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filed 10/10/66

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY GAUTREAUX, ODELL JONES,
DOREATHA R. CRENCRAW, EVA RODGERS,
JAMES RODGERS and ROBERT M. FAIRFAX,

Plaintiffs

vs.

CASE NO. 66C1459

THE CHICAGO HOUSING AUTHORITY,
a Corporation, and ALVIN E. ROSE,
Executive Director,

Defendants

MOTION OF CHICAGO HOUSING AUTHORITY,
A CORPORATION, AND ALVIN E. ROSE, EXECUTIVE DIRECTOR,
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE, RULES
12 AND 56, TO DISMISS THE COMPLAINT OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT

Defendants, CHICAGO HOUSING AUTHORITY, a corporation, and ALVIN E. ROSE, its Executive Director, by their attorneys, move this court for the entry of an order dismissing the Complaint and this cause for failure to state a claim upon which relief can be granted and for grounds for their motion state:

- ✓ (1) Plaintiffs lack any standing to bring this action. - BW
- ✓ (2) This is not a proper class action. - S Cohen
- ✓ (3) Counts II and IV of the Complaint assert purported legal rights under the Civil Rights Act of 1964 which plaintiffs do not have. - MF
- ✓ (4) Counts III and IV of the Complaint do not allege any deliberate or purposeful conduct by defendants in violation of any right of plaintiffs. - R.P. - MF
- ✓ (5) Plaintiffs are barred by laches.

In the alternative defendants move this court for an order

for summary judgment, upon the ground that there is no genuine issue as to any material fact and defendants are entitled to a judgment as a matter of law, in that the allegations in paragraphs 12, 13, 15, 16 and 17 of the Complaint regarding site selection for regular family public housing projects in so-called "Negro neighborhoods" are clearly and demonstrably untrue.

And in support of this motion defendants attach hereto the affidavits of Harry J. Schneider and C. E. Humphrey, Director of Management and Deputy Executive Director, respectively, of the Chicago Housing Authority.

CHICAGO HOUSING AUTHORITY, a
corporation, and ALVIN E. ROSE,
its Executive Director

By _____
One of Their Attorneys

JOHN W. HUNT
38 South Dearborn Street
Chicago, Illinois 60603
346-5100

KATHRYN M. KULA
EDMUND H. SADOWSKI
55 West Cermak Road
Chicago, Illinois
225-9700

Attorneys for Defendants

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS }
COUNTY OF C O O K } SS.

JOHN W. HUNT, being first duly sworn, deposes and states that he served the foregoing Motion upon Alexander Polikoff, Charles R. Markels, Bernard Weisberg, Milton I. Shadur and Merrill A. Freed, attorneys for the plaintiffs, by depositing a copy thereof in an envelope, postage prepaid and addressed to Alexander Polikoff, 231 South La Salle Street, Chicago, Illinois, in a mail chute at 38 South Dearborn Street, Chicago, Illinois, on the _____ day of October, 1966.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY GAUTREAU, ODELL JONES,
DOREATHA R. CRENCRAW, EVA RODGERS,
JAMES RODGERS and ROBERT M. FAIRFAX,

Plaintiffs

vs.

CASE NO. 66C1459

THE CHICAGO HOUSING AUTHORITY,
a Corporation, and ALVIN E. ROSE,
Executive Director

Defendants

AFFIDAVIT OF HARRY J. SCHNEIDER
IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS THE COMPLAINT OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT

HARRY J. SCHNEIDER, being first duly sworn, deposes and says:

(1) He is the Director of Management of the Chicago Housing Authority ("CHA"), which position he has held since May, 1950, and as such director has had and continues to have administrative responsibility for management of all public housing apartments owned and operated by the CHA in the City of Chicago, including responsibility for tenant selection, assignment of apartments, leasing and inter-project transfers.

(2) The Standard Operating Manual of the CHA expressly provides (Section 7141):

"There shall be no discrimination as to race, color, creed or national origin in the selection or placement of tenants in projects owned or operated by the Chicago Housing Authority."

