

J. RICHARD ...
U. S. DISTRICT COURT
Eastern District of North Carolina

Raleigh Division

DUNN RESIDENTS COUNCIL, EARL
CAMERON, and BLANCHE CARROLL,
on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

DUNN HOUSING AUTHORITY, a public
corporation; HOWARD M. LEE,
individually and in his official
capacity as Executive Director of
the Housing Authority; WILLIAM C.
ROYAL, individually and in his
official capacity as Executive
Director of the Housing Authority;
and EDWIN BOYETTE, JAMES K. JOHNSON,
JACK W. JORDAN, CHARLENE LEE, and
DUNCAN WILLIAMS, individually and
in his or her official capacity as
Commissioners of the Dunn Housing
Authority,

Defendants.

Civil Action No. 81-423-CIV-5

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CONSENT JUDGMENT

PRELIMINARY STATEMENT

This action was brought by two individual tenants and a tenants' association against the Dunn Housing Authority, its past and present executive directors, and past and present members of its Board of Commissioners. The individual Defendants have been sued in both their official and individual capacities. Plaintiffs initiated this action pursuant to 42 U.S.C. § 1983 seeking injunctive and declaratory relief and damages. The action was based on the United States Housing Act, 42 U.S.C. § 1437, et seq., and its implementing regulations, 24 C.F.R. § 860.401, et seq., and alleged that in various ways the defendants had

cv. counsel

alleged the members of the plaintiff class rents in excess of the amounts allowed by law.

STATEMENT OF CLASS

By Order dated July 16, 1982, the Honorable W. Earl Britt certified a class in this matter consisting of the following individuals:

All present tenants of the Dunn Housing Authority and all past tenants since 30 June 1978.

Relief under this Judgment shall flow to all members of the above-defined class.

SETTLEMENT AND CONSENT

Prior to trial of this matter, the parties have settled and compromised all issues in controversy, and have consented to the entry of this Judgment.

NOW, THEREFORE, by consent of the parties, and upon all prior proceedings had herein, it is ordered, adjudged, and decreed that:

1. The reasonable amounts of electric utilities (in kilowatt hours) each month listed in the electric utility allowances for the Dunn Housing Authority for each size unit shall be as follows: one (1) bedroom, 270 kwh; one (1) bedroom (handicapped), 320 kwh; two (2) bedrooms, 290 kwh; three (3) bedrooms, 330 kwh; four (4) bedrooms, 440 kwh; five (5) bedrooms, 480 kwh.

2. By June 1, 1983, Defendants shall increase the dollar amounts of the electric utility allowances such that they actually allow the residents to purchase the amounts of electricity each month listed in paragraph number 1 above. If the allowances are not increased by June 1, 1983, then Defendants shall reimburse current residents for the full dollar amount lost each month until the new allowances are implemented.

3. By June 1, 1983, Defendants shall increase the dollar amount of utility allowances for water and sewer service each month until they allow the residents to purchase the amounts of water and sewer service listed. Those amounts are as follows: one bedroom (1), 4,000 gal.; two (2) bedrooms, 5,000 gal.; three (3) bedrooms, 7,000 gal.; four bedrooms, 8,000 gal. If the allowances are not implemented by June 1, 1983, then Defendants shall reimburse current residents for the full dollar amount lost each month until the new allowances are implemented.

4. Defendants and their successors are hereby permanently enjoined from failing to adjust the dollar amounts of the utility allowances at least once a year to reflect the then current rates charged by suppliers of such utilities, such that they actually allow residents to purchase the amounts of utilities specified in the Dunn Housing Authority's utility allowances. This annual adjustment shall be based on the rates charged by the suppliers of the utilities on a date not more than thirty (30) days prior to the rent re-certification date used by the Dunn Housing Authority.

5. Defendants and their successors are permanently enjoined from failing to advise residents of their entitlement to medical and other deductions allowed by HUD regulations, and from failing to provide residents the deductions to which they are entitled when their rent is calculated provided that the tenant must apply for the reduction and verification must be made in accordance with the current HUD regulations.

6. Defendants and their successors are permanently enjoined from failing to allow interim rent reductions when a tenant's income

provides provided that the tenant must apply for the reduction and the reduction must be made in accordance with the current HUD regulations.

