. You have the housing division. You
2 have the CD -- the community development block grant,
3 and then you have the public housing division, which
4 take care of the Section 8.

5 CHAIRPERSON TARACIDO: And, so, public -- so,
6 it's a different person?

7 MR. MARTIN: Yes.

8 CHAIRPERSON TARACIDO: So, then we should
9 really be able to speak to that person at some point.

10 MR. HANLEY: Yeah. Or perhaps if I can
11 follow up on that question, I mean it strikes me as
12 rather intriguing that -- that this issue came up to
13 the program side and was not communicated to your side,
14 the equal housing side, and -- and if I might note,
15 that seems to be kind of an endemic problem, not just
16 with the regional office but in the HUD Washington
17 office as well.

18 How do the two agencies, the fair housing
19 agency and the -- and the program delivery side,
20 coordinate with each other?

21 MR. PEARL: In Washington, I think -- I think
22 we coordinate pretty well. As far as I was aware, this
23 issue that was raised this morning was known to public
24 housing, and I had understood being dealt with. We
25 were aware of it, and we supported --

1 MR. HANLEY: This is Mr. Pearl responding.

2 MR. PEARL: I'm sorry. And -- and we
3 supported what I understood to be the solution, which
4 was to direct that that list be produced.

5 Now, obviously that hasn't happened as of
6 this morning, and I don't know where that -- I don't
7 know where the slippage occurred, but Deputy Assistant
8 Secretary Maryann Russ in Public Housing is very
9 committed to the principles, I think, that have been
10 expressed here today, and just -- and specifically with
11 respect to that issue and more generally with respect
12 to seeing to it that civil rights are a part of every
13 PHA's obligations, and we have no dispute with Ms. Russ
14 in that regard, and she -- she worked very closely with
15 Assistant Secretary Julian, with my boss, and I think
16 the communication is very good.

17 Now, it's not always that way, but for the
18 moment, it is. Obviously we're moving into a
19 transition, and some people are leaving, and new people
20 are coming, and that can always be difficult in terms
21 of communication, but I think generally we've had very
22 good support from Public Housing.

23 Initially, when the Secretary made it clear
24 that he wanted to settle lawsuits, not everybody in the
25 department was exactly standing around cheering, but

1 the fact is that was his policy, and the department has
2 certainly moved to implement the policy, and I think
3 has done it -- has tried to do it in a positive way.

4 MR. HANLEY: I -- I have several committee
5 members chomping at the bit to follow up on this, and I
6 am one of them, and I wanted to -- to -- as an
7 illustration of this problem, I wanted to share with
8 you a conversation we had during the Syracuse hearings
9 between sessions, not on the record.

10 The Section 8 administrators advised us that
11 they had been to a training in Ithaca, and I don't know
12 who did the training. It was a HUD consultant from an
13 agency or one of the program delivery side, but their
14 point was, what's all this fuss about mobility. We
15 went to this training that HUD sponsored, and they're
16 telling us these mobility programs don't work.

17 Now, I'm wondering, you know, what types of
18 mixed signals are sent between, say, contracting
19 agencies or program side or fair housing side and --
20 and where the difficulties are coming from on this.

21 It certainly was not conductive or
22 constructive to advancing the discussion about mobility
23 programs to have unsupported allegations out about the
24 success of mobility programs, and to my knowledge,
25 incorrect characterizations of the mobility program.

1 Perhaps that's just more of a comment than a question.

2 Let me refer to --

3 CHAIRPERSON TARACIDO: I still don't have an
4 answer to how come you don't talk to each other at the
5 regional level. I mean what's -- what's going on with
6 that?

7 MR. MARTIN: There are conversations. We
8 have meetings regularly with each other, but this
9 particular instance, apparently it was thought to be an
10 administrative issue that the public housing people can
11 handle, and they probably felt no need to bother EO on
12 it.

13 CHAIRPERSON TARACIDO: Excuse me.

14 MR. MARTIN: It's -- it's not something that
15 we over on this side doing what we want to do, and the
16 other guys on the other side --

17 MR. HANLEY: I think --

18 MR. MARTIN: It's just one HUD, and we all
19 have to --

20 CHAIRPERSON TARACIDO: Are you housed in the
21 same facility?

22 MR. MARTIN: Yes, we're all housed in the
23 same building.

24 CHAIRPERSON TARACIDO: You're all living
25 under the same roof?

1 MR. MARTIN: We're all living under the same
2 roof and the same floor.

3 CHAIRPERSON TARACIDO: And the same floor.

4 MR. MARTIN: Yes.

5 CHAIRPERSON TARACIDO: And you didn't think
6 it was important enough to -- to come to you, the fair
7 housing -- I mean the director of fair housing and
8 equal opportunity, that this issue had come up?

9 MR. MARTIN: That was the question of the
10 lady getting a landlord's list, that -- that falls
11 under the administration, which the Department of
12 Housing looks at, and they probably felt that they
13 can --

14 CHAIRPERSON TARACIDO: Well, how --

15 MR. MARTIN: -- handle that.

16 CHAIRPERSON TARACIDO: -- do -- let me ask
17 you this question. How do you feel about the decision
18 not to -- not to support getting that list to the
19 woman? You have the fair housing -- you are the
20 director of fair housing and equal opportunity. How do
21 you feel about that?

22 MR. MARTIN: Well, that -- that's --

23 CHAIRPERSON TARACIDO: Did you think that was
24 appropriate?

25 MR. MARTIN: That's what the participants

1 said today, that HUD did not support that. I -- I
2 would talk to the director of public housing and see if
3 that was what they issued out, but we don't support it.

4 MR. PEARL: I do think -- Larry Pearl. I do
5 think I should say that -- that you should understand
6 that the sanctions for violation come generally with
7 much more weight and -- and in a sense credibility for
8 the participants in HUD programs from the program.

9 There are program sanctions which are --
10 which are far more serious than -- than the civil
11 rights sanctions. That's just the nature of the
12 legislation, and, so, at HUD, we have tried to build in
13 the requirements into the program regulations that a
14 civil rights violation is also a violation of program
15 regulations, and as a result, that opens up a much
16 wider range of sanctions and a swifter -- generally a
17 swifter imposition of those sanctions than going
18 through, let's say, a Title VI procedure or even a Fair
19 Housing Act procedure.

20 MR. HANLEY: Okay. Ms. Lopez?

21 MS. LOPEZ: But now that you know about what
22 has occurred, what are you going to do about it? What
23 has occurred with respect to the failure to give this
24 woman her residential listing from the suburb, what
25 will you do about it?

1 I mean assuming -- what are you going to do?

2 MR. PEARL: I -- as I said, I -- Larry Pearl.
3 I did try to find out at lunch whether my information
4 was true, that headquarters had directed that that --
5 that that list be made available, and I was not given
6 the amount of time available able to do it.

