

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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SHEILA DUNHAM, et al,  
Plaintiffs,

Index #02445/98

and

MARIA JACKSON,  
Proposed plaintiff/intervenor,

-against-

Affidavit in Reply  
To Opposition

BRIAN J. WING, as Commissioner or  
The New York State Department of  
Temporary and Disability Assistance, et al

Defendants,

and

HUDSON FLEETWOOD ASSOCIATES, LLC,

Proposed defendant.

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STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )SS:

TRUDI J. RENWICK, being duly sworn, deposes that:

1. I am an economist with a Ph.D. in Economics from American University in Washington, D.C. I am currently employed as an economist with the Fiscal Policy Institute in Latham, New York. Prior to that I worked as an economist for the Public Utility Law Project of New York. I have extensive experience in the economics of poverty and estimating the income required to provide basic needs to poor families. I have written extensively on poverty and estimating the basic needs of low-income families including a book published by Garland Press in 1998, *Poverty and Single Parent Families: A Study of Minimal Subsistence Household Budgets*. I have also testified numerous times before the New York State Public Service Commission regarding the need of low-income New York families and co-authored numerous reports on low-income issues in New York. Attached as Exhibit 1, please find material detailing my experience.

2. At the request of Westchester Legal Services I have examined rental housing in Westchester County, to assess its affordability by Public Assistance (PA) recipients and to examine the extent, if any, to which the level of the shelter grants causes homelessness. I have also examined the March 10, 2000 affidavit of Dr. Charles W. De Seve, Ph.D. and its accompanying exhibits.

### **I. Shelter Allowances Relative to Rents in the Private Market**

3. The single best way to measure local housing affordability in a particular county is by comparing the fair market rents (FMRs) promulgated by the United States Department of Housing and Urban Development (HUD) for each county in the nation to the income available to pay for shelter costs. The HUD fair market rent for Westchester County for 1999 for a two-bedroom apartment is \$1,073. This is 273% of the shelter allowance of \$393 per month for a family of four on Public Assistance in Westchester County. Exhibit 2 provides a summary of the fair market rents and shelter allowances for Westchester County.
4. Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary of the U.S. Department of Housing and Urban Development (HUD) to publish FMRs annually. FMRs are used for the Section 8 Rental Certificate Program; the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program.
5. Dr. De Seve is incorrect when he states that fair market rates are unreliable measures of housing costs. Fair market rents are not “simple averages.” Fair market rents are gross rent estimates, they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to HUD housing assistance program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible.
6. FMRs are currently set at the 40<sup>th</sup> percentile of the rent distribution of standard quality rental housing units. In other words, 40 percent of the standard quality rental housing units rent for less than the fair market rent, while 60 percent have higher rents. The 40<sup>th</sup> percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.
7. HUD uses the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are (1) the 1990 Census, (2) The Bureau of the Census American Housing Surveys (AHS) which are used to develop between-Census revisions for the largest metropolitan areas and (3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas.

8. FMRs are the preferred measure of housing costs because they take into account the quality of available housing and the safety of neighborhoods. Substandard housing is not included in the rent distribution used to calculate the FMRs.
9. FMRs are the preferred measure of housing costs because they are regularly updated by the federal government. In fact, HUD first publishes proposed FMRs for each jurisdiction each year. There is subsequently a comment period during which local landlords or housing authorities can question the level of the FMR for their jurisdiction. These comments are reviewed before final FMRs are published each year.
10. FMRs are the preferred measure of housing costs because they provide an estimate of the cost of recently rented housing. Low cost units in the housing stock which have long standing occupants are not available for families searching for adequate housing and therefore should not be allowed to pull down estimates of rental costs.

## **II. Private Rental Costs are Critical for Public Assistance Recipients**

11. Private rental costs are relevant to a discussion of the adequacy of the PA shelter grant because many PA recipients do not live in public housing and are not receiving other forms of housing assistance. Dr. De Seve identified 5,716 units of public housing in the 1990 Census Bureau extract. However, many of these units are occupied by low-income families not receiving public assistance. According to a report by the Westchester County Housing Opportunity Commission 20 of the 30 municipalities in Westchester County have not built a single affordable housing unit this decade, there are 97 applicants for every new affordable housing unit in the county and 15,000 people are on the waiting list for federally subsidized housing for the poor.
12. Moreover, PA families who do live in public housing (where rent is determined as a percent of income) or who receive Section 8 housing certificates do not receive the PA shelter grant. Their shelter grants are set at the amount of rent paid, up to the regular PA shelter grant.
13. In his affidavit, Dr. De Seve asserts that since rent control and rent stabilization inhibit the rise in rent for a significant number of apartments “not all PA recipients who are outside public housing and Section 8 assistance must seek market rate rental units.” This assertion is incorrect. Rent control and rent stabilization may influence the market rates but they do not remove these units from the rental market. Dr. De Seve’s analysis is based on average increases in rental costs since 1990 and therefore takes into account the impact of rent control and rent stabilization on the rental housing market. In addition, once a unit subject to rent control is vacated, the landlord has the right to adjust the rent to market rates.
14. Most public assistance recipients do not live in public or subsidized housing. Dr. De Seve cites data from the 1990 Census that approximately 5,000 of the 6,000 households identified as public assistance recipients in that data base do not live in public housing. Therefore, by Dr. De Seve’s own data estimates, less than 17 percent of public assistance recipients live in public

housing.

