

# Good Intentions, Unintended Consequences

## Impact of Adker Consent Decree on Miami-Dade County's Subsidized Housing

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In this article, we assess the impact of the Adker consent decree, a federal desegregation agreement implemented since 1999. It requires that Miami-Dade County public-housing offers be initially made on the basis of race and that half of the eligible turnover of Section 8 vouchers be given to former or current Black public-housing residents. Although well intentioned, the decree has had unintended consequences. The decree had mixed impact on desegregating public housing; it increased public-housing vacancy; it achieved modest desegregation among Section 8 voucher recipients; and it added considerable costs to the housing agency's operations.

**Keywords:** *Adker Consent Decree; unintended consequences; public housing; Section 8; Miami-Dade County*

Since the 1960s, the United States has struggled to overcome the history of racial segregation and discrimination in its housing practices, fighting legislative battles in an effort to build its capacity to enforce fair housing laws, particularly in the context of publicly supported housing. Rooted in the passage of the Fair Housing Act of 1968, desegregation litigation began its rise in the 1980s and continues today. Many of the cases have resulted in judicial orders that impose racial diversity standards on housing agencies. A substantial proportion has resulted in lengthy adjudication, with ambiguous findings in regard to basic definition of what constitutes desegregation in public housing or remedies for its redress.

The desegregation litigations resulted in consent decrees in several metropolitan areas. In this article, we examine the impact of one such decree—the Adker consent decree. The decree was the result of the class action

lawsuit *Adker v. U.S. Department of Housing and Urban Development and Miami-Dade County* (S.D.FL No. 87-0874-CIV-PAINE, 1998). It was implemented in 1999, and it will be in effect until 2009. It requires that Miami-Dade County public-housing offers be initially made on the basis of race to non-Blacks and that half of the eligible turnover of Section 8 vouchers (the federal tenant-based rental assistance program, also called Housing Choice Voucher Program) be given to former or current Black public-housing residents. The Adker decree follows a string of similar decrees in other places. The earliest one was the Gautreaux decree in Chicago (*Gautreaux v. Landrieu*, 523 F. Supp. 665, N.D. Ill., 1981), which set the precedent for remedying past discrimination by moving low-income Blacks to White neighborhoods. Other notable decrees include the *Walker decree* in Dallas (734 F.2d. Supp. 1231, 1271, 1289, N.D. TX, 1989) and the *Davis decree* in New York (60 F. Supp. 2d 220, 1999).

Our article is significant because we extend the debate on desegregation policy by questioning the utility of the consent decree as a policy tool in dealing with housing discrimination. We posit a simple thesis: Although well intentioned, the Adker consent decree has had broader unintended consequences. The concept of unintended consequences is not new. Robert Merton had dwelt on the factors leading to unintended consequences of purposive actions as early as 1936. Since then, the concept has been applied in several fields (e.g., law, sociology, planning, public administration) to examine the unanticipated effects of well-intentioned policies.

Chief Judge John M. Walker of the New York District Court had pointed to the unintended consequences of the Davis consent decree implicitly in his dissent with the majority decision. He argued,

by overriding the NYCHA's [New York City Housing Authority] policy decision for the sake of more rapid desegregation, the majority's decision could result in the deterioration of the New York City housing projects that remain under the injunction to the point where the achievement of its desegregation targets would be a Pyrrhic victory. (278 F.3d 64, 2002)

We explore if the unintended consequences of the Adker consent decree resulted in a "Pyrrhic victory" in the context of Miami-Dade County's subsidized housing. We highlight four aspects. First, the Adker decree has had mixed impact on the rates of residential segregation—although there is progress toward racial desegregation, the achievement of the decree's intended goals is modest. Second, it escalated the public-housing vacancy rate. Third, it achieved modest desegregation among the Section 8 voucher

recipients. Fourth, it added considerable costs to the housing agency's operations. Consequently, the decree has done little to alleviate Miami-Dade's subsidized housing problems. The critique of the decree does not, in any way, imply that desegregation is an undesirable goal. Rather, the critique is a procedural one and calls attention to the need for more sensitive policies to achieve desegregation.

The rest of the article is structured in the following way. The background of the Adker Consent Decree is described in Section 2. The extant literature on desegregation litigation is reviewed in Section 3. Then, the general terms of the Adker Consent Decree are described in Section 4. After this, the unintended consequences of the decree are analyzed in Section 5. Finally, in Section 6, we conclude with consideration of whether or not the decree is a Pyrrhic victory for Miami-Dade's subsidized housing.

## **Background of the Adker Consent Decree**

### **The Case Behind the Decree**

In 1987, Ann-Marie Adker and other Black public-housing residents filed a class-action lawsuit against the United States Department of Housing and Urban Development (HUD) and Miami-Dade County, claiming that the agencies perpetuated discrimination and racial segregation. The lawsuit alleged that the agencies failed to maintain the county's predominantly Black public-housing developments in the same condition as the predominantly non-Black Section 8 housing and relegated Blacks to public housing in exclusion of Section 8 housing. The agencies were thereby charged with violating the Fifth and Fourteenth Amendments to the Constitution of the United States, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 1981, 1982, and 1983, the U.S. Housing Act of 1937, and the Administrative Procedure Act.

After 10 years of litigation and the death of Adker herself, the court ruled in favor of the plaintiffs on December 18, 1997. The parties and their counsel (Jenner & Block and the Lawyers' Committee for Civil Rights Under Law for the plaintiffs and the U.S. Department of Justice and the Office of the County Attorney for the defendants) agreed to enter into a consent decree. The Adker Consent Decree came into being formally on October 29, 1998, ordered by the U.S. District Court, Southern District of Florida. The decree intended to desegregate Miami-Dade County's federally assisted housing programs and to increase desegregative housing

choices and opportunities for the class-action members. It laid out procedural measures to achieve these goals and established a 10-year period to achieve them. The decree has thus had a long development period (initiated in 1987, settled in 1998, took effect in 1999) and remains in place until 2009.

### **Adker Lawsuit Within a Historical Context**

The Adker lawsuit should be viewed in the historical context of residential segregation of Miami-Dade County. Similar to other major metropolitan areas, Miami-Dade's Blacks were predominantly concentrated in inner city areas. Blacks ranged between 13.2% and 21.4% of the total population between 1950 and 2000 (Florida International University [FIU] Metropolitan Center 2007). With the Cuban influx since the 1960s and the subsequent Latino and Caribbean immigration, the Latino share of the population surpassed the Blacks by 1970.

