**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF MARYLAND**

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| CARMEN THOMPSON, *et al.*,<br><br>Plaintiffs,<br><br>v.<br><br>UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *et al.*,<br><br>Defendants. | Civil Action No. MJG-95-309 |

# TESTIMONY OF DR. XAVIER DE SOUZA BRIGGS AND MARGERY TURNER

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# EXPERT REPORT ON REMEDIES PHASE
# THOMPSON ET AL. V. HUD ET AL.

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And

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*August 19, 2005*

Signed:

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## EXECUTIVE SUMMARY

We have been asked to define the overall framework for a remedy addressing HUD's failure to affirmatively further fair housing in the Baltimore metropolitan area and to disestablish segregation.

In its latest opinion, the Court found that the U.S. Department of Housing and Urban Development (HUD) did not adequately consider regionally-oriented desegregation as a means of creating fair housing opportunities for African-American residents of public housing in the Baltimore region—in particular, in Baltimore City, one of the nation's most racially segregated central cities.[1] As we will show, the means exist to create meaningful opportunities for African-Americans living in the area's public housing, and the preponderance of the empirical evidence indicates that such opportunities are crucial to the well-being and life prospects of many of these families, whose health, safety, educational attainment, and economic success are all at risk because their housing choices to date have been so limited.

This report summarizes the research evidence on the effects of neighborhood disadvantage and the benefits of interventions that enable low-income families to live in safer, healthier and more opportunity-rich neighborhoods. It briefly reviews the institutional and political context for the failure of HUD's existing decision-making processes to promote deconcentrated housing opportunities, and it discusses the importance of meaningful performance measures and the appropriate role of community participation in the implementation of an effective remedy. Finally, the report reviews the research evidence on the potential of housing vouchers as a tool for creating deconcentrated housing opportunities, including the importance of regional administration and the need for some supply-side housing assistance (subsidized housing production) in conjunction with vouchers. A reference list includes all studies and other sources we have used to prepare this report.

To preview, we recommend:

- **A voucher-based relocation program designed carefully to promote successful relocation to communities of opportunity and to maximize residents chances of benefiting from such relocation.** Drawing on the rich lessons of past efforts to promote housing opportunity using vouchers, as well as the best empirical evidence on residential mobility and exposure to poor and segregated neighborhoods nationwide, the report outlines the key barriers to and success factors for a genuine voucher *opportunity* program, along with essential performance measures (see next item).

[1] In terms of the uneven distribution of whites and blacks, known as white/black *dissimilarity*, Baltimore ranks eighth, and the metro area's second central city, Washington, DC, ranks fourth, as of year 2000 Census data. Source: U.S. Census Bureau.

- **Identifying and ordering meaningful output and outcome measures to guide implementation.** After outlining the rationale for strong, clear performance measures, we discuss them in the context of housing mobility programs wherein desegregative housing opportunities represent the key outcome of interest. We strongly recommend that the Court use an appropriate framework to identify and commit implementers to specific targets. We outline and substantiate such a framework in this report, cross-referencing the expert report by john powell on "communities of opportunity."

- **A complementary production ( supply-side ) program aimed at expanding the geography of affordable housing supply in the target metro area.** The report explains why supply-side strategies are crucial as part of the effort to expand housing opportunity—particularly in light of the limits of vouchers—and analyzes the lessons from a variety of efforts to disperse affordable housing using race or income criteria.

- **A well-focused *participatory design* program aimed at enhancing the recommended programs with input from key stakeholders, including prospective Section 8 tenants (relocatees), housing developers, and intermediaries or other implementation partners.** The report distinguishes participatory design from agenda-setting and other "public participation" efforts. The latter have fared poorly in past desegregation efforts, but more fundamentally, they often create inappropriate expectations that organized interest groups will be *making* policy (for example to oppose court-ordered remedies) rather than providing specific kinds of information to improve the results of important programs.

Below, following a description of expert qualifications and compensation, each of these findings and the evidence to support it is discussed more fully.

**Expert Qualifications And Compensation**

Both authors of this report are nationally recognized experts on racial and ethnic segregation, barriers to housing choice, and the effectiveness of policies that promote housing choice and neighborhood diversity. Both have substantial policy as well as research experience.

**Margery Austin Turner** directs the Center on Metropolitan Housing and Communities at the Urban Institute, a non-partisan organization dedicated to conducting rigorous and objective research on issues of public concern. In this capacity, she supervises the design and implementation of large-scale empirical studies focusing on neighborhood health and community development, housing markets and housing policies, racial and ethnic discrimination and barriers to location choice, and measures of program performance and effectiveness. Turner authored the most recent national research (funded by the Department of Housing and Urban Development) measuring the incidence and forms of discrimination in urban housing markets, as well as studies of the spatial distribution of federally assisted housing opportunities, and the effects of living in high-minority and high-poverty neighborhoods on families and

children. She is frequently invited to review articles for academic and policy journals and to present findings from her research and its implications for policy to academic, philanthropic, and public agency audiences. Turner served as Deputy Assistant Secretary for Research at HUD from 1993 throughout 1996, where she played a lead role in the implementation of the Moving to Opportunity for Fair Housing demonstration, as well as two other major research demonstrations testing alternative strategies for overcoming the concentrations of poverty and distress that have resulted from racial discrimination and segregation.

The second author, **Dr. Xavier de Souza Briggs,** is Associate Professor of Sociology and Urban Planning at the Massachusetts Institute of Technology and a nationally known figure in the fields of urban inequality and community development. He succeeded Turner as Deputy Assistant Secretary for Research at HUD, in 1998, and soon after assumed the responsibilities of Acting Assistant Secretary for Policy Development and Research, playing a central role in HUD's annual budget process, advising on new programs and significant program reforms across the HUD portfolio, managing grantmaking programs to colleges and universities, and overseeing the economic analysis division at HUD, which produces market forecasts and helps to regulate HUD's housing voucher and production programs (for example via "fair market rent" surveys). His latest book is *The Geography of Opportunity: Race and Housing Choice in Metropolitan America* (Brookings Institution Press, 2005), an edited collection from a national conference he organized, "Housing Opportunity, Civil Rights, and the Regional Agenda" (November 2001). His research on court-ordered, scattered-site public housing in Yonkers, New York, addressing impacts of the remedy on both residents and receiving neighborhoods, has won national awards and fellowships from the Association for Public Policy Analysis and Management, the American Planning Association, and the National Science Foundation. He is a former faculty member at Harvard University's Kennedy School of Government and affiliate of Harvard's Joint Center for Housing Studies and The Civil Rights Project and holds degrees in engineering, public policy, and sociology from Stanford University, Harvard University, and Columbia University, respectively. He is a faculty affiliate of the The Urban Institute, where he has advised on the largest-ever impact study of housing desegregation consent decrees and where he currently acts as co-director of a multi-city study of the Moving to Opportunity (MTO) experiment, in which residents of high poverty public housing communities were given Section 8 vouchers and relocation counseling to promote moves to move to low poverty neighborhoods in five metro areas. He has been an editorial board member and frequent reviewer for leading scholarly journals in housing, planning, and urban affairs.

The authors are each being compensated at the rate of $1,000 per day for their participation as expert witnesses. Neither has been an expert witness within the past four years. Their publications are identified in attachments to this report.

## I. RESEARCH ESTABLISHES THE IMPORTANCE OF DECONCENTRATED HOUSING OPPORTUNITIES.

In this section, we will show how and why segregated neighborhoods undermine the health, safety, and economic prospects of children and families. While much of the evidence we discuss below focuses on the impacts of neighborhood poverty or other nonracial characteristics, careful statistical research on patterns of spatial change over time demonstrates that racial segregation is a primary causal mechanism driving segregation by income level, which produces concentrated minority poverty (Massey 2001). The evidence below should be read, therefore, as an assessment of the consequences of concentrated neighborhood *disadvantage*, a byproduct of forces that sharply segregate U.S. metro areas by race as well as income. Conversely, in a later section, we discuss the best-available evidence on how *communities of opportunity* positively affect low-income minority children and their families.

### A. Neighborhood Conditions Play An Important Role In The Well-Being And Life-Chances Of Both Adults And Children

Social science posits six important *causal mechanisms* – channels through which neighborhoods can shape or constrain opportunities: local service quality, shared norms and social control, peer influences, social networks, crime and violence, and job access (Ellen and Turner 1997).

*Local service quality.* An individual's well-being can be significantly affected by the availability and quality of services that are delivered at the neighborhood level. The most obvious example is public school quality, especially in the elementary grades, when children are most likely to attend schools in the immediate neighborhood. After significant progress on racial segregation in the first two decades following the 1954 Brown decision, America's public schools have resegregated at an alarming rate (Orfield and Eaton 1996), especially outside the South. And underscoring the absence of regional housing opportunity for millions of minority and low-income households, most school segregation is now between-district rather than within-district (Briggs 2005b; Clotfelter 2004). This means that it is essentially impossible, in many large metro areas, to racially integrate children within central cities.

If their local public schools are poor, children are unlikely to receive a solid foundation in reading and math skills, particularly if their parents lack the tools to supplement formal education, and such children are less likely to go on to college, which places them at a lifelong disadvantage in today's more skill-intensive economy, where the earnings gap between college-educated and non-college educated workers has grown sharply in the past generation (Clotfelter 2004). Beyond these differences in credentials and earnings, when compared to peers who have been educated in integrated suburban schools as part of carefully designed, long-run experiments, African-Americans educated in segregated inner-city schools are also less likely to have racially diverse contacts later in life, to report feeling comfortable in majority-white environments, and to be employed in racially diverse occupations and workplaces (Crain and Wells 1994).

Other services and institutions whose availability and quality vary across neighborhood can also have a significant impact on individual outcomes. A majority of children in the U.S. now attend some form of preschool by age five (U.S. Department of Education 1995), and the neighborhood where a child lives constrains the set of child care centers and preschools available. Access to quality medical care may also be significant at every stage of life. Both children and adults who get routine illnesses in communities with fewer health care resources may have to miss school or work for longer periods. Those with chronic diseases, such as asthma or diabetes, may go without treatment and be unable to lead the normal lives that they could in other communities (Acevedo-Garcia 2004).

*Shared norms and social control.* Children learn a lot about what behaviors are "normal" or "acceptable" from the adults they encounter around them. In addition, adults serve as role models for what young people can aspire to become, and adults outside the immediate family can help parents care for, teach, and discipline their children. Sampson et al. (1997) use the term "collective efficacy" to capture the ability of a neighborhood's residents to realize their common values and maintain effective social controls. Examples include a willingness to confront local teenagers who are skipping school, hanging out on street corners, or acting disorderly. Wilson (1991) argues that children and teenagers growing up in areas with few working adults learn less about planning ahead and managing their time. Moreover, if the vast majority of the adults that a teenager knows either are not working or have been unsuccessful in finding and retaining good jobs, the teenager is likely to conclude that there is no real payoff to be expected from responsible behavior. In particular, Wilson (1987) argues that youths living in isolated, high-poverty communities are likely to underestimate the return on education, a finding corroborated by Anderson's (1994) ethnographic research on the outlook of low-income African-American youth who subscribe to a "code of the street," demanding self-respect and developing a self-image based on violence rather than educational achievement.

*Peer influences.* Researchers have found that adolescents spend roughly twice as much time with peers as they spend with their parents or other adults (Connell and Halpern-Felsher 1997). Thus, young people can be profoundly influenced by their immediate peer groups (Berndt 1996; Steinberg and Silverberg 1986), which are often composed primarily of neighbors and school mates. Peer pressure can lure young people into dangerous or criminal behavior (Anderson 1994), or it can challenge them to reach new levels of athletic or academic achievement (Berndt 1996). Youths' peer groups are certainly not determined solely by neighborhood. Indeed, evidence from the court-ordered desegregation program in Yonkers suggests that teenagers who move away from high poverty neighborhoods, at least within compact cities, often return to their original neighborhoods to hang out with old friends (Briggs 1998). However, neighborhood is likely to have a significant impact on the choice of peer group. If many teenagers in a community are uninterested in school, engaging in crime and other dangerous behaviors, and having babies out of wedlock, teenagers will be more apt to see these activities as acceptable, even fashionable, behavior.

*Social networks.* Who we know (and who we get to know because of where we live) can be an important source of job leads, parenting support, health advice and referrals, and many other resources. A person's knowledge about and access to social supports and economic opportunities may depend on his or her network of friends, colleagues, and acquaintances. And many of these networks may be geographically based. Thus, people living in a neighborhood in which few people have decent-paying jobs are less likely to hear about available job openings. They are also less likely to know employed people who can vouch for their reliability and character to an employer. Such recommendations, especially from in-house workers, have been shown to be critical to finding jobs (Kasinitz and Rosenberg 1996; Sullivan 1989; Wial 1991; Ioannides and Loury 2004; review in Briggs 1998). The importance of neighborhood-based networks depends in part on a person's connection to networks outside the neighborhood boundaries. Individuals who have strong family, friendship, or collegial networks that extend beyond the neighborhood in which they live are less likely to be influenced by their immediate surroundings. But some researchers have found evidence that poor people's social ties are more localized than those of middle-class people (Briggs 1998), making them more dependent on networks within the neighborhood. These more insular networks, in turn, offer the disadvantaged more coping (survival) resources than attainment resources—that is, resources for getting by rather than getting ahead. The latter connotes viable prospects of escaping chronic poverty and the risks associated with it, including exposure to poorer and more violent neighborhoods.

Finally Braddock (1980) suggests that patterns of social interactions at a young age may shape a child's patterns of behavior and interactions over the long-term. In particular, he argues that minority students who attend racially segregated schools and who have not interacted with students of different races tend to overestimate the degree of hostility they will experience in interracial situations (and see Crain and Wells 1994). These students will thus tend to make choices and maintain their separation from whites when they become adults, limiting their access to economic and social opportunities. Even self-segregation is learned, and it is costly.

*Crime and violence.* Living in a high crime area increases risks for both adults and children, including the risk of being a victim of burglary or assault. But research increasingly suggests that exposure to crime and violence has more far-reaching consequences, including persistent anxiety and emotional trauma. It almost goes without saying that people who live in high-crime neighborhoods face higher risks of being victimized, injured, or even killed than residents of safer neighborhoods. In addition, young children (and possibly adolescents and adults as well) who witness violent crime firsthand may suffer significant and even lasting emotional trauma (Garbarino et al 1992; Martinez and Richters 1993). As children get older, living in a neighborhood where crime is commonplace may lead them to believe that crime is acceptable, or even "normal." Indeed, Anderson (1994, 94) reports that in some inner-city communities the "toughening-up one experiences in prison can actually enhance one's reputation on the street."

*Job access.* The most straightforward impact of neighborhood is its physical proximity and accessibility to economic opportunities, particularly jobs. As jobs become increasingly decentralized in most metropolitan areas, some inner-city neighborhoods have become physically isolated from economic opportunity. In his seminal study of African-American residential patterns and job decentralization ("job sprawl") in metropolitan areas, Kain (1968) argued that housing discrimination and segregation confine blacks to a few central city neighborhoods where jobs have become increasingly scarce, as employers have relocated to the suburbs. Recent reviews of research on this "spatial mismatch" hypothesis confirm that distance from areas of employment growth and opportunity helps explain lower employment rates among black men (Briggs 2005b; Ihlanfeldt and Sjoquist 1998). Unequal transportation access is a major contributor to the social and economic costs of this mismatch, and significantly, in the 1990s, spatial mismatch declined somewhat for African-Americans *thanks to housing mobility*—i.e., the fact that people moved closer to jobs, not the inverse (Raphael and Stoll 2002).

