

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	
THE CHICAGO HOUSING AUTHORITY,	)	
et al.,	)	
	)	
Defendant.	)	

ANSWER OF PLAINTIFFS TO THREE
MOTIONS OF DEFENDANTS

Without supporting affidavits the defendant Chicago Housing Authority ("CHA") has served three motions as follows:

- (1) To vacate the order entered herein on July 20, 1970 (the "Order") and to set another hearing concerning its subject matter;
- (2) To modify the terms of the Order (by extending its time periods) until disposition of the motion to vacate; and
- (3) To extend the time for appealing the Order (to give time to consider the motion to vacate).

The three motions will be discussed in Parts I, II and III hereof, respectively.

I. The Motion to Vacate is Baseless and an Affront to Judge Austin

The grounds for the motion to vacate are that, (A) the Order was not entered "upon proper notice and motion," (B) CHA was not "provided with an adequate opportunity to present [relevant] information," or with an "opportunity to be heard," or with a "reasonable opportunity to present evidence," or with an "opportunity to make a proper record," and (C) the Order constitutes an abuse of the Court's discretion.

Although the motion makes many assertions of fact, it is not verified, or supported by an affidavit, or even manually signed by the CHA counsel who participated in the conferences before Judge Richard B. Austin which are referred to in the motions.

Attached hereto and made a part hereof is an affidavit of one of plaintiffs' counsel who did participate in such conferences. The affidavit discloses that grounds (A) and (B) for the motion to vacate are baseless and that ground (C) is plainly without merit. The affidavit discloses, indeed, that it is an affront to Judge Austin (who clearly went out of his way to give CHA the fullest opportunity to be heard and to present whatever evidence it desired) to assert that he somehow denied CHA its rights. It appears from the affidavit that the Order was entered upon proper notice and motion pursuant to a procedure agreed to by the parties, that CHA was given a full hearing with full opportunity to be heard, to present evidence

and to make a record, and that in view of the nature of the judgment order entered herein on July 1, 1969, the lapse of time since that date and the evidence submitted during the conferences, some of which is recited in the Order, the entry of the Order was well within the discretionary powers of the Court.

II. The Motion to Modify is Without Merit.

The motion to modify the terms of the Order rests on the validity of the motion to vacate. If the latter is summarily denied, as it should be, the motion to modify must plainly be denied as well.

III. The Motion to Extend the Time to Appeal is Without Merit, and the Court Lacks Power to Grant It.

The motion to extend the time to appeal should be denied for the same reason as the motion to modify. In addition, such a motion may only be granted "upon a showing of excusable neglect." Rule 4(a), Federal Rules of Appellate Procedure. Here there is not even an effort to make such a showing.

CONCLUSION

These motions are but the latest chapter in a sorry story. For three years CHA fought an adjudication that it had violated the plaintiffs' constitutional rights. After the final judgment order was entered hereon on July 1, 1969, CHA's public relations staff trumpeted CHA's willingness to comply and its

decision not to appeal. That order included the following provision:

"CHA shall use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of this judgment order and shall take all steps necessary to that end, including making applications for allocations of federal funds and carrying out all necessary planning and development."

months
After fourteen/of dilatoriness by CHA (and of patience by Judge Austin), CHA was finally ordered to take affirmative action to comply with that provision. Its reasons for not doing so were fully presented and considered by Judge Austin. They amounted to reliance on discredited political considerations (see Gautreaux v. CHA, 296 F.Supp. 907, 914-15), and, now, upon an alleged interference with CHA's "discretion." One is reminded of the wearisome story of school desegregation decisions. For example,

"In this instance, this Court is being asked to weigh the constitutional rights of the plaintiffs against the administrative convenience of the Board of Education and to rule in favor of the latter. Merely to state the proposition is to reject it."
Taylor v. Board of Education of New Rochelle, 195 F.Supp. 231, 238 (S.D.N.Y. 1961, aff'd 294 F.2d 366 (CA2, 1961)).

It would be a travesty if CHA were not now, at long last, obligated to proceed affirmatively as Judge Austin has ordered it to do.

Respectfully submitted,

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Chicago, Illinois 60602

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231 South La Salle Street
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641-5570

By:


Alexander Polikoff
Attorney for Plaintiffs

DATED: August 12, 1970

DOROTHY GAUTREAU, et al.,)
)
Plaintiffs,)
)
v.) No. 66 C 1459
)
THE CHICAGO HOUSING AUTHORITY,)
)
et al.)
)
Defendants.)

STATE OF ILLINOIS)) SS
COUNTY OF C O O K)

ALEXANDER POLIKOFF, being first sworn, says that he is one of the counsel for plaintiffs in the above cause, that he has personal knowledge of the matters and things set forth herein, and that if sworn as a witness would testify to them as so set forth.

1. Preceding the entry of the order of July 20, 1970 by the trial judge herein, the Honorable Richard B. Austin, five conferences concerning the subject matter of said order were held in Judge Austin's chambers on June 2, 1970, June 16, 1970, June 26, 1970, July 13, 1970 and July 20, 1970, respectively.

4. Each of the four subsequent conference dates was set by agreement of counsel and Judge Austin, without objection by any party, to hear further argument and evidence respecting CHA's proposed deferral of advice to the Chicago City Council of proposed sites for Dwelling Units.

5. At the conference of June 2, 1970, CHA submitted to Judge Austin a document entitled "Chronology of Site Selection Procedures" dated June 2, 1970, a true copy of which is attached hereto.

6. At the conference of June 16, 1970, Judge Austin requested CHA to furnish certain information concerning the procedural steps followed in acquiring sites. Such information was supplied to Judge Austin by letter dated June 22, 1970, a true copy of which is attached hereto. The conference was then continued at the specific request of counsel for CHA to June 26, 1970 because, she said, the Chairman of CHA wished to make a presentation to Judge Austin.

7. At the conference of June 26, 1970, the five Commissioners of CHA, Charles R. Swibel, Theophilus Mann, John J. Masse, Letitia Nevill and Professor Richard C. Wade, were present in addition to counsel. Mr. Swibel made a statement, a true copy of which is attached hereto. Counsel for CHA read and submitted to Judge Austin a resolution adopted by the Commissioners on June 25, 1970 identified as Resolution No. 70-CHA-105, a true copy of which is attached hereto.

2. At each of such conferences counsel for the defendant Chicago Housing Authority ("CHA") was present, participated fully, and made no objection to the form or manner thereof or to the notice therefor.

3. The first of such conferences was held following advice to counsel for plaintiffs from the Chairman of CHA to the effect that CHA did not intend to advise the Chicago City Council of sites appropriate for Dwelling Units (as the same are defined in the judgment order entered herein on July 1, 1969) prior to the Chicago mayoralty election scheduled to be held in April, 1971. Following such advice the first such conference was set by agreement of counsel for both parties and Judge Austin. Counsel for CHA was notified by letter dated May 20 that the first conference was set for the morning of June 2, 1970, and she confirmed that June 2 was satisfactory by a letter dated May 25, 1970 in which she said,

"We also are eager to discuss the broader issues you allude to in your letter of May 20. However, I can see no reason why this matter cannot await discussion with Judge Austin on June 2 ..."

Such letter also said:

"Your inquiry as to what action CHA has taken to comply with the 'best efforts' provision of the order requires an extensive response. We will be prepared to respond fully on June 2nd in Judge Austin's chambers."

True copies of such letter of May 25, 1970, and related letters are attached hereto.

Commissioner Wade made a statement as to the political implications of advising the City Council of sites for Dwelling Units, and thereafter wrote a letter to Judge Austin, dated July 9, 1970, a true copy of which is attached hereto. Counsel for plaintiffs made a statement as to the impracticability and undesirability of further deferral of advice to the City Council of sites appropriate for Dwelling Units. At the conclusion of the June 26 conference the matter was again continued until July 13 for the specific purpose of enabling CHA to present whatever additional evidence it wished.

8. At the commencement of the conference of July 13, 1970, a letter from counsel for plaintiffs to Judge Austin, dated July 13, 1970, was delivered to Judge Austin and to counsel for CHA, a true copy of which letter is attached hereto. Counsel for CHA requested a further continuance for the purpose of introducing testimony of one Dr. Greeley, who was not then present in court. Prior to July 13 no request had been made to Judge Austin for a continuance for such or any other purpose. Judge Austin heard the statements of counsel for CHA as to the subject matter of Dr. Greeley's proposed testimony, stated that such testimony would be repetitive of arguments previously made by Professor Wade and other CHA representatives, and declined to further continue the proceedings. Counsel for plaintiffs referred Judge Austin to a letter from the Department of Housing and Urban Development to CHA respecting the timing of CHA's advice to the Chicago City Council of sites for

Dwelling Units. A true copy of such letter from Francis D. Fisher, Regional Administrator, to Mr. C. E. Humphrey, Executive Director of the CHA, dated July 9, 1970, is attached hereto.