7 I'm going to pursue that because it's obvious
8 from the discussion this morning from the plaintiff's
9 standpoint that if the list is not provided, they're
10 going to file a formal motion in court to provide the
11 list, and I don't see the necessity for going through
12 all of those procedures to do something that it seems
13 to me ought to be done. So, that's the answer to your
14 question.

15 MS. LOPEZ: That was my concern. One, which
16 I believe was answered already. Will you be
17 monitoring, you know, the settlement litigations that
18 come along, and you've already answered that, that you
19 might perhaps support a satellite office.

20 What -- what else will you be doing? What if
21 something else comes up again? Will you take another
22 step to avoid the litigation?

23 MR. PEARL: Well, usually -- for example, in
24 the -- in the Sanders case in suburban Pittsburgh,
25 there's actually a regular -- I forget the name of it,

1 but it's in effect a coordinating body which consists
2 of representatives of plaintiffs, counsel, the
3 defendants are represented, in that case Allegheny
4 County, which is a suburb of Pittsburgh, HUD is
5 represented, and that -- and our field office -- when I
6 say HUD, the field office has the lead, not Washington,
7 and any problems that come up are -- are to be
8 discussed in that group and tried to be resolved short
9 of having to go back into court, and I think that's the
10 best way to do it.

11 Why that procedure didn't work here, I can't
12 say, but obviously that's a superior procedure than
13 having any kind of disputes having to go back to a
14 master or to a judge, and I assume that -- I would hope
15 that in the wake of this incident, that some vehicle
16 will be put together to do that.

17 Now, obviously if -- if some members of such
18 a group don't want to cooperate and want to drag their
19 feet because they really didn't like the settlement in
20 the first place, then that's a deeper-rooted question
21 that's going to have to be dealt with somewhere along
22 the way.

23 CHAIRPERSON TARACIDO: Can I ask -- this is
24 Lita Taracido. Can I ask a question regarding that? I
25 mean what ultimately is the -- is the sanction? I mean

1 if there's total intransigence, if you see continued
2 resistance, if you see a -- an undermining, especially
3 in the litigation concept, where you've had a consent
4 decree that's been entered into, you see that they're
5 not doing it or they're refusing to do things that are
6 perfectly reasonable in order to have that de-
7 concentration happen, what are you going to do finally?

8 MR. PEARL: Well, there are two -- there are
9 two answers to that. One is if it's within the consent
10 decree, obviously you can look at -- at contempt --
11 contempt punishment, if it goes that far. Presumably
12 it wouldn't go that far.

13 The other thing is if there's specific things
14 which are violating independently HUD requirements, we
15 can deal with that. But in many cases, the consent
16 decrees go well beyond HUD requirements.

17 If you're asking what do you do to somebody
18 who -- who signs a consent decree and then doesn't
19 carry it out in good faith, that's a difficult problem
20 that lawyers wrestle with all the time.

21 CHAIRPERSON TARACIDO: Let's bring it back
22 then. Let's forget about consent decrees.

23 MR. PEARL: Okay.

24 CHAIRPERSON TARACIDO: Let's talk about a
25 situation where you have not gone to litigation, where

1 you have gotten complaints from people saying this is
2 going on. You go there. You look at your statistics.
3 You see, my God, you've got the doughnut situation.
4 You have the blacks and the Hispanics here, and
5 everybody around the suburbs are white, and all the
6 poverty sectors are in that section, and all the -- and
7 -- and here, especially in Buffalo, where you have
8 equal amounts of certificates and vouchers being given
9 out in both of these areas, okay, and you find out that
10 you have the kind of situation you found here in
11 Buffalo, where you have residency requirement, all
12 these things that we're describing here. No litigation
13 now. You know about it.

14 All right. What do you do? You go through
15 your monitoring. You go through your complaints unit,
16 and then what do you do when you find out they're not
17 going to do anything short of being -- having an action
18 brought against them, which presumably is a problem
19 these days as we all know? So, what do you do? What
20 does HUD do? You're the -- you hold the purse strings,
21 remember.

22 MS. LOPEZ: This is Gloria Lopez. Will you
23 exercise any of your sanctions?

24 MR. PEARL: Well, depending on the specific
25 fact, we can condition -- condition community

1 development money based on whatever kind of remedy we
2 feel is appropriate to whatever the violation might be.

3 We also in extreme cases could take over the
4 PHA. Again, these are -- these are steps that
5 obviously are hardly taken on an every-day basis or
6 taken lightly.

7 We did take over the Vita, Texas, Housing
8 Authority, in an extreme situation, which was obviously
9 presented there, and I -- there's one other case
10 which -- which eludes me for the moment, where we've
11 done something similar.

12 Would we do that in every-day situations? Of
13 course, we wouldn't, because that's the extreme case,
14 but I -- I think --

15 MR. HANLEY: Mr. Pearl?

16 MR. PEARL: Yes?

17 MR. HANLEY: This is Mike Hanley. I think
18 our concern is that we know that on occasion, extreme
19 situations, HUD has done that, but really over the
20 history of the Community Development Act and the
21 Section 8 Program, 20 years of programs, you can count
22 probably on two hands and probably on one hand the
23 number of instances that's been done. Yet we have
24 2,500 PHAs running Section 8 Programs, I believe that's
25 the figure, and certainly there are problematic

1 policies in many of those that need to have some form
2 of monitoring and enforcement that appears not to have
3 been done.

4 For example, notwithstanding all of the
5 attention that has been given to the local --
6 exclusionary nature of local residency preferences, the
7 discussions that have taken place for years with HUD in
8 the formulation of regulations, we heard yesterday in
9 the Rochester panel that the Town of Irondequoit and
10 the Town of Greece, suburban areas of Rochester, still
11 have their separate lists with preferences that enables
12 residents of those communities, which are over 96
13 percent non-minority, to get subsidies sooner than the
14 people who are waiting on the Rochester list.

15 You know, when -- at what point does -- does
16 HUD's prioritization shift so that the fair housing
17 concerns are raised on an equal level with whether or
18 not they get their reports in on time, and I'm sure the
19 other items that you pay attention to?

20 MR. PEARL: Larry Pearl. The -- the
21 residency preference thing has proved to be a
22 particularly difficult one for us to deal with.

23 On the other hand, as I think you know, there
24 was a case in Massachusetts where we actually --
25 where -- where -- a Title VIII, where -- where a fair

1 housing verdict came down that the use of a residency
2 preference in that particular case had -- had a
3 discriminatory impact and therefore had to be
4 abandoned.

5 That's not the best way to do it. That is on
6 a case-by-case basis, where -- where it's relatively
7 clear that -- that these kinds of restrictions apply,
8 and we just have not been able to -- to come up with a
9 policy that we can get through at the national level
10 that would cover all cases.