**B. Living In A Distressed, High-Poverty Neighborhood Undermines Well-Being And Limits Life Chances**

A considerable body of social science research finds evidence that living in profoundly poor or distressed neighborhoods can undermine people's well-being and longer-term life chances. The well-being of children and families clearly varies across types of neighborhoods. Low-income African-American mothers in suburban Chicago, who had moved out of inner-city public housing through the court-ordered Gautreaux program, offered the following powerful testimony to researchers when asked to compare their old and new residential environments. The differences these residents highlight extend to peer risks, the pervasiveness of crime in inner-city neighborhoods, and the response of policemen and neighbors as well (Rosenbaum, DeLuca and Tuck 2005, pp.160-163), for example:

> Because it was so easy to get drugs [in the city], a lot of kids are strung out on drugs because of their environment … A single parent, you can't be with your child twenty-four hours a day…and so, by me moving away, it cut down the influence of them being in drugs.
>
> In the city, [teens] hang out on the corners. Here, they can't hang on no corner.
>
> Here, the policemen are much nicer. There's a difference in the city and the 'burbs' policemen. My kids like policemen [here]. In Chicago, kids do not like policemen.
>
> In the summer, most of the families in the complex look out for each other. In my old neighborhood in the city, I would run from the front door to back door, fearful about my kids' safety … but not here.

> You can leave and rest assured that someone will watch your house. You can swap keys, and neighbors will take care of your house.
>
> In my Chicago neighborhood, no one would call if I needed help, because that was a common thing. Somebody was always down there fighting their girlfriend or somebody hollering, Help, help, help. That was a common thing … You weren't sure whether you should, could get involved or not.
>
> The violence [in the old neighborhood] was shocking and scary … I was always uneased … Here in the suburbs, I don't have to worry about people shooting at people, seeing people chasing people and shooting and fighting … I didn't care too much [in the old neighborhood] for letting my daughter go out, for fear of her life. I was always afraid that a fight would break out when she was down the street … My fear was that a stray bullet would come from one of the higher floors and you would never know who shot you.
>
> In the city … were we often broken into, robbed … I used to always carry knife. Not anymore, since I moved out to the suburbs. I feel safe night and day.

As previewed above, there is ample evidence that residents of poor, inner-city neighborhoods are less likely to complete high school and go on to college, more likely to be involved in crime (either as victims or as perpetrators), more likely to be teenage parents, and less likely to hold decent-paying jobs (Coulton et al. 1995; Ricketts and Sawhill 1988). But actually quantifying the independent effect of neighborhood conditions on outcomes for individual residents is more challenging. In general, well-designed empirical research that controls statistically for individual and family attributes finds that neighborhood environment has a significant influence on important life outcomes for both children and adults (Ellen and Turner 2002).

Below, findings from the existing empirical literature on the effects of neighborhood environment are organized according to major life stages – infancy and childhood, adolescence, and adulthood (Ellen and Turner 2003). Much of the existing literature on neighborhood effects focuses on neighborhood poverty rates or other indicators of economic status rather than racial composition. It is important to note, however, that most high-poverty and economically distressed neighborhoods are predominantly minority as well (Massey and Denton 1993; Jargowsky 2003). In fact, Massey and Denton (1993) have demonstrated that concentrated poverty is the direct result of racial segregation, and that the problem of concentrated poverty and neighborhood distress would not exist in the absence of segregation (review in Massey 2001).

*Infants and young children.* Relatively little empirical research has focused on how neighborhood distress affects infants and young children. A group of multidisciplinary researchers who have analyzed data that follow a sample of low birth-weight, pre-term infants during their first years of life provide evidence that neighborhood pays a role, particularly in

children's intellectual development. More specifically, the presence of affluent neighbors appears to be associated with higher IQ for preschool children (Brooks-Gunn et al. 1993; Chase-Lansdale and Gordon 1996; Chase-Lansdale et al. 1997). These studies, however, reach mixed conclusions about neighborhood effects on young children's emotional and behavior development. In addition, elementary school children living in low-income neighborhoods exhibit more aggressive behavior when interacting with others (Kupersmidt et al. 1995) as well as higher asthma rates (Aber and Bennett 1997), which lead to missed school days and possibly lower performance at educational and other tasks[2]; and elementary school performance has been linked to neighborhood social and economic status (Halpern-Felsher et al. 1997).

*Adolescents.* Most of the research on neighborhood effects has focused on teenagers and young adults. The literature on adolescent educational attainment provides general support for the notion that neighborhoods play an important role (Aaronson 1997; Brooks-Gunn et al. 1993; Case and Katz 1991; Clark 1992; Crane 1991; Datcher 1982; Dornbusch, Ritter, and Steinberg 1991; Duncan 1994; Duncan, Connell, and Klebanov 1997; Garner and Raudenbush 1991; Haveman and Wolfe 1994). Young people from high poverty and distressed neighborhoods are less successful in school than their counterparts from more affluent communities; they earn lower grades, are more likely to drop out, and less likely to go on to college. Kids from poor neighborhoods are also less likely to get jobs during and immediately after high school. Studies have also documented that neighborhood environment influences teens' sexual activity and the likelihood that girls will become pregnant during their teen years (Brewster 1994; Brewster, Billy, and Grady 1993; Brooks-Gunn et al. 1993; Crane 1991; Hogan, Astone, and Kitagawa 1985; Hogan and Kitagawa 1985; Ku, Sonenstein, and Pleck 1993; Plotnick and Hoffman 1996). And finally, young people who live in high crime areas have been found to be more likely to commit crimes themselves (Case and Katz 1991).

*Adults.* Studies on whether neighborhoods affect adults focus primarily on health and employment outcomes. Several studies document a link between neighborhood socioeconomic status and overall mortality levels (Acevedo-Garcia 2004; Anderson et al. 1997; Haan, Kaplan, and Camacho 1987; Waitzman and Smith 1998). A recent study in Maryland documents that the risk of cancer from air toxins is closely associated with the racial composition and income level of census tracts. Specifically, tracts with the highest share of black residents were three times more likely to pose high cancer risks than those with the lowest share (Apelberg, Buckley, and White 2005). There is also reasonably sound evidence that neighborhood conditions, particularly crime and violence levels, shape health-related behaviors (Diehr et al. 1993; Ganz 2000; Kleinschmidt, Hills, and Elliott 1995; Robert 1999). Finally, empirical research generally finds evidence that distance from jobs reduces employment rates, particularly among lower-skilled adults (Ihlanfeldt and Sjoquist 1998), and that the overall employment rate in a

[2] Asthma is the leading cause of school absenteeism in Harlem, for example, where childhood asthma rates are five times the national average. Richard Perez-Peña, "Study finds asthma in 25% of children in Central Harlem," *New York Times*, April 19, 2003.

neighborhood is associated with an individual's employment status over and above the effects of the individual's own traits (Weinberg et al. 2000).

## II. HUD S DECISION-MAKING PROCESS DOES NOT PROMOTE DECONCENTRATED OPPORTUNITIES[3]

The Court has found substantial evidence of the failure of the federal authority—the U.S. Department of Housing and Urban Development (HUD)—to meet its obligations, under the Fair Housing Act, to affirmatively further housing opportunities for African-Americans in Baltimore public housing. HUD operates programs to expand the supply of affordable housing (through operating and capital subsidy grants, loan subsidies, and mortgage insurance) as well as the primary "demand-side" rental subsidy program discussed in this report (Section 8 Housing Choice Vouchers).[4] The latter represents the nation's largest program to meet low-income housing needs. In neither its supply nor demand-side programs does HUD's standard decision-making processes do much to encourage deconcentrated housing opportunities for low-income and minority households. This section explains why and provides a framework for the court's remedy to instruct and influence the agency in appropriate ways. While we focus on the governance and management of the voucher programs, we also address HUD's supply-side programs and policies, given their importance to the aims of the remedy (and see the section in this report on supply-side strategies at page 33).

### A. HUD Governance And Management Of The Housing Choice Voucher Program

HUD runs the voucher program, as well as public housing, through its Office of Public and Indian Housing, under a body of Congressional authorizing legislation, guidelines established by Congress in appropriations (budget) bills rather than formal authorization, and regulations promulgated by the agency itself. Formally, this body of law and regulation encourages spatial deconcentration (in income terms) as well as the affirmative furthering of fair housing (in race terms). But in practice, these objectives are overwhelmed by a series of competing priorities articulated to local public housing agencies (PHAs).

HUD sets important parameters for the local management of the voucher program. One of HUD's principal roles is to determine, via area rent surveys, federally mandated fair market rents (FMRs) that local PHAs use to scale their subsidies to low income and very low income households. HUD may also grant "exception rents" and thereby raise the ceilings on subsidies,

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[3] This section was prepared by Xavier de Souza Briggs. In several instances, it cross-references the expert report prepared by Jill Khadduri to cover a wider range of HUD programs and their deconcentration potential.

[4] This section does not discuss HUD's fair housing education and enforcement programs, the more limited –but important—function of which is to combat discrimination in the housing market, primarily in private, unassisted housing.

expanding the potential supply of units—and geography of those units—for tenants in the housing market.[5]

As a policy matter, HUD's implementation of the voucher program should help families rent the best possible units in the best possible locations, subject to cost constraints. But in practice, HUD's decision-making process, and the carrots and sticks employed by Congress tend to: minimize costs associated with the voucher program *rather* than maximize locational quality or family residential stability in best-possible locations; generate few if any consequences ("sticks") when local agencies fail to deconcentrate; and provide few resources ("carrots") to enable local agencies to deconcentrate effectively. From a fair housing standpoint, the consequences of this set of rules and incentives are most negative and costly in the most segregated markets.

For example, Congress authorized *portability*, which allows tenants of one PHA to secure housing in another PHA's jurisdiction. But as administered by HUD and local PHAs, portability is fraught with administrative hassles, such as different application systems and rules across PHAs. Some local PHAs actually compete with each other for landlords to participate in the program, rather than collaborate for the benefit of eligible tenants (Katz and Turner 2001), or PHAs find that administrative choices that help tenants may cost the PHA points in HUD's performance review (see below; Devine et al. 2000). Under the rules adopted by HUD for measuring PHA performance, a voucher "ported" by a Baltimore City family to another jurisdiction is not counted by HUD as a voucher "utilized" by HABC—a significant disincentive for a PHA such as HABC that is trying to avoid the penalties HUD imposes for under-utilization of vouchers (Devine et al. 2000). Those penalties include recapture of funds, disqualification from competing for additional vouchers, and disqualification from applying for housing counseling funds. In Baltimore, one result was that only 10,373 of HABC's 14,609 vouchers were leased as of June 2004. Despite long waiting lists, thousands of vouchers went unused and therefore were defunded under the FY2005 Appropriations Act. One significant factor cited by HABC for non-utilization was the lack of housing in the City that met HUD's quality standards. But HUD provided no incentives for HABC to help families use those vouchers in suburbs with better housing. A sensible set of incentives would have helped Baltimore City families use most of the unused vouchers to lease units in the surrounding counties. Finally, rather than encourage portability, HUD recently provided PHAs with notice that they can deny portability to families seeking to move to more costly suburbs[6].

HUD acts each year to shape and re-shape such rules and incentives around its policy priorities, using budget requests, regulatory guidance, and other policy tools. The agency

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[5] See discussion of rental housing prices and other issues and policy options in the Regional Fair Housing Action Plan prepared by the Baltimore-area entitlement jurisdictions to address impediments to fair housing: Maryland Center for Community Development, "Baltimore Regional Fair Housing Action Plan 2002," (Baltimore, MD). The Plan addresses some of the impediments to fair housing identified in the 1996 regional analysis of impediments to fair housing prepared by Ardinger Consultants and Associates on behalf of the Baltimore Metropolitan Council and adopted by Ann Arundel, Baltimore, Harford, and Howard counties, Baltimore City, and Annapolis.

[6] HUD Office of Public and Indian Housing Notice PIH 2005-9.

develops an initial budget request for the upcoming fiscal year that includes operating expenses for the Housing Choice Voucher Program (the formula for allocation to local PHAs is complex and perennially contested); the initial request is vetted through the executive branch and then submitted to Congress; on a budget cycle that includes agency hearings and opportunities for public interest groups to weigh in, Congress passes a budget bill that includes HUD, and sometimes new authorizing legislation for HUD's programs, and the President signs the bill into law; HUD makes funding available to local PHAs, under contracts with them, using the allocation formula and via any discretionary funds it may have available (such as for special initiatives, Congressional set-aside provisions, R&D projects). HUD may also provide technical assistance or other forms of capacity building to local agencies. In any operating year, local PHAs report on funds expended, local waiting lists for assistance, and locational data, tenant characteristics, and other data on the voucher program. In addition to HUD's reviews, local agencies are periodically reviewed by the Office of Inspector General (OIG). In effect, OIG may double check HUD's reviews, where, for example, HUD has reported on a local agency's progress on recommendations made earlier by OIG. Below, I refer to this process in the specific case of Baltimore, where HABC's overall shortcomings, as well as the mismanagement of the Section 8 program in particular, have been clearly and repeatedly called out by the OIG.

Since the late 1990s, HUD has required that PHAs participate in the Section 8 Management Assessment Program (SEMAP), which is primarily designed to remedy management failures in the most dysfunctional local agencies (Katz and Turner 2001), not to accomplish affirmative objectives in the fair housing area. That is, SEMAP's main function is to ensure that PHAs meet *basic* program requirements. SEMAP does include a small bonus for promoting deconcentration, though again, this objective may conflict with other more heavily rewarded objectives of SEMAP, such as securing the highest-possible lease-up rate. The largest and most comprehensive recent assessment of PHA discretion in the management of the voucher program suggested that at least some PHAs do consider policy choices differently because of the SEMAP point system, choosing to forgo the lowest costs, for example, in order to achieve greater spatial deconcentration (Devine et al. 2000). In addition, there is precedent for bolder use of SEMAP to strengthen the utility of vouchers. In Chicago, HUD used it to restructure the PHA's management of Section 8, contracting it out to the same for-profit firm (Quadel) now engaged in Baltimore and emphasizing enhanced relocation as part of that restructuring. As Katz and Turner (2001) observe, SEMAP is potentially a tool for a series of management experiments to transform Section 8—to help the program realize the potential of locational *opportunity*, beyond basic shelter needs.

In the case of Baltimore, reviews of HABC's performance in recent years have called into question the agency's overall capacity, as well as its commitment and capacity to manage the Section 8 program effectively. These findings by government auditors underscore the points we make, elsewhere in this report, about specifically ordering an opportunity-focused mobility program and coupling the order with a meaningful performance plan to maximize the prospects for success.

For example, the OIG's 2001 audit report on HABC's Section 8 program found the agency "in substantial default of its contract with HUD" (p.iii).[7] The report found that HABC did not operate the program according to HUD guidelines—citing as evidence almost every aspect of program management (gathering data on tenants and landlords, making timely and appropriate payments, administering waiting lists, making required verifications, reporting)—and, significantly, that HABC's utilization of Section 8 resources was substandard. OIG estimated that some 2,000 families on HABC's waiting list of 16,000 could not be served by the program because of the major under-utilization problem, leaving HUD to recapture $74 million in 1997/98 alone.

OIG's follow-up audit, in 2004, to review corrective actions taken, credited HABC with basic management improvements, including the creation of a working management information system.[8] But the report also highlighted little progress and persistent deficiencies in the agency's management of the Section 8 program, particularly in the area of utilization. From fiscal year 2001 to 2003, HABC's average annual budget utilization was 80%, versus the HUD standard of 95%, at the same time that HABC maintained a waiting list of more than 15,000 families. As noted above, as of June 2004, a strikingly low 10,373 (71%) of the agency's baseline of 14,609 vouchers had been issued.[9] And most of the 3,321 vouchers issued between 2001 and 2004 went to tenants of public housing whose units became unavailable when their complexes were redeveloped.[10] OIG found HABC's principal explanation for the ongoing under-utilization problem—too few housing units of acceptable quality—inadequate.[11]

While not a direct indictment of HABC's performance at *deconcentration*, these deficiencies in the management of the voucher program as a whole show how poorly positioned HABC is to

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[7] Office of Inspector General, "Housing Authority of Baltimore City Section 8 Certificate and Voucher Programs, Baltimore, Maryland," Audit Report 2001-PH-1003, Office of Audit, Mid-Atlantic Region, Philadelphia, PA (March 28, 2001).

[8] Office of Inspector General, "Corrective Action Verification Review of the Housing Authority of Baltimore City Section 8 Certificate and Voucher Programs, Baltimore, Maryland, Audit Report Number 2001-PH-1003" Audit Report 2005-PH-1004, Office of Audit, Mid-Atlantic Region, Philadelphia, PA (December 21, 2004).

