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C. E. HUMPHREY
EXECUTIVE DIRECTOR

May 23, 1969

Mr. Alexander Polikoff
Attorney at Law
Schiff, Hardin, Waite, Dorschel & Britton
231 South LaSalle Street
Chicago, Illinois 60604

Dear Mr. Polikoff:

Your unwarranted letter of May 19, 1969 a copy of which you sent to Judge Austin demands a response.

I reiterate that the attorneys for CHA are in no way responsible for the release of Professor Wade's letter to the press or the previous story in the Sun Times on May 14, 1969. I am making every effort to ascertain the source of these stories and to determine whether any person associated with CHA was in any way connected with the release of this information.

Your recent concern with CHA's alleged efforts "to move the case from the forum of the courtroom to the arena of public opinion and politics" appears to me to constitute an obvious contradiction of your previous standards of the ethical, particularly in the light of the ACLU's continuing course of conduct since the outset of this litigation. I refer, of course, to the press conferences called by the ACLU, as well as to interviews with television and radio media, and stories in the Sun Times and the Daily News, at critical points in the proceedings. None of these were calculated to enhance CHA's public image, clearly were designed to obtain public support of the ACLU position through the media of the press, and obviously did not emanate from any CHA source. Had any of these stories either been traceable to CHA or favorable to the Authority, I am sure you would long since have recorded your protests. Further, the nature of the disclosures

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establishes that the source had to be someone very close to the litigation. Or, is it your opinion that a different standard of ethics applies to the ACLU because it is not officially a "party", even though it is a moving force, in these proceedings?

Now with regard to the four points of which you complain:

1. Your continuing allegations that CHA attorneys have refused to engage in serious discussions with you.

Comment: At no time have we refused a request or an invitation for a joint meeting for a specific date or time, nor have we ever refused your request to name a date or time mutually convenient for such a meeting. It is, on the other hand, a matter of record that we have had at least three meetings at which time it became obvious that the ACLU position was so extreme as to be irreconcilable with that of CHA; that there was no possibility of agreement; and that our only hope was to convince Judge Austin as to the unreasonableness and serious implications of your proposals.

2. My alleged denial of your request to meet with the Commissioners.

Comment: The denial of your request was made by the Commissioners of CHA, and their decision was simply relayed to you by me at their direction. Further, I must say that in my personal opinion your letter of request, directed to Mr. Swibel personally rather than through the CHA attorneys, was most inappropriate. I have in mind, of course, Cannon 9 of Professional Ethics of the Illinois State Bar Association, the Chicago Bar Association, and the American Bar Association.

As I advised you at the time you asked to address the Board at their meeting of May 8, the law does not contemplate discussion of pending litigation at public meetings and under these circumstances the Commissioners felt it was inadvisable to depart from that norm.

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3. My alleged "inuendoes against ACLU."

Comment: Your lack of specificity in this area is not in keeping with your usual style. Are you perhaps referring to the comments I made in Judge Austin's chambers last Friday when I questioned whether you had consulted with even one of the named plaintiffs much less with any other members of the "class" you purportedly represent; i.e., CHA tenants and applicants, in the formulation of the order you have recommended to the court ostensibly on behalf of that "class"? Or are you referring to my comment that the interests of the ACLU in formulating such a far-reaching order were not necessarily compatible with the interests of applicants on the CHA waiting list who will have an even longer wait for housing if the ACLU order is entered by the Court? If so, Mr. Polikoff, these were no inuendoes. They were outright and forthright statements for which I accept full responsibility.

4. My alleged efforts to reopen the question of class representation.

Comment: Unfortunately, you did not understand the point I was making with regard to the interests of the class of Plaintiffs involved in this suit. Early in the proceedings, CHA challenged the appropriateness of designating the ACLU suit on behalf of six named plaintiffs as a proper class action; however the court ruled against the CHA contention. That was not the issue to which I directed my comments last Friday, but rather to the effect a final judgment order would have on the thousands of persons included in the "class" involved. Rule 23 (d) of the Federal District Court clearly contemplates this as being a proper area of inquiry for the court, at the time of entering a judgment order, in a suit which has previously been established as having been appropriately filed on behalf of a class of plaintiffs.

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In conclusion, I want to make it clear that I am indeed appreciative that you have raised the issue of the recent disclosures to the press with respect to this litigation. Perhaps the Court now will consider establishing a standard of conduct with respect to these matters for the guidance of all parties involved in this litigation, including the ACLU. Indeed, I propose to suggest to Judge Austin that he consider the propriety and the reasonableness of entering such an order at an early date.

Very truly yours,

Kathryn M. Kula

Kathryn M. Kula
General Counsel

KMK:pg

CC: Honorable Richard B. Austin