11 It's not efficient to do it on a case-by-case
12 basis, but that may be the way we have to do it for
13 awhile, and that's a situation, speaking of bringing
14 things to our attention, that when they're brought,
15 they will presumably be either settled or they'll be
16 charged under the Title VIII process, and a hearing
17 will likely determine that there is discrimination.

18 MR. HANLEY: So, is it correct for me to --
19 to summarize that at this point, the process is
20 complaint-driven, and that unless an administrative
21 complaint is filed under Title VI or Title VIII, a
22 residency preference is not likely to get that type of
23 review?

24 MR. PEARL: Well, I think -- I think HUD
25 offices -- Larry Pearl. I think some HUD offices

1 have -- have -- have -- have initiated -- have made --
2 have -- have noted concerns or have made findings in
3 that situation, but -- but, generally speaking, I would
4 -- I would accept your proposition that for the moment,
5 it's -- it's mostly complaint-driven.

6 MR. HANLEY: Thank you.

7 Dr. Nishi?

8 DR. NISHI: Could you -- could you assess why
9 it is that the national policy could not be forwarded
10 with regard to residency preference? You -- you've
11 indicated that it has to be by case-by-case, and could
12 you indicate why there could not be a national policy?

13 MR. PEARL: Well, I think -- I think there --
14 there are obviously a lot of concerns on the part of
15 suburban communities where -- who -- most of whom --
16 where -- where you have a residency preference, it's
17 often a suburban community that's doing it, and there
18 are a lot of suburban communities out there, and when
19 one tries to change policy, one is -- one is
20 representing obviously the -- working for the entire
21 country, and within HUD as with any -- any other
22 agency, those interests have a very strong say as well.

23 MR. HANLEY: This is Michael Hanley. I'd
24 like to ask you maybe to elaborate on that because
25 you've had specific problems with the moving to

1 opportunity program, and perhaps you could paint a more
2 brushed-in figure of what the political environment has
3 been and the -- and the obstacles you've run into.

4 One of the rules of the committee is, of
5 course, to be providing advice to whoever can use the
6 information, and I believe, Fernando, that includes
7 members of Congress as they're working on -- on
8 legislative changes.

9 So, I think we need to know in terms of
10 people who may wish to use our report to do any
11 administrative advocacy with -- or legislative advocacy
12 with members of Congress, what the environment is. How
13 -- what -- what problems have you run into?

14 MR. PEARL: Well, I can't -- I can't really
15 be more explicit within HUD. If you're asking -- Larry
16 Pearl. If you're asking about the problems that we ran
17 into with moving to opportunity program, it was
18 really -- it was initially a problem of the suburban --
19 of suburban Baltimore.

20 Baltimore City is surrounded by Baltimore
21 County. Baltimore City is majority minority, as I
22 think you know. Baltimore County is majority white
23 non-minority, and the -- as I mentioned before, the MTO
24 program really only involves assistance to a handful of
25 Section 8 -- Section 8 recipients. In fact, no more

1 than 300 total, a 150 who get the strong counseling, a
2 150 who just get a certificate.

3 In fact, the number of Baltimore City
4 residents holding Section 8 vouchers who have already
5 used portability to move to the county exceeds that 300
6 figure. So, it seems a little peculiar that somebody
7 would be so troubled by the theoretical possibility of
8 a small number of people settling in the suburbs,
9 particularly when there was no requirement to go to the
10 suburbs, simply to go to low-poverty areas.

11 In addition, Baltimore County has its own
12 Section 8 Program. It has for some years. They have
13 no conventional program; that is, they have no hard
14 units, but they have a program of several thousand
15 Section 8 vouchers and certificates for count
16 residents, some of whom are minority.

17 So, under those circumstances, it seems
18 rather strange that there would be such a problem.
19 However, unfortunately, it arose during an election
20 year. The issue got -- was used by some candidates for
21 office to try to get votes with the threat that
22 supposedly all the Baltimore -- all the residents of
23 Baltimore City public housing were -- were going to be
24 coming all out to the county, and indeed at the time
25 the discussions took place, there was in fact some

1 demolition going on in Baltimore City under the Hope 6
2 Program and still is as a matter of fact, and shortly
3 after the MTO litigation came the Thompson case, which
4 is a civil rights case in Baltimore, which we have also
5 just about settled, and the settlement in that case
6 also involved the question of a number of African
7 American residents of the city moving into the suburbs
8 using Section 8, and as I say, it was -- it was very
9 much demagogued by -- by local politicians who used
10 that as a way of exacerbating the city/county
11 relationship certainly, and -- and also taking their
12 concerns to members of Congress, and ultimately in fact
13 in this -- in -- in the bill which didn't quite pass
14 last year, the MTO program was -- was literally
15 repealed.

16 Now, it's hard to know exactly what that
17 means since the program -- the families have already
18 received their assistance, and we intend to measure
19 their progress over the next six years, and we can do
20 that with our own resources at HUD, sort of regardless,
21 but the fact that Congress saw fit to -- or -- or -- or
22 almost did since the law didn't pass, to -- to propose
23 to "repeal" the program suggests a -- a concern about
24 the very -- a very small number of families receiving
25 Section 8 who might choose to use that assistance in

1 low-poverty areas.

2 And one final note. The areas that were most
3 being demagogued in the suburbs were not eligible to
4 receive MTO people because they were more than 10
5 percent poverty. So, the whole thing didn't make any
6 sense in a -- in a literal sense. It made -- it made
7 sense in a political sense.

8 MR. HANLEY: Dr. Nishi?

9 DR. NISHI: I would like to move to a
10 slightly different kind of emphasis here. Do you know
11 of any studies or has HUD conducted any study or have
12 access to data about the economic impact of -- of fair
13 housing; that is, as people move out of the central
14 city into the areas of lower poverty, what is the
15 impact overall?

16 I don't mean just in the particular locale,
17 but overall.

18 MR. PEARL: I --

19 DR. NISHI: Are there any studies of that?

20 MR. PEARL: Yeah. I mentioned -- Larry
21 Pearl. I mentioned before that the Guttreau -- the
22 Guttreau studies looked at the specific economics of
23 the particular families, and that's really -- excuse
24 me. I don't -- I don't know if that's entirely
25 responsive to your question.

1 More recently, I think you may be aware of --
2 of studies that were done by David Rusk, former Mayor
3 of Albuquerque, and some others to show the -- the
4 relationship between the economies of the suburbs and
5 central cities, and -- and -- and Secretary Cisneros
6 has quoted from those studies as well in some recent
7 research that HUD has done, showing that the better off
8 the center city is, the better off the suburbs are,
9 making the point that that kind of regional cooperation
10 on anything, but certainly includes housing and
11 transportation, is -- is a positive step rather than
12 the suburbs assuming that they can be in a cocoon
13 totally separate and apart economically from center
14 cities.