### **III. 1990 Rents of Public Assistance Recipients**

15. Dr. De Seve states that the Census does not follow an exact definition of public assistance that allows a precise identification of New York cases and presents Exhibit 4 showing the distribution of monthly contract rents for public assistance households with that “proviso.” In fact, while the census identified 5,988 public assistance households, Department of Social Services reports show that there was a monthly average of 18,482 income support cases in Westchester County in 1990. The Census data identifies less than one third of the public assistance caseload and therefore should not be used as a basis of analysis.

### **IV. Shelter Allowances and Homelessness**

16. There is no reason to conclude that affordability is not related to homelessness among public assistance families. The national study referred to by Dr. De Seve is not relevant to this case for several reasons. First, it looks at homelessness nationally, not homelessness in Westchester County or even New York. Second, it surveyed all homeless families, regardless of public assistance reciprocity status. What is relevant for this case is whether or not the level of the shelter grant contributes to homelessness among public assistance recipients. I am confident that a survey of Westchester County homeless PA families would result in a much higher incidence of affordability as a major contributing factor to their current status. Even the national study found that affordability (either high rents or low income) was by a large margin the most common reason given for leaving the last place they were living — 29%.
17. Dr. De Seve cites a statistic that in December 1999 there were only 664 homeless cases in shelters in Westchester County. His analysis fails to consider that over the course of a year many more families find themselves homeless. If the average length of homelessness is one month and there are 664 homeless in shelters in any given month, there are up to 7,968 Westchester families who are either homeless now or for some period during an average year. His analysis also fails to take into account the fact that not all homeless families live in shelters.
18. I have examined data on homelessness in Westchester County for 1994. In October 1994, the last month for which the New York Department of Social Services issued its monthly Homeless Report, Westchester County reported 893 homeless families consisting of 1,054 adults and 1,819 children and 747 homeless single adults. Of the 893 homeless families, 394 were living in shelters, 342 in emergency apartments, 63 in motels and 94 in “other” arrangements. Of the 747 single homeless individuals, 371 were living in shelters, 41 in motels, 63 in emergency apartments and 272 in “other” arrangements.
19. I combined data on homelessness with data on AFDC (now Family Assistance) caseloads, FMRs and shelter allowances for each county in the state. First I calculated the ratio of the number of homeless families in October 1994 to the average number of AFDC cases for 1994. The ratio for Westchester County was 7.7 to 1, the highest ratio of any county in the state. Next I calculated the Maximum Monthly Shelter Allowance with Heat for a four-person family

as a percentage of the October 1, 1994 FMR for a two-bedroom apartment. Westchester County's shelter allowance was 39% of the two-bedroom FMR. Only two other jurisdictions in the state, Rensselaer County and New York City had shelter allowances which were smaller relative to the published FMRs. Exhibit 4 shows the relationship between these two ratios for each county in October 1994.

#### **V. Dr. De Seve's Absorption Analysis is Deficient**

20. Dr. De Seve's absorption analysis fails to take into account that PA recipients are not the only families trying to rent low-cost housing. PA recipients must compete with other apartment seekers and therefore even if there were sufficient available units to absorb the entire universe of PA families seeking shelter in a given month, there is not reason to believe that a substantial proportion of these units would not be rented to non-PA families.
21. Dr. De Seve's absorption analysis also fails to take into account the quality and location of housing. A certain number of low-cost housing units may be vacant because they are not habitable or not in safe neighborhoods.
22. Since the landmark national (1996) and state (1997) reforms of the public assistance system, PA families face another constraint in searching for adequate housing. Since PA recipients are now required to participate in work activities and most do not own a car, housing must be accessible to public transportation and/or employment opportunities.
23. Using Dr. De Seve's estimates, the number of rental housing units available for under \$500 per month has declined precipitously since 1990. In 1990 there were a total of 42,853 units available for less than \$500 per month. In 1999 there were 18,308 fewer units for a total number of units renting for under \$500 month of 24,545, a decline of almost 43%.
24. During this same period the low-income population of Westchester County has grown considerably. In 1989, according to the 1990 Census, there were 58,164 individuals living alone or in families with incomes below the poverty thresholds. In 1995, the latest year for which the U.S. Bureau of the Census has published county-level poverty estimates, there were 80,442 poor individuals in the county. This is an increase of 38.3%. This means that a greater number of households are now competing for a declining number of affordable apartments.
25. We can assume that most public assistance families in Westchester County have four or fewer persons. The average number of individuals per case in Westchester County was 2.81 for July 1999, the most recent month for which published data from the Office of Temporary and Disability Assistance is available. A four-person family on family assistance in Westchester County receives a maximum shelter grant of \$393 per month. According to Dr. De Seve's analysis, the entire universe of rental housing units in the county renting for less than \$400 per month in 1999 is 13,400. Therefore accommodation of the 7,121 PA cases would require 55 percent of the universe of low-cost private units.