9. At the conclusion of the conference of July 13, 1970 Judge Austin stated that in his view an order in form similar to that proposed by counsel for plaintiffs and attached to his letter dated July 13, 1970 was appropriate, that CHA should not defer any longer the necessary steps to acquire appropriate sites for Dwelling Units, and that advice to the Chicago City Council with respect thereto should be given by September 1, 1970. Counsel for CHA stated that CHA might prefer that a direction to such effect be embodied in a written order and that she would advise counsel for plaintiffs within 24 hours as to whether such a written order was desired. The parties and Judge Austin agreed to continue the matter to July 20, 1970, for the purpose of signing an order providing for a written report by CHA and, if desired by CHA, an order providing for advice to the Chicago City Council.

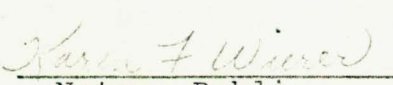
10. Counsel for CHA advised counsel for plaintiffs on or about July 14 or 15, 1970 that a written order respecting advice by CHA to the Chicago City Council was desired and on July 20, 1970, over the objections of CHA as to substance but not form, Judge Austin signed the order which was entered herein on July 20, 1970.

11. The conferences held on the five dates listed in paragraph 1 above lasted many hours in the aggregate. No restriction of any kind was imposed upon the form or content of the evidence to be presented. The two sessions of June 26, 1970 and July 13, 1970 were specifically scheduled for the purpose of permitting CHA to present whatever evidence it desired. At no time during any of the conference sessions was any objection to the procedure, or to the presence or absence of any notice or motion, raised by counsel for CHA.

Further affiant sayeth not.


Alexander Polikoff

Subscribed and sworn
to before me this
12th day of August,
1970.


Notary Public

BUSINESSMEN FOR THE PUBLIC INTEREST

109 NORTH DEARBORN STREET

SUITE 1001

CHICAGO, ILLINOIS 60602

(312) 641-5570

May 18, 1970

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

Dear Kay:

This will confirm our conversation of yesterday in which I requested copies of the following:

1. The materials submitted by CHA to HUD showing CHA's proposed site plans for the current 1,500 unit family housing reservation. If the submissions to HUD (I understand there are two of them) do not include related information such as the precise location of the sites, zoning status of the sites, the number of units proposed at each site, etc., I would like to have that information as well.
2. Any related planning information respecting the proposed sites which was not included in the submissions to HUD, for example, CHA staff recommendations or other memoranda relating to the proposed sites.
3. CHA's plans for the "community acceptance" effort which we have previously discussed, including the full plan of which you have previously provided me a summary and any written material so far prepared pursuant to this plan by CHA or its hired consultants in this regard.
4. Any other documents which may evidence the action so far taken by CHA to comply with subsection A of Section VIII of the judgment order entered July 1, 1969 (the "best efforts" provision), including particularly any contractual or other written arrangements which have been entered into by CHA with respect to the siting of public housing in areas outside the City of Chicago.

Miss Kathryn M. Kula

May 18, 1970
Page Two

5. Site location information concerning the recently approved new program for approximately 1,500 elderly family units (locations of projects and number of units), and the current status of this program.

As we discussed, I wish this information for the purpose, among others, of enabling us to prepare a mutually agreed upon statement of the current factual situation for joint submission by us to Judge Austin in the context of raising with the Judge the question of the procedure to be followed in light of our two recent meetings. Since we are anxious to proceed promptly, and you have advised me that you will be out of town on Wednesday and Thursday of this week, I have asked you to indicate to me by the end of the day today whether you will supply me with the requested information. If you are unable to respond affirmatively, I have asked you to join me in appearing before Judge Austin before the end of the day tomorrow, so that we may present to him (before you leave town) the question of whether we are entitled to the requested information under the circumstances.

Sincerely yours,

Alexander Polikoff,
Executive Director

ALP:eo

May 20, 1970

Miss Kathryn M. Kula
General Counsel
Chicago Housing Authority
55 West Cermak Road
Chicago, Illinois

Dear Kay:

This will confirm our conversation on Monday as follows:

1. You advised me that you were not in a position to respond to the request for information in my May 18th letter to you because Mr. Swibel felt that the matter required discussion with the Commissioners and he was leaving town for the rest of the week.
2. You were unable to comply with my request that you join me in appearing before Judge Austin on Tuesday because you were otherwise engaged (and would yourself be out of town until Friday).
3. You did agree to join me before Judge Austin next Monday afternoon, but we both agreed that it would perhaps be preferable to see the Judge in chambers rather than appear before him in open court on his motion call. You also said it was possible that by Monday afternoon you might have received permission to supply me with the requested information.

Following our conversation I spoke with Judge Austin's clerk and learned that the Judge is on trial and would be unable to see us in chambers for any appreciable length of time other than at 9:00 A.M. on May 20 (a scheduled pre-trial conference had been cancelled) or at 9:00 A.M. Tuesday morning, June 2. I was of course forced to reject the May 20 date because of your being out of town.

I have accepted the June 2 date and you may mark your calendar accordingly. That may be an appropriate occasion to discuss with the Judge the broader questions which have been presented by our recent conversations, but I am unwilling to wait until then for a decision on the question of our being entitled to information. Indeed, I wish the information far enough in advance of June 2 so that we may have an agreed-upon statement of facts to hand to the Judge at that time. Accordingly, I apparently

Miss Kathryn M. Kula

May 20, 1970
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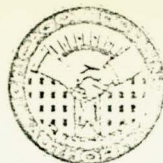
have no alternative but to seek an order in open court requiring that CHA supply the requested information. However, since I have agreed with you that I will not do anything before the afternoon of Monday, May 25, I will not formally move for such an order until the motion call at 10:00 A.M. on Tuesday, May 26. I hope that the matter can be resolved satisfactorily and informally before then but I wish by this letter to formally notify you that unless there is such a resolution I will appear before Judge Austin at 10:00 A.M. on Tuesday, May 26 and move for the production of the information requested in my letter to you of May 12.

Sincerely yours,

Alexander Polikoff,
Executive Director

ALP:eo

BOARD OF COMMISSIONERS
CHARLES R. SWIBEL, CHAIRMAN
THEOPHILUS M. MANN
N J. MASSE
TITIA NEVILL
RICHARD C. WADE



EXECUTIVE OFFICE
55 W. CERMAK RD.
CHICAGO, ILLINOIS 60616
TEL. 225-9700

C. E. HUMPHREY
EXECUTIVE DIRECTOR

Chicago Housing Authority

May 25, 1970

Mr. Alexander Polikoff
Businessmen for the Public Interest
109 North Dearborn Street, Suite 1001
Chicago, Illinois

Re: Gautreaux v. CHA
66 C 1459

Dear Mr. Polikoff:

This is to acknowledge receipt of your letter of May 20th received at CHA on May 21st and given my attention Friday, May 22nd.

With regard to your request for information and documents as outlined in your letter of May 18th, CHA will make available to you the items called for in paragraphs 3, 4 and 5 as follows:

- (3) Two documents from Community Programs, Inc. The one dated February 9, 1970 contains their recommendations for a public housing information program. I previously supplied you with a summary of this document. The second memorandum dated May 19, 1970, is a summary report of the status of their activities.
- (4) Your inquiry as to what action CHA has taken to comply with the "best efforts" provision of the order requires an extensive response. We will be prepared to respond fully on June 2nd in Judge Austin's chambers. CHA has not entered into "any contractual or other written arrangements" with respect to the siting of public housing in areas outside the City of Chicago. However, we are in communication with seven suburban housing authorities with respect to locating sites beyond the city limits.

Mr. Alexander Polikoff
Chicago, Illinois
5/25/70
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- (5) Site selection information concerning the recently approved new program for 1,500 elderly units as contained in Commissioners' Resolution No. 70-CHA-59, copy enclosed. An ordinance calling for City Council approval was introduced in the Council on May 20, 1970. Plan Commission Hearings are scheduled for May 28, 1970.