[9] The OIG report allows that "special-purpose" vouchers designated for use under two consent decrees, Thompson (1,998) and Bailey (1,350), should be removed, under HUD's rules, from the utilization count. While technically correct, in which case HABC's overall utilization rises to 92%, this adjustment is misleadingly partial, since HABC's utilization of special-purpose vouchers under the Thompson decree was long delayed, and the Bailey decree was not executed until after the stockpile of unutilized vouchers had already accumulated.

[10] A process known as "vouchering out," primarily in the HOPE VI public housing redevelopment program.

[11] The OIG follow-up noted that even if the pool of quality units were very limited, this should not lead a local housing agency to stockpile its vouchers. HUD rules call for issuing vouchers to eligible renters, who then search the market. That is, housing availability problems could lead to limited *lease-up* rates, if many searches prove fruitless in the time allotted, but not the staggeringly low rates of issuance observed for the HABC program. To the extent that the housing submarket within Baltimore City could not absorb all of the vouchers allocated to HABC, this underscores the need to help tenants search for housing throughout the region's housing market.

meet the challenges associated with deconcentration, which requires, in OIG's terms, "aggressive" efforts to issue vouchers, counsel tenants and help them find units across a much wider geographic area, respond with promptness and professionalism to landlords, and more. In addition, these findings highlight the inadequacy of HUD's efforts to date to push and support HABC toward mobility counseling and search assistance as means of increasing its voucher utilization rate. Instead of providing such support, HUD recaptured $116 million in voucher funds from HABC over the period 1997-2002.

While HABC's problems are by no means common to all local housing agencies, they do illustrate, at the extreme, why HUD management of the Section 8 program fails to create more deconcentrated housing opportunities for families nationwide. If not specifically instructed by Congress or the courts to promote deconcentration, for example through a demonstration program or remedy, HUD's largely allocation-driven process is relatively hands-off. It encourages local agencies with very uneven operational capacity to run a challenging program for a very disadvantaged client group. The agencies do so under rules and incentives that emphasize a low-cost package of assistance, directed, in some local markets, toward the risky neighborhoods where low-rent units tend to be found, and little in the way of opportunity-generating placement or relocation aid. But deconcentration objectives are very much a part of HUD's statutory mandate. On paper, deconcentration objectives are also a part of HUD's instructions to local PHAs through their budget agreements and performance (SEMAP) plans, and HUD could and should enforce and strengthen these instructions. Furthermore, as detailed in the Khadduri report, HUD's varied policy levers, including the application of SEMAP and rules on rent ceilings and portability, can be rethought in light of an opportunity-focused Baltimore deconcentration program—that is, the additional resources key to delivering a high quality program with real potential to meet the performance objectives we frame in this report and perhaps regulatory streamlining or other discretionary assistance that would help as well.

### B. HUD Governance And Management Of Relevant Supply-Side Programs

HUD's supply-side programs are run through the Office of Community Planning and Development, in the form of the HOME block grant and the Community Development Block Grant (CDBG) programs, as well as through Federal Housing Administration mortgage insurance and public housing redevelopment programs, as Jill Khadduri details in her expert report.

By design, local block grants such as HOME and CDBG provide funds to local general-purpose governments (municipalities in most cases) to pursue quite broad housing and community development objectives. The HOME program is housing focused, and much of the budget goes to promote homeownership programs, which are important substantively and also highly popular at the local level, both with community residents and local elected officials. But some HOME programs go into affordable rental housing, both renovation and new construction. CDBG is a broader program that includes community economic development purposes, but HUD studies

consistently show that a significant share—about half—of CDBG money goes each year toward affordable housing development, both rental and ownership.

The local jurisdictions are known as "entitlement communities," in that they are entitled to an allocation of flexible grant funds under a need and size-driven formula, and each entitlement community outlines its plan for spending its allocation in an annual Consolidated Plan, showing how its plans are competent (on a basic level) as well as consistent with the policy objectives established by Congress. In 1995, these "Con Plans" were further consolidated with requirements under the goal of affirmatively furthering fair housing (AFFH), such that AFFH Certification is part of the Con Plan. Entitlement communities must commit themselves to AFFH, and identify specific actions they will take to support it, as a condition of receiving block grants and other HUD aid.

The Con Plans are reviewed by HUD, but HUD rarely makes specific policy demands of its local government clients. HUD's review and approval process tends to focus on weeding out incompetent submissions, auditing the rare financial irregularity, and detecting the occasional "spendout" problem which may reflect a dysfunctional local agency, rather than encouraging important affirmative objectives, such as deconcentration and furthering fair housing.

The Con Plan, including the AFFH Certification component, is also largely a missed opportunity to address regional issues or regional collaboration to improve the impacts of public and private investments (see below). A major recent assessment affirmed this and also highlighted the lack of participation by local PHAs, as important housing providers, in the Con Plans of localities in six metro areas with diverse housing needs (Turner et al. 2002b). In neither dimension—inter-jurisdictional (regional) coordination or PHA involvement—did local Con Plans meet standards articulated, but rarely enforced, by HUD.

Finally, HUD performs a critical but limited role, with regulatory and tracking functions, in the Low Income Housing Tax Credit program. Run by the Internal Revenue Service (Treasury Department), it represents the nation's single largest source of public subsidies for affordable rental housing development. Not only is HUD authorized as the coordinating agent for federal government-wide efforts to further fair housing, but HUD's housing market research influences the allocation of tax credits to qualified projects, some of which include HUD subsidies, and thereby the geographic location of these projects, in local markets. HUD can, and in our view should, do more to affirmatively further fair housing through the LIHTC program and its own programs.

There is real potential to use these plans, certifications, and regulatory powers to promote desegregation and poverty deconcentration alongside other objectives, which are properly seen as complementary rather than competing. As we discuss later in this report, supply-side strategies are extremely important to the long-run objective of expanding the *geography* of affordable housing, not just the supply, and addressing the mismatch between job locations and

where workers live. On rare occasions, block grant funds have been pooled by local jurisdictions to create innovative, region-serving programs that deconcentrate affordable housing opportunity. But out of a tradition of deference to localities, HUD does little more to multiply these rare events than (a) act as a bully pulpit for the deconcentration ideal, if this suits the administration in office at a given time; and (b) recognize such achievements through non-monetary "best-practice" prizes. The latter may serve a positive marketing and public education function, but prizes do not shift the basic incentives that localities have to work in isolation and to subordinate fair housing and poverty deconcentration to other objectives.

**C. Process Requirements Alone Are Not Sufficient; Experience With Performance Management Argues For Clear Output And Outcome Targets**

Although many public sector programs have relied on procedural rules and requirements to manage their activities, this approach alone will not ensure that an intervention will be effective. Increasingly, therefore, public agencies and non-profit organizations are adopting performance management principles. Just as private-sector businesses track profits and market share (not just costs and sales), public and non-profit agencies need to track the short-term and long-term outcomes their programs are intended to achieve (Hatry 1999). A remedy that sets and tracks progress against output and outcome measures would be consistent with best practices. Moreover, such a remedy would follow the statutory requirement that HUD and other federal agencies adopt performance goals and report on progress toward them.[12]

One of the important advantages of performance measurement is that it can inform problem solving and continuous improvement (Hatry 1999; Poister 2004). But while well-crafted performance measures can strengthen the management of public programs, measurement is not foolproof. In designing a performance measurement and management program, it is important to be aware of risks as well as benefits. In particular, performance measures can undermine a program's effectiveness if they measure the wrong things – perhaps because the results that matter most are too difficult to count or quantify, or if they fail to recognize and address competing objectives. For example, it is easier to track the number of program participants who succeed in moving to an opportunity neighborhood than to track the number who succeed in staying there for more than a year. And program staff might be encouraged to focus all their efforts on placing clients in any neighborhood rather than in the most beneficial neighborhood if performance measures focused exclusively on short-term placement rates. Finally, while performance *measurement* is important, a focus on data collection and analysis should not be allowed to distract from the real goal of managing for results (Poister 2004).

Experts on performance measurement and management distinguish between different types of measures, all of which can play useful roles (Poister 2004; Lampkin and Hatry 2003). Although

[12] Under the Government Performance and Results Act, HUD is required to prepare an Annual Performance Plan identifying specific output and outcome targets and explaining how the agency will use the array of its programs to make progress toward those targets, including targets linked to the goal of affirmatively furthering fair housing.

terminology varies, here we outline rationales for four basic categories of performance measures and the context for their use in implementation:

1. *Input measures* track the resources that an agency uses to accomplish its goals. Examples include number of staff, funding levels, facilities, and types of services offered.

2. *Process* or *activity measures*, which include indicators such as intake volumes, case loads, and turn-around times, track the agency's activities. These are metrics of "the wheels turning," and can help spot bottlenecks, service interruptions, or back-logs.

3. *Output measures* track what the agency produces directly and for which staff can realistically be held accountable. In the context of a desegregation remedy, examples of output measures could include the number and percentage of clients who move to and remain in communities of opportunity[13], the number of new affordable housing units produced in such communities, voucher utilization rates, on-time payments to landlords and other critical operations management outputs, and cost per successful placement.

4. *Outcome measures* reflect the interim and long-term benefits that a program is intended to achieve for its clients or for the larger community. In the context of a housing desegregation remedy, interim outcomes include the increase in the number of poor minority families living in neighborhoods that are racially and economically diverse (i.e., communities of opportunity, under john powell's criteria, or non-impacted areas under the consent decree in this case). Interim outcomes could also include access to services in and from those locations. From a broader social benefit standpoint, long-run (or "end") outcomes include improved mental and physical health, educational achievement, and employment success for participating families.

All four categories of performance measures can provide useful information to support implementation. But only outcome measures tell us whether the program has succeeded in furthering fair housing and disestablishing segregation.

## III. HOUSING VOUCHERS CAN BE A TOOL FOR PROVIDING DESEGREGATIVE HOUSING OPPORTUNITIES

### A. Vouchers Have Helped A Significant Number Of Poor African-American Families To Move To Opportunity-Rich Communities

The partial consent decree in the Baltimore litigation includes as an essential component of the desegregation remedy a special-purpose housing voucher program, designed to enable low-income African American households to gain access to affordable housing in opportunity-rich neighborhoods throughout the Baltimore metropolitan area. Under the Gautreaux program in

[13] As specifically defined in the expert report by john powell.

Chicago, the partial consent decree in this case, and similar remedial programs elsewhere in the country, thousands of poor black families have successfully moved to predominantly white neighborhoods, many of them in suburban areas outside of central cities. The research evidence clearly confirms that an effectively designed, voucher-based mobility program can provide an effective mechanism for opening up desegregative housing opportunities. The sections below summarize the evidence regarding the *potential* of housing vouchers but also show that unless vouchers are accompanied by effective housing search assistance and are administered regionally, vouchers are unlikely to fulfill this potential. We recommend that the court order a voucher mobility program for the Baltimore region that takes advantage of lessons learned from both the successes and the short-comings of past housing mobility initiatives nationwide.

**B. Moving To Lower-Poverty Neighborhoods With A Voucher Can Yield Significant Benefits For Low-Income Families**

In addition to the research evidence on the generally negative effects of living in a distressed, high-poverty neighborhood, a growing body of evidence is emerging that moving to a healthy, lower poverty neighborhood can lead to significant improvements in both quality of life and access to opportunities. This evidence is drawn from two major mobility initiatives – interventions that have enabled low-income families to move from high-poverty communities to lower-poverty neighborhoods:

- *Gautreaux demonstration.* Research has been conducted over many years (primarily by scholars at Northwestern University) on low-income, minority families who received special-purpose housing vouchers to move from poor, predominantly black neighborhoods in the city of Chicago to racially integrated suburban communities.[14]

- *Moving to Opportunity (MTO) demonstration* (randomized experiment). Research has been conducted by researchers from a number of different institutions on a carefully controlled experiment to test the impacts of helping low-income families move from high-poverty assisted housing projects (in Baltimore, Boston, Chicago, New York, and Los Angeles) to low-poverty neighborhoods throughout their metropolitan regions. While the MTO demonstration was designed to test the effects of moving to a low poverty area, it differed from the Gautreaux demonstration and other court-ordered mobility programs in that it was not designed as a desegregation program and did not direct experimental vouchers to nonminority or racially integrated areas.

These programs are not perfect. Some participating families have been unsuccessful in moving to new neighborhoods; some of the destination neighborhoods have fallen short of the vision of a desegregated and opportunity-rich living environment; some families who moved have

[14] Traditionally, a key limitation of these non-experimental studies is that they may be detecting effects for a somewhat select group, not the full range of program participants. But the most recent research using more inclusive data thus far supports key earlier conclusions (e.g., De Luca and Rosenbaum 2003).

subsequently moved again, often to higher-poverty or higher-minority areas; and not all families who moved have experienced improvements in well-being. Our recommendations for an assisted housing mobility remedy for the Baltimore region build on lessons from the short-comings of these programs as well as from their accomplishments.[15]

Research from all of these interventions finds that families who have participated in assisted housing mobility initiatives experience dramatic improvements in their immediate neighborhood environment. As we illustrated above in the context of the Gautreaux program, the reports of low-income African-American parents on their new neighborhoods, and the contrasts with the old neighborhoods, are striking. For example, Gautreaux participants reported:

> It gave me a better outlook on life, that there is a life outside of that housing…Overall I think I was more happy to be in this area because of my kids and I didn't want them to grow up around seeing gangs.
>
> Like, OK, you can wake up every day and we're not worried about seeing anybody getting shot and no gang members, nothing like that and it's quiet and it's cool and calm up here. In the city there's a lot of activities that's going on that's negative. Here there's a lot of positive.
>
> I think if I had stayed in [the projects] I'd be a different person than what I am now. I'd be a wild person; I'd probably be in a gang or something like that… Since I've moved out here, I think I got a better chance than I do out there.

These reports are corroborated in the comments of members of the analogous experimental group (relocated to low poverty areas) in the Moving to Opportunity program (Popkin, Harris, and Cunningham 2002).

Long-run evidence, which comes from administrative data on Gautreaux participants, indicates that most relocatees do not move back to poor, racially segregated neighborhoods, and that placement in a racially diverse, low poverty area initially is a good predictor of moves to similar areas later on (DeLuca and Rosenbaum 2003).

The most dramatic impact of moving to a lower poverty neighborhood is a reduction in crime and violence. The opportunity to escape from crime and violence was the primary reason most MTO participants gave for wanting to move (Goering, Feins, and Richardson 2003). Research on neighborhood outcomes for MTO families finds that moving with a regular voucher — generally to intermediate-poverty neighborhoods — increased families' perceptions of safety by 15.6 percentage points, while moving with an MTO voucher (to low-poverty neighborhoods)

[15] Note that we have not included any of the recent court-ordered mobility initiatives in this discussion, primarily because they have not been accompanied by rigorous research on longer term outcomes for participating families.

produced a 30.3 percentage point increase (Orr et al. 2003). Families place tremendous value on these improvements, telling interviewers what a relief it is not to worry every day about possible violence and to have the freedom to let children play outside (Orr et al. 2003).

Families who have taken advantage of assisted housing mobility initiatives also live in neighborhoods served by better schools. Gautreaux families who moved to suburban communities appear to have experienced the most dramatic improvements in school quality, and – as discussed further below – in educational achievement. MTO families have moved to neighborhoods with better schools, but – unlike Gautreaux movers — relatively few have left central city school districts. Moreover, some MTO children continue to attend the same schools, despite the fact that their families have moved.

These improvements in families' neighborhood environment can contribute to significant improvements in the well-being of both adults and children. Specifically, research on families participating in the Gautreaux and MTO demonstrations provides evidence of gains in health, educational success, and employment and earnings.

*Adult mental and physical health.* Among the strongest findings to date from the MTO demonstration are results showing substantial improvements in the health of women and girls who moved to lower poverty neighborhoods. In particular, the most recent follow-up study shows a substantial reduction in adult obesity (Orr et al. 2003). This effect is noteworthy because the prevention of obesity has emerged as a national public health priority. MTO women and adolescent girls also enjoyed significant improvements in mental health, including reductions in psychological distress and depression, and increasing feelings of calm and peacefulness (Orr et al. 2003).