The residential patterns of Blacks and the immigrant Latinos has been distinctive in Miami-Dade County. Winsberg's (1979) study of Miami's housing segregation between 1950 and 1974 showed that Blacks had always been isolated from both the Latino and non-Latino White populations. Whereas Latinos expanded into non-Latino White neighborhoods, Blacks were largely confined to neighborhoods adjacent to older Black neighborhoods (Boswell, Cruz-Báez, and Zijlstra 1998; Winsberg 1983). With increasing suburbanization since the 1970s, residential segregation was reduced for both Blacks as well as Latinos; yet, Blacks remained more segregated than Latinos. Dissimilarity index, which measures residential segregation, decreased from 0.785 in 1980 to 0.694 in 2000 for Blacks; for Latinos, the dissimilarity index went down from 0.525 to 0.439 during the same period (Iceland, Weinberg, and Steinmetz 2002). Subsidized housing was also segregated. According to Mohl (2003, p. 252),

In the 1990s, black occupancy of Miami's five pre-1960 public housing projects ranged from 94 percent to 100 percent. Meanwhile, nonblacks, especially Hispanics, were directed to more desirable Section 8 housing—subsidized rental housing in the private sector. Few black families were able to obtain Section 8 housing vouchers.

The Adker lawsuit alleged that the housing agency's practices perpetuated racial segregation and isolation of Blacks in Miami-Dade County.

Although the Adker and a number of similar desegregative lawsuits were filed in the 1980s and 1990s, they were preceded by other significant open

housing cases resulting in court-ordered desegregative plans. The most significant of these was the Gautreaux case, which consisted of a pair of class-action lawsuits filed in 1966 against the Chicago Housing Authority (CHA) and HUD. The American Civil Liberties Union (ACLU) lawyers pursued the cases on behalf of the plaintiffs, who were predominantly Black public-housing tenants and those on the waiting list (Polikoff 1978, pp. 147–59). The lawsuit against CHA alleged that it intentionally selected sites and assigned tenants to public housing, thus perpetuating the prevailing pattern of racial segregation. The case against HUD derived from the CHA one, claiming that HUD acquiesced in the segregation by funding the CHA programs. The Northern Illinois District Court and the Supreme Court rulings in 1969 and 1976 ruled against CHA and HUD, respectively (Rubinowitz and Rosenbaum 2000). The remedial settlement with CHA required the agency to provide “scattered site” public-housing units throughout the city rather than in a few predominantly Black neighborhoods. The settlement with HUD envisaged a metropolitan-wide desegregation program of placing Black families in White suburbs using Section 8 rental vouchers (the Gautreaux Assisted Housing Program, GAHP). The HUD settlement was later codified in 1981 with the Gautreaux consent decree that stipulated a goal of 7,100 families. Although the scattered-site program started earlier, it faced community resistance and made much less progress than the GAHP. The Gautreaux decree attained its goal in 1998 (Polikoff 2006, 243; Rubinowitz and Rosenbaum 2000, 39). The Gautreaux decree was thus more outcome-driven than Adker’s. In 2002, the CHA initiated a second Gautreaux program—the Gautreaux Two.

The Gautreaux decree foreshadowed similar consent decrees in desegregation cases in several other metropolitan areas (Roisman 1999). Among these, the Walker decree in Dallas was significant in suggesting more wide-ranging remedies than the Gautreaux decree. The remedies included demolition of a deteriorated public-housing project, creation of new subsidized housing in predominantly White areas, equalization of conditions between the housing authority’s predominantly White and predominantly African-American developments, implementation of economic development programs in the neighborhoods adjacent to public-housing developments, mobility counseling for Section 8 voucher housing, and creation of a fair-housing organization focusing on the housing problems of indigent minority households. According to Popkin et al. (2003, 182), the Walker decree “represented the next stage of evolution for public housing desegregation cases and became the model for all subsequent negotiations.” Some of the Adker decree prescriptions reflect such broadened negotiations.

The Starrett City, New York, case to promote racial integration through benign quotas provides an interesting antithesis to the desegregative consent decrees. In the late 1970s, the city maintained racial quotas for Whites in public housing to keep them from fleeing to the suburbs; the city also limited the percentage of Blacks and Hispanic applicants accepted as tenants (Simon 1991). However, the benign quota system has been quite controversial. Whereas supporters (including Oscar Newman, a noted planner) claimed it to be required for racial integration, open-housing advocates (including the noted advocacy planner Paul Davidoff) decried it as being discriminatory against Blacks (Goodman 1983). Eventually, the district and the federal courts ruled against the city (Simon 1991).

Nonprofit fair-housing organizations have generally monitored the implementation of the consent decrees. With HUD's Fair Housing Initiatives Program (FHIP) since 1987, financial support has been provided to the fair-housing organizations for educating and testing, launching investigations, and fighting legal battles (Galster 1999, 124). FHIP annual funding reached its peak of \$25 million in 1995 and gradually reduced since then to \$18 million in 2003 (National Fair Housing Alliance 2006, 24). The fair housing organizations brought over 1,000 suits, with the courts granting \$190 million in disclosed financial awards (National Fair Housing Advocate Online 2006). The settlement amounts have been on the rise, and litigations emerged as important sources of funding for the fair-housing organizations (Cheever and deLeon 2001).

## Literature Review

The Gautreaux case and others like it give us a historical perspective, enabling us to draw parallels with the Adker case. The Gautreaux decree has been the basis for several desegregative policies, including the HUD's Moving to Opportunity (MTO) demonstration program. More recently, Alexander Polikoff, the lead counsel in the Gautreaux case, has proposed expanding the Gautreaux-inspired programs nationwide (Polikoff 2006). By examining the Adker decree as part of a larger open-housing movement, we can better understand its embedded assumptions regarding housing preferences and their impact on efforts to desegregate public housing.

Scholarly debate on residential segregation has focused on its economic and social ill-effects. Wilson (1987, 1996) has argued that the lack of access to jobs in inner city areas leads to the urban underclass. Massey and Fischer (2000) highlight that residential segregation and income inequality result in

geographic concentration of poverty, especially among the Blacks. In this context, desegregative housing policies promote residential mobility and more locational choices for the Blacks. In the Gautreaux program, residential mobility had a positive impact on adults' access to jobs, children's success in schools, and housing conditions (Keels et al. 2005; Mendenhall, Deluca, and Duncan 2006; Popkin, Rosenbaum, and Meaden 1993; Rosenbaum 1995; Rubinowitz and Rosenbaum 2000). The Gautreaux program led HUD to test housing mobility strategies more systematically in the MTO demonstration program in five cities. An interim assessment of the MTO program conducted five years after the move found beneficial effects of mobility on housing quality and personal safety but did not find significant effects on adults' employment outcomes or children's educational achievement (Orr et al. 2003).