With regard to the materials and information called for in paragraphs 1 and 2 pertaining to "CHA's site plans for the current 1,500 unit family housing reservation" and related detailed information in connection therewith, it is the Authority's position that the release of such information is premature and not consistent with Judge Austin's order of July 1, 1969. Section VII A of that order provides that such information is to be filed with the court and copies served on you within ten (10) days after such locations are approved by the Board of Commissioners of CHA. As of this date the Commissioners have not acted on any sites. Indeed, staff has not yet submitted any sites to the Commissioners for their consideration, since staff is still in the process of site selection.

Concerning your statements that (1) Judge Austin will be unable to see us in chambers until June 2, 1970 at 9:00 A.M; and (2) that you "apparently have no alternative but to seek an order in open court (on Tuesday, May 26) requiring that CHA supply the requested information," this is to advise that I am unable to appear on that date.

We also are eager to discuss the broader issues you allude to in your letter of May 20th. However, I can see no reason why this matter cannot await discussion with Judge Austin on June 2nd and am at a loss to understand why one week should make that much difference to you particularly now that the Authority is willing, on a voluntary basis, to supply you with the data indicated above.

Very truly yours,

Kathryn M. Kula

Kathryn M. Kula
General Counsel

KMK:hn

Enclosure

cc: Judge Richard B. Austin

BOARD OF COMMISSIONERS
CHARLES R. SWIBEL, CHAIRMAN
THEOPHILUS M. MANN
JOHN J. MASSE
LETITIA NEVILL
RICHARD C. WADE



EXECUTIVE OFFICE
55 W. CERMAK RD.
CHICAGO, ILLINOIS 60616
TEL. 225-9700

Chicago Housing Authority

C. E. HUMPHREY
EXECUTIVE DIRECTOR

July 9, 1970

Judge Richard B. Austin
U. S. District Court
219 South Dearborn Street
Chicago, Illinois

Dear Judge Austin:

At our hearing before you with the ACLU on June 26, I raised the question of the political implications of introducing sites in the City Council for public housing in white areas. I suggested that my responsibility as a Commissioner of the Authority was to get as much low-income housing built as possible within our jurisdiction. I also indicated that it was my judgment that submission of the sites at the present time would make public housing the central issue of upcoming campaigns and it was my fear that the ultimate result would be that less housing would be built. There is abundant historical evidence that resistance to public housing in white areas has been used by political candidates for partisan political purposes. It would be unfortunate if your historic decision got embroiled in a political contest where there was not adequate defense of either public housing or your decision.

I do not want you to think that my position was dictated by any reservations about your decision or the ultimate submission of sites by CHA to the City Council. I am enclosing an article which I wrote almost three years ago which contains my fears about housing in political campaigns. This was written about the election of 1966 and, as you know, the climate is now worse than it was then. I hope you will have an opportunity to read this article before our next meeting. I realize political judgments are also difficult

Judge Richard B. Austin
Chicago, Illinois
7/9/70
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to make and I indeed may be wrong. But historically there have been few issues as politically explosive as this question. I would not like to see this great opportunity for integrated housing jeopardized by temporary political considerations.

Respectfully,

Richard C. Wade
Commissioner

Enclosure

cc: Mr. Alexander Polikoff

Backlash In the Percy Campaign

RICHARD C. WADE

LATE on election night the spotlights followed Charles H. Percy through the jubilant crowd at the victor's headquarters in Chicago. As he stepped up to the microphone, genial and smiling, he projected the latest slogan of his campaign, "To Fulfill the Promise of Percy." His victory statement was, in the word of the press, "gracious." Its climax was a tribute to his defeated foe: "Senator Douglas has fought a good fight. If I can serve Illinois and the nation to the same degree of selfless dedication, I think I will have served well."

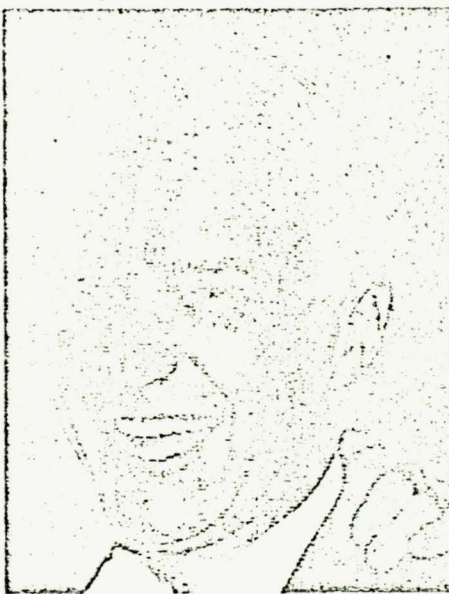
Across the nation the television public was getting its first impression of the man who may very well carry the Republican Presidential banner in 1968. For Percy has none of the liabilities of the other contenders. He supported Goldwater in 1964, yet is acceptable to the Eastern moderates. He has a firm base in a major state and is fresh from a considerable victory. As the only national figure able to avoid a veto by either wing of the party, Percy has a good chance—despite present polls—to emerge from the G.O.P. convention with the nomination.

To voters who saw him on election night, he must have seemed the "fresh face" that Republicans have so long sought. Yet to those in Illinois who had seen the campaign up close, Percy looked less like a "new breed" progressive Republican than another Richard M. Nixon.

Three days before the election, Percy had formally charged the man he now so gallantly saluted with conducting an illegal and unethical campaign, and for months he had carried on the most divisive campaign that the state had witnessed in recent times. Moreover, Percy, along with other Illinois Republicans, owed his victory neither to any fresh

ideas nor to the reassertion of a historic G.O.P. progressivism, but rather to the surfacing of the "white backlash."

Some people would offer other explanations for the outcome. A few would suggest age, for Paul Douglas is seventy-four and Percy forty-seven. If this issue had been paramount, Douglas would have run behind the younger candidates on the ticket. Yet with the exception of the special case of Adlai Stevenson III, he generally ran well up on the Democratic ticket. Others attributed Percy's victory to a pro-



test against the Johnson administration's policy in Vietnam. But Chicago's Fifth Ward, which includes the University of Chicago and the highest concentration of anti-war sentiment in the state, gave Douglas only a slightly smaller percentage than the overwhelming majority that he received in 1960. And for those who think the clue is to be found in Negro disenchantment with Mayor Richard Daley's Democratic machine, it is important to

note that Douglas received more than seventy-five per cent of all votes in the Negro precincts. Militant civil-rights leaders now assert that they carried on a successful boycott of the polls, but the drop in total votes in the Negro wards was less than five per cent when compared with the last off-year election, a figure not much higher than the decline in white areas.

Whereas all these factors no doubt played a part, the grim fact is that the election was determined by a white rebellion against the aggressive Negro demand for equality, and especially against the drive for open occupancy in housing.

This is a fact that is hardly comforting to anyone. For Paul Douglas it means a lifetime of work for civil rights put in jeopardy at just the moment when the final legislative victory seemed in sight. But the question for Percy is even more serious: a backlash victory substantially dilutes the sweetness of success. Immediately after the election, Percy tried to detach himself from its implications by publishing the results of a poll conducted by Market Facts, Inc. The firm interviewed two hundred Percy voters on the day after election to find out why they had voted as they did. The results, of course, were reassuring. Twenty-seven per cent singled out Percy's "qualifications to handle the major campaign issues of Vietnam and inflation"; another twenty-four per cent were attracted by his "youthfulness" and fifteen per cent by his "dynamic quality"; twenty-four per cent voted for him out of "party loyalty." Only one per cent mentioned civil rights—somewhat surprisingly in view of the firm's published findings a few weeks before the election that sixty-five per cent of those interviewed listed civil rights as a "major consideration" in their choice. No one could accuse Market Facts, Inc., of being unobliging.

A Meaningful Attrition

But the facts are stubborn. What is most striking about the election returns is that Douglas's decline of about ten per cent from 1960 was not even remotely uniform but rather extraordinarily erratic. Thus in the city of Chicago it varied from

an increase of over three per cent in one ward to a decline of thirty-four per cent in another; in the suburbs it varied from minus two to minus twenty-eight per cent. Surely Douglas could not have been young in one place and old in another, nor could the incidence of reaction to high prices or Vietnam be as irregular as that.

A ward-by-ward examination verifies that backlash is the key. For though Douglas carried the Negro wards by three to one, with his percentage even increasing in four of them, in the white areas his losses were staggering. Those neighborhoods immediately threatened with residential turnover responded the most dramatically, but just beyond the city limits, in one of the areas where the summer marches took place, whites punished Douglas and the Democrats almost as harshly. In Cicero, which the Senator had won narrowly in his last campaign, he received barely a quarter of the votes. In neighboring Berwyn the attrition was nearly as bad.