15 DR. NISHI: The reason I asked this question,
16 as I believe that --

17 MR. HANLEY: Dr. Nishi for the tape.

18 DR. NISHI: I'm sorry. Yes. The reality is
19 the context in terms of -- of the extent to which or
20 the vigor with which HUD might seek to pursue the fair
21 housing requirements, and that is, it seems to me that
22 if those who wield economic power, that there is -- if
23 there's positive evidence to indicate the economic
24 value of fair housing, including the matter of the
25 greater integration racially and economically of suburb

1 and central cities, that it seems to me this would be a
2 very powerful force, and that's the kind of study that
3 I wonder whether you know about or you might be willing
4 to commission, etc.

5 MR. PEARL: Larry Pearl. I -- I don't --
6 again, I don't know of any particular study. I was
7 also thinking of bridges to work, which is -- which is
8 a pilot that HUD's doing which involves transportation
9 assistance for people in the city, but, of course,
10 there, you're talking about people who remain in the
11 city --

12 DR. NISHI: Yes.

13 MR. PEARL: -- rather than those who move
14 out.

15 DR. NISHI: Yes. I think that economic
16 impact studies have been done with regard to
17 diversification of industry and this sort of thing, but
18 diversification population, which involves different
19 kinds of -- of person power, that I think that such a
20 study might contribute a -- well, it's a kind of impact
21 study that I think we really need, that I think
22 otherwise this resistance could go on forever, and I
23 don't mean just in terms of particular locality or in
24 terms of particular or too short-term, but in terms of
25 sometimes things look as if they're bad, even though

1 they have long-range very positive impacts, and,
2 economically, I think we have to look that way.

3 MR. PEARL: Right. Larry Pearl again. There
4 is one study that HUD just did recently which was to
5 look at the impact of subsidized housing on property
6 values --

7 DR. NISHI: Oh, good.

8 MR. PEARL: -- which is -- which is often, of
9 course, said to be a problem, and that -- that --
10 they're talking about a project base rather than an
11 individual tenant base, and that study was just
12 published and should be available now.

13 MR. HANLEY: Ms. Taracido?

14 CHAIRPERSON TARACIDO: I had a question that
15 comes up out of the context of the other meetings that
16 we've had where you had administrators talking about
17 how the drain of dollars and certificates going out of
18 their jurisdiction into other jurisdictions, where they
19 have to actually pay for the costs of the people who
20 have moved.

21 Now, I don't know to what degree that exists
22 and at what level of, you know, -- it exists, but is
23 there any thought being put into how to deal with that
24 as an issue?

25 The example we were given is some -- some --

1 a client who left, I think it was, Rochester -- might
2 have been Rochester -- might have been Syracuse, went
3 down to some place out West where they're paying a
4 rental that would pay for three people's rental in
5 the -- in the Syracuse area, and -- and they have to
6 pay it apparently for whatever length of time. I don't
7 know how long that goes on for.

8 So, what, if anything, are you doing in terms
9 of thinking through these kind of problems that are
10 being confronted by these administrations?

11 MR. PEARL: Larry Pearl. I -- I -- it's
12 really perhaps a question better put to the people who
13 administer public housing. I mean we're very
14 interested in that because facilitating portability
15 certainly facilitates the kind of -- of opportunities
16 that we're talking about.

17 Portability in a small sense is moving from
18 city to suburbs. Portability in a large sense is
19 moving anywhere in the country or anywhere within the
20 state, and I -- I believe that the public housing
21 people have been looking at ways to try to facilitate
22 the administrative problems of -- of the transfer of
23 two PHAs working between themselves, but I really don't
24 know the details of that.

25 CHAIRPERSON TARACIDO: Thank you.

1 MR. HANLEY: There was another question that
2 has come up from time to time, and we frankly weren't
3 able to have a panelist describe the economic and
4 social implications, able to find someone, and we
5 requested Dr. Henry Taylor from the Center for Urban
6 Affairs here in Buffalo to address this morning.

7 But we have heard the question of if HUD were
8 to succeed with Section 8 mobility programs that have
9 the effect of minorities moving from depressed urban
10 areas, that you're intentionally draining resources
11 that those areas need to maintain the property in those
12 areas, and I would like to know if you have any studies
13 or analysis available on that or any comments about --
14 about the concern.

15 MR. PEARL: Larry Pearl. When you say drain,
16 drain resources, I mean human resources --

17 MR. HANLEY: For example, in Rochester, the
18 Section 8 agency had a couple of landlords come to the
19 program who have quite a few properties in depressed
20 areas, high-poverty census tracts. They were concerned
21 specifically about the changes in the Section 8
22 management assistance evaluation system that might
23 preclude an agency from -- from approving Section 8
24 units in areas where there's a, I guess, concentration
25 of Section 8 or if it's a high-poverty concentration.

1 I'm not sure what the details are.

2 But these were landlords who owned property
3 in those areas, and the Section 8 administrator
4 described his landlords in those areas as the backbone
5 of the Section 8 Program.

6 MR. PEARL: Well, -- Larry Pearl. I guess in
7 every -- in every program change, there -- there is
8 some winners and some losers. Presumably there are
9 some landlords out in the suburbs who can benefit from
10 having a wider market and a more open market in terms
11 of having people from the center city have -- have
12 their units available.

13 Certainly the Secretary's approach has been
14 one of choice, and the way it is right now in many
15 communities, there is not the choice for people in the
16 city to go outside the community. Well, I suppose it's
17 obvious that there might be some impact on landlords to
18 that degree.

19 The concentration issue is one that concerns
20 us a great deal because simply substituting
21 concentration on the part of individual Section 8
22 tenants now tenant-based from what was concentration in
23 conventional public housing, i.e. project-based,
24 doesn't really seem to be a step forward, and it's
25 concentration, of course, both from an economic and

1 from a racial standpoint or -- or ethnic standpoint.

2 So, our concern would be more in terms of
3 trying to make sure that the widest variety of
4 landlords throughout a metropolitan area were
5 participating in the program, and that is what that
6 CMAP standard, I think, is -- is designed to do.

7 Again, that's -- that's to be published, if
8 it hasn't already been, for comment, and certainly
9 landlords who are troubled by it or administrators who
10 think they'll be disadvantaged have every right to
11 comment on it along with everybody else.

12 MR. HANLEY: Thank you.

13 Paul?

14 MR. NGUYEN: Yes. Paul Nguyen. There has
15 been some concern on the part of landlords about
16 inspection for the housing units. Do you understand
17 that the time limit for a person to have -- who has a
18 voucher or looking for a voucher assistance is 60 days
19 to find housing?