*Educational success.* Gautreaux research found striking benefits for children whose families moved to low poverty suburban school districts. They were substantially more likely to complete high school, take college-track courses, attend college and enter the work force than children from similar families who moved to neighborhoods within Chicago (Rosenbaum 1995). To date, there is no evidence that MTO moves have led to better educational outcomes, possibly because so few children are attending significantly better schools in advantaged school districts or because it may be too early to detect benefits (Orr et al. 2003).

*Delinquency and risky behavior.* The most recent and comprehensive data from MTO suggests that moving to a lower-poverty environment is reducing crime, delinquency, and risky behavior among teen-aged girls, but not boys. Some of the early research on MTO families in individual sites suggested that young people whose families moved to low-poverty neighborhoods were engaging in less risky behavior and committing fewer crimes. In Baltimore, for example, moving to a low-poverty neighborhood was found to cut violent crime arrests among juveniles roughly in half (Ludwig, Duncan, and Ladd 2003). More recent and comprehensive data for all sites suggests that moving to a lower-poverty environment is improving the behavior of teen-aged

girls but not boys (Orr et al. 2003). Research is currently under way to better understand what is happening to the boys, and why they do not seem to be enjoying the same benefits from mobility as girls. One possible explanation is that black and Hispanic boys moving to integrated or predominantly white neighborhoods are not engaging in any more criminal behavior, but are being arrested more due to racial profiling. Another possibility is that girls and boys respond differently to the loneliness and fears of relocation.

*Employment.* The current evidence on how mobility affects adult employment and earnings is mixed and still somewhat inconclusive. It is important to note that mobility assistance does not directly address employment problems, although it may remove barriers standing in the way of employment. As a consequence, employment effects may take more time to materialize than other outcomes. Long-term research on Gautreaux families has found significant increases in employment and reductions in welfare recipiency (Rosenbaum and Deluca 2000). To date, research has not detected a statistically significant employment or earnings effects across the total sample of MTO families (Orr et al. 2003), though there may be positive individual site effects (research is in progress on Baltimore and the other MTO sites).

Although the research literature provides strong evidence that neighborhood conditions have an important influence on people's lives, they are not the only influence (Ellen and Turner 1997). Both theory and empirical evidence strongly suggest that individual and family characteristics interact with neighborhood environment in complex ways, and play a hugely important role in shaping outcomes over time. Some families and individuals can withstand the disadvantages of even the most distressed environment; while others are likely to encounter serious problems regardless of the neighborhoods in which they live. Thus, as discussed further below, programs that combine mobility assistance with other forms of counseling and support (designed both to help families cope with day-to-day challenges, and to help them gain access to opportunities for upward mobility) may offer the best strategy for helping low-income families overcome the effects of living in high-poverty and distressed neighborhoods and to achieve meaningful employment, earnings, and educational progress over the long-term.

Ongoing research on the MTO demonstration also highlights the importance of the criteria used to identify suitable destination neighborhoods for participating families and the need to help families *remain* in their new neighborhoods over the long term. Specifically, families that received special purpose vouchers and mobility counseling through MTO were required to use their vouchers in census tracts with poverty rates below 10 percent (as reported in the 1990 census). By 2000, however, many of the tracts to which MTO families moved had become poorer and more predominantly minority (Orr et al. 2003). The fact that relatively few MTO families moved to stable, predominantly white neighborhoods in affluent suburban jurisdictions may limit benefits for families over the long-term. Moreover, many MTO movers are having difficulty retaining housing in low-poverty neighborhoods, due mainly to rent increases and problems with landlords, and so a substantial share have made subsequent moves to higher poverty areas (Orr et al. 2003). Thus, future mobility programs should be more explicit about

the criteria used to define eligible destination neighborhoods, and should provide ongoing assistance to help families remain in low-poverty neighborhoods over time.

### C. Rental Housing In Which Recipients Could Potentially Use Vouchers Is Quite Widely Dispersed

HUD research on the location of Housing Choice Voucher households in the nation's 50 largest metropolitan areas finds that the stock of rental housing in which vouchers can potentially be used is widely dispersed (Devine et al. 2003). Specifically, within the 50 largest metro areas, the voucher program utilizes only about 2 percent of all occupied housing units and 6 percent of all rental units with rents below the applicable Fair Market Rents (FMRs). Virtually all census tracts contain at least some units of below-FMR rental housing, and 83 percent have at least some voucher recipients living in them.

Nationwide, vouchers are generally not clustered geographically: In 90 percent of all tracts with any voucher recipients, the program accounts for less than 5 percent of all households. But where vouchers are clustered, the clustering is in high poverty, mostly minority central-city neighborhoods.[16]

### D. Mobility Counseling And Housing Search Assistance Can Help Low-Income Families Use Their Vouchers To Access Opportunity-Rich Neighborhoods

Over the last 15 years, some public housing authorities around the country have partnered with non-profit organizations to create assisted housing mobility programs – in response to fair housing litigation or as part of federal demonstration programs. When effectively designed and implemented, such programs help low-income families take full advantage of their housing voucher by providing hands-on assistance in housing search, tackling administrative and logistical barriers to mobility, overcoming landlord resistance to the voucher program and encouraging more of them to accept voucher holders and tenants, and offering on-going support and assistance to both families and landlords over time (Turner and Williams 1998).

Voucher households who receive assistance with the housing search process, including minority households starting out in central city locations, have been more successful in gaining access to lower-poverty or opportunity-rich neighborhoods. Mobility counseling and assistance can help voucher recipients understand the locational options available, identify housing opportunities, and negotiate effectively with landlords. A growing body of evidence from assisted housing mobility programs across the country indicates that this kind of supplemental assistance can significantly improve locational outcomes for voucher recipients, resulting in greater mobility to low-poverty and racially mixed neighborhoods for families who might

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[16] Nationally, the share of tracts where voucher recipients account for more than 10 percent of households is very small – only 3 percent of all tracts with any voucher recipients living in them. And voucher recipients account for more than a quarter of all households in less than 1 percent of all tracts. But in those tracts, the poverty rate averages 40.4 percent, compared to 19.5 percent where they account for less than 5 percent of households.

otherwise find it difficult to move out of distressed, inner-city neighborhoods (Goering, Stebbins, and Siewert 1995; HUD 1996; Turner and Williams 1998; HUD 1999; Orr et al. 2003).

Looking forward, however, it is important to recognize that designing and implementing an effective mobility program is challenging, and that not all efforts to do so have been successful, especially where HUD and local agencies have been slow to take action or planned and implemented poorly. A review of lessons from eight court-ordered consent decrees entered into between 1992 and 1996, seven of which included a voucher mobility component, usefully highlighted start-up challenges that a well-run new program should address—and that well-run past programs have tackled carefully (Popkin et al. 2003; Briggs 2003b). These challenges included reluctance on the part of some public housing tenants to make desegregative moves to particular communities, an inadequate supply of suitable rental units in some target communities, poor public transportation, the lack of effective coordination among implementation agencies, and weak monitoring by HUD. As discussed further below (in the section on performance measures and monitoring), the design of a voucher mobility remedy for Baltimore can and should take these experiences into account, building in proper planning as well as mechanisms for addressing anticipated barriers to implementation.

Findings from the Moving to Opportunity demonstration (MTO) highlight quite dramatic differences in neighborhood outcomes for comparable voucher recipients with and without effective mobility assistance (Orr et al. 2003). Specifically, MTO families (who received housing vouchers in conjunction with mobility counseling and search assistance) moved to neighborhoods with significantly lower poverty rates, greater safety, and larger shares of college-educated neighbors than comparable families who moved with conventional housing vouchers but no mobility assistance. Both groups of voucher recipients were predominantly minority and began their housing search in high-poverty housing developments in the central city.

In addition, rigorous analysis of location choices among families participating in Chicago's Housing Opportunity Program (HOP) confirms that mobility assistance has a measurable impact on neighborhood outcomes (Cunningham and Sawyer 2005). The goal of HOP is to help Chicago voucher recipients move to "opportunity neighborhoods," which are defined as census tracts with poverty rates below 23.49 percent.[17] Since its inception in 1999, approximately 10 thousand housing voucher holders have enrolled in HOP, making it one of the largest voluntary mobility programs in the country. Analysis of locational outcomes for over 29 thousand households found that voucher holders who enrolled in HOP and received mobility services were 52 percent more likely to move to opportunity neighborhoods, other things being equal. In

[17] This defined poverty level would not be described by researchers or policymakers as a low-poverty neighborhood and is not comparable to john powell's definition of "communities of opportunity." Rather, the HOP definition is apparently based on HUD's more lenient SEMAP bonus indicator for poverty deconcentration. SEMAP awards PHAs credit if voucher families move to areas with a lower poverty rate than the municipality or county, which generally have higher poverty rates than the regional housing market as a whole.

other words, after controlling for household characteristics and pre-program location, mobility assistance has a strong effect on location outcomes.

Even with counseling and search assistance, not all voucher recipients succeed in finding housing in opportunity-rich neighborhoods. Lease-up rates among families in the experimental group of the MTO demonstration ranged from a low of 34 percent in Chicago to a high of 61 percent in Los Angeles. The rate for the Baltimore site was 58 percent. The families most likely to succeed in moving to a low-poverty neighborhood through MTO were those that were more motivated about moving and more optimistic about their chances of success. In addition, they tended to own cars and to have fewer kids. Success in leasing up with MTO assistance was undermined by disability and strong social ties (Shroder 2003). Among Chicago HOP participants, households who were employed and had higher incomes were more likely to move to opportunity neighborhoods, while those receiving welfare and those who were homeless at the time of program admission were less likely to succeed in moving to opportunity neighborhoods. In addition, African Americans, large families (who need large rental units), and public housing relocatees were less successful in moving to opportunity neighborhoods (Cunningham and Sawyer 2005). These categories of households may need additional assistance overcoming the challenges of housing search and mobility.

**E. Vouchers Alone As Typically Administered By Local Phas Will Not Remedy Existing Patterns Of Racial Segregation And Poverty Concentration**

In most communities around the country, the performance of the federal Housing Choice Voucher program falls far short of its potential.[18] As currently administered, vouchers do not provide equal access to low-poverty and low-minority neighborhoods for all poor households. Tenant-based assistance produces better locational outcomes in suburban areas than in central cities, for white recipients than for African Americans and Hispanics, and for the elderly than for non-elderly families and disabled people. As one would expect, tenant-based assistance still consistently outperforms public housing, even in central cities, even among African Americans and Hispanics, and even among families and disabled recipients in allowing some recipients access to integrated, mixed-income communities. It clearly has the potential to offer better locational outcomes, especially for minority families currently living in central city communities (Turner and Wilson 1998).

HUD's analysis of voucher locations in the 50 largest metro areas nationwide illustrates that minority and central city recipients are not gaining access to the same opportunities as white and suburban residents (Devine et al. 2003). Specifically, 25 percent of African American recipients and 28 percent of Hispanic recipients live in high-poverty neighborhoods, compared to only 8 percent of whites. In addition, about one third of central city recipients (34 percent) live

[18] The 1996 Analysis of Impediments to Fair Housing in the Baltimore Metropolitan Area (Ardinger Consultants and Associates 1996) reflects many of the performance problems discussed here, highlighting, for example, the fact that minority voucher recipients face difficulty finding landlords, in opportunity-rich suburban communities, who will lease to them.

in high-poverty neighborhoods, compared to only 6 percent of suburban recipients. Black and Hispanic voucher recipients in the suburbs are much more likely to gain access to low-poverty neighborhoods than those in central cities, but even in the suburbs, blacks and Hispanics are at a disadvantage relative to white voucher recipients. Specifically, 45 percent of suburban black recipients and 40 percent of suburban Hispanic recipients live in low-poverty neighborhoods, compared to 59 percent of suburban white recipients.

The HUD analysis also finds that minority voucher recipients are more likely than whites to be geographically clustered (Devine et al. 2003). Only a tiny fraction of all census tracts in the nation's 50 largest metropolitan areas have substantial concentrations of voucher recipients (recipients accounting for more than 25 percent of households). But most of the voucher recipients who live in these tracts (83 percent) are minorities. In contrast, only 47 percent of voucher recipients are minority in tracts where they account for under 2 percent of all households. In other words, white voucher recipients are much more likely to gain access to a wider array of lower-poverty neighborhoods, and less likely to be clustered in higher-poverty neighborhoods.

Unequal outcomes for minority voucher recipients are attributable in part to the persistence of housing market discrimination in metropolitan rental markets nationwide. Findings from the most recent national paired testing study (Turner et al. 2002a) show that black and Hispanic renters continue to face high levels of discrimination in metropolitan housing markets nationwide, although discrimination against black renters has declined significantly since 1989. No significant change occurred for Hispanic renters. As of 2000, the incidence of consistent adverse treatment nationwide is 20 percent for black renters and 23 percent for Hispanic renters.

The most frequent form of discrimination against both black and Hispanic renter is denial of information about available housing units. This is a critically important form of discrimination because it so clearly limits the options from which minority homeseekers can choose. The opportunity to actually inspect available units also represents an extremely damaging form of discrimination, and estimates of discrimination against blacks and Hispanics are also statistically significant on this measure. Housing discrimination denies minorities free and full access to apartments and homes they can afford, and raises the costs and time involved in housing search (Yinger 1995). Although discrimination is not the only reason why racial and ethnic segregation persist in metropolitan housing markets today, it plays an important role, discouraging blacks and Hispanics from seeking opportunities in predominantly white areas (Charles 2003).

Other market barriers also make it difficult for families to access the full range of neighborhoods potentially available to voucher recipients. In hot rental markets, taking advantage of a voucher can be particularly difficult. Specifically, in communities where vacancy rates are low and rents are rising, landlords have no trouble finding tenants for their units. Under these circumstances,

voucher recipients are at a real disadvantage. Moreover, many of the landlords who own good housing in desirable neighborhoods want nothing to do with the federal voucher program. They fear that low-income families will make risky tenants and undesirable neighbors, or that red tape and bureaucratic hassles are inevitable (Turner, Popkin, and Cunningham 2000). As a result, some landlords simply do not accept vouchers, or only accept them in properties in less desirable neighborhoods. In addition, owners of desirable rental properties in healthy neighborhoods may charge higher security deposits and/or application fees, adding to the challenges voucher recipients face in searching for housing.

In fact, HUD's analysis of for the 50 largest metropolitan areas nationwide concluded that voucher usage was disproportionately low in about half of all neighborhoods that offer below-FMR rental housing (Devine et al. 2003). HUD researchers classified voucher usage in a particular census tract as disproportionately low if the ratio of voucher recipients to below-FMR rental units was less than half the ratio for the jurisdiction as a whole. The share of suburban tracts with low voucher utilization was 52 percent, while the share of central city tracts was 45 percent. Moreover, 20 percent of suburban tracts and 12 percent of central city tracts that had at least some below-FMR rental housing had *no* voucher recipients.

**F. The Presence of Housing Voucher Recipients in Otherwise Healthy Neighborhoods Does Not Undermine Property Values, As Long As The Vouchers Are Not Overly Clustered**

Policies that enable or encourage low-income families to move to opportunity-rich neighborhoods sometimes generate opposition from receiving neighborhoods, due to fears that they may undermine the quality of life (Galster, Tatian, and Smith 1999). But the most current data and analysis shows that subsidized households do not undermine neighborhood health or property values if they are not over-concentrated.

Most research on how subsidized housing affects the neighborhoods around it has found no effect, or even a positive effect, on property values. But some studies have raised concerns about possible negative effects of some types of subsidized housing, under some circumstances (Galster, Tatian, and Smith 1999). However, few of these studies can definitively answer the question of whether assisted housing caused property values to decline or whether assisted housing was located in neighborhoods already experiencing declining property values.

This methodological issue is explicitly addressed in a HUD-sponsored study, in Baltimore County, of how occupancy of a housing unit by a Section 8 family affects residential sales prices of nearby homes (Galster, Tatian, and Smith 1999). This study used sophisticated multivariate statistical techniques to quantify changes in the sales prices of homes within a 500, 1000, and 2000-foot radius of units following occupancy by voucher recipients, controlling for other property and neighborhood characteristics.