All these heavily urban areas are what political analysts have described as "ethnic" backlash neighborhoods. Peopled chiefly by children and grandchildren of immigrants, these communities—block upon block of modest homes and flats—lie close to the expanding ghettos. Income and educational levels are lower than the average; most residents have already moved at least once before to avoid Negro neighbors. Their "bigotry" is usually explained by this scale of vulnerability to urban change.

Yet the backlash goes still deeper in American society. Out in the suburbs, in areas removed from demonstrations and bitter debate, racial fear has long lain close to the surface. Indeed, the growth of the Negro population in Chicago has accelerated the white exodus to its outer edges. So long as the issue was confined to schools, jobs, and voting, suburban residents could remain somewhat detached. But the issue of open occupancy in housing suddenly changed all that. Now it became the immediate concern of every suburban community.

The returns from the suburbs contain the first appearance of a new and more genteel backlash and dem-

onstrate that racial fear is not the monopoly of one ethnic group or another. Though Douglas slipped a few points in the long-established and wealthy suburbs like Oak Park, River Forest, and Evanston, he was overwhelmed in the newer and less secure townships like Thornton, Worth, and Schaumburg. In these areas the Douglas decline nearly matched that of the white city wards, reaching twenty per cent in some places. Moreover, the voter turnout in the suburbs was so high that Chicago machine politicians believed (perhaps with some envy) that there must have been widespread fraud.

Tackling with the Wind

That Percy was the primary beneficiary of this vote was the result of a campaign strategy by which he offered Negro voters a pledge on open occupancy while promising to protect white neighborhoods from Negro incursions.

This double strategy evolved only after much twisting and turning. In May, 1965, after Percy's defeat in the gubernatorial election of 1961, in which he had consistently declared himself against open-occupancy legislation, Percy did an about-face, placing the blame for residential segregation on real-estate interests and announcing his conversion to open occupancy. In June, 1966, he supported the President's original civil-rights bill, which included a blanket prohibition on discrimination in all dwelling units.

Percy's reverse stand seemed to remove the issue from the senatorial campaign, since Douglas had long been an advocate of such legislation and in fact had led off the administration's testimony in committee. When the House diluted the proposal by exempting units of four families or less, it still seemed that the difference between the two candidates would be insignificant; both agreed to accept the new version. Both men, it appeared, felt it would be an important first step toward a general open-occupancy policy and embodied the most that Congress could produce in 1966.

Martin Luther King's marches into white neighborhoods last summer altered the context. Open occupancy soon became the central

issue of the campaign. In October Percy subtly changed his position. He now said that he was opposed to general coverage of all building in Federal housing legislation, and attacked Douglas for supporting such an "impractical" and "unenforceable" proposal. More significantly he now asserted that the difference was one of principle, not merely of timing and legislative possibility. On *Face the Nation*, Percy came out in favor of "a proper balance between human rights and between property rights," and said that the House bill "draws that distinction between your own home and the rental and sale of that, and someone who is in the business of renting and selling property. And it is that distinction that we drew carefully that made it possible to pass that [the House bill] and it does make that [the House bill] enforceable, meaningful legislation in this field."

THE NEXT DAY the *Chicago American* underlined the significance of Percy's switch. "Thus the suburbs for all practical purposes, would be exempt, as would most of the area which were subjected to civil right marches during the summer." And the *Chicago Sun-Times* reported that at a businessmen's luncheon "cheers followed the Republican Senate candidate's charge that the open-occupancy of Sen. Paul H. Douglas was impractical."

Percy's flexible strategy was no hastily conceived. A month after his defeat for governor in 1964 he outlined his approach to a closed-door meeting of prominent Republicans including former President Eisenhower, at Hershey, Pennsylvania. The confidential transcript of the conference, published by *Newsweek* on December 14 of that year, revealed his attitude. "Most of the GOP big wigs agreed that Goldwater's trigger-happy image was the greatest obstacle [in rebuilding the Republican party]. But they talked more than anything about 'backlash.' Percy was the first to bring the subject up directly. 'We have divided our group into three,' he said about his Illinois campaign. 'The backlash group certainly is there, there is no question about it. And we will campaign, but on the right issues, and on the area

of fear of movement in the neighborhood, and so on. We will try to do it on a sound, sensible basis."

The new position, if obviously appealing to whites, was particularly harsh on Negroes. For Percy had made much of a proposal to break up the slums by encouraging homeownership among ghetto dwellers. Under this program, a mixed public and private corporation would give large-scale assistance to the poor in buying their own homes which would "create and fortify a new spirit of independence, of self reliance, of human dignity, of creative initiative." Now he had slammed the door, for Negroes would continue to be excluded from nearly every white residential neighborhood.

When Douglas, in exasperation, taxed his opponent with an unprincipled switch on the issue, Percy replied airily: "I have changed my mind on many things in my lifetime. And I will continue to do so as long as I am in the Senate." Percy thus became the only candidate in history to go before the electorate with a solemn pledge that, if elected, he would change his mind on big public questions. Or as Douglas put it more tartly, he was the first public figure "to raise vacillation to the level of moral principle."

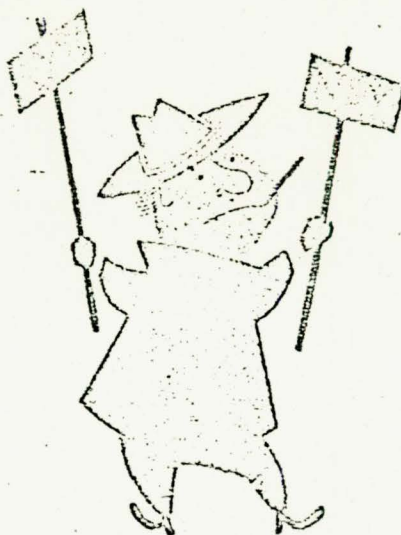
As strategy, it was nifty; but it was also dangerous. For the "balance between human rights and property rights" theory places a limit on legislation that has the effect of immunizing all but the central parts of most cities. The ghetto remains locked, and a legal wall is erected around it, making the situation vulnerable to those militants who say that conventional tactics will not produce significant change.

Double Talk

The Percy campaign literature reflected the double campaign. In Negro areas his store-front headquarters gave out a special pamphlet, later elegantly called "our Negro brochure" by a party spokesman. It showed the candidate surrounded by Negro children, inspecting slums, and talking to Negro residents. It also proclaimed that Percy favored "open occupancy in housing," without mentioning that he had abandoned the principle for all dwellings except those of more than four fami-

lies. Moreover, it conveniently omitted his earlier opposition to freedom-of-residency legislation. In the white areas, the literature never mentioned the issue at all.

Meanwhile Douglas not only stuck to his convictions but seemed to go out of his way to plead with whites for an understanding of the question. "Does he have to talk about



it all the time?" one aide complained. Democratic workers tried to expose the Percy gambit, which Douglas labeled "duplicity," by distributing the "Negro brochure" in white areas and the white one in Negro wards. But despite this effort, it was clear by mid-October that Douglas was beaten.

Percy now moved in for the kill. On the Saturday before election, he suddenly called a press conference and announced that he was filing formal charges of illegal and unethical conduct against Paul Douglas before the Fair Campaign Practices Committee. He claimed that the distribution of his literature by Democratic workers contravened state and Federal law (because, as a spokesman said, it was not "intended for suburban distribution"). More importantly, he charged that Douglas had "deliberately distorted" his position on the issues. Waving a copy of Douglas's speech given before the students at the University of Illinois Circle Campus, Percy asserted that it contained thirteen such distortions.

Calling the press conference at noon meant that Percy's accusations would be spread across the Sunday press before Douglas could reply. Moreover,

no hearing could be held before the Fair Campaign Practices Committee until Monday morning. Thus the voters would hear only the charges and have no chance to weigh the evidence. Since the literature had been on the streets for days and the Senator's speech had been given more than a week before, it was obvious that the charges were simply a last-minute smear. Yet the appeal to the Fair Campaign Practices Committee, with its immense prestige, lent a degree of respectability to the accusations.

By the time Douglas received the formal charges, they had been reduced from thirteen to three. One of these was that the Senator had attempted "to portray Percy as being anti-Catholic." The "documentation" was a Douglas speech which noted that Percy had told a teachers' group that he opposed Federal aid to parochial schools. There was no contention that Douglas had inaccurately stated his opponent's view. Nor was there any evidence that the Senator had even hinted that Percy was anti-Catholic.