20 During the process, -- and they file all the
21 papers, processing the papers and so forth, and,
22 finally, HUD people come up with -- to inspect the --
23 the unit, but they found it uninhabitable. So, is
24 there a flexibility that HUD can provide to the
25 inspector to have some flexibility because there's a

1 minor defect in the housing unit, but they have to
2 comply strictly with the inspection guideline from HUD.

3 MR. PEARL: Larry Pearl. Let me just say the
4 -- the inspection is carried out by the local authority
5 and not by HUD. I think you said HUD inspectors, but
6 it's the local -- it would be the local --

7 MR. NGUYEN: Yeah. Right.

8 MR. PEARL: -- people. But your point is --
9 is -- is well taken, and -- and, again, I'm -- I'm
10 certainly not an expert on the Section 8 Program, but
11 one has a problem where you identify -- let's assume as
12 you say, someone has found a unit. It's inspected, and
13 there are some problems with the unit.

14 One way to do that, assuming that they're
15 minor problems that could be fixable, is they're
16 written up, and the landlord is given the list and told
17 to fix them.

18 What has to happen in that situation is
19 there's going to be a reinspection at some point to
20 make sure that -- that the problems were fixed, and
21 certainly I've heard about all sorts of problems from --
22 -- from not inspecting the units at all before signing a
23 contract with the landlord, which obviously is not a
24 good idea for a lot of reasons, to having the
25 inspection made but then not having sufficient

1 inspection staff or for whatever reason then not -- not
2 doing a follow-up, and then that problem continues to
3 exist or doing the follow-up and finding that the
4 problem still exists and writing it up again and then
5 asking the landlord to fix it and then not getting back
6 again to determine that the problem has been fixed.

7 Obviously if housing quality standards are to
8 mean anything, at some point, the person who's living
9 there needs to be living in a suitable unit, and there
10 is in a sense a little bit of the dilemma once the
11 person is already in the unit, particularly if they're
12 already paying rent to the landlord, but on the other
13 hand, there's got to be some assurance that at some
14 point, that problem will be fixed, and the person's
15 living in a standard unit.

16 So, it's kind of -- it's kind of a balancing
17 act which -- which I don't -- I don't really know how
18 well authorities are balancing it. I think from our
19 standpoint, we want people living in standard units,
20 and whatever system works to accomplish that, that's
21 the one we'd support.

22 MR. NGUYEN: And there's another current
23 issue raised by many people in Syracuse, Buffalo and as
24 well as Rochester, is transportation. They are
25 concerned that if people want to move to the outside

1 the city limit, there's no transportation to get them
2 to the job or vice versa.

3 So, do you have any thought on that or have
4 you done any study with respect to transportation issue
5 at all?

6 MR. PEARL: Larry Pearl. Transportation is a
7 serious issue. It -- it sort of varies across
8 metropolitan areas, I would say, from bad to worse.
9 There are very few metropolitan areas that have a
10 decent suburban transportation system. In fact, if
11 there are any, I haven't heard of them, and, so, when
12 we've talked to the moving to opportunity
13 administrators, the counselors are very clear in
14 working with the families about whether they have
15 transportation, and if they don't, what the limitations
16 are.

17 When we talked to the families in Los Angeles
18 of all places, I mean you almost have to have a car out
19 there, especially if you're moving out to the Valley.
20 You're not likely to be within walking distance of your
21 job, and getting from Point A to Point B in the Los
22 Angeles area is, of course, particularly difficult.

23 There have been some suggestions, some --
24 some programs have tried to provide transportation for
25 people, i.e. by getting grants from private foundations

1 or something to help people acquire automobiles, used,
2 granted, used automobiles, but hopefully reliable
3 transportation, on the theory that providing that
4 mobility is the way to guarantee or, if not guarantee,
5 at least increase the likelihood that they would be
6 able to find a unit without -- without the limitations
7 of being on a bus line or -- or having some kind of
8 transportation.

9 For people who've made the moves, though,
10 when we talk to people in the Guttreau thing, for
11 example, in Chicago, many people are able to cope by --
12 by finding people to car pool with or make other
13 arrangements, even without -- even without vehicles.

14 The Guttreau people probably are a
15 resourceful lot to begin with because they volunteered
16 to participate in the program, seem to have been able
17 to overcome the problems of the Chicago suburbs, which
18 are certainly in transportation no better than -- than
19 other areas.

20 But it is -- it is a serious bar, and it's
21 something that has to be taken into account. There's
22 no -- there's no easy answer to it.

23 MR. HANLEY: I'd like to ask one other -- one
24 question related to a comment that I made this morning
25 in the introduction. This is Mike Hanley.

1 I questioned whether -- whether the
2 initiatives that we've seen in the last few years,
3 which I think for the most part are almost personified
4 by Henry Cisneros, are going to be a flash in the pan
5 or whether there's enough institutionalization of the
6 initiatives now that they'll continue.

7 Are -- are these programs that we've talked
8 about -- we know the litigation is -- most of the cases
9 have been settled. MTO is in the works. You've got
10 some of these new programs started. But in terms of
11 monitoring and -- and advancing initiatives similar to
12 these, are they in jeopardy with transition to a new
13 Secretary?

14 MR. PEARL: Larry Pearl. That's obviously a
15 very different -- difficult question to answer, and it
16 calls for a lot of speculation on my part. I've been
17 through a number of transitions over time since I've
18 been with HUD for awhile, and -- and the short answer
19 is one simply doesn't know.

20 I think -- I think some of the things that
21 have been done -- for example, the -- the settlements
22 in the litigation, most of them stretch over the next
23 Administration really. Many of them are -- are -- are
24 three or five years or seven year settlements, and, so,
25 that -- that in itself will require the department's

1 commitment over the next few years.

2 I also think something like the CMAP de-
3 concentration objective, if it's adopted after the
4 proposed rule, I think could be very helpful in -- in
5 requiring all authorities to -- to consider more
6 seriously the issue of -- of making sure that they
7 disburse their Section 8 populations or at least give
8 them an opportunity to disburse as much within the
9 community as is possible given the spread of fair
10 market rents.

11 The pressures of -- of budgetary constraints
12 are -- are severe over the next few years, and getting
13 more resources, for example, for monitoring or getting
14 more money for these programs is going to be extremely
15 difficult.

16 We do expect to monitor in the sense of
17 trying to see the progress of these -- the \$69 million
18 that I talked about before that's committed to these
19 mobility programs, and I would hope that if we can show
20 the positive value of those programs and perhaps other
21 studies, such as the economic studies you're
22 suggesting, that those studies will have an impact,
23 both on decision-makers within the department and on --
24 in the Congress, to provide the necessary resources to
25 at least keep the counseling level to the point where

1 we can provide opportunities for people who need them.

