

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

DOROTHY GAUTREAU, et al,

Plaintiffs

VS

NO. 66 C 1459

THE CHICAGO HOUSING AUTHORITY,
et al,

Defendants

N O T I C E

TO: Alexander Polikoff
109 North Dearborn Street
Chicago, Illinois 60602

Kathryn M. Kula
Chicago Housing Authority
55 West Cermak Road
Chicago, Illinois 60616

PLEASE TAKE NOTICE that on Monday, July 13, 1970, we will
file a reply to the response of the plaintiff on the motion to
intervene, a copy of which is hereby served upon you.

DATED: July 10, 1970



CLAUDE W. B. HOLMAN

One of the Attorneys for the Petitioners

CLAUDE W. B. HOLMAN
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Franklin 2 - 2721

CERTIFICATION

I hereby certify that I have caused to be delivered a copy of
the above notice, together with the reply referred to therein, to
the above designated persons at the addresses indicated this 10th
day of July, 1970.



CLAUDE W. B. HOLMAN

One of the Attorneys for the Petitioners

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REPLY TO THE RESPONSE OF THE PLAINTIFF
ON THE MOTION TO INTERVENE

1. Contrary to the assertion of the plaintiff, petitioner's motion is supported by positive facts, as distinguished from conclusions, in the following specific instances:

1 The decree in this cause specifically prohibits public housing in the limited areas, until 700 units are built in the general areas. Thus, it is the decree that bars the way, no matter how inactive the CHA may have been or not been. The failure of the Chicago Housing Authority to build the 700 units, or plan for them, has thus caused the decree to operate, so that public housing construction has come to a halt in the Model Cities areas. And this is a fact.

Moreover, it is axiomatic that a petition, or an affidavit, need not plead evidence -- it need only set forth ultimate facts.

Plaintiff avers that CHA has not acted. Thus, we have the people who need public housing now -- thousands of them -- many of whom, as plaintiff honestly admits, live in the Model Cities area. And because the CHA has been dilatory -- and these are

plaintiff's words -- the ultimate effect has been, as a matter of fact and not as a conclusion, that construction of new low income housing in the Model Cities area, is at a stand still; regardless of whose fault it is.

2 The further fact is, that the CHA is prohibited by the decree from even planning for construction in the Model Cities area, until it has overcome what plaintiff calls dilatory action on the part of CHA, and build 700 units elsewhere. Thus the fact -- not the conclusion -- but the fact is that because the CHA is barred from even planning any construction, construction is non existent.

Whether or not other areas need public housing is beside the point in regard to petitioner's position; for our position is that we need public housing now, and whether or not other areas need it, we still want public housing in the Model Cities area now, which under the decree cannot be provided until this so called dilatory action of the CHA has become un dilatory, if we may coin a word.

The affidavits of the petitioners who are not Aldermen set forth the following positive facts, as distinguished from conclusions:

That there has been extensive demolition of buildings in their communities; and a reduction of housing units, which has not been replenished by new construction or development; that families have had to double up in existing buildings, or leave the community, in search of housing elsewhere; that it is difficult to find low income housing for large families; that the territory in question has been deteriorating; that there is a dearth of available funds for private construction; and the

and the removal of existing housing, because of demolition, has created a housing emergency in the community; that single family homes are now being used by more than one family; that apartments intended for use by one family are now being shared by others as a matter of necessity; that this condition aggravates an already deteriorating community situation; that public housing would relieve and remedy this situation.

The affidavits of the Aldermen set forth, as facts, as distinguished from conclusions, the following:

That they have extensive information with respect to the problems of living conditions and availability of housing in their wards; that the necessity for demolishing sub-standard housing and rehabilitating deteriorating housing and for construction of new housing is acute, as a matter of fact; that there is practically no private capital available for said purpose; that many residents are leaving the wards although they prefer to stay; that others still in the wards, are living in over crowded conditions; that the residents of the wards, as a matter of fact and not as a conclusion, have been apprised of plans that were prepared and could be executed for public housing through the Model Cities program which would alleviate to some extent the circumstances so described; that the hardship, the indignity, and unhealthful and unwholesome conditions so existing, as a matter of fact and not a conclusion, ought to be alleviated at the earliest possible moment with new housing, as a matter of fact.

The affidavit of Alderman Claude W. B. Holman sets forth additional facts, as distinguished from conclusions, which have not been denied, nor challenged, by the response of the petitioners -- and indeed they

could not successfully be challenged; same being to-wit:

✓ | That the order of July 1, 1969, recites that it is binding on all members of the City Council who have notice of its entry, and thus, as a matter of fact, the Aldermen, by virtue thereof, are already a party hereto; that the memorandum opinion refers to the part played by Aldermen, in their Aldermanic capacity, bearing directly on the subject matter of the law suit; that as a matter of fact, they are aware of the need for the elimination of segregation; that as a matter of fact, the observation of the court should be adhered to, to-wit: that nothing should be done to impede the development of public housing, to the damage of the persons who in the first instance brought the law suit for their protection; that the court has heretofore, on a previous occasion, recognized the need to modify its original judgment order (and, as this court knows, the modification took place while the Chicago Housing Authority was still in a position of dilatory non compliance according to plaintiff.)

That the petitioning Aldermen could not properly be represented by the parties to the pleadings herein, because the rights and interest of their constituents and their activity as a public official would be affected by any other or further orders in this cause, including modifications; that the United States government itself had recognized the difference between Model Cities areas and other areas by the very enactment of the Model Cities program.

The affidavit of Alderman Wilson Frost was unchallenged by plaintiff and so stands admitted.