The second accusation was that Douglas had attempted "to portray Percy as being against medical aid to the aged." Once again the "evidence" was the same speech, in which Douglas asserted that his opponent had opposed Medicare and had called it "forced insurance" and "unnecessary." Percy's representative did not claim that these quotations were inaccurate or distorted. In fact, he admitted that Percy had endorsed the Kerr-Mills approach during the campaign. The complaint was that Douglas, by noting that Percy opposed Medicare, had accused Percy of opposing *all* medical care to the aged.

The third charge was that Douglas had attempted to "imply" that Percy was appealing to "racial bigots." Once again, the "proof" was a Douglas speech in which the Senator said that Percy, "though not himself a segregationist, was blowing kisses to the segregationists." In fact, Douglas's statement was a courtly description of Percy's open-occupancy strategy. Moreover, at the hearing Douglas's representatives produced a whole series of Republican pamphlets, one bearing the name of a ward leader, another of a candidate,

that contained blatant appeals to the backlash.

These were flimsy premises on which to compromise a lifetime of public service. The charges dealing with the distribution of Percy's pamphlets were not made against Douglas but against the Democratic organization. The only "documentation" produced was copies of the "Negro brochure" that Douglas had already made public and two others that had not been seen before. At the hearing, Percy's representative introduced no legal brief, no list of judicial precedents; he did not even bring a copy of the laws presumably violated. It was enough that Percy's accusations had been spread across the state; the truth would surely be long in catching up.

IN RETROSPECT, the broadest significance of the Illinois senatorial election in 1966 is not so much the defeat of Douglas or the election of Percy but the emergence of race as the central question of national politics. Probably it has been there for some time and was simply obscured by our preoccupation with its dominance in the South and the uniqueness of the 1961 election. Now, for the first time, it has moved onto the center of the stage. The other compelling problems—education, unemployment, poverty, the revitalization of our cities—have already lost some of their political urgency. Worse, they are increasingly measured by the way they affect racial matters.

To be sure, both political parties will persist in professing that this explosive issue is marginal rather than central. And it would be pleasant to believe that the backlash erupted in Illinois because of peculiar circumstances and would again be submerged in less dangerous concerns. More likely, however, we have seen only the beginning of it. Other states in the North and West, even those with small Negro populations, have begun to feel it. The issue, symbolized by open occupancy, is going to hover over Congress for the next session and give its own twist to the next Presidential campaign. We would be wise to use our political resourcefulness not to finesse the problem but to resolve it, for we probably have less time than we think.



Pakistan Feels The Pains of Division

MARVIN H. ZIM

ONE of history's most abnormal births was that of Pakistan. Most countries are self-contained, their borders determined by rivers, oceans, mountain ranges, or perhaps a politician's straightedge ruler. But Pakistan is not one entity but two, and unlike such multiple-part nations as Japan and Indonesia, Pakistan's pieces are not islands linked in an archipelago. They are chunks of the partitioned Indian subcontinent, separated by nearly a thousand miles of hostile Indian territory—the two chunks where Muslims happened to be in a majority before partition in 1947.

That is a tenuous basis for nationhood, and thoughtful Pakistanis always have wondered whether their young country could remain united. Yet, in the face of a larger, more powerful India, Pakistanis have rarely voiced their deep doubts. It remained for events and an opportunistic politician to bring them to the surface.

The inevitable occurred last spring when Sheikh Mujibur Rahman, the president of East Pakistan's Awami League, the province's most power-

ful political party, launched a campaign to take authority away from the central government, which has been in West Pakistan since the League, in a six-point call for complete autonomy except for foreign defense. East Pakistan wanted its own form of parliamentary democracy, its own currency, its own foreign-trade account, and its own militia.

Having drafted the League's proposal, Mujibur set out to tell the East Pakistanis. A giant with ambitions to be East Pakistan's first Prime Minister, Mujibur entered his plea on economics, arguing with a good measure of logic that West Pakistan was treating East Pakistan like a colony, and that its foreign-exchange earnings were being sent to the West. He cried to a packed house at the National Stadium, "do you know of Karachi are paved with gold? You want to take back the gold? Then raise your hand with me." The crowd did so, with the accompaniment of boisterous

BUSINESSMEN FOR THE PUBLIC INTEREST

109 NORTH DEARBORN STREET

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CHICAGO, ILLINOIS 60602

(312) 641.5570

July 13, 1970

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

Re: Gautreaux v. CHA, 66 C 1459

Dear Judge Austin:

It is now one year since the decree was entered on July 1, 1969. It is clear that housing for low-income families is desperately needed in the metropolitan area, and that the objectives of the decree cannot be achieved without a substantial increase in the supply of such housing. It was for this reason that the decree required CHA to "use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of this judgment order and [to] take all steps necessary to that end, including making applications for allocations of federal funds in carrying out all necessary planning and development."

Against this background, let me set out the following facts:

1. Since the entry of the decree CHA has not submitted one site for new low-income family housing to the City Council for approval - and of course, therefore, has not begun the construction of one new dwelling unit for low-income families.
2. Neither plaintiffs nor (I believe) the Court have been informed in any meaningful way as to plans CHA may have for supplying low-income family housing beyond the 1,500 unit reservation presently available from HUD. Obviously, the 1,500 units - even if they were available for occupancy tomorrow - would not begin to meet the need or satisfy CHA's "best efforts" obligation.

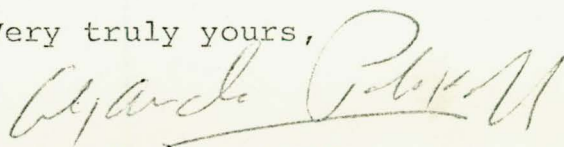
3. Neither we nor the Court have been given any information as to CHA's efforts, if any, to use the "Turnkey" method of supplying housing. (See the full page ad of the New York City Housing Authority printed in the New York Times on June 30, 1970, a copy of which is enclosed.)
4. We have no information concerning CHA's efforts, if any, to have made available to it for low-income housing obsolete commercial and industrial areas of the City which are appropriate for such use. (See the quotations from the Comprehensive Plan of the City of Chicago which are enclosed herewith.)
5. We have no solid information respecting CHA's arrangements, if any, for supplying low-income housing in suburban areas. (At our request we were furnished with some general information from Miss Kula which, for example, refers to a meeting with persons from Winnetka over a year ago and contains no further information as to developments or opportunities in Winnetka, if any.)

Unless the best efforts provision of the decree is to be rendered meaningless, we need specific information concerning what CHA has done and plans to do. Perhaps everything is being done that can be done, but we cannot know this if we do not have the information. If more should be done than is being done, we cannot make intelligent recommendations to the Court without knowledge.

Therefore, pursuant to the "best efforts" provision of the decree, we ask that CHA be directed to cooperate with us in preparing a factual report for the Court. Attached is a form of such an order. We do not necessarily ask, however, that such an order be entered; we believe that an informal request from you to CHA should suffice.

I am sorry I have not been able to prepare and deliver this letter earlier. However, it really does nothing more than reduce to writing the oral request we made at our last meeting in your chambers. Moreover, it should be non-controversial. Accordingly, I hope it will be possible to act upon our request promptly, if not this morning then shortly thereafter.

Very truly yours,



Alexander Polikoff

ALP:eo

Encs.

cc: Miss Kathryn Kula

New York City desperately needs low-rent housing.

You build it. We'll buy it. We all profit.

If you're a bank, corporation, neighborhood association, developer, builder, architect, or just plain citizen, maybe you can help us build the public housing New York City families desperately need.

Under the "turnkey" construction plan, private enterprise acquires the site, designs the housing, and builds it.

Backed by federal money from HUD, we guarantee to buy the development when construction is finished.

The development can be a new, gleaming 1000-unit high rise.

Or a small group of row houses, or even rehabilitated old buildings.

We think New York City is ready for a housing renaissance. We think the public and private sectors working together can help make it happen.

Over 135,000 families in New York City are on the waiting list for low-rent housing. Many are older people or handicapped.

It's your move.

First we'll get that word "turnkey" out of the way. It's an old and honorable construction term, meaning that the purchaser of a building buys it at a point where he has only to turn the key and move in.