Varady and Walker (2003) argue that the MTO model may not be suitable nationwide. In their research, they find that Black Section 8 voucher recipients in Alameda County, California, moved to the suburbs without special mobility programs involving intensive counseling and/or geographic restrictions. The voucher recipients faced little racial discrimination in their move and were satisfied with their housing search. Indeed, other researchers show that several factors influence residential mobility and locational choices. Life-cycle factors (e.g., age, marital status, family size), neighborhood and metropolitan characteristics (e.g., relative size of Black population), and socioeconomic characteristics (e.g., education, income) are important determinants (South and Deane 1993; South and Crowder 1998; Clark 2007). In their study of Section 8 programs in Southern California, Basolo and Nguyen (2005) show that there are real (e.g., availability of rental units) and perceived (e.g., concerns with bureaucratic paperwork, landlords' willingness to rent to voucher households) barriers to mobility, particularly among minorities. Reviewing Gautreaux Two, Pashup, Duncan, and Burke (2005) find that there were external (e.g., tight rental market, discrimination, and bureaucratic delays) and internal (limited experience and program comprehension, large household size, and health problems) barriers to residential mobility. Kan (2007) argues that the local social capital (i.e., neighborhood-level social ties) has a negative effect on residential mobility. According to von Hoffman (1998, 4), "the history of the open housing movement shows that the attitudes of both whites and African-Americans toward choosing a neighborhood in which to live also play a crucial role in determining the distribution of the urban population." Thus, there is more to segregated racial settlement patterns than just discriminatory practices by housing authorities. Failure to account for these

attitudes may explain in part why the consent decrees have failed to deliver the promised level of desegregation.

There is sparse extant research on consent decrees other than Gautreaux. Two studies are notable. The first is Goetz (2003, 2004), who questions the very basis of the deconcentration approach in his study of the Hollman consent decree in Minneapolis. He portrays how limited dispersal happened, with most poor families remaining in inner cities even after the decree's full implementation. The second is Popkin et al. (2003), who examine the implementation of the consent decrees in eight cities across the country. They identify two sets of obstacles in implementing the decrees: contextual obstacles and capacity and coordination. The contextual obstacles are racial composition of waiting lists and current tenants; organized community resistance to replacement housing; reluctance to accept desegregative in-movers and make desegregative moves; lack of minority residents' acceptance of specific elements of the decree; inadequate supply of units at the fair-market rent level; and poor public transportation. Capacity and coordination obstacles include conflict among agencies implementing the decree; coordination among agencies with implementation responsibilities; and lack of HUD monitoring and follow-through (Popkin et al. 2003).

Our study adds to the above body of literature by examining the unintended consequences of the Adker consent decree in Miami-Dade County. The concept of unintended consequences has been applied in different areas to study the unanticipated effects of policies. For example, Smith (1995) argued that although publishing performance indicators is considered to be beneficial, the publication could result in unintended consequences (e.g., tunnel vision, suboptimization, myopia, measure fixation) that could be detrimental to performance itself. Kovandzic, Sloan, and Vieraitis (2002) argue that the "three strikes" law had the unintended consequence of promoting rather than limiting homicides. Rent control policies are also controversial: various studies have highlighted that such policies adversely affect housing maintenance and new rental-housing construction, thus defeating the very purpose of rent control (Glaeser and Luttmer 2003; Kearl et al. 1979; for counterpoints, see Albon and Stafford 1990; Appelbaum et al. 1991). Critiquing HOPE VI, Popkin et al. (2000) argue that the program might transform public housing, but the vulnerable, poor tenants may be worse off since they may be pushed out of the assisted-housing market altogether (troubled families may not survive the screening; the lowest-income tenants may not necessarily benefit economically). According to them, "It would be a terrible irony if the ultimate legacy of Gautreaux were the reconcentration of very poor families in substandard housing."

The unintended consequences raise a caveat for policy implementation: although well intentioned, a policy may result in the same problems that it seeks to alleviate. Unintended consequences are results that are not a part of the original action. They could be positive or negative. Positive consequences are the benefits that were not anticipated in the action; negative consequences are the undesirable impacts on areas other than those at which the action is aimed. The notion of unintended consequences is not new. Merton (1936) had identified five factors for purposive actions resulting in such unintended consequences. They are the current state of knowledge (i.e., incomplete information); error (in the appraisal of current situation, inference of the future, and the selection and implementation of a course of action); imperious immediacy of interest (i.e., more concern with immediate consequences than that of future); basic values (i.e., little consideration of further consequences because of espousal of certain fundamental values); and self-defeating prophecy (i.e., the prediction itself changes the human behavior). Portes (2000) extends Merton's thesis to argue that multiple contingencies (e.g., concealed goals, midcourse shifts, unexpected effects) could lead to unintended policy outcomes.

The original intended consequence of the Adker decree was to achieve racial desegregation in subsidized housing. Although well intentioned, the intended achievement has been modest, with several unintended consequences. To uncover the unintended consequences, we examine four aspects of the consent decree: the achievement of desegregation in public and Section 8 housing; the decree's impact on public-housing vacancy rates; the impact on Section 8 Adker recipients; and the costs of program administration. In Merton's terms, the unintended consequences of the Adker consent decree were partly caused by the limited state of knowledge to be able to identify the unanticipated outcomes and partly caused by immediacy of interest (to rectify MDHA's alleged historical pattern of allocating public housing to Blacks). More fundamentally, however, the unintended consequences were caused by the basic value of racial nondiscrimination and consequent desegregation efforts. Several social contingencies, including Blacks' locational preference of housing, confounded the achievement of the intended results. The concerns about the unintended consequences had been explicitly voiced in the news media in the early years of the Adker decree's implantation (Robinson 2001, 1).

Our research is based on an interim evaluation of the decree during the first four years (1999–2003) of its implementation. As the decree is expected to end in 2009, MDHA is required to follow the terms of the decree at the time of writing this article. The full impact of the decree will

thus be known only after the decree runs its full course. The data for the study are drawn from MDHA's internal records, its various reports, and the minutes of the Miami-Dade Commissioners' meetings. The data are supplemented with interviews of MDHA officials.

## Terms of the Adker Consent Decree

Aimed at removing racial barriers within Miami-Dade County's subsidized housing programs, the Adker consent decree established a class of "all past, present, and future black residents of Dade County's public housing" called *mobility pool members*. It stipulated selection preferences for the allocation of project-based and tenant-based housing units. Project-based units include public (owned and managed by the MDHA) and moderate rehabilitation (substandard but upgraded rental housing owned by private developers) housing units. Whereas project-based housing offers depend on the availability of units, tenant-based housing offers depend on the availability of Section 8 vouchers.