The neighborhoods into which Baltimore County voucher households moved had lower sales prices and were more likely to be experiencing declining prices compared to other neighborhoods in the County, other things being equal. The arrival of a voucher household actually resulted in a slight increase in sales prices for homes within a 500-foot radius, and had no effect on sales prices of homes farther away. However, when a large number of units in the same immediate vicinity were occupied by voucher recipients, sales prices declined. These results suggest that a small number of recipients in a neighborhood (fewer than 6 to 8 families within a 500 foot radius) may have a positive effect, while a larger number of recipients concentrated in the same immediate neighborhood may have a negative effect.

The Galster, Tatian, and Smith study also found that the positive price effects associated with voucher recipients all occurred in neighborhoods that were predominantly white, high valued, with rising sales prices. No negative effects were found in neighborhoods of this type. Instead, all of the negative price effects found in their analysis occurred in minority neighborhoods and moderate- to low-value neighborhoods with declining values. In addition, analysis indicates that the race of the voucher recipient has no impact on the pattern of price effects, regardless of the racial composition of the receiving neighborhood.

Focus groups with residents of selected Baltimore County neighborhoods were conducted in conjunction with this multivariate statistical analysis. Analysis of the focus group discussions strongly suggests that it is poorly managed and inadequately maintained rental properties that constitute the primary source of concern. Neighborhood residents notice these properties, see them as signals of neighborhood decline or distress, and often assume that the residents are voucher recipients. In contrast, neighbors are often unaware of the presence of voucher recipients as long as properties are well managed and maintained. Moreover, researchers have found no general association between subsidized housing and “white flight” from neighborhoods (Freeman and Rohe 2000), though historically, the creation of large, densely clustered, and poorly run high-rise public housing projects virtually ensured the emergence of racially segregated ghettos (Massey and Denton 1993). Our main point, and the conclusion of recent studies, is that smaller-scale, better designed and better managed subsidized housing has not led to neighborhood decline or resegregation and, indeed, that subsidized housing can lead to neighborhood upgrading (Freeman and Rohe 2000; Ellen et al. 2001). It is when vouchers are clustered in lower-cost, higher poverty, minority neighborhoods that such vouchers can be detrimental to the neighborhoods.

**G. A Housing Voucher Program That Is Administered Regionally Can Be More Effective In Helping Families Move To Opportunity-Rich Neighborhoods**

Jurisdictional boundaries add to the difficulties that central city voucher recipients face if they want to move to neighborhoods in suburban jurisdictions. Because the voucher program is administered by local public housing agencies, central city recipients are generally not encouraged to search for housing regionwide. Technically, vouchers are portable – recipients can use them to move anywhere in the U.S. But the administrative hurdles can be daunting,

both for housing agencies and for recipients. When a family receives its voucher from one housing authority but wants to move to the jurisdiction of a different housing authority, the "portability" process is administratively burdensome. Technically, the "sending" PHA has a choice; it can either transfer the family to the new PHA (which must agree to "absorb" the transfer by issuing one of its own vouchers) or it can pay the "receiving" PHA for performing administrative functions such as income certifications, housing inspections, and lease renewals. Many urban PHAs have agreements with neighboring jurisdictions that they will automatically "absorb" vouchers from one other rather than administering complex "billing" arrangements. But absorbing a recipient from another jurisdiction means using up a unit of housing assistance that could have served a family on the local waiting list (Feins et al. 1997). Some PHAs are reluctant to continue absorbing recipients from other jurisdictions, especially if the portability process is largely one-way.

Moreover, portability is administratively burdensome; the receiving PHA may use a different application form, apply more rigorous screening criteria, calculate subsidy levels differently, or require the family to attend another orientation briefing. If the receiving jurisdiction does not welcome mobility from neighboring jurisdictions (possibly for racial or socio-economic reasons), these administrative hurdles create the potential for significant delays. Suburban communities often oppose the arrival of voucher families from nearby cities, because of their race, their poverty, or both (Churchill et al. 2001). There is anecdotal evidence that some affluent suburban jurisdictions routinely delay the portability process so as to use up families' search time, discouraging them from even attempting to move (Tegeler, Hanley, and Liben 1995, Sard 2000). Few local housing agencies see it as their responsibility to gather information about affordable rental housing regionwide or help clients move to other jurisdictions (Feins et al 1997). In fact, observation of Section 8 orientation briefings suggests that not all housing authorities fully explain portability to their clients, or encourage families to consider moving to another jurisdiction (Cunningham, Sylvester, and Turner 1999).

The fact that Section 8 is usually administered by many different PHAs operating within the same regional housing market also complicates outreach to area landlords. A central city PHA may not have the capacity to identify major housing providers in low-poverty suburban areas, and may have difficulty convincing them to accept central city Section 8 recipients (Great Cities Institute 1999). PHAs have reported that they sometimes find themselves in competition for area landlords; rather than working together to recruit the largest possible pool of participating landlords, they battle to claim landlords who will commit to serving "their" families. Landlords can be confused and deterred by the multiplicity of local programs, and may hesitate to participate in the program at all because of uncertainties about who is administering it and how reliably it operates (Cunningham, Sylvester, and Turner 1999).

Few urban regions in the U.S. are served by a single, regional housing agency (Feins et al. 1997). Portland, Oregon and Jacksonville, Florida offer unusual examples of metropolitan areas where the jurisdiction of the central city PHA has expanded to encompass all or much of the

metropolitan region and where other PHAs are not operating. In several other metropolitan areas around the country, PHAs possess the authority and capacity to administer housing vouchers region-wide. For example, the housing authority of Rochester, NY and the private firm that runs Hartford's program both administer Section 8 assistance anywhere in their metropolitan areas, although other local housing authorities also operate in some parts of the region. Families who apply for assistance from the Hartford or Rochester programs can move anywhere in the metro area, and suburban landlords can work with the city's metro-wide program as well as with suburban programs. The Metropolitan Boston Housing Partnership is one of nine regional subcontractors administering the statewide Section 8 program. It serves the entire Boston metropolitan area, and families who apply to its central office can move anywhere in the region. However, many local agencies (including the Boston Housing Authority) also operate Section 8 programs in the region. In Baltimore, Metropolitan Baltimore Quadel, the contractor hired to operate the mobility program under the partial consent decree, is administering the *Thompson* decree vouchers regionwide. These examples demonstrate that it is feasible for a single PHA, whether directly or through a contractor, to effectively administer the housing voucher program across jurisdictional lines within a metropolitan region, and that this approach can help address some of the barriers to mobility and choice for voucher recipients.

These examples demonstrate that metro-wide administration of the Section 8 program is technically feasible, and that it could potentially address many of the pitfalls of fragmented local administration. There is no single right answer to the question of what type of organization is best qualified to administer housing vouchers for regionally. However, the opportunity exists in Baltimore to build on the infrastructure for regional administration that has been set up as a result of the *Thompson* mobility programs. Another option would be to conduct a competitive process that is open to a wide array of public, nonprofit and for-profit institutions (Katz and Turner 2001). Whatever the method of procurement, the organizations selected to administer housing vouchers in an urban region should be required to collect and report reliable data on their performance and should be held accountable for meeting a clear set of performance standards. Experience in other areas of public management indicates that this kind of "incentive contracting" or performance-based contracting can yield meaningful improvements in service quality (Marlin 1984, Osborne and Plastrik 2000).

### H. Research On Assisted Housing Mobility Programs Provides A Framework For Defining Meaningful Performance Measures For A Regional Voucher Program

It is our recommendation that the court (a) establish specific targets, demanding that the implementing agencies carefully develop mechanisms for reaching those targets; and (b) hold the implementers accountable for meeting the targets in a timely way.

Establishing a meaningful set of performance measures – along with procedures for collecting the data necessary to construct these measures -- will require a substantial investment of time

by program designers and staff. In this section, we draw upon the experience of assisted housing mobility programs to recommend a framework for defining these measures.

The key measures for the remedy are output measures that correspond to desegregative housing opportunities, but for clarity, we discuss the range of performance measures below, including a brief look at input, process, and outcome measures. The latter capture wider social benefits of desegregative housing opportunities over time, such as access to better services and improved health, education, safety, and income.

*Inputs*. Clearly, a desegregation remedy cannot succeed without a sufficient number of qualified staff, adequate facilities and equipment, secure funding over the needed time frame; and time to plan and set up before beginning to serve clients. Actual targets for these input measures will depend upon the specifics of the remedy.[19]

*Process*. The next group of measures for monitoring the performance of a desegregation remedy should focus on the activities carried out by staff. Again, actual targets will depend upon the specifics of the program design, but measures should be developed to track the following essential components of a quality mobility counseling program (Turner and Williams 1998):

- *Initial outreach, briefings, and assessments.* Families' needs vary widely, and many low-income families living in segregated neighborhoods are apprehensive about the prospects of moving. Therefore, an essential first step in an assisted mobility program should include proactive outreach to potential clients and pre-move counseling (to help them understand the potential benefits of mobility) and case-by-case assessments (to determine what forms of assistance each family will need to prepare for and accomplish a successful move). [20]

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[19] Most assisted housing mobility programs are staffed by a full-time director, housing counselors (qualified to work directly with families who want to move), outreach specialists (qualified to recruit landlords – and potentially developers – to accept participating families), and clerical staff (Turner and Williams 1998). Facilities typically include office space (that is convenient for clients to visit), a resource room equipped with information about neighborhoods and housing opportunities throughout the region, and a van or some other form of transportation for taking families to see possible neighborhoods (Turner and Williams 1998). Funding obviously needs to cover the costs of staff and facilities, but in addition, funding may be needed to cover families' transportation costs (as they search region-wide for housing), incentive payments to landlords, and revolving loan funds to help participating families cover application fees, security deposits, and moving costs. Finally, any new program needs time for design, recruitment, and start-up before it can start delivering services at full capacity. Some mobility efforts have struggled at the outset because they were expected to begin serving a full case-load of clients too early (Goering, Feins, and Richardson 2003; Turner and Rawlings 2005).

[20] In addition to conducting routine, group briefings for prospective clients, some mobility counseling groups have developed creative new outreach strategies, including videos and "street" theater productions. Possible performance measures include number and types of briefings and briefing materials, number of potential clients briefed, percent enrolling, and percent returning for an individual assessment.

- *Landlord outreach and recruitment.* An effective mobility program has to recruit landlords as well as clients, including landlords who manage affordable rental properties in a wide range of opportunity-rich neighborhoods.[21] Potential performance measures include number and types of briefings and briefing materials, number of landlords briefed, percent agreeing to participate, number of available properties (and units) available in opportunity-rich neighborhoods, share of all opportunity-rich neighborhoods in the region in which units are available.

- *Housing search assistance.* The central activity of any assisted housing mobility program is to provide direct assistance with housing search.[22] Potential performance measures include number of families receiving search assistance (per counselor), number of families receiving specific services, number of units in opportunity-rich neighborhoods offered per family, number and percent of families placed, average search times, and client satisfaction with services received. Care should be taken to avoid measures that create an incentive for counselors to steer families to disadvantaged or transitional neighborhoods, which may offer the easiest, quickest, and cheapest placements.

- *Post-move and second-move counseling.* Many assisted housing mobility programs provide some level of counseling and assistance to families after they have moved, which may include troubleshooting problems with landlords or dealing with other needs.[23] This kind of second-move counseling can be critical to ensuring that families are able to remain in opportunity-rich neighborhoods – or advance to successively better neighborhoods – over the long-term (Cunningham and Sawyer 2004). Potential performance measures in this activity area include number of families receiving follow-up services, frequency of contact between case managers and clients, number of landlord or tenant requests for service, number and percent of clients evicted, number and

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[21] Strategies for recruiting landlords include videos and glossy brochures, but also presentations at meetings of area landlords. Some programs have had success in enlisting one or two prominent local landlords to serve as "emissaries," introducing outreach staff to other property owners and encouraging professional colleagues to participate in the mobility program.

[22] Some programs focus on preparing and coaching families to search independently, while others provide more hands-on assistance. Both approaches can be effective, and their relative merits probably depend upon the characteristics of participating families (do they have the capacity to search independently?) and of the local housing market (how tight is the market for rental units in opportunity-rich neighborhoods?). Many programs, however, offer tours of opportunity-rich neighborhoods, identify several available units for a family, provide help with transportation during the search process, accompany families in their visits to available units, and offer revolving loan funds to help pay for security deposits and moving costs.

[23] This assistance can range for a phone call or visit to ensure that a family is settling in and finding its way around the new neighborhood, to several months of help as families adapt to their new surroundings. Many programs help resolve conflicts or disagreements between families and landlords, a service that can be particularly important to landlords who are skeptical about the reliability of participating families. In addition, some programs contact families as the end of their lease term approaches to help with a subsequent move if necessary.

percent of clients renewing their leases, number of clients receiving assistance with a second move, and client and landlord satisfaction with services received.

*Outputs*. As discussed earlier, a meaningful system of performance measures must go beyond inputs and process to track outputs -- the direct results of the services being provided. We understand that other experts are defining the essential characteristics of communities of opportunity for this remedy and identifying areas in the Baltimore metropolitan region that meet these criteria. Using this definition of communities of opportunity, output measures should track four (4) critical dimensions of desegregative housing opportunity:

- *Pool*: The number of housing opportunities *created* in communities of opportunity;
- *Placements*: The number of families (and percent of all clients served) who are *placed* in these neighborhoods;
- *Stability and exposure:* The number of families (and percent of clients served) who *remain* in communities of opportunity over several years; and,
- *Dispersion*: The number of *different* communities of opportunity (and percent of all such neighborhoods) to which client families move.

Managers of the Baltimore desegregation remedy should be held accountable for achieving specific targets for each of these output measures. Targets of this kind would require program managers and staff to create sufficient opportunities and provide sufficient assistance to families to meaningfully disestablish segregation among federally assisted families in the Baltimore metropolitan area. In addition, one of the lessons emerging from the Moving to Opportunity demonstration is about the importance of tracking retention as well as initial placements (Orr et al. 2003). A remedy is less likely to yield lasting benefits for either families or the larger community if participating families only remain in communities of opportunity for the length of their initial lease term.

*Interim and end outcomes.* The final category of performance measures focuses on the extent to which participating families are able to meet their needs and improve the quality of their housing, neighborhood conditions, and services, while "leveraging" better location to gain access to the social and economic mainstream. As discussed earlier, families who have lived in segregated, high-poverty neighborhoods for an extended period are likely to have been significantly disadvantaged by the experience. Enabling them to move constitutes a critical first step, but alone, it may not be enough to undo the damage of segregation. In the short-term, are family members able to access transportation, health care, schools, and jobs in their new neighborhoods? And in the longer term, do they experience improvements in health, education, employment, and income? Although these outcomes are influenced by many factors beyond the control of program managers and staff, monitoring them is essential to identifying major barriers families face and suggesting key services or supports that program staff could deliver. For

example, suppose families who have moved to suburban neighborhoods report that public transportation is inaccessible or unreliable in these neighborhoods, and that they are having difficulty shopping for food, getting to their doctor, and looking for work. This information could motivate program staff to link these families to other programs that help families buy and maintain reliable cars, potentially solving a problem that would otherwise prevent families from remaining in communities of opportunity over the long-term. HUD has some flexible funding for local efforts of this kind and could help coordinate efforts by other federal agencies to expand transportation access as part of workforce development efforts. The *Thompson* programs are already partnering with the Local Defendants, the Abell Foundation, and Vehicles for Change (a nonprofit agency) to provide some transportation solutions. The Court should ensure that any remedial program include a strong data collection and analysis component and regular reporting on salient performance indicators.[24]

## IV. An effective remedy must include a supply-side strategy as well as vouchers[25]

Our discussion of the limits of housing vouchers highlighted the most important reason to include a supply-side strategy in the court's remedy: But vouchers alone are unlikely to deliver an effective remedy. This section begins with brief clarification of the concept and the case for supply-side housing strategy, with a focus on so-called inclusionary strategies that expand the geography of the affordable housing supply. Next, we briefly review lessons of past court-ordered supply strategies. Finally, we outline key principles in the design and implementation of such a strategy, which differs in a variety of important ways from implementing voucher-based or other demand-side strategies. Notably, the Partial Consent Decree in Thompson included a supply-side component, as did other HUD-involved consent decrees in the 1990s.