Limited priorities for public housing are given to certain classes of applicants -- e.g., families displaced through governmental action or catastrophe, and veterans with a service connected disability (Section 7143); these priorities have nothing to do with the race, color, creed or national origin of the applicants.

(A) (B)

(3) An applicant for public housing first registers with the CHA and is assigned a registration number in the order of his registration. The registration form indicates his family composition, income and the like, and permits him to indicate the geographical location or particular projects preferred. Upon registration the applicant is placed on the waiting list, and when his number is reached he is requested to come to CHA's Central Rental Office, at which time he makes application for public housing on a formal application form. At this time he is again given the opportunity to state his preferences as to given projects or given locations (or to state that he has no preference). Assignment of dwelling units to eligible applicants is made in accordance with such stated preferences insofar as this may be done consistent with other pertinent factors (e.g. family size and composition, Standard Operating Manual, Section 7131) having nothing to do with race, color, creed or national origin.

(4) Regarding plaintiff DOROTHY GAUTREAUX:

(a) She registered for public housing in 1949 or 1950, at which time she requested housing in "any" project and did not state any preference for housing in any specific project or location. At the time the CHA owned and operated public housing projects in locations other than in Negro neighborhoods, where this plaintiff could have been housed had she so requested. / ①

(b) When she completed her formal application for public housing on August 10, 1953 she indicated a first preference for housing at Dearborn Homes and a second preference as "any" housing. Dearborn Homes is located in a neighborhood which was approximately 98% Negro in 1950 (according to the U.S. Census). At the time the CHA owned and operated public housing projects in locations other than in Negro neighborhoods, where this plaintiff could have been housed had she so requested. / ②

(c) She was housed at Philip Murray Homes, which is a part of the Altgeld-Murray Project, on October 1, 1953. The communities surrounding the Altgeld-Murray Project (Pullman, South Dearing, West Pullman and Hegewich) were then and are now almost entirely white. / ③

(d) She requested an inter-project transfer on October 18, 1952, giving reasons of health. She did not ask to be transferred to any particular project. The CHA did not act upon this request for transfer, inasmuch as she never submitted a written request or the prescribed medical justification. / ④

(5) Regarding plaintiff ODELL JONES:

(a) He registered for public housing on or about January 6, 1955, at which time he requested housing in Dearborn Homes. He did not state a preference for any project or location other than in a Negro neighborhood. In various letters to the Mayor and the Board of Health of the City of Chicago, he indicated a preference for housing at Grace Abbott Homes or Ida B. Wells Homes (in neighborhoods approximately 54% and 9% Negro, respectively, in 1960), and south side locations. / ①

(b) When he completed his formal application for public housing on September 28, 1955, he indicated a preference for Grace Abbott Homes, Robert Brooks Homes or Jane Addams Homes, all of which are located in neighborhoods which in 1960 were approximately 54% Negro. / ②

(c) He was housed at Henry Horner Homes on October 25, 1955. This project is located in a neighborhood which in 1960 was approximately 54% Negro. / ③

(d) On March 15, 1963 he requested a transfer to a row house, complaining of the number of children in the high rise building in which he was then living. He did not ask to be transferred to any particular project. The CHA denied this request for want of sufficient justification. / ④

(e) On May 25, 1966 he again requested a transfer, this time to Washington Park Homes, a project located in a neighborhood which in 1960 was approximately 99% Negro. The CHA denied this request for want of sufficient justification. / ⑤

(6) Regarding plaintiff DOREATHA R. CRENSHAW:

(a) She registered for public housing on or about August 20, 1953, at which time she requested housing in Ida B. Wells Homes, which is located in a neighborhood which was approximately 95% Negro in 1960. She did not state any preference for any project or location other than in a Negro neighborhood. At the time the CHA owned and operated public housing projects in locations other than in Negro neighborhoods, where this plaintiff could have been housed had she so requested. / ①

(b) When she completed her formal application on September 7, 1955 she indicated a first preference for housing at any south side location and other preferences as Grace Abbott Homes, Jane Addams and Henry Horner Homes. / ②

