

June 2, 1969

Honorable Richard B. Austin
United States District Court Judge
Northern District of Illinois
United States Courthouse, Room 2388
219 So. Dearborn Street
Chicago, Illinois 60604

Dear Judge Austin:

The Director of our Midwest Field Office, John McKnight, has attended several meetings in your chambers where the case of Gautreaux v. the Chicago Housing Authority has been discussed. He has informed me that at your last meeting you requested the written views of the parties present regarding possible elements of a decree in this case.

One of the statutory responsibilities of the United States Commission on Civil Rights is to appraise Federal policies with respect to equal protection of the laws. In fulfilling this responsibility, we have conducted nationwide audits of the systems established to administer Federal housing programs and assembled considerable data on the effects of the low-income housing system's operating policies and practices upon civil rights goals. Our staff has recently measured the various decree proposals in this case against the findings drawn from our audits. As a result of this analysis, we believe that there is an issue, central to the contentions of the parties, where the conclusions of our studies may be useful.

In all regions of the United States, in cities of every size, where housing authorities have the most varied composition and constituencies, we have found a remarkably consistent pattern of racially distinct low-income housing projects. This pattern has been established, and perseveres today, in spite of State and local fair housing laws, Title 6 of the 1964 Civil Rights Act and its Federal administrative apparatus, and Title 8 of the 1968 Civil Rights Law. While we have been impressed with the good

intentions of local housing authorities and their staffs, as well as the "good offices" of Federal Housing officials, the fact remains that the tax monies of all the people are largely being spent, even to this day, for low-income housing that bonds into brick and mortar, a nation that is racially separate and unequal.

Officials of the Chicago Housing Authority have suggested, in essence, that your decree rely on their best efforts once the City Council has been restrained from discriminatory control over site selection. Our national experience suggests, however, that neither local housing authorities nor the Department of Housing & Urban Development have been able to achieve non-discriminatory tenant and site selection in even those localities where the political process is racially neutral.

The essential reason for this failure to provide equal protection is the fact that the Federal low-income housing system has a clearly established operating priority: the production of the maximum number of units at the lowest price. The result has been to institutionalize a system of second class, high density housing that has become anathema to urban neighborhoods throughout the country. As a response to the community resistance, housing officials have found sites in the least noticeable, least desirable, most powerless neighborhoods. Thus, in recent years, urban public housing has been frequently located along freeways, between railroad tracks, bordering industrial areas, and in ghetto neighborhoods. Unless your decree specifically interposes some alternative requirements upon the system, we believe there will not be a significant change over the basic pattern already established in Chicago.

We believe that the essential element in a decree would be the requirement of a ratio of white area to black area units. It is our experience that the most effective way to insure goals of equal protection is to define the results that must be achieved. You cannot rely on Federal requirements to produce this effect because they still present an array of options, alternatives, and generalized mandates that allow the system to achieve its priority goal - production of the maximum number of low priced units - by overriding the need for equal protection. It is our view that unless you institutionalize equal protection as the top priority by establishing a ratio, the Federal - Chicago system will necessarily assert its own "production" priority and further deny the plaintiff class their constitutional rights.

There are two other important benefits of requiring a ratio of units to be achieved in black and white areas.

First, a ratio would require the Federal - Chicago system to ascertain the real costs of non-discriminatory low-income housing reflecting the needs of first class citizens. Because the system has not had these goals as a top priority, no one can tell what the real cost of equal protection is. It is time we found out. Fortunately, the Federal low-income housing system has considerable latitude in determining allowable costs per unit. Your decree could provide, for the first time, a context in which costs per unit of equal protection can be determined. Since HUD is committed to equal protection through the Constitution as well as Title 6 of the 1964 Civil Rights Law and Title 8 of the 1968 Civil Rights Law, we feel confident the Department will meet its fiscal obligations once they are precisely defined in Chicago.

Second, our audits have impressed us with the ability of the people who manage the Federal - local low-income housing system. It is a system staffed by good people who are experienced and dedicated. Indeed, as the General Counsel for the Chicago Housing Authority has pointed out, the top staff of the Authority has over 100 years of experience that has been dedicated to producing low-income housing. However, she also suggested that the decree requirements proposed by the plaintiffs in the interest of equal protection might end the low-income housing program in Chicago. This reflects the polar view that our Commission has so often encountered - housing production or equal protection. We are convinced that the key to resolving this false polarity is a decree requiring the kinds of results proposed by the plaintiffs. Given a result that may seem impossible, the knowledge, energy and dedication of those in the Federal - Chicago system will be re-directed toward solving the problem of providing equal protection and low-income housing. Because there will be no other choice, the need to survive will lead those in the system to act in new ways and find new solutions. There is no question in our minds that equal protection can be provided within the context of a metropolitan ration. We need only direct the creativity of those responsible for the system toward that result - but a precisely defined result that is understood as the only option that is open.

We believe the decree in this case can provide a formula for action that will provide a model for future national policies. Therefore, if we may be of any service to you or the parties in achieving this goal, please call upon us.

Sincerely yours,

Howard A. Glickstein
Staff Director
U. S. Commission on Civil Rights

CC: Miss Kathryn Kula
General Counsel
Chicago Housing Authority
Chicago, Illinois

Mr. Francis Fisher
Regional Director
Department of Housing & Urban Development
360 N. Michigan Avenue
Chicago, Illinois

Mr. Alex Polikoff
Attorney At Law
231 So. LaSalle Street
Chicago, Illinois

Mr. Thomas A. Foran
United States Attorney
United States Courthouse
219 So. Dearborn Street
Chicago, Illinois