Race is defined as a binary category in the Adker decree: Black and non-Black. Blacks include African-Americans and all other individuals who are Black, irrespective of their national origin. Non-Blacks include but are not limited to Caucasians and Caucasians of Hispanic ethnicity, American Indians, and Asians. The decree imposed desegregative housing measures between the two groups in the County's federally assisted housing programs. Desegregative housing is defined as follows in the decree:

In the case of tenant-based (read Section 8) assistance, housing in a neighborhood where the household's race does not predominate, i.e., a census tract in which no more than 65 percent of the population is the same race as the household, and in the case of project-based assistance, housing in a development where the household race does not predominate, i.e., does not exceed 65 percent.

The decree requires the county to encourage desegregation by providing priority for public housing to non-Blacks and establishing a local preference of issuing 50% of the eligible turnover of Section 8 vouchers to mobility-pool members. During the first 15 days after a unit is ready for occupancy in the project-based housing, the MDHA is allowed to make only desegregative offers to five applicants on the county's waiting list for housing. If the period expires without a desegregative offer's being accepted, the decree allows the MDHA to offer the unit to anyone on the waiting list regardless of race. Placement procedures are thus based on racial quotas.

The new placement procedures created by the decree also called for changes in the administration of the waiting lists. The MDHA is responsible for implementing the decree. The sole responsibility with MDHA eschewed the conflicts and coordination problems between multiple implementing agencies identified by Popkin et al. (2003). Under the decree, MDHA has the responsibility for the maintenance of waiting lists, public-housing development and maintenance, as well as making offers of public-housing units and providing tenant-based assistance. The decree requires waiting lists to be reopened every two years (extended to three years in 2004). Other guidelines for the lists are as follows:

- *Mobility-pool list*: The list is ranked according to the date each pool member moved into the public housing. Based on where they rank on the list, mobility-pool members are offered tenant-based assistance, which consists of 50% of all turnovers for Section 8 vouchers. The members get project-based assistance only if they specifically request it.
- *Tenant-based list*: Applicants on this list receive the remaining 50% of all turnovers for Section 8 vouchers, and they are placed on the list in order of date and time of application.
- *Project-based list*: This list is also organized according to date and time of application, as applicants on the list receive exclusive offers for vacancies in public housing and moderate rehabilitation units. All non-Black applicants on the tenant-based list are cross-listed on this list in the reverse order of application.

Furthermore, all applicants on any of the above three lists can be removed if they do not provide a legitimate excuse for failing to respond within 60 days of an offer. Applicants may request to be reinstated to their original place on the list through an administrative hearing within one year of being removed.

To carry out the above measures, the decree also provided economic and administrative guidelines for the creation of a Fair Housing Center operated by Housing Opportunities for Project Excellence (HOPE), an independent, nonprofit organization. HOPE provides education and counseling to eligible subsidized-housing applicants on the benefits of desegregative moves. The decree created three funding sources for HOPE. First, MDHA committed \$2.8 million to HOPE for its expenses (including financial incentives for households that accept a desegregative offer), to be paid in five annual installments. Second, MDHA reserved 20% of the administrative fees it receives annually from HUD for HOPE's counseling services and Section 8 administrative functions. Although an annual amount is not specified, the

decree limits the total fees over the 10-year period to not exceed \$2.4 million. Third, HUD also reserved \$2.8 million in funding authority to the MDHA to be passed on to HOPE for its operation. The decree designated HOPE as a self-assessing unit, as “no party, including the County or HUD, shall be the guarantor of the performance of HOPE.”

## **Good Intentions, Unintended Consequences**

### **Is Adker Desegregating Subsidized Housing? A Mixed Picture**

The Adker decree was intended to desegregate Miami-Dade’s subsidized housing, with particular emphasis on remedying the racial imbalance between Blacks and non-Blacks. While this should not be the sole criterion on which the Adker consent decree’s success should be based, it is certainly the principal metric in judging its impact. The interim evaluation suggests a mixed picture—although there is progress toward racial balance, the achievement of the decree’s goals is modest. A similar finding is echoed by other studies (Goetz 2003; Popkin et al. 2003).

Table 1 sets forth the aggregate ethnic breakdown of residents in Miami-Dade’s Section 8 voucher, moderate-rehabilitation, and public-housing programs between 1987 and 2003. As the reader will recall, 1987 was the year in which the suit was filed. In 1994, MDHA received a significant infusion of vouchers as a result of Hurricane Andrew; 1999 was the year in which the county began implementing the consent decree; and 2003 is the last year for which data are available.

Taken as a whole, Table 1 suggests that there was some success in balancing Black and non-Black use of Section 8 vouchers. Between 1987 and 2003, the percentage of Blacks using Section 8 vouchers increased significantly for the better, from 28% in 1987 to 51% percent in 2003. The number of Blacks using vouchers increased dramatically from 656 in 1987 to 6,190 in 2003. However, the trend began even before the Adker consent decree was entered into: by 1994, Blacks using vouchers constituted 45% (the number of Blacks using vouchers had reached 3,420). In moderate rehabilitations, there was little change in racial balance, with Blacks increasing from 15% in 1987 to 19% in 2003. The racial balance in public housing changed modestly as compared to Section 8 vouchers, with Blacks dropping from 64% in 1994 to 58% in 2003. Yet, the change is important since it contrasts with the upward trend of the number of Blacks in public housing before the Adker consent decree. The number of Blacks in public

**Table 1**  
**Composition of Black/Non-Black Makeup of Subsidized-housing Programs, 1987–2003 (Percentages in Parentheses)**

Year	1987		1994		1999		2003	
	Black	Non-Black	Black	Non-Black	Black	Non-Black	Black	Non-Black
Section 8 vouchers	656 (28)	1,664 (72)	3,420 (45)	4,240 (55)	N/A	N/A	6,190 (51)	5,994 (49)
Moderate rehabilitation	220 (15)	1,244 (85)	679 (19)	2,922 (81)	N/A	N/A	689 (17)	3,282 (83)
Public housing	N/A	N/A	6,114 (64)	3,449 (36)	6,344 (64)	3,553 (36)	4,278 (58)	3,366 (42)

Source: Miami-Dade Housing Agency (2003).

Note: N/A = data not available.

housing increased from 6,114 in 1994 to 6,344 in 1999 and then dropped to 4,278 in 2003.

Tables 2 and 3, respectively, list the change in ethnic makeup in the public-housing developments that were predominantly Black and non-Black in 1999 (i.e., the composition of one race was more than 65%). Table 2 suggests that for the 17 predominantly Black complexes, a double-digit decline in the proportion of Black residents was not atypical by 2003; however, the Adker consent decree's desegregation objective (of one race not predominating over 65%) was realized only in 5 developments. Conversely, figures in Table 3 indicate that in 6 predominantly non-Black complexes, there was an overall gain in the proportion of Black residents by 2003; the consent decree's objectives were achieved in only 1. In sum, there appears to be some evidence of movement toward better racial balance, with modest attainment of the consent decree's goals during the period of the evaluation.