26. It is difficult to accurately estimate vacancy rates for low-cost rental units in Westchester County. While Dr. De Seve's estimate of the overall 1999 vacancy rate for the entire rental distribution (4.3%) may be reasonable, there are reasons to believe that the vacancy rate for lower cost units would be lower. For those units subject to rent control we would expect very low vacancy rates. The vacancy rates shown on Dr. De Seve's Exhibit Two using data from the 1990 Census show that the average vacancy rate for units under \$500 in 1990 was 3.75% while in Exhibit Eight Dr. De Seve estimated the overall vacancy rate at 3.8% for that year. I have used the vacancy rates by rental cost reported by Dr. De Seve in his Exhibit Two to estimate the number of units available in each rent category for 1999.
27. If we apply the vacancy rates reported by Dr. De Seve for each rent interval in 1990, we would expect to find less than 500 units available in any given month for under \$400. Dr. De Seve estimates that Public Assistance families average approximately 12 months at the same address. Therefore we would expect that 1/12 of the Public Assistance population would be seeking new shelter in any given month. Of the 7121 PA cases, 593 would be expected to be looking for housing in a given month. When these apartment seekers are added to Dr. De Seve's conservative estimate of the number of families in homeless shelters in any given month, even Dr. De Seve's flawed absorption analysis reveals a severe shortage of affordable housing in Westchester County.

#### **VI. Dr. De Seve's Analysis of OTDA Data Supports the Inadequacy of Shelter Allowance**

28. Dr. De Seve also provides an analysis of the data from the Office of Temporary and Disability Assistance (OTDA) for 3,202 TANF cases with a shelter allowance in December 1999. Of these cases only 15.4% have rent below the shelter allowance maximum while there are 2,767 cases receiving the maximum shelter allowance and 22 special cases receiving shelter allowances above the maximum for special circumstances. As stated by Dr. De Seve, "most public assistance cases in Westchester County rent apartments for more than their shelter allowance." Of those that received the maximum shelter allowance, only 24.1% pay rent that equals the allowance. Almost 79% of recipients are renting units above their maximum allowance. About 22% of cases pay rents above 175% of their shelter allowance.

## VII. Conclusion

29. In conclusion, the statistics presented here demonstrate that an increase in the shelter allowance is needed to assure housing for public assistance households and will contribute towards the reduction in homelessness. The capacity of the Westchester County housing market to absorb the public assistance case load has decreased significantly since the promulgation of the current shelter schedule in 1988.

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Trudi Renwick

Sworn to before me this  
Day of April, 2000

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Notary Public

Exhibit One: CV of Trudi Renwick

Exhibit Two:

1999 Fair Market Rents for Westchester County					
Number of Bedrooms	Zero	One	Two	Three	Four
FMR	\$676	\$881	\$1,073	\$1,395	\$1,665

Public Assistance Shelter Grants in Westchester County — Heat Included in the Rent								
Family Size	One	Two	Three	Four	Five	Six	Seven	Eight+
Shelter Allowance	\$271	\$314	\$361	\$393	\$426	\$440	\$474	\$536

Shelter Allowance as A Percent of Fair Market Rent — Westchester County (Two persons per bedroom)								
Family Size	One	Two	Three	Four	Five	Six	Seven	Eight+
Shelter Allowance as a Percent of Fair Market Rent	40.1%	35.6%	33.6%	36.6%	30.5%	31.5%	28.5%	32.2%

Exhibit Three: 1999 Private Rental Housing

Lower Bound	Upper Bound	Count of Rental Units*	Cumulative Count	Vacancy Rate**	Estimated Count of Vacant Units	Estimated Cumulative Count of Vacancies
201	225	845	845	9.9%	84	84
226	250	1,245	2,090	4.8%	60	143
251	275	1,497	3,587	0.8%	12	155
276	300	1,399	4,986	6.3%	88	244
301	325	1,693	6,679	3.1%	52	296
326	350	2,015	8,694	4.1%	83	379
351	375	1,959	10,653	2.9%	57	435
376	400	2,392	13,045	2.2%	53	488
401	425	2,658	15,703	5.5%	146	634
426	450	2,336	18,039	3.7%	86	721
451	475	3,022	21,061	2.8%	85	805
476	500	3,484	24,545	3.3%	115	920

