

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

The Inclusive Communities Project, Inc.,
Plaintiff,

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v.

CIVIL ACTION NO.

Buchanan Street Partners and
Greystar Real Estate Partners,
Defendants.

COMPLAINT

Introduction

1. The Inclusive Communities Project, Inc. (“ICP”) is a Dallas based fair housing and civil rights organization. ICP focuses on the issue of racial segregation and policies and practices which operate to exclude low income families from higher opportunity, predominately White or non-minority areas of the Dallas metropolitan area. In furtherance of ICP’s mission, ICP assists Dallas Housing Authority Section 8 families that have “Walker Settlement Vouchers” in finding housing opportunities in the suburban communities in the Dallas area. The DHA Walker Settlement Voucher families are an entirely Black or African American population. The DHA Section 8 Housing Choice Voucher families are approximately 85% Black or African American.

2. Defendant Buchanan Street Partners states that it and Defendant Greystar Real Estate Partners purchased the Shadows of Cottonwood a multifamily rental complex located at 3950 North Story Road, Irving, Texas. Defendants refused to negotiate with ICP for the rental of dwelling units by ICP’s Settlement Voucher clients, an entirely Black or African-American population, at the Shadows of Cottonwood. Defendants refuse to participate in the ICP mobility

assistance for the Walker Settlement Voucher program. The prior owner of the Shadows of Cottonwood did participate in the Walker Settlement Voucher program and the Dallas Housing Authority Section 8 Housing Choice Voucher program. The defendants' refusal to participate will result in the involuntary relocation of the voucher tenants who entered into leases with the prior owner.

3. ICP seeks injunctive relief requiring the owner to negotiate with ICP for the rental of dwelling units for ICP's Settlement Voucher clients and to make dwelling units available at the Shadows of Cottonwood for Walker Settlement Voucher program participants and Dallas Housing Authority Section 8 Housing Choice Voucher program participants.

Jurisdiction

4. This Court has jurisdiction under 42 U.S.C. § 3613(a).

The Inclusive Communities Project, Inc - plaintiff.

5. The plaintiff Inclusive Communities Project ("ICP") is a fair housing focused non-profit organization which works with families seeking to obtain and retain housing in predominately non-minority and non-poverty concentrated areas of the Dallas metropolitan area. This is part of ICP's work to break down barriers to the creation of racially and economically inclusive communities. ICP works with families participating in the Section 8 Housing Choice Voucher program (the "Section 8 program") administered by the Dallas Housing Authority ("DHA"). In particular, ICP assists DHA "Walker Settlement Voucher" families to find housing in the non-minority and non-poverty concentrated areas of the Dallas metropolitan area. ICP assists DHA Section 8 program families who choose to lease dwelling units in non-minority areas with counseling and financial assistance. ICP's office is located in the City of Dallas,

Dallas County, Texas.

Defendant

6. Defendants claim to be the owners of the rental apartment complex Shadows of Cottonwood located at 3950 North Story Road, Irving Texas.

ICP, the DHA Walker Settlement Voucher program, and ICP's assistance programs.

7. The DHA Walker Settlement Voucher program is a version of the Section 8 Housing Choice Voucher program that is unique to the Dallas, Texas metropolitan area. The program was established in 2001 as part of the Dallas public housing desegregation remedy in *Walker v. HUD*, CA 3-85-1210-R (N. D. Tex.). HUD gave DHA an additional 3,200 vouchers ("Walker Settlement Vouchers"). These Settlement Vouchers can pay up to 125% of the normal Section 8 Fair Market Rents. Because the vouchers were provided by HUD as a remedy for racial segregation in DHA's housing programs, the vouchers are limited to Walker class members, Black or African-American participants in DHA's housing programs, and are to only be used in non-Black and non-poverty concentrated census tracts in the Dallas metropolitan area.