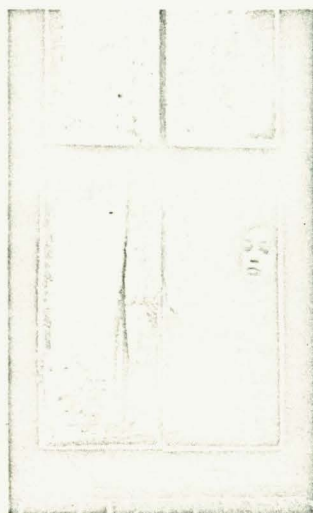
Why "Turnkey"?

Experience has shown that in many cases the private sector can build housing both cheaper and faster than we can. (It's not that we're incompetent. But when we build our own housing, the law requires us to take a lot of extra steps.)

How "Turnkey" Works

The developer (you, maybe) acquires control of a site. Then he gets together with an architect and a builder, and draws up preliminary housing plans. We look at the plans and so do the people from HUD.

When the project is firmed up, and we agree that the housing plan and price are right, we issue a Letter of Intent to Buy. This



is backed by a commitment of federal money. (The Letter comes in very handy when arranging financing.)

What About Red Tape?

We are committed to increasing the supply of housing for low-income people in New York. We also are committed to cutting through red tape to get the job done. True, certain procedures have to be followed. But it's our job to make them as painless as possible. And we'll do it. If we don't, we'll expect you to squawk.

Who's Eligible?

Anybody, or any corporation, or any community organization that has the ability to assemble a site and plans, and present them

in a proposal for evaluation.

In fact, one of the advantages cited for "turnkey" construction is: "the extreme flexibility in design, construction techniques, and types of entrepreneurs taking part."

Construction for Progress, a joint venture of the Celanese and American-Standard corporations, has already built one project and is building four more. The New York Bank for Savings and The Bowery Savings Bank formed a development corporation that has completed two projects and is working with community groups on several more.

We believe there's a wealth of managerial talent—corporate and individual—which can help us do our part in rebuilding our community. And you can make a profit doing it.

How to Proceed

If you're interested in "turnkey" housing, we'll be glad to talk with you, whether you manufacture rocking chairs or run a community corporation.

If you're unfamiliar with this type of housing, we'll send you a brochure which gives you details.

Or you can call or write directly to Joseph J. Christian, General Manager, New York City Housing Authority, 250 Broadway, New York, N.Y. 10007. Telephone 433-6052.

Over 135,000 low-income families in New York are waiting. So don't put it off.

Samuel Golub
Samuel Golub, Chairman

Isa S. Robbins
Vice Chairman

Aramis Gomez
Member

New York City Housing Authority

Pass it on: Maybe you're not the right man in your business, corporation, or community to consider the decision whether to investigate the opportunities in "turnkey" housing. If not, how about tearing out this page and passing it on to the man who is? Thank you.

Excerpts from Comprehensive Plan of the
City of Chicago

"A major residential land development policy is to provide sufficient new land to accommodate the increased demand for single-family housing in environments which offer the advantages of being part of an important and exciting city. This will be accomplished by zoning sufficient land for residential development and by redeveloping land now occupied by non-conforming or obsolete industrial uses or used for deteriorated strip business activities. Zoning policies will also encourage more diversity of housing types in many communities." (Comprehensive Plan, p.6, emphasis supplied.)

"The 'planned development' provision of the Zoning Ordinance would be used to encourage experimentation in developing new kinds of attractive and economic urban housing, such as town houses grouped in clusters around quadrangles." (Comprehensive Plan, p.12.)

"... the City must offer a wide range of housing, in different kinds of neighborhoods and at different densities. It must insure that there is the broadest possible choice of housing cost and type to meet the needs of people of differing incomes and requirements, including low-income families and the elderly." (Comprehensive Plan, p.6.)

DOROTHY GAUTREAUX et al.,)
)
Plaintiffs,)
)
v.) No. 66 C 1459
)
THE CHICAGO HOUSING AUTHORITY,)
et al.,)
)
Defendants.)

1. Identification of sites for Dwelling Units which do not require zoning changes.
2. Identification of sites for Dwelling Units which require zoning changes, and action taken to secure such changes.
3. Employment of the "turnkey" method of production of Dwelling Units.
4. Agreements with other official bodies, including other housing authorities, to increase the supply of Dwelling Units.
5. Proposals, requests, etc., submitted by CHA to the Department of Housing and Urban Development for additional "reservations" for Dwelling Units, or relating to other action designed to increase the supply of Dwelling Units.

B. Future Plans

A detailed statement, including information in the categories listed under "A" above, of the number of Dwelling Units to be built, and the anticipated locations thereof, over the 12, 24 and 36 month periods following the date of the Report, including a statement as to how such production and location of Dwelling Units is to be achieved.

To the extent the future plans referred to under "B" above have not been prepared, CHA is hereby directed, pursuant to said Subsection A of Article VIII, to promptly prepare the same.

CHA is hereby further directed to confer with counsel for the plaintiffs during the preparation of such Report and to make full disclosure to them of all matters necessary or appropriate to the preparation of the same to the end that such Report shall be as comprehensive and detailed as possible and shall constitute a statement respecting the matters to be covered thereby which has been agreed to by the parties. Any issues of privilege or confidentiality shall be promptly submitted to the Court for resolution to the extent the parties are unable to settle the same among themselves.

ENTER:

United States Judge

July __, 1970

June 2, 1970

THE CHICAGO HOUSING AUTHORITY

Chronology of Site Selection Procedures

- 1/21/69 CHA requested from HUD program reservation of 10,000 units - 5,000 elderly, 5,000 family.
- 3/6/69 CHA wrote HUD requesting immediate approval of application for 10,000 units.
- 4/1/69 CHA Chairman and Executive Director met with Winnetka Human Relations Committee and other interested citizens regarding site of public housing in suburban areas surrounding Chicago.
- 4/7/69 CHA Chairman and Executive Director met with the Executive head of the City of Evanston (Robert C. Wheeler, Community Development Group Manager) regarding public housing site in Evanston.
- 4/16/69 CHA Executive Director and Director of Engineering met with Executive Director of Northeastern Illinois Planning Commission (NIPC) regarding available information on sites for public housing in suburban areas. CHA was advised that NIPC's application to HUD for funding a six-county land survey was in process.

- 6/30/69 Memorandum for the United States filed with the court makes following statement on p. 17: "We can promptly make funds available for a survey to locate available and suitable sites. . ."
- 7/1/69 Order entered in Gautreaux case.
- 7/2/69 Telegram to Secretary Romney - CHA requested \$50,000 to make site survey and approval of previously requested unit allocation.
- 7/14/69) Two meetings with HUD, Cook County Housing Authority,
7/18/69) State of Illinois, Real Estate Research - R.E.R.
retained by HUD to develop criteria for a site survey covering Cook County (including Chicago) and portions of Lake, Kane, McHenry, DuPage and Will Counties.
- 7/29/69 Letter from Secretary Romney responding to CHA's telegram of 7/2/69 - No decision re request for unit allocation or funds for site survey.
- 10/8/69 CHA received approval from HUD of program reservation: 1,500 family units and 1,500 elderly units.
- 10/69 CHA started search for sites in General Public Housing areas (See memo attached which details extensive work involved.)
- 12/69 CHA requested a loan of \$50,000 of State Grant Funds from State Housing Board to cover costs of site selection and preparation of development programs for federal unit

allocation. State Housing Board approval received.

- 12/17/69 Another meeting with HUD on criteria for survey.
- 12/17/69 CHA made first submission of family sites to HUD. (See line 1 of attached chart.)
- 12/29/69 CHA made second submission of family sites to HUD (See line 2 of attached chart); also submitted elderly sites.
- 12/69 Chairman of CHA together with some of the directors of Number Two Chicago Dwellings Association met with representatives of La Grange, Hinsdale, Burr Ridge, Western Springs, Pleasant Dale, and local school districts at a meeting in the West Suburban YMCA in La Grange to open discussions regarding development plans for the Bridewell prison farm property and the provision of some low-rent public housing at that location.
- 1/20/70 CHA received final copy of criteria for survey prepared by Real Estate Research.
- 2/4/70 Further discussions with HUD on site survey - how to proceed now that criteria were complete
- 2/11/70 Meeting on site survey cancelled by HUD and not rescheduled.
- 2/19/70 HUD approval of elderly sites received.