Table 4 outlines the racial composition of Miami-Dade's 118 public-housing complexes in 1999 and 2003. Chi-square analysis of Blacks versus non-Blacks confirms that there is indeed a significant change in the racial mix of Blacks and non-Blacks during these two points in time ( $\chi^2 = 89.1$  with 1 *df*;  $p = .00$ ). However, while the number of Blacks in public housing reduced by 1,383, the gain in number of non-Blacks was only 117. Thus, the figures indicate that the change in racial composition is the result of Blacks' opting out of public housing (for vouchers) rather than of an inflow of non-Blacks. The overall drop in the number of public-housing residents

**Table 2**  
**Percentage Change in Ethnic Makeup of Predominantly**  
**Black Public-housing Developments, 1999–2003**

Development	1999		2003		Number of Units
	Black	Non-Black	Black	Non-Black	
1. Green Turnkey	80	20	65	35	20
2. Jolivette	100	0	92	8	61
3. Annie Coleman	97	3	89	11	217
4. Modello	95	5	77	23	80
5. Ward Towers	83	17	62	38	180
6. Culmer Plaza	96	4	83	17	112
7. Homestead Plaza	97	3	82	18	71
8. Moody Village	91	9	75	25	48
9. Wayside	98	2	70	30	23
10. Pine Island I	85	15	70	30	53
11. Moody Gardens	76	24	62	38	26
12. Miami Gardens	98	2	84	16	44
13. Gwen Cherry	92	8	71	29	73
14. Scattered B	90	10	74	26	38
15. Gwen Cherry 22	85	15	53	47	17
16. Gwen Cherry 20	91	9	80	20	20
17. Opa-Locka Elderly	76	24	55	45	47

Source: Miami-Dade Housing Agency (2003).

**Table 3**  
**Percentage Change in Ethnic Makeup of Predominantly**  
**Non-Black Developments, 1999–2003**

Development	1999		2003		Number of Units
	Black	Non-Black	Black	Non-Black	
Robert King	4	96	10	90	295
Jack Orr Plaza	18	82	22	78	175
South Miami Plaza	17	83	24	76	93
Wynwood	29	71	39	61	66
Scattered Sites 11D	9	91	27	73	11
Scattered Sites 9D	6	94	22	78	9

Source: Miami-Dade Housing Agency (2003).

**Table 4**  
**Public-housing Racial Composition: Breakdown by Racial**  
**Predominance, 1999–2003 (Percentages in Parentheses)**

Year	1999			2003		
	Black	Non-Black	Total	Black	Non-Black	Total
82 predominantly Black	5,416 (91)	530 (9)	5,946 (100)	4,082 (85)	724 (15)	4,806 (100)
25 predominantly non-Black	295 (11)	2,423 (89)	2,718 (100)	350 (13)	2,347 (87)	2,697 (100)
11 mixed developments	308 (52)	285 (48)	593 (100)	204 (42)	284 (58)	488 (100)
All developments	6,019 (65)	3,238 (35)	9,257 (100)	4,636 (58)	3,355 (42)	7,991 (100)

Source: Miami-Dade Housing Agency (2003).

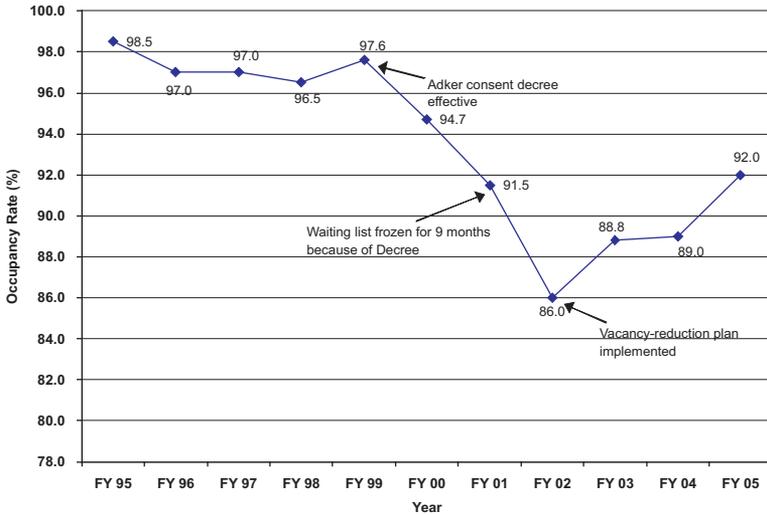
from 9,257 in 1999 to 7,991 in 2003 is not purely the result of enhanced voucher availability or citizen choice. It also reflects the protracted and convoluted offer process required of mobility-pool members before placement, as outlined in the next section.

### Impact on Public-housing Vacancy

The principal unintended consequence of the Adker consent decree is its adverse effect on the public-housing vacancy rates. The finding is interesting, especially since prior research does not highlight the adverse effect. For example, the issue is not even mentioned by Goetz (2003) or Popkin et al. (2003) in their research on consent decrees. The increase in the public-housing vacancy rate could not have been foreseen at the time of implementation; the issue was realized a posteriori. In Merton's typology, this reflects limitation in the state of knowledge at the time of action to be able to predict such unanticipated consequence.

Figure 1 shows the vacancy rate of public housing between 1995 and 2005. Before the Adker decree, the occupancy rate of Miami-Dade's public-housing stock was above 96.5%. In fiscal year 2002, this dropped to a low of 86%. Consequently, MDHA adopted an emergency vacancy-reduction plan the same year, and the occupancy rate increased since then to 89% in 2004 (MDHA targeted 92% occupancy in 2005). According to MDHA (2005), the accelerated vacancy-reduction and lease-up programs

**Figure 1**  
**Occupancy Rate in Public Housing**



Source: Miami-Dade Housing Agency (2003, 2005).

added close to \$3 million in new costs since their implementation in June 2002. In terms of number of units, public-housing vacancies had reached a peak of 1,500 units in 2002; the number of vacancies was reduced to fewer than 800 in December 2004 with the vacancy-reduction plan (MDHA 2005, 10).