8. The Walker Settlement Vouchers also came with funding for landlord bonus payments and other financial assistance that is not available for the regular Section 8 program. This additional funding is used to facilitate the use of the Settlement Vouchers in the non-Black and non-poverty concentrated census tracts throughout the Dallas metropolitan area. DHA will pay two separate types of bonuses to landlords renting to Settlement Voucher participants. DHA will pay up to one month's rent if the unit is new to the Section 8 program. DHA will pay an incentive payment up to \$1,000 to landlords in order to reduce the gross rent for the unit to a

level within the DHA payment standard.

9. ICP can also provide financial assistance to Walker Settlement Voucher participants. This assistance can be used in addition to the DHA financial assistance. ICP's current financial assistance available to Walker Settlement Voucher families that would rent from The Shadows of Cottonwood:

- up to \$200 for application fees
- \$300 moving fee assistance
- up to \$300 utility deposits/transfer fees
- security deposit assistance between \$200 and \$1,800 or depending on the number of bedrooms in the unit and the location,
- landlord incentive bonuses between \$200 and \$2,028 depending on the number of bedrooms in the unit and the location.

10. ICP helps its Walker Settlement Voucher clients by negotiating with landlords on the terms for the rental of units by those clients. These negotiations are usually conducted for the client by ICP Mobility Assistance Program counselors. In addition, ICP seeks to enlarge the supply of housing available for its clients by direct contact with landlords to determine whether and on what terms the landlords will be willing to rent to ICP's clients.

11. ICP also helps its Walker Settlement Voucher clients negotiate with DHA and obtain timely and appropriate decisions from DHA with respect to a new unit move. ICP's program of assistance includes providing post-move services to its client families. These services include the counseling, social work, advocacy, and referrals to help the families with any difficulties that relate to the move or to difficulties unrelated to housing. ICP also assists its clients in resolving

pre-move and post-move issues involving the relation among the client, the landlord, and DHA.

12. The ICP program for its clients participating in the Walker Settlement Voucher program is not the usual Section 8 Voucher program. The usual Section 8 Voucher program client has none of the additional assistance in paying higher rents, landlord bonuses, security deposits, and other expenses. The additional counseling and social work services are not available to most of the usual, non-ICP, non-Settlement Voucher Section 8 participants. All of this additional assistance is available for participants in the ICP and DHA Walker Settlement Voucher programs.

13. ICP has assisted clients move to The Shadows of Cottonwood. If these clients are forced to move then ICP will assist them with counseling and financial assistance.

ICP must recruit new landlords for its clients because there are a limited number of rental units available in non-minority and non-poverty concentrated areas.

14. Part of ICP's work in assisting Walker Settlement Voucher clients is finding and obtaining rental units in non-minority and non-poverty concentrated areas.

15. There are fewer units available in non-minority and non-poverty concentrated areas for ICP's clients than in minority concentrated areas.

16. ICP's survey of landlords shows that there are a limited number of landlords in non-minority and non-poverty concentrated areas that are willing to rent units to families with Section 8 vouchers.

The Shadows of Cottonwood offer rental housing opportunities to Walker Settlement Voucher and DHA Section 8 Housing Choice Voucher participants in a non-minority and non-poverty concentrated area.

17. Prior to the Defendants' ownership of the Shadows of Cottonwood that apartment

complex participated in the Walker Settlement Voucher program and the DHA Section 8 Housing Choice Voucher program.

18. The Shadows of Cottonwood is located in an non-minority and non-poverty concentrated area that is eligible for the Walker Settlement Voucher program. The apartment complex is located in census tract 143.04, Block Group 5. The census tract was 9.2% Black or African American and 9% Hispanic or Latino in the 2000 U.S. Census. The census tract had 6.2% of its population with income below poverty in the 2000 U.S. Census. Block Group 5 was 6.4% Black or African American and 7% Hispanic or Latino. The Block Group had 4.8% of its population with income below poverty in the 2000 U.S. Census.

