



Department of Justice

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STATEMENT
OF
ATTORNEY GENERAL
JOHN N. MITCHELL
BEFORE THE
UNITED STATES COMMISSION ON CIVIL RIGHTS
ON
ENFORCEMENT OF FAIR HOUSING LAWS

JUNE 16, 1971

Father Hesburgh, members of the Commission and Mr. Glickstein, I am pleased to have this opportunity to discuss with you the role of the Department of Justice in enforcement of laws relating to fair housing.

My prepared remarks, which outline the steps taken by our Department to implement Title VIII of the Civil Rights Act of 1968, will be brief, so that the balance of the time can be devoted to answering your questions.

The policy of the Department of Justice is to enforce the Fair Housing Act vigorously and fairly and to secure effective nationwide compliance. This policy was reaffirmed in the June 11 statement of the President.

Since suits by the Attorney General are but one of the techniques of enforcement provided by the 1968 Act, the others being suits by aggrieved individuals and investigation and conciliation by the Secretary of Housing and Urban Development and

by state and local agencies, the Department must gear its enforcement activities to priorities which will most effectively eliminate discrimination in housing. In general, priority has been given to cases in large cities and suburban areas with significant nonwhite populations and to suits involving important legal questions arising under the Fair Housing Act.

During the three years since the enactment of Title VIII, the Department has, as recognized in the Commission's reports, taken effective action to promote these ends.

The three principal accomplishments of the Department of Justice in the area of housing discrimination have been:

1. Aggressive litigation and other action to secure widespread compliance with the Act;
2. Favorable development of case law, with particular reference to comprehensive affirmative relief to correct the effects of past discrimination; and

3. Education of the victims of discrimination with respect to their rights, primarily through coordination with other agencies and with private organizations.

1. Litigation and other action.

Since January 1969 the Department of Justice has brought or participated in 92 suits against more than 250 defendants in 23 states and the District of Columbia. Many of these suits involve major defendants, for example, cases involving 21,000 units in New York City, 9,000 units in Los Angeles, and fourteen large real estate companies in Cleveland, Ohio. The suits have involved virtually every kind of discrimination arising under the Fair Housing Act, except discriminatory financing, and several possible suits in the area of financing are now being developed.

Almost all of our housing suits to date have involved discrimination against blacks, but we are fully prepared to litigate on behalf of other minorities whenever we have a basis for such litigation.

So far, the Civil Rights Division has not lost a single fair housing suit on the merits.

In addition to its litigation, the Department of Justice has corresponded with almost 600^{1/} landlords or real estate companies to advise them that the Attorney General has evidence that they have engaged in discriminatory practices. Virtually all of the recipients of such letters with whom negotiations are complete have agreed to comply with the law. Particularly significant notice letters of this kind were sent to eighteen major title insurance companies, which agreed to eliminate racially restrictive covenants from their title insurance policies, and to several major management companies, which have agreed to take comprehensive affirmative steps to promote desegregation.

^{1/} Almost 400 of these involve recent letters to landlords in the Los Angeles area who had listed with a rental agency. The rental agency's records indicated that these landlords had given the agency instructions not to rent on a nonracial basis.

2. Favorable development of case law

The United States has been almost uniformly successful in the pattern or practice litigation to which it has been a party and has assisted the courts to establish legal principles helpful to effective enforcement.

While all of the results of its litigation are not easy to capsulize, the following are among the most significant:

(a) The constitutionality of federal fair housing laws was indicated in Jones v. Mayer, 392 U.S. 409 (1968), in which the United States filed an amicus curiae brief closely paralleled by the Court decision.