(c) She was housed at Henry Horner Homes on October 6, 1955. The neighborhood surrounding Henry Horner Homes was approximately 41% Negro in 1950 and approximately 54% Negro in 1960. / ③

(d) In August, 1962 she requested an inter-project transfer to Washington Park Homes, because of fires in an adjacent apartment. Washington Park Homes is located in a neighborhood approximately 99% Negro. The CHA approved her request for transfer, but this plaintiff turned down the apartment offered to her because the apartment available was on the 14th floor and she didn't want an apartment any higher than the 6th floor. (5)

(7) Regarding plaintiff ROBERT M. FAIRFAX: (6)

(a) In 1945 applicants for public housing applied, not through a central rental office, but directly to the project in which they desired to be housed. This plaintiff applied for public housing in 1945, at Altgeld Gardens, where he was then employed by the CHA as a janitor. He has been a tenant at Altgeld Gardens since 1945. The communities surrounding the Altgeld Gardens project (Pullman, South Deering, West Pullman and Hegewich) were then and are now approximately 99% white. (1)

(b) This plaintiff has never requested a transfer to another project. (2)

(8) Regarding plaintiffs EVA RODGERS and JAMES RODGERS:

(a) Pursuant to long established CHA policy, an applicant for public housing is ineligible for public housing if he is a former tenant of the CHA and has a delinquent rent account as such tenant which has not been settled (cf. Standard Operating Manual, Sections 7126.2(1) and 7135.1(b)).

(b) From August, 1955 to August, 1958, Eva Rodgers, formerly Eva Jordan, was a tenant of the CHA at Grace Abbott Homes. The neighborhood of Grace Abbott Homes was approximately 54% Negro in 1960. In August, 1958 she vacated her apartment owing the CHA unpaid rent in the amount of \$185.72.

(c) On August 5, 1963 she re-registered for public housing, and was advised of CHA policy with regard to delinquent rent accounts. Because she did not settle her delinquent account, her registration was not processed and accordingly no determination was made as to her eligibility otherwise.

(d) On February 11, 1966 she (as Eva Jordan Rodgers) and James Rodgers registered for public housing, and were advised of CHA's policy regarding delinquent accounts. Because her delinquent account was not settled, their application was not processed and no determination was made as to their eligibility otherwise.

(e) When they registered on February 11, 1966, James Rodgers

indicated a preference for public housing located on the "near South Side." He did not indicate a preference for one or the other of the CHA's two public housing projects on the near South Side. One of these projects is located in a Negro neighborhood, and the other is not.

// (f) At the time Eva Jordan re-registered for public housing in 1963, and at the time James Rodgers and Eva Jordan Rodgers registered for public housing in 1966, the CHA owned and operated public housing projects in other than Negro neighborhoods, where these plaintiffs could have been housed had they so requested and had they been eligible for public housing.

Harry J. Schneider

Subscribed and sworn to
before me this _____
day of October, 1966.

Notary Public

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY CAUTREAU, ODELL JONES,
DOREATHA R. CRENCRAW, EVA RODGERS,
JAMES RODGERS and ROBERT M. FAIRFAX,
Plaintiffs

vs.

CASE NO. 66C1459

THE CHICAGO HOUSING AUTHORITY,
a Corporation, and ALVIN E. ROSE,
Executive Director,
Defendants

AFFIDAVIT OF C. E. HUMPHREY
IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS THE COMPLAINT OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT

C. E. HUMPHREY, being first duly sworn deposes and says:

(1) He is the Deputy Executive Director of the defendant CHICAGO HOUSING AUTHORITY ("CHA"), which position he has held since May, 1957, and as such has supervision of its books and records and bears administrative responsibilities for its operation and management.

(2) During its existence CHA has acquired a number of sites in the City of Chicago on which it has constructed regular family dwelling units. All CHA regular family housing projects now in management are listed in Exhibit A attached hereto and made a part hereof which exhibit also indicates the number of regular family dwelling units in each project, the year of site acquisition, and the percent Negro population of the surrounding neighborhood (i.e. community area) at the time of site acquisition (according to the nearest U.S. Census).