The drop in public-housing occupancy, in the judgment of MDHA officials, is almost exclusively attributable to the prolonged counseling and offer-making process mandated by Adker (MDHA 2003; Robinson 2001). According to MDHA (2005, 10), “the requirements of the consent decree make it extremely challenging and costly to fill vacancies in public housing.” Three aspects of the Adker decree’s procedures increased the vacancy. First, the vacancies started to escalate in 1999 after the mobility-pool members got their Section 8 vouchers and moved out of public housing. Second, the waiting list was frozen under the Adker decree’s requirements. When the waiting list was depleted, MDHA could not take new applications to fill the vacancies (the Adker decree stipulated waiting lists to be reopened every two years initially, and then every three years). The MDHA

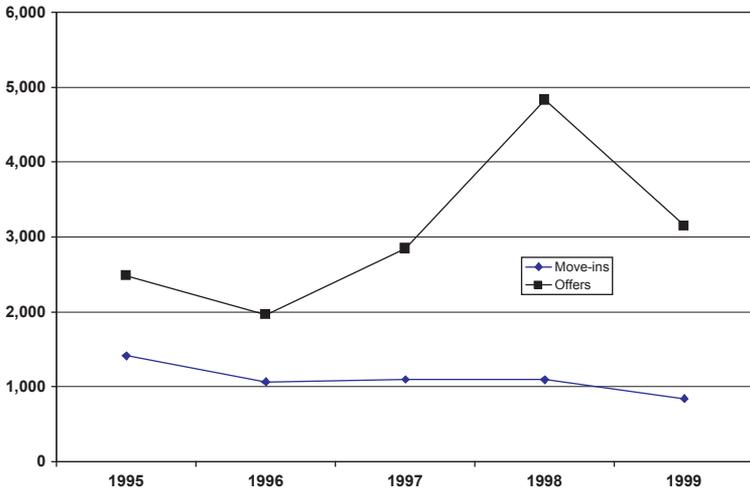
had to seek HUD approval for opening the list. When the list was reopened after nine months in March 2001, 63,896 people applied (Robinson 2001), creating a surge in backlog. Third, the race-based preferential allocation added to the backlogs. Since MDHA had to make exclusive offers to five applicants whose race did not predominate in the building during the first 15 days of a unit's becoming ready for occupancy, "the process of identifying possible applicants and sorting through the offers caused delays in filling vacancies" (Robinson 2001).

The adverse impact of the Adker consent decree on vacancy is also illustrated by the change in ratio between the number of offers and the number of actual move-ins. As Figure 2 shows, MDHA averaged 1.75 to 4.4 offers for every move-in to public housing between 1995 and 1999. The dynamic changed greatly after the Adker decree in 1999. While annual figures are not available, between 2002 and 2004, MDHA made almost 27,000 offers of housing to clients on its waiting list, with 2,728 (about 10.1%) accepting offers but only 1,523 (about 5.6%) actually moving in. This means that the agency made approximately 17 offers for every successful move-in to public housing. MDHA estimated to reach a target of 1 move-in for 10 offers in 2005. The reduction in number of actual move-ins vis-à-vis the number of offers clearly gave rise to the increase in public-housing vacancy. Furthermore, the more number of offers per successful move-in indicates delay in the lease-up of vacant public housing, since it took longer to follow the Adker decree's cumbersome procedures.

The number of public-housing units that lay fallow became a source of embarrassment to political leaders. Miami-Dade commissioners frequently disparaged these empty units in public meetings (Robinson 2001). An August 2006 memorandum from Carlos Alvarez, the mayor of Miami-Dade County, to George Burgess, the county manager, decried that nearly 1,000 units were vacant despite shortage of affordable housing in the county (Alvarez 2006). About 40,000 applicants were still on the waiting list. However, the political leaders overlook the role of the Adker decree in creating the vacancy. The Adker decree's desegregative procedures may be providing greater choice to some Blacks but may also be keeping other poor Black families out of much-needed affordable shelter. Thus, the Adker decree could be hurting the very group that it is targeted to assist. According to one housing activist, the vacancy "creates homelessness and leaves families who are in desperate situations without homes" (quoted in Robinson 2001).

The vacancy of public housing is an irony in Miami-Dade, where median housing prices escalated faster than median income between 2000 and 2005. Blacks in the county gained little from the real estate boom;

**Figure 2**  
**Offers and Move-ins in Public Housing**



Source: Miami-Dade Housing Agency (2003).

rather, they were worse affected. The homeownership rate of Blacks reduced 6% during this period. The affordability gap for Blacks reached \$130,117 in 2005; comparatively, the gap for all racial and ethnic groups was \$93,208. A survey conducted by the FIU Metropolitan Center (2007) revealed that housing affordability is on the top of the agenda of the Blacks. More Blacks than non-Blacks have been migrating out of the county (particularly, the educated ones—the Black “brain drain”) (FIU Metropolitan Center 2007, 2).

The Adker plaintiffs contest MDHA officials’ claims that the decree contributed to an increase in public-housing vacancy. They argue that “nothing in the consent decree would cause these vacancies” (Robinson 2001). Unrelated public controversies surrounding MDHA’s handling of the HOPE VI project also raise broader suspicions about MDHA’s management. In 1999, HUD awarded \$35 million to MDHA to begin its HOPE VI project, which called for demolishing some public housing and reconstructing mixed-income, low-rise housing in its place. The effort was met with resistance by the public-housing residents. Residents filed a lawsuit blocking the demolition of two large public-housing projects. The lawsuit was

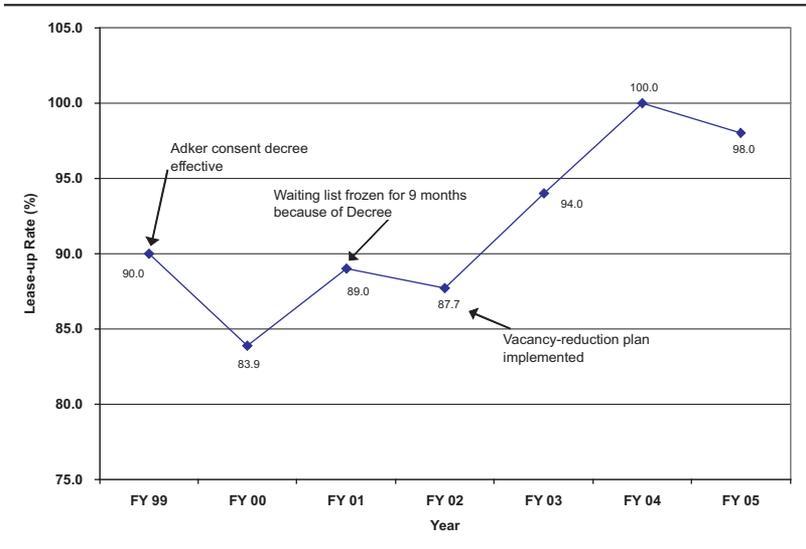
settled after three years when MDHA agreed to nearly triple the number of units made available to low- and moderate-income dwellers (Robinson 2003). After this, MDHA's management itself went into a crisis after an exposé over the implementation of HOPE VI and other housing projects in a Pulitzer prize-winning series called the "House of Lie\$" in *Miami Herald* in July 2006. These controversies could arguably point to MDHA's poor quality of management for the increase in public-housing vacancy. However, the difference in management quality before and after the Adker consent decree was implemented is not entirely clear. If the management quality indeed worsened after the Adker consent decree, MDHA could also be at fault. If MDHA's management quality were the same before and after, it is unlikely to have affected the vacancy rate. The fact remains that the vacancy increased after the Adker decree, which adversely affected the housing choices of low-income Black residents.