II. This motion, contrary to plaintiff's assertion, is timely made; because the court itself retained jurisdiction of the cause for all purposes, including the modification thereof, by any material changes in existing conditions, or by any other matters; thus the court recognized that from time to time it would be necessary to consider modifications of the order. Indeed, in one instance the court has already modified the order. Intervention, therefore, is warranted because of the new matters set forth in our affidavits, which said matters have come into existence since the entry of the original order.

III. Plaintiff is most inconsistent. First, plaintiffs oppose us with all the energy which they possess, and they ask the court to deny us the relief we seek. Nevertheless, they inconsistently say, we are adequately represented by such a plaintiff who stands in opposition to what we pray for, and who asserts that we ought not be even allowed to intervene to present our case to the court. By the same token, plaintiffs themselves show that the defendant does not adequately represent us. Plaintiff makes the assertion that the defendant is dilatory; defendants could act but they won't act; and, plaintiff says, that petitioners are barred by the non action of the defendant. How then, we ask, can petitioners be properly represented by a plaintiff who opposes everything we want; or by a defendant who refuses to act to help us get what we pray for? The answer is clear. We are not adequately represented by either the plaintiff or the defendant.

The interest of the Aldermen in this cause is to serve their constituents; and the interest of their constituents will be jeopardized unless action for them is taken by persons other than the plaintiff. And the whole concept of American government is that the citizens act through their representatives. We have a responsibility to bring to

the attention of courts, governmental agencies, legislators, congresses, and to everybody else, the aims and aspirations and ideals of our constituents. This we urge the court to let us do in this cause.

In addition thereto, the Aldermen are proper parties to this suit, in any event, by the language of the decree itself. That is to say, we are bound by the decree in unmistakable language, language which says all members of the City Council are so bound. We were brought in without notice and without our consent; and now when we wish to be heard, after having been brought in without notice, plaintiff would deny us such right to be heard. Such would be a deprivation of due process of law, both for us and for our constituents; and we affirmatively urge and raise this constitutional point at this time.

The interest of the Aldermen, members of the City Council, who are bound by this decree, can only be protected insofar as their constituents are concerned, by intervention.

A. The Aldermen are not just mere residents of Chicago; and as elected officials, they state that the need is for CHA housing in their neighborhoods, for their constituents -- not for them personally. While none of the petitioners are residents of CHA, each Aldermanic petitioner knows by name, persons who desire low cost housing -- many more than the 11,000 or so Blacks who have now applied. Plaintiff itself admits that of these 11,000 or so, some live in the area under question. Actually, this is the understatement of the year. Most of those applicants live in the Model Cities areas.

B. The United States government itself, through the Congressional enactments providing for a national Model Cities program, and of which this court will take judicial notice, distinguishes the Model Cities areas from other areas in the City of Chicago and in the nation at large. That's why they were created.

Plaintiff proves our case by the assertion on page 6 of the Response, that the court knows that low income housing is in desperately short supply in the entire city.

So we therefore pray that that portion of the city, which the United States government says is distinguished from other areas of the city, by its need for low cost housing, and by its need for recreational facilities, and every other thing and item that would go to make up a Model City -- because of such fact, we need to intervene. The whole Model Cities program is founded on the fact, not the conclusion, but the fact that the Model Cities areas are distinguishable from other areas.

C. We repeat we are representing the interest of our constituents, which, under the Cities and Villages Act of the Illinois Statute, makes the City Council a separate and independent branch of the city government, whereas the executive branch of the city government and HUD are the parties to the Model Cities contract. But the legislative representatives of the city have a deep rooted interest, and as Aldermen representing the distinguishable Model Cities areas, they should have the right to assert the interest of their constituents in the premises. Plaintiff's observation that we are speaking without authority hardly rises to the dignity of argument. We have the highest authority -- the mandate of the people.

D. The language in plaintiff's paragraph III D, underscores the need for intervention. If, as plaintiff asserts, the CHA has a dilatory record of performance, then obviously CHA cannot represent us. We do not wish dilatory performance.

Plaintiff's points III E, III F, and the conclusion, do not correctly inform the court of the correct thrust of the arguments and

← haven't said
they would at - or
"feel otherwise" -
but that they would
be the effect of the
modification they
seek

contentions advanced by the individual petitioners or the Aldermanic petitioners, either jointly or severally. There is not one word in the motion or the affidavits which, by any stretch of the imagination, gives rise to the inference that petitioners wish a resumption of any discredited or illegal policy of continuing discrimination in housing. On the contrary, petitioners have said again, again, and yet again, that they applaud the action of the court in seeking to bring about an end to discrimination in housing. And these petitioners are interested in eliminating segregation, not only in housing, but every place else where it exists. To claim that we feel otherwise, is either to deliberately distort our position or, charitably said, to distort it innocently -- but it is distortion non-the-less to assert that we want anything other than full integration at the earliest moment. These petitioners are the victims of segregation and have been the victims of segregation all their lives -- they know segregation better than anyone else.

Petitioners do say that, no matter how well founded the goal of ultimate integration may be -- and it is a consumation devoutedly to be wished for -- there are still thousands of people who want public housing in the Model Cities areas and want it now.

When we see children bitten by rats; when we see fifteen, sixteen and seventeen year old teenage boys and girls compelled to sleep in the same bed; when we see living accommodations without indoor toilet facilities; when we see living accommodations that have no mechanical refrigeration; and when we see all the other evils of sub-standard housing such as three and four families living in a housing accommodation built for one family -- when we see all that, we say, yes, let's press forward towards the goal of complete integration; but in the mean time, let's give some relief to the people who because there is no low income housing being built, must live as above set forth -- let's give some relief to them right now, while we press forward toward the mark of the high calling.

It is for these reasons that we ask to intervene in the first instance, and for an order of modification thereafter.

Respectfully submitted,

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By:


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