
In the
United States Court of Appeals
For the Seventh Circuit

Nos. 71-1732, 71-1733, 71-1734, 71-1807

DOROTHY GAUTREAUX, et al., <i>Plaintiffs-Appellees,</i> <i>vs.</i> GEORGE W. ROMNEY, Secretary of the Department of Housing and Urban Development, <i>Defendant-Appellant,</i> and CITY OF CHICAGO, a municipal corpora- tion, CENTRAL ADVISORY COUNCIL, an Illinois corporation, and CHICAGO HOUSING AUTHORITY, a municipal cor- poration, <i>Intervenor-Defendants-Appellants.</i>	Appeal from the United States District Court for the Northern District of Illinois. — Honorable Richard B. Austin, District Judge.
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APPENDIX.
(Volume I—Pages 1 to 335.)

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APPENDIX
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DATE	FILINGS—PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
9-9-66	Filed Complaint (JS-5)	15 00
9-9-66	Filed Designation	
8-9-66	Filed Three (3) Affidavits under Rule 39	
9-9-66	Issued summons and 4 copies with 4 copies of complaint P	
8-10-66	Filed Affidavit under Rule 39 by Plaintiff P	
9-16-66	Filed Affidavit under Rule 39 by Plaintiff P	
8-18-66	Filed summons returned served \$6.00 P	
10-6-66	Filed Notice of Motion	
10-6-66	Filed Motion of Defendant	
10-6-66	Time of defendant to answer or plead to complaint extended to November 15, 1966-Austin, J.	
	Mailed notices 10-7-66 P	
11-9-66	Filed Stipulation	
11-9-66	Filed Amendment to Complaint	
11-9-66	Enter Order to Amend Complaint and serve summons on New Defendant. AUSTIN, J.	
	Mld Notices 11-10-66 EOB	
11-10-66	Issued summons and 4 copies with 4 copies of Amended Complaint. EOB	
11-17-66	Filed summons returned served \$3.00 P	
11-28-66	Filed Marshal's Return showing service of summons on Robert Weaver \$3.00 P	
12-1-66	Filed Stipulation	
12-1-66	Enter order on motion of defendant for extension of time, pursuant to stipulation within which defendant may answer or plead or or move to the complaint as amended to December 20, 1966-Austin, J.	
	Mailed notices 12-2-66 P	
12-20-66	Filed Motion of Defendant to Dismiss (to Judge Austin) P	
12-29-66	Enter order on motion of the defendant extension of time pursuant to agreement of the parties within which the defendant may file his memorandum and affidavits in support of his pending motion to dismiss, to and including January 3, 1967-Austin, J.	
	Mailed notices 12-30-66 P	
1-3-67	Filed Memorandum and Affidavits in support of Defendant's Motion to Dismiss (to Judge Austin) P	
1-10-67	Pursuant to General Order dated December 20, 1966 these cases are set for pre-trial conference January 27, 1967 at 9:45 a.m.-Austin, J.	
	Mailed notices 1-11-67 P	

(Continued)

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
1-11-67	Pursuant to agreement of parties, for extension of time in which plaintiffs may file their answer to defendants motion to dismiss, and their memorandum and counter affidavits in support of their answer to February 15, 1967 and defendants to reply thereto within 10 days thereafter. Cause 66 C 1459 and this cause removed from pre-trial conference call and continued to passed case calendar for March 1967-Austin, J. Mailed notices 1-12-67 P		
2-3-67	Filed Notice of Motion		
2-3-67	Filed supplemental memo in support of defendants motion to dismiss		
2-3-67	Enter order on motion of defendant, leave to file supplemental memorandum instanter in support of his motion to dismiss-Austin, J. Mailed notices 2-6-67 P		
2-14-67	Pursuant to agreement of parties extension of time in which plaintiffs may file answer to defendant's motion to dismiss and their memorandum and counter affidavits in support of their answer to March 27, 1967 is granted and cause is removed from passed case calendar for March, 1967 and continued to passed case calendar for April 1967 - Austin, J. Mailed Notices 2-15-67. B		
3-23-67	On motion of plaintiffs extension of time in which plaintiffs may file answer to defendants motion to dismiss and their memorandum and counter affidavits in support of their answer to April 30, 1967 and leave to defendant to reply to same within 20 days thereafter-Austin, J. Mailed notices 3-24-67 P		
4/6/67	Cause continued to May 11, 1967 for trial, Austin, J Mailed Notices 4/7/67		v
4-24-67	Filed Notice		
4-24-67	Filed Defendant's second supplemental memorandum in support of motion to dismiss		
4-24-67	On motion of defendant leave to file instanter his second supplemental memorandum in support of his pending motion to dismiss and cause removed from trial call for May 11, 1967 and continued to May 12, 1967 for progress report-Austin, J. Mailed notices 4-25-67 P		
4-26-67	Enter order on motion of plaintiffs extension of time in which plaintiffs may file answer to defendants motion to dismiss and their memorandum and counter affidavits in support of their answer to May 9, 1967-Austin, J. Mailed notices 4-27-67 P		

DATE	FILINGS--PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
5-2-67	Filed Motion of plaintiffs to consolidate and Memorandum of Authorities in support (to Judge Austin)			
5-9-67	Filed Brief of plaintiffs in opposition to motion of defendant to dismiss (to Judge Austin)P			
-12-67	Cause continued to June 23, 1967 for progress report-Austin, J. Mailed notices 5-15-67 P			
5-26/67	Enter Order motion of defendant for extension of time to file his reply memorandum from May 29, 1967 to June 5, 1967. Austin, J Mailed notice 5/29/67 G			
6-8-67	Enter order on motion of defendant leave to file his reply memorandum and exhibits instanter by agreement with plaintiffs-Austin, J. Mailed notices 6-9-67 P			
-8-67	Filed Defendants reply memorandum and Exhibits P			
6-16-67	Filed Notice			
6-16-67	Filed Motion of Defendant to defer the taking of certain deposition etc.			
6-16-67	Motion of defendant to defer the taking by plaintiffs of the deposition of defendant's employee Marie McGuire until after the ruling by the Court on the pending motion to dismiss argued and advisement and ruling deferred until June 29, 1967-Austin, J. Mailed notices 6-19-67 P			
-19-67	All proceedings herein are stayed and cause is continued generally, etc.-DRAFT-Austin, J. Mailed notices 6-20-67 P			
6-21-67	Filed Motion for leave to submit memorandum, Memorandum in support of (a) Plaintiffs request to take deposition and (b) Plaintiffs request for oral argument and Notice			
6-21-67	Enter order leave to submit Memorandum and Advisement-Austin, J. Mailed notices 6-22-67 P			
0-31-69	Filed Plaintiffs motion for summary judgment and brief in support thereof			
0-31-69	Enter order leave to file motion for summary judgment related motions and supporting brief instanter and for an order granting defendant until January 5, 1970 to respond thereto-Austin, J. Mailed notices 11-3-69 P			

CONTINUED

0A Rev. Civil Docket Continuation

	PROCEEDINGS	Date Order Judgment
4-69	Filed Motion of Amici Curiae for leave to file brief in support of	
	plaintiffs' Motion for Summary Judgment.	
4-69	Leave to Lawyers Committee for Civil Rights, etc., et al Metropolitan	
	Housing & Planning and Urban Law Institute to file Motions for leave	
	to file briefs as amici curiae and hearing on said motions continued	
	to December 9, 1969. AUSTIN, J.	
	Mld Notices 12-5-69	EOB
2-9-69	Filed Brief of Urban Law Institute, etc. et al. amici curiae in	
	support of plaintiffs motion for summary Judgment	
2-9-69	Filed Brief of Metropolitan Housing and Planning Counsel amicus	
	curiae in support of plaintiffs motion for summary judgment	
2-9-69	Filed Brief of Lawyers Committee for Civil Rights, etc. amici curiae	
	in support of plaintiffs motion for summary judgment	
2-69	Motions of Lawyers Committee for Civil Rights et al. for leave to	
	file briefs as amici curiae granted-Austin, J.	
	Mailed notices 12-10-69	P
-8-70	Filed Defendants answer in support of motion to dismiss and in	
	opposition to motion for summary judgment	
-8-70	Enter order on motion of defendant leave to file instanter, without	
	objection by plaintiffs, defendants answer in support of his pending	
	motion to dismiss and in opposition to plaintiffs motion for	
	summary judgment and supporting exhibits-Austin, J.	
	Mailed notices 1-9-70	P
-1-70	Enter order on motion of plaintiffs leave to file reply brief on or	
	before March 2, 1970-Austin, J.	
	Mailed notices 1-15-70	P
-26-70	Filed Notice	
-26-70	Filed Index pertinent to portions of Exhibit "H" to defendants answer	
	to motion for summary judgment	
-26-70	Enter order on motion of defendant for leave to file instanter an	
	index to pertinent portions of Exhibit "H" to defendants answer to	
	motion for summary judgment and additional pages to that exhibit-	
	Austin, J.	
	Mailed notices 1-27-70	P

	PROCEEDINGS	Date of Judgment
2-5-70	Enter order to extend time until March 16, 1970 the time to file plaintiffs reply brief in support of their motion for summary judgment-Austin, J. Mailed notices 2-26-70	P
2-70	Filed Notice	
2-70	Filed Motion of League of Women Voters of Illinois to join as Amicus Curiae	
2-70	Enter order motion of League of Women Voters of Illinois to join amicus curiae brief of Metropolitan Housing and Planning Council granted-DRAFT-Austin, J. Mailed notices 3-9-70	P
3-70	Filed Motion of Leadership Council for Metropolitan Open Communities to join as Amicus Curiae	
3-70	Enter order leave to join Amicus in Brief submitted by Metropolitan Housing & Planning Council-DRAFT-Austin, J. Mailed notices 3-16-70	
3-70	Filed Notice of Motion	
3-70	Filed Motion of Urban Affairs Committee for leave to file brief	
3-70	Enter order leave to file amicus curiae brief on behalf of Urban Affairs Committee Chicago Bar Association and leave to defendant to respond in 10 days-Austin, J. Mailed notices 3-16-70	P
3-70	Filed Plaintiffs Reply Brief in support of Motion for Summary Judgment	
3-70	Filed Brief of Urban Affairs Committee as amicus curiae in support of the constitutional rights asserted by plaintiffs	P
4-15-70	Filed Notice of Motion	
4-15-70	Order motion of defendant Romney for leave to file instant additional Affidavit of Don Morrow in support of defendants motion to dismiss and its reply brief to brief of amicus, Chicago Bar Association entered and continued to April 30, 1970 before Judge Austin-Robson, J. Mailed notices 4-17-70	P
5-0-70	On motion of defendant Romney leave to file instant (1) affidavit of Don Morrow in support of motion to dismiss, etc. (2) reply to brief of Amicus, Chicago Bar Assn. and leave to plaintiffs reply in 5 days. Leave to defendants to procure and present certain transcript in 10 days-Austin, J. Mailed notices 5-1-70	P
5-0-70	Filed Affidavit of Don Morrow in support of defendants motion to Dismiss	
5-0-70	Filed Reply of defendant to amicus Curiae Brief filed by Urban Affairs Committee, Chicago Bar Assn.	

FD-110A Rev. Civil Docket Continuation

	PROCEEDINGS	Date Of Judgment
-5-70	Filed Plaintiffs brief responding to reply of Defendant to Brief	
6-12-70	Filed notice.	
6-12-70	Filed affidavit of Don Morrow in further support of motion to dismiss and/or for summary judgment.	
6-12-70	Enter order on motion defendant leave to file instanter third affidavit of Don Morrow in further support of defendants' pending motion to dismiss or for summary judgment. - Austin, J. Mailed notices 6-15-70	k
-1-70	Filed memorandum.	
-70	Pursuant to the Court's memo filed this day defendant's motion to dismiss is sustained and the complaint is dismissed. - Austin, J. (JS 6) Mailed notices 9-2-70	jk
0-21-70	For the reasons given in the Court's memo dated September 1, 1970 this action is dismissed--DRAFT-Austin, J. Mailed notices 10-22-70	P
0-29-70	Filed Notice of Appeal by Plaintiffs	\$5.00 pd
0 29-70	Delivered copy of Notice of Appeal to U. S. Attorney	P
11-5-70	Filed letter giving list of attorneys of record for Plaintiffs	P
2-5-70	Filed Stipulation	
2-8-70	On stipulation to extend time within which to transmit record on appeal to Court of Appeals to and including January 27, 1971-DRAFT-Austin, J. Mailed notices 12-9-70	P
-6-71	Filed Request for complete Record	P
-27-71	Transmitted Complete Record on Appeal to U.S.C.A. (Items 20 and 52 of Index transmitted unbound for convenience)	\$9.10 pd P
-17-71	Filed motion of plaintiffs pursuant to Rule 62(c) of the Rules of Civil Proceure for the U.S. District Court and Rule 8(a) of the Federal Rules of Appellate Procedure for an order to preserve the status quo pending a hearing.	
9-17-71	Cause continued to September 21, 1971 for hearing on plaintiffs motion filed September 17, 1971. - Austin, J. Mailed notices 9-20-71	k

(over)

DATE	PROCEEDINGS	Date of Judgment
-20-71	Filed memorandum in opposition to plaintiffs motion pursuant to Rule 62(c) FRCP and Rule 8(a) FRAP for an order to preserve the status quo pending hearing.	pendi
9 20-71	Filed Motion of City of Chicago for leave to intervene with respect to plaintiffs motion for an order to preserve the status quo pending hearing.	k
9 20-71	Filed affidavit of Erwin A. France	
9-20-71	Filed objections of City of Chicago to plaintiffs motion to preserve status quo pending hearing.	
9 20-71	Filed memorandum of Chicago Housing Authority in oppositiin to plaintiffs Rule 62(c) motion for injunction.	-
9 20-71	Filed government's objections to plaintiffs motion to preserve status quo pending hearing.	
9-21-71	Filed City of Chicagos notice of filing.	
9 21-71	Filed petition of Central Advisory Council to intervene.	k
9 21-71	Motion of Central Advisory Council for leave to intervene herein as party defendant is granted.-Austin,J.	
	Mailed notices 9-22-71.	ij
- 0-71	Filed objections of Sec. of H.U.D. to plaintiffs' motion pursuant to Rule 62(C) F.R.C.P. and Rule 8(a) FRAP for an order to preserve the status quo pending a hearing.	k
9 21-71	Filed Affidavit re Rule 39 by H. Ernest LaFontant, attorney for Central Advisory Council	
9-21-71	Opening statement heard. Plaintiffs evidence heard in part- Hearing adjourned to September 22, 1971. - Leave to Attorney Kenneth K. Howell to participate in this hearing under certain restrictions.-Austin,J.	
	Mailed notices 9-22-71	ij
9-22-71	Further evidence heard for plaintiffs- plaintiffs rest- Motion defendants for finding taken under advisement- Defendants evidence heard in part- Hearing adjourned to September 23, 1971.-Austin,J.	
	Mailed notices 9-23-71.	ij
9 23-71	Further evidence heard for defendants- Defendant City of Chicago rests.- Motion of defendant City of Chicago to strike taken under advisement.	-
	Further evidence heard for co-defendants- Hearing adjourned to September 24, 1971.-Austin,J.	
	Mailed notices 9-24-71.	ij
9 24-71	Filed Affidavits submitted by CHA in opposition to plaintiffs Rule 62(c) Motion for injunction. Affidavits of Harry J. Schneider, Barbara Bell and Thomas L. Flemming.	ij
9-24-71	Further evidence heard for defendants- Government rests- Further evidence heard for defendants. -Defendant C.H.A. rests- Further evidence heard for defendants - Chicago Advisory Council rests- All parties rest- Arguments heard and concluded- Cause taken under advisement- Decision deferred to October 1, 1971 at 10 a.m. Leave to C.H.A. and City of Chicago to intervene as parties defendant for the purpose of this hearing.-Austin,J.	
	Mailed notices 9-27-71.	ij

(continued)

C. 104 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date of Judgment
-71	Filed Governments memorandum in opposition to plaintiffs motion for consolidation. (Filed in 71 C 2291)	
-71 -1-71	Filed Memorandum opinion of Judge Austin Enter injunction order (DRAFT)-Austin, J. Mailed notices 10-4-71.	ij
0-7-71	Clerk's File Copy of transcript Of proceedings had before Judge Austin on September 21, 22, 23, 24 and October 1, 1971 filed by Official Court Reporter. (5 vols)	k
1-71	Filed plaintiff's exhibirs 1 - 16; HUD exhibits 1; CHA exhibits 1,2,4 - 7; City of Chicago exhibits 1,2,3.	k
0 13-71	Filed notice of appeal by City of Chicago, intervenor.	\$5pd.
0 13-71	Filed notice of appeal by Central Advisory Council, intervenor.	\$5pd.
0-13-71	Filed notice of appeal by Chicago Housing Authority, intervenor.	\$5pd.
0 13-71	Mailed copies of notices of appeals to attorneys of record.	
C 13-71	Filed designation of record on appeal, by City of Chicago.	k

DOCKETED

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

FILED

SEP 17 1971

H. STUART CUNNINGHAM

At..... o'clock.....
CLERK

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

v.

GEORGE W. ROMNEY,

Defendant.)

No. 66 C 1460

MOTION PURSUANT TO RULE 62(c) OF THE RULES OF
CIVIL PROCEDURE FOR THE UNITED STATES DISTRICT
COURT AND RULE 8(a) OF THE FEDERAL RULES OF
APPELLATE PROCEDURE FOR AN ORDER TO PRESERVE
THE STATUS QUO PENDING A HEARING

Now come plaintiffs, by their attorneys, and represent
to the Court as follows:

1. On September 10, 1971, the United States Court of
Appeals for the Seventh Circuit entered an order and filed
an opinion determining that summary judgment should be
entered in this matter against the defendant, Department of
Housing and Urban Development ("HUD"), and remanding the
case to this Court for determination as to what relief should
be granted to the plaintiffs. Copies of such order and
opinion are attached hereto as Exhibits A and B, respectively.

2. The mandate of the Court of Appeals has not yet
issued and in normal course, pursuant to Rule 41 of the Rules

of Appellate Procedure, will not issue for 14 days from the date hereof. Such issuance may be further stayed by the timely filing of a petition for rehearing or by the granting of a motion for a stay of mandate pending application to the Supreme Court of the United States for a writ of certiorari. Accordingly, the appeal in this cause is still pending and this Court has jurisdiction under Rule 62(c) of the Federal Rules of Civil Procedure to grant an injunction during the pendency of the appeal upon such terms as it considers proper for the security of the rights of the parties. Under Rule 8(a) of the Rules of Appellate Procedure parties are directed to move for injunctions pending appeal in the district court.

3. On May 12, 1971, HUD, the City of Chicago (the "City") and the Chicago Housing Authority ("CHA") entered into an agreement, a true and correct copy of which is attached hereto as Exhibit C. Under such agreement (the "Agreement") the City and CHA promised expeditious consideration by the City Council of the City of Chicago of proposed CHA housing units to be provided in accordance with the provisions of the decree of this Court entered in the companion case of Gautreaux v. Chicago Housing Authority, 304 F.Supp. 736. In the Agreement the City and CHA stated that they anticipated that sites suitable for 500 CHA units would be processed by the City to permit CHA acquisition to begin by June 15, 1971, and that

sites for an additional 350 such units (a total of 850) would be so processed by September 15, 1971. The Agreement also states that HUD would approve the second year model cities program of the City, "provided that the City by June 15, 1971, has approved sites for [such] 500 units," and has made reasonable progress toward achieving the other objectives set forth in the Agreement.

4. On June 15, 1971, the City advised HUD of facts showing that sites for only 242 such CHA units, instead of the 500 provided for in the Agreement, had been so processed by June 15, 1971.

5. On June 21, 1971, HUD sent a letter to the City of Chicago, a true and correct copy of which is attached hereto as Exhibit D. In such letter HUD stated that sites for only 242, instead of 500, such units had been approved by the City Council as of June 15. Nonetheless, HUD stated that it would approve the City's second year model cities program and the conditional release of \$26,000,000 therefor. The HUD letter further stated, however, that such model cities funds were being released "on the condition that the City Council will continue to approve public housing sites 'suitable for use by CHA in accord with applicable law' at each regular Council session ... Should this progress not continue the model cities letter of credit will be cancelled."

6. Although such June 21 letter speaks in terms of such

funds "being released" on the aforesaid condition, HUD had not, by the end of the day on September 15, 1971, and, on information and belief, has not to date, released said \$26,000,000.

7. Between June 21, 1971, and September 16, 1971, several regular sessions of the City Council were held but no public housing sites were approved by the City Council at any of such sessions. Accordingly, by the end of the day on September 15, 1971, sites for only 242 CHA units had been approved by the City Council as against sites for 500 such units which were to have been so approved by June 15, 1971, and sites for an additional 350 such units which were to have been approved by September 15, 1971, under the Agreement.

8. On information and belief, notwithstanding such failure by the City Council to approve a substantial part of the sites needed for such 850 units by September 15, 1971, and notwithstanding HUD's letter of June 21 stating that the model cities funds were being released upon a condition which has not been met and that the model cities letter of credit "will be cancelled" if progress did not continue under the Agreement, HUD intends to release said \$26,000,000 imminently.

9. The Agreement and the HUD letter of June 21, 1971, reflect a determination by HUD that the ability to require the

City to comply with its obligations under the decree in the companion case (HUD having represented to the Court in that case by a memorandum filed therein that it would use its best efforts to obtain such compliance) is reasonably related to other programs, including the model cities program, over which HUD exercises control as to the release of funds. Accordingly, such exercise of control by HUD over such release of funds is an aspect of the relief in this case which this Court will have the responsibility to consider upon remand.

10. Under the foregoing circumstances plaintiffs are entitled to a hearing on the question of whether the unconditional release of such \$26,000,000 is appropriate, or whether such release might substantially prejudice this Court's ability to enforce provisions of its decree in the companion case. To deny a hearing on such issue would be to deny to this Court an opportunity to consider whether appropriate relief in this case, under such circumstances, should include instructions to HUD with respect to the timing and conditions for release of said \$26,000,000.

11. On information and belief, nearly \$8,000,000 of model cities funds, exclusive of the \$26,000,000 here in question, are presently available to and unused by the City. Accordingly, no prejudice would result from a delay in release of such \$26,000,000 incident to a hearing on this motion.

12. Under the foregoing circumstances an order should be entered by this Court to preserve the status quo with respect to the release of such \$26,000,000 pending a hearing with respect to such matter. Had the mandate of the Court of Appeals already issued, a hearing as to such matter would clearly be appropriate; the fortuitous circumstance that the possible imminent release of the \$26,000,000 may occur prior to the issuance of the mandate should not be allowed to present this Court with a fait accompli and preclude it from a consideration of such matter.

Wherefor, plaintiffs pray for an order to be entered by this Court to preserve the status quo with respect to the release of such \$26,000,000 pending a hearing, at a time to be set by this Court, on the question of whether, and on what conditions, such status quo should be preserved pending the continuation of the appeal of this cause.

Respectfully submitted,

Alexander Polikoff
Milton I. Shadur
Charles R. Markels
Merrill A. Freed
Bernard Weisberg
Cecil C. Butler

Alexander Polikoff
109 N. Dearborn St.
Chicago, Illinois 60602
641-5570

By: 
Alexander Polikoff
One of the Attorneys for Plaintiffs.

Dated: September 17, 1971

DOCKETED

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

FILED

OCT 1 - 1971

H. STUART CUNNINGHAM
At o'clock
CLERK

DOROTHY GAUTREUX, et al.,)
)
Plaintiffs,)
)
vs.) NO. 66 C 1460
)
GEORGE W. ROMNEY,)
)
Defendant.)

MEMORANDUM OPINION

It is particularly appropriate and fortuitous that this opinion is being handed down today, during the period that the Mayor has proclaimed as Model Cities Week. It is appropriate because it pinpoints who will be responsible for either the continuance or the discontinuance of the Model Cities Program in the City of Chicago.

In order to put in proper focus and perspective the problem confronting the court, the petition for an injunction, the hearing of last week, and the order to be entered today, the court feels it necessary to outline the historical background of this matter.

In 1966 the plaintiffs filed two different suits, one against Chicago Housing Authority and the other against the Secretary of Housing and Urban Development. Preparation for trial, by means of discovery, commenced first in the

suit against Chicago Housing Authority. Documents from the files of Chicago Housing Authority and sworn testimony from the lips of present and former Chicago Housing Authority supervisory personnel revealed overwhelming and irrefutable evidence of twenty years of deliberate housing segregation on the part of Chicago Housing Authority. That was found to be the fact by this court in its decree of July, 1969, twenty-six months ago. After frantically consulting all the legal talent available to it, Chicago Housing Authority apparently determined that an appeal of this decree would be hopeless and abandoned it. The net effect of this was to permit the decree to stand unchallenged and thus become the law of the Northern District of Illinois.

At this point the court wishes to interpolate a new facet. Twenty-one days ago, it was judicially determined by the 7th Circuit Court of Appeals that the Department of Housing and Urban Development was equally guilty and responsible with Chicago Housing Authority for deliberately perpetuating segregated housing. Relevant excerpts from that opinion follow:

"HUD's approval and funding of segregated CHA housing sites cannot be excused as an attempted accomodation of an admittedly urgent need for housing with the reality of community and City Council resistance.

"The fact that a governmental agency might have made 'numerous and consistent efforts' toward desegregation has not yet been held to negate liability for an otherwise segregated result.

.

"It also is not seriously disputed on appeal that the Secretary exercised the above described powers in a manner which perpetuated a racially discriminatory housing system in Chicago, and that the Secretary and other HUD officials were aware of that fact.

.

"On such facts, and given the inapplicability of HUD's 'good faith' arguments, we are unable to avoid the conclusion that the Secretary's past actions constituted racially discriminatory conduct in their own right.

.

"We hold that HUD, through its Secretary, violated the Due Process Clause of the Fifth Amendment . . . and also has violated Section 601 of the Civil Rights Act of 1964 . . ."

Getting back to the July, 1969 decree, the next problem was the manner in which the illegal conduct that the court found could be remedied and ameliorated. Chicago Housing Authority was ordered to use its "best efforts" to supply and submit as rapidly as possible to the City Council for approval sites for seventeen hundred and forty-six units of public housing. The first seven hundred of these were to be in the general or white areas, and of the balance of one thousand and forty-six, seven hundred and fifty were also to be in the general or white areas of the City. The court

and the plaintiffs waited patiently to determine what the "best efforts" of Chicago Housing Authority would produce. Ten months later these "best efforts" had not resulted in any sites being presented to the City Council for approval.

Conferences were held from time to time between attorneys for the plaintiffs and Chicago Housing Authority and its counsel, and at one of these in the spring of 1970, the Chairman of Chicago Housing Authority advised the plaintiffs that they would submit no sites to the City Council until after the municipal elections, one year later in the spring of 1971. The court was informed of this statement and also that the "best efforts" of Chicago Housing Authority had resulted in no submissions to the City Council. It thus became apparent that the court could no longer rely on the "best efforts" of Chicago Housing Authority and a new decree was signed on July 1, 1971, which established a timetable as to when these sites were to be submitted. This decree Chicago Housing Authority decided to appeal, hoping that the appellate procedure would delay the performance of the timetable until after the municipal elections in the spring of 1971.

They went screaming and protesting, as they had a legal right to do, first to the Court of Appeals, and that Court sustained the July, 1970 decree. Next, they went to

the United States Supreme Court seeking to reverse the Court of Appeals, and the highest Court in the land denied them the relief sought. One final effort was made to the United States Supreme Court for a rehearing, seeking to have that Court reverse itself, which was denied. Having run the gamut, they returned to the District Court where prompt disclosure and submission was ordered. Only then did Chicago Housing Authority, with a gun to its head, comply, twenty months after the first decree and eight months after the second decree. Sites for seventeen hundred odd units were finally disgorged and submitted to the City Council for its approval.

After the municipal elections, the City sought from the Secretary of the Department of Housing and Urban Development 26 million dollars to finance its Model Cities Program for the period from June 15 to December 31, 1971. It is obvious from the evidence that the Regional Administrator for the Department of Housing and Urban Development was concerned with the City's failure to perform many of its past commitments, including prompt submission to the City Council of the sites heretofore supplied by Chicago Housing Authority. He apparently required the City to supply him with a Letter of Intent as to what its future conduct would be before

authorizing and granting the 26 million dollar request. Such a Letter of Intent was drafted and redrafted and resulted in the Letter of Intent of May 12, 1971, setting forth the undertakings of the City. One of the witnesses in the case, Lewis Hill, the City's Commissioner of Development and Planning, testified that he participated in the drafting and redrafting of this Letter of Intent. Below are pertinent excerpts from the Letter of Intent:

"The following is an outline of the proposed action program and a timetable for its accomplishment.