7. Defendant Dunn Housing Authority shall pay each member of the plaintiff class, who paid Carolina Power and Light Company for their electricity, damages in an amount equal to one-half the difference between the dollar amount of the electric utility allowance the Dunn Housing Authority provided each month, and the dollar amount it would have cost a resident each month for the quantities of electricity set forth in paragraph number 1, above, from June 30, 1978 to May 31, 1983 in accordance with the following schedule:

	one bedroom	two bedrooms	three bedrooms	four bedrooms	five bedrooms
July 1, 1978 to June 30, 1979	\$2.75	\$2.50	\$2.50	\$4.00	\$4.50
July 1, 1979 to June 30, 1980	\$3.00	\$3.00	\$3.00	\$4.75	\$5.00
July 1, 1980 to Dec. 31, 1980	\$3.50	\$3.50	\$3.50	\$5.50	\$5.75
Jan. 1, 1981 to June 30, 1981	\$1.50	\$0.50	\$0.75	\$2.00	\$1.75
July 1, 1981 to June 30, 1982	\$3.25	\$2.25	\$2.75	\$4.50	\$4.50
July 1, 1982 to May 31, 1983	\$4.25	\$3.50	\$4.00	\$6.25	\$6.50

8. Defendant Dunn Housing Authority shall pay each member of the plaintiff class, who paid the City of Dunn for water and sewer service, damages in an amount equal to one half the difference between the dollar amount of water and sewer utility allowance the Dunn Housing Authority provided each month, and the dollar amount it would have cost a resident each month for the quantities of water and sewer services set forth in paragraph number 3, above, from June 30, 1978 to May 31, 1983 in accordance with the following schedule:

	one bedrooms	two bedrooms	three bedrooms	four bedrooms	five bedrooms
July 1, 1978 to June 30, 1980	\$0.80	\$0.90	\$1.40	\$1.70	\$1.70
July 1, 1980 to Dec. 31, 1980	\$1.90	\$2.00	\$2.50	\$2.85	\$2.85
Jan. 1, 1981 to May 31, 1983	\$0.90	\$1.25	\$1.00	\$1.35	\$1.35

9. Defendant Dunn Housing Authority shall pay each member of the plaintiff class, who had medical expenses in excess of 5% of their gross income, damages in the amount by which the rent they paid each month exceeded the maximum allowable percentage of their adjusted income in accordance with HUD regulations, commencing with rent due and payable on July 1, 1978, to the present.

10. Defendant Dunn Housing Authority shall pay each member of the plaintiff class, who sought an interim reduction in rent and was wrongly denied such reduction, damages in the amount by which the rent they paid each month exceeded the maximum allowable percentage of their adjusted income in accordance with HUD regulations, after they had suffered a reduction in that income from June 30, 1978, to the present.

11. Defendants shall give notice of the terms of this settlement to the members of the class as follows:

- (a) Written notice specifically describing the terms of the settlement, and explaining how to submit a claim, shall be distributed to each current resident of the Dunn Housing Authority.
- (b) The same written notice as distributed in sub-paragraph (a), above, shall be mailed to all post-June 30, 1978, residents of the Dunn Housing Authority who no longer live there, at their forwarding address, if known. Tenants who

have moved out subsequent to June 30, 1982, and who have no forwarding address will be mailed a notice at their former Housing Authority address.

- (c) Advertise at least once a week for three consecutive weeks in the Harnett County newspaper of greatest circulation. Such advertisement shall advise readers of the general terms of this settlement and inform them of how to obtain further information. Such advertisement shall commence no later than two weeks after this consent judgment is signed and filed.

The notices and advertisements required by this paragraph shall be prepared with the consultation and approval of Plaintiffs' counsel. The claim forms used to apply for damages shall also be developed in consultation with Plaintiff's counsel.

12. Members of the plaintiff class shall have up to and including the ninetieth day after this consent judgment is signed and filed in which to submit their claims for damages, complete with supporting documents if any, to the Dunn Housing Authority at its office, 610 Canary Street, Dunn, North Carolina.

13. The Dunn Housing Authority shall compute the damages for inadequate utility allowances for all present tenants, without such tenants being required to make formal application for those damages, in accordance with the monthly damage figures listed in paragraphs seven (7) and eight (8). Such computations shall be completed within ninety (90) days after this consent judgment is signed and filed.

