

JUN 19 1972



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
819 TAYLOR STREET, FORT WORTH, TEXAS 76102

June 15, 1972

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NATIONAL CLEARINGHOUSE
FOR LEGAL SERVICES

Mr. James B. Lamb
Attorney at Law
Waco-McLennan County Legal Aid
212 Community Service Building
201 West Waco Drive
Waco, Texas 76707

Dear Mr. Lamb:

Subject: Complaint of Mrs. Mary Johnson against Housing Authority of
the City of Waco

This will acknowledge receipt of your letter of June 2, 1972, on behalf of Mrs. Mary Johnson and "other petitioners similarly situated." You have alleged on behalf of your client that the Housing Authority of the City of Waco has incorrectly fixed the tenant's income on the basis of improper data. In explaining this situation you have indicated that, for example, the Housing Authority, in computing the rental level for the complainant, has taken into consideration child support which the complainant expected to receive from court-ordered child support payments, even though such payments were not actually made or received. You have, therefore, asked that the Housing Authority be required to consider only the "disposable" income of the applicant or tenant. You have asked HUD to investigate the allegations set forth in the complaint.

Please be advised that this matter is being referred to appropriate members of the Regional and Area Office staffs for review. After I have received reports concerning these charges you will be advised of my decision concerning the same.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Morgan".
Richard L. Morgan
Regional Administrator

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MARY JOHNSON, ET AL
PLAINTIFFS

VS.

HOUSING AUTHORITY FOR THE CITY OF WACO
ET AL, DEFENDANTS

PETITIONERS' ORIGINAL COMPLAINT

TO THE HOUSING AUTHORITY OF THE CITY OF WACO AND THE DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT REGIONAL DIRECTOR, MR. RICHARD L. MORGAN:

NOW COMES Mary Johnson and all other persons similarly situated, plaintiffs herein and request this particular agency, defendant herein: The Housing Authority for the City of Waco and the U. S. Department of Housing and Urban Development for an order primarily enjoining the Housing Authority from determining an applicant's or resident's income in regard to setting rent in the area of AFDC payments and child support from being considered together where there is double accountability, and upon a showing that:

1. That petitioners live in or have applied for admission in one or more of the units leased from the Defendant, the Housing Authority for the City of Waco.

2. That the petitioners' income consist of aid granted through the State Department of Public Welfare. That some of the petitioners have proceeded in Court to obtain an order of support from a spouse or ex-spouse for the support of minor children.

3. That the petitioners have disclosed to the defendants income from one or more of these following sources: (1) Aid to the Families with Dependent Children and/or child support.

4. Petitioners allege that the Housing Authority for the city of Waco calculates as income the total amount of the grant from the State Department of Public Welfare plus the court ordered child support in determining the amount of rents to be set for the petitioners individually in the said units. Whether or not child support has been actually paid is not considered, resulting in difference between the

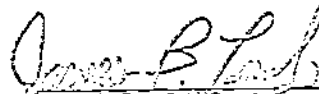
amount of child support paid and the court ordered support being counted twice for the reason that:

When child support payments are paid, the amount of AFDC is reduced in proportion to the amount of support payments received.

5. That Mary Johnson and all other persons similarly situated have received a grant for said welfare agency monthly and have a court order child support judgment for a sum certain payable through the Registry of the District Court in and for McLennan County, the State of Texas, but said Registry shows no payments under said judgment.

WHEREFORE, petitioners request that Housing Authority be required to calculate the disposable income of the applicant or tenant and not count as income in determining rent both the amount of AFDC and the court ordered child support, unless such child support payments have been received by the petitioner as evidence of record through the Registry of said Court to protect petitioners herein, petitioners pray that the U. S. Department of Housing and Urban Development investigate the above allegations to determine various provisions of the regulations and statutes have been violated in determining someone's resources in calculating the amount of rent one should pay to the Housing Authority of the City of Waco; and petitioners pray that rents previously set by the Housing Authority of the City of Waco remain in effect until an administrative hearing is held and finally decided.

Respectfully submitted,


JAMES B. LUMS
Attorney for Petitioners

201 West Waco Drive
Waco, Texas 76707
Phone: 752-5596



REGION VI
REGIONAL OFFICE
FORT WORTH, TEXAS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AREA OFFICE
COURTHOUSE - FEDERAL OFFICE BUILDING, 1100 COMMERCE STREET
DALLAS, TEXAS 75202

AREA OFFICES
Dallas, Texas
Little Rock, Arkansas
New Orleans, Louisiana
Oklahoma City, Oklahoma
San Antonio, Texas

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Mr. T. Wilson Erwin
Executive Director
Housing Authority of the City of Waco
800 Clay
Waco, Texas 76703

Dear Mr. Erwin:

My office has received the formal complaint filed on behalf of Mrs. Mary Johnson against your Authority. The complaint is being handled for Mrs. Johnson by the local Legal Aid Society in your area.

The complaint alleges that the Housing Authority for the City of Waco calculates income by adding together the total amount received in welfare grants and the amount of court-ordered child support whether or not such support payments have actually been made.

Mrs. Johnson further contends that even if the support payments are made, her ADC grant will be reduced by an equal amount.

I am sympathetic to the Housing Authority's position of attempting to detect and discourage the receipt and retention of income which, in effect, doubles subsidies to some of the Housing Authority's tenants. However, I must strongly emphasize that it is beyond the scope of the authority of your agency to attempt to correct inadequacies in the operation of the State welfare program.

As you know, your Housing Authority has the primary responsibility for determining the applicable definitions for family income. However, such definitions must be within the relevant statutory requirements and are subject to approval by my office.

HUD Circular HM 7465.10, dated April 4, 1972, in providing a new definition for income, specifically states:

"Payments to the head of the family for support of a minor are . . . to be included in total family income."

The Circular will reinforce your position only if you can verify that such payments have been made. Your present policy of arbitrarily assuming payment is beyond the intent of the regulations.

2.

If you can also verify that ADC grants have not been reduced in proportion to the amount of child support payments actually received, then it is only fair that the two amounts be added together to reach a total family income upon which rent calculations can be made.

In order to develop a means by which verification of actual income can be made, I suggest that you arrange for all interested parties, including the local welfare agency, to meet together to discuss the problem and to find a workable solution.

I also recommend that consideration be given to the possibility of providing a means by which the Housing Authority and the tenants can estimate total income over much shorter periods of time, thus avoiding the problem raised in this case. Furthermore, provision might be made for set-off collection of ADC overpayments where ADC payments were not reduced when child support payments were made.

If my office can be of any further assistance, please feel free to contact me.

Sincerely,

(Sgd) Manuel Sanchez

Manuel Sanchez
Area Director