2 MR. HANLEY: Any more questions for the panel
3 from the committee?

4 (No response)

5 MR. HANLEY: I'll turn it back to -- to Lita
6 Taracido.

7 CHAIRPERSON TARACIDO: We were to have had
8 another panel which was Relationship of Section 8
9 Administration and Fair Housing, and the two people
10 that were supposed to be here, and I don't believe
11 they're here, are Mary Shine, Executive Director of
12 Rental Assistance Corporation, and Elizabeth Huckabone,
13 Executive Director of the Belmont Shelter Corporation.

14 Neither one of them have appeared. Had they
15 appeared, had we had their testimony, Mr. Hanley would
16 have had to recuse himself under the circumstances
17 because he's been involved in the action here in
18 Buffalo, but nonetheless they're not here, and we did
19 receive some written materials from Mary Shine but none
20 from Elizabeth Huckabone in the Belmont Shelter
21 Corporation.

22 So, with that, I guess this closes the --
23 doesn't close it quite yet. Sorry. I wanted to find
24 out, is there anybody else in the audience that would
25 like to either comment or question anybody or anything?

1 Yes, sir?

2 MR. KERN: Hi. I was echoing the concern --
3 I'm Richard Kern. I'm a social worker and a housing
4 activist. I have been working for about 10 years for
5 reform of public housing primarily but have been
6 focused heavily on low-income housing in neighborhoods,
7 and I wanted to reflect the concern expressed earlier
8 about the lack of a pro-active approach by the HUD
9 office in Buffalo.

10 I have been absolutely shattered by the waste
11 and corruption in housing programs in Buffalo that have
12 caused tremendous suffering in poor communities.

13 You folks are on the edge of some of the
14 extreme blight here. This is not by any means a good
15 example of Buffalo's blight. We now have 20,000
16 housing vacancies. We're one of the poorest cities in
17 the country, one of the most segregated, and yet the
18 housing programs, and HUD puts about a \$150 million a
19 year into this community, are not making an appreciable
20 difference because the money goes to developers and
21 goes to public housing in ways that dis-empower poor
22 people in frightening ways.

23 I mentioned earlier the HUD audit that was
24 released in June that said that the public housing
25 authority was massively wasteful, massively corrupt,

1 and the Buffalo HUD office has not done anything
2 visible to enforce that audit and enforce the reform
3 that should come out of it, and I think again today,
4 the lack of appearance by the people from the Section 8
5 Program demonstrates that they do not fear that HUD
6 will take any action against them on the tail of a
7 civil rights action that they would not feel that they
8 should not come and appear before a civil rights body,
9 to convey some goodwill and some willingness to follow
10 through on this, I think again reflects the atmosphere
11 in this community.

12 We have a very inactive civil rights
13 community, and I think we'd do better if we had more
14 activists here who were kind of threatening to do dire
15 things.

16 I was shocked to hear of that woman's
17 experience this morning, not getting that list, and I
18 certainly pledge that I will follow up in whatever way
19 I can as an activist, as a journalist.

20 But there is the perception that HUD will do
21 nothing to these situations, and I would urge that you
22 folks with whatever bully pulpit you have put pressure
23 on HUD because this community is in deep distress.

24 We are losing population at a frightening
25 rate as middle-class people move out of the city, and,

1 so, affirmative fair housing becomes kind of a moot
2 point. If you have nothing left but poor people, and
3 this is the irony in public housing, applicants for
4 public housing who are overwhelmingly black and
5 minority are still not allowed to choose where they can
6 live, even though 90 percent of the occupants of the
7 family developments are minority, and, so, we -- we
8 don't provide the most basic choice while putting
9 incredible amounts of HUD money into those programs,
10 and yet there is no mechanism by which those inequities
11 can be effectively addressed, and I think the lack of
12 civil rights activity is partly because people have
13 given up.

14 They don't see the systems as working, and,
15 so, they just give up, and we have here a poverty
16 industry where people almost view HUD programs as,
17 well, okay, a few middle-class people get jobs, and
18 that's at least better than not having the money come
19 in for anything, and it creates such a deep cynicism.
20 I don't know how to counter it.

21 I had requested of HUD, for example, that
22 they give to me so I could educate the community on
23 what some of the other settlements in other communities
24 have done. What were their positive experiences with
25 these civil rights settlements, so that we could

1 educate people here and not have to make the same
2 mistakes that were made elsewhere.

3 I got no response at all after repeatedly
4 requesting, you know, could you please share, you know,
5 do you have some sort of clearinghouse, so that we can
6 educate people?

7 So, even in ways where they were not taking a
8 position, they were just sharing information, the HUD
9 office seems to feel that it can't do anything pro-
10 active. It just -- you know, it's complaint-driven,
11 and I'm not even sure they address the complaints.

12 So, I am extremely upset with HUD. I think
13 they fund a lot of the corruption in the city, and they
14 certainly fund a lot of the despair that I see in poor
15 communities.

16 So, I would urge you to -- to persist in
17 addressing that problem.

18 CHAIRPERSON TARACIDO: I have a question
19 about the HUD audit, and I guess it has to be addressed
20 to HUD folks, right? What about that audit that he was
21 describing? Are you familiar with it? Could you --
22 could one of you come up and respond to that?

23 MS. SPIELMAN: I'm Joan Spielman. The
24 Inspector General conducted an audit of the Buffalo
25 Municipal Housing Authority, and the procedure is that

1 after the Inspector General does it, he turns it over
2 -- they turn it over to -- to the Public Housing
3 Department of HUD.

4 We review it to see if it is appropriate, if
5 their recommendations are -- are appropriate to the
6 problems, if they identify the problems correctly,
7 because the Inspector General is not a specialist in
8 any one area, but a generalist in a lot of them, and we
9 make our recommendations, and then the audit goes back
10 to the housing authority, and then the housing
11 authority has a year to make the recommendations --
12 to -- to make the -- the -- to address all the problems
13 that the IG found.

14 CHAIRPERSON TARACIDO: Were the findings
15 correct in your view?

16 MS. SPIELMAN: Oh, they were not -- they
17 didn't go broad enough. So, we -- we -- we expanded
18 the -- the findings were, yes, but the recommendations
19 were not broad enough to actually solve the problems.
20 So, we expanded the recommendations for -- for
21 improving the agency, and we sent it back to them -- to
22 them, and they have a year, I think. I think it's some
23 time in mid-November of 1997 that they have to have
24 them all addressed.

25 CHAIRPERSON TARACIDO: And you all --

1 MS. SPIELMAN: And we monitor them on a
2 regular basis. They have to send regular reports to
3 us. We go out there and look for them on the --

4 CHAIRPERSON TARACIDO: We would request a
5 copy of that audit and your follow-up with respect to
6 that. I'm assuming there are written documents that
7 would show --

8 MS. SPIELMAN: Oh, yes.

9 CHAIRPERSON TARACIDO: -- what happened with
10 respect to those issues.

11 MS. LOPEZ: Where are we -- Gloria Lopez.
12 Where are you at this particular moment in terms of
13 getting them to do certain things?