"PART I. UNDERTAKINGS BY THE CITY AND THE CHA

"The following actions are to be implemented within the times hereinafter set forth.

.

"It is anticipated, however, that sites suitable for use by Chicago Housing Authority in accord with applicable law will be identified and processed by the City to permit acquisition by CHA to commence in accordance with the following schedule:

"Sites for 500 units by June 15, 1971;
Sites for 350 units by September 15, 1971;
Sites for 850 units by December 15, 1971."

This Letter of Intent was signed by the Mayor of the City of Chicago, the Chairman of Chicago Housing Authority and was dispatched to the Regional Administrator of the Department of Housing and Urban Development, who subsequently approved it.

It is obvious from the evidence in this case that the drafters and the signers of the Letter of Intent knew, or should have known, the improbability of compliance with the undertakings outlined above. It is becoming increasingly clear that there was no intention by each of the above parties to comply with their undertakings. The court finds that the sole purpose of the letter was to induce the Department of Housing and Urban Development to grant the 26 million dollars for funding the Model Cities Program.

By the first deadline, June 15, 1971, only two hundred forty-two units had been approved in the general or white areas. From June 15 to the next date deadline, only forty-six units were approved in the general or white areas, leaving a deficit of more than five hundred twenty-five units for approval.

On June 21, 1971, the Regional Administrator of the Department of Housing and Urban Development addressed a letter to the Mayor containing the following pertinent excerpts:

"As soon as the City has completed approval of sites 'suitable for use by the Chicago Housing Authority in accord with applicable law' for the 500 units of low-income family housing and has made major progress in the Leasing and Rent Certificate Program, HUD will issue a Letter of Consent for selected activities under the Second Year Neighborhood Development Program (the total Second Year NDP being \$20,000,000).

"The Model Cities funds are being released on the condition that the City Council will continue to

approve public housing sites 'suitable for use by Chicago Housing Authority in accord with applicable law' at each regular Council session and that the other City Agencies and Chicago Housing Authority will continue to show progress toward meeting the housing goals set forth in the Letter of Intention. Should this progress not continue the Model Cities Letter of Credit will be cancelled."

It is apparent that the planned release of the Model Cities funds was conditional. It is also perfectly clear that the conditions set forth have not been met, and it is becoming obvious that they never will be.

The court agrees that failure to continue the Model Cities Program for the next three months would have a devastating effect on tens of thousands of the citizens of this City. Four thousand would lose their jobs and many other thousands would be deprived of the benefits derived from the Model Cities Program. Only the City of Chicago, by failing to comply with its undertakings, and neither the plaintiffs nor this court, would be responsible for such a catastrophe. The court wonders, at this stage, whether the Regional Administrator of the Department of Housing and Urban Development, and a former Mayor of the City of St. Paul, really believes now that the City intends to comply with its undertakings. The evidence is to the contrary.

There have been occasions in the past, in other parts of this country, when chief executives have stood at the

school house and the state house doors with their faces livid and their wattles flapping, and have defied the federal government to enforce its laws and decrees. It is an anomaly that the "law and order" chief executive of this City should challenge and defy the federal law. Apparently, "law and order" applies only to the enforcement of state law and municipal ordinances.

The defendant and the intervenors have appealed to the court's sense of equity in determining the matter before it. The court accedes to their request. The court will give the chief executive and his City Council an opportunity to repent and reconsider their conduct. The court will sugar-coat the pill. In order for the City to qualify for the 26 million dollar grant, the court will not require at this time that they approve fourteen hundred fifty units in the general or white areas, which they undertook to supply; the court will require merely approval for their current deficit as of September 15, 1971, those seven hundred such units, less than half of their total undertaking. This in no way relieves the City of the balance of its undertaking, spelled out in the letter of May 12. The court is handing them the key to the funds that they so plaintively seek; however, until that minimum compliance has been achieved, the court is enjoining

the Department of Housing and Urban Development from releasing any of the funds but is authorizing it to do so when that minimum requirement has been met. Should the City fail to do so, the court has pinpointed the responsibility for the devastating effect which may ensue.

The court finds it has jurisdiction both under Rule 62(c) and the opinion of the 7th Circuit heretofore referred to.



Judge, United States District Court

DATED: October 1, 1971

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

DOROTHY GAUTREUX, et al.,)
)
 Plaintiffs,)
)
 vs.) NO. 66 C 1460
)
GEORGE W. ROMNEY,)
)
 Defendants.)

O R D E R

This matter coming on to be heard on the motion of plaintiffs under Rule 62(c) of the Federal Rules of Civil Procedure, and on the objections thereto filed by the defendant and intervenors, and the Court having heard the evidence and the arguments of counsel and being fully advised in the premises, it is hereby ordered:

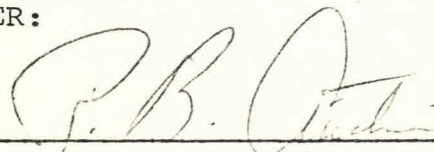
Pending termination of the appeal of the plaintiffs from this Court's orders of September 1, 1970 and October 21, 1970, defendant, George W. Romney, Secretary of the Department of Housing and Urban Development, is hereby enjoined from paying or making available to the City of Chicago ("City"), or any of its agencies, any funds or monies for or on account of the second period or year of the Model Cities Program of the City except as follows:

The funds or monies may be so paid or made available

to the City or agencies thereof at any time after the defendant files with this Court a certification to the effect that,

- (a) not fewer than seven hundred sites located in the general public housing area of the City, as such area is defined in this Court's final decree in the companion case Gautreaux, et al. vs. Chicago Housing Authority, No. 66 C 1459, which housing is to be provided by the Chicago Housing Authority, have been identified and processed by the City [including approval thereof by the City Council of the City] so as to permit acquisition thereof by Chicago Housing Authority to begin; and
- (b) Chicago Housing Authority is using its best efforts to proceed as rapidly as possible with the acquisition and development of the sites so processed.

ENTER:



J U D G E

DATED: October 1, 1971

But the point is that there had been some progress, and the question was whether legally we could take any action at that time. We certainly could not take any action with regard to the renewal programs which were designed to tear down additional dwellings and aggravate the already short low-income housing supply.

But looking at the Model Cities Program, looking at what it really seeks to achieve, and being mindful of the fact that for the first time in some eighteen months we have finally gotten the city at least to embark upon a constructive course of action --

THE COURT: I have been trying to do that for twenty-six months.

MR. WARNOCK: Well, we have not been working at cross purposes, I hope, but that certainly has been our intention, too.

Taking in account of all of those matters, and being mindful of the fact that the Model Cities Program was not going to aggravate the shortage of low-income units, but might very well help to create the kind of stable environment that is conducive to building houses, it was our considered judgment that

the Model Cities funds ought to be released, and since that time there has been one further report of September 15, again showing continued progress by the city, by no means at the pace that we would hope for, surely not up to the expectations of Mr. Polikoff or, I am sure, yourself, as far as public housing.

THE COURT: Not even up to the pace that you required, let's put it that way.

MR. WARNOCK: All right, I think that, you know, that is an important issue that we have to deal with.

The question of whether or not a requirement that HUD laid down in a letter of intent or in a June 21 letter can be promoted to the dignity of a right that some other party can then pick up and assert, and I say to you that we were exercising our sound administrative judgment at the time that we conditioned the release of funds, and when we got to funding dates, what we had to make critical decisions on, we would review the progress of the city and we would adjust our policy, make refinements as necessary. But keeping in mind that we wanted to keep the lines of communication open with the city, we wanted to remain on a constructive path,

and we surely did not want to cut off essential social services in this unrelated program, and that is where we are today, your Honor, and when we get to our case in chief --

THE COURT: On June 15th it had not been determined by the Court of Appeals that you were a co-conspirator with CHA in this discrimination. That now is the law of this Circuit, as I read the opinion.

MR. WARNOCK: And I am sure, you know, the Regional Administrator will be the first to apologize for the past sins, but we are looking forward now and we are trying to work toward a constructive end.

THE COURT: I am looking forward, too, hopelessly, I am afraid, but I am still looking forward.

MR. WARNOCK: That is all I have to say, your Honor.

THE COURT: All right.

MR. MURRAY: Your Honor, the reason why I requested Mr. Warnock, the Regional Counsel, to put those problems in proper perspective, and your Honor is fully briefed on the law so I am not going to belabor that.

Mr. Vavoulis is here now and if we can proceed with the hearing --

THE COURT: All right, proceed with the hearing.

GEORGE J. VAVOULIS,

called as an adverse witness by the Plaintiffs herein,
having been first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. POLIKOFF:

Q State your name, please.

A George J. Vavoulis.

Q You are the Regional Administrator of the
Department of Housing and Urban Development for this
area?

A I am.

Q I would like to hand you, Mr. Vavoulis, a
document which has been previously marked as Plaintiffs'
Exhibit 6 for identification. Counsel for the parties
have stipulated as to the authenticity of this being
a copy of your letter of June 21, 1971, to Mayor Daley.

I would like to ask you a couple of questions
about that letter, Mr. Vavoulis, and if you would,
would you please refer to the bottom of Page 2 of
the letter, the last full paragraph on that page,
the portion of the paragraph that states that, "The
Model Cities funds are being released on the condition
that the City Council will continue to approve public

housing sites suitable for use by the Chicago Housing Authority in accord with applicable law at each regular council session."

That is the portion I wish to address your attention to.

First, I would like to ask you what arrangements, if any, HUD made to monitor the performance of the City and the City Council at such subsequent sessions in accordance with that condition of your letter.

A The staff was instructed to report to me what the actions of the council were.

Q Did they so report?

A They did on occasions, yes.

THE COURT: They did on what?

THE WITNESS: They did.

THE COURT: All right.

BY MR. POLIKOFF:

Q They reported to you, I take it, at the subsequent City Council sessions following June 21 that this condition was not complied with?

A With the exception of the last session that was held, which was held just recently.

Q Referring to the session held last week?

A That is correct.

Q September 15th.

The question is, prior to that last or most recent session, did your staff report to you that the City Council had not, at its session subsequent to June 21, approved sites for CHA housing?

A Well, they reported to me that on the council meetings that sites were discussed, that there had been approval of some of the sites, and then the last report I got was in asking about the sessions of the City Council. I am new in the City of Chicago, and I wanted to find out whether they were regular meetings prescribed by law or at the beck and call of the Mayor or the president of the Council, and at that time I learned that there were no summer sessions being held until September 15th.

Q It is a fact, is it not, Mr. Vavoulis, that the City Council did hold regular sessions subsequent to June 21 and prior to September 15th?

A I don't know what you mean by "regular sessions" but they did hold sessions.

Q And it is a fact that they did not approve sites for public housing at those sessions, is it not?

A I don't remember specifically whether they

approved sites at each meeting, but I do know that there were a number of sites approved.

Q Is it the case, Mr. Vavoulis, that the number of units approved by the City Council is still 242?

MR. MURRAY: Your Honor, I am going to object to the line of questioning here.

Mr. Vavoulis has not been declared as an adverse witness. I think he has been fully responsive to counsel's questions and counsel is now interrogating him like he was under cross examination. There has been no indication and no showing that Mr. Vavoulis is an adverse witness, and until he has not been responsive to counsel's questions, I think he should interrogate him like he is. He called him as his witness and he should be required to interrogate him as such.

MR. POLIKOFF: I would ask leave of the Court to interrogate Mr. Vavoulis as an adverse witness. He clearly is a managing agent of an adverse party, and I think that that is my right under the rules.

THE COURT: And that request is granted.

BY MR. POLIKOFF:

Q Mr. Vavoulis, isn't it the case that the

number of approved units, so far as your information from your staff is concerned, is still at 242?

A 288.

Q When were the -- your letter of June 21 refers to 242 units, does it not?

A That is correct, but since that time I believe there have been some additional sites.

Q Can you give me the dates, Mr. Vavoulis?

A I can't give you those dates.

Q But your understanding is that an additional 40-odd units, 46 units have been approved so that the number is now 288?

A That is the last figure I was given.

Vavoulis - direct

given.

MR. POLIKOFF: I would ask, on the record, I will talk to Mr. Neal about this during the noon recess, my understanding is that the number is still two hundred and --

MR. MURRAY: Your Honor, I am going to object to Mr. Polikoff's understanding. He is interrogating the witness. Let's have what the record reflects and not what Mr. Polikoff think.

THE COURT: Mr. Polikoff, you may, at some time other than while this witness is on the stand, get into what you are seeking to get into.

MR. POLIKOFF: All right.

THE COURT: Let's proceed with this witness.

MR. POLIKOFF: Thank you, your Honor.

BY MR. POLIKOFF:

Q Did you have any conversations with officials of the City of Chicago between June 21 and September 15 with respect to the failure of the city to have approved the number of units for CHA housing called for by the May 12 letter of intent and by your June 21 letter?

A Yes, I did.

Q Would you tell me who the conversations took place with?

Vavoulis - direct

A Well, I have had conversations with Mr. Hill, Mr. Swibel, with the Mayor, with you.

Q I am not an official of the City of Chicago, Mr. Vavoulis.

Tell me when your most recent conversation with Mr. Hill took place on this subject?

THE COURT: May we have Mr. Hill identified for the record.

BY MR. POLIKOFF:

Q Please state who Mr. Hill is.

THE COURT: Who is Mr. Hill?

THE WITNESS: The Commissioner of Housing and Urban Development for the City of Chicago, sir.

THE COURT: All right.

BY MR. POLIKOFF:

Q When did the most --

A I don't recall the dates, but I have been in constant communications with the City of Chicago in an effort to cooperate with them in seeking a suitable housing program for the City of Chicago.

Q Approximately when was your most recent conversation with Mr. Hill on this subject within

the last month, within the last few weeks?

A Within the last three or four days.

Q Within the last three or four days?

All right, on that subject, tell me, as best you can recall it, what Mr. Hill said and what you said on the subject, that is of the failure of the City Council to have met the HUD imposed schedule with respect to approval of sites?

A The last conversation I had with Mr. Hill was not on the failure of the City Council to approve the sites, it was that the Mayor would be calling me in the next day or two and that I would be receiving their programs spelling out their rate of progress.

Q With respect to the City Council approval of sites?

A With respect to the City's total performance.

Q Well, may I direct your attention, please, Mr. Vavoulis, to the specific subject which is part, but part only, of the total program to which you are referring, namely, the City Council approval of sites for public housing?

A I responded directly to your question. I did not discuss that part or any one part of the document that was going to be submitted by the Mayor

Vavoulis - direct

to me with Mr. Hill.

Q Did you discuss that subject with Mr. Swibel in any of these conversations to which you refer?

A No, sir, I did not, not at this particular time.

Q I am talking now about the total time between June 21 and September 15.

A I have discussed that with Mr. Hill as well as Mr. Swibel and with the Mayor.

Q Well, then, tell me, if you will, which one of these three did you discuss that narrow subject with most recently?

A I think I discussed it with both Mr. Swibel and Mr. Hill at the same time. I don't remember exactly when. It is within the last three or four weeks.

Q All right, now, would you tell me as best you can recall it what each of them said as to that narrow part of the subject on that occasion?

A Their position was that the city has submitted over seven hundred and fifty-five sites to our department for consideration; number two, that there were many of those sites in the marginal area that I ought to give consideration to and, number

three, I pointed out to them that according to the Judge Austin decision that my area of authority was limited until the Judge Austin decision was fulfilled.

Their response to me was that the Judge Austin decision calls for the first seven hundred units to be built before other areas could be considered.

Q Anything further said on that subject?

A As to the site selection?

The problems of the city, land availability, working towards involvement of the county, the total housing problem in the City of Chicago, working towards the comprehensive program for the city.

Q Those things were discussed, you say?

A That is correct, sir.

Q Was anything discussed further on the subject of City Council approval of sites?

A At no time did we discuss the City Council in that light, that --

Q Did you request in this meeting, did you request from either Mr. Swibel or Mr. Hill, any statement from them, estimate from them, as to when the City Council's approval, in accordance with the May 12 letter of intent, could be expected?

A I have been consistent in one thought, and that is that the memorandum of our understanding or the agreement between the Mayor and myself and Mr. Swibel, that I expected them to fulfill it and that funds were being held because of their not having fulfilled that part of it, and I did not tell them how to run their business.

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Q I think the question was, did you ask them when performance in that regard might be expected?

A I have answered you by telling you that we have a memorandum of understanding that clearly spells out their performance and when they should submit to me reports, and I reminded them that I was looking forward to their next report and hoped that there was enough progress on it so that I could release the NDP funds.

Q The next report to which you referred is the September 15th report?

A That is right.

Q That report showed, did it not, no further progress beyond the 242 or the 280-odd, whichever is the correct figure, of sites approved by the City Council, is that correct?

A Well, I have to look at that report in terms of its total consequence to me. You are right about the site selection. You are wrong about whether there was progress or not at that particular time.

Q There had been no progress with respect to the City Council approval beyond that figure at that particular time?

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A If you are talking about site selection, yes.

Q That is correct.

MR. MURRAY: Your Honor, let's make it clear, because there are various other housing programs concerned with the letter of intent. Now, is Mr. Polikoff directing his questions toward public housing sites specifically? I assume that is the case, but I want to make sure the witness understands that.

THE COURT: Will you make it more explicit for the witness in the event that he is confused? I see no evidence of his confusion at this point.

MR. POLIKOFF: I will make it explicit.

BY MR. POLIKOFF:

Q I am referring, and have been in these questions, Mr. Vavoulis, to that portion of the letter of intent dated May 12, 1971, which refers to the Chicago Housing Authority, Subsection labeled "E" and the schedule set out at the bottom of Page 6 of the May 12th letter. I am handing you a document that has previously been marked Plaintiffs' Exhibit 4 for identification.

My reference, as I say, in these questions, was to that portion of the letter and that part of the program. Do you wish to change any of the answers you have previously given now that that clarification

has been made?

A Mr. Polikoff, in response to your question, I think I understood it very clearly. We are talking about site selections. My concern was that when you -- or the implication that there was no progress on the part of the City, and I wanted to separate the total report, which is my responsibility, from a part of the total problem, and part of that total problem, as I understand it, is your question concerning site selection.

Q Thank you.

Now, you said that you were waiting for the latest report. That was the September 15th report, correct?

A That is correct.

Q And that report, in this narrow respect now, approval by the City Council of public housing, showed no additional approvals beyond the 200-odd units to which we have been referring, is that correct?

A According to the Judge Austin decision, but there were additional housing sites submitted for us to consider, and keeping in mind the --

Q Submitted to HUD, you mean?

A Yes.

Q To consider?

But none approved by the City Council, is that correct?

A No, that is not true.

MR. MURRAY: I object to that question, your Honor, the competency of this witness to testify as to what the City approved or did not approve.

THE COURT: Well, I assume that he is referring to the report that he got on the September 15th from somebody in authority in the City of Chicago as to what had been done up to that date.

MR. MURRAY: Well, let Mr. Polikoff frame his question within that realm. If he asks a proper question he will get an answer.

THE WITNESS: Your Honor --

THE COURT: I so understood the question.

MR. NEAL: Your Honor, may I address the Court?

THE COURT: Yes.

MR. NEAL: I think there may be some confusion. When Mr. Vavoulis is speaking of "approved sites" and he speaks of 288, he is speaking, I believe, of approved both by HUD and by the City Council

He is speaking now of sites being approved only by the City Council. There are two separate and distinct propositions.

Vavoulis - direct

propositions

THE COURT: Clarify that, Mr. Polikoff, if you are talking now about sites approved only by the City Council.

MR. POLIKOFF: That is correct, your Honor.

THE COURT: Is that what you are making inquiry about?

MR. POLIKOFF: It is.

THE COURT: All right.

MR. NEAL: Then I believe his numbers would change.

BY THE WITNESS:

A Well, then, the answer to that question, when I responded to your question, I was responding to what was acceptable to our office in terms of sites as spelled out in the Judge Austin decision or the law applicable to the land. The City has submitted to us over 700 sites for our consideration.

THE COURT: Approved by the City Council?

THE WITNESS: Yes, sir, as I understood it, they were.

BY MR. POLIKOFF:

Q Now, is it correct that so far as your information goes, based on what your staff has told you and what the City has told you, that a certain number of

those, it was 242 at June 21, have been approved by the City Council and are acceptable to HUD in light of the Judge Austin decision.

A That is correct.

Q Now, to your knowledge, based on those same two sources, what your staff has told you and what the City has submitted to you, did that number increase above 242 between June 21st and September 15th?

A I was given the additional 48 sites, I believe.

Q And you were advised that an additional 48 had been approved by the City Council?

A I was advised that the additional 42 were acceptable to us, and I don't know whether they were approved by the City Council or whether they were in the 755 total.

Q Thank you.

Now, when you got the September 15th report of the City --

THE COURT: I don't know that I am clear at this point because you fellows are playing on different wave lengths.

242 and 46 makes 288. That is a number that came from you?

THE WITNESS: Correct.

THE COURT: What is your understanding in regard to the 46, which makes 288, having been approved by the City Council?

THE WITNESS: The staff informed me that there were 46 additional sites that we could add to the total number acceptable under the applicable law of the land, or the Judge Austin decision, and whether these were additional sites approved by the City Council or submitted by the City at a later date, I don't know at this time.

THE COURT: Well now, I guess we finally got an answer.

MR. WARNOCK: I can clarify that further, your Honor.

THE COURT: Here is the boss man. I don't know how you can clarify it any better than he can.

MR. WARNOCK: Only that he was unsure as to whether or not those sites had also been approved by the City Council.

THE COURT: He has told me that he has no knowledge as to whether they have been or not.

MR. WARNOCK: I was going to clarify that. Indeed, they were approved by the City Council.

THE COURT: Do you want to swear him, Mr. Neal?

MR. NEAL: Your Honor, if I may, without testifying --

THE COURT: If somebody has more information than the Administrator has, we will be happy to accept that information from any lowly source.

MR. NEAL: Well, I --

THE WITNESS: Your Honor, may I respond further to the question?

THE COURT: Well, everybody wants to respond. I have nothing --

THE WITNESS: As long as I am the one that is being questioned.

THE COURT: You have my assurance, Mr. Polikoff, that I don't want to testify.

Now, who do you want to answer the question? The witness on the stand?

MR. POLIKOFF: I suggest, your Honor, that as to this inquiry it be dropped for the moment. I will get together with Mr. Neal and see if we can get the facts as to the 46 units back before your Honor more efficiently than we can now do.

For purposes of my further interrogation of

Mr. Vavoulis, it doesn't make any difference whether it is 242 or 288. I will try to clarify that for you later.

MR. NEAL: But we are talking about 732 that have been approved by the City Council.

THE COURT: I have not heard that yet, because he doesn't even know where the 46 were.

BY MR. POLIKOFF:

Q Mr. Vavoulis, whether the number approved by the City Council that conformed to Judge Austin's decision is 242 or 288, on either assumption, when the September 15th report came in, did you have any discussions with any officials of the City respecting the City Council's failure to have approved the total of 850 units by that September 15th date as provided in the May 12th letter of intention.

A I talked with the Mayor yesterday.

Q On this subject?

A On the total report submitted to me.

Q I am asking you, Mr. Vavoulis, please, if you had any conversations with any city official on that narrow part of the total program.

THE COURT: Of the 850 that were supposed to have been approved by the City Council by the

15th of September.

THE WITNESS: No, I didn't.

THE COURT: All right, we have got his answer, finally.

BY MR. POLIKOFF:

Q And that is your answer with respect to conversations with any city official, is that correct?

A That is correct, concerning the September 15th report I have made no statement to anyone as to its findings.

Q Did you give any instructions or directions to your staff with respect to that part of the total program?

A I discussed with our staff the responsibility of the administrator in evaluating the total program as it affects the City of Chicago and the choices of decision that I was faced with at that particular time, seeking their input toward the final answer.

Q Have you, commencing with the date of this report, September 15th, from the City to HUD, received any communications from the City respecting when the City Council approval of that total of 850 units might be expected?

A No, I haven't.

Q Have you sought to obtain any such information from the City?

A No, I haven't. I haven't -- I wanted to complete the analysis of the total report before I negotiated it with the City.

Q Is that analysis of the total report by HUD still in process -- still in progress?

A It has been completed.

Q When was it completed?

A In the early part of the week.

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the week.

Vavoulis - direct

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Q The early part of -- yesterday was Monday.

A All right, the latter part of last week.

Q The latter part of the previous week?

A Yes.

Q Is the analysis to which you refer that is
now completed in writing?

A Correct.

Q The results of it?

A That is correct.

Q Do you have that analysis available with you?

A I do.

Q May I see a copy, please? Thank you.

MR. POLIKOFF: I would like, if there is
no objection from Mr. Warnock, to mark this
document as Plaintiff's Exhibit 8 for identifica-
tion.

THE COURT: And if that is the original or
something special that he prizes, I will permit
you to substitute a --

MR. POLIKOFF: There is no writing on here,
Mr. Vavoulis. There are three or four pencil
marks. Do you object to this being marked as
an Exhibit?

THE WITNESS: Not at all.

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THE COURT: All right, it may be so marked.

MR. NEAL: Your Honor, I assume the record is perfectly clear, however, I would like to state it for the record, that we object to this entire line of questioning, and that our position is that it is not related to the Model Cities --

THE COURT: Well, there is another defendant in the case other than the city.

MR. NEAL: Yes.

THE COURT: All right, and there is another defendant in the case that this witness has some remote connection with.

MR. NEAL: I said on behalf of the city. I do not speak for the government, as the court is well aware.

THE COURT: All right.

I assume, therefore, that you are not going to cross examine.

MR. MURRAY: May I take a look at the Exhibit?

THE COURT: I assume you are not going to cross examine this witness?

MR. NEAL: No, I do not wish to waive that right unless the court --

THE COURT: No, if you are objecting to what

he is saying --

MR. NEAL: I am objecting to the relevancy, your Honor, of the entire matter. If the court overrules me on the objection, then I certainly would want to exercise my right of cross examination if I deem it necessary.

THE COURT: Well, so that your position will be perfectly clear, I am overruling your objection.

MR. NEAL: Thank you.

MR. POLIKOFF: Would you mark this as Plaintiff's Exhibit 8 for identification.

(Said Exhibit marked Plaintiff's Exhibit 8 for identification.)

BY MR. POLIKOFF:

Q Do you have another copy with you, Mr. Vavoulis?

A No, I don't.

Q I will return this to you.

Observe that the first entry on the document -

MR. POLIKOFF: I should describe for the record that the document that has just been marked is two pages. It is entitled "Review of City of Chicago Progress under May 12th Letter of Intent." The first item is "CHA Public Housing".

BY MR. POLIKOFF:

Q I direct your attention to the caption "City Performance as of 9/15/71," which refers to that two hundred and eighty-eight figure and says Council approval of two hundred and eighty-eight units suitable for use by CHA in accord with applicable law has been obtained. In this analysis that led up to the preparation of that document, Mr. Vavoulis, was any determination made by HUD as to what to say or do with respect -- say to the City or do with respect to the fact that apparently only two hundred and eighty-eight instead of eight hundred and fifty units had been approved by the City Council by September 15th?

A No.

Q Is that determination or decision in the works administratively in HUD? Is somebody assigned to deal with that question?

A I don't follow your -- what you are after.

Q Well, you said that nobody had yet, if I understood your last answer, nobody had yet been -- nothing had yet been decided as to what to say to the city or to do, what HUD would do with respect to the fact that that is only two hundred and eighty-

eight instead of eight hundred and fifty.

My next question, my pending question to you is, is there any process within HUD for reaching a decision as to that question? Have you assigned the task to think about that to anybody?

A I think I have explained before that I have discussed with staff the problem, the concern of the administrator, and the responsibility, and I have not asked for -- I have not assigned a task force to give a recommendation to me.

Q Do I understand or is it correct then that HUD has not yet decided what to do with respect to the second year Model Cities Program Grant to the City of Chicago as a result of its analysis of the performance on September 15th?

A Let's see if I understand your question. Concerning the release of the funds?

Q Yes.

A Or the cancelling of the funds?

Q Concerning the release of the funds. Let's start with that.

A Well, I think we announced on June 15th or prior to that time that the Model Cities funds would be released and that we would review the situation

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on September 15th as to whether or not there was a basis for cancelling the funds.

THE COURT: What funds and what amount were the funds released?

THE WITNESS: Twenty-six million dollars.

THE COURT: Twenty-six? And what embraces the release of the funds?

THE WITNESS: Well, the program --

THE COURT: I mean, do you write a check to the City of Chicago and say "Here it is."

THE WITNESS: No, we give letters of credit and they can draw against those letters of credit as they spend the money.

THE COURT: These letters of credit, are they drawn on a bank?