14. If the total verified damage claims for all past and present tenants:

(a) exceeds \$20,000 for insufficient electricity allowances, then all such claims shall be reduced on a pro-rata basis so that the total of all claims equals \$20,000.

(b) exceeds \$3,200 for insufficient water and sewer allowances, then all such claims shall be reduced on a pro-rata basis so that the total of all such claims equals \$3,200.

(c) exceeds \$5,000 for deductions for medical expenses, then all such claims shall be reduced on a pro-rata basis so that the total of all such claims equals \$5,000.

(d) exceeds \$2,000 for failure to give interim reductions in rent, then all such claims shall be reduced on a pro-rata basis so that the total of all such claims equals \$2,000.

15. If any disputes develop between members of the class and the Dunn Housing Authority regarding the amount of damages due any particular class member, such dispute shall be settled by a panel consisting of one person appointed by the Dunn Residents Council, one person appointed by the Dunn Housing Authority, and one person chosen by the other two members of the panel. None of the members of this panel shall be residents of the Dunn Housing Authority, or officials, officers or employees of the Dunn Housing Authority. The parties to any such dispute shall have the right to a hearing in front of the panel, and the right to be represented by another person if they so desire. The decision of the panel shall be final and binding on all parties.

16. The damages to present tenants shall be paid to them in the form of a credit against rent over a four month period beginning the first day of the month occurring more than ninety (90) days after this consent judgment is signed and filed. If the damages to any tenant

exceeds four months rent, when the rent shall continue to be paid after the four month period until full credit has been given for the total damage claim. If any present tenant moves out before or during this period, then the remaining balance of his/her damage claim shall be paid in cash within thirty days after the tenant vacates the apartment.

17. All former tenants shall be paid their damage claim in cash. These claims shall be paid in full within 120 days of the signing and filing of this consent judgment.

18. Within 100 days after the signing and filing of this order, Defendants shall provide Plaintiffs' counsel with the total figure for damages, broken down by categories, and, upon request, shall allow Plaintiffs' counsel to inspect the claim forms and documentation used to compute the damages.

19. Defendant Dunn Housing Authority shall pay the amount of \$15,000.00 for costs and attorneys fees in connection with this matter. Such amount shall be paid to East Central Community Legal Services no later than ten days after the signing and filing of this consent judgment.

20. All claims against the individual defendants in their individual capacities are hereby waived and a dismissal with prejudice against the individual Defendants will be filed within ten days after the consent judgment is approved by the Court.

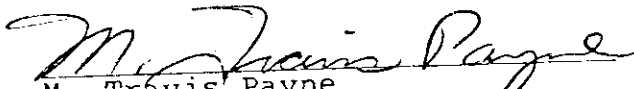
21. The obligations of the defendants arising out of this order shall be subject to changes in applicable statutes or regulations issued

by and that would render such obligation inoperative with such effect.
This the 16 day of July, 1983.

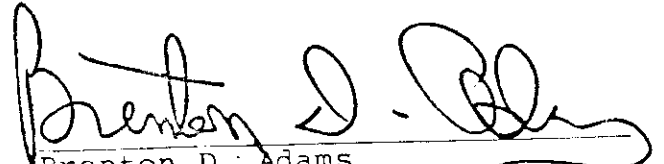


W. Earl Britt
United States District Court Judge

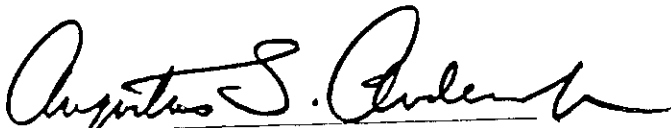
Consent:



M. Travis Payne
Attorney for Plaintiffs

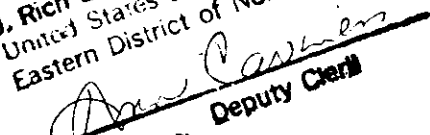


Brenton D. Adams
Attorney for Defendants



Augustus S. Anderson
Attorney for Plaintiffs

I certify the foregoing to be a true
and correct copy of the original.
J. Rich Leonard, Clerk
United States District Court
Eastern District of North Carolina



Ann Cassin
Deputy Clerk