14 MS. SPIELMAN: Well, the --

15 MS. LOPEZ: What have they done?

16 MS. SPIELMAN: Well, the IG submitted its
17 audit to us around June, I think, and it took us from
18 June through the beginning of November to go out --
19 look at their work, see whether they did it properly,
20 and that's the normal procedure. There's nothing
21 unusual about that, and then we -- we wrote our report,
22 which is the only report they got, and they got that at
23 the beginning --

24 MS. LOPEZ: Have they made any changes since
25 they received your report?

1 MS. SPIELMAN: Have -- well, they've made
2 lots of changes, but they have -- they -- they are
3 working very hard to address these issues, but it's
4 only the very beginning stage of it, and we haven't had
5 the opportunity to review what they've done yet.

6 MS. LOPEZ: Okay.

7 MR. KERN: Richard Kern. If I could just
8 interject, I mean what -- what concerns me is the
9 tolerance for diverting housing into patronage jobs,
10 and that was the most compelling finding in the report.

11 The HUD audit said that there were a 187
12 surplus workers. By my account, that was 5.6 million
13 of annual waste of housing money going into patronage
14 jobs.

15 The housing authority in Buffalo has long
16 been viewed as a patronage resource, and there is no
17 effective mechanism that says, now, wait, this is
18 unjust. If this is supposed to be housing for the
19 poor, then we don't turn it into a political resource.

20 In the Board of Education, when there's a
21 budget crunch, teachers get laid off immediately.
22 Here, we have -- actually, that report was released
23 first in March, and, so, here we are six months later,
24 and I'm not aware of any workers being laid off, those
25 excess people, and we're meanwhile paying workers that

1 are unproductive, unneeded, and meanwhile the housing
2 needs of the poor are in deep crisis in this community,
3 and there just seems to be no justice mechanism that
4 says that's stealing from the poor. That's supposed to
5 be housing for the poor, not jobs for the politically-
6 connected, and yet there is no mechanism to correct
7 that that I have found, and HUD is very complacent
8 about it.

9 I mean they will continue paying those
10 workers until the housing authority gets around, if
11 they ever do, and I don't think they ever will, to
12 laying those people off.

13 CHAIRPERSON TARACIDO: Mr. Hanley?

14 MR. HANLEY: Just as a point of
15 clarification, the audit we've been talking about is
16 related to the public housing program rather than the
17 Section 8, and perhaps, Ms. Spielman, you could confirm
18 if I'm correct on this or not, but in the
19 administrative fee structure for the Section 8 Program,
20 the fees would be established by formula percentage of
21 the amount of the subsidy that's administered by the
22 Section 8 administrator.

23 So, you wouldn't run into the same types of
24 abuses that Mr. Kern is concerned about on the public
25 housing side.

1 MS. SPIELMAN: No.

2 MR. HANLEY: Is that correct?

3 MS. SPIELMAN: No. They're funded totally
4 differently.

5 MR. HANLEY: So, there would be -- there's a
6 cap then on the -- on the amount of fees that the
7 Section 8 agencies receive related to that.

8 MS. SPIELMAN: Yes, it's totally related to
9 the needs they have under the contract. The Section 8
10 fees are, yes.

11 MR. PADILLA: Juan Padilla. I was thinking
12 that really all these issues together create very
13 hostile environment for poor people and poor people as
14 human beings and maybe with the idea or appropriate
15 that HUD set out a special office in the area to take a
16 comprehensive look at this -- at this situation better
17 because if you had a hostile climate in a particular
18 area, you cannot really advance any of these goals, you
19 know, be it Section 8, be it any other type of
20 programs.

21 So, in order to create a climate that is
22 conducive to -- to respect, to meaningful change, we
23 need to have a mechanism that really is designed to
24 take care of that. Otherwise, we keep repeating the
25 same mistakes. I don't know what your feeling is for

1 this, but it looks to me that in Buffalo, there are a
2 lot of issues here that are really creating a very
3 hostile environment for living.

4 CHAIRPERSON TARACIDO: I have a question of
5 Ms. Spielman. You're with the Public Housing Unit or
6 Office of HUD --

7 MS. SPIELMAN: Yes.

8 CHAIRPERSON TARACIDO: -- which means are you
9 the office we were talking about earlier that deals
10 with Section 8?

11 MS. SPIELMAN: Yes.

12 CHAIRPERSON TARACIDO: All right. So, then
13 you presumably would be the person that would have been
14 addressed by the people who were here earlier today
15 regarding this landlord list.

16 MS. SPIELMAN: Yes.

17 CHAIRPERSON TARACIDO: Could you please tell
18 us what happened in that situation?

19 MS. SPIELMAN: Well, I don't -- I don't know
20 the whole situation, and part of the reason I don't is
21 because it was also -- she went to Washington with it,
22 and when it came back from Washington after she
23 explained -- she talked to eight different people, it
24 went to the area director, which went around our
25 department, and I personally was only involved in it at

1 the very beginning, and I don't know what happened to
2 it, and I don't know what happened with the director to
3 -- from -- from Washington, if it ever got down to --
4 to -- to --

5 CHAIRPERSON TARACIDO: When you say the area
6 director, who is that, and where is that person
7 located?

8 MS. SPIELMAN: Well, he's in our office, but
9 he's the head of the whole office. Ken LeBean. She
10 mentioned his name.

11 CHAIRPERSON TARACIDO: Oh, so, Ken LeBean
12 never talked to you about it?

13 MS. SPIELMAN: Not me personally. He did
14 talk to -- to people in our office, yes, but not to me
15 personally. I mean we -- the only -- the only -- what
16 I don't know is who -- who told the housing authority
17 to give the list to her and to Ms. Smith. I don't -- I
18 don't know how that took place because I wasn't part of
19 that.

20 CHAIRPERSON TARACIDO: Well, she wasn't given
21 the list really. I mean that's the point. The point
22 was she was not given the list.

23 I think there's a hand up in the back. Would
24 you identify yourself?

25 MS. YACKWIN: My name is Ellen Yackwin, and I

1 was in court this morning, and just to clarify to the
2 panel what exactly transpired there and where it stands
3 as of the moment there, as of the moment that we left
4 court, basically after the issue was discussed in
5 court, and Judge Curtain did express his concern over
6 the failure of HUD Belmont to hand over the list, HUD's
7 -- the HUD -- the Justice Department attorney who was
8 representing HUD took the position in court that the
9 settlement did not require Belmont to turn over the
10 list, and that it was inappropriate to -- there was a
11 procedural matter, that there was nothing in the
12 settlement, so therefore it was inappropriate for Judge
13 Curtain to be deciding this issue.