### A. Supply-Side Housing Intervention: Fundamentals and Rationale

Housing policy in America has long focused on expanding the available supply of quality, affordable housing for a wide range of families. The first systematic attempts to do so were not government-led: Mining and mill companies built worker housing to enable new extraction and production centers to emerge near important natural resources, waterways, ports, etc. Early twentieth century reforms of land and building regulation directly addressed the problem of supply *quality*, including the variety of health hazards posed by overcrowded, poorly designed urban tenements. And government's first major foray into low-income housing *development* was supply-side—the public housing program launched during the Depression as part of the New

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[24] Collecting data on interim and long-term outcomes can be more challenging (and expensive) than collecting basic data on inputs, process, and outputs. Much valuable data is collected by agencies that administer vouchers in the ordinary course of business and should be augmented and systematically analyzed. One strategy for additional data collection would be to track a subset (sample) of participating families over time, interviewing them at regular intervals using standardized survey instruments. Well-established survey questions have already been developed by MTO and HOPE VI researchers.

[25] This section was prepared by Xavier de Souza Briggs.

Deal and rapidly expanded in the 1940s and 1950s to address severe wartime and post-war housing shortages (Vale 2000).

Only in the 1960s and 70s did serious experimentation begin with rental subsidies (in the form of vouchers or certificates) on the demand side, the hope being that housing markets would self-correct enough to build needed housing, at a range of price levels and across a suitably wide geography (Orlebeke 1999). Neither premise—affordable housing prices or wide dispersion of affordable units—has in fact obtained consistently across the nation. This underscores the importance of innovative, well-managed supply-side programs.

The geography of affordable housing is limited in many U.S. metro areas, especially in "dual" markets, such as greater Baltimore/ Washington, in which affluent suburbs ring, respectively, a still relatively poor central city with large concentrations of minority ghetto poverty (Baltimore) and a rapidly gentrifying city with pockets of minority ghetto poverty (DC, mostly east of the Anacostia River). That is, such dual metro areas are fundamentally unlike metro areas with stagnant economies and population decline, many of them in the Rust Belt or Mississippi Delta. Gary, Indiana and Flint, Michigan, for example, are home to many poor households, most of them nonwhite, but both are relatively inexpensive housing markets. In each case, a weak economy with no significant business or job growth means low median incomes and weak housing demand. Dual areas, on the other hand, have both large populations of poor, largely nonwhite housing consumers and the demand from more affluent households that reduces the affordable supply and tends to leave it concentrated in the riskiest neighborhoods. Markets naturally stratify by income (ability to pay), but the local politics of land regulation acts, more specifically and directly, to exclude affordable, "entry-level" housing development from more opportunity-rich areas, especially in suburban jurisdictions and more desirable neighborhoods of central cities.

A recent study by the University of Maryland (2004) underscored this juxtaposition of low incomes and soaring housing costs, as well as the failure of all urbanized counties in the state to keep up with demand. Statewide, for example, the average household must bring in more than three times the minimum wage to afford a modest two-bedroom apartment, a rate that rises substantially in higher cost suburban communities. The researchers highlighted the need for increased production subsidies, specifically in the form of flexible housing trust funds, as priority one, along with stronger incentives for mixed-income housing development through existing inclusionary zoning policies in the state (see below).

To sharpen these points, Khadduri et al. (2003), in the most comprehensive review yet done of the vouchers versus production (demand versus supply-side) policy question, concluded that production subsidies, while often more costly than vouchers on a per-family-served basis, are likely to most crucial in several specific contexts:

- For populations requiring special services, such as the homeless in transition, the low-income disabled, the elderly in assisted living settings, and other special-needs groups;
- Where production subsidies are part of larger, place-based revitalization (area upgrading) strategies that go beyond housing to significantly improve services and improve quality of life;
- Where production subsidies enable residents of subsidized housing to live in *better* neighborhoods; and
- Where housing markets are tight (and affordable units scarce) or to preserve affordable housing where neighborhoods are gentrifying.

In addition, production strategies are important wherever the supply of housing is not configured adequately for an area's families, such as where larger-unit apartments are not being built to serve larger families with children. In some instances, as in the public housing program and certain nonprofit-run subsidized housing developments, supply-side strategies also help less creditworthy families improve their credit without losing basic shelter and becoming homeless or "doubled up" (moving in with other families).

As Khadduri et al. show, there is clear evidence that supply-side strategies can effectively disperse subsidized housing—and some encouraging evidence of an increase in this trend. Consider the example of the Low Income Housing Tax Credit, the nation's largest source of production subsidies for rental housing affordable to low and moderate income families. As of 1998, only one-third of LIHTC units developed prior to 1995 were located in neighborhoods (census tracts) with a poverty rate below 20%, but two-thirds of the units developed after 1995 were located in such low to moderate poverty areas. Unfortunately, state regulation in Maryland discourages the dispersion outlined above. The State requires local approval of any LIHTC-financed project, a policy which gives suburban localities an effective veto over low-income family housing developments.

HUD and local governments have generally concentrated low and moderate income housing in particular geographic areas and continue to do so. In some localities, courts have ordered remedies designed to change discriminatory siting practices. In some metro areas, public policy has addressed the exclusionary tendency using various means, and here we outline key terms: Efforts to expand the geography of supply are typically referred to as *inclusionary* housing strategies in that they address the *ex*clusionary tendency that predominates otherwise. As we show below, such policies typically rely on market expansion to create new affordable units (i.e., inclusion "piggy-backs" growth). Montgomery County, Maryland is home to one of the best known and documented inclusionary land use programs.

Policies that specifically obligate jurisdictions in a metropolitan region or state to accept a "fair" share of affordable units are called *fair share* programs, on the theory that jurisdictions should

agree to accept a level of effort or inclusion that neighboring communities have accepted, not a particularistic standard or policy target set jurisdiction by jurisdiction (no one place is "singled out"). A small number of metro areas launched fair share policies and programs in the late 1960s and early 1970s, and the best-documented and longest-lasting of these is in the Twin Cities area (Goetz, Chapple, and Lukermann 2005).

Finally, courts have ordered supply-side remedies that, in effect, mandate inclusion in one way or another. Through Mount Laurel I and II, the New Jersey high court ordered that each municipality in the state encourage housing development affordable to low and moderate income households. In *United States v. City of Yonkers et al.* (1985), the district court ordered the City of Yonkers and HUD to promote the development of affordable units in widely dispersed market-rate buildings (*mixed-income* housing) as part of a larger remedy that included the development of desegregative *scattered-site public housing* (200 units at 7 sites) in formerly "protected" middle-income, mostly white neighborhoods of the city and the desegregation of Yonkers' public schools via citywide busing and special choice programs (see also Hogan 1996; Newman 1996). Finally, the *Gautreaux* remedy included a scattered-site new construction order to be implemented within the city of Chicago in addition to the voucher-based strategy that targeted suburban areas and generated such positive acclaim from researchers. Neither the Yonkers mixed-income strategy nor the Mount Laurel program has delivered benefits as intended (see below). Gautreaux's scattered-site component was likewise stalled by local government recalcitrance. These outcomes raise the question of how to design and implement effective supply-side strategies, given their fundamental importance to the larger aim of expanding housing opportunities for low-income families.

### B. Lessons of Court Remedies Past

Inclusionary supply-side strategies often confront two related challenges—unfavorable market conditions and oppositional local politics. These two factors explain much about the disappointing outcomes in Yonkers, Gautreaux, and Mt. Laurel. In Yonkers, not-in-my-backyard (NIMBY-ist) political opposition delayed implementation of the scattered-site housing, and ultimately the court fined the City of Yonkers until the municipality was threatened with bankruptcy.[26] These high-profile sites have, unfortunately, obscured the lessons of a second, quite innovative, component of the remedy—that of mixed-income housing. The Court ordered the City and HUD to encourage the development of subsidized, below market rate (BMR) housing units, to serve low-income families, in larger market-rate developments. This mixed-income strategy typically uses the market-rate units to cross-subsidize the BMR units, but as such, in the absence of direct financial subsidies from government, the success of mixed-income housing depends entirely on the new production of market-rate units. This component of

[26] The case was decided in 1985 and the remedy issued in 1986. The imposition of rapidly escalating fines compelled the City of Yonkers to accede to the scattered-site housing plan in 1988. The first development was completed in 1992, and all seven sites were fully occupied by 1994 (Briggs, Darden, and Aidala 1999; Hogan 1996).

the court order ran immediately into a regionwide real estate recession and went nowhere. The court missed a major opportunity: To enable local implementers to use a variety of approaches to inclusion, such as the acquisition of units already on the market (acquisition is particularly attractive, cost-wise, in a down market, wherein prices are depressed and vacant units relatively numerous). Instead of expecting the market to produce considerable new supply, that is—typically, it takes four market-rate units to subsidize a single BMR unit—the court might have ordered the remedy implementers to explore and employ a variety of means, including buying up and renting out units already built and available.

More than "uncooperative" markets, the Gautreaux scattered-site order in Chicago and the series of Mt. Laurel decisions in New Jersey illustrate the risk that oppositional local politics will thwart efforts to expand affordable housing supply in opportunity-rich communities. Municipal governments can delay and resist inclusion in a variety of ways, for example: by officially permitting affordable housing but rejecting specific development proposals; by redefining "affordable" such that policies fail to serve the groups originally targeted; and by "planning" to develop such housing (in that commitments appear in official plans) but rezoning or otherwise excluding most of the sites on which it could be developed (viable or "developable" land). In many instances, civic groups such as homeowners associations attack development proposals, and in the most difficult instances, it appears that local government officials fully expect this "community" opposition and encourage it procedurally.[27] HUD recognized this in two major national reports on regulatory barriers and NIMBY-ist opposition (U.S. HUD 1991, 2005), and the Bipartisan Millennial Housing Commission appointed by Congress also highlighted this issue in its policy recommendations for the nation (MHC 2002). There is some evidence that reducing regulatory barriers, to make supply more generally responsive to demand, may be at least as important for expanding affordable housing supply, over the long haul, as efforts to target set-asides of units by income level (Briggs 2005a), though much "affordable" housing is not affordable to very low income families in public housing.

### C. Designing And Implementing Effective Supply-Side Strategies

These largely disappointing outcomes suggest key principles to improve the prospects that supply-side strategies will be effective in scale, targeting, and other respects: ground any market-dependent strategy in market realities, and plan for market cycles (i.e., for both weak and strong markets) with a flexible menu of new development, rehabilitation, and acquisition tools; look for synergies among tools, for example via set-asides for voucher holders in mixed-income housing developments (see the Montgomery County experience below); encourage the reduction of state and local regulatory barriers, to make housing markets more efficient overall (across a region); and involve nonprofit or other groups that can often negotiate development deals more effectively, particularly in non-traditional areas, without the stigmas attached to the

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[27] In New Jersey, although supply expansion has fallen short of legal advocates' original hopes, the support of the private homebuilding industry has been critical to the progress made, and this support was made possible by creating a "builder's remedy," via which builders can sue municipalities that are not complying with Mt. Laurel requirements.

public housing and Section 8 programs. These are the key success factors, and they frame our recommendation to the court for the supply-side element of the remedy:

- Direct HUD to create targets for the development of housing units in communities of opportunity—units sized appropriate to the needs of Baltimore's public housing families—but with the flexibility to acquire, build, or rehabilitate toward those targets;

- Establish a target number of mixed-income housing units as part of the strategy, and target set-asides for Section 8 voucher holders. This will expand the supply available in the region to meet the targets of the demand-side of the remedy while creating a long-run affordable housing resource;

- Direct HUD to address the long-run affordability of units acquired, rehabilitated, or newly built. Depending on financing details and terms of ownership and use, including "expiring use" features, so-called affordable housing units may be only temporarily affordable, leaving the supply vulnerable to later gentrification or other price shocks;

- Direct HUD to ensure that the combined housing strategy—an integrated approach from the supply and demand sides—is founded on up-to-date regional market research. This research should include an assessment of land supply and other factors shaping development opportunities;

- Direct HUD to identify options for lowering costs of production and rehabilitation, for example through lowering regulatory barriers in the target region, including barriers in HUD's own programs. The federal government has long articulated this as a nationwide objective, and in recent years, HUD has, through its Affordable Communities Initiative, begun to offer incentives to local communities to identify and eliminate regulatory barriers. Through the remedy in this case, the Baltimore region should serve as a model case for applying HUD's Initiative to lower barriers in a regional housing market;

- Require the full array of HUD's production programs to be marshaled and coordinated across HUD departments so that the success of the remedy is not tied to the political fortunes of any one or two programs—and that scarce resources are strategically targeted, within the Baltimore region, to achieve the remedial objectives; and,

- Request an institutional strategy for gaining community acceptance and building coalitions of builders, financial institutions, and other key stakeholders, such as by working through respected and capable nonprofit housing developers in the region.

For all the reasons outlined above, the local context is especially important for the supply-side element of the remedy. Efforts by the Court and the parties to implement supply-side strategies under the earlier consent decree have met administrative delays and local NIMBY resistance. However, these efforts are now progressing and establishing models that can be built upon.

Fortunately, as I noted briefly above, the Baltimore region is home to some of the best-known and most highly regarded inclusionary programs in the country, including Montgomery County's inclusionary zoning (IZ) program, the moderately-priced dwelling unit (MPDU) program, which ensures that all large-scale housing developments are mixed-income developments. The County launched this program three decades ago, anticipating major population growth, and the program's success reflects the piggy-back logic of mixed-income housing in textbook fashion (piggy-back growth to expand affordable supply alongside market-rate housing supply expansion). DC is now considering an IZ program to mitigate the price and displacement impacts of strong housing demand there. It is significant that IZ programs tend to focus on "worker housing," i.e. housing for moderate-income and not the low or very low-income households concentrated in public housing. But some Montgomery County MPDUs are owned and made available by the local public housing agency. The Baltimore region is home to several very capable, regionally oriented nonprofit housing organizations, as well as more locally-based organizations to serve as potential partners or intermediaries.

## V. Opportunities for Constructive Participation Can Be Designed[28]

This section offers a framework for considering alternative approaches to public participation in the development of the remedy and recommends specific choices within that framework, highlighting ways to enhance the likely impact of the remedy. It includes an assessment of past practice, with a focus on decision-making contexts most relevant to this case. The section draws on an extensive body of work in the fields of political science, public policy, urban planning, sociology, organizational behavior, and conflict resolution.

### A. Public Participation: Potential And Limits

The last generation has brought a sea change in expectations about public participation in affairs of government and in public life more broadly—that is, beyond the sphere of official decision-making by elected and appointed government officials. Essentially, the shift is away from a technically proficient bureaucratic state in which elections are thought to be the principal and sufficient means of "participation" by the public to a vision of "strong democracy" (Barber 1984) resting on active citizenry, in which varied publics participate in a more ongoing fashion in shaping specific public decisions and collaborate in realizing public aims (Fung 2004). In part, the shift owes to a massive loss of confidence in government's capacity to tackle complex social problems (Nye and Donahue 2000; Scott 1998).

A wide variety of specific rationales have been offered for participatory mechanisms and initiatives, but most fall into one or more of these three broad rationales (Briggs 2003a):

1. *Democracy requires meaningful mandates for public action*—the notion that electoral mandates can only represent public interests in limited ways, so government needs

[28] This section was prepared by Xavier de Souza Briggs.

additional mechanisms with which to help the public define its interests, weigh trade-offs, deliberate (learn), and then express preferences. In this vein, the complexity and high stakes associated with environmental policymaking has been a major stimulus to public involvement mechanisms, many of them required by law;

2. *Consultation is appreciated*—the psychological finding that acceptance of and satisfaction with difficult, even costly, decisions tends to be greater where there is some form of consultation. This rationale is particularly important in the study of procedural justice, wherein the means by which decisions are rendered and carried out are found to be highly predictive of acceptance by those being judged. It is also canonical in the field of organizational change, wherein stakeholder "buy-in" is a core currency; and

3. *Two heads can be—but are not always—better than one.* This is the most immediate and pragmatic of the major rationales and perhaps the only one that recognizes that solving thorny public problems often includes serious technical, production-related challenges, not just values-based or political ones. There is no guarantee that more players equals better ideas, and a diversity of participants, managed poorly, can lead to frustratingly little. But well-structured participation can produce far superior ideas for tackling problems, from urban transportation gridlock to school failure and beyond. Interestingly, product design firms were among the first to seize on and exploit this rationale for participatory work.