19. Dallas County was 20% Black or African American and 30% Hispanic or Latino with 13.4% of the population with incomes below poverty in the 2000 U.S. Census. The City of Dallas, the past or current location of many of ICP's clients seeking housing in non-minority and non-poverty concentrated areas, was 25.5% Black or African American and 35.6% Hispanic or Latino with 17.8% of the population with incomes below poverty in the 2000 U.S. Census. By comparison to the population and the concentrations of minority and poverty populations in Dallas County and the City of Dallas, the location is a non-minority and non-poverty concentrated area.

20. Less than 8% of the total units at the Shadows of Cottonwood were occupied by Walker Settlement Voucher and DHA Section 8 Housing Choice Voucher participants. As of July 10, 2008 Dallas Housing Authority's Section 8 recipient list stated that 32 Section 8 Housing Choice Voucher families and eight Walker Settlement Voucher program families were tenants at Shadows of Cottonwood. There are 504 total units at Shadows of Cottonwood. Several

of ICP's clients have been among the Walker Settlement Voucher tenants at the Shadows of Cottonwood.

21. The apartment complex has been participating in the DHA Section 8 Housing Choice Voucher program since at least 2000.

ICP requested that the defendants negotiate about and participate in the Settlement Voucher program.

22. ICP requested the defendants to negotiate about and participate in the Walker Settlement Voucher program as assisted by ICP. The defendants refused to either negotiate about or to participate in the Walker Settlement Voucher program as assisted by ICP.

23. ICP requested the defendants to negotiate about and participate in the Housing Choice Voucher program. The defendants refused to either negotiate about or to participate in the Housing Choice Voucher program.

The defendants' actions have disparate effects based on race.

24. The defendants' refusal to negotiate about or to participate in the Walker Settlement Voucher program as assisted by ICP makes dwellings unavailable to a population that is 100% Black or African American - the population eligible for and participating in the Walker Settlement Voucher program.

25. In addition, the defendants' refusal to negotiate about or to participate in the Walker Settlement Voucher program as assisted by ICP makes dwellings in a non-minority and non-poverty concentrated area unavailable to a population that is 100% Black or African American - the population eligible for and participating in the Walker Settlement Voucher program.

26. The defendants' refusal to negotiate about or to participate in the Section 8 Housing

Choice Voucher program makes dwellings unavailable to a population that is approximately 85% Black or African American - the population eligible for and participating in the Section 8 Housing Choice Voucher program.

27. In addition, the defendants' refusal to negotiate about or to participate in the Section 8 Housing Choice Voucher program makes dwellings in a non-minority and non-poverty concentrated area unavailable to a population that is approximately 85% Black or African American - the population eligible for and participating in the Housing Choice Voucher program.

The defendants have given no legitimate, non-discriminatory reason for its refusal to participate in the Section 8 programs.

28. The only stated reasons for defendants' refusal to negotiate about or to participate in either the Walker Settlement Voucher program as assisted by ICP or the DHA Section Housing Choice Voucher program is in an October 21, 2008 letter from Greystar to ICP. Greystar stated only "For various reasons, which include the ownership change and the renovations, Shadows of Cottonwood will no longer be participating in the Section 8 program."

29. Neither an ownership change nor renovations to a rental property are legitimate, non-discriminatory reasons for refusing to participate in the two programs. The same letter notes that Greystar does have other properties which accept Section 8. The transfer of ownership from one owner who accepts Section 8 to another entity that includes an owner who also accepts Section 8 does not state a legitimate non-discriminatory reason for refusing to participate in the Section 8 programs. Defendant Greystar accepts Section 8 at some of its other properties that are located in minority concentrated areas.

30. The fact that renovations may take place at the Shadows of Cottonwood alone is not a

reason to refuse to participate in the Section 8 programs. Renovations are a feature at both Section 8 and non-Section 8 participating apartments.

The defendants' actions are purposefully discriminatory because of the race and color of ICP's clients and the other persons participating in the two voucher programs.

31. Defendants' actions are purposefully discriminatory because those actions take into account the race, color, and ethnicity of the participants in the two Section 8 programs, the residents of the area in which the apartment complex is located, and the residents who will occupy the dwelling units at the apartment complex instead of the participants in the two Section 8 programs.