14 Judge Curtain expressed his concern, said
15 that he would expect that if it were not resolved
16 informally and fast, that he would expect that the
17 plaintiffs would file some sort of motion, either
18 before him or by way of some sort of FOIL or FOIA
19 request if that were possible, and we -- as Jim
20 Morrissey put it, we certainly would intend to do that,
21 if we can't resolve this matter sooner and faster.

22 After Judge Curtain left the bench, Stuart
23 Licht, the attorney for Justice and for HUD, spoke to
24 us informally and indicated that he would be having Jim
25 Berlinsky, who is the chief counsel in the Buffalo

1 office, call him, Jim Morrisey, tomorrow, that they
2 fully expected that they would "make" the list
3 available for inspection.

4 That was -- those were his words. I don't
5 know whether that meant that we will get a call saying
6 that Ms. Smith can come in and take a piece of paper
7 and write notes off the list. We don't know what that
8 means.

9 In any event, the list was not handed over,
10 and we have not received a phone call, and as I know,
11 we won't be receiving that phone call till tomorrow.
12 So, we would hope that -- I was very encouraged by what
13 you said, Mr. Pearl, that your -- your information was
14 that she would be given the list.

15 I would hope that making the list available
16 in private for some sort of ex parte inspection and
17 note-taking would not be acceptable, if that's what we
18 hear, but we won't know till tomorrow.

19 CHAIRPERSON TARACIDO: So, the only person
20 who will have that list will be this client. Is that
21 it?

22 MS. YACKWIN: No.

23 CHAIRPERSON TARACIDO: Belmont will not be
24 required to -- I'm asking the --

25 MS. YACKWIN: I'm sorry.

1 CHAIRPERSON TARACIDO: -- HUD staff. I mean
2 we're going to have a situation here where the only
3 person that will have access is this person because she
4 brought a motion before the court or are we going to
5 have some kind of procedure or policy put in place for
6 this situation that would allow anybody that wants to
7 look at the Belmont landlord list be able to see it?
8 Answer? Anybody that wants to answer it. I don't know
9 which one of these gentlemen and -- ladies or gentlemen
10 would be the best person to answer that question.

11 MR. PEARL: Well, -- Larry Pearl. I don't
12 know the best person to answer either. I expressed the
13 view this morning that it had been -- that the
14 instruction had been given that the list should be
15 turned over.

16 I know nothing more than that. The idea that
17 somebody has to come in and sort of in a secret
18 proceeding copy a list doesn't sound to me like making
19 a list available. So, I know nothing about what
20 representations the Justice Department attorney made on
21 his own or HUD's behalf, and I really am at a loss to -
22 - you know, to talk about the details of it. '

23 But it did strike me that my understanding
24 was that the list was to be made available, and I'm
25 going to proceed with that and see if that's not --

1 CHAIRPERSON TARACIDO: And it was your
2 understanding through what channel? Through --

3 MR. PEARL: It's -- it's -- it's not a very
4 useful channel. It was -- it was secondhand
5 information about -- about what a deputy assistant
6 secretary for Public Housing had said. Whether --
7 whether it was accurate or not, I can't speak to it
8 because I didn't get that information from her
9 directly, but as I say, I was talking to her assistant
10 at lunch, and I'm going to be talking to her before I
11 leave town.

12 DR. NISHI: Is that information going to be
13 made available for this record?

14 MR. PEARL: It -- it -- if something doesn't
15 happen in the next 30 days, I'm sure that others will
16 make it available for your record. So, yes, I think it
17 will be.

18 DR. NISHI: Thank you.

19 MR. HANLEY: Just one point for the record
20 regarding the failure to appear of the two Section 8
21 administrators. You mentioned that -- that we had
22 intended fully that I would recuse myself from the
23 panel.

24 I just wanted to clarify with Fernando Serpa,
25 our staff liaison, that -- that that situation was in

1 fact communicated to the speakers.

2 MR. SERPA: Yes. Fernando Serpa. Both of
3 the administrators were told that due to the nature of
4 Michael's involvement, that he would completely recuse
5 himself from that session, and that they would not be
6 taking any questions from him or have to answer any
7 questions from him, and that we were just purely
8 interested in their side, and what we wanted to hear
9 was their information and any information they wanted
10 to provide to us.

11 DR. NISHI: Do I understand that some
12 response has been received in writing?

13 MR. SERPA: We had sent each of the
14 administrators the 20 questions that we had been
15 sending all the administrators in all three cities, and
16 Mary Shine from RAC did respond, but not Elizabeth
17 Huckabone.

18 CHAIRPERSON TARACIDO: And, Mr. Kern,
19 correct?

20 MR. KERN: Yes.

21 CHAIRPERSON TARACIDO: Richard Kern has given
22 us a copy of a couple of articles that appeared, one in
23 the Buffalo Alternative Press and one in the Buffalo
24 News, which we will accept as part of our record as
25 well.

1 MR. KERN: Could I just add one other piece
2 of information I'm not sure that you're aware of?
3 There was a question earlier that I don't think was
4 answered.

5 I'm Richard Kern. The impediments to fair
6 housing study that was done in Buffalo. There were
7 actually two studies done here, one for Erie County and
8 one for Buffalo, which I thought was a major impediment
9 to fair housing itself, that it should have been one
10 study of the entire region.

11 But in Buffalo -- and each of those halves of
12 the study cost roughly \$30,000 or \$60,000 totally. The
13 county had a very perfunctory public hearing, at which
14 I and maybe two other citizens came. It was not
15 publicized very well.

16 The city never held a public hearing. The
17 report was massively late. It was supposed to be
18 released last February, I believe. It was never
19 publicly released. It finally became part of, I guess,
20 the block grant document in September, maybe, or -- I
21 can't -- or August perhaps with no public discussion at
22 all, and the entire study was done in rather great
23 secrecy.

24 I had asked to be party to that study, to
25 give some input, because I have studied this a great

1 deal, and I was not allowed to be party to that. I'm
2 viewed somewhat as being politically incorrect, but
3 what is most troubling is that there was never a public
4 dialogue about that study, and I think that's a
5 violation of the HUD block grant requirements, but
6 again I saw no -- no pressure on the city to do
7 anything.

8 Conclusion

9 CHAIRPERSON TARACIDO: Is that it? Well, I
10 want to thank everybody that's come and participated,
11 and we will certainly find -- we will certainly find
12 the information useful, and we'll be considering
13 everything that's been provided to us in the way of
14 information.

15 Again, thanks very much for participating.

16 (Whereupon, the meeting was concluded.)

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before: U.S. COMMISSION ON CIVIL RIGHTS

In the Matter of: FACT FINDING MEETING

were held as herein appears and that this is the original transcript thereof for the file of the Department, Commission, Administrative Law Judge or the Agency.



Official Reporter.

Dated: DECEMBER 17, 1996