(3) With reference to the "Five Proposed Projects" and "Twelve Proposed Projects" referred to in plaintiffs' Complaint, paragraphs 13 and 15 of Counts I, II, III and IV, these projects and the sites involved are listed in Exhibit B attached hereto and made a part hereof, which exhibit also indicates the number of regular family housing units proposed for each project or site, and the per cent Negro population of the surrounding neighborhood at the time of Chicago City Council approval.

(4) With reference to the "Five Proposed Projects" referred to in plaintiffs' Complaint, paragraph 13:

(a) CHA submitted the development plans for these projects to the Public Housing Administration, an agency of the United States government (now the Housing Assistance Administration), in April and June of 1965. These plans were subsequently approved by said agency.

(b) Pursuant to the Inter-Agency Referral Act (Ill. Rev. Stat., Chap. 24, Sec. 11-12-4.1) the sites were referred to the Chicago Plan Commission. Said Commission, pursuant to notice to the public duly given, held a public hearing in respect of said sites on April 1, 1965 and upon the conclusion thereof approved said sites for development for public housing as proposed by CHA.

(c) On March 24, 1965 an ordinance providing for approval of acquisition of these sites by CHA (with the exception of Project Ill 2-33 and two sites in Project Ill 2-28, which had previously been approved) was submitted to the City Council of the City of Chicago. Pursuant to notice duly given the City Council's Committee on Planning and Housing held a public hearing in respect of said sites on April 6, 1965 and voted to recommend approval thereof to the City Council. On April 7, 1965 the City Council approved said sites for acquisition by CHA.

(d) Numerous news stories appeared in the Chicago newspapers on or about the time of City Council approval relative to CHA's development of proposed sites for public housing and the City Council's hearings and approval thereof.

(5) With reference to the "Twelve Proposed Projects" referred to in plaintiffs' Complaint, paragraph 15, these sites were approved by the Chicago Plan Commission on June 28, 1966 and by the Housing Assistance Administration on June 29, 1966. On July 6, 1966 the City Council Committee on Planning and Housing voted to recommend to the City Council of the City of Chicago that it approve all of said sites except the site at 68th and Dorchester (one of the sites in Project Ill 2-63). On July 11, 1966 the City Council adopted an ordinance approving all of said sites with this one exception.

(6) At the present time the CHA has a waiting list of applicants for regular family public housing totalling approximately 8,500 families. Of this number 5,129 or approximately 61 per cent have indicated a preference for South Side locations, 2,449 or approximately 29 per cent have indicated a preference for West Side locations and 848 or approximately 10 per cent have indicated a preference for North Side locations.

The development plans for the sites which are involved in these proceedings and which have received all necessary federal and local approval provide for construction of a total of 2,942 family housing units at a total estimated development cost of over \$54 million. Of this number 1,573 or 55 per cent are proposed to be constructed at South Side locations, 1,004 units or approximately 35 per cent are proposed to be constructed at West Side locations and 296 units or approximately 10 per cent are to be constructed at a location on the far South West side.

C. L. Humphrey

Subscribed and sworn to
before me this _____
day of October, 1966.