ICP Standing.

32. ICP seeks to create and obtain affordable housing opportunities in non-minority concentrated areas for persons eligible for low rent public housing and to provide the counseling and other forms of assistance to Black families seeking to use their Walker Settlement Voucher or DHA Section 8 voucher to move into low-poverty, non-minority concentrated areas throughout the Dallas metropolitan area. ICP provides mobility counseling and mobility assistance to these Black Section 8 families seeking housing opportunities in non-minority concentrated and non-poverty concentrated parts of the Dallas metropolitan area.

33. The counseling assistance provided by ICP to Black DHA Section 8 participants includes pre-move family counseling and related financial assistance to assist the families who want to make and sustain a desegregative housing move. The mobility assistance includes negotiating with landlords as necessary to obtain units in the eligible areas at rents that are affordable by the Section 8 families and eligible for the Section 8 subsidy. The financial

assistance provided to these families by ICP includes the payment of application fees, security deposits and utility deposits to assist families moving into housing that provides desegregative housing opportunities in non-minority, non-poverty concentrated areas, where such assistance is necessary to make the desegregative move possible. ICP also makes landlord incentive bonus payments to landlords who agree to participate in the Walker Settlement Voucher program or DHA's Section 8 program and provide desegregative housing opportunities in non-minority, non-poverty concentrated areas when such incentives are necessary to secure housing for the Section 8 families. Section 8 families may also receive ICP assistance in the form of a contribution to their reasonable moving expenses in order to make a move in an eligible area.

34. ICP's clients are Black or African American families participating in the Walker Settlement Voucher program. ICP can assist DHA's Section 8 Housing Choice Voucher Program participants.

35. The defendants' refusal to negotiate about or participate in the Walker Settlement Voucher program or DHA's Section 8 Housing Choice Voucher Program is likely to cause ICP to spend its staff and financial resources assisting its clients at The Shadows of Cottonwood to find other housing in non-minority and non-poverty concentrated areas.

36. The defendants' refusal to negotiate about or participate in the Walker Settlement Voucher program or DHA's Section 8 Housing Choice Voucher Program removes dwelling units from the pool of such units for which the owner is willing to participate in either of the two programs. Instead of assisting some of its future clients to find housing at the Shadows of Cottonwood, ICP is likely to spend additional staff and financial resources assisting those future clients to find other housing in non-minority and non-poverty concentrated areas.

Claims for relief

37. Defendant's actions refusing to negotiate about participation in or participate in the Walker Settlement Voucher program as assisted by ICP make dwellings units unavailable because of race or color and violate 42 U.S.C. § 3604(a).

38. Defendant's actions refusing to negotiate about participation in or participate in DHA's Section 8 Housing Choice Voucher Program make dwelling units unavailable because of race or color an violate 42 U.S.C. § 3604(a).

Prayer for relief.

39. Plaintiff requests the following relief:

A. Injunctive relief requiring Defendants to negotiate about participation in and to participate in the Walker Settlement Voucher program as assisted by ICP by making dwelling units available at the Shadows of Cottonwood.

B. Injunctive relief requiring Defendants to negotiate about participation in and to participate in DHA's Section 8 Housing Choice Voucher Program by making dwelling units available at the Shadows of Cottonwood.

B. Attorney's fees, litigation expenses, and court costs.

C. Any other appropriate relief.

Respectfully Submitted,

S/Michael M. Daniel

Michael M. Daniel

State Bar No. 05360500

DANIEL & BESHARA, P.C.

3301 Elm Street

Dallas, Texas 75226-1637

214-939-9230

Fax 214-741-3596

E-mail: daniel.michael@att.net

Attorney for Plaintiff

Laura B. Beshara

State Bar No. 02261750

DANIEL & BESHARA, P.C.

3301 Elm Street

Dallas, Texas 75226-1637

214-939-9230

Fax 214-741-3596

E-mail: laurabeshara@swbell.net

Attorney for Plaintiff