THE WITNESS: On a bank, sir.

THE COURT: So that they have got so many hundred thousands in one bank and so many hundred thousands in another bank, or all in the same bank?

THE WITNESS: I don't know whether they are all in the same bank or not.

THE COURT: All right.

MR. POLIKOFF: Would you read Mr. Vavoulis' last answer back, please, to the question that 57

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I asked?

(Record was read.)

BY MR. POLIKOFF:

Q Now, is that the review that you are still conducting or have you concluded that review?

A The review has been conducted.

Q Is it over? The review is finished?

A It is over, yes.

Q Has a decision been made as to whether or not the release of the twenty-six million should now be cancelled?

A Well, I have made a decision but I have not announced it publicly and I am not --

THE COURT: Let me ask you this, to clarify what has preceded; having issued letters of credit to the extent of twenty-six million dollars on the 15th of June, how do you cancel? That is --

THE WITNESS: Well, let me go back to --

THE COURT: How do you cancel something that you have already turned over?

THE WITNESS: Let me clarify the language.

What we did was approve the second year Model Cities Program. Then it is necessary for the

City Council to approve or reject, and then they --

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once the Council acts --

THE COURT: Approve or reject what?

THE WITNESS: The Model Cities second year contract.

THE COURT: Has that been done?

THE WITNESS: That was approved at the last Council Meeting, September 15th, and then it goes to the Mayor and the Mayor sends me a letter indicating the action of the City, at which time the twenty-six million --

THE COURT: Then as I understand it, you did or did not authorize twenty-six million dollars in letters of credit because at that time it hadn't been approved by the City Council.

THE WITNESS: That is correct.

THE COURT: So that there have not at this time been any letters of credit issued, is that correct?

THE WITNESS: That is correct.

THE COURT: All right.

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all right

BY MR. POLIKOFF:

Q Now, you say you have decided but have not publicly announced your decision as to whether to issue that letter of credit.

A Your actions in advising me that you were going to take me into court unless I concurred in your opinion preempted the public decision.

MR. POLIKOFF: Well, your Honor, as a matter of personal privilege I won't technically disclaim that answer, but I do want to state for the record that this was a reference I made the other day that antagonized everybody, what Mr. Vavoulis has just said --

MR. O'BRIEN: Your Honor, I will object to interrupting the testimony from counsel during the interrogation of the witness.

MR. MURRAY: Mr. Polikoff is fully able to respond in closing argument. Let's get the witness' answer.

THE COURT: Let's have this witness explain what he said rather than you explain what he said, and I assume that this witness will adhere to the conversation as he best remembers it and --

BY MR. POLIKOFF:

Q Mr.Vavoulis --

THE COURT: If his memory is bad I am sure that you have methods, Mr. Polikoff, to refresh his recollection.

BY MR. POLIKOFF:

Q Isn't it correct, Mr. Vavoulis, that I asked you whether or not, both directly and through the United States Attorney's office, whether or not we might have a reasonable time for advance notice of HUD's decision for the reason that if the decision was not to release the 26 million dollars there would be no need to go into court and if the decision was to release the 26 million we might then want to go into court and would want that notice at the time for that reason? Is that correct? Can you answer that yes or no?

THE COURT: Or modify it or any other way.

THE WITNESS: May I answer it in another way?

THE COURT: Well, of course. You are not limited to yes or no.

THE WITNESS: Thank you.

BY THE WITNESS:

A I would like to remind Mr. Polikoff that I

have had a series of meetings with you concerning the Chicago problem, that I have tried to explain to you the position that I was in and that my concern was the total housing program for the City of Chicago. We have had two or three visits in an effort to get better acquainted and to understand the problem as you tried to explain it to me concerning the City of Chicago. Then at those times you have brought along a battery of three or four attorneys to -- for whatever reason, in my office, to indicate to me the force of your position, and the last two or three meetings in the office I was constantly told that unless I did this or that I would be hauled into court through your offices. This was understandable. You have a job to do and I have a job to do, and I think we had that clear understanding at that particular time that I had no responsibility to you other than the public.

Q Well, now, could I have an answer to the question that I think I asked you, which I will repeat for clarity.

Isn't it true that I asked, both directly and through the United States Attorney's office, for a reasonable notice, I think I said 12 hours, but I am not sure of that, as to when you would make your decision,

for the reasons that I have mentioned?

A When you were talking to me --

MR. MURRAY: I am going to object based on relevancy. It is not related to the issues herein, as far as this is concerned.

THE COURT: The objection is overruled.

BY THE WITNESS:

A All right, when you talked to me you asked for 48 hours. I told you then that my response would be when I had completed the review of the program and not until then, and that my responsibility was to the public. I left Chicago and went to Washington, D.C.

At that time you then went to the United States Attorney's office to get the United States Attorney to apply pressure on me to accomplish the question that you have just raised.

THE COURT: This surprises me that you,

Mr. Polikoff, would apply pressure to anybody.

BY MR. POLIKOFF:

Q The last part of your answer, Mr. Vavoulis, is that -- you mean to say that yes, I did make the request for notice for the reason that I mentioned?

A The answer to that is that I told you, and I told the U.S. --

THE COURT: That he made the request and not what you told him. Did he make the request?

THE WITNESS: He made the request, yes.

THE COURT: All right.

BY MR. POLIKOFF:

Q Did I make that request?

A As part of the total problem, yes.

Q Now, you say that you have not announced your decision but have made a decision as to whether to release the 26 million dollars based on the review of the situation as of September 15th?

A That is correct.

Q Is that correct?

Now, from the point of view of HUD, therefore, do I understand correctly that the 26 million dollars for the second year Model Cities program has not yet been released to the City?

A That is correct.

correct.

Q Have you determined when to announce your decision publicly?

A This court action has stopped me from making any public decision at this particular time.

Q And I take it that in reaching that decision you have considered the total performance of the city and its agencies under the May 12th letter of agreement, letter of intention, and have not confined yourself solely to the performance in regard to City Council approval of public housing sites?

A That is correct.

Q Do you have any assurances in writing or orally that are not included in the September 15th submission or -- that are not included in the September 15th submission as to when that part of the letter of intention, that is the City Council approval part, will be performed?

A The City Council -- the part of the City Council's approval?

Q Yes.

A I have not discussed when the City Council will act on the balance of the housing selection.

THE COURT: With anybody?

THE WITNESS: That is correct.

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THE COURT: All right.

BY MR. POLIKOFF:

Q Now, a second portion of the total program under the May 12th letter of intention is for CHA to lease some apartments under the Section 23 leasing program, is that correct?

A That is correct.

Q Under that letter of intention, CHA was to lease seventy-five apartments by June 15th, was it not?

Would you like a copy of it, Mr. Vavoulis?

A I don't recall the details.

Q You have a copy of the letter of intention in front of you?

A No, I don't.

Q I am sorry, I thought you did. Are you sure you don't have a copy there?

A No.

Q Here it is.

A I am sorry.

Q I direct your attention to the May 12th letter of intention. page 8 of that agreement or letter of intention, rather, Mr. Vavoulis, talks about Chicago Housing Authority and its leasing program, does it not,

and says that the Chicago Housing Authority will lease not less than seventy-five housing units for low-income families by June 15th, is that correct?

A That is correct.

Q And thereafter an additional seventy-five units per month until a six hundred unit authorization has been used up, is that correct?

A That is correct.

Q So that by September 15th the Chicago Housing Authority should have leased a total of three hundred apartments under that provision, is that correct?

A Correct.

Q Do you know in fact how many have been leased?

A One hundred and thirty-three.

Q Another portion of the agreement, the next following paragraph, or rather the letter of intention, says that the Chicago Housing Authority has indicated that it will initiate a program to acquire from the Federal Savings and Loan Insurance Corporation two hundred units, rehabilitate them and release them to low-income families, and it was to award contracts for rehabilitation by September 15; could you tell us to what extent has that portion of the letter of intention

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been performed?

A There has been no performance on that part, but this morning in inquiring as to why -- we are getting -- there is some basis for it, and I haven't been given this information as --

THE COURT: There is some basis for what?

THE WITNESS: For their not being able to get units to rehab., or to accomplish this request.

THE COURT: All right.

THE WITNESS: Supposedly, it is clear land, that they only have land and no units available, and I am checking this out.

BY MR. POLIKOFF:

Q Another portion of the --

THE COURT: In other words, that there are no units to rehabilitate, is that what you are talking about?

THE WITNESS: This is correct.

THE COURT: All right.

BY MR. POLIKOFF:

Q Another portion of the letter of intention talked about the Chicago Housing Authority entering into an agreement with the Cook County Housing

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Authority for the provision of some five hundred units of low-income housing in the suburban areas of Cook County, did it not?

A Correct.

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correct.

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Q And with the city's report to you of June 15, did the city not give you a draft of such an agreement that was then under discussion with lawyers for CHA and the Cook County Housing Authority?

A No, I didn't see such a draft. I knew there was -- the subject was under discussion.

Q I would like to show you, Mr. Vavoulis, Plaintiff's Exhibit 5 for identification.

A Are you talking about a contract between the County and the City?

A No, I am talking about a --

THE COURT: Show him the document that you are referring to.

MR. POLIKOFF: I intend to. I am talking about a proposed contract --

THE COURT: He may have one name for it and you may have another name for it.

BY MR. POLIKOFF:

Q Between CHA and the Cook County Housing Authority.

I direct your attention to Plaintiff's Exhibit 5 for identification, which is the letter from Mayor Daley to you dated June 15, which has a lot of attachments, and one of them is a proposed

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agreement of the sort that I just described. You may look at that for a moment and see if it refreshes your recollection.

THE COURT: Is the ultimate question that he has ever seen this before?

MR. POLIKOFF: No, your Honor. I just want to bring that down to date.

BY THE WITNESS:

A Go ahead. I recall it now.

BY MR. POLIKOFF:

Q You remember that document submitted to you? And it did provide, does it not -- or do you recall whether it provides for a fifty per cent priority for eligible Chicago Housing Authority applicants?

A In the county?

Q Yes, in the units to be developed by the County Housing Authority under that agreement.

No, I am not asking you whether you find that in the document, I am asking you whether you recall -- you have now refreshed your recollection and remember this document was submitted to you?

A Yes.

Q Do you recall that the contract under discussion included a provision for such a priority?

MR. MURRAY: Your Honor, I am going to object right now. The document speaks for itself.

THE COURT: He is not asking him whether this is in the document, he is asking him if he recalls this?

MR. POLIKOFF: Correct.

BY THE WITNESS:

A I don't --

MR. O'BRIEN: I further object, your Honor. The word "agreement" is stuck in here and snuck in there and it is clear we are talking about a draft.

MR. POLIKOFF: That is clear.

MR. O'BRIEN: Somebody's draft.

THE COURT: Well, then, the word "agreement" when it creeps in, we will call it a letter of intent or a draft or anything that gives you joy and comfort. You may pick your alias for the document.

MR. O'BRIEN: Thank you, Judge.

MR. POLIKOFF: I will ask the question a different way.

BY THE WITNESS:

A I don't recall.

BY MR. POLIKOFF:

Q You don't recall any -- no conversation or discussion about --

A It may well have been, but I don't recall the details of it.

Q All right.

Now, do you recall in the September 15th report to you by the city that reference was made to this subject of an agreement with the Cook County Housing Authority?

A They stated in their September 15th agreement that they now have a -- an understanding with the Cook -- and I don't recall whether they had a contract or not -- that five hundred units will be located in Cook County.

Q Did they submit a document to you evidencing that agreement?

A No. It was part of the Mayor's report and I have no reason to doubt the Mayor.

Q The document, the contract was part of the Mayor's report?

A No, the document was not. This was in the report submitted to our office on the progress of the city.

THE COURT: Well, the September 15th thing now is the document that was signed by the Mayor, is that it?

THE WITNESS: Yes, a letter of transmittal by the Mayor.

THE COURT: All right, I just found that out for the first time.

BY MR. POLIKOFF:

Q Mr. Vavoulis, I hand you Plaintiff's Exhibit 7 for identification, which is the letter dated September 15th from Mayor Daley to you, with attachments, and I direct your attention particularly to the attachment that is labelled Section E-2, low-rent housing, Cook County Housing Authority-Chicago Housing Authority, and I will ask you to read that and then tell me whether the agreement between the two Housing Authorities that is referred to there was in fact submitted by the Mayor to HUD?

A No, I can't answer that because I really don't know.

ion't know

Q Have you had any discussions with your staff members, agents of the City of Chicago or others, respecting what the current status of the relationship between CHA and the Cook County Housing authority is as to eligibility of CHA tenants or applicants for housing in projects to be developed by the Cook County Housing Authority?

A No, I haven't.

Q Thank you.

Now, turning back to the letter of intention, the May 12th letter of intention at the top of Page 9, please, if you will, the Chicago Housing Authority said it might enter into partnership arrangements, you will note there, with not-for-profit sponsors for the development, management and leasing of units; has a report been given to you concerning whether the Chicago Housing Authority has entered into such a partnership arrangement?

A I can't answer that because I don't know.

Q Let me ask you -- that is a good reason for not answering.

THE COURT: Nobody is denying you the right to ask. You don't have to get permission.

BY MR. POLIKOFF:

Q Let me ask you, Mr. Vavoulis, have you been

supplied with any information for purposes of conducting this review of the City's performance that you referred to earlier, have you been supplied with any information other than the written September 15th report from the Mayor that you now have in your hands?

A Concerning what?

Q Concerning the performance by the City of Chicago and the CHA and other city agencies pursuant to the May 12th letter of intention. That is what the report was about, was it not, report of progress?

A That is right.

Q All right.

Now I am asking you, for purposes of conducting your review of the progress that was made, which you say you have now completed -- you have completed that review -- were you supplied with any information other than that September 15th written report?

A No, it is the only information I remember.

Q Well, would you tell me, please, how, without having information as to the status of the agreement with the Cook County Housing Authority, and without having information as to the status of any such partnership arrangements that may or may not have been made,

it is possible for you to have completed your review?

A Not entirely. I raised the -- I told you that I had made up my mind concerning the Model Cities funds. I have not completed or concluded in my own mind the total analysis, because I raise questions such as the City's arrangement or contact with the County. I wanted to know a time schedule as to when they could complete the selection of 500 sites and get under construction these units. I have raised a number of questions with the Mayor concerning the progress of the report, and I would like to point out that we went from zero to something at that particular time, and I am awaiting these answers.

I also advised the Mayor that nothing would change at that particular time. I could not, until I had the answers, I was in no position to make an administrative judgment concerning the release of funds.

Q Did you make these requests for information to the Mayor in writing?

A Verbally. I visited with him yesterday afternoon at 2:30 or 3:00 o'clock.

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Q Did he agree to supply you with the information?

A He agreed to -- he wrote -- he went over the number of questions that I raised and he said that he

would get back to me.

Q Was one of the questions you raised the rate of approval by the City Council of sites for CHA housing?

A I discussed that with him, yes.

Q I asked you whether that was one of the items of information you asked for?

A Pardon?

Q Was that an item of information, among these others you have been telling us about, that you asked for?

A I specifically zeroed in on the leasing program, the matching funds of the City and the contract between the County and the City.

Q But you did not specifically zero in --

A I did not raise any questions concerning the approval of the council.

Q Apart from not raising any questions, my narrow question is, did you ask the Mayor to supply you with information as to when those council approvals of CHA sites would be forthcoming?

A I did not ask him that question.

Q Do I understand then that when you said your review of the performance under the May 12th letter of intent had been completed you meant that it was completed for Model Cities purposes but not for Urban Renewal purposes?

A It was completed by staff as a factual analysis of what the City had submitted to my office for our consideration. I then needed additional information from the City concerning the questions that I have just raised with you.

Q Well, let me ask again then.

A Well, such as the --

Q I am sorry?

A Such as the question of, "All right, you have this contract arrangement with the County. When can you fulfill it? Give me some schedule."

The question as to why more leasing arrangements had not been completed. Is it possible or not? I want the facts concerning it, and so on.

Q Well, let me ask you again then, in view particularly of these unanswered questions, has HUD decided whether or not to release the 26 million of the Model Cities money?

THE COURT: He is not asking what the decision is, he wants to know if you have decided.

MR. POLIKOFF: Correct.

BY THE WITNESS:

A I think I explained that earlier, that we have agreed to the second year Model Cities program, that the procedure was an action by the council, by the Mayor. It is now in our office and because of the court case there was nothing for me to do.

Q HUD's factual review has been completed, of performance, subject to getting -- let me amend that.

MR. POLIKOFF: Withdraw that question.

BY MR. POLIKOFF:

Q Your staff review of the facts respecting performance has been completed. You then needed to get more information, some of which you requested

from the Mayor and he agreed to supply you, correct?

A Correct.

Q All of this is relevant to HUD's decision, is it not, as to whether to release the 26 million dollars?

A I think that decision has been made.

Q Well, that is what I am trying to get clear.

A Well, you have been told that.

Q The decision has been made as to whether to release the funds or not even though the information is --

A Mr. Polikoff, that decision was made June 15th.

MR. MURRAY: Your Honor, I am going to object. He is trying to antagonize the witness. The questions that he has referred to, he had asked previously in examination and he got the exact same answer to the second question, and I just do not --

THE COURT: I think that the record clearly shows, Mr. Polikoff, that he has decided what to do with the 26 million regardless of the fact that he may never get an answer from the Mayor or CHA. He knows what he is going to do.

MR. POLIKOFF: All right, your Honor.

THE COURT: Those are matters of complete indifference to him in regard to this decision.

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BY MR. POLIKOFF:

Q Mr. Vavoulis, would you please turn to Page 9 of the letter of intent, that is the May 12th letter of intent, Plaintiffs' Exhibit 4 for identification? You will note in the middle of that page a reference is made to the Chicago Housing Authority and the Chicago Dwelling Association having identified a number of sites in the urban areas for housing developments with units to be made available for moderate and low income families; what information have you been given through today with respect to what those sites are, how many units will be provided for on them and the means for providing for those housing units? You could break that down if you wish and first tell me what CHA has advised you as to that and then what the Chicago Dwelling Association has advised you as to that, since they are both mentioned.

A Well, I have had no discussion with the Chicago Dwelling Association and I don't recall whether or not I have had any correspondence or information to that specific question.

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Q Do you recall whether or not this was one

of the matters as to which you requested the Mayor to give you information in your meeting with him yesterday afternoon?

A No, I do not.

THE COURT: Mr. Polikoff, I regret that we must recess at this time. I also regret that instead of enjoying myself here this afternoon I have to go to a Judges meeting for two and a half hours. I would much rather come back here, but as I advised you at the outset, this has been set for two weeks.

The balance of the week is yours, or whatever other time you will need.

We will proceed promptly at 10:00 o'clock tomorrow morning.

We will stand adjourned for the day.

THE WITNESS: Your Honor, what about these exhibits?

THE COURT: Well, Mr. Polikoff will, I am sure, relieve you of them.

(Whereupon an adjournment was taken to 10:00 a.m., of the following day, Wednesday, September 22, 1971.)

THE CLERK: Case on trial.

THE COURT: Have the witness resume the stand.

You may proceed.

GEORGE VAVOULIS,

called as an adverse witness by the Plaintiffs herein,
having been previously duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION
(Resumed)

BY MR. POLIKOFF:

Q Mr. Vavoulis, I will hand you Plaintiffs'
Exhibit 4 for identification --

THE COURT: Which is what, for my edification?

MR. POLIKOFF: Which is the letter of intent
dated May 12, 1971.

THE COURT: All right.

BY MR. POLIKOFF:

Q (Continuing) And I want to ask you a few
further questions about that document.

Let's turn, if you will, to the non-GHA
undertakings in that letter of -- on Page 1 of the
letter under Section A. The letter of intention says
that the City will reduce projected demolition of
housing units; was that undertaking accomplished,

as far as the information given to you by the City is concerned?

A Yes, 500 units.

Q And that means that 500 fewer units were demolished than had originally been planned by the City, is that correct?

A I don't know what they had planned originally.

Q It does mean, does it not, that the City reduced by 500 some planned demolition?

A That is correct.

Q Yes. All right, the next section of the letter, Section B, talks about development of Section 235 housing sites, correct?

A Correct.

Q Would you state what a section 235 housing unit is for the Court, please.

A Well, it is a program that is provided through FHA insuring of this type of housing that makes it possible for low and middle income to purchase at a reduced interest rate these homes.

Q Are these generally single-family homes, that is, detached houses?

A Correct.

Q The letter of intention called upon the

City to identify certain locations for such Section
235 housing units, is that correct?

A Correct.

Q They were to do that by June 15th?

A That is correct.

Q Identify five hundred such units, correct?

A Correct.

Q Now, did the city do that?

A The last report I had from the city it is that they had under contract just under five hundred units that -- I don't recall the number of units that were under construction, and I am of the opinion that most of the sites had been identified for the 235's. As to the number, I don't recall.

Q I see.

Could you explain to me why it was necessary for the city to identify the location of these projects since these were HUD assisted projects? I mean, wouldn't HUD already know where they were located?

A Not necessarily. We make the units available. We are the insuring part of the program. We are not the contractor or the site selector. We participate in viewing that the sites are adequate.

Q Well, in making the federal subsidy available, don't you learn the location of the project?

A We do when they make application, when we release the funds, yes.

Q So identification in the context of this letter consisted of the city's advising you of the location of some federally subsidized projects for these 235 units, is that correct?

A No, the letter indicated that they would build so many units of 235 housing, and this was a part of the total program in attempting to reach the goal necessary to develop housing for relocation and for the location of low-income families.

Q Well, is it the city or is a private developer the builder and owner of a Section 235 housing unit?

A Private developer.

Q So I thought you were saying that the city said they would build. A private developer does the building.

A Well, they get the allotment and then contract out with the private developer to have these homes built.

Q The private developer owns the unit and sells it to a private purchaser, is that correct?

A Correct.

Q The letter of intent also provided, did it not, that the city was to formalize agreements satisfactory to HUD to assure that at least two hundred

and fifty of these homes would be available to low-income purchasers, is that correct?

A That is correct.

direct

Q Has that been done?

A Well, it is happening. To what extent, I don't recall the exact figures.

Q Well, has any such agreement, even one such, assuring the purchase of a Section 235 unit by a low income family been submitted by the City to HUD for HUD's approval?

A Yesterday I gave you a finalized report from my staff concerning the City's progress. If I may, I would like to have it so that I could read off of that report.

Q You are referring, I believe, to Plaintiffs' Exhibit 8 for identification.

A Correct.

Q Which I am now handing you.

A Yes. City of Chicago's progress under the May 12th letter of intent, I have had two reports, one verbally indicating to me that there was progress on the 500 units of 235's, that this had been allotted to the City through the Illinois Area Director's office; No. 2, I have been told that there was under contract a number of these units. A report I have here indicates no performance as of 9-15-71.

Q And does that no performance report include

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no performance with respect to contracts assuring purchase of any of these units by low income families?

A I don't know this at this time.

Q Pardon me?

A I don't know that.

Q Is there anybody on your staff who would know that, Mr. Vavoulis?

A I don't know that they would know any more than I would. You could raise the question with -- well, Mr. Rapinowitz is here. The attorney is here.

MR. NEAL: Your Honor, would counsel direct the witness' attention to the third paragraph? The answer is clearly on the exhibit. I think maybe the witness is confused.

THE COURT: Well, the witness has got the exhibit before him.

MR. POLIKOFF: I will be happy to allow Mr. Neal --

THE COURT: Do you want to go up and read to this witness, who is not your client, what you think he ought to look at.

MR. NEAL: I will withdraw it, Judge.

MR. O'Brien: Your Honor, at this time I would like to enter an objection on behalf of

CHA, and I won't repeat it; this topic, Section 235 Housing, indeed, everything we have been discussing, Model Cities included, is nothing included within the four corners of the decree, of your Honor's decree of July '69. I consider the whole subject irrelevant.

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that document speaks for itself. It has been marked for identification and it does indicate what city's progress has been made in this regard.

THE COURT: Well, all I know is that when this witness' attention was called to this progress report and he looked at it and came to the conclusion that by looking at it he couldn't tell, that doesn't speak loud enough for the father of the report to hear the child.

BY MR. POLIKOFF:

Q MR. Vavoulis, may I refer back to the Section 235 subject?

THE COURT: You have a copy before you, right?

THE WITNESS: Your Honor, I think that as I understood my response to the question, and that is that the city's performance as of 9/15/71, was zero.

THE COURT: All right, then that's the answer.

BY MR. POLIKOFF:

Q Now, Mr. Vavoulis, it is the case, is it not, that as of the date you mentioned the city had submitted to HUD some information identifying locations of Section 235 sites, isn't that correct?

A Pardon?

THE COURT: Read the question, Mr. Court Reporter.

(Question read by the reporter.)

BY THE WITNESS:

A The city made available fifty to one hundred sites which are available to developers and census tracts with a non-white population not in excess of 30 per cent.

I would also like to correct my previous answer, and that is that the city has executed contracts for two hundred fifty low-income units.

BY MR. POLIKOFF:

Q That is for the construction of 250 of the
Section 235 units, is that correct?

A That is correct.

Q Is that what you are talking about?

A That is correct.

Q Those contracts are executed with the City?

A Yes.

Q And developers?

A Correct.

Q Do they assure that the purchase of any of
these units --

MR. POLIKOFF: Excuse me, let me withdraw
that question and rephrase it:

BY MR. POLIKOFF:

Q Do those contracts assure that any of these
units will be purchased by low income persons?

MR. MURRAY: Your Honor, right now I am going
to object to that, because the statute has a
legislative intent. The purpose of the Section
235 home owner program is for low income persons.

MR. POLIKOFF: Well, your Honor --

MR. MURRAY: That speaks for itself.

MR. POLIKOFF: The statute can certainly

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if it is of such a nature that it would cause harm in regard to accomplishing the objectives of others.

MR. POLIKOFF: Let me say I will work that out during the noon recess with Mr. Warnock.

For the present purposes, with the Court's leave I will hand this to Mr. Vavoulis. It may help to refresh his recollection as to far as I am --

THE COURT: This being an unidentified document?

MR. POLIKOFF: An unidentified document. As far as I am concerned he can use it in any way he sees fit to answer my question.

THE COURT: Now let's have this "simple question" as you term it read to the witness as he looks at this document. Maybe he then can gather enough information to responsively and adequately answer it.

Mr. Reporter, will you go back and read the last "simple question."

(The question, as follows, was read by the reporter:

"Mr. Vavoulis, let me direct your

attention to Page 2 of the letter of intent, the paragraph numbered 2 in the middle of the page which states that"

"The City will establish procedures and formalize agreements satisfactory to HUD to assure that not less than 250 units of said Section 235 housing will be available for purchase of low income families."

"Now the question is a simple one: Has the City formalized such agreements, submitted them to HUD, and has HUD found that they are satisfactory?"

BY THE WITNESS:

A The answer is yes.

is es.

BY MR. POLIKOFF:

Q Tell me how those agreements, if you know, assure that Section 235 units will be available for purchase by low-income families?

A Well, we released the commitment of five hundred such units with that understanding.

Q Is that understanding on the part of HUD reflected in any contract, any written document?

A I don't know that.

Q Is HUD's understanding, your understanding that the purchaser is bound by that requirement or understanding of HUD so that he is obligated legally to make that unit available for purchase by low-income families?

A That's correct.

Q How is "low-income family" defined for the purpose of that undertaking?

A I can't answer that.

Q How -- is there --

THE COURT: Does somebody have a definition?

THE WITNESS: Yes.

THE COURT: And whatever that definition -- it is incorporated where, if somebody wanted to look that up and find what it meant?

THE WITNESS: It is part of the guidelines on which Housing Authorities rent or sell to low-income families.

THE COURT: And these guidelines, where would you go to look for those?

THE WITNESS: Well, we would have them in our office.

THE COURT: I mean, you do have something in your office that defines a "low-income housing"?

THE WITNESS: That's right. I would be glad to furnish that.

THE COURT: No, I am just trying to find out where somebody could look and find it. You have told me?

THE WITNESS: That's right.

THE COURT: Thank you.

BY MR. POLIKOFF:

Q Generally speaking, would CHA tenants and applicants be low-income families in accordance with that definition?

A Yes.

Q Has HUD required that these units be made available to persons on CHA's waiting list?

A I don't think that we have told the city or

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the Chicago Housing Authority, other than spelling out "low-income families."

Q In your meeting last Monday afternoon with the Mayor, did you ask for any further information on this subject from him?

A No, I didn't.

Q Who on your staff would have one of the documents, contracts that reflect the HUD requirement of "purchased by low-income families"?

A Well --

Q That is where, if I wanted to see one of these contracts?

A Mr. Warnock.

Q Pardon me?