Notary Public

C. E. HUMPHREY AFFIDAVIT

EXHIBIT ACHA REGULAR FAMILY HOUSING
UNITS IN MANAGEMENT

PROJECT & LOCATION	NO. OF DWEL- LING UNITS	DATE OF SITE ACQUISITION	PER CENT NEGRO POPU- LATION IN NEIGHBORHOOD AT TIME OF SITE ACQUI- SITION (ACCORDING TO NEAREST U.S. CENSUS)
		1930	1940
CT 429 (1) Ill 2-23 (Jane Addams) Cabrini & Loomis	988	1938	1934
		1930	1940
(2) Ill 2-25 (Trumbull Pk. Homes) 105th & Oglesby	452	1938	1935
		1930	1940
(3) Ill 2-24 (Lathrop Homes) Clybourn & Damen	923	1938	1935
		1930	1940
557 (4) Ill 2-1 (Ida B. Wells) 37th & So. Parkway	1,652	1941	1938
		1930	1940
(5) Ill 2-2 (Cabrini Homes) Oak & Larrabee	586	1942	1940
		1930	1940
434 4342 (6) Ill 2-3 (Robert Brooks Homes) Roosevelt & Loomis	834	1943	1941
		1930	1940
(7) Ill 2-4 (Bridgeport Homes) 31st & Lituanica	141	1943	1942
		1930	1940
(8) Ill 2-5 (Lawndale Gardens) 25th & California	128	1943	1942
		1930	1940
717 7172 (9) Ill 2-7 (Altgeld Gardens) 130th & Langley	1,498	1945	1943
		1930	1940
(10) Ill 2-8 (Wentworth Gardens) 37th & Princeton	422	1947	1944
		1930	1940
539 5392 (11) Ill 2-9 (Dearborn Homes) 27th & State	800	1950	1947
		1930	1940
(12) RH-1 (Racine Cts.) 110th & Racine	120	1951	1948
		1930	1940
(13) RH-2 (Leclaire Cts.) 43rd & Cicero	315	1950	1948
		1930	1940

EXHIBIT A - Page 2

Project	Year	Value	Year	Value	Percentage	Value	Percentage
(14) RH-3 (Ogden Cts.) Ogden & Fairfield	1952	136	1948	8/27/48	13.1%		
(15) RH-6 (Maplewood Cts.) Maplewood & Jackson	1950	132	1948	8/27/48	40.9%		
(16) RH-5 (Harrison Cts.) Harrison & Sacramento	1950	126	1948	8/27/48	16.7%		
(17) RH-7 (Loomis Cts.) 14th Pl. & Loomis	1953	126	1949	8/27/48	40.9%		
(18) RH-8 (Archer Cts.) 23rd & Princeton	1952	147	1950	8/27/48	41.9% (46.8)		
(19) RH-9 (Prairie Ave. Cts.) 26th & Prairie	1958	326	1950	8/27/48	97.1%		
(22) Ill 2-14 (Olander Homes) Oakwood & Lake Park	1953	150	1951	8/4/50	77.4%	547	100%
(23) Ill 2-11 (Murray Homes) 131st & St. Lawrence	1954	500	1951	8/4/50	84.1%	717	84%
(24) Ill 2-15 (Leclair Cts. Ext.) 44th & Cicero	1954	300	1951	8/4/50	0 %	723	0%
(25) Ill 2-16 (Ickes Homes) 22nd & State	1955	799	1951	8/4/50	69.3%	521	99%
(26) Ill 2-17 (Abbott Homes) Roosevelt & Ashland	1955	1,204	1951	8/4/50	40.9%	431 + 432	77%
(26) Ill 2-18 (Wells Ext.) Browning & Rhodes	1955	642	1951	8/4/50	97.1%	557	100%
(27) Ill 2-13 (Lowden Homes) 95th & Wentworth	1954	128	1952	8/4/50	18.4%	685	100%
(28) Ill 2-19 (Horner Homes) Lake & Damen	1957	917	1953	8/4/50	40.9%	385	91%
(33) Ill 2-26 (Olander Ext.) 40th & Lake Park	1956	150	1954	4/2/53	77.4%	562	65%
(31) Ill 2-20 (Cabrini Ext.) Division & Larrabee	1958	1,900	1954	3/2/50	20.0%	122 +	75%