- 3/3/70 CHA received HUD response re family sites - those approved, not approved and reasons, with recommendations for additional sites. (See line 3 of attached chart.)
- 3/70 CHA inspected and analyzed sites suggested by HUD and continued search for additional sites.
- 4/23/70 CHA board approved 7 sites for the elderly (high rise buildings - 1,595 units)
- 4/70 HUD finalized plans for funding Housing Analysis to be undertaken by NIPC - low and middle income housing in 6 counties in Metropolitan area. [Apparently this is in lieu of funding Cook County Housing Authority or CHA for site survey outside of Chicago.]
- 4/27/70 CHA decided to communicate with other Housing Authorities to enlist their cooperation in the placement of public housing units in the suburbs; communicated with the Office of Housing and Buildings for necessary information.
- 4/29/70 CHA ordinance for approval of elderly sites introduced into City Council and referred to Committee on Planning and Housing.
- 5/1/70 CHA submitted additional family sites to HUD. (See line 4 of attached chart.)
- 5/70 HUD gives NIPC "go ahead" to start housing survey in Metropolitan area. NIPC recommendations for target

areas due 2/28/71, to provide basis "for more detailed and longer range housing site proposals to be made in 1971 and thereafter."

- 5/22/70 CHA sent letters to 7 suburban housing authorities requesting meeting to discuss available sites for public housing.
- 5/26/70 CHA wrote the Department of Local Affairs (Successor to the State Housing Board) and the Illinois Housing Development Authority enlisting their cooperation in finding suitable sites in areas outside Chicago not represented by local housing authorities.
- 6/1/70 CHA received HUD response re family sites submitted on 5/1/70 - those approved and not approved. (See line 3 of attached chart.)

Attachments: (1) Chart indicating site submissions.
(2) Memorandum detailing site selection procedures.

EXHIBIT 3

COMMENTS BY CHARLES R. SWIBEL, CHAIRMAN
The CHICAGO HOUSING AUTHORITY
June 26, 1970

The objective of the order entered by this Court on last July 1st is clear, and one with which the Chicago Housing Authority is in complete accord.

If that objective is to be achieved, however, I believe it is imperative that the TIMING factor be carefully considered in the implementation of the order. Disregard of that factor could result not only in a nullification of that objective but in

- (1) complete stoppage of the urgently-needed public housing program;
- (2) racial tension in the city to the point of strife;
- (3) acceleration of an already alarming flight to the suburbs by middle-class white families;
- (4) vigorous protests from the Black community for failure to make housing available to them outside the city.

The Authority's efforts to locate feasible sites have already been documented by our General Counsel and our "good faith" efforts to date have been conceded by the Counsel for the plaintiffs.

The Court has also been made aware that it is the Authority's recommendation that the public announcement of new public housing locations should cover the total package of sites -- both city and suburban. I would appreciate consideration of my reasons for this request.

First, however, the Board of Commissioners of the Authority has authorized me to tender this Court an unequivocal commitment that as soon as sufficient feasible sites have been located outside the city for the one-third of the dwellings scheduled for the general public housing area, as provided for in the order, the city sites will be delivered to the City Council for action, and the suburban sites will be submitted to the respective governing bodies for their approval.

This course of action is dictated by what the Board believes are valid reasons.

The Board is convinced that it is in the best interests of the community and the public housing program to handle this entire issue as a METROPOLITAN AREA problem which should be solved on a metropolitan area basis.

If the new allocation of public housing --- coupled with its racially mixed tenancy -- is placed entirely within the city, it is almost inevitable that there will follow a decampment to the suburbs by the families whose properties are adjacent to the newly-announced sites.

In our search for city sites, extreme care was taken to make certain that SOME public housing would be built in every ward in the general public housing area. The Authority was counting on assistance from HUD and its funding of site surveys to identify feasible locations outside the city limits. To submit a partial list of sites at this time would almost inevitably lead to the Authority's being responsible for wholesale block-busting. A combined list of city and suburban sites will make it obvious that flight is futile -- that there will be no

place to which people can run to escape either public housing or integration. To make a meaningful impact, the program must be submitted as a total package.

CHA, while looking for city sites, had been relying on HUD's promises to fund a suburban site survey. The "Chronology of Site Selection Procedures" submitted to you by Miss Kula on June 2nd details the intolerable delays occasioned by HUD on that score. It wasn't until last month that we learned HUD was funding the Northeastern Illinois Planning Commission to undertake the job. It wasn't until a few weeks ago that we learned the NIPC time table for identifying specific sites was 1971 and thereafter.

In these circumstances, the CHA Board has decided to fund an immediate search for feasible locations in surrounding communities. In the interest of saving time, this identification process will take place even before we have formalized agreements with other local housing authorities or other local governing bodies.

The Authority has already met with community people in Winnetka, Evanston, and areas surrounding the Bridewell Farm property; with the Northeastern Illinois Planning Commission; and with the Cook County Housing Authority, the Illinois Housing Development Authority, the Department of Local Government Affairs of the State of Illinois, and the Elgin Housing Authority, for the purpose of discussing this subject. A meeting with the DuPage County Housing Authority is scheduled for July 16th.

If the Court wishes, I shall be glad to have reports of our progress in these negotiations submitted on any time-basis deemed desirable: bi-monthly, monthly or quarterly.

I would like to add that I have discussed these problems with numerous members of both the white and black community, and I can corroborate that the consensus indicates deep concern for these problems.

This stated policy of the Board to place public housing simultaneously in the city and suburbs is concurred in and endorsed by the Integration Committee consisting of Theophilus M. Mann, Judge George N. Leighton, Bishop Louis H. Ford, Very Rev. Comerford J. O'Malley and Carlos C. Ruiz.

The announcement of a positive program, encompassing both the city and suburbs, will make it clear that public housing and integration must be accepted in all communities throughout the metropolitan area. The Board is of the opinion that by so doing, the CHA will have made the intent of the order demonstrable fact.

6/25/70

THE CHICAGO HOUSING AUTHORITY

RESOLUTION NO. 70-CHA-105

- WHEREAS, the Commissioners of the Chicago Housing Authority having considered the many and complex sociological and economic factors involved in the siting of low-rent public housing have concluded as a matter of policy that the interests of the community and the public housing program will best be served by developing sites simultaneously in the city and suburban areas; that the difficulties involved in housing the underprivileged are the problems of the Metropolitan Area and must be solved on a metropolitan area basis; and
- WHEREAS, the Integration Committee, consisting of Judge George N. Leighton, Carlos Ruiz, Executive Director of the Puerto Rican Congress of Chicago, the Rev. Comerford J. O'Malley, Chancellor of De Paul University, Bishop Louis H. Ford, St. Paul Church of God in Christ, and Theophilus M. Mann, Attorney and Vice-Chairman of the Chicago Housing Authority, voted to concur, endorse and approve the position of the Commissioners of the Chicago Housing Authority that public housing sites for families of low income be placed simultaneously in the City and the suburbs; and
- WHEREAS, Judge Austin's order of July 1, 1969 provided that of the aggregate number of dwelling units to be constructed and/or leased by Chicago Housing Authority, one-third of the units may at the option of the Authority, be planned for and located in the General Public Housing Area of Cook County, outside the city limits; and
- WHEREAS, staff has diligently pursued its search for suitable sites in the General Public Housing Area within the City of Chicago while at the same time has been conferring with HUD, the Cook County Housing Authority and the Illinois Housing Development Authority with the objective of securing the funding of a survey for sites in the Metropolitan area; and
- WHEREAS, the Commissioners have only recently learned that HUD has decided to fund the Northeastern Illinois Planning Commission (NIPC) to make this survey, apparently in lieu of funding the Chicago Housing Authority or the Cook County Housing Authority; and

WHEREAS, upon being informed that the said survey by the Northeastern Illinois Planning Commission will not be completed until late in 1971, the Commissioners have instructed staff to undertake CHA's own search for suitable sites in the metropolitan area outside the city and to undertake any and all negotiations with local communities and housing authorities as required by law; and

WHEREAS, to date CHA representatives have met with community people in Winnetka, Evanston, and areas surrounding the Bridewell Farm property and with the Northeastern Illinois Planning Commission, the Cook County Housing Authority, the Illinois Housing Development Authority, the Department of Local Government Affairs of the State of Illinois and the Elgin Housing Authority;

THEREFORE, BE IT RESOLVED BY THE CHICAGO HOUSING AUTHORITY

THAT it is hereby declared to be the policy of this Board that the current federal allocation of low-rent family public housing units be utilized for the simultaneous location of such units in suburban communities of the Chicago metropolitan areas as well as in the City proper, all in accordance with the limitations provided in Judge Austin's order of July 1, 1969;

THAT the Commissioners do hereby authorize the expenditure of preliminary planning funds to continue the search for suburban sites and staff is instructed to proceed not only with negotiations with other housing authorities but with the identification of specific sites in the metropolitan area beyond Chicago's City limits.