### **Impact on Section 8 Voucher Housing**

Section 8 voucher holders can use their vouchers anywhere in the country. The Adker decree stipulated that mobility-pool members should receive 50% of all turnovers. A member choosing to make a desegregative move within the county (i.e., to a census tract in which no more than 65% of the population is Black) is entitled to relocation assistance from HOPE. With more Blacks opting for Section 8 vouchers, the Section 8 lease-up rates climbed up after a sharp dip in the first year following the consent decree. Figure 3 shows the Section 8 average lease-up rates after the consent decree was implemented. As the figure shows, the lease-up dipped sharply from 90% in 1999 to 83.9% in 2000, before starting to climb up again. Lease-up rates reached nearly 100% after the vacancy-reduction plan was implemented in 2001. The initial dip could be explained by the time required for implementing Adker's procedures. The upward trend in lease-up rates reflects the clear preference of former public-housing residents for Section 8 vouchers, particularly among the more upwardly mobile residents.

To assess the effect of the Adker decree on Blacks' residential mobility, we conducted a Geographic Information Systems (GIS) analysis of successful Section 8 voucher lease-ups under the Adker decree. We analyzed the location of the 1,288 Section 8 mobility-pool members before and after the lease-up in 2003. Figure 4 shows the geocoded addresses of the recipients before and after leasing, overlaid on a thematic map of the proportion of Black population by census tracts in Miami-Dade County in 2000 (the closest census year for which census tract data on population by race is

**Figure 3**  
**Section 8 Average Lease-Up Rate**



Source: Miami-Dade Housing Agency (2003, 2005).

available). Consistent with the Adker decree requirements, 65% is taken as the threshold level for identifying census tracts with a predominantly Black population.

Visual inspection of both maps shows a significant degree of clustering of Adker recipients in the North, and to some degree in the South, although the clusters have geographically expanded after leasing. The clustering is in census tracts that had 65% or more Black population in 2000 to the North. Although the census tracts in the South where clustering took place have less than 65% Black population, more detailed GIS analysis (not shown in figures) indicates that these tracts had majority (i.e., more than 50%) Black population. However, there is also a degree of desegregation after the move, as indicated by the Adker recipients within the ellipse (after leasing) who moved to areas that had less than 65% Black population. Overall, the percentage of Adker recipients who were in 65% or more Black-populated census tracts reduced modestly from 57.1% before leasing to 54.2% after leasing. A vector summation of the moves gives the net direction of the movement of the Adker recipients. The vector is indicated by the arrow in

**Figure 4**  
**Spatial Distribution of Adker Recipients, Before and After Leasing**

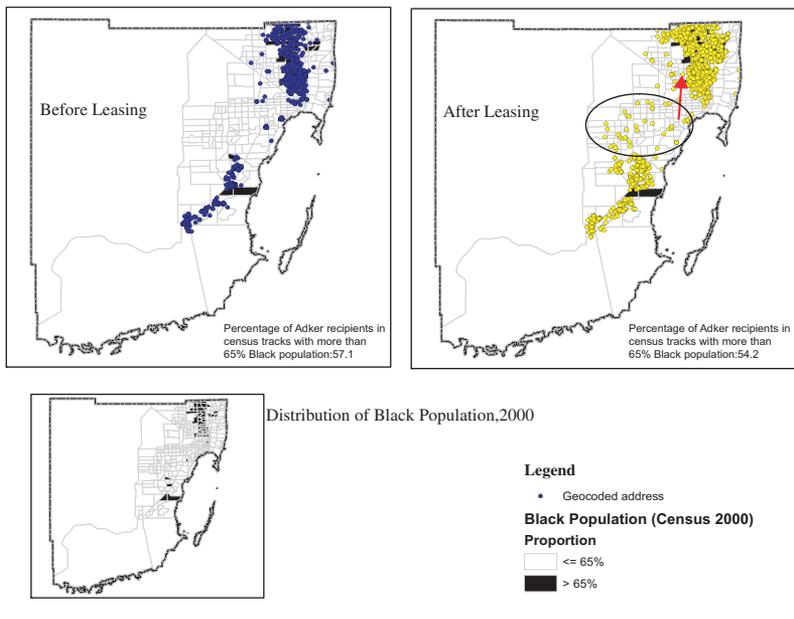


Figure 4, which suggests a net move toward the North. The size of the vector arrow gives the average distance moved by the Adker recipients, which is about seven miles. Thus, although racial desegregation has happened following the Adker consent decree, the pattern reinforces Winsberg's (1983) observation that the Adker recipients clustered mainly on the outer fringes of the already predominant Black neighborhoods.

The movement of Adker recipients before and after lease reinforces another issue connecting residential segregation and mobility in the extant literature (Basolo and Nguyen 2005; Goetz 2004; Popkin et al. 2003): residential mobility is hampered not only by institutional factors but also by personal perceptions and preferences. Many residents do not wish to move far from the friends, family, jobs, doctors, houses of worship, and community support offered by their current neighborhoods. MDHA staff estimate that at least 80% of the offers are turned down for this reason (Patricia Sharifi, MDHA Special Projects Coordinator 2, interview, November 17, 2004).

Indeed, an examination of the "Desegregative Offers Log" maintained by MDHA frequently showed entries such as "too far, can't drive," "too far from doctor," "refused, too far from grandmother who takes care of children," or "too far from son's school." This is despite the fact that the Adker decree provided more than \$1,100 in relocation assistance (e.g., funds for utility starts, first-month rentals, etc.) as an inducement to make desegregative moves. The social contingency (Portes 2000) of where Blacks prefer to move has thus unintentionally confounded the achievement of the Adker decree's desegregative measures.

Demographic change is likely to exacerbate the mismatch between current neighborhood and availability of Section 8 housing. Several studies reinforce the net movement of Blacks to the north toward neighboring Broward County (Frank and Dluhy 2003). Conversely, affordable housing is located toward the south near Homestead, where land is plentiful. As the downtown area and northern Miami-Dade becomes increasingly gentrified, this problem is likely to worsen. MDHA had suggested to plaintiffs' council that this problem be addressed by breaking the county into regions for making desegregative offers, allowing greater consumer choice closer to current residence. MDHA had also asked that senior citizens be exempted from Adker's desegregative offer calculus. In October 2003, County Commissioner Bruno A. Barrierio sponsored a resolution directing the Miami-Dade County attorney and the MDHA to renegotiate the consent decree with the plaintiffs and HUD incorporating these points (Miami-Dade Legislative Item File Number 032885). The resolution was, however, withdrawn on November 4, 2003.