To understand what kind of participation strategy holds promise for this remedy, as well as which kinds may not, one more set of three is outlined here. There are essentially three kinds of objectives that public decision-makers (and their agents) may have in participatory approaches to problem-solving, though these are frequently muddled (in the minds of public authorities) and miscommunicated to the would-be participants:

1. *Agenda setting:* Determining and framing (or defining) the issues that need attention, say, in a city's effort to renew its quality of life, adapt to immigration or other large-scale demographic change, or handle a perceived crisis that is complex, has many dimensions. Textbook representative democracy assumes that this will happen effectively through political campaigns, open or otherwise transparent meetings of lawmakers, and a free and active press. But community visioning processes, inclusive issue-area task forces, public surveys, and other participatory mechanisms illustrate how much flexible yet carefully designed engagement can add to civic life and official policy.

2. *Direction setting:* Down one level of generality from agenda-setting, direction setting (as the words imply) encompasses choices of strategy on the issues on the agenda. Most public and private policies reflect explicit or implicit strategies of action, e.g. to tackle educational failure by hiring more teachers (to reduce class size) or enhancing security screening in urban schools and not by desegregative busing (to change the composition of schools).

3. *Implementation design:* If level-one objectives define the "what" or scope of public action, and level-two objectives the "how" (but at a fairly general level of strategy), level-three participation aims to enhance the tactical specifics of action by "getting the system in the room," i.e., by involving those who will co-produce hoped-for outcomes in designing implementation plans.

**B. Lessons For The Remedy**

The Baltimore remedy would benefit from well-targeted and structured stakeholder participation in the development of implementation plans, but could be undermined by other forms of participation. There are very good reasons to believe that an implementation design approach, which is generally known as *participatory design*, would serve the remedy well in metro Baltimore. But just as crucially, there are good reasons to think that an agenda-setting or direction-setting approach—or worse yet, an approach that sends mixed signals about the real objectives of participation—would generate unproductive risks and setbacks to the remedy. We will outline these reasons for one and against the others in an integrated list and then discuss the recommended participatory design approach in greater detail.

First, on the affirmative side, and as the history of Gautreaux, Moving to Opportunity, and other desegregative housing and school programs, including dozens of local housing mobility programs run voluntarily by local housing authorities amply demonstrate, desegregation initiatives are just the kinds of complex efforts that require proactive, peripheral vision, learning from past mistakes, and attention to details beyond the purview of any one implementing agency. The case is strong for engaging "users" (in design shorthand) in voucher-based tenant components, developer and locality-driven supply-side components, or other components of the remedy. The users have critical knowledge, and where innovative ideas—meaning promising but relatively untested—ideas are concerned, well-engaged users help program designers make much better forecasts, limiting costly mistakes later on. Mistakes include errors of commission as well as valuable but missed opportunities.

On the other hand, *agenda-setting* objectives are, in one sense, intrinsically inappropriate: The Court and the parties to the case have defined the issue agenda through the judicial process. The history of efforts to include public participation in an earlier generation of school desegregation cases, for example, includes the occasional bright spot of voluntary busing programs emerging out of collaborative planning at the local level. But not-in-my-backyard (NIMBY-ist) politics was the more common result. Well-organized but parochial local interests leveraged participatory mechanisms—"community" meetings, for example—to foment and widely publicize their opposition to equity-seeking remedies, especially those ordered by the courts (Crain 1968; Orfield 1978). These outcomes illustrate why *direction-setting* objectives are risky as well: These would signal indecision by the Court as to remedy, not a (healthy) desire to make a *given* remedy, a given set of strategies, workable and effective. This too could trigger

oppositional reactions to the basic aims of the remedy rather than the reasoned, practical dialogues designed to make it as likely as possible that the remedy will succeed.

Compared to agenda-setting and direction-setting participation efforts, participatory design is more focused, hands-on, and pragmatic—an exercise in making the proverbial mouse trap better *given* a set of design criteria. The criteria, in turn, reflect guiding values and problem-solving priorities (which the court, in this case, is weighing). A broad tactical toolkit exists to convene workgroups, promote shared understanding of the questions for discussion, gather and introduce outsider knowledge, elicit insider knowledge (much of which is often tacit or unrecognized), generate alternatives, and critique or fine-tune specific proposals (Briggs 2003a; Sanoff 2000).

The particulars of participatory design should always be guided by the particulars of the context and the kinds of knowledge and buy-in that implementers want to obtain. In the context of implementing the remedy, it is our recommendation that a participatory design process:

a. Target specific user groups, such as prospective tenants and landlords for a regional opportunity Section 8 voucher program;

b. Make learning from the strengths and weaknesses of earlier desegregative efforts a top priority;

c. Engage participants in crafting more imaginative solutions where possible, even for sub-problems that are not identified as important early on but which emerge in the course of discussion (these often correspond to the bottlenecks that stymie programs designed in less inclusive, more technocratic ways); and

d. Avoid the publicized public meeting or community-advisory approach, which is likely to trigger undue anxiety and generate little useful information or support.

Where somewhat broader involvement is warranted, it should, in our estimation, be pursued *ex post*, in direct connection to program specifics that implementers are looking to shore up, not vague notions about building public support.

## VI. Conclusion

In sum, we have critically reviewed the benefits that desegregative housing opportunities can generate for low-income minority families and recommended the following: (a) a voucher-based, regionally oriented mobility program designed to help participants move to communities of opportunity and remain stably housed there; (b) a complementary supply-side strategy, backed by the full complement of HUD production programs, to expand the supply and enhance the stability of desegregative housing opportunities, likewise with a regional focus; (c) specific

performance targets for both the demand and supply-side components; and (d) participatory design to enhance the effectiveness of the remedial programs—by securing useful information and support without exposing this important remedy to undue local opposition or attack.

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# REBUTTAL EXPERT REPORT:
# REMEDIES PHASE
# THOMPSON ET AL. V. HUD ET AL.

Xavier de Souza Briggs
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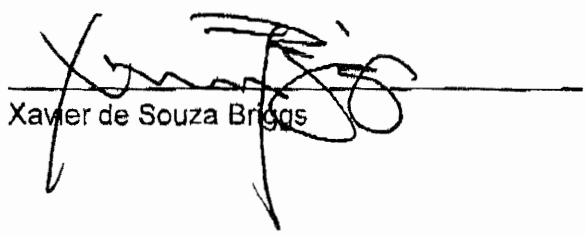
January 20, 2006

Signed: 

Xavier de Souza Briggs

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## EXECUTIVE SUMMARY

In our main report (August 2005), Margery Turner and I defined the overall framework for a remedy addressing the U.S. Department of Housing and Urban Development's (HUD's) failure to affirmatively further fair housing in the Baltimore metropolitan area and to disestablish segregation. In this report, I respond to specific comments and questions raised by the government's experts about that main report. Here, I both clarify points made in the main report and extend the opinions rendered there to address the government's experts.

To preview, I develop the following points in this rebuttal report:

- **The voucher program is a constrained but useful tool for creating housing opportunity for low-income families, and specific safeguards and performance measures are crucial.** In commenting on our report, the government's experts highlighted a number of the limitations of vouchers that we had identified in our report while expressing concerns about safeguards we[1] advocated, such as on the quality of neighborhoods where vouchers can be used. I review and extend this discussion, emphasizing the principles of non-concentration of vouchers (to safeguard the program and receiving communities), communities of opportunity (locational quality), housing stability (staying in better places, not just getting to them), and clear evidence of demand by low-income families, e.g., for location-targeted voucher use. In this section, I include opinions on the issues of voucher use and neighborhood change. There is a large body of research on urban and metropolitan change, and there are adequate planning and data analysis tools, to help protect neighborhood quality at the same time that the remedy promotes housing opportunity for families in the plaintiff class. HUD should make use of these tools.

- **The supply-side strategy represents a crucial complement to the voucher strategy, given the need to expand the geography of housing at affordable rent levels, the special needs of families, and other important considerations.** In our main report, I highlighted the conditions under which supply-side programs tend to be well advised. I extend that discussion here, addressing issues raised by government experts. For the foreseeable future, Congress will appropriate and HUD will administer funds for both demand-side and supply-side housing strategies. Each of HUD's programs present advantages and disadvantages in particular contexts, but our main point is that a wide variety of program tools can and should be used strategically to implement the remedy. So long as both types of tools exist, there is no justification for narrowly limiting the remedy to one type or the other. The supply-side question within a remedial framework is how best to ensure that HUD's programs in the Baltimore region expand the supply of units that provide fair housing opportunities in low-poverty, non-segregated communities, where much

[1] The pronoun "we" is used to refer to sections of the main report that I co-authored with Margery Turner.

regional growth is taking place—and do so in ways that protect the well-being of neighborhoods as well as plaintiff families.

- **"Community" participation should be carefully designed to strengthen, not undermine, the remedy, and this demands very different approaches for the demand-side versus supply-side housing strategies I recommended.** The one government expert (Rohe) who addressed these themes (as discussed in our report) mischaracterized our opinion rather dramatically, suggesting inaccurately that I advocated a coercive and secretive approach. I revisit this important issue and offer a discussion of research evidence cited by Dr. Rohe, i.e. about how successful deconcentration programs have been run elsewhere. I emphasize the crucial distinction between supply-side strategies—in particular, new construction programs that typically submit to public approvals processes and that work carefully with public and private actors in receiving communities—from demand-side strategies. The latter could be greatly undermined, as I noted in the main report, by vague and politically naïve notions of involving receiving communities in the implementation. Involvement of citizens and neighborhood associations, for example, in regional housing voucher programs is not required, as a policy matter, and may not be well advised as a practical matter.

## I. KEYS TO EFFECTIVE DESIGN AND MANAGEMENT OF A VOUCHER-BASED OPPORTUNITY PROGRAM.

In this section, I address (a) the geographic concentration of vouchers (the importance of safeguarding the program and receiving communities by dispersing families across a variety of neighborhoods) and the linked issue of neighborhood change; (b) the importance of locational quality and rationale for restricting the geography of voucher use in an "opportunity" program, as well as clear evidence of demand by low-income families *for* such location-restricted (targeted) voucher programs; (c) housing stability (staying in better places, not just getting to them).

### A. Avoiding concentration of vouchers and tracking neighborhood change

Dr. Clark, in his expert report for the government, highlighted the risks associated with future decline in "opportunity" neighborhoods and outlined how a concentration of housing vouchers could contribute to such decline. Dr. Rohe's report advised "do no harm" as a central principle.

We discuss the issue of concentration in our main report, summarizing research evidence that vouchers alone (as typically administered by local PHAs) cannot be relied upon to remedy patterns of racial segregation and poverty concentration. For example, HUD analysis finds that although only a tiny fraction of all census tracts in the nation's 50 largest metropolitan areas have high concentrations of voucher recipients (where voucher households are 25% or more of all households), most of the voucher recipients who live in these tracts (83 percent) are

minorities.[2] And those tracts tend to have high poverty rates as well. In other words, without effective mobility counseling, minority voucher recipients are much more likely than whites to be clustered in higher poverty neighborhoods (Devine et al 2003).

According to rigorous research on subsidized housing and neighborhood change, the risks associated with a true "dispersal" program are negligible. As discussed in our report, a key purpose of mobility counseling and search assistance is to ensure that voucher recipients are not clustered geographically but instead are able to gain access to a wider array of neighborhoods than is typical in the regular voucher program.

Findings from the MTO demonstration highlight quite dramatic differences in neighborhood outcomes for comparable voucher recipients with and without mobility assistance (Orr et al 2003). And analysis of location choices among families participating in Chicago's Housing Opportunity Program (HOP) confirms that mobility assistance has a measurable impact on neighborhood outcomes (Cunningham and Sawyer 2005). Moreover, HUD research concludes that the stock of rental housing in which vouchers can potentially be used, with mobility counseling and housing search assistance, is more widely dispersed than vouchers in use are currently (Devine et al 2003). Virtually all census tracts contain at least some units of below-Fair Market Rent (FMR) rental housing, and 83 percent have at least some voucher recipients living in them (Devine et al 2003). Finally, rigorous statistical analysis of the impacts of subsidized housing on neighborhood property values in Baltimore County concludes that, as long as vouchers are not concentrated, they are more likely to enhance the value of housing in the immediate neighborhood than to undermine it (Galster, Tatian, and Smith 1999).

Although the research evidence is strong that a quality mobility program will not undermine the well-being of receiving neighborhoods, it would, by all means, be wise to not only identify indicators of neighborhood quality but to track them over time, updating the data-based map of the region's "geography of opportunity" to avoid clustering of assisted households and to ensure appropriate targeting over time.

**B. The rationale for locational restrictions on household "choice."**

Several of the government's experts raise concerns about imposing any locational restrictions on where participants in a voucher mobility program can move, arguing that it limits choice. In addition, Olsen and Shroder argue that mobility counseling is costly, may reduce lease-up rates, and favors households who are highly motivated to move to the targeted types of neighborhoods.

This is a challenging issue, balancing the value of individual choice against broader desegregation objectives. Most of the mobility programs implemented as part of court-ordered desegregation plans require participating households to move to target neighborhoods but

[2] As we discussed in the main report, this 25% threshold is much too high a metric for "concentrated." While comparatively rare in practice, it represents a risky and inappropriate level of *high* concentration.

ultimately do not prohibit them from using their vouchers elsewhere. I know of no research that provides a definitive answer to the question of whether requiring households to move to neighborhoods that meet particular criteria is necessary to achieve the goal of desegregation (or poverty deconcentration). Both Gautreaux and MTO had a dramatic impact on recipients' locational outcomes, in part by providing counseling but also by limiting the use of vouchers to target neighborhoods. However, as discussed earlier, the counseling provided to users of regular vouchers in Chicago's voluntary HOP program had a measurable impact as well. HOP encouraged but did not require families to move to neighborhoods with lower poverty rates than their origin neighborhoods. But the neighborhoods defined as "opportunity" areas were still relatively high in poverty.

I recommend an approach that sets ambitious performance goals regarding the *share* of participating households expected to move to target neighborhoods and strongly encourages households to move to these types of neighborhoods (potentially offering incentives for them to do so) but ultimately lets recipients use regular vouchers, if they so choose, to move to other locations. From an implementation standpoint, setting the targets and designing performance incentives to support them is extremely important.

In the short-term, providing effective mobility assistance in conjunction with housing vouchers costs more than conventional administration of the voucher program, which may create Section 8 submarkets. Not only does the mobility counseling itself cost money, but payment standards may need to be higher to give voucher holders access to communities of opportunity. However, as discussed in our report, the voucher program as currently administered does not provide equal access to low-poverty and low-minority neighborhoods for all poor households. Tenant-based assistance produces better locational outcomes in suburban areas than in central cities, for white recipients than for African Americans and Hispanics, and for the elderly than for non-elderly families and disabled people (Turner and Wilson 1998). HUD's analysis of voucher locations in the 50 largest metro areas nationwide confirms that minority and central city recipients are not gaining access to the same opportunities as white and suburban residents (Devine et al 2003). In order to overcome longstanding patterns of racial segregation and housing market discrimination, the voucher program needs to be supplemented with meaningful mobility counseling and housing search assistance.

Not every low-income household wants to move out of segregated, high-poverty neighborhoods if it means leaving behind key supports or the psychological comfort of a familiar environment. Yet the demand for voucher-based mobility assistance has consistently outstripped the availability of such assistance by a wide margin.[3] Moreover, there is no evidence that the households who apply to participate in assisted housing mobility programs differ systematically from other eligible households. As Shroder confirms in the summary of his testimony, the families who volunteered and were selected to participate in the MTO demonstration were fairly

[3] This is evident in demand data from Gautreaux, MTO, and a host of local mobility programs that are not formally evaluated but offer useful administrative data.

typical of all eligible households. If anything, they were needier than other households living in the same public housing developments. A larger share were single-mother families, and the household heads were younger. MTO families were more likely to be receiving welfare and less likely to be working, and the average income among MTO families was slightly lower.