A Mr. Warnock.

Q Mr. Warnock, thank you.

You referred earlier to a provision of the letter of intention under which the city and the Chicago Housing Authority were to cooperate, it was anticipated in this Section 235 arrangement, by making available approximately fifty to one hundred sites in census tracts with a non-white population in excess of 30 per cent. I believe you said that had been done, is that correct?

A Right.

Q According to the report which is Exhibit A, ninety -seven such sites have been made available, is that correct?

That's on the first page of the Exhibit.

A Which is Exhibit A?

Q The two-page report?

A Oh, I see, yes.

Q Review, ninety-seven?

A Yes.

Q Are those ninety-seven sites among the ones --

MR. POLIKOFF: I will scratch that and

rephrase it:

BY MR. POLIKOFF:

Q Does the HUD requirement that two hundred and fifty of these units be made available to low-income purchasers include all of the ninety-seven sites, or only some of them?

A I cannot answer that question.

Q Who on your staff would be able to answer that?

A Mrs Levin, Marcie Levin.

Q Thank you.

Has HUD made a study of the location of these section 235 units that have been identified for

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HUD by the City of Chicago, a study in terms of the provisions of the decree in Gautreaux vs. CHA?

A We just received those on September 15.

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THE COURT: Well, we finally agree on that.

MR. WARNOCK: The whole letter of intent and all of the other related programs is plainly out of place at this time.

MR. POLIKOFF: Well, your Honor, I won't even wait for a ruling. We have spent a lot more time than is really necessary on this. I will withdraw the question.

THE COURT: No, I think I am going to sustain the objection to it.

MR. POLIKOFF: All right.

THE COURT: All right.

MR. POLIKOFF: There is no need for me to withdraw it then.

THE COURT: Let's stick to that next to the last paragraph on page 2 which has to do with cancelling the Model Cities letter of credit and the other housing that is referred to in that paragraph.

MR. POLIKOFF: All right, your Honor.

BY MR. POLIKOFF:

Q Mr. Vavoulis, the next provision of the letter of intent, provision number C, which begins **103** on page 3, is the leasing and rent certificate program;

under that provision, two hundred units either leased or rent certified were to be made available by June 15, 1971, is that correct?

A How many units did you say?

Q Two hundred by June 15, 1971.

A Correct.

Q And two hundred more per month thereafter, is that correct?

A That is correct.

Q So by December 15, the total number of units made available under that section C of the letter should have been eight hundred, correct?

A Yes.

Q How many units have in fact been --

MR. MURRAY: Your Honor, I am going to object to that line of questioning. I think those questions were already asked of the witness yesterday and answered by him.

MR. POLIKOFF: I have read the transcript --

THE COURT: He may have agreed to that yesterday but now he is about to give him an ultimate question, aren't you, Mr. Polikoff?

MR. POLIKOFF: No, I think Mr. Murray is mistaken. I asked questions on the CHA leasing

program yesterday. This is the CDA leasing program. It is a different portion of the letter of intent.

THE COURT: All right.

BY MR. POLIKOFF:

Q We have established that there were eight hundred units to be made available by September 15th under this portion of the letter of intent, Mr. Vavoulis; how many were in fact made available?

A There have been sixty units leased and there are forty units -- or leases in process. There have been six hundred and thirty-eight units identified.

Q "Identified" means you have been told the location, is that correct?

A That is correct.

Q The sites for these units were to be disbursed throughout a broad choice of neighborhoods in accordance with the letter of intent, is that correct?

A That is correct.

Q Have you been given any information as to that subject, that is that disbursement?

A No.

Q Did you ask for information as to that subject in your meeting Monday afternoon with the Mayor?

A No, I didn't.

Q Under Section D of the letter of intent entitled "Increased Use of Rent Supplements," that is on page 5, Mr. Vavoulis, the city and HUD were to require developers of Section 236 housing to make available 20 per cent of their units under rent supplement contracts, is that correct?

A Correct.

Q Would you explain briefly to the court what a Section 236 development is and what a rent supplement contract is?

A A rent supplement contract is that the difference between the capability of the family to pay and the difference in the rent would be paid by the Housing Authority, and the 236 is --

THE COURT: The Housing Authority in this case being CHA?

THE WITNESS: Right.

THE COURT: All right.

BY THE WITNESS:

A (Continuing) And we would fund that portion of the program through HUD.

The 236 program is a multi-family housing unit for leasing purposes.

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MR. POLIKOFF: I disagree with that, your Honor, because the witness has said that in making his decision with respect to Model Cities funds he based that decision on the total progress under this agreement. I want your Honor to know --

THE COURT: That is my recollection of what he said, and for that reason this objection is overruled.

BY MR. POLIKOFF:

Q All right, Mr. Vavoulis, my question now is have the City and HUD required, as the letter of intent on Page 5 says, have they required developers of Section 236 housing to make 20 per cent of their units available under rent supplement contracts?

A Yes, they have.

Q How has that requirement been imposed?

A This requirement has been imposed through the allotment or the release of these units through our -- at that time we were under the Assistant Regional Administrator in charge of FHA production. That was part of the commitment when he released those units.

Q Has HUD or the City required that any of those rent supplement units be made available to

people on CHA's waiting list?

A Again, the definition was low income people and whether they are on the waiting list or not was not a point in question.

Q All right.

Would Mr. Warnock again be the person who could supply information as to the documentation evidencing this requirement?

A Correct.

Q Thank you.

I am going to skip the next section, Section E, Chicago Housing Authority, Mr. Vavoulis, because I asked you about that yesterday.

Turning to Section F, which begins at Page 8 of the letter, the first paragraph of that section carrying over to the top of the next page refers to the possibility that the Chicago Housing Authority will enter into partnership arrangements with not-for-profit sponsors. Have you received any information from the Chicago Housing Authority as to its entry into any such arrangements?

A I would like to point out that --

THE COURT: Would you like to point something out before you answer the question? Is that your --

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THE WITNESS: Well, I was looking at the wrong document.

THE COURT: All right. Are you in a position to answer the question that is pending?

THE WITNESS: Well, one moment.

BY THE WITNESS:

A I have received no written information. We have had discussions about this kind of progress and development, and I am in no position to report as to the degree of the progress made.

I would like to respond fuller in detail to -- and all of them relate to the number of questions that you have been raising -- I feel that the responsibility that I have as Regional Administrator is to view the context of what is happening in the City of Chicago in relationship to the HUD program in terms of zero performance and in terms of its rate of progress. That degree of progress is an administrative judgment which I have to make concerning the Model Cities funds.

In addition to that, I have walked through Woodlawn, I have walked through Lawndale, I have looked at these 235 units throughout the City in different wards. I have looked at 236's, and coupled

with what I have seen and what it means to the people in those homes, what the problem of the responsibility that I would have in making a decision as to the day care centers that I saw and the people that they were serving, the work training programs that I know something about, because I used to be the Manpower Commissioner, the Health Services and so on, all entered into my arriving at a decision, and I was not permitted to make that decision publicly because of the lawsuit.

BY MR. POLIKOFF:

Q Thank you.

THE COURT: Well, you arrived at a decision last June, too.

THE WITNESS: That is correct. That decision was that the contract or the application of the Model Cities program submitted to us was acceptable and we issued then a letter to proceed, to spell out what would have to be done.

be done.

BY MR. POLIKOFF:

Q I now direct your attention to the middle of page 9, Mr. Vavoulis, the item that is numbered 1 there that speaks of the Housing Authority and the Chicago Dwelling Association having identified a number of sites in the urban area for housing developments to be made available to moderate and low-income families. I asked you about that yesterday and I believe you said you'd had no discussion on that subject with the Chicago Dwelling Association; have you had any discussion on that subject or information supplied to you on that subject by or from CHA or with CHA?

A I will answer that, but I also like -- the Judge raised a question earlier, and I want to make sure that our approval of the second year Model Cities Funding Program had nothing to do with the city's performance in all of these other areas at that particular time. We were not weighing the program acceptability in relationship to the housing programs of the City of Chicago. ✓

Q Well, Mr. Vavoulis, if that statement you just made is correct, will you please explain why you conditioned the release of the Model Cities funds,

as you did in your June 21st letter, on performance at each regular session of the City Council in approving CHA sites?

A Well, the condition that was put in there said that I would evaluate the measure of that progress in relationship to the Model Cities Program and at that time --

Q Let me show you a letter --

A At that time I would --

THE COURT: Let him finish his answer and then show him whatever you want. It will be more interesting after.

BY THE WITNESS:

A (Continuing) At that time I would make a determination whether or not I should cut off the letter of credit.

BY MR. POLIKOFF:

Q Have you finished your answer now?

A That is correct, I have.

Q I direct your attention to the first sentence of the last full paragraph on page 2 of the June 21st letter you wrote to Mayor Daley, which states, I believe, that the release of the Model Cities

funds is a conditional release, and the condition is stated, and it is a condition that relates to action by the City Council on CHA sites.

A Well, I don't think the two are relevant.

MR. MURRAY: I am going to object to the characterization by Mr. Polikoff. The letter speaks for itself and I think the decision should be left to the court.

MR. POLIKOFF: I think that is right, your Honor, and I will withdraw the question.

THE COURT: I don't think that you will have a great deal of difficulty convincing anybody, the court or anybody else, that it is possible to indicate that -- or there is an indication that this is a conditional release.

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release

BY MR. POLIKOFF:

Q I was asking you, I believe, as to whether you had been supplied any information by the Chicago Housing Authority with respect to Item No. 1 in the middle of Page 9; could you answer that question, please.

MR. WARNOCK: I will object again on the grounds of relevancy, your Honor. The preceding paragraph in the item that he is referring to is characterized as long-range developments which the City anticipated it will undertake in cooperation with other agencies. This is clearly not within the ambit of the 4300 units that we were counting on to achieve the housing relocation feasibility essential for release of the NDP funds.

MR. POLIKOFF: Well, I didn't say they were, and if the witness does not understand the question, let me make that explicit, that these are described as long-range developments.

THE COURT: They are so described in this Page 9.

MR. POLIKOFF: That is correct.

BY MR. POLIKOFF:

Q So now with that clear understanding, would you answer the question.

A I don't know.

Q Who on your staff would know?

A Well, Mrs. Levin.

Q Thank you.

On Item 2 on that page, the City is, according to that item, to identify obsolete and deteriorated commercial strip frontage and abandoned or vacant factories throughout the City for development of new housing. Has that identification been made by the City and supplied to HUD?

A Not completely. There have been sites that would fall into that category. How many of them there are, I don't know.

Q Have such sites been submitted by the City to HUD?

A Pardon?

Q Have such sites --

A There have been some of those sites submitted, yes.

Q In writing?

A Yes.

Q From whom in the City Administration?

A Well, in the transmittal of the sites that have been approved by the City Council there were some of the sites that fell into that category, and whether they were acceptable to us or not is a debatable -- is the question that is now being studied.

Q I see.

So the sites to which you have been referring in these last several answers are sites that have been approved by the City Council?

A That is correct.

Q Have there been any such sites, that is, identification of sites pursuant to this Paragraph 2 on Page 9, other than those approved by the City Council?

A I am -- I can't answer that question.

Q Who on your staff would have that information?

A Mrs. Levin.

Q Mrs. Levin again?

Thank you.

The next item on Page 10, it is No. 3, states that HUD should require that all developments in the metropolitan area funded through the Illinois Housing Development Authority will provide 10 per cent of the units for low income families; has HUD so required?

A Again I would have to refer that to the staff.

Q That would be Mrs. Levin again?

A Correct.

Q Is it Miss or Mrs.?

A Mrs.

Q Thank you.

The next item, No. 4, is New Towns in Town within the city or proposed to be developed in certain specified areas; have you been furnished with any information as to such proposed developments by the City?

A Yes, we have.

Q When was that, or was it on more than one occasion?

A No, just on the last -- their last progress report.

Q September 15th?

A Correct.

Q The information as to that item that you are referring to is contained in the September 15th progress report?

A I believe it is.

Q Have you been furnished any information as to this item other than what is contained in the September 15th progress report?

A Well, the Mayor explained it to me in his office, and whether there has been any further written documentation, I am not aware of it. It could be.

Q Who would know if there had been any?

A Well, the staff again, Mrs. Levin.

Q Mrs. Levin?

A Levin.

In

Levin

Q Thank you.

The next item states that all -- that is Item 5, beginning at the bottom of Page 10 -- all land in the metropolitan area presently owned by the various agencies or offices of the Federal Government should be identified to determine which of those sites could be made available for housing developments; has that been done?

A We are in the process of having made the request. This information is contained in our central office in Washington, D.C., and I have been told that we would have that information by Friday of this week or the first part of next week.

Q That information would come to you when it arrives from Washington?

A That is correct, and then we would transmit it to the Chicago Housing Authority.

Q You then plan to transmit it to the Chicago Housing Authority?

A Yes.

Q The next item, No. 6, says that -- speaks of modular construction and refers to a specific Section 236 project that is to be site assembled from factory-produced components as being under construction shortly;

has that happened?

A I don't know if it has happened or not. I do know that there is considerable discussion. We have staff people today here with Secretary Finger who heads up the Operation Breakthrough program who is discussing this type of construction and also viewing parts of the City of Chicago in an effort to find out to what extent HUD can participate in such a program.

Q Who on your staff would know if that Section -- that specific section 236 project has begun?

A Again, Mrs. Levin.

Q Thank you.

Now turning to Page 12 of the letter of intent, at the bottom of the page, it is stated that when the Chicago Housing Authority has accomplished the necessary preliminary steps HUD will execute annual contribution contracts with the CHA and others for the public housing units described in Part 1 of the letter. I would like to ask you, Mr. Vavoulis, has HUD executed an annual contributions contract with CHA with respect to the 288 units that you have been advised have been approved by the City Council and which are located in the white neighborhoods of the City?

Vavoulis - direct

A Not as yet, no.

Q Could you tell us why that hasn't happened yet?

A Well, No. 1, I received this September 15th; No. 2, we are in court today; and, No. 3, the analysis and questions that we are raising in a number of areas have not been completed and we haven't progressed to the point where we could issue the contract.

Q Has CHA requested that such a contract be executed with respect to these --

A Not --

Q Let me finish.

-- with respect to these 288 units that were approved back in June?

A I don't know if they have or not.

Q Who would know as to that?

A Mrs. Levin.

Q Have you had any discussions with the CHA, Mr. Vavoulis, or with the City concerning specific plans for additional CHA housing beyond the 1700 units which are supposed to be approved by the City Council by December 15th under the letter of intent.

A We have talked to them about the leasing program, the 235 low income, the 236 rent supplement

programs, to that extent.

Q How about with respect to new construction?

A We have discussed that with them also.

Q Would you tell me who you discussed it with
at CHA?

A Mr. Hill and Mr. Swibel.

Q Was that discussion recently?

A It has been a continuing discussion ever
since we have been involved with the programs.

programs.

Vavoulis - direct

Q All right, could you tell me the gist of the continuing discussions as to provision of new construction, CHA housing, beyond the seventeen hundred units referred to in the letter of intent?

MR. O'BRIEN: Your Honor, I would object to the form of that question. Continuing conversation with whom?

MR. POLIKOFF: He said Mr. Hill and Mr. Swibel.

MR. O'BRIEN: Well, if it is clear we are talking about both, I will withdraw my objection, but if it is with either, then I think there ought to be some attention paid to the detail.

BY THE WITNESS:

A I don't know whether the question is relevant to Model Cities Program, but the reason that I have had these discussions is that I have been trying to urge the city to think in terms of a five, ten and twenty year program for Chicago, and in a general context we get into so many different areas concerning, "What do you mean by a five, ten or a twenty year program to meet the housing needs of the people of the City of Chicago?"

THE COURT: Don't you think a ten year program might result in getting the seventeen hundred and fifty sites identified?

THE WITNESS: I wouldn't know, Judge.

THE COURT: All right. At the rate they are going, it will take ten years.

THE WITNESS: Well, that is your judgment.

THE COURT: Well, I can divide what they have come up with in two years and multiply it, and they may not achieve it in ten years.

THE WITNESS: I am seriously concerned about the programs and I appreciate the inuendo. All I can say is that since I have been here they went from zero to something, which means that some progress -- and I have to agree with you that it is not the kind of progress that I fully appreciate. On the other hand, I have to view my responsibilities in that context.

THE COURT: You think it is the kind of progress that they promised?

THE WITNESS: No, it is not, that is clear.

THE COURT: All right.

BY MR. POLIKOFF:

Q Mr. Vavoulis, I would like to direct your

Vavoulis - direct

attention to a portion of your testimony yesterday.

THE COURT: I think at this time we will take a five minute recess, Mr. Polikoff.

(Thereupon a short recess was had herein, after which the following further proceedings were had, to-wit:)

THE COURT: Is the witness here?

MR. POLIKOFF: I guess he just stepped out for a moment.

BY MR. POLIKOFF:

Q Mr. Vavoulis, I would like to hand you for a moment a copy of the transcript of yesterday's testimony. There is an answer on page 84 that I want to ask you another question or two about.

Would you take a quick look, please, at the bottom of -- or a long look at the bottom of page 83 and the top of page 84?

A Beginning with "No, I haven't," or the question?

Q You might want to read the preceding question.

THE COURT: Read the question that brought forth the answer.

BY MR. POLIKOFF:

Vavoulis - direct

Q And then to the top of page 85, through the first answer.

A Okay.

Q All right, you said there that you wanted to complete the analysis of the city's September 15th report before you negotiated it with the city.

I want to ask you about what you meant when you used that word "negotiated". Do you now plan, having completed that analysis, to engage in negotiations with the city?

A Well, by "negotiations" I meant, and I think I explained it on several different occasions from questions that you directed at me, some of the unanswered portions of the questions such as, "What will be the rate of progress concerning the five hundred units that the city has contracted with the county? How long would it take them for site identifications? I want to know what the problem is that the City Council is having and their refusal to -- or not refusal, but not having approved the number of sites as requested in the letter of understanding that I have with the Mayor and the Chicago Housing Authority according to the Judge Austin decision".

Vavoulis - direct

Q So by "negotiate" here you meant obtain further information on the subjects you just mentioned?

A That is correct.

Vavoulis - direct

Q And was it for that purpose that you met with the Mayor on Monday afternoon?

A When I met with the Mayor, the Mayor called and asked for me to meet with him at 2:30. I did not know what the subject of discussion was going to be at that particular time, and while in his office I raised -- I took out the analysis that our staff had made, the same one that I gave you yesterday, and asked him to go over it with his staff and to respond to mein answer to why.

Q And you are now awaiting a response from the Mayor as to those matters?

A That is correct.

Q Was anything said as to when that response would be forthcoming?

A No, we talked in terms of -- in general terms.

Q I direct your attention now, if I may, to Page 110 of the transcript that you have in front of you, the long answer on that page; I am interested in the last paragraph of the answer where you are referring to your discussion with the Mayor. I would like to know if the discussion to which you are referring -- do you need more time to read it?

A No, go ahead.

Q Is the discussion to which you are referring the discussion of Monday afternoon?

A You mean concerning my visit between 2:30 and 3:00?

Q Yes. You say you also -- on Page 110 -- you say you also advised the Mayor that nothing would change at that particular time.

Is the advice --

A Well, the funding situation as it existed at that particular time, that I was in no position to make any further commitments at that time, that the fact that I was holding up the NDP funds and the status of the Model Cities and so on would remain the same.

Q I am asking you whether the conversation between yourself and the Mayor, about which you were testifying on Page 110, is the conversation that took place last Monday afternoon to which you referred a few moments ago. That is my question.

A That is correct.

Q It is correct? All right.

Did you also advise the Mayor, as it states here in the last portion of your answer, at that time,

did you also advise the Mayor that you were in no position to make an administrative judgment concerning the release of funds?

MR. NEAL: Well, his answer would be the same. I would object to that question, reading from a transcript to repeat an answer. I don't think it is proper.

THE COURT: I think what he is trying to ascertain is whether that is what he said to the Mayor on Monday.

MR. POLIKOFF: Precisely.

MR. NEAL: I misunderstood it, Judge.

THE COURT: All right.

BY THE WITNESS:

A Yes.

BY MR. POLIKOFF:

Q Thank you.

Mr. Vavoulis, does the City's application for the second action year of the Model Cities program include a relocation plan?

MR. MURRAY: Objection, your Honor. Now we are going beyond the scope of the inquiry as far as relocation programs. That is another lawsuit Relocation is involved with NDP funds,

Urban Renewal Funds, and as far as its relationship to tying this particular housing to Model Cities and the Social Services for which the 26 million dollars would be geared for at this time is not relevant, and I am going to object on relevancy.

THE COURT: I am used to some of these initial things, but I don't know what "NDP" means.

MR. MURRAY: I am sorry, your Honor, Neighborhood Development Program.

THE COURT: All right.

MR. POLIKOFF: I am confused, I was confused before and your Honor sustained an objection because I was going afield from Model Cities. Now this question relates precisely to the approval of the Model Cities funds which is the subject of this application for relief pending appeal.

MR. MURRAY: Well, your Honor, I will withdraw the objection.

THE COURT: All right, the objection is withdrawn.

BY MR. POLIKOFF:

Q The question was: Does the City's application for the second action year of the Model Cities program include a relocation plan?

A I don't know if it does or not. It's a minimal happening within the Model Cities neighborhood. Mr. Ted Robinson, who heads that program, could answer that question.

Q Do you know whether there is a requirement

that the application include such a plan as a matter of law?

A No, I don't. There are funds provided in it.

MR. MURRAY: Objection, your Honor.

THE COURT: The answer may stand, the answer may stand.

BY MR. POLIKOFF:

Q You say Mr. Robinson is the person on your staff who would know?

A Right, that's correct.

Q He has the responsibility, does he, for administering --

A To administer the Model Cities program, yes.

Q I would like to show you for a moment, Mr. Vavoulis, a copy of the HUD City of Chicago Team Preliminary Report, which has been identified here as Plaintiffs' Exhibit 2 for identification.

You are familiar with that document, are you not?

A I know of its existence. I am not totally familiar with it.

Q Are you aware of the fact that three tasks were assigned to that task force or team -- excuse me,

three tasks were assigned to that City HUD team?

A No, I am not aware of that.

I would like to call --

MR. WARNOCK: Your Honor, I have to object again, but I am going to object on the grounds of relevancy. For two reasons. First of all Mr. Vavoulis was not the Regional Administrator at the time that report was authored, and second of all --

THE COURT: But I assume he could have read it since he has become Regional Administrator.

MR. WARNOCK: I am sure he could have read it.

Second of all, the issues that we are talking about have been at least enlarged to this point: That you are looking to see what considerations in the whole letter of intent Mr. Vavoulis took a look at when he made his decision on Model Cities funding. It surely doesn't relate to this old staff report that has nothing to do with the letter of intent.

THE COURT: Of course I am not even aware of the date of the staff report, I have never seen it. What is the date of it?

relevant

MR. POLIKOFF: Yes.

THE COURT: This will aid me in ruling on the objection that is pending.

MR. POLIKOFF: Correct.

THE COURT: Now where are we?

MR. POLIKOFF: The report, as I have just described it to your Honor, identifies three tasks to be jointly performed by HUD in the City. Each of those tasks is intimately related to the question before your Honor, namely --

THE COURT: I thought at the moment we were discussing a letter from his predecessor.

MR. POLIKOFF: No, I simply made mention of that letter to your Honor as showing that this was not simply a staff report, it matured into formal HUD action.

I intend to ask Mr. Vavoulis what -- let me withdraw that for clarity and say the first of the three tasks was to identify the housing deficit. That was done, that was the 4300 units that resulted in the Don Morrow letter.

The second and the third tasks remained, as of November 19, 1970, unfulfilled. The report so states. I simply want to ask Mr. Vavoulis

whether he knows whether the City HUD task force is currently going forth on those two subsequent tasks.

THE COURT: I will permit you to ask that question, and the objection is overruled. That question that you just stated.

BY MR. POLIKOFF:

Q Will you consider that question addressed to you?

THE COURT: Probably Mrs. Levin knows the answer.

THE WITNESS: Are we talking about -- do you want to ask her?

MR. MURRAY: Your Honor, let's have Mr. Polikoff rephrase the question or ask the Court reporter to read it.

MR. POLIKOFF: I will rephrase the question:

BY MR. POLIKOFF:

Q Mr. Vavoulis, the second task of the HUD City Team was to monitor relocation. Is that going forward?

A I discussed this this past week with two members of my staff, asking that I had to have this study completed, wanting to know what the progress

of the relocation efforts were in Chicago, and I wanted it done on a family-by-family basis so that we would have the factual answers.

If the job was so voluminous they were to make a spot check, but in-depth enough so that I could get a reading as to how the relocation was being accomplished.

Q That request was made by you last week you say?

A Yes.

Q Do you --

A I had made it earlier. We are in the process of decentralization and reorganization of the office. It had not been started, and I became seriously concerned, recognizing that it had not been put in the motion.

Q Do you mean that the HUD City Team has not been working on that second task between November 19, last year, and the time you made this request?

A I don't know whether they had prior to the time of my arrival.

Q Have they been since your arrival?

A I just explained that they have. They are in the process of reactivating that task force team, and to get the information that I now requested of them.

Q Who were the members of that task force

team?

MR. MURRAY: Your Honor, I am going to object to this entire line of questioning. We are now going far afield, it's a fishing expedition.

BY MR. POLIKOFF:

Q Now, I mean who are --

A The members of that task force team were to be members of the staff, as well as the City of Chicago. It was to be a joint effort.

Q I just want to know who the members are.

MR. MURRAY: Well, your Honor --

MR. WARNOCK: There is no relevancy.

THE COURT: Who the members were, Mr. Polikoff, the objection is sustained.

Go on.

BY MR. POLIKOFF:

Q The third task, the third and last task, Mr. Vavoulis, are you familiar with whether the HUD City Task Force team has been working on that since November 19, 1970?

A What was the task, I don't --

Q Well, I won't use my own phraseology, but let me direct your attention to the report itself.

MR. NEAL: Objection, your Honor, in that

assuming.

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BY MR. POLIKOFF:

Q Do you remember the pending question?

THE COURT: Well, we are looking for the third task, if there is such a thing. It's apparently a bad word in Mr. O'Brien's book.

Can you give us another name for task?

BY MR. POLIKOFF:

Q Function?

A All right.

THE COURT: Very good.

BY THE WITNESS:

A Are you talking about the relocation monitoring?

BY MR. POLIKOFF:

Q The one after that?

A "To prepare intermediate and longer term recommendations on the part of the housing strategy"?

Q That's correct. Has this city HUD team been working on that function since November 19, 1970?

A Well, I don't know what --

MR. WARNOCK: Objection, your Honor, the letter of intent speaks for itself on that question.

I just called to the court's attention

the fact that there was a long range strategy built right into that report.

THE COURT: Yes, you called that to my attention and that hasn't been washed from my brain, either; I still remember that.

The question is a simple question that doesn't refer to the May 12 letter or the June 21 letter or any other letter. It is a question have they been doing what this function, have they been performing this function to your knowledge.

BY THE WITNESS:

A The answer is yes.

THE COURT: All right.

BY MR. POLIKOFF:

Q Has the team submitted any reports relating to that function to you in writing?

A In discussion only.

Q Okay. Could you tell me the gist of that report to you, and when it was given and by whom?

A When I came aboard, which was one February, and figures were thrown at me as to the number of housing units, leasing units and so on, I raised a question as to where these figures came from, how

were they brought about, what figures did it base these figures on, was it through a study, was it by HUD people, did it come from the City of Chicago Housing Authority, who did it come from. At that particular time, I was then introduced and then told about the HUD City team of Chicago, the studies that they had made and the conclusions that they had arrived at, whether or not the task force had functioned between November and the submission of the report until I came aboard I am not in a position to answer.

Since that time, up until I have told you about the need for reactivating the HUD city team and to apply whatever muscle our department had in getting the relocation information, and also to talk to me in terms of the housing needs of the City of Chicago, and that in general is as far as we have gotten now.

Q You said you don't know whether that team functioned between November and February when you came aboard?

A That's correct.

Q Did it function between February and your most recent request?

A It has not done an active job of accomplish-

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ing the questions that you have asked. They are in the process of doing that.

Q Was that part of the assignment you gave the team a week or so ago?

A That's correct.

Q Mr. Vavoulis, yesterday you said that you had made a decision as to whether to release the second year Model Cities money, but had not yet publicly announced that decision.

Would you tell us what that decision was?

A Yes, I can tell you that decision. I made that decision after, I told you earlier, I walked through Woodlawn, visited --

THE COURT: Lawndale.

THE WITNESS: Right. You remember well, Judge.

I can see that you haven't been brainwashed.

THE COURT: Well, that didn't escape me.