## **Costs of Program Administration**

A useful point of departure for our analysis is the examination of the cost of implementing the Adker decree. Consideration of the program costs questions the efficacy of adopting the consent decree. Table 5 shows MDHA's costs of implementing the consent decree between 2000 and 2004. As the table reveals, MDHA expended nearly \$23 million during the period to implement the decree. These expenses cover eight line items. First, MDHA has had to establish an administrative unit devoted to work with clients in the mobility pool. Second, MDHA has incurred extraordinary maintenance costs associated with the increased vacancy rates (above MDHA's baseline vacancy of 300 units). If housing units are vacant for more time after being prepared for move in, they usually require additional work at the time of move in. Third, unoccupied units cost MDHA in lost

**Table 5**  
**Adker Consent Decree Costs, 2000–2004 (Dollars in 1,000s)**

Year/Category	2000	2001	2002	2003	2004	Total
Mobility pool	289	213	243	374	283	1,402
Extra maintenance	—	542	1,556	2,520	1,540	6,158
Lost revenue	—	325	934	1,351	2,695	5,305
Creation of waiting list	—	350			350	700
Vacancy reduction plan	—		1,500	1,000		2,500
Transfer of revenue	1,120	236	1,120	1,280	1,320	5,960
Compliance	164	236	170	105	115	790
Other staff		1,112	14	15	16	68
Total	1,629	2,498	3,441	5,865	6,035	22,883

Source: Various Miami-Dade Housing Agency Internal Reports and Estimates.

Note: Figures rounded to nearest \$1,000.

revenues from clients and HUD. Fourth, creation of the waiting list is a costly endeavor, requiring extensive database manipulation and client follow-up by mail and by telephone. Fifth, in 2002 and 2003, MDHA incurred significant overtime costs to implement the vacancy-reduction plan. Sixth, MDHA had to undertake the transfer of revenue to make the annual required payments to HOPE, plus the administrative fees. The seventh and eighth line items are “Compliance” and “Other Staff,” respectively, which include categories such as legal, accounting, finance, and management information systems (MIS) for enforcing the decree, and the figures for these categories are quite conservative. There is general agreement that compliance with the Adker decree is a serious drain of senior MDHA staff time and effort (John Topinka, Director of MDHA Budget and Finance, interview, March 18, 2004).

Is the cost of nearly \$23 million justified in implementing the Adker decree? On one hand, it could be argued that the costs are necessary to implement the decree. In Merton’s terms, the immediacy of interest required that the decree be entered into for correcting a historical wrong. More fundamentally, the basic value of desegregation needed to be achieved, even if the costs were exorbitant. Without entering into the Adker lawsuit, MDHA’s alleged practices of segregated public housing were unlikely to have been changed. On the other hand, the costs incurred in implementing the Adker consent decree imply opportunity costs that could have been put to better use. The \$23 million in administrative outlays under the decree could have been used either directly or indirectly (for debt

service) to construct more public-housing units or for providing more Section 8 vouchers. Seen in this light, the Adker decree may very well have contributed in part to the serious shortfall of subsidized housing in Miami-Dade, which in turn is to the detriment of housing the poorer Blacks.

MDHA estimates suggest that at least \$5 million of the nearly \$23 million in the decree-related outlays could have been reprogrammed. Most of HOPE's clients have extremely bad credit ratings, and only a handful use the credit-counseling and home-ownership seminars (P. Sharifi, personal communication, November 17, 2004). Yet, at least a few of the Adker clients could become homeowners under Miami-Dade's pilot program, undertaken in conjunction with the Federal National Mortgage Association. The program applies Section 8 vouchers to monthly mortgage payments. However, the costs of complying with Adker indirectly reduce monies available for this program.

### A Pyrrhic Victory?

The Adker consent decree was crafted in good faith and with good intentions but has resulted in unintended consequences, at least during the period under study. It could be argued that public-agency underperformance relative to expectations is a frequent and long-standing occurrence in American public policy (Pressman and Wildavsky 1984; Hupe and Hill 2002). But in an era of performance-based, citizen-driven budgeting and management (Osborne and Plastrik 2000), the unintended consequences associated with the Adker consent decree warrant careful examination as a workable remedy to segregated-housing choice.

Adker decree's implementation has had mixed impact on achieving residential desegregation: Although the racial balance tipped for the better, attainment of the Adker decree's goals are modest. Other studies also catalog similar modest effects (Goetz 2003; Popkin et al. 2003). Most of the gains in voucher use are attributable to Blacks' exit from public housing rather than its integration. Public-housing vacancy escalated after the Adker consent decree was implemented. Moreover, the decree's procedures delayed the lease-up of vacant units. In terms of Section 8 voucher units, although there is some evidence of Blacks' moving to non-Black neighborhoods, such neighborhoods are in the vicinity of predominantly Black neighborhoods. Lastly, MDHA had to bear extraordinary costs to implement the consent decree.

Is the Adker consent decree a Pyrrhic victory? The context of historical pattern of segregation seems to warrant such a decree to right a deep-seated

wrong. Notwithstanding the Starrett case, desegregation is arguably a basic value that needs to be upheld, no matter what. The costs incurred in implementing the decree are necessary costs. Unintended consequences need to be borne. Seen in another light, the Adker consent decree could be viewed as having achieved a Pyrrhic victory, in which the goals of desegregation are being modestly achieved at the cost of distressing the very group the decree is expected to serve. It is ironic that a sizeable number of public-housing units remained vacant and took longer time in lease-up, when the waiting lists were quite long. Given the stigma of public housing, Blacks increasingly expressed a preference for Section 8 vouchers. Although the Adker decree's desegregative procedures may indeed be providing greater choice to some Blacks, it may also be keeping other Black families out of access to affordable shelter. The costs incurred in implementing the decree are also opportunity costs. If the funds were to have been expended in constructing more housing, there could have been an increased supply of subsidized housing, which could have been to the advantage of poor Blacks.

The existence of unintended consequences does not, however, imply that desegregation is an undesirable goal. There is a need for oversight with respect to institutional discrimination, including discriminatory practices in rental housing, home sales, mortgage lending, insurance, and so on (National Fair Housing Alliance 2006). The critique of the Adker decree is rather a procedural one. If the cumbersome procedures were to adversely affect the very group the decree is intended to assist, then the procedures need reconsideration.

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