7163

2867

C. E. HUMPHREY AFFIDAVIT

EXHIBIT A - Page 3

<i>completed</i>									
(29)	Ill 2-22 (Stateway Gardens) 35th & State	1,639	✓	1958	1954	8/4/50	97.1%	542	100%
(34)	Ill 2-29 (Prairie Cts. Ext.) 28th & Prairie	202	✓	1958	1956	4/2/53	91.8%	548	98%
(30)	Ill 2-21 (Rockwell Gardens) Monroe & Rockwell	851	✓	1960	1957	8/4/50	53.8%	382	?
(31)	Ill 2-6 (Rockwell Gardens) Monroe & Campbell	140	✓	1960	1958	8/4/50	53.8%	382	?
(40)	Ill 2-36 (Darrow Homes) 38th & Langley	479	✓	1961	1958	5/9/54	98.3%	559	100%
(35)	Ill 2-30 (Wm. Green Homes) Ogden & Division	1,096	✓	1962	1959	1/26/55	30.6%	127	86.7%
(37)	Ill 2-31 (Brooks Ext.) Roosevelt & Racine	452	✓	1961	1959	5/12/55	53.8%	4342	94.3%
(38)	Ill 2-34 (Wash. Pk. Homes) 28 Scattered Sites	1,445	✓	1961	1959	5/12/55	99 %	various	99%
(39)	Ill 2-35 (Horner Ext.) Lake & Oakley	738	✓	1961	1959	5/12/55	53.8%	3762	99.7
(41)	Ill 2-37 (Taylor Homes) 39th to 54th & State	4,328	✓	1962	1959	5/9/54	99.4%	579	100%
(32)	Ill 2-38 (Rockwell Gardens) Jackson & Campbell	136	✓	1961	1959	8/4/50	53.8%	382	?
(42)	Ill 2-41 (Lake Mich. Homes) 41st & Lake Park	459	✓	1963	1961	1/21/59	98.3%	562	96.3
(43)	Ill 2-46 (Hilliard Center) Cermak & State	346	✓	1966	1964	5/8/63	76.7%	522	95.7%

19,474

TOTAL 28,853

50% or more - 13,772

(70.707%)

EXHIBIT B

CHA REGULAR FAMILY HOUSING UNITS
PROPOSED FOR SITES REFERRED TO IN
PLAINTIFFS' COMPLAINT

PROJECT & LOCATION	NO. OF DWEL- LING UNITS	DATE OF CITY COUNCIL AP- PROVAL	PERCENT NEGRO POPU- LATION IN NEIGHBORHOOD AT TIME OF CITY COUNCIL APPROVAL (ACCORDING TO NEAREST U.S. CENSUS)
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Five Proposed Projects

Cons
7)

(44) 111 2-12
Washtenaw & 12th Pl. 201 ✓ 4/7/65 457 60.9 91.1%

(45) 111 2-27
Adams & Wood 105 ✓ 4/7/65 413 53.8%

(41A) (47A) 111 2-28
6 Scattered - So. Side 241 ✓ 5/9/66 1/21/69 4/7/65 99.4%
56th + Normal - 877 50th + Mich - 587
45th + Euclid - 593 Bowen + Cottage - 561

← some acquired
some still in
acquisition

(42) 111 2-32
43rd & Princeton 444 ✓ 4/7/65 5642 96 %

(36) 111 2-33
39th & Cottage Grove 606 ✓ 3/16/65 98.3%

← still in
acquisition

Twelve Proposed Projects

(48) 111 2-63
4 Scattered - So. Side 282 CHA - 4/15/65 7/11/66 541-512 - 92.3% 2-98.3%
CC - 7/11/66 594 - 95.9% 1-83.9%
CHA - 1- 9.6% (48 ap-
ment)

(49) 111 2-64
Lawndale Area 356 ✓ 7/11/66 various - 91.1% < { 99.2
98.9
96.0
91.3
97.1

(50) 111 2-65
3 Scattered - West Side 411 (273) 7/11/66 { 373 - 86% } 4-61.5%
3632 - 54.3% 1- .6%
372 - 69.7%
342 - 89.4%
262 - 14.3%

(51) 111 2-66
115th & Wood 296 ✓ 7/11/66 733 - 27.2% 35.1%

Also:

(52) 111 2-63
68th & Dorchester
(Not approved by the
City Council) 105 645 - 88.4% 9.6%

TOTAL

3,047