Not all households that receive vouchers are successful in finding a unit in which to use them. This is true of the conventional voucher program as well as assisted mobility programs. MTO evidence indicates that programs that restrict the use of a voucher to particular types of neighborhoods are likely to have lower success (lease-up) rates. There are several reasons for this which are specific to the voucher program: (a) it is more difficult to find units renting within the FMR limit in low poverty neighborhoods; and (b) it is more difficult to find landlords willing to accept vouchers in desirable neighborhoods, where voucher holders must compete with market-rate tenants. But additional barriers present difficulties for inner-city minority residents searching for housing in unfamiliar, predominantly white suburban neighborhoods, including housing discrimination. The purpose of mobility counseling and search assistance is to mitigate these difficulties and barriers, not to say counselors can completely level the playing field. Nonetheless, despite lower success rates, all of the restricted vouchers made available to the MTO experimental group were utilized by willing families. The demand among interested and motivated families should be more than enough to fully utilize the limited supply of vouchers made available to an assisted housing mobility program.

Because federal housing assistance is not an entitlement, it inevitably advantages (serves) some eligible households and not others. However, the research evidence does not support the argument that mobility assistance unfairly *discriminates* against particular groups of eligible households.

A logic model for the remedial program, showing the chain of assumptions about cause and effect on which effective implementation hinges, should carefully incorporate successes and shortcomings of past efforts to expand housing opportunity. Here is a simple logic model to guide desegregation through assisted housing mobility (cf. Briggs 2003):

1. Members of the targeted class (public housing tenants) will be *willing* to make desegregative moves, *given* counseling, subsidies, and other special assistance and *in spite* of fears of racial harassment and concerns over the loss of advantages offered by current place of residence (social support, job access, familiar cultural institutions, etc.). This is the tenant preference issue addressed above.

2. Members of the targeted class will be *able* to make such moves, *given* the supply of housing (available public housing units *or* willing landlords *and* vacant private units) in appropriate receiver locations and *given* acceptance by neighbors in receiver locations (whether public housing complexes or neighborhoods of privately run housing) and *given* transportation to ensure spatial access. These are program enablers.

3. Participating agencies will be willing *and* able to provide the needed assistance, tracking, and other forms of operational support needed—*across* functional departments or

specialized agency missions—*given* resources and capacity available and *given* the support that can be built or brokered by players involved. These are core operational capacity and performance factors.

4. *Given* any lack of political support and/or operational capacity, the effort will be *monitored* by an actor(s) with the independence and authority needed to *influence change*, as needed, whether through penalties for noncompliance (sticks), compliance or performance rewards (carrots), new support resources (aids), or other means. This is the ongoing accountability factor, which was missing in HUD's implementation of earlier desegregation consent decrees (Popkin et al. 2003).

This simple version of a logic model does not distinguish success conditions according to the *level of control* that implementers of a remedy, if it is voucher-based, do or do not have. But evaluation research on the early impacts of HUD's desegregation consent decrees in the 1990s (Popkin et al. 2003) usefully distinguished market factors (limited control) from coordination and other operational capacity factors (direct control, poor execution). Implementers are almost always constrained—but rarely powerless. Resourceful actors find ways to influence a range of conditions over which they have limited control. The sections below, on expanding housing supply and otherwise enhancing housing stability, offer cases in point.

**C. Ensuring housing stability over time**

The government's experts are right to point out that HUD's own Moving to Opportunity experiment has yielded mixed effects thus far, with impressive benefits in health and mental health but little evidence of education and employment effects on low-income, mostly minority participants. Because the effects of a complex social experiment hinge on many factors, including the maturation of effects, some of which may not yet be detectable (Orr et al. 2003), I focus here on locational outcomes—the necessary conditions for a successful housing mobility intervention—rather than social outcomes.

Why did MTO not produce, for the average experimental mover family, the dramatic changes in neighborhood environment that Gautreaux did for its suburban movers? One reason is that MTO's locational standards were lower and less well informed than those I recommended in our report: As I noted, many families moved to census tracts that met the poverty threshold, with a poverty below 10% in the 1990 Census, but did not feature robust opportunity indicators of the kind detailed in john powell's expert report. Moreover, many MTO experimental-mover families (70%), unlike their Gautreaux counterparts, did not leave their central-city school district or even change schools when they moved to low poverty neighborhoods.

The second reason for MTO's mixed, and in some ways limited, effects on changing location outcomes and exposure is *unstable* housing: The 5-7 year "treatment effects" reported in MTO's major Interim Evaluation (Orr et al. 2003) distinguish the outcomes for families randomly assigned, in 1994, to one treatment group or another. Those effects do *not* capture effects of getting out of risky places, moving to more secure ones, and staying in those more secure places. Put differently, even if the MTO experimental group's first-move neighborhoods were not

as opportunity rich as the program's designers had hoped, the program might well have produced larger and more consistent benefits 5-7 years after placement *had mover families been able to stay in the better neighborhoods that so clearly satisfied them* during the initial follow ups conducted in the program's early years—and recalled by participants at the interim mark.

This point underlines once again the important differences among: (1) The voucher program as typically administered (as we noted in our main report, it is not generally administered to function as a housing opportunity program); (2) Assisted housing mobility programs, such as Gautreaux and MTO, that have had important successes and shortcomings, generating a variety of lessons; and (3) The voucher-based regional housing opportunity program (remedial program) we outlined in our report, which was grounded in those lessons.

I do not believe that the voucher-based regional housing opportunity program should be faulted because of shortcomings in (1) or (2), not when we explicitly designed that remedial program to overcome those shortcomings. Moreover, when (1) fails to deliver meaningful housing opportunity for so many families, it likewise seems inappropriate to criticize the proposed remedial program for the benefits it *might* cost families who are eligible for voucher assistance but not in the plaintiff class. HUD has the option to request additional appropriations from Congress to implement court remedies and meet other special obligations under the agency's programs, so the extra expenditures need not come from a fixed pie.

Returning to the features of the remedial program we recommended, several specific features would go a long way to address unstable tenure in "better" neighborhoods: post-move counseling, flexibility to help tenants handle rent increases without having to move back to high-risk neighborhoods, and transportation supports for those who enter the program without access to a car. Our main report detailed these. A supply-side strategy is also key to enhancing stability, as I explain below.

## II. Supply-side Strategy: Multiple Rationales

In the main report, I noted several conditions under which production subsidies on the supply side of the market are warranted to compensate for the limitations of demand-side housing policies. The metropolitan Baltimore housing market, in which suburban communities offer a shortage of units affordable to voucher holders according to available data, should not be confused with the submarket in Baltimore city, which Dr. Shroder, in his report for the government, characterized as "loose." Beyond the loose versus tight market distinction, which I also highlighted in our report in the section on supply-side strategies, one of these conditions warranting supply-side strategies—"where production subsidies enable residents of subsidized housing to live in *better* neighborhoods"—includes the need for larger, family-serving units. Returning to MTO as a source of lessons about regional housing mobility, one reason voucher recipients struggled to lease up units in better areas was the shortage of units in such areas that were both affordable and large enough to accommodate parents with several children. Unit size,

rent levels (affordability over time), and accessibility are all important rationales for supply-side housing strategies, all relevant to the remedy.

A production program can also address the need for longer-term housing stability in opportunity-rich neighborhoods. In the voucher program, landlords are free, after the initial term of the tenant's lease to raise the rent above FMR limits and to decline to renew the lease or withdraw from the program altogether in favor of market-rate tenants. Indeed, the primary reason given by most MTO movers for their subsequent moves was landlord-tenant problems. Production subsidies to private and nonprofit developers, on the other hand, generally come with the requirement that affordable rents be maintained for extended periods (in some cases a decade or more) and require cause to terminate a family's lease. Likewise, supply-side programs for acquiring existing units (rather than developing new ones) can include such protections.

In response to Dr. Shroder, I should note, in addition, that I did not propose a supply-side strategy that would re-concentrate poverty—i.e., shift ghetto poverty rather than reduce or eliminate it. In fact, our report noted the value of scattered-site acquisition programs to further aims of dispersal and sustained affordability where and when markets or submarkets are relatively loose. I also highlighted the importance of mixed-income production.

## III. Effective and appropriate "participation" by receiving communities

As I noted in our main report, the Baltimore remedy would benefit from well-targeted and structured stakeholder participation in the development of implementation plans but could be undermined by broader forms of participation, including open community consultation. Unfortunately, Dr. Rohe, in his expert report for the government, has mischaracterized that opinion—as though it recommended a coercive and secretive approach—and offered little specific advice to guide engagement. It was precisely this unfocused approach, with its broad principles of community consultation, that our report highlighted as problematic.

Here, I review the case for participation, addressing Dr. Rohe's concerns and underlining the significant difference between what the supply-side vs. demand-side housing strategies demand in the way of consultation.

### A. Community participation: Rationale, potential and risks.

It is unreasonable to argue, as Dr. Rohe does in his expert report, that the interests of the plaintiff class and those of potential receiving communities—i.e. communities that might become home to voucher recipients or to new affordable housing units developed through the remedy—are one and the same. Yes, if a deconcentration program successfully placed members of the plaintiff class in those communities, the two groups would *then* share an interest in the ongoing viability of those target places. But on the front end of implementation, NIMBY-ist fears of neighborhood decline, based largely on unfounded fears about housing assistance and the people who receive it, are likely to make that particular interest moot if wide consultation invites more aggressive exclusion. Dr. Rohe's review of opposition to deconcentration in Denver, at the

MTO Baltimore site, and in other regions underscores this very point. I agree that the Thompson remedy should be implemented in a way that minimizes opposition and the risk of backlash. Avoiding new concentrations of voucher recipients is one key to this—and one I discussed carefully in our main report—but the handling of affected "publics" is just as important.

On the latter point, a key study of deconcentration programs cited by Dr. Rohe (Goetz 2003) includes a variety of lessons about community engagement, which Rohe's very general observation about the wisdom of consultation does not capture. First, neighbors are often unaware that Section 8 tenants are living among them. The evidence is that they tend to assume that poorly run buildings with a visible minority presence are Section 8 buildings, for example, when in some cases those buildings include no assisted tenants at all. Second, as a policy matter, running regional voucher programs does not require a process of public consultation. Rather, the voucher program requires that public agencies or their contractors recruit and successfully manage a pool of participating landlords. We offered specific reasons why the Housing Authority of Baltimore City does not appear to be up to the task, as well as considerations for outsourcing the work to capable contractors. Failure results when misinformation reaches the public and incites alarm, when tenants are poorly counseled and otherwise ill-equipped to move, when landlord participation is low, when agencies in neighboring jurisdictions fail to coordinate outreach to the same landlords, and when recordkeeping and payments to landlords are poor, as we outlined in the main report.

There is an important difference between managing a program to avoid undue visibility and ignorant backlash on one hand and, on the other, being secretive or disingenuous. I have not proposed, in Dr. Rohe's words, to "exclude the receiving communities from meaningful participation in the design and implementation of a regional deconcentration program in the Baltimore metropolitan region." And it does not follow, from the comments made by political figures in the MTO Baltimore case and cited in Dr. Rohe's report, that earlier consultation would have helped where political opposition was organized and determined.

Rather, on the *demand* side of our recommended strategy (in the voucher-based program), receiving communities would "participate" in the remedy not as a matter of political directive, for example through policy decisions by local elected officials, but because landlords with properties in that community would be part of a well-managed regional pool. Our main report outlined the types of engagement that would be helpful to ensure the effectiveness of the voucher-based program, under the framework of participatory design. If wider consultation becomes important or expedient for the voucher-based opportunity program, it is crucial that receiving communities receive accurate information about the dispersed, non-concentrated character of the program and the ample evidence, from carefully conducted studies, that a modest number of vouchers in any given census tract will not, as a rule, be detectable let alone harmful to receiving neighborhoods. The Baltimore metropolitan area is a vast housing market, one that can disperse a significant number of public housing residents if the program is well

staffed and targeted, as I outlined in the section of our report addressing performance measures.

The *supply*-side strategy is very different as a context for participation. There, the local approval process provides the framework for community engagement and consultation, as a matter of state law governing land use decisions as well as well-established norms about local input where new construction is at issue. Local approvals are assumed in all of HUD's production programs, and a consultative approach to siting and development was important in the hotly contested Yonkers housing desegregation program, which relied on construction of low-rise "scattered-site" public housing developments, as I noted in our main report. In Yonkers, extensive community outreach was vital given the visibility of court-ordered desegregation plans and the opposition those plans triggered, and pressure from the court was also vital. Clearly, local oppositional is not inevitable or invariant, and early consultation has a clear role to play where new units are developed. On the other hand, acquisition and/or rehabilitation of existing units are much less regulated supply-side strategies and generally less public, beyond being much more cost effective in certain markets. Montgomery County, Maryland's program for acquiring units in mixed-income developments is an example.

But smart, *regional* inclusionary programs do not emphasize narrow aims of public housing deconcentration. Rather, such programs must emphasize regional affordability goals and the commitment to deconcentrating poverty—not re-concentrating in new places. The challenge here will likely be in convincing suburban localities that Baltimore public housing residents should be high on the list for new affordable units. At least some localities are very likely running a shortage of units affordable to their own low and moderate income workers, as Dr. Shroder notes in his report, and the lack of a strong regional tradition of inclusion in this and other regions across the country—one of the very reasons that plaintiffs brought suit—make it important that HUD and any implementing partners build local support carefully. Broader regional inclusion programs are likely to fare better than supply-side programs billed as "public housing replacement."

**B. Carrots and sticks: Encouraging support, clarifying obligations.**

Beyond the nature and extent of consultation and participation in the remedy, there is the question of community obligation. I did not recommend, and I do not believe, that HUD should "coerce" communities into building housing developments with units set aside for members of the plaintiff class.

But HUD can provide strong incentives for inclusion. As I noted in our initial report, inclusionary zoning programs are not only well precedented and gaining ground nationwide, these programs were *pioneered* in suburban Maryland. Fair share policies, which underscore an obligation of each municipality to build a fair share of the region's affordable housing, can also help establish meaningful targets and progress toward them. Suburban labor shortages, jobs-housing mismatches, and concerns about regional competitiveness all make regional housing

opportunity an issue of broad and immediate relevance to more affluent suburban areas. And HUD can more proactively use the Consolidated Planning process for awarding community development funds, a process that includes local commitment to affirmatively further fair housing, to see that local investments help meet regional priorities. HUD should take clear steps to make the implementation of the Thompson remedy such a priority. It is not a question of what HUD can control directly but of what leadership it is willing to exercise on behalf of an important remedy.

## IV. Conclusion

In our main report, we recommended the following: (a) a voucher-based, regionally oriented mobility program designed to help participants move to communities of opportunity and *remain* stably housed there; (b) a complementary supply-side strategy, backed by the full complement of HUD production programs, to expand the supply and enhance the stability of desegregative housing opportunities, likewise with a regional focus; (c) specific performance targets for both the demand and supply-side components; and (d) participatory design to enhance the effectiveness of the remedial programs—by securing useful information and support without exposing this important remedy to undue local opposition or unwarranted attack.

In our view, the government's experts corroborated a number of our concerns about the typical functioning (and limitations) of the conventional Section 8 voucher program, underscoring: why beyond-the-norm features (add-on's) and performance measures are so important; and how generating housing opportunity does, in some instances, compete with the objective of cost minimization that seems to be HUD's principal emphasis at this point. The government's experts likewise made key points about the importance of neighborhood change, which both extend the points we made about the importance of non-concentration and call for good planning systems, including the up-to-date spatial analysis and tracking of neighborhood indicators that are now commonplace in many parts of the country. These low-cost, widely used tools provide the means to track neighborhood changes over time and improve the targeting of any housing opportunity program. The geography of opportunity inevitably shifts as a region changes, and a smart remedy should adjust and fine tune accordingly. HUD's own R&D investments over the past few decades contributed to the development of such data analysis and planning tools; the agency should put them to work on behalf of the remedy.

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