\* From Dr. Charles De Seve, Exhibit 9

\*\*From Dr. Charles De Seve, Exhibit 2

Exhibit 4

**Homeless as a Percent of AFDC Caseload and Shelter Allowance as a Percent of FMR  
1994**

<b>County</b>	<b>Homeless Families 10/94</b>	<b>AFDC Cases 10/94</b>	<b>Homeless as a % of AFDC Cases</b>	<b>2-bdr FMR 10/94</b>	<b>Shelter Allowance- 4 persons</b>	<b>Four-person shelter as a % of 2-bdr FMR</b>
Westchester	893	11,656	7.66%	\$1,001	\$393	39.26%
Putnam	10	230	4.35%	\$840	\$344	40.95%
Suffolk	470	12,904	3.64%	\$1,032	\$449	43.51%
New York City	5,742	302,239	1.90%	\$840	\$312	37.14%
Saratoga	13	829	1.57%	\$586	\$269	45.90%
Rockland	21	1,647	1.28%	\$840	\$438	52.14%
Sullivan	9	975	0.92%	\$624	\$306	49.04%
Tompkins	7	813	0.86%	\$623	\$315	50.56%
Rensselaer	16	1,863	0.86%	\$586	\$210	35.84%
Jefferson	14	1,643	0.85%	\$515	\$291	56.50%
Genesee	4	480	0.83%	\$585	\$293	50.09%
Albany	34	4,507	0.75%	\$586	\$267	45.56%
Yates	1	214	0.47%	\$458	\$263	57.42%
Warren	2	433	0.46%	\$543	\$313	57.64%
Chemung	7	1,548	0.45%	\$476	\$286	60.08%
Dutchess	11	2,477	0.44%	\$801	\$314	39.20%
Clinton	3	960	0.31%	\$506	\$227	44.86%
Wayne	3	993	0.30%	\$585	\$301	51.45%
Schenectady	5	1,954	0.26%	\$586	\$283	48.29%
Broome	8	3,158	0.25%	\$484	\$316	65.29%
Nassau	19	7,700	0.25%	\$1,032	\$419	40.60%
Delaware	1	510	0.20%	\$445	\$291	65.39%
Cattaraugus	2	1,028	0.19%	\$389	\$261	67.10%
Greene	1	548	0.18%	\$530	\$287	54.15%
Chautauqua	5	2,744	0.18%	\$397	\$243	61.21%
Erie	33	19,652	0.17%	\$505	\$234	46.34%
Livingston	1	704	0.14%	\$585	\$271	46.32%
Columbia	1	709	0.14%	\$581	\$277	47.68%
Monroe	20	16,897	0.12%	\$585	\$374	63.93%
Cayuga	1	919	0.11%	\$528	\$261	49.43%
Orange	4	3,676	0.11%	\$808	\$332	41.09%
Onondaga	6	8,164	0.07%	\$528	\$294	55.68%
Oswego	1	1,618	0.06%	\$528	\$266	50.38%
Oneida	2	3,395	0.06%	\$459	\$259	56.43%
Ulster	1	2,159	0.05%	\$708	\$382	53.95%
Schoharie	0	250	0.00%	\$586	\$289	49.32%
Lewis	0	235	0.00%	\$450	\$203	45.11%
Madison	0	501	0.00%	\$528	\$289	54.73%
St Lawrence	0	1,653	0.00%	\$451	\$264	58.54%
Herkimer	0	593	0.00%	\$459	\$251	54.68%
Fulton	0	707	0.00%	\$455	\$231	50.77%
Montgomery	0	491	0.00%	\$586	\$230	39.25%
Essex	0	443	0.00%	\$486	\$289	59.47%
Niagara	0	3,477	0.00%	\$505	\$253	50.10%
Seneca	0	262	0.00%	\$473	\$296	62.58%
Otsego	0	403	0.00%	\$464	\$291	62.72%
Cortland	0	580	0.00%	\$510	\$289	56.67%
Franklin	0	639	0.00%	\$425	\$239	56.24%
Steuben	0	1,454	0.00%	\$451	\$231	51.22%
Chenango	0	593	0.00%	\$436	\$275	63.07%
Tioga	0	590	0.00%	\$484	\$292	60.33%
Ontario	0	1,049	0.00%	\$585	\$301	51.45%
Orleans	0	555	0.00%	\$585	\$293	50.09%
Hamilton	0	19	0.00%	\$476	\$231	48.53%

Schuyler	0	269	0.00%	\$471	\$281	59.66%
Allegany	0	905	0.00%	\$372	\$276	74.19%
Washington	0	685	0.00%	\$543	\$289	53.22%
Wyoming	0	282	0.00%	\$418	\$289	69.14%