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SHELDON A. ZABEL

June 5, 1969

Honorable Richard B. Austin
United States District Judge
United States Courthouse
219 South Dearborn Street
Chicago, Illinois

Re: Gautreaux v. CHA, 66 C 1459

Dear Judge Austin:

Here are brief observations on CHA's comments submitted to you on June 2, which we will of course be happy to expand, to the extent you think further discussion useful, at our meeting to be held on June 6.

(1) Line of Demarcation. (pages 2-4)

(a) CHA continues to make no response to our view that where public housing is in fact located will have greater impact on a neighborhood than the nomenclature of your order. Moreover, our comparison of the more than 30% non-white census tracts with the more than 50% tracts indicates that the change CHA suggests would affect fewer than 10 census tracts and make very little difference in the areas - a fact which:

(i) confirms the proposition that 30% fairly represents a "tipping point" and should therefore be used in the order, and

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(ii) re-emphasizes the importance of the buffer zone to reduce the risk that public housing will be located at the edges of the non-white or changing neighborhoods.

(b) CHA's map showing non-residential areas is misleading because it does not show such areas throughout the City. Enclosed is a map which does.

(c) The "suburban credit" we have proposed does not rule out any inducement to the making of agreements for public housing in the county area; it simply (and properly) limits the CHA credit to dwelling units actually occupied by CHA applicants.

(2) 75% - 25% Formula. (pages 4-6)

(a) CHA continues to urge the Court to rely on CHA's best efforts rather than adopt a specific site location formula. We think the recent letter to you from the United States Commission on Civil Rights states definitively why a specific formula is necessary.

(b) We think the result described at the bottom of page 5 of CHA's comments is a desirable one. If the 1330 units on which CHA is just beginning construction are included in the computation, as they should be, only about 64% of CHA's next 6330 dwelling units will be located in the General Public Housing Area.

(c) The unsupported assertion respecting model cities and urban renewal "requirements" is unintelligible. We will be happy to discuss any specific point CHA wishes to make in this regard on June 6.

(d) We have previously explained our reason for not including Project 2-28 in the order.

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(3) Additional Restrictions. (pages 6-8)

(a) We have previously explained in detail the necessity for the limitations in the size of public housing projects and the percentage of public housing units in a census tract.

(b) CHA is wrong in asserting (page 8) that the 15% limitation would rule out any further public housing in the non-white area. The limitation would rule out further public housing in a relatively small number of census tracts where the already overwhelming concentration of public housing makes it inconceivable that even CHA would propose more public housing.

(c) The exception to the high-rise prohibition in the National Housing Act permits the Secretary to approve high-rise projects where he finds there is "no practical alternative," and the Act provides no standards or criteria with respect to this finding.

(4) Leasing Program. (pages 8-10)

CHA makes two mutually inconsistent points.

(a) To the extent that leasing represents a one-apartment-at-a-time program (for example, an apartment whose existing tenant persuades his landlord to rehabilitate the unit and bring it into the program) CHA urges that the program is not significant in scope. To that extent, and in such cases, the purpose of the order may perhaps not be defeated by narrowly-drawn language excepting such individual units from the provisions of the order and CHA may wish to draft such an exception.

(b) To the extent that leasing can play a significant part in future public housing in Chicago

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through large-scale, planned developments, as CHA also suggests it will, it is no more appropriate that such units be concentrated in the already overcrowded and impoverished central city areas than it is for CHA-owned units to be concentrated there.

(c) For this latter reason the proposed order must include leasing within its scope to avoid an exception which would frustrate the entire rationale of the Court's opinion. As to CHA's fears of "ending the program," Article III-D requires only that CHA match the leased units in the Limited Public Housing Area with units in the General Public Housing Area - either leased or owned. To complete the parallel to CHA-owned units, if CHA has made actual firm commitments for leasing, such commitments can be treated (as with the units under construction) as "drawn against the bank" with a requirement for future matching. The basic point is that the principles which require scattering of dwelling units are equally applicable whether the units are owned or leased by CHA.

(5) Judging Compliance at Time of Occupancy. (pages 11-12)

Our proposed judgment order has already been modified to take account of the major part of CHA's objection. Mere acquisition of land is clearly an inadequate yardstick if your order is to define the desegregation results to be achieved.

(6) Tenant Assignment. (pages 12-14)

CHA's criticisms of the tenant assignment article in our proposed judgment order are unconvincing. For example,

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(a) A frozen waiting list would be reduced by occupancy of the 1330 units now under construction and by normal turnover in one year (2978 movements according to CHA's 1968 annual report) substantially below the figure mentioned by CHA - perhaps to less than 2,000, i.e., less than one-half the new units already proposed.

(b) The "dubious" neighborhood priority is very like the system CHA fought to preserve when it served a segregationist purpose, and is apparently considering right now, according to the Chicago Tribune of 3/16/69 (copy enclosed).

(c) CHA has no experience respecting integration in small, scattered projects in all-white neighborhoods.

(d) CHA misleadingly states the leasing options. The fact is that, although landlords have a right of disapproval on non-racial grounds (an arrangement which - contrary to CHA's comments - would not be changed by our proposed order), over 80% of the landlords have accepted options under which CHA selects the tenants.

We continue to believe that CHA should be directed to prepare a tenant assignment plan as provided in Article V of our proposed order.

(7) Reporting Provisions. (pages 14-16)

(a) There has, of course, been no desire to impose onerous or impractical reporting requirements on CHA. If the suggested requirements are unnecessarily burdensome to any extent, it is because of our inability to get CHA to sit down to talk about what would be reasonable.

(b) As to the substance of the reporting requirements, our reasons for inclusion are briefly these:

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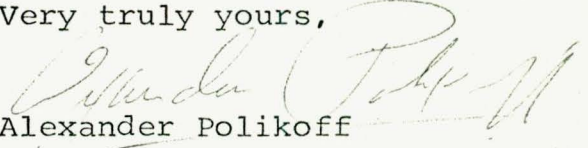
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VI-A. We have included a requirement for furnishing information as to sites under consideration shortly before formal submission for CHA Commissioner or other governmental agency approval because we felt that a preliminary review of such sites by persons outside CHA might provide a fresh view as to their desirability (for example, as in the case of the 70th and Harper site included within Project Ill. 2-28); and in any event such information is necessary to afford time to offer evidence under Article I-D of the order before formal CHA action is taken with respect to a proposed site.

VI-B. The periodic (semi-annual) reports are obviously essential to show cumulative information reflecting compliance with the requirements of the order as to site placement.

VI-C, D and E. The supplemental reporting requirements as to actions taken on sites after initial approval are intended to provide current status information, need not be filed with the Court and in any event need not be supplied after initial occupancy of the dwelling unit. If CHA can suggest provisions to accomplish the same purpose but offering fewer administrative burdens, we will welcome it.

Very truly yours,


Alexander Polikoff

AP:jd
Encl.

cc - Miss Kula
Mr. Schmetterer