EXHIBIT 2

June 22, 1970

Judge Richard B. Austin
U. S. District Court
219 South Dearborn Street
Chicago, Illinois

Dear Judge Austin:

This report is being submitted pursuant to your request in our brief conference the morning of June 16th.

1. The status of site selection by CHA and HUD approvals is set forth on the attached chart, a copy of which I left with you on June 2nd.
2. Before proceeding with land acquisition of said sites, the following actions must be taken:
 - (a) Thirty days prior to action by the Commissioners authorizing acquisition, the sites must be submitted to the Chicago Plan Commission. Chapter 24, Section 11-12-4.1, Ill. Rev. Stats. 1969.
 - (b) CHA staff must submit to the Board of Commissioners the sites in question with sufficient information to enable it to determine suitability of the sites for acquisition and development for family public housing. Note: As of this date specific location or identification of sites has not been submitted to the Commissioners, either formally or informally.
 - (c) Upon consideration of the sites proposed by staff the Commissioners must adopt a Resolution authorizing and directing staff

Judge Richard B. Austin
Chicago, Illinois
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to obtain City Council approval and proceed with acquisition of the properties either by negotiated purchase or eminent domain proceedings.

- (d) A site ordinance must be prepared which includes legal descriptions and maps for each of the sites for which City Council approval is being requested.
- (e) The ordinance must then be forwarded to the Clerk of the City Council for introduction to the Council.
- (f) Upon introduction of the ordinance, it will probably be referred to the Committee on Planning and Housing. The Committee usually holds public hearings and then makes its recommendations to the full Council.
- (g) The City Council must adopt an ordinance approving the sites for acquisition by CHA.

The specific question posed to CHA at this time, as I understand it, is how long does CHA estimate it will take to complete items (a) through (e) above. The Executive Director advises that his estimate is from sixty to ninety days after the action in step (a) is taken.

Very truly yours,

Kathryn M. Kula
General Counsel

KMK:hn

Attachment

cc: Mr. Alexander Polikoff
CO Files
Legal

CHICAGO HOUSING AUTHORITY

TO Kathryn M. Kula
General Counsel

INTER-OFFICE MEMO

FROM

DATE 5/25/70

SUBJECT:

Site Selection Procedures

Responding to your request for information relating to the procedures utilized by this Department in connection with selection of sites for family units in the General Public Housing area, the following outlines the activities of my staff to identify suitable sites and prepare necessary data for submission to HUD:

1. Examined 21 volumes of Sanborn maps covering those areas of the City located in the General Public Housing area. Sanborn maps, showing location of existing structures, is a prime source for identifying vacant land in the City of Chicago. These maps contain the most current information available to our knowledge.
2. Compiled a list of all apparently vacant properties having a frontage of 50 feet or more.
3. Went into the field and personally viewed each listed property, which involved locating by street address approximately 1,500 scattered pieces of property. Sites were eliminated from the original list if no longer vacant, were being utilized for side yards or parking lots, or because the prevailing usage of adjacent property was not compatible with family type housing.
4. The remaining sites were then analyzed for zoning compliance and whether zoning changes, if required, were feasible.
5. Calculations then were made to estimate number of units per location both from point of view of zoning limitations and good planning. Example: a parcel 50'x 142' located in an R5 district would permit a 17 unit structure. However, good planning would permit only 6 units.
6. All census tracts in which properties were located were analyzed to determine compliance with the 15% limitation on public housing in a given census tract.

CHA submittals to HUD	Submittal Date	No. of Sites	No. of Units (CHA Estimate)	No. Sites Approved by HUD	No. of Units (CHA Estimate)	No. Sites Requiring Zoning Change	No. Sites with Correct Zoning	No. Units Requiring Zoning Change	No. Units with Correct Zoning
1	12/17/69	169	1,197	105	867	72	33	548	319
2	12/29/69	123	615	81	348	20	61	98	250
LD sub- mittal to HUD	3/3/70	54	Not estimated	26*	156	10	16	98	58
3	5/1/70	61	235	51	209	5	46	37	172
		<u>407</u>		<u>263</u>	<u>1,580</u>	<u>107</u>	<u>156</u>	<u>781</u>	<u>799</u>

On HUD List. 26 of 54 sites
were only ones approvable or
eligible.

Memo - Kathryn M. Kula
General Counsel
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7. Estimates were made of total land costs, per parcel, and resulting estimates of land costs on a per dwelling unit basis (Reference - Olcott's Land Values).
8. As sites are located and identified by street addresses, legal descriptions for each site have to be prepared.
9. No site was eliminated because of land costs.
10. Tract book records currently are being studied to determine ownership of the sites involved.



G. W. Lebsock
Director of Engineering

GWL:hn

CHICAGO HOUSING AUTHORITY

TO: K. Kula
General Counsel

INTER-OFFICE MEMO

FROM: _____ DATE 1/16/70SUBJECT: Report of Site Selection Activities

On October 8, 1969, we received in the Engineering Department a copy of the HUD Program Reservation authorizing CHA to initiate action to develop 1,500 family housing units.

Members of this staff were instructed to scour all volumes of Sanborn maps for the entire area of Chicago which was located in the General Public Housing Area. The Uptown Urban Renewal Area was not included since DUR will provide site locations and criteria for that community.

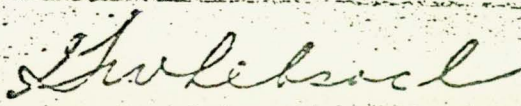
From the Sanborns, staff prepared a list of all vacant properties having a frontage of 50 feet or more. Staff then visited each listed property and deleted all those that were not available for development by virtue of the fact that they had been developed subsequent to the latest Sanborn sheet, were parking lots, gas station property, etc. No potential site was deleted because of location or estimated cost.

Staff then prepared a final listing of possible sites, made a preliminary estimate of acquisition cost and calculated the number of units that could be developed under present or proposed zoning.

As of this date, we feel we have a listing of all vacant land (50 foot frontage or more) in the General Public Housing Area that is suitable for housing development. This has been transmitted to the Department of Development and Planning to ascertain compliance with the Comprehensive Plan of Chicago and to identify sites, if any, that are being considered for development by other agencies, i.e., Board of Education, Park District, etc. The list has also been given to HAA for preliminary site review relative to per unit acquisition costs. As soon as we receive responses from these two organizations, a final list will be prepared for submission to the CHA Board of Commissioners, Federal Court and City Council.

The listing as it now stands will accommodate some 2,017 units. We have not yet determined how many will be stricken due to non-compliance with Judge Austin's order relative to proximity to each other and/or resulting in an excess of 15% of available units in a Census Tract.

This briefly outlines our activities to date. If you need specific information, it can be provided.


G. W. Lebsock
Director of Engineering

July 9, 1970

Mr. C. E. Humphrey
Executive Director
Chicago Housing Authority
55 West Cornhill Road
Chicago, Illinois 60616

Dear Mr. Humphrey:

In communications of March 13 and May 28 to you by Mr. Arnolds of the Regional Office we asked to be apprised of the timetable for development of the 1500 family housing units, including the proposed dates for submission of the sites to the city council.

As yet we have not been advised of such a timetable. Informally we have been led to understand that the sites may not be submitted to the city council until late in 1971.

We would consider such a delay to be quite a serious matter; our ability to continue to hold the reservations and the City's capacity to meet its promises as to relocation resources are clearly involved.

On several occasions in late 1969 and early 1970 various representatives of the Housing Authority and the city informed our office that the 1500 units would be developed immediately.

By letters of March 3 and 13, 1970, HUD gave the Housing Authority tentative approval to use most of the sites that the Authority had submitted for early review. The Authority submitted a list of additional sites on May 1 which were reviewed by HUD, with the tentative approvals given by HUD May 28.

After the March approvals and now since the May approvals, we have waited expectantly for the Authority to have the sites approved by the City Council and formally submitted to HUD. We also have been awaiting a response to our request for a timetable for the development of the units.

The sites have not been submitted to the council and we have not received any timetable from the Authority. Thus, we again request from you a schedule for the submission of the sites to the City Council for development of the units.

I would appreciate an early response. In view of the effect of the delay on the Chicago relocation picture, I am sending a copy of this letter to Commissioner Hill.

Sincerely,

Francis D. Fisher
Regional Administrator

cc:
Commissioner Hill
Charles R. Swibel
Theophilus H. Mann
John J. Masse
Letitia Nevill
Richard C. Wade