THE WITNESS: Okay.

BY THE WITNESS:

A (Continuing) The daycare centers, trying to get acquainted with the full impact of what the Model Cities Program was doing for the poor people of the City of Chicago, who these people were, where they lived, how they participated in these programs

and what effect it would have if I would cut off the funding of their programs. That was one consideration.

A second consideration that I think is very important, and where you and I differ very violently, that is, that if I cut the funds off from the City of Chicago in terms of the Model Cities Program, will it in fact have leverage on the City Council to approve additional housing sites.

I also asked you at that particular time, "In your opinion what would be accomplished and what about the effect it would have on the poor people, denying them daycare centers, job opportunities, training and so on."

Your response to me was "That's the price the people will have to pay for progress."

That is your opinion. In my opinion, I had arrived at the conclusion, after witnessing what has been happening in Chicago, the posture of the Mayor, and actions of the City Council, that no amount of money that I would cut off from the City of Chicago would in any way effect the decisions of the City Council. I am a former Mayor of a first class city,

and I think I understand the politics of the Council and the only effect that I could see the Council's responding to would be the people's pressures, the voting, whether they represent their ward opinion.

Viewing that in that context, my decision was that when the appropriate documents were signed and approved by the City Council and delivered to me I would release them all the Model Cities funds.

I could see no way this would effect the housing program in the City of Chicago.

THE COURT: Have you as a former Mayor any suggestion as to how you can put some pressure on a recalcitrant City Council, or do you say that's impossible?

THE WITNESS: I think I explained that, that the name of the game in politics is to win the election, and that entitles you to become a practicing politician, and unless you reflect the opinion and the will of the electorate you won't get elected. Unfortunately, you have a ward system, or whatever -- you have a ward system here in the City of Chicago. The alderman is responsive to his immediate ward, and I have said repeatedly and have stated publicly that I condone the kind of action that the City Council has taken in not facing up to their public housing responsibilities.

THE COURT: You say you condone them?

THE WITNESS: Well, I criticize them.

BY MR. POLIKOFF:

Q You mentioned you did not condone them?

A I did not condone them.

THE COURT: You have no suggestions as to how to make --

THE WITNESS: Well, I think the public has a responsibility. You cannot live in a white neighborhood and pass judgment on others.

THE COURT: Shall we get back on the track?

BY MR. POLIKOFF:

Q Yes, your Honor.

In forming your opinion --

MR. MURRAY: Your Honor, as far as your Honor's remark, "getting back on the track," I think the last remarks are on the track for the first time during this entire hearing.

THE COURT: I expect to hear this discussed, but I didn't expect to hear it discussed at this stage of the proceedings.

MR. MURRAY: Your Honor, I think Mr. Vavoulis pointed out in the preceding question that he's trying to convey to your Honor what ingredients had gone into his decision, making progress to release the 26 million dollars in Model Cities funds. He has to weigh very many complex factors with respect to that. I think he is trying to convey --

THE COURT: I am not going to shut him off, and you are going to have him for as long as you want him on redirect or as your own witness or anything else.

MR. MURRAY: Thank you, your Honor.

THE COURT: At least we have got now to a philosophical difference of opinion between the contending parties here.

BY MR. POLIKOFF:

Q In forming your opinion, Mr. Vavoulis, as to what effect withholding of the Model Cities funds might or might not have on the City Council, did you have the benefit of any enlightenment from the Mayor?

A No, I didn't.

Q Did you discuss that question with him?

A No, I did not.

Q Why not?

A Well, I just didn't. I am not telling the Mayor how to run his shop.

Q I am asking you why didn't you solicit information?

THE COURT: He has just answered responsibly that question.

BY MR. POLIKOFF:

Q Why didn't you solicit information on that

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subject?

MR. MURRAY: Objection, asked and answered,
your Honor.

THE COURT: Not this question.

MR. POLIKOFF: It's another question.

THE COURT: Not this question.

BY THE WITNESS:

A I talked in terms of the total context of
the problem with the Mayor. I did not ask him specifically
as to why the council was not performing.

BY MR. POLIKOFF:

Q Did you ask the Mayor at any time whether he
was in a position to affect the council's decision
making processes in this particular connection?

A No, I did not.

Q Why didn't you solicit that information from
him?

A I just didn't.

Q And you don't recall your thought processes
as to why you didn't?

MR. MURRAY: Objection, your Honor.

MR. POLIKOFF: All right, I will withdraw
that question.

MR. MURRAY: I object to this entire line

of questions.

THE COURT: Objection sustained.

BY MR. POLIKOFF:

Q Did you have any discussions with any of your staff members as to whether that question should be asked the Mayor?

A No, I did not. I raised several questions as to the makeup of the council, the history of performance by the council, the politics of the city. I even read the book "The Boss" in order to prepare myself for it.

Q Well, didn't reading "The Boss" suggest to you that the Mayor might be effective in shaping the decisions of the council?

A He convinced me that he runs a very fine city.

Q In making your decision --

THE COURT: There have been some overwhelming votes on projects that the Mayor was interested in. Did you ascertain as to how he is able to bring those about? 43 to 7 and 42 to 8? You didn't go into that, I don't assume.

THE WITNESS: All I know is that the Mayor has won by 70 per cent of the electorate's votes

here in the City of Chicago. I can tell you that --

THE COURT: Your party gave his defeated opponent a job, didn't it?

THE WITNESS: Pardon?

THE COURT: Your party gave the defeated opponent a job to console him?

THE WITNESS: That's the name of the game, isn't it, Judge?

MR. MURRAY: I will object, I don't think this --

THE COURT: Well, I'll drop it if he drops it.

BY MR. POLIKOFF:

Q Mr. Vavoulis, in making your decision as to the release of the Model City funds, did you consider whether that release at this time should be a conditional or an unconditional release?

A No, I hadn't considered it. All I knew is that I was going to release the money.

release the
money.

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Q Unconditionally?

A Correct, and my reason for it simply is that the nature of the programs and the fact that it had no relevancy as far as I was concerned as to the rest of the housing program.

MR. POLIKOFF: All right, your Honor, at this time I would like to offer some Exhibits into evidence. I will do it while Mr. Vavoulis is on the stand in case there is any cross examination.

At this time I have no questions of Mr. Vavoulis, but I do have another witness to call, and then a third. Both will be very brief.

THE COURT: That will conclude your case?

MR. POLIKOFF: I believe so, your Honor.

THE COURT: All right, that puts them on the alert to be ready to go.

MR. POLIKOFF: The first is Plaintiff's Exhibit -- all of these you will recall have been stipulated to as to authenticity.

Would your Honor like me to read what they are, or shall I just offer them as a group?

THE COURT: Well, let's offer them as a group.

MR. POLIKOFF: Are there any objections?

WILLIAM SINGER,

witness called by the plaintiffs, having been first
duly sworn, was examined and testified under oath
as follows:

DIRECT EXAMINATION

BY MR. POLIKOFF:

Q Would you state your name, please?

A William Singer.

Q Are you an Alderman of the City of Chicago,
Mr. Singer?

A I am, the 43rd Ward.

MR. POLIKOFF: May I ask the reporter to
mark these documents as Plaintiff's Exhibits 10,
11, 12, 13 and 14 for identification.

THE COURT: They may be so marked.

(Documents marked Plaintiff's Exhibits
10, 11, 12, 13 and 14 for identification.)

THE COURT: Are these by any chance the
minutes of the summer meetings?

MR. POLIKOFF: Your Honor has certainly not
been brainwashed, it's clear.

MR. NEAL: May I object to that. If they
are the original journals of the meetings with
the exception of relevancy, he doesn't have to

go through the procedure of introduction of these documents. Let me just look at them and see.

Now, we do object on relevancy, I am sure, but to save time, your Honor, these are the originals of the proceedings. They are proper documents. I object on the grounds of relevancy. The court has heard my objection previously.

THE COURT: You object to their authenticity?

MR. NEAL: Yes.

THE COURT: You agree that these are, what?

MR. NEAL: These are the journals of the proceedings of the City Council of the City of Chicago.

THE COURT: For the dates that they bear?

MR. NEAL: For the dates that they bear on the face thereof.

THE COURT: Is there anything on there you wish to use the Alderman for?

MR. POLIKOFF: Yes, your Honor, one or two further questions.

Let me just state for the record that Exhibit 10 is for the regular meeting of Friday.

THE COURT: When he gets off the stand.

Let's get him back to his constituents and back to lunch to ask these two or three questions you want to ask and then offer those.

MR. POLIKOFF: And then state these for the record. Thank you, your Honor.

BY MR. POLIKOFF:

Q Alderman Singer, I am going to show you these Exhibits for the dates of June 11, June 18, June 24, July 21, and July 28. I will tell you those are the dates and ask you, were there any meetings by the City Council that took place during the period from June 11 through July 28 other than these?

A There were committee meetings but not of the full Council itself.

tsself

Q All right. Were these; were the meetings on these dates regular meetings of the City Council?

A All of the meetings of the City Council are regular, in that at the end of the meeting we adjourn until the next regular meeting. The ordinance, we pass an ordinance at the end of each meeting, if you look on the last page of the journal and it will say that the council is adjourned until the next regular meeting and it sets the date for that next regular meeting.

Q I show you the journal for the date July 28th; on the last page it shows an adjournment to September 15th, does it not?

A That is correct.

Q Was there a regular meeting of the council on September 15th?

A There was.

Q Has the journal for that meeting been printed yet?

A It has not.

Q Did that meeting adjourn to a fixed date?

A It did.

Q What date?

A October -- I believe it's October 6th.

Q Thank you.

A At 10:00 a.m.

MR. POLIKOFF: No further questions.

THE COURT: Any cross examination of the Alderman?

MR. NEAL: No cross examination.

MR. POLIKOFF: That is all. Just one moment, your Honor. That is all and I would offer these exhibits into evidence, your Honor.

THE COURT: We will argue the question of relevancy at two o'clock. Thank you, Alderman.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: You have one more brief witness?

MR. POLIKOFF: Yes, your Honor.

MR. NEAL: That was the nature of my inquiry.

MR. POLIKOFF: Mr. Robinson, briefly.

MR. NEAL: You anticipate just Mr. Robinson?

MR. POLIKOFF: Just Mr. Robinson. We should be through in 15, 20 minutes.

THE COURT: I suggest that those defendants that wish to present something be prepared to do so in whatever order they agree on by 2:15.

MR. NEAL: Thank you, your Honor.

Robinson - direct

MR. POLIKOFF: I don't have it yet. We just agreed on the excising.

THE COURT: You may excise it before I look at it.

MR. POLIKOFF: With your Honor's permission, we will pull out the appropriate portions and the excised document will be the appropriate exhibit.

THE COURT: Very well.

MR. POLIKOFF: Mr. Robinson, please.

THE CLERK: Take the stand.

THEODORE ROBINSON,
called as a witness by the Plaintiffs herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. POLIKOFF:

Q Please state your name.

A Theodore Robinson.

Q You are employed by the Department of Housing and Urban Development?

A Yes.

Q And your position is what, Mr. Robinson?

A I'm Model Cities officer.

THE COURT: You are what?

THE WITNESS: Model Cities officer.

BY MR. POLIKOFF:

Q You work in that capacity under the Regional Administrator, Mr. Vavoulis?

A Yes.

Q Was there submitted, Mr. Robinson, to HUD by the City of Chicago in connection with the City's application for funds for the second year of the City's Model Cities program a relocation plan?

A There was a relocation plan submitted during the first action year that was still in effect at the time the second year plan was submitted.

Q What is still in effect?

A The relocation plan of the Model Cities agency in Chicago.

Q That was the plan submitted for the first year's application, you say?

A Right.

Q Do I understand then that there has been no new relocation plans submitted in connection with the second year application?

A Yes, there has been. There has been new funding proposed and in conformity with the new Federal

legislation.

Q Was a new or modified relocation plan submitted by the City as part of its second year Model Cities application?

A Yes.

Q When was that done?

A Part of it was included in the plan that was submitted. That was about, oh, the last of August in 1970.

THE COURT: That is the first year plan, am I right?

THE WITNESS: The second year's plan was submitted two months prior to November 1, 1970.

BY MR. POLIKOFF:

Q Two months prior, that would have been September of 1970?

A That's right.

THE COURT: Are we back in the first year, the second year or the third year? Can you straighten that out, if you can?

MR. POLIKOFF: I don't know the answer but I will try to get it, your Honor.

BY MR. POLIKOFF:

Q Are you saying, Mr. Robinson, in September of

1970 the application for the second year was submitted by the City to HUD?

A That's right.

Q And that application included a relocation plan for the second year?

A Right.

Q Which was different than the one that had previously been submitted for the first year?

A No, it was an extension of it.

Q You mean the terms of it were the same but it just extended and applied for a longer period of time?

A Some of the terms were different because there has been some changes in legislation. It was an extension with the additional different requirements.

Q Was another document submitted that contained different provisions than the first one?

A Yes, some of the provisions were different in a different document.

Q And some were the same?

A That is right.

Q So that, if I can restate the question for clarity, in September a relocation plan was submitted, September of 1970, the relocation plan was submitted as part of a second year Model Cities application?

A Right.

Q That relocation plan was, to some extent, identical with the first year relocation plan and to some extent it was different?

A Right.

Q Is that correct?

A Right.

Q Now, that was in September of 1970?

A That is right.

Q Have there been any changes made in that relocation plan as submitted by the city since September of 1970, that is, changes made in documents formally submitted by the city to HUD?

A No, not a change in the Model Cities portion

of the relocation plan.

A All right, so that presently the relocation plan which is part of the city's application for the second year of the Model Cities Program remains in the same form it was when it was submitted in September of 1970?

A No, I believe I stated that there had been some legislative changes since and some additional documents have been filed to conform to legislative changes.

Q So after September of 1970 the city submitted additional documents to become a part of its relocation plan?

A A commitment -- we required of all cities a commitment to conform to the new uniform relocation act.

THE COURT: Well, I don't know who is committed to what, do you?

THE WITNESS: The city.

BY MR. POLIKOFF:

Q Did the city supply such a commitment?

A Yes.

THE COURT: Let's say that I have not got a great deal of value out of this testimony up

to this point.

BY MR. POLIKOFF:

Q When did the city supply that commitment?

A I don't have the date.

Q Approximately when?

A Probably -- I really don't know, but it would be some time -- probably some time in the spring.

Q The spring of 1971?

A '71.

Q All right.

Now, did the city submit any other document by way of amendment or modification of the relocation plan other than this commitment to comply with the law, submitted in the spring?

A I don't know what document you are talking about. I am not aware of any.

Q So you knew of no other document?

A No.

Q So the only change then in the relocation plan that was submitted back in September for the second year is a commitment to comply with new law?

A I believe so.

Q All right, now, has HUD approved that relocation plan as submitted in September and as

modified by the commitment to comply with the new law?

MR. MURRAY: Your Honor, I am at this time going to object as to the relevancy of this entire line of questioning as far as relocation. We are talking about public housing and the release of Model Cities funds which are geared toward social services, which Mr. Polikoff has admitted. Now we are talking about relocation. I suggest he is trying to try Mr. Howell's case for him in this motion. I object to the relevancy.

THE COURT: The objection is overruled.

MR. MURRAY: Thank you.

BY THE WITNESS:

A The Model Cities Program has been reviewed both in Washington and in the region and has been approved, recommended for approval.

BY MR. POLIKOFF:

Q Now I am asking you about the relocation plan.

A Just a part of the entire submission.

Submission.

Robinson - direct

Q When did that approval take place?

A I think June -- whatever the date is that the document was issued. I don't recall the exact date of the approval, but there was a grant of second year funds, twelve million.

Q Are you referring to the occasion when, as Mr. Vavoulis testified, the release of the twenty-six million dollars for the second year Model Cities Program was conditionally approved by his letter of June 21st?

A Yes.

Q Do you know the letter to which I refer?

A Yes.

Q All right, that is the approval that constituted the approval of the relocation plan?

A The relocation plan was not treated as a separate part of the Model Cities plan.

Q So that constituted approval of the total Model Cities second year application including the relocation plan, is that correct?

A Right.

MR. POLIKOFF: No further questions, your Honor.

THE COURT: Any cross?

CROSS EXAMINATION

BY MR. WARNOCK:

Q Mr. Robinson, so that we all may understand the process of the --

THE COURT: Thank you, Counsel.

BY MR. WARNOCK:

Q -- of approval for the Model Cities Program, --

THE COURT: I would like to understand it a little better than I do.

MR. WARNOCK: I gained that impression.

BY MR. WARNOCK:

Q (Continuing) What is the document that issued on June 21 to the city? What was the document? What do you call that?

A It was an extension of their letter of credit, I believe.

Q Do you call it a notice or a letter to proceed?

A At the same time a letter to proceed was issued to the city authorizing them to incur -- to put the fifty or more projects in the Model Cities Program under contract and to implement the program with the commitment on the part of HUD to reimburse

the city if and when the second year plan was finally approved and signed by all the necessary parties.

THE COURT: But it was an if and when letter, right?

THE WITNESS: That is right.

THE COURT: All right.

BY MR. WARNOCK:

Q So we on June 21 issued a letter to proceed to the city.

A Right.

Q And the letter said, "We approve your program. You get City Council to execute the document and send it back to us." Is that correct?

A That is right.

Q Now, what would happen after you received that document back from the city signed by the Mayor?

A We then set up in the U.S. Treasury authorization on the part of the City of Chicago to draw down the amount of the contract to reimburse the city for expenditures incurred in the implementation of the Model Cities Program.

Q All right, and as of this date, have we received back the document signed by the Mayor?

A Yes, we have received them.

Q Has the Regional Administrator signed that document yet?

A No.

Q So that we have not in fact issued the letter of credit yet for the second year Model Cities Program?

A Right.

Q And what we had done was issue a letter to proceed on June 21?

A Right.

Q Now, as far as relocation feasibility, what is your understanding of the requirement of the Model Cities Program for relocation feasibility?

A The Model Cities Program is obligated to fund any relocation or displacement that occurs by governmental action other than that which is covered by funded programs; in other words, relocation that is funded by a program, a HUD program or a program of any other agency that carries a relocation commitment is not the business of Model Cities, but if there is displacement that is caused by governmental action not covered by any funded relocation funds, then Model Cities is obligated, in the target area, to make relocation payment to cover those displacements.

displace-
ments

Q So if some family was displaced from a dwelling unit, not necessarily as a result of the Model Cities program, but because of some other state, local, federal government action, and that particular program under which that action was taken did not provide for relocation payment, Model Cities program would pick up those relocation costs for that individual?

A That is right; that is right.

Q Now, what about the requirement of finding relocation housing for people in the model neighborhood? What is the obligation of the Model Cities agency, as you understand it?

A It is parallel to the obligation to find relocation facilities under other HUD programs. It is not greater or less. It is parallel, and the obligation of the Model Cities program is to fund the relocation expense incurred in that type of program that is not covered by otherwise funded relocation. Primarily it is a funding obligation.

Q And in the relocation element of the City's program, Model Cities program, they addressed the issue of how they intended to make relocation feasible for families displaced as a result of Model Cities

programs, is that correct?

A That is right.

Q And you have testified that the Department has made a finding that there was relocation feasibility?

A Yes.

Q For Model Cities programs?

A For Model Cities programs, yes.

Q What are we talking about in terms of scope of displacement as a result of Model Cities programs in the City of Chicago? Is that a big factor or a small factor, or what?

A It is a very small factor. In addition to the --

THE COURT: Factor in regard to what?

MR. WARNOCK: In regard to finding replacement dwellings for people who are displaced as a result of Model Cities programs in the City of Chicago.

THE COURT: All right.

BY MR. WARNOCK:

Q Go ahead and answer.

A It is a very small item because the Model Cities program did not plan any relocation or displacement for housing purposes in the first year or in the early part of the second year. Most of the housing

plan that was in the Model Cities program and the construction of medical facilities and other construction, most of it was to go on land that was vacant in the target areas. There is a considerable amount of vacant land due to previous demolitions and destruction of property and so forth and so on. There is a considerable amount of vacant land in small lots available in each of the target areas and that was adequate for the first phase of housing construction planned in the program.

program

MR. WARNOCK: I have no further questions --

BY MR. Warnock;

Q You spoke of priorities that were set up for the Model Cities program; who sets the priorities?

A The Model Cities program is a process and a program. The process is the process of long in-depth study of the problems of a neighborhood by the people of the neighborhood and by institutions that operate in that neighborhood.

We gave the City of Chicago and all the other cities a year to do that. Most cities took over a year.

After they have identified what they consider to be their problems and the causes, we ask them, as the top-off of this process, to determine what their priorities are. Their priorities determine what projects they will fund out of the Model Cities money. Those priorities are entirely the option of the Model Cities participants. They are, of course, the citizens in the target area and the local agencies operating in that area.

Q And what were the priorities, what was the topmost priority in the Model Cities program for the City of Chicago as determined by the residents and

the local agencies?

A Education, health, jobs, in the first year. Similarly, housing has moved up the priority list, but education and jobs are still the highest priority determined by the residents of the neighborhoods as their choice of how they want the program administered for the benefit of their neighborhood.

Q And those priorities then are translated into dollars, is that correct?

A That is right.

Q There are more dollars allocated for the higher priority items than the lower priority items in the Model Cities program?

A Right.

Q How long a period of time does the Model Cities program run?

A The Model Cities program was passed by Congress and phased for a five-year life.

Cities were told to phase their program on a year-by-year basis. It must be an annual submission of a plan, phase it for a substantial impact on the -- all of the major problems of the area over a five-year period, so that we expected cities to hit their top priority problems first and hit the other problems as they saw fit during the five-year period.

period

Q When you spoke on examination as an adverse witness before, you talked about an extension of budgets and extension of programs; is there a need for continuity between these several five-year periods in the Model Cities program?

A There certainly is. The first year's program is preliminary to the projects that are in the second year's program. The second year's program will normally be preliminary and the foundation for the programs that are in the third-year program.

I can give you an example if you care to have one.

Q Well, let me ask you just one final question, and that is, do you have an opinion as to what the effect would be if there were some shutdown or delay in the continuation of the Model Cities program for the City of Chicago?

A I do have an opinion.

Q And what is that opinion?

A It would be devastating to the interest of the people in the target area who come to rely very heavily upon the services that are being delivered by the Model Cities program in the area of education, welfare, jobs, health and so forth and so on.

MR. WARNOCK: I have no further questions.

CROSS EXAMINATION

BY MR. MURRAY:

Q Mr. Robinson, you indicated that you would like to articulate an example as far as this continuity. Would you care to elaborate on that point?

A Yes. I will give you an example. The Chicago Model Cities program plans, in a five-year period, to establish in each of the four target areas a full functioning hospital and clinic. The first phase, the first year's program set up clinics in rented quarters and allocated money for site acquisition for the construction of the buildings where these facilities will be built.

About six million dollars has been committed in firm contracts for land sites for these hospitals, for equipment that was purchased early in order to avoid the effects of inflation. Staff has begun to be assembled.

The second year will carry these one step farther, construction of buildings and establishment of the health services in these facilities.

The five-year result is expected to be a full functioning hospital to take a big part of the

load off of Cook County Hospital by having full functioning hospitals and clinic services in each of these target areas.

MR. MURRAY: Thank you, your Honor.

No further questions.

THE COURT: Mr. Neal?

CROSS EXAMINATION

BY MR. NEAL:

Q. Mr. Robinson, you spoke earlier of the letter to proceed that was issued to the City of Chicago on or about June 21st of 1970; now, is it your experience in the operation of the Model Cities program that the local public agency, and in this instance the City of Chicago, goes forward with the implementation of the program for that second year after the receipt of the letter to proceed.

A Yes. The purpose of the letter to proceed is to make it possible for the City to put their components under contract and to proceed with the delivery of services on the expectation that they will be reimbursed for money paid out under these contracts at the time when the contract with HUD is finally executed.

Q Do you know whether the City of Chicago has done that?

A I am aware that they have done it with respect to a large number of their projects because the contracts have been submitted to me for reference. I can't tell you whether all of them have been put under contract, but I have had a huge pile of contracts cross my desk.

my desk.

Robinson - cross

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Q Now, Mr. Robinson, when you stated with respect to relocation that the fundamental purpose of Model Cities was one of funding, is it true that you are talking about primarily making money available under the uniform relocation act to persons who, other than but for the Model Cities Program would receive no funds?

A That is right.

The Model Cities obligation and relocation is greater than the relocation obligation in any other part of the city. No other part of the city is subject to -- has the right to relocation reimbursement that is covered by the Model Cities Program.

Q And this does not -- is not limited to those persons displaced directly as a result of, say, the building of a health center or something of that sort?

A No, not limited.

Q In other words, these funds are available, for example, to persons who would be displaced, say, as a result of the building of a police station or a fire station?

A Right.

Q Or a school, which would not be covered by

the federal programs, is that correct?

A That is right.

Q So that we have some indication as to the amount of money that is made available to individuals on this basis, would you indicate just generally some of the relocation payments that would be made?

A Well, I am going to answer that -- I didn't really check this before I came. I think three hundred and four thousand dollars was expended on that for that purpose in the first year.

Q I am speaking directly with respect to an individual; do you know how much he would be paid, for instance, for new relocation housing?

A No, I really don't.

Q This is not your function?

A That is right.

Q But you are sure that these funds would be paid directly to the individual if he so applied, is that correct?

A That is right.

MR. NEAL: Thank you, no further questions.

THE COURT: Mr. Polikoff?

REDIRECT EXAMINATION

BY MR. POLIKOFF:

Q Mr. Robinson, you are familiar, are you not, with the letter Mr. Vavoulis sent to Mayor Daley on June 21st, 1971, which stated that the second year Model Cities Program would be approved?

A I have heard it discussed here today.

Q Have you seen a copy of that letter before?

A I don't know that I have.

Q Let me hand you Plaintiff's Exhibit 6 for -- it is no longer for identification -- Plaintiff's Exhibit 6. That is the letter to which I refer.

A All right.

Q You are aware of the fact, are you not, that that letter released the Model Cities money conditionally rather than unconditionally?

MR. NEAL: Objection, your Honor.

MR. MURRAY: Objection, your Honor.

MR. O'BRIEN: Objection.

THE COURT: Objection sustained, the document speaks for itself.

BY MR. POLIKOFF:

Q Did you have any discussion with the City, Mr. Robinson, in connection with the letter to proceed about which you testified relating to the condition that is contained in this letter?

A No, I did not.

Q Did you have any direction from any of your superiors in HUD to handle that letter, to proceed -- let me withdraw that question.

Who in HUD issues a letter to proceed, that is, who, which person within HUD that has the responsibility to draw up the letter and make delivery of it?

A At the time this happened there was an Assistant Regional Administrator for Model Cities. HUD had gone through a change of structure so that that job no longer existed.

Q It was his responsibility?

A That's right.

Q Would you give us his name?

A Allen Goldfarb.

Q Is he still with HUD?

A No -- he is still with HUD but he is on leave.

Q Do you know whether or not Mr. Goldfarb

had any directions with respect to conditioning that letter to proceed in the fashion that this Plaintiffs' Exhibit 6 is conditioned?

MR. NEAL: Objection.

MR. MURRAY: Objection.

THE COURT: If he knows, he may answer.

THE WITNESS: I do not know.

BY MR. POLIKOFF:

Q You do not know?

A No.

THE COURT: You get alarmed about a question he doesn't know the answer to.

BY MR. POLIKOFF:

Q Were you given any instructions in that regard?

A No, I was not.

Q Are you familiar with the letter dated

November 19, 1970, which Don Morrow, then acting Regional Administrator, sent to Mayor Daley following the publication or the release of the so-called task force report of the HUD City Team?

A No, I am not.

Q Are you familiar with the letter of intention dated May 12, 1971, signed by Mr. Vavoulis, Mayor Daley and Charles Swibel?

A Only to the extent that I've heard it discussed here yesterday and today.

MR. POLIKOFF: No further questions, your Honor.

EXAMINATION

BY THE COURT:

Q You indicated, Mr. Robinson, that if these funds were canceled, the result would be disastrous. Is that your statement?

A That's right.

Q Have you any opinion, Mr. --

A I think I used the word devastating.

Q Devastating, all right.

Have you any opinion, Mr. Robinson, since you apparently were considered an expert by those who put you on, there was no objection to your expertise by others in the courtroom, what these

devastated people might do when they ascertain what arm of Government was responsible for their devastation?

MR. O'BRIEN: I will object to the form of that question, your Honor, if it please the Court.

THE COURT: The Court will overrule the objection to the Court's question.

MR. MURRAY: Your Honor, the Government would have the same objection.

THE COURT: I understand that. I am sure everybody in the room has one. I haven't heard from you, Mr. Polikoff.

MR. POLIKOFF: I don't object to the question.