(b) The Department has secured a number of holdings applying principles of liberal construction to the Act. For example, the prohibition against racial inducement to sell or rent (blockbusting), was held to encompass indirect references to race, such as "changing neighborhood."^{2/} The prohibition

^{2/} United States v. Mintzes, 304 F. Supp. 1305 (D. Md. 1969).

against discriminatory advertising was held to apply to media carrying the advertising as well as to the person advertising the property.^{3/} In a series of consent decrees, beginning with United States v. Lake Caroline, Inc.,^{4/} the Justice Department established the proposition that discriminatory solicitation of purchasers violates the prohibition against making dwellings unavailable on account of race. This principle has led to particularly comprehensive affirmative relief in such cases. In the letters to title insurance companies noted above, and in several consent decrees, the United States has also made the point that the publication and use of racially restrictive covenants violates the fair housing statute. Finally, the Department has taken the position in an amicus brief that incumbent tenants have stand-

^{3/} United States v. Hunter, C.A. No. 70-816 T (D. Md. April 13, 1971).

^{4/} 432-69-R (D. Va. Oct 13, 1969).

ing to complain of injury to their right of voluntary interracial association resulting from their landlord's discriminatory rental practices.^{5/}

(c) In the area of discrimination by suburban communities in zoning or land use planning, the Department litigated to a successful conclusion the case of Kennedy Park Homes v. City of Lackawanna.^{6/}

Our suit against Black Jack, Missouri was filed earlier this week. Also, we filed in the Supreme Court briefs urging certiorari in Ranjel v. City of Lansing,^{7/} and affirmance in Valtierra v. Housing Authority of San Jose.^{8/} However, in neither of the

^{5/} Brief in Trafficante v. Metropolitan Life Ins. Co., No. 71-1325, pending in the Court of Appeals for the Ninth Circuit.

^{6/} 436 F.2d 108 (2d Cir., 1970), cert. den. 39 L.W. 3434 (1971).

^{7/} 417 F.2d 321 (6th Cir. 1969), cert. den. 397 U.S. 980 (1970).

^{8/} 313 F.Supp. 1 (N.D. Cal. 1970), rev'd sub nom. James v. Valtierra, 39 L.W. 4488 (1971).

cases was our position adopted by the Court.

(d) Relief in fair housing cases requires that the defendant not only discontinue discriminatory practices and instruct employees to do so, but also that he adopt objective and reviewable standards and take affirmative steps to correct the effects of past discrimination.^{9/} A series of consent decrees in various parts of the country have included expansive provisions for affirmative relief, such as inclusion of fair housing statements in advertising, advertising in nonwhite media, solicitation of purchasers in black areas, and furnishing of vacancy lists to fair housing groups. Where blacks have allegedly been "steered" to predominantly black buildings, one major consent decree has required that preferential notification be given to them of vacancies in white buildings, and that they be offered a financial inducement to move.^{10/}

^{9/} United States v. West Peachtree Tenth Corp., 437 F.2d 221 (5th Cir. 1971).

^{10/} United States v. Life Realty, Inc., C.A. No. 70-C-964 (E.D. N.Y. Jan. 31, 1971).

3. Education of victims of discrimination as to their rights.

Civil Rights Division attorneys have developed close working relationships with fair housing groups in various parts of the United States, and have provided members of the public with information about the Department's activities through press releases and direct contact. Departmental attorneys have also accepted invitations from real estate organizations, bar associations, and other groups to explain legal requirements and to promote voluntary compliance.

The Department also maintains close contact with equal opportunity personnel in the Departments of Defense and of Housing and Urban Development, and has made contact with a number of state and local agencies with fair housing responsibilities to promote cooperation in the enforcement of fair housing laws. One consequence has been referrals of individual complaints from our Department to such agencies and of "pattern or practice" evidence from these agencies to our Department.

In conclusion, we have endeavored to make effective use of our authority under Title VIII and we shall continue to do so. We shall also continue our cooperation with the Department of Housing and Urban Development and the other federal agencies with responsibility in the area of housing. In implementing Title VIII, Title VI and other pertinent laws and executive orders, our goal shall be to accomplish the objective of equal housing opportunity as set forth by the President.

Thank you again for the opportunity to be here. I would be happy at this time to respond to any questions which you may have.