THE COURT: At least I've got one not objecting.

BY THE COURT:

Q Do you recall the question?

A As I understood that question --

THE COURT: Will you read the question so that it will be perfectly clear to him.

(Record read.)

THE WITNESS: I really don't know, Judge.

BY THE COURT:

Q You think they might do something?

A If you are talking in terms of violence,
I have no idea.

Q No, no, I am talking about a mild approach,
that you can think of.

A They would be very much upset because about
3500 people would be out of work.

Q You think there might be a mild protest of
what they considered was an appropriate place to have
one?

A I would think so.

Q Very good.

THE COURT: I have no further questions.
You may step down.

MR. O'BRIEN: I have a question, if it
please the Court.

THE COURT: All right.

all right

RECROSS EXAMINATION

BY MR. O'BRIEN:

Q Mr. Robinson, and I missed a few questions earlier, would you state for the record what areas of the city we are talking about that would be devastated if this money was withdrawn?

Would you describe, sir, generally the neighborhoods which we are talking about, if you can, the wards?

THE COURT: Where the devastated people would live.

THE WITNESS: I don't know them by ward numbers, but the West Side, in Lawndale; the near South, the area from about 39th to 51st Street; Lawndale -- Woodlawn, the area 63rd and south of Woodlawn; and then the Uptown area which is -- well, Uptown, if you know where Uptown is.

I don't know the ward boundaries. Each of these neighborhoods are by definition a neighborhood where there is a disadvantage, poor and considerable disorganization in the communities.

BY MR. O'BRIEN:

Q Would it be fair to state, sir, that most

of the people of the City of Chicago that would be devastated, as you testified, are poor and black?

A That's right. Three of these areas are almost 100 per cent black and the Uptown area consists -- contains a considerable number of Appalachian whites, Puerto Ricans, Spanish speaking people; so that's three of the neighborhoods are almost 100 per cent black, the other is another group of primarily Chicanos and Southern whites who are also in the same economic group.

MR. O'BRIEN: I have no further questions.

MR. WARNOCK: I have one, your Honor.

THE COURT: I would like to follow up Mr.

O'Brien and then you may jump in.

EXAMINATION

BY THE COURT:

Q Are you aware that the sites on which CHA buildings were supposed to be placed would probably be occupied largely by poor blacks?

MR. O'BRIEN: I object to the form of that question, your Honor. Sorry. When CHA, if it ever gets approval, builds in white neighborhoods, the occupancy may be 50 per cent white under your decree, in my understanding. It might be. It

may be 50 per cent poor black.

THE COURT: I'll accept the amendment to the question.

BY THE COURT:

Q Do you understand that?

A I understand that is so.

THE COURT: Now you may ask your question.

RECROSS EXAMINATION

BY MR. WARNOCK:

Q Mr. Robinson, when you are dealing with these people in these model neighborhoods, do you have an opinion as to whether these neighborhoods are characterized by strong cohesive elements or are there a lot of splinter groups in the community? Do they speak with one voice or are there a lot of splinter groups speaking at each other?

A A great many splinter groups, and the Model Cities program has one of its purposes is to establish some form of neighborhood cohesion in a planning council.

Q But they don't speak with one voice?

A They do not.

Q On problems that beset them.

A No.

Q In terms of the people who would be affected

by the loss of jobs, are these primarily people who live in the model neighborhoods?

A Yes, they are.

Q And again, they are then poor and black and disadvantaged people?

A Right.

MR. MURRAY: One further question, your Honor.

RECROSS EXAMINATION

BY MR. MURRAY:

Q You mentioned the figure of 3500 persons. Did you indicate, as I understand by your testimony, that if Model Cities is terminated over 3500 jobs which go to the disadvantaged people in the Model Cities area, in the entire area which you previously testified consists of blacks, latins, poor whites, would be in effect losers, these jobs would be terminated, is that correct?

A Yes, only 140 out of those jobs are the professional jobs that go to staff.

Q Except for the 140 jobs?

A The rest of them are.

Q The rest of them would be --

A Right.

Q -- adhere to those particular areas?

A That's right.

Q And those people in those areas would be employed under those Model Cities programs, is that correct?

A That's right.

Q So we are talking about a loss of somewhere in the area of 333 jobs?

A 3,000.

Q 3,000, I am sorry. Three thousand jobs?

A Yes.

Q And these people -- and if these people -- do you know what the economic condition as far as their employability, if these funds are terminated, would be?

A Well, I hope the Model Cities program has improved the employability of some of these people in the process of their work, but most of them are residents of an area where most of the people are difficult to find, to place in employment.

MR. MURRAY: Thank you very much, your Honor.

MR. POLIKOFF: I will exercise eminent privilege and ask one additional question, one or two.

REDIRECT EXAMINATION

BY MR. POLIKOFF:

Q Mr. Robinson, you were asked your opinion as to the effect on the people in the Model Cities areas, if the Model Cities moneys were cut off. Do you have an opinion as to the effect on the people in the Model Cities areas if adequate amounts of low income housing are not provided by the City of Chicago and its housing agencies?

MR. O'BRIEN: I object to the form of that one, Judge.

THE COURT: Overruled. He may answer that.

THE WITNESS: Should I answer that?

THE COURT: You may answer that.

BY THE WITNESS:

A The Model Cities program itself scheduled the program of building 1500 units in the Model Cities areas as part of their second year program.

BY MR. POLIKOFF:

Q That is not quite responsive to my question, Mr. Robinson.

A The other is an opinion and I don't have much of an opinion on that because I would believe that the possibility of the construction of 1500

units in the target areas would have to be part of the consideration that the people in the target areas would have in mind when they considered what would happen to a cutoff to slow down in production in the rest of the city.

Q My question to you, Mr. Robinson, was:

Do you have an opinion as to the impact if the housing is not provided?

A Yes, I do.

Q What would that impact be, in your opinion?

A I just gave you that opinion. I think that the primary concern of the people in the target area is the possibility of the construction of new homes in their own area, which is what the Model Cities program has promised them, rehabilitation in their own area which the Model Cities program has promised them, and that what happens in the rest of the city, while it would concern them, would be of lesser priority than the possibility of proceeding with their own program in their own target area.

Q If the housing is not provided in the Model Cities area, what is your opinion as to the impact?

A I am pretty sure that there would be some very unhappy people.

Q Would you say they would be devastated?

A Yes.

Q If the Model Cities money is not provided as a result of the failure of the city to meet the housing components as delineated in the letters that HUD has sent to the City that you have heard testified about here today and yesterday ---

MR. O'BRIEN: I object to that mischaracterization of the previous testimony, your Honor. We have had a full description of those letters and now they are once again being described in a new cute way as if they are binding. I object to the form of the question. I think it totally misstates the previous testimony.

THE COURT: I promise you, Mr. O'Brien, that I will not be brainwashed by cute questions.

You may proceed. The objection is overruled.

verruled.

Robinson - redirect

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BY MR. POLIKOFF:

Q The question is, Mr. Robinson, if because of the failure to meet HUD's conditions as articulated or stated in those letters, the Model Cities Program funds were not made available as now contemplated, do you have an opinion as to whether the fault would lie with HUD or with the city?

MR. MURRAY: Objection.

MR. WARNOCK: Objection.

MR. NEAL: Objection.

MR. O'BRIEN: Objection.

THE COURT: Objection sustained. I won't even expose myself to that kind of language.

MR. WARNOCK: I'm not sure who is going to get the last question.

THE COURT: I think this is a tennis match, as long as there is a net up, somebody is going to bat the ball.

MR. WARNOCK: The preceding line of questions by Mr. Polikoff raises a couple of questions in my mind.

THE COURT: I am glad you haven't run out, Counsel. I was afraid you might.

MR. WARNOCK: I'll try to be brief, your Honor.

RECROSS EXAMINATION

BY MR. WARNOCK:

Q The question is this: Are you familiar with the terms limited public housing area and general public housing area as they relate to the control CHA case? Do you know generally what they mean?

A I better say no because I'm not an expert in that area.

MR. WARNOCK: Very well.

THE COURT: Now you better escape.

MR. NEAL: I have no further questions.

MR. POLIKOFF: We have no further witnesses to call.

THE COURT: Plaintiff rests at this point?

MR. POLIKOFF: Yes.

MR. MURRAY: Your Honor, the government would like to move, based on the testimony --

THE COURT: I would assume all parties in this lawsuit want to make a motion of a finding at the end of the Plaintiff's case. All of those motions are taken under advisement.

MR. MURRAY: Thank you, your Honor.

(Witness excused.)

MR. NEAL: If the court please, on behalf of

City, we will proceed at this juncture.

THE COURT: Whoever has the floor may proceed.

MR. NEAL: Thank you, your Honor. I fully appreciate that the court understands the issues and so I would not even impose and attempt to make an opening statement of the issues in this cause. So, with that --

THE COURT: I think we are practically agreed on what they are during the course of the testimony heretofore.

MR. NEAL: Yes, your Honor. So I would call as a first witness on behalf of the City of Chicago, Mr. Louis Hill.

THE CLERK: Raise your right hand, please.

(Witness sworn.)

THE COURT: You may proceed.

MR. NEAL: Do you want me to proceed?

THE COURT: Yes.

LOUIS WARREN HILL,

called as a witness by the defendant City of Chicago having been first duly sworn, was examined and testified under oath as follows:

DIRECT EXAMINATION

von

Hill - direct

BY MR. NEAL:

Q Would you kindly state your name, please?

A My name is Louis Warren Hill.

Q Where do you live, Mr. Hill?

A 5858 North Kenton Avenue, Chicago, 60646.

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Hill - direct

Q And you are employed by the City of Chicago, is that correct?

A Yes, I am.

Q And in what capacity are you so employed?

A I am the Commissioner of the Department of Development and Planning of the City of Chicago, and Chairman of the Board and Commissioner of the Department of Urban Renewal for the City of Chicago.

I serve in a number of other posts but I think those are the two specific ones that would relate primarily to the matter at hand.

Q And Commissioner Hill --

MR. MURRAY: Excuse me, could you ask the witness to speak up?

THE COURT: What's that?

MR. MURRAY: Speak up, we can't hear you.

THE COURT: Oh. Speak up so all these lawyers can hear you. They don't want to miss any pearls.

THE WITNESS: I will try to make the pearls louder, your Honor.

THE COURT: All right.

BY MR. NEAL:

Q With respect to your duty as Commissioner

of the Department of Urban Renewal, how long have you served in that capacity, Mr. Hill?

A I have been Chairman and Commissioner of the Department of Urban Renewal since 1965.

Q And with respect to the Development and Planning, how long have you served in that?

A Since 1967.

Q Now, in connection with your duties as Commissioner and Executive Officer of the Department of Urban Renewal, do you have under your jurisdiction the administration of what is called the Neighborhood Development Program?

A Yes, I do.

Q And it's also referred to as the NDP Program, is that correct?

A And I think the jargon that is used frequently amongst programs, yes.

Q Now, would you, Mr. Hill, describe generally the nature of the Neighborhood Development Program?

A The Neighborhood Development Program is a method of financing on an annual basis Urban Renewal Programs throughout the City. It is in response to recent federal legislation, modifying the rules under which Urban Renewal Projects had

previously been funded.

The more traditional urban renewal product and funded at the approval of the project with monies allocated for the full development of that project, how ever many years it would take to carry it forward, with the limitation of federal funds and also recognition that all activities were not to be carried out in a renewal project in one year, the Neighborhood Development Program concept was developed, which would permit, as an example, initiating activities in ten areas, or ten renewal project type areas and allocating money a year at a time.

So that if we would say, under the traditional approach, have a renewal project that might cost ten million dollars to execute, under the NDP approach, we might have ten areas, each of which might cost ten million dollars to execute over a ten year period, but one million dollars could be spent each year so the ten million dollars would be made available on an annual increment basis.

But it's primarily a funding mechanism. It is a method of financing as opposed to the kinds

of activities that we carry out.

Q In the City of Chicago, has the City of Chicago been funded for its current year for the Neighborhood Development Program monies from the federal government?

A The second year Neighborhood Development Program was approved. The contract to carry it forward was not offered to the City pending progress toward meeting overall housing replacement under the --

THE COURT: Will you give me the fiscal years of these?

THE WITNESS: They don't go by fiscal years, your Honor.

THE COURT: I mean, the first year and the second year. They must start some time and end some time.

THE WITNESS: They start some time and end some time but the starting and the ending is not necessarily limited to a twelve month calendar year, neither in NDP or neither in Model Cities. This offers a great deal of confusion in terms of what we are talking about.

THE COURT: I'm not used to thirteen or

fourteen month years myself but apparently you are used to it.

THE WITNESS: We have got to become used to it, your Honor, based upon the changing operations and the extension periods.

So, NDP first year should really be called first period funding, if you will, to accomodate that flexible calendar.

THE COURT: It would be more accurate.

THE WITNESS: The first year, in fact, finished approximately May of 1970 with approval of the second stage or the second period NDP, approving the kinds of activities to be undertaken and to be carried out, but without the contract itself being offered to implement those programs.

Now, this is different than the method of funding Model Cities in their second period, if you will.

BY MR. NEAL:

Q Now, Mr. Hill, with respect to then the general concepts of Urban Renewal in the City of Chicago as carried out, there are two basic concepts, are there, one is slum and blighted and the other

Hill - direct

is conservation.

This is the method whereby Urban Renewal takes place within the City of Chicago.

Would you just explain those two concepts?

A These would be the two distinctive programs as opposed to the two methods of funding, NDP being a method of funding; slum and blight and conservation being the kind of program activity.

Slum and blight, here in Illinois, goes back to the state legislation authorizing such activities in 1947, permitting the designation of such areas, approval of plans, and then execution of those plans for primarily total clearance of an area of larger than two acres, which is found to be slum and blighted.

The conservation program, as we refer to it in Illinois, relates to the programs carried out, based upon state enabling legislation passed in 1953 initially, which then authorized the designation of neighborhoods as distinguished from small areas of two acres, but neighborhoods in the initial language was 160 acres and subsequently that has been reduced to 40 acre areas, in which the program contemplates primarily the retention of buildings and their

rehabilitation with parts of them being cleared and rebuilt; and in Illinois we have those two separate types of programs, both of which are funded from the same source of federal money and under the same federal legislative actions.

B5 f1

actions

Q Now, are you, Mr. Hill, generally familiar with the Model Cities program?

A Yes, on a general basis.

Q Are you familiar with the program as it relates to housing?

A Yes.

Q Now, with respect to the displacement of individuals, families or businesses, do you know approximately how many individuals, families or businesses will be displaced pursuant to the second year Model Cities programs as a direct result of Model Cities activity, in other words, acquiring health center sites and that sort of thing?

A As a direct result of the Model Cities activities, my memory would tell me it's about 60 families. I could be off on that a bit, give or take 10 or 15 families, but I would say about 60. You will have to forgive me if I don't have the precise figure but that is a small number in contrast to the total numbers of families displaced in the four Model Cities areas and in fact in terms of the total number of displacements throughout the city.

Q As a matter of fact, there is a contract developed whereby the Department of Urban Renewal

administers the displacement or relocation of individuals, is that correct?

A In Chicago, prior to the establishment of uniform relocation procedures at the Federal level, they worked in the direction of establishing a single relocation unit within the Department of Urban Renewal who would provide services of relocation assistance to families being displaced for the whole variety of programs; and that unit within the Department of Urban Renewal provides that relocation service for families displaced not only by Model Cities, Urban Renewal, the Housing Authority, the Highway program, the public building commission, and in recent years most importantly the result of those families who need to move as a result of city building department and court action causing buildings to be vacated and demolished because of their hazardous condition; and I cite that because that is the single most important contributor to the numbers of families who have to move as a result of Government action.

action

Q Now, when you compile the replacement or relocation application for Model Cities, you are projecting in addition to those, displaced as a direct result of Model Cities, in addition to that you are including those families which it is anticipated will be relocated as a result of all these other activities within the target areas, is that correct?

A That's correct.

Q Now, Commissioner Hill, I show you -- do we have an exhibit on this?

MR. POLIKOFF: Yes, I think it's No. 4.

It's the letter of intent.

BY MR. NEAL:

Q I show you the letter of intent executed May 12, 1971, which was executed -- signed rather -- by the Mayor of the City of Chicago, Charles R. Swibel, and George J. Vavoulis, and ask you are you familiar with that letter?

A Yes, I am.

Q And you are familiar with the contents contained in that letter, is that correct?

A Yes, I am.

Q Did you work directly with HUD, the Federal Government, in the development of the objectives set

forth in that letter?

A Yes, I did.

Q And would you say that the commitments and the housing provisions and the other provisions in that letter were all developed on behalf of the City under your direction and supervision?

A The statement of intent describing the objectives that the City would work toward, if that is what you are referring to as commitments, was developed by myself with other city participants, as co-workers, brought in for various aspects of it but to a great extent, yes, I was a major participant for the City of Chicago in the development of this letter of intent.

Q You describe that as a letter of intent, Commissioner Hill. Was this letter ever submitted to the City Council of the City of Chicago for its formal adoption or approval?

A It has never been submitted to the City Council for any action whatsoever.

Q Was it ever contemplated between the parties that any official action of this kind would be taken?

A No, it was not. As a matter of fact, this was one area of discussion between myself and Representa-

tives of the Department of Housing and Urban Development as to the form of the statement of intent, in its body, and the final document is in fact an administrative statement by the Administrative Leader of the City of Chicago.

Q As a matter of fact, Commissioner Hill, isn't it correct that in the original discussions of this delineation of intent of the parties, it was in the form of an agreement, is that correct?

A A variation that was submitted to us by the HUD representatives, had that form, yes. There were many forms but one of them had that form.

Q But that was not signed, is that correct?

A That's correct.

Q And this was the letter of intent that was executed, is that correct?

A That's right.

Q Now, Commissioner Hill, you are also familiar with the progress to date that has been made with respect to the provisions contained in that letter, is that correct, by the City of Chicago?

A Yes, I am.

Q If you will, please, let us take them one by one.

I direct your attention to the first item, one of demolition.

I ask you first, what were the objectives that were sought with respect to demolition?

A Well, if, as a preface to answering that I could point out the letter of intent was directed and providing an over-all statement, an over-all program within which individual, either project activities or individual variety of programs, carried out by the City or other offices could be viewed in total, in order to respond to a Federal guideline that the City show every two years the magnitude of total displacement and total new construction, and describe how low and moderate income housing would be provided, at least equal to the amount being torn down.

And this letter of intent was directed at that total picture for a total two-year period of time and was not directed at any single program or any one method causing displacement or removal of units, and this letter of intent was directed not to act the relocation of an individual family or groups of families but at the provision of housing units which could be available for families, or at the reduction

in demolition, and with that it was twofold: How would we review demolitions that were programmed over that period of time and modify the amount of demolition; and how might we increase the over-all supply of housing on the basis that the over-all supply of housing would facilitate relocation even if not one family being relocated moved into any one of those units being made available.

And with that in mind, the demolition then was geared to reviewing all Government programs, or programs with Governmental units involvement to see if the amount of clearance could then be reduced and how much it could be reduced by in that period of time, in order to minimize the displacement or destruction of dwelling units, so that we tore down less than the need for replacement would be less.

So the first approach was how much could we reduce by, based upon all the Governmental activities, the first item set as a goal the reduction in demolition of 500 units for that two-year period of time ending June 30th of this year.

9, 7, von
th year.

Hill - direct

Q And would you indicate what has been accomplished to date in that regard?

A Well, the period of time for which that was geared was June 30th of 1971, and our June 15th report to HUD indicated that reduction had been reduced by 560 units, exceeding the goal for that particular item.

Q Now, with your understanding that we are approaching the total objective when we review this letter, we will for convenience analyze each specific item contained in that letter.

Now, with respect to the provision of Section 235, housing, would you first please explain what is the nature of that program?

A Section 235, housing, is a section of the FHA Operation which makes available federal guarantees for mortgages and federal subsidies for interest payments to families of prescribed income levels in order that they may purchase housing in what generally is classed a moderate income level, though the moderate income level overlaps at the top incomes, those families who are eligible for occupancy in public housing.

2 - n

This is a program geared at expanding home ownership, so that Section 235 then increases the numbers of units that can be sold to families, whether they are of moderate income or if possible at that upper income level of public housing of low income.

Q And what were the objectives as set forth in the letter in this regard?

A The objective in this statement of intent was to identify sites in the City where single family or townhouse units could be built and made available for construction of 235 housing.

The goal specifically then was to locate sites where 500 units, 500 homes or 500 units of townhouse development could be built and half of those then to be sold to families of low income to meet part of the low income housing needs.

The targets set forth in the letter of intent was that we should identify the sites, that we would then issue invitations for bids by June the 15th, and that the time schedule for construction would then be made available by September 15th.

Q Now, Commissioner, do you know what has been accomplished in that regard?

A With the initial progress report in June, we identified lots over the City that would accomodate over 600 units of housing.

In the September 15th report, we indicated that instead of a construction schedule we actually had -- by we, I am talking now in the broad sense, I am not talking about the planning department, I am talking here about the housing development entity, the CDA, working with the Housing Authority, that they in fact had contracted or had already entered into contracts for construction for 429 of the units with the remaining 71 of the 500 target to be under contract for construction by the end of this month, by the end of September.

The further report was that of the total numbers that had already been contracted for 275 families had been referred to the builders for them to make first review of their eligibility in terms of buying a house and matching up family size with size of house, reference of family within terms of the neighborhood within which they wished to move, and that goes 275 families had been referred to the builders for that kind of analysis and matching up.

I know that, additional -- not additional --

Hill - direct

but of that number and families that the builders identified, number of families have already been referred to the FHA on a preliminary basis for their preliminary or conditional processing to find an eligible for purchase and the processes moving forward and in fact, a number of units, 20 units are under construction already.

THE COURT: I think at this time the Grand Jury wants to make a return, so we will take a recess for your fellows while I continue to work here with the Grand Jury, about five or six minutes.

(A short recess was taken.)

Hill - direct

THE COURT: You may proceed.

MR. NEAL: Thank you, your Honor.

BY MR. NEAL:

Q Had you completed your discussion as to what has been accomplished with respect to the Section 235 housing, Commissioner Hill?

A I believe I concluded by noting that 26 of the units are already under construction, and I would point out only one last comment with regard to the Section 235 program, and that is that ordinarily a family with their credit report, their employment, et cetera, their material of this nature submitted to FHA for approval so that they are approved as a purchaser of a house, ordinarily before the house is built because they have to be approved by the Federal agency in order to buy the house and, therefore, the ordinary construction practice is to try and pace housing construction with families, otherwise more of the units would be under construction already. But few of the families so far has that process gone far enough to find them fully eligible. But that is about the summation, I believe, of the Section 235 objective, only to point out that again in terms of the letter of intent it would be certainly our position that that

has been fully complied with in terms of the letter of intent as that part of the over-all program.

Q As a matter of fact, on the Section 235 housing, whatever seed money is used in terms of the processing of the application, acquiring the land, is paid back from the mortgage, the majority of it, is that correct?

A Yes. And this, of course, though, is one of the housing activities related then to Model Cities in terms of providing a vehicle to encourage the development of Section 235 housing, in order to provide the ownership opportunity funds then of Model Cities being made available on a temporary basis, the seed money, if you will, to get the program moving upon completion of the building and the purchase by the family that would then compensate and return most of the moneys.

One of the aspects of 235 was to -- the Section 235 program, was to use those lots in the City where the City may have taken title as a result of code enforcement where the buildings have been demolished and the owner then has either walked away from the property, from its ownership, or in fact has signed over title of the property to the

City instead of providing the funds necessary for demolition. There is a series of these properties. Not all of the owners are fully known or are available. The City then, with the cooperation of the Housing Authority, in many cases, will proceed with condemnation in order to clear title to make additional properties available, settle back taxes, et cetera; so there are a number of steps in that process in order to carry out that program.

program.

Q Part of this program, Commissioner, is making a single-family home available for a low income family?

A That is correct.

Q With relatively no down payment, isn't that correct?

A I believe the figure often quoted is about \$237 down.

The evaluation of the family, though, then relates not so much to the immediate funds that may be necessary, but their capability both financially and otherwise to maintain the property. Because one of the problems that exists with many families is that the willingness is there but in the event that it may be a mother with a number of children who are of minor age, the capability of doing maintenance and repair work, which is obviously attendant to any home, is not immediately available; so there has to be some explanation as to how that would be available in order to maintain the property over a period of time. So these factors go into it, but this is a program which has made it possible for low income families to become home owners.

Q Now, directing your attention to the provision that is called, I believe, City Leasing,

would you describe exactly what that objective is all about.

A The objective under the leasing program is that the City of Chicago, using funds available to it from local sources, in this particular instance, specifically, community improvement bond funds, would on a one-to-one matching basis, one dollar of community improvement bond funds with one dollar of Model Cities money out of the second year program, undertake the identification of apartments throughout the metropolitan area which would then be available for lease to low income families where the family would pay what would be comparable to the low rent equivalency of a low rent project, and the Model Cities money and the City's money would make up the subsidies between the rent that the family would pay and the going rent for the apartment. This might in fact average out to be about \$60 per month per apartment per family, on the average, considering two and three and four and five bedroom apartments.

This was a program established to expand the availability of housing, using housing that was already there, already built, not waiting for housing to be built, to expand the opportunity for those families

who needed to move immediately or wanted to move immediately, to make housing available to them on a broader base than what otherwise would be available if it was dependent upon any one of the new construction programs.

It is in itself, however, probably one of the most difficult to carry forward, because this means that there has to be an administrative structure to identify apartments. Again, now, we are not talking about a section of the city, we are not talking about just the four Model Cities areas. We are not talking about even just the city, but we are talking about the metropolitan basis as one opportunity to provide an expanding housing opportunity for families within the city that would break through the artificial city boundary lines which appear to be imposed under so many programs; so that this would provide an opportunity for families to take advantage of housing that might be available outside of the city.

But this means that the apartment has to be identified, the owner or the agent has to be willing to make that apartment available first on the general basis to the program. We then must match up a family who has these needs and the interest to

move wherever the unit might be available, get the family to go out and look at the apartment, and then get the agent to accept the family, finally sign the lease and then have the family move.

Now, at any one of these steps along the line it has to be realized that the whole process is in a constant state of flux, because apartments available today may be rented this evening or rented tomorrow morning. The apartments that are available today may not be satisfactory to a family who needs to move but would rather stay where he is than move to where one of the apartments are available.

So it is a willingness on the part of the owner to lease and also a willingness on the part of the family to move, and this has been one of the most difficult of the goals to fulfill and, in fact, we have not made the target that we set out in the letter of intent. While we had identified over 600 apartments with about 40 different owners or managers scattered not only, as I say, in the City of Chicago, but outside the City of Chicago, and in some cases we have taken families by busloads, get a dozen families to go out and view a development, in one particular case outside the City of Chicago.

Chicago.

Hill - direct

Q Where was that outside of the City?

A This was in Chicago Heights.

The response was not what we might imagine. The response, in my judgment, was fairly negative. Of the families who went out to see them, only about four wanted to move and, in fact, then did enter into leases. The others didn't like the area, it was too far away from their families, their friends, their relatives, their churches, their other associations, their jobs, et cetera, and so they turned them down.

In other cases we had had a family presently living in a building which is ordered vacated by the court. We have offered them an apartment in their same neighborhood. This happens to be in one of the Model Cities areas. They have turned down the apartment because they wanted to get out of that neighborhood. They want to leave. They don't want the new accommodation that is available in that area.

In contrast to that, in other Model Cities areas we have had families say, "We don't want to move out of the Model Cities area, because if we move out of the Model Cities area, then we are not going to be eligible for the other Model Cities benefits as it relates to the kind of employment that

was cited earlier this afternoon and the kind of special education programs that are generated in the Model Cities areas as a result of the funding.

So that the actual operation as of the September 15th date had identified over six hundred apartments that were available with approximately five hundred families of over two person families, that is. We are working primarily toward the families with children and not just the single person or the couple, but over five hundred families who were eligible again under the low-income levels, we were only able to match up willing owners and willing renters to the tune of a hundred in terms of sixty families actually having signed leases and the others progressing.

Now, this increases in the recent weeks. We have gotten a better line of communication to landlords and to owners and we are getting families out, but it is not moving at the pace that we had programmed, that we had geared toward.

Q Now, the next program that is delineated in the letter, Commissioner Hill, is the rent supplement program, which I take it is a part of the 236

program; would you indicate the nature of that program, please?

A Under the FHA Section 236, which is somewhat comparable for rental accommodations to the Section 235, the federal government will subsidize the interest payment which, in fact, for someone building an apartment building means that he can then lower the rent substantially. The provisions of reducing the interest rate from whatever the going rate is down to 1 per cent so that the renter would pay what would then return the construction costs, management expenses, taxes, et cetera, and 1 per cent of the interest provides a rent level substantially lower than what would be available on the open market. In addition to that rental program which reduces the rents across the boards, there is also the provision of rent supplements, that is that for a percentage of the units within that development, again depending upon both the Secretary of Housing and Urban Development, an administrative determination, that percentage may vary between 20 and 40 per cent of the units could be made available, but ordinarily we figure 20 per cent. The 20 per cent of the units could then be leased to families of low income

Hill - direct

where this would be comparable to the leasing program, but the funds for their supplemental rent payment comes specifically from the federal funds in order to make up the difference between what they would pay if they were in a public housing project and what they pay in this privately sponsored development at 1 per cent; so a rent supplement under this particular program, we had a goal to identify six hundred units within the City of Chicago, six hundred units for low income out of a total that might be built under this Section 236 program.

In June we had identified in excess of six hundred in buildings newly built or those proposed for rehabilitation. We expanded it, I would say with the cooperation from the FHA Department of Housing and Urban Development, contacted additional developers so that as of a report of the middle of September we had in fact identified over fourteen hundred apartments which could be available under the rent supplement program. And we have contacted each of those from the Urban Renewal Department pointing out this provision, the desirability and the requirement of this

20 per cent on asking for a response from them, and I understand that FHA has taken some steps in that same direction for many of the same units. But where our target had been six hundred units in this particular program, we had identified over fourteen hundred units that would be available.

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available

Q Now, Commissioner Hill, have you, in addition to making a study of the 236 units that were available in the City of Chicago, have you made a study of those units that might be available outside of the City of Chicago?

A Well, we have been going into that -- if I could refer to a document that I have with me.

MR. NEAL: Would you mark this City of Chicago Exhibit No. 1, which is a roster of private sponsors of low and moderate income housing.

(The said document was thereupon marked City of Chicago Exhibit No. 1 for identification.)

BY MR. NEAL:

Q You have a copy, is that correct?

A Yes.

As a part of the work of the Department of the Development and Planning in terms of developing over-all housing goals and programs, we regularly consider that the City of Chicago, while the core is a part of the metropolitan area, that in fact what takes place in housing within the City is affected by what takes place in housing outside the city and, conversely,

and certainly in terms of any analysis of housing development and population shifts or movements of families everyone must be immediately cognizant of the trends, particularly since the mid-forties in which there has been a very substantial -- to use the common term -- flight to the suburbs by the more affluent, generally white community, in which they have gone to the suburban areas where they have purchased housing.

Part of this package and part of the problem in terms of a separated housing market, we look at a market within the City distinct from a market outside the city and if we look at a market on a racially segregated basis, look at the market within the city, the market outside the city, it is obvious to anyone that the concern must relate not just to what is taking place in any part of the City but what is taking place in the region. And as a part of looking at what is taking place currently with federal assistance in the region, the Department of Development and Planning has started the preparation, again I would say with the cooperation of the Federal Agency, the assemblage of a document which we call the Roster of Private Sponsors of Low and Moderate Income Housing,

using specifically the two FHA vehicles for provision of moderate income housing, Section 221(d)(3), which was a predecessor to the Section 236 program to see who is building them, where they are being built, how many units are being built, and then obviously looking as to what this will do in terms of its provision of a resource for the over-all housing market. And then we look at some analysis as to how many of these units might be available within the City and outside the City, how many of them are in new construction so that this is an increase to the total supply of housing, how many of them come as a result of rehabilitation. And I have some digest figures on this particular roster that would simply point out in terms of the Section 236 program, a thousand units have been completed in the City of Chicago, 299 have been completed in the area around the City.

The thing, though, that we are most interested in is what is programmed, what is proposed to be developed because this really then becomes more meaningful under the Section 236 program.

There are over 5,000 additional units^e either under construction or in a various stage of negotiation for development in the City of Chicago. But in terms

Hill - direct

of out in the suburban area, the figure then starts exceeding the Chicago figure in terms of the total scope. It there exceeds 6,000 units in terms of areas, some of these particularly related to new community developments. And it has been the position in the City, by myself as a technician in the field, and by many, that the only way we will be able to solve a housing problem is to solve the total problem. Through one of the other positions that I have on the Northeastern Illinois Planning Commission as a representative of the City of Chicago, the planning commission for Northeastern Illinois has been working towards a policy statement for housing through the metropolitan area. This obviously takes in many more jurisdictions in terms of political jurisdictions. It takes in many various communities, both the incorporated and unincorporated areas of the northeastern Illinois county area around Chicago.

But the program as we envision it has got to be that total program and not a segmented program.

Q Now, Commissioner, when you speak of the total Metropolitan area, then you have in your number of submissions and reports to the federal government, to HUD, requested their assistance, too, in placing requirements, perhaps, that some portion of this property built outside of the City be allocated to lower income families, is that correct?

A Well, this is referred to later on in the letter of intent, but I think to refer to a couple of passages and simply paraphrasing them, digging them out and consuming time for that, the letter of intent was an approach of a joint look at the problem that exists in terms of providing an expanding housing opportunity both by the federal government and by the city government and the housing authority. And it cites very specifically that the objective is the increase of supply and, also, the increase in opportunity of location and not limited to any one particular program, and that if in fact we are going to be able to meet those goals we recognize that the City of Chicago had jurisdiction within the City of Chicago under most of its operations. Under the leasing program though we assumed a responsibility to identify units outside the city, and in

Hill - direct

certain of the other programs it was dependent upon joint activities, but that there were some programs which the federal government, because of its funding capabilities and program review and allocation of money was the only entity that could in fact address itself, of the three, the CDA, the City of Chicago, Department of Housing and Urban Development, they were the only entity that could address themselves to the areas outside the City of Chicago. And with that approach on this metropolitan housing concept base, they indicated in the letter of intent that they would review federal lands that might become available that could be used for new housing developments, that they would also take certain steps in terms of providing increased opportunities for low-income families in the metropolitan area, and that there were a series of things that they would address themselves to and, therefore, there are a number of steps that they were also to take. I do not know of my own knowledge what all of the steps are. I have heard in some general discussions some steps in the directions on some of these, but I don't feel knowledgeable enough to comment in any detail of

Hill - direct

the extent to which they have gone in those fashions.

Q Now, Commissioner Hill, to the provision with respect to the Chicago Housing Authority public housing, I don't believe that you have to describe to this court the nature of that operation as you did with the others, but I would ask you, in the context of this particular program as it applies to the overall goal of providing adequate housing throughout the metropolitan area for the lower income citizens of the City of Chicago, that what were the objectives set forth in the letter of intention? I would like for you to go on to be specific and just talk of the objectives, and I will ask you specific questions in this regard. What were the objectives in that regard?

A Well, the objectives included in the letter of intent related not only to new construction by the Housing Authority, but leasing by the Housing Authority and a cooperative approach by the Housing Authority with the Cook County Housing Authority; so it approached in three different areas primarily work in terms of what we have referred to as public housing.

housing

Q Let's take the construction first.

A The first item was the proposal that for the units that the housing authority had submitted to the City Council, that these would be reviewed, analyzed, and that there would then be hearings by the City Council and the Planning Commission in reviewing those sites, the units proposed, and a schedule for action by the City Council in terms of a goal to review and act upon numbers of units by given dates by the City Council and the Planning Commission.

Q What were the units proposed in the letter of intent with respect to the public housing to be constructed?

A The dates that were included in the letter of intent, I think they are the ones that have been repeated, and just for quick review, sites for 500 units by June 15th of '71, sites for 350 units by September 15, 1971, sites for 850 units by December 15, of '71.

Q Now, Commissioner, how many sites for how many units have been submitted to the City Council?

A All of the sites were submitted to the City Council and are pending before the Planning and

Housing Committee with the exception of those sites that the Planning and Housing Committee has already heard hearings on and given its recommendation to the City Council and have then been approved or disapproved.

Q How many sites have been approved to date by the City Council?

A Let me get my notes here, if I may.

Of the 275 sites comprising 1,747 units that were submitted to the City Council, the City Council Planning and Housing Committee had public hearings on 35 sites for 689 units, leaving a balance pending before the Planning and Housing Committee at this time of 190 sites with 1,058 units.

Now, this is of the original number submitted by the Chicago Housing Authority.

Q Now, were there any other additional submissions?

A Well, yes, in the course of the hearings that the committee had, of that original group of sites submitted by the Chicago Housing Authority, 50 of them were approved by the City Council, 35 of them were recommended for disapproval, and an additional 50 sites, alternates, were submitted by neighborhood

organizations and groups to substitute that were then approved by the City Council. So that of the initial group heard by the Council, 50 sites for 345 units were approved, 35 sites for 344 units were disapproved, but an additional 50 sites for 387 units were approved, this additional being substitute and alternative sites.

Now, there are many more substitute and alternative sites.

THE COURT: These were approved by who?

THE WITNESS: By the City Council and the Planning Commission, your Honor.

BY MR. NEAL:

Q What was the total?

A So that the total number of approved is 100 sites approved by the City Council for a total of 732 units.

Hill - direct

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units

Q Now, would you just for a moment describe for the Court the procedure in the final approval, getting to the final approval by the City Council of a site suitable for public housing, CHA housing.

A Well, prior to the first city council planning and housing committee hearings and subsequent to that date, members of the Housing Authority staff, myself, have met with neighborhood organizations and groups to explain what the program was, what it was not, what the numbers of sites were being proposed, where they were being proposed, what some of the tenant selection policies were to be applied in terms of who would be able to occupy them.

In addition to the meetings with the neighborhood groups and organizations the planning and department staff has made some analysis again, initially the analysis proceeded further with the sites, prior to September 15th based on school enrollment data that was available at that time based upon what were the school enrollments at the schools in the neighborhoods for which sites were proposed, what other conflicting public improvements in fact might already be taking place on those sites, or other developments. Some of the sites had, previously to the

time the Housing Authority submitted them to the City Council and the Planning Commission, had been submitted to the Planning Commission by the Park District for play lots or for other activities. Now, this is not to say that every site the housing authority submitted had also been submitted by the Park District, I don't want to give that kind of impression, but it is a process of reviewing each site to see if there had in fact been another previous proposal for it that had already been approved or if, in fact, private construction was going ahead, or some other development activities were proceeding.

And, as a matter of fact, in the letter of intent, in May, we had progressed far enough with our own department of planning analysis that we indicated in the letter of intent that many of the sites we felt would not be recommended because of a variety of conflicts, and that was in the letter and that was recognized by both that this process would be an evaluation process of those sites.

Q Is it also a question of the value?

A The matter of value of the land did not come up in the discussions with the letter of intent.

It has been raised subsequent to that by the Federal agency with the Housing Authority and, of course, as most people recognize, over the years price paid per unit has been one of the criteria in terms of evaluation, which is obvious when you look at some of the high density developments, as a result of that high price per unit criteria of previous administrations, so that price is a factor also.

And of some of the units and sites that are -- some of the sites that have been approved by the City Council and submitted by the Housing Authority to HUD for their review and approval, some of them were rejected by HUD on the basis that the cost per unit of the site cost per unit, was excessive and therefore would not be done. This was not for a large number, but it was done for some of them.

We had unfortunately also been trying to match up as one of the goals the removal of objectionable uses, abandoned factory buildings or other kinds of detriments to the neighborhood, trying to get rid of that, and at the same time putting in the housing on the basis that we would get rid of an eyesore and provide some housing opportunity in the neighborhood. A couple of these cases are ones, in fact, where the

cost, then based upon the evaluation cost criteria and site development were then rejected on that basis of sites that the City Council had approved and that the Housing Authority submitted.

10,8

submitted.

Hill - direct

332

Q Now, how many units are presently pending before the committee?

A Before the City Council?

Q Yes, sites for how many units?

A Sites? 190 sites with 1,058 units of the initial submittal by the Housing Authority.

But I should also point out that since the time that the committee has started its hearing, and as a result of some of these neighborhood meetings and other activities, neighborhood organizations have communicated with the committee expressing themselves that they, in reviewing certain sites, have found them to be acceptable in terms of neighborhood, in terms of provision of housing and what it will or it won't do and have objected to others and, in fact, have submitted substitute sites; so that the initial 1,058 from the Housing Authority has now got to be supplemented by others coming in from the community at large, if you will.

MR. NEAL: Would you mark this City of Chicago Exhibit No. 2, which purports to be a letter dated September 14th, 1971, to the Honorable Alderman Gabinski, who is the Chairman of the committee in the City Council over the

the housing.

(Said Exhibit, marked City of Chicago Exhibit No. 2 for identification.)

BY MR. NEAL:

Q I ask you, Commissioner Hill, is this a copy, an example of one of the letters that the committee received from neighborhood groups requesting the consideration of alternative sites within the community?

A Yes, it is.

THE COURT: This is a letter from whom and to who?

MR. NEAL: The letter is addressed to the Honorable Therous M. Gabinski, Chairman of the City Council Committee on Housing and Planning, addressed to the City Hall of Chicago, signed by William J. Frederickson, president and Reverend James Anderson, committee co-chairman, William Nye, committee co-chairman, including -- I would just indicate that this is an area which includes the 39th Ward, parts of the 40th Ward, 35th Ward and 33rd Ward. This is being submitted by the North River Commission.

BY MR. NEAL:

Q Now, this would be a white area primarily, is that correct, Commissioner?

A Yes.

Q Now, Commissioner Hill, with respect to the sites provided for 732 units, have those all been submitted to HUD for its review?

A Yes.

Q And of those sites for units, how many have been approved by HUD?

A The ones approved by HUD -- I will get my other paper here.

The last information that I had was that HUD had approved 34 sites with 241 units, that they have --

THE COURT: As of what date?

THE WITNESS: My communication is based upon a letter dated August 11, 1971, from HUD to CHA, your Honor.

THE COURT: All right.

BY MR. NEAL:

Q Is it true that additional sites have been submitted since then? Is that correct?

A There were some supplementary sites that

Hill - direct

I believe were added, but this is as of that date, the report as of then.

Q Now, Commissioner Hill, of those sites that were not approved by HUD, were they all located in a black area, all black area, those not approved?

A No. What I didn't indicate was in addition to the sites approved by HUD and the sites not approved, using my words, they were sites at that time evidently not considered or not acted upon by HUD, so that when I am saying not approved, those in fact were specifically disapproved as opposed to no action taken, and of those five I would say that these are, I believe, in what would be the general housing area.

T11f1

Q I understand. And that would provide for how many additional units, if you know?

A 35.

Q 35?

A Yes.

Q Of those that were specifically disapproved by HUD?

A That is the 35.

Q Now, the ones disapproved by HUD or do you know of any that had been disapproved?

A Yes, five sites, 35 units which were disapproved.

Q And those were located where?

A In the general housing area, the white area.

Q Do you know why they were disapproved?

A The indication is that that disapproval is basically on cost, site costs.

Q Then, of your knowledge at this time, there are a number still to be considered by HUD that are submitted to it, is that correct?

A Yes, 35 sites for 432 units.

Q Commissioner Hill, what steps are being presently taken to accomplish the objectives as set forth in the letter of intent with respect to obtaining

additional sites for additional units in regard to this particular program? What are you doing?

A Well, I think the kind of review of the alternate sites submitted by the North River Commission, as an example, shows that our process is one that doesn't cut off at any particular date.

I attended a meeting with this organization -- they've had a number of them over the past several months -- since the Housing Authority submitted its initial list of sites -- and they were first reported in the newspaper -- I know they had a great many of those meetings, they have now just submitted what they consider to be their evaluation of the sites, and in fact, come up with a recommendation that, if I may quote their letter, that they would seek strong community opposition to 13 of the original sites, and it would seek community support for four, so that of the 17 that were in the area, that they generally work in, they would feel that 13 of them are not appropriate for a variety of reasons, and four of them are all right.

But I think, it's of interest then to say that they then suggested 13 alternates for the 13 that they didn't feel were right.

Part of the problem of operation, of course, is that they may then submit 13 alternates, and as soon as those become public knowledge, we may have another group that comes in and opposes that 13 and submits another 13, for various reasons.

So part of the process is keeping up with the whole group of sites that are being submitted from the variety of sources and reviewing them and analyzing them.

We would expect to have within a matter of about a week, or two weeks, the newsschool enrollment data based upon the new school term in the public elementary schools particularly, in order to make an evaluation as to what the present capacities and enrollments are in those schools, and what provision of additional housing units in those neighborhoods might do in terms of being able to fit into the capacities or tend to add to overcrowding or something else.

Hill - direct

Q Now, well, let's move then to one of the subpoints that you mentioned, public housing outside of the City of Chicago and just very briefly indicate the progress in that regard and what it concerns?

A Well, again, the objective in the letter of intent of May 12 relating to the Housing Authority and Cook County Housing Authority was included as a program element but without specific dates for accomplishment of the individual items; and again I believe from where I was in the discussions, recognizing this to be one of the most difficult items to implement, that for too long too many people have viewed housing for poor people as a City of Chicago program, and as a City of Chicago responsibility only, and that if, placing it into a proper context of providing housing for people wherever they might like to live, close to jobs, close to other opportunities, that that barrier should be broken.

We worked toward getting this cooperative arrangement, and as of the report of September 15, the Cook County Housing Authority had approved an agreement between themselves and the Housing Authority,

Hill - direct

and the Housing Authority had given its informal approval, it has not had a meeting since that time, but is scheduled to meet within the next few days, at which time I am advised that it is expected that they will approve it since they are the ones who primarily generated this operation, that they had submitted to the Cook County Housing Authority, forms of agreement in terms of cooperation between Cook County Housing Authority and the Chicago Housing Authority in order to provide housing in the country, in the jurisdiction under Cook County Housing Authority, in the country outside the City of Chicago, with some of those units then being made available on a priority basis to people presently living within the City of Chicago, but again who would like the opportunity of locating out there, where no housing presently exists, or certainly no housing that is available to them.

Q Surely. Now, the next is the Section 23, leasing program. Now, what is the nature of that program or that is separate, apart from the city leasing?

A That is correct. Section 23 leasing program is a program administered by the Chicago^O

Hill - direct

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Housing Authority, similar in many respects to the program I just described that would be done with Model Cities and city money to obtain leases on apartments in a private market on the basis of a private owner being willing to lease an apartment than to a family who would pay the equivalent rent of living in a public housing project, but who would then pay that rent, and Section 23 refers to the section of the legislation which makes available the additional funds to make up the difference.

This had as a goal totally 600 units with 75 units a month, this from the city and Model Cities funded program, has not been able to achieve the total numbers targeted and runs into many of the same kinds of problems as I described in the City -- Model Cities funded program -- again trying to match up an owner willing to lease and a family willing to rent, in terms of trying to get those accommodations matched up and at the same time; much the same kind of problem as of thereporting date of September, we had indicated that 130 apartments had been occupied by families with leases, and that three additional were in the process -- three additional leases were in the process of being

Hill - direct

signed.

That is 133 additional units are being examined by families and families are looking at other ones. But that is part of the extended process.

But there are 133 instead of the goals that we had set forth.

Q Now, Commissioner, with respect to the other developments that are set forth in terms of long range development, new towns and new communities, is this a rather new concept? Would you explain what that concept is and then indicate to the court what has been done in that regard?

A Well, I probably should have brought a copy of the speech that I was supposed to give at noon but came back here for this instead.

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Instead

Q You were told to come here instead of giving your speech?

A Yes. This is on the basis of new communities.

New communities in America have not advanced very far as they have in many of the European nations in terms of the actual ordered and orderly development outside of central cities of what we would consider to be a balanced new community.

Back in the early days, we have here in Chicago an example of a company town, if you will, Pullman, within the City of Chicago; Gary, in terms of its initiation as company towns.

We don't refer to new communities in that context any more than we refer to new communities in the context of the ones developed in the thirties of the green belt communities which were almost completely suburban type green areas for residential accommodations for the middle income.

Even the ventures to date in this country of Columbia and Reston out east are really not new communities in that they are primarily a bedroom community, only a community providing housing.

We are talking about in terms of new communities as a new program with Federal Government recognition,

and I think recognition by almost all planners and all people in the field of looking toward "how are we going to accommodate our population growth in a reasonable and sensible manner."

We are talking about a new community that has a balance in it both in terms of income levels for variety of incomes and also has employment opportunities.

The Congress has made available in terms of trying to encourage that kind of comprehensive new community development, funds over the past several years, some guarantees, some advances of money to stimulate the process of doing a good, if you will, new community, good by definition meaning a balanced new community providing housing, employment, jobs, services, and for a range of income levels as well as a range of ethnic, if you will, or racial groups, not simply oriented to one particular category.

As a part of the Model Cities related housing programs, and it's actually listed under housing opportunities, the planning department initiated some studies leading toward analysis of potentials for new communities developments within the City of Chicago, and also new community developments outside

the City of Chicago, and those studies are nearing at least completion of the first phase leading toward identifying certain sections of the City of Chicago presently not used for housing or primarily not used for housing; vacant, industrial areas, abandoned commercial areas, railroads, et cetera.

Those properties, and those sections that might be outside the City of Chicago, that there may be some generation of new community development there with two specific locations within the City of Chicago, our work has advanced to the stage that we advised HUD, as a part of our progress report, that we were focusing on two specific areas -- as a footnote both of these being in the general housing areas, the white areas -- which could provide for up to 6,000, 7,000, 8,000 units -- not today and not tomorrow, certainly, but over a period of five to ten years with the intent that certain of these could move more rapidly than the others in terms of the magnitude, size of it, but that it would be our objective here to use the Federal aids, plus City resources, to undertake new communities in the context of a range of housing types.

We did not in either of these contemplate employment opportunities because both of these are

adjacent to nearby large employment potentials, and we felt that this was then not the critical element that it would be if it were 15 miles or 20 miles outside the City of Chicago or out in the typical suburban area where there is primarily housing developments and not employment developments.

So that we contemplated in these areas, that 15 per cent of the units could be in terms of low income; 15 per cent might be conventional financed, and the remainder then might be in the middle and moderate range; and on suggested locations we are talking with potential developers to undertake the actual implementation of these, and to move forward with those.

These are in terms, I think, of the kind of housing opportunities that will be meaningful over a period of five to ten years, going to be the direction that will provide greatly expanded housing opportunities because they will be in areas which will be able to provide the full range of accommodations of housing as well as the other services, so that they would have shopping, they would have education, they would have the recreation areas, they would have these other kinds of things with them.

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with them

Q Commissioner Hill, are you continuing your discussions with the Federal Government with regard to the progress of this letter and with regard to this letter of intent?

A Yes, we are.

Q Are you continuing your efforts to analyze these sites and provide the services necessary to the City Council and its Committee with respect to this selection of CHA sites?

A We are that as well as the other items.

Q Yes. And with respect to all of the other items, you are continuing your efforts in that regard, is that correct?

A Yes, the programs that we have talked about in terms of adding up numbers come to approximately 6,000 units. The objective in the letter of intent was in response to this need, as I indicated earlier, providing replacements on a one-to-one basis of 4300, so that in terms of moving these eight or nine different elements forward, we are working in the direction, we would say we would have achieved the goal in terms of that specific letter of intent, when we achieve 4300 units by whichever device or whatever combinations of programs; that that was the

objective, was the 4300 units under the letter of intent in order to meet the housing replacement need under the HUD regulation, and it was not in any one area, or one method of achieving it, that we anticipated getting 4300 units.

Quite obviously it is not cited any place, so it's got to be by combination, and the letter of intent is also open enough in the end where it indicates we recognize both HUD and ourselves, that this does, that the programs change, regulations by the Federal agencies change, financing vehicles change, and that we put into the letter specifically a recognition that as new vehicles or new funding might become available, new methods of accomplishment might become available, we might then substitute those for any of those included in the letter, and we recognize that as something that would be of mutual concern, and would be something that we would mutually review, not that one would unilaterally do it without the other.

Hill - direct

other.

Q Thank you, Commissioner.

MR. NEAL: No further questions. I tender the witness.

THE COURT: Mr. Polikoff.

CROSS EXAMINATION

BY MR. POLIKOFF:

Q Mr. Hill, do I understand that HUD is holding up the action by the City Council on the approval of sites by the Chicago Housing Authority?

A No, I didn't say that.

Q Sites have been submitted to HUD for approval and HUD hasn't acted upon them, is that right?

A That is correct.

Q Did you say that, is that correct?

A Yes.

Q But HUD's nonaction is not holding up the action by the City Council or the planning committee in any way, is that also correct?

A HUD is not holding up -- I don't think that HUD could hold up the City Council. I don't know what they could do to hold up the City Council.

THE COURT: But you understand the other, in reverse, about the City Council holding up

HUD, you understand that?

THE WITNESS: I don't know that we are holding up HUD either.

BY MR. POLIKOFF:

Q Is it the fact or is it not the fact that HUD's nonaction to date on certain of these sites is holding up either the planning committee of the City Council or the City Council itself?

A No, no, that is not correct at all.

Q So HUD is not holding up the City in any way with respect to approvals of these sites?

A Which sites? There are a whole variety of sites and you have to tell me which sites you are referring to in terms of whether HUD in my terminology is holding up or not holding up. Which group of sites are you talking about?

Q Any sites, Mr. Hill?

A Yes, they have not acted upon a list of sites submitted by the Chicago Housing Authority which have already received City Council and Plan Commission approval. They have not acted upon those sites. I would say they are holding up the Housing Authority being able to proceed with acquisition.

Q Is it correct then that the only sites to which HUD has not yet acted and given its approval are those that have already been approved by the Planning Committee and the City Council?

A Those are the only ones that I know that the Housing Authority has submitted to them as of this date.

Q So the answer is yes?

A Yes.

Q So the sites which you referred to that HUD hadn't acted upon them yet are sites that have already gone through the City Council approval?

A Yes, that is what I said.

Q Are there any sites that have been submitted to HUD for approval that have not yet gone to the City Council?

A Are there any sites approved by the City Council that have not yet gone?

Q No, any sites submitted to HUD for approval by CHA which have not yet gone to the City Council?

A I don't know if there are. I have no knowledge of that. All I know what the City Council has approved and acted upon those approvals

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Hill - cross

the Housing Authority has proceeded with those.

There are a whole series of steps in the process of site selection, whether the Housing Authority staff has, in a preliminary way, investigated other sites, and has asked the Housing Authority or has asked HUD to look at those, I don't know.

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don't know

THE COURT: Mr. Polikoff, when we talk about sites and we talk about units, can we sort of jjoin those two? This has to do with units, you are talking about sites. How many sites or how many units have been approved by the City Council?

BY MR. POLIKOFF:

Q Would you restate that figure, Mr. Hill?

THE COURT: That is the figure that I am interested in.

THE WITNESS: Sites for 732 units were approved by the City Council.

BY MR. POLIKOFF:

Q Let's pause with that. That is a number that is already gone through the City Council. Some of those are in the general public housing area and some are in the limited public housing area, is that correct?

A Correct.

THE COURT: Can you break those down between them?

BY MR. POLIKOFF:

Q Will you break the 732 down for us, please.

A Of the 732 units approved by the City Council.

432 are either in the limited area or close to the boundary line where it appears that there would be some disagreement as to whether they fall on one side or the other side of the line, but 432 of the 732.

THE COURT: The rest of them are all in the general area?

THE WITNESS: Yes, sir.

BY MR. POLIKOFF:

Q That is a balance of approximately 300?

A That is correct

Q Is that correct?

A Yes.

Q Already approved by the City Council. Is there anything holding up the development of those units?

A I believe that at this point the next steps after they have received approval by HUD to the Housing Authority and the Court --

Q Let me just interrupt you there. After they received approval by HUD, I thought all of these had already been approved by HUD?

A I am telling you what is holding it up in my judgment, if I can complete that.

Q Please.

A That of those approved by HUD and the Housing Authority, they ave indicated they will enter into a contract with the Housing Authority when they have funds available.

Q Have these 300, approximately, these 300 units, already approved by HUD?

A My understanding is that they have been approved by HUD.

Q Have been? They have been approved by the City Council back in June, is that correct?

A Yes.

Q And then please tell me what is your understanding as to why development hasn't proceeded. HUD has not made funds availble, is that what you said?

A The last paragraph of the letter from HUD --

Q Which letter, please, Mr. Hill?

A Dated August 11. Your Honor recalls, that is a letter that I was dating my schedule on. The last paragraph says --

THE CLERK: Case on trial.

MR. POLIKOFF: Mr. Hill, will you resume the stand.

THE COURT: You are on cross examination on the document that Mr. O'Brien has no objection to?

MR. POLIKOFF: No, I think not, your Honor.

THE COURT: All right.

MR. POLIKOFF: Although we will come to that shortly.

LOUIS WARREN HILL,
called as a witness by the defendants herein, having been previously duly sworn, was examined and testified further as follows:

CROSS EXAMINATION
(Resumed)

BY MR. POLIKOFF:

Q I am going to try to do the numbers quickly and clearly, the subject we were on yesterday, Mr. Hill, namely the site approvals and for how many units by the Committee, the City Council and HUD.

The first step, as I understand it, was that earlier this year 275 sites for 1747 units were submitted by CHA to the City Council, is that correct?

A Yes, sir.

THE COURT: What were the units then?

MR. POLIKOFF: 1747 units.

THE COURT: All right.

MR. POLIKOFF: 275 sites.

BY MR. POLIKOFF:

Q Those sites did comply, did they not, those sites and units, did comply with the provisions as to location in the decree in Gautreaux v. CHA?

A I cannot respond as an attorney in terms of their legal conformance.

There have been a series of questions posed by neighborhood groups that in their lay interpretation there were certain of them that were clustered in a manner which they, in their interpretation of that decision, felt did not comply, but I think that in that regard --

THE COURT: In regard to neighborhoods, leaving the clustering out, did they comply?

THE WITNESS: Yes, in terms of the numbers based upon the general area, a limited area.

THE COURT: The number and in the proper neighborhoods?

THE WITNESS: Well, in terms of the distinction

between general area and the limited area, yes, to that extent.

THE COURT: All right. So the objections were the clustering?

THE WITNESS: Clustering, and in one location, in the hearing before the Planning and Housing Committee there was a great deal of discussion about the numbers of units on a particular site.

THE COURT: Well, that was another objection. All right.

Hill - cross

All right.

BY MR. POLIKOFF:

Q Now, of those 275 sites for 1,747 units, I believe you said yesterday that the planning committee of the City Council -- well, first, let me say they were all referred to the committee for hearing, is that correct?

A Yes.

Q By the City Council. A formal action was to refer them to committee.

A The formal action, after several intervening steps, was that they were referred all to the planning and housing committee.

Q All right.

Now, the planning and housing committee, I believe you said, has not yet held hearings on 190 of those sites for 1,058 units, is that correct?

A That is what I said, yes.

THE COURT: No hearings on a hundred and --

MR. POLIKOFF: No hearings on 190 sites, 1,058 units.

THE COURT: All right, 1,058. Thank you.

BY MR. POLIKOFF:

Q Now, that leaves, as I understand your testimony, Mr. Hill, that leaves 85 sites for 689

Hill - cross

units as to which the committee did hold hearings,
is that correct?

A Right.

THE COURT: 89 and what?

THE WITNESS: 85, your Honor.

MR. POLIKOFF: 689 units and 85 sites.

THE COURT: All right.

BY MR. POLIKOFF:

Q Those hearings were held when, Mr. Hill?

THE COURT: This is a hearing before the
committee?

MR. POLIKOFF: Correct.

THE COURT: His committee?

MR. POLIKOFF: The committee of the City
Council, the name of which is what, Mr. Hill?

THE WITNESS: Planning and Housing Committee.

THE COURT: All right, of the City Council.

THE WITNESS: Of the City Council.

THE COURT: All right.

BY MR. POLIKOFF:

Q Those hearings were held in May or June
of this year?

A May, June and -- toward the end of June, yes.

Q May or June of this year?

Let me ask you, if you know, Mr. Hill, do you know why it was possible to hold the hearings as to 85 of those sites but not as to the other 190?

A Well, as I described yesterday, the process of evaluation of sites as well as the community meetings and review of the sites, and their availability, was to start with a group of sites, start the process, to undertake the analysis in detail of those particular sites from the Department of Planning as well, so that we might make comments, advise the Committee, and that was an area which was called for hearing and we then concentrated our analysis on those sites, and then submitted comments on each of those sites to the committee at the time of the hearing.

Q What was the interval of time between the reference to the committee and the committee hearings on the 85 sites?

A Well, I think that we all remember the fact that they were submitted by the Chicago Housing Authority, if my memory is correct, about the end of March. So March or first of April, is that the time they were turned in, some place back there. There was one date that rather sticks in my mind in terms of a local

political event that transpired shortly thereafter, and I know it was prior to that, I don't recall the exact date but it was some place in about that time, so that as a minimum --

THE COURT: That is in regard to the 275 sites or just the 80?

THE WITNESS: No, all of them, your Honor.

THE COURT: All 275?

THE WITNESS: All 275 were submitted at one time, but that would be prior to April 1st or about April 1st, some place back around that time, so there was all of May, April and June, depending on the schedule.

BY MR. POLIKOFF:

Q Perhaps two and a half --

A Two and a half, three months.

Q -- perhaps three months?

A That's right.

Q Between the time of the --

A The initial presentation of the sites.

Q -- to the committee?

A To the committee.

Q And final council action?

A No, the final council action took place in

June.

Q In June?

A After the report of the Planning and Housing
Committee.

committee.

Hill - cross

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Q Yes. So the period of time was --

A Two and a half to three months.

Q -- was two and a half to three months?

A Correct.

Q And the last approval being in June, it's more than two and a half to three months?

THE COURT: Let's get how many were approved in June so we have it in an orderly fashion.

MR. POLIKOFF: Let's turn to that.

BY MR. POLIKOFF:

Q Of those 85 sites that were considered by the committee, I understand you to say that 35, were disapproved, representing 344 units, is that correct?

A That's correct.

Q And the other 50 of those 85 were approved representing 345 units, is that correct?

A Yes, it is.

Q And there were also 50 new or substitute or additional sites that had not been in the original package that were approved at that time, representing 387 sites, is that correct?

A Correct.

Q So that when the committee finished its

275

action and submitted a report to the Council, there were 100 sites approved for 732 units, is that correct?

A The numbers are correct but just to make sure, the committee did not report on all 100 sites at the same time. It took over several meetings but the accumulative effect --

Q But it was completed in June?

A -- was the 100 sites for 732 units.

Q Correct.

A There were several reports by the committee and several actions by the City Council.

Q All of which were completed before the end of the month of June?

A I think that is correct.

Q Correct. All right.

THE COURT: And by the end of the month of June, how many sites and how many units had been approved?

MR. POLIKOFF: 100 sites for 732 units.

THE COURT: All right.

BY MR. POLIKOFF:

Q While we are on those sites, let's just wind it up now.

Of those 732, I think you said approximately

Hill - cross

300 in the review of the City and 288 in the review of HUD were in the general public housing area, is that correct?

A That's close.

Q And the balance in the limited public housing area therefore, correct?

A That then becomes a matter of debate.

Q Well, the 732, if you use the 288 figure of HUD, or the 300 of the City, that's the numbers, it's between 288 and 300 that are in the general public housing area and the balance is in the limited, correct?

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correct

A I am not sure how you define the one mile boundary line beyond the limited as to whether that then constitutes a general area or limited area because there are a substantial number within that one-mile distance and therefore there would be a substantially larger number that are outside of the limited area as defined by the percentage of black occupancy of the census tract.

Q All right, Mr. Hill. On the assumption that the -- which I ask you to make for purposes of answering this question -- that the one-mile area for this purpose is to be treated as a limited public -- as a portion of the limited public housing area.

It is correct, is it not, that 288 in HUD's view and 300 in the City's view are in the general public housing area?

A Those, I think, those numbers are approximately accurate, yes.

Q And the balance are either in the limited area or in the buffer zone, the one-mile zone, is that correct?

A Yes.

Q Now, can you break that down as to number of sites for me? Take first the 288 or the 300

figure of units, how many sites is that?

A The sites approved by HUD --

Q No, no, please.

A O.K.

Q I am asking you how many of the sites of the 100 sites approved by the City Council, how many of those 100 are in the general public housing area?

A I don't know. We would have to go back because each site varies -- not each site -- some sites have two units, some have three units, some have five units, some have six units, and some have ten and I don't have that kind of breakdown.

Q All right. Now, let's return for a moment to the question I was asking you earlier, mainly the process of neighborhood consultation and discussion, review, consideration of alternate and substitute sites, and so on, took approximately two and a half to three months with respect to the 85 sites that the Committee decided to consider, is that correct?

A Yes.

Q O.K. Approximately that same amount of time, Mr. Hill, is now passed since the final action in June, two and a half to three months.

Is the Committee now ready to take similar

final action with respect to the balance of the sites that it has not yet formally considered?

A Mr. Polikoff, you have to appreciate I do not call meetings of the Committee. That is an action by the Committee itself and certainly not from anyone from the Administration.

Q I understand. I am asking you if you know. Do you know if the committee is ready?

A I have no knowledge if they are ready or not ready.

Q Have you discussed the question with the Chairman of the Committee?

A On a very general basis. We have many items of discussion.

Q What was said on a very general basis?

A Pardon.

Q What was said on a very general basis?

A General discussion.

Q What was the effect or the substance of the general discussion on this subject?

A General conclusions.

conclusions.

Hill - cross

Q What were the conclusions?

A Nothing.

Q I don't understand. The conclusions were nothing?

A No. We have general discussions on many things in terms of the reviews. As an example, a brief discussion, as an example, of the letter he just received of a comment from a neighborhood group, inquiries from the press, and we meet each other from time to time passing in the corridors of City Hall, we meet each other formally when I appear before the committee on other items of business before the committee, so we had a regular exchange on many subjects and many topics relating to the specific subject of additional hearings by the committee on additional sites.

There was no conclusion of those discussions.

Q All right. What was the discussion, for getting the conclusion on that subject?

A Just in terms of the kinds of reviews that are being made, the kinds of inquiries he is receiving from the news media and some others.

Q Anything else?

Hill - cross

A I think that is about all.

Q Did either you or he advert to the subject of when the committee might be ready to consider the remaining sites that are pending before it?

A Not to any -- if you asking me did he cite -- are you going to call me for a meeting the next day?

Q I am asking you whether you adverted to that subject? Advert meaning did you speak on that subject or did he speak on the subject in the conversation?

A Only to a very general extent, you know, how many have we done and how many are pending.

Q Well, anything on the subject of when -- which was the question, Mr. Hill -- when the committee might be ready to hold hearings on those pending sites?

A Nothing more than what I have told you.

Q Well, you haven't told me anything about that.

THE COURT: Mr. Polikoff, you said nothing was said on that specific subject.

BY MR. POLIKOFF:

Q Is that the answer, that nothing was said on the specific subject?

A Only to the extent that what I have given to you, your interpretation is nothing, I have tried to communicate to you our general discussion on that.

If your decision is that that was nothing said, well, then that must be your decision. I've told you the general nature of our discussions and that is all there was.

Q There was nothing more said on that subject than what you have testified to in answer to those series of questions?

A I think my answers would summarize those discussions in terms of general topic.

Q Was the answer to my question yes, there is nothing more said than you testified to by him or you?

A On this particular subject matter?

Q That's correct.

A Yes.

Q All right, thank you.

Have you discussed the subject with HUD, Mr. Hill, anybody in HUD, that subject again being when the committee is likely to consider formally

the pending sites before it?

A Only to the extent, again, of general discussions of progress on all of the elements of the letter of intent but not specifically on that item.

Q Has HUD asked you for any information specifically on that item?

A They have asked us for information on the letter of intent in terms of all of the elements, in terms of the general program.

Q I am asking you, Mr. Hill, whether they asked specifically for any information as to this specific item of the letter of intent?

A Well, would you -- are you talking about verbal discussions or are you talking about formal communications?

Q Either one.

A Either one? Well, in terms of the formal communications, I believe there is already before, at least yourself or others, I am not sure, if it's formally before the court, HUD's letter in response to the June 15 date which made reference to hearings. Beyond that --

Q You are referring to the June 21 letter of Mr. Vavoulis to Mr. Daley?

A Yes.

Q All right, go ahead.

A Beyond that, in terms of personal discussions, we talked about over-all programs. We did not dwell on or talk about the specifics of will the council meet on X date or will they meet ten days from now or 30 days from now.

THE COURT: Let me clear this up. This goes to a committee for hearings first, correct, the committee of the Council?

THE WITNESS: Yes, sir.

THE COURT: The council has hearings and then do they make recommendations to the City Council in toto?

THE WITNESS: The committee, consisting of that portion of the membership of the Council, would make a report to the Council recommending certain actions which are then acted upon by the Council.

THE COURT: Then the Council has before it at some meeting some time a recommendation of the committee to act on, is that it?

THE WITNESS: That is correct, yes, sir.

THE COURT: All right, that clears it up.

BY THE WITNESS:

A (Continuing) The other item which has gotten lost is the action by the Planning Commission itself, the Chicago Plan Commission, which was a related activity that the --

THE COURT: At what point do they step into the picture?

THE WITNESS: Well, their hearings -- they also had hearings on the --

THE COURT: Before or after the committee of the City Council?

THE WITNESS: Sometimes they were before and sometimes afterward, your Honor, but they have also approved the group of sites that the City Council has approved.

THE COURT: Those that are approved at the present time.

THE WITNESS: Yes, sir.

BY MR. POLIKOFF:

Q Have they, incidentally, that is the Planning Commission, held hearings on any of the 190 sites as to which there have been no hearings so far?

A No, they have not.

Q Do they hold public hearings, "they" meaning the Planning Commission?

A Yes.

By public hearings you mean advertised public hearings with formal legal notices?

Q Yes.

A They do that on occasion where it is required.

Q Is it required with respect to these sites?

A No.

Q Did they hold such hearings with respect to the first group of sites?

A They held hearings but without a legal, advertised notice.

Q But the Plan Commission has held no hearings with respect to the second group of 190 sites?

A That is correct.

Q Have you had any discussions with members of the Plan Commission as to the holdings of such hearings with respect to such sites?

A Well, I am a member of the Planning Commission, its Secretary, and I simply indicated to the Chairman at the time that we would have reviews completed in other actions that we would be bringing that to the

Commission as well.

Q Does the Plan Commission presently have any plans to hold hearings on the remaining group of 190 sites?

A None are scheduled at this time.

Q Do you know why none have been scheduled?

A Not prepared to.

prepared to.

Hill - cross

Q What additional preparation is necessary before those hearings can be held, in your opinion?

A Well, as I indicated yesterday, certain of the elements that we would be looking at would be the school enrollment figures which are not yet available for the current term. In terms of --

Q Those figures were not available at the time the planning commission held hearings with respect to the previous group of 85 sites, were they?

A No, they were not -- well, figures were available for the students in school in June, yes, but they are not available now for September.

Q They weren't available then for September either, were they?

A No.

Q The Plan Commission nevertheless went ahead and held hearings on those 85 sites?

A Yes, sure.

Q It is now decided to wait until the September school figures are available with respect to the 190 sites?

A This is one element that would, in my judgment, be desirable to have before making any

Hill - cross

recommendations on the sites.

Q In your opinion, when will the Planning Commission be ready and prepared to hold those hearings?

A I can't give you a date at this time.

Q You have no opinion?

A I say that I cannot give you a date at this time.

Q I understand that you can't give me a date. Does that mean to say that you can't give me an opinion?

A I think that all I can say is that I don't have a date.

The plan Commission is meeting this afternoon. You know, we meet once a month, and at this stage I cannot tell you that they will hear them next month or the month following or the month following that. I know they are not on this afternoon's agenda.

Q I have asked whether you have an opinion, Mr. Hill, as to whether the Plan Commission will be ready to hear these sites, conduct a hearing on these sites, at any specific time in the future. You can answer that. Do you have an opinion or do you not?

Hill - cross

A I can't give you a specific date, no.

Q I am not asking for a specific date.

A I thought you said a specific time.

Q No, sir, I am asking, do you have an opinion as to when, specific time or general time, the Plan Commission would be ready? If you don't have an opinion, you can answer no; if you do have an opinion, you can answer yes.

A My opinion is that at this time it is not possible to say when they will have.

Q Then you do not have such an opinion?

A My opinion is that at this point it is indefinite. That is my opinion.

Q Has there been any discussion among the members of the Plan Commission as to the requirements, the undertakings of the letter of intent with respect to the dates of approval of sites for CHA housing?

A That was before the commission at the time that the hearings were held on the first group of sites. They discussed that at that point. It was in that context.

context
Q Have they discussed that in that context since that time?

A No, not to my knowledge. Now, I am not sure what all of the Plan Commission members discussed among themselves.

Q That hasn't been discussed at the meetings that you attended, at least?

A No, it has not.

Q Have you discussed that question, that is, the relationship of the letter of intent provisions as to approval of sites to the Plan Commission hearings and the City Council committee hearings and City Council approval with any other City officials?

A With any other city officials? Oh, sure.

Q Can you name one?

A The Mayor, of course.

Q All right. Tell me about those discussions. What was said by you and what was said by the Mayor?

A About what?

MR. POLIKOFF: Would you read that question back, please.

(Question read.)

THE COURT: That, I think, limits the conversation that he is making an inquiry about

THE WITNESS: I am sorry?

THE COURT: I say that I think that limits the conversations that he is seeking to have disclosed.

THE WITNESS: All right.

BY THE WITNESS:

A Based upon that, if my understanding is correct, I would be able to indicate as an example that shortly before September 15th, in reviewing the over-all progress with the Mayor in the preparation of the September 15th report we reviewed the various activities that had taken place, and in my judgment I advised him I thought we had made substantial progress in the over-all program to achieve the stated goal for 4300 units, as an example.

Q Well, now, Mr. Hill, would you tell me what, if anything, was said in that conversation or prior conversations with respect to one part of the over-all program, namely, the necessity for approval of sites for CHA housing by the Plan Commission, the Planning Committee of the City Council and the City Council itself?

A Well, we -- as I am sure you would appreciate, discussed many things and the same topic many times.

I can give you a general statement. I cannot give you a specific date or a specific comment or a specific report of discussion on any given date.

I can indicate to you, as an example on that particular topic, that my part of the conversation would be again placing in context that particular item in terms of hearings for CHA sites as a part of an over-all program with our goal being to achieve over-all objectives of 4300 units.

Q Mr. Hill, was anything said by either you or by the Mayor on the narrow subject of when any of those approvals that I mentioned, the Planning Commission, the Planning Committee of the City Council, or the City Council would be obtained or might be obtained?

MR. NEAL: Objection, your Honor. I don't believe that any one person can say what a legislative body will or will not do. I will object to that question.

THE COURT: Counsel, I am sure that he is not asking that question. He is asking whether this was discussed.

MR. NEAL: I see.

THE COURT: Isn't that what you asked?

MR. POLIKOFF: That is correct.

BY THE WITNESS:

A If what was discussed was when the Committee would be hearing additional testimony?

MR.POLIKOFF: Would you read that question back, please.

(Question read.)

BY THE WITNESS:

A Well, certainly we obviously discussed the meetings that were called by the Committee with their public notice of the sites to be heard, and what took place at those hearings and the testimony received at the hearings from people concurring in recommendations or objecting, submitting substitutes. As to in terms of those that have been held, you know, quite obviously as the hearing was held we would review what transpired.

conspired.

Hill - cross

Q Mr. Hill, I am talking about the 190 sites as to which no hearings have yet been held.

A Oh.

Q And only that, and I am talking only about your most recent meeting with the Mayor, which I think you said was a few days ago, just prior to the report of September 15th that the City submitted to HUD.

Now, in that conversation to which you earlier referred, and confining yourself to the 190 sites, not the 85 as to which hearings have been held, I ask you again, was anything said by either you or the Mayor on the narrow subject of when any of those three approvals, the Planning Commission, the Planning Committee of the City Council, or the City Council itself, would or might be obtained?

A No, not in terms of any specific dates.

Q Was anything said on that subject other than in terms of specific dates?

A Sure. We discussed the kind of review that we were making and what the results are and the fact that neighborhood groups have been meeting on it.

Hill - cross

Q What else did you discuss on the subject of those 190 sites?

A We discussed the difficulties in terms of arriving at sites that would provide expanding housing opportunities.

Q Anything else?

A That is about all I recall at this point.

Q Is there any reason why, to your knowledge, the difficulties in holding such hearings and agreeing upon such sites are greater with respect to the 190 sites as to which no hearings have been held than there were with respect to the 85 sites as to which hearings had been held?

MR. NEAL: I object to the form of that question. It is obvious that you must go one at a time. I don't believe he can answer the question.

THE COURT: If the witness does not understand the question or can't answer it, he may say so.

The objection is overruled.

BY THE WITNESS:

A Areas in which the hearings were called

Hill - cross

for the first sites were in areas where there had been extensive discussion previously, to the large part, not totally, but to the large part, of the desirability and the need for low rent housing, such as the Lincoln Park renewal area which has been carrying out clearances, redevelopment over a period of years, and the desirability has been discussed in that neighborhood for increasing the supply of low rent housing. This has been debated for the past year and a half, as an example, by the neighborhood organizations and by the Conservation Community Council, and they have formulated recommendations and opinions, working with the various City officers and staff. And as an example of that, even prior to the submittal of the new sites earlier this year by the Housing Authority, the renewal plan for that area was amended to increase the proportion of low rent sites so that there had been an extended discussion process in the community.

The uptown area is another specific location. As a part of the proceeding with the junior college program in that particular area, we indicated the desirability and the commitment that there would be

Hill - cross

in fact construction of low rent units in that area so that there would be a relocation resource within the uptown community for people who would be moving.

So that to a great extent, an area such as that, this has been discussed for a considerable period of time.

This is also true in terms of the northwest side where we had talked for a great deal of time with the council in that particular area, talked and debated and argued of what the percentage was.

Q You are still referring, when you talk about a northwest area, areas in which they were covered by 85 sites?

A That is right -- well, the 85 plus the 50 substitute alternate sites.

Q All right, continue. Yes.

A Because it was in that area that because of the request and again the concern of the Spanish speaking community that a number of sites were submitted to the City Council directly and were subsequently approved, not all of them, but a number of them were approved.

So that there had been a matter of that

Hill - cross

kind of discussion, debate and, as a matter of fact, prior to that time an expression of need.

The other areas, those that are the limited areas, there has been an outcry for many years about the dearth of the development of public housing and why there should be more.

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e more

Q Which areas are you now talking about?

A Talking about the community such as Lawndale, the near South Side, the Woodlawn area.

Q Still within the area covered by the 85 sites?

A That's right. In those areas the general indication was, at the hearings and also prior to the hearings, was why don't we have more sites to fill some of the vacant land, to replace some of the abandoned buildings in terms of providing here in our neighborhood.

And one side issue now that we are going to have two and three-story apartment buildings and single family and two-flat buildings, "Now why aren't you giving them to us? Why are you moving them way out to the outer edges of the City?" That was one of the criticisms in terms of not only the desirability of having more, but also in terms of the change of structure type with an interpretation that, "Now that you are doing some low density stuff, you are not going to give any of it to us in our neighborhoods."

But this subject had been discussed in those areas quite extensively before, and as a result, in my judgment, the committee felt that they would then

be able to call hearings in those areas, since this had been reviewed, debated, discussed, sites suggested, et cetera, previously, not just starting in March of this year, but going back, in many areas, a year or two years. That had not been the case in the remaining areas of the city.

THE COURT: I get the impression from what you have just said that people living in the ghettos are most reluctant to leave and are most eager to stay and do not want to go out into the general areas to live; is that what you are telling me?

THE WITNESS: For a substantial number of the people, yes, your Honor.

THE COURT: All right.

THE WITNESS: Based upon a relocation experience, your Honor, based upon the families who have refused to look at apartments in other parts of the City and the numbers of them. This is not all of them. I don't want to give the impression to anyone that every family acts just like every other family. Each of them have their own personal point of view, but a preponderant number of the families that come into the relocation work load are anxious to relocate

within the general area where they, of their own choice, had picked their home previously.

BY MR. POLIKOFF:

Q So that a difference between the areas to which the 85 units relate and the areas to which the 190 units relate is that in the former there had been previously substantial neighborhood discussion of the possibility of producing, supplying more public housing in those areas and not in the latter, is that a correct statement?

A Possibility and desirability, yes.

Hill - cross

Now, has there been such discussion if you know in the areas of the City to which the 190 units relate since the locations of those units were made public back in March?

A Oh, sure.

Q And I believe you testified that the community groups in those areas, and you produced a letter as one illustration, have been giving consideration to those sites and have submitted suggestions, and those suggestions include alternate sites, is that correct?

A Some have done that, based upon that letter which illustrates that, and other areas, at least according to the news media, and I am not sure, sometimes there are misinterpretations there, but in other areas the groups are actually banding together to try to fight the establishment; so there are different kinds of reactions in different neighborhoods.

Q Have the suggestions, to the extent that they have been placed in writing, or some of them at least, been delivered to you? Have you seen them?

A Well, the letter that I presented yesterday is an illustration of that, yes.

Hill - cross

Q How many such letters do you have?

A Oh, that is, I would say, probably the most extensive and the most recent of that nature in terms of actually recommending other locations.

Q How many others recommending locations have you received?

A I don't really recall.

Q Approximately? Is it one or more or is it several more?

A A few.

Q From different areas of the City?

A The most frequent reaction is "Not here. Don't put them here." And in contrast we have continued to have inquiries in the other neighborhoods of "Why can't we have more?"

Q What steps, if you know, Mr. Hill, is the planning commission now taking to prepare to hold hearings with respect to those 190 sites?

A Well, the planning commission itself is taking no steps, waiting for a recommendation from me as the head of the Department of Development and planning. We have two separate units of operation.

Q What steps are you taking, Mr. Hill, to

Hill - cross

make such a recommendation?

A As I indicated earlier, we are looking at, in fact, the present use of each site; we are looking at its zoning, we are looking at the use of the site in relation to --

Q The sites you are referring to now are these 190 sites?

A That is correct.

Q That have been submitted since March?

A Well, those or the other alternate ones such as the recent letter --

Q Are you still looking at the zoning on the -- let me withdraw that question.

You are looking at them, you say, as the head of the Department of Development and Planning of the City?

A Yes, I and my staff.

Q Pardon?

A I and my staff.

Q You and your staff?

The Planning Commission won't hold hearings until it gets a recommendation from you in that capacity?

A I would expect not.

Q Is that correct?

A I would expect not. If the Plan Commission -- if the other Plan commission members wish to raise it at a meeting, they certainly can do so. I don't control the Plan Commission members.

Q Did you make such a recommendation to the Plan Commission with respect to the 85 sites?

A Yes.

Q When did you make that recommendation?

A On the day that they held the hearing.

Q And about when was that, as best you can recall?

A Back in June.

In June

Q That was about two months, two and a half months after the sites had been made public, is that correct?

A Yes.

Q And in that two and a half month period you had checked the zoning with respect to those 85 sites?

A Zoning is one element of a series of things.

Q What else had you done with respect to those 85 sites to prepare yourself to make that recommendation

A We looked at the present use of the property to determine whether in fact it was being used for some other purpose.

Q What else did you do?

A And we checked with the building department to see if in fact there have been building permits issued for other kinds of construction.

Q What else did you do?

A Explored the school enrollment figures.

Q What else?

A Looked at the general locations as it would relate to how many units in certain sections.

Q What else, if anything?

A Oh, the whole variety of normal planning, referral activities, assessing them in terms of their accessibility to transportation, to other community facilities, hospital facilities, as an example. It certainly doesn't make any sense, in my judgment, to locate a large number of units in a location where we would expect that most of the people will need facilities for free in terms of medical care if in fact then we are locating them miles away from where medical care may be available to them in that fashion.

We are looking at the whole general analysis of is it an appropriate area or location for housing development.

Q Now, does that more or less exhaust the work that you did to prepare yourself to make that recommendation?

A That plus then the neighborhood meetings and the neighborhood inputs from the neighborhood groups.

Q And then on the basis of all of what you have just described, you have prepared and delivered to the Planning Commission your recommendation with respect to those 85 sites?

A Those 85 plus the additional 50.

Q Plus the additional 50.

Hill - cross

So that what you have told me as to your work in your capacity as head of the Planning Commission is work that you performed with respect to 135 sites?

A That is right.

Q Now, has all of that work been done with respect to the 190 sites?

A No.

Q Has most of it been done?

A No.

Q Well, there has been twice as much time to do it in, has there not?

A No.

Q Could you explain why not?

A Well, from the end of June, July, August, and this is toward the end of September, about two and a half months or two months and three weeks the initial group of sites were started to be analyzed in March, so we had about two and a half months so, you know, it is about equal time. I don't think it is twice as much. That is all I was arguing with you about.

Q I understand.

During the period of time that you did this work with respect to the 85 sites, you were not working

Hill - cross

at all on the 190, is that correct?

A Right.

Q O.K.

Did you turn to the same kind of work on the 190 when you had finished your work on the 85?

A Yes.

Q And there has now been about, you said, an equal amount of time to consider the 190 as you had to work on the 135, correct?

A Yes.

Q Would you tell me in your own judgment how far along are you in the completion, toward the completion of the task of analysis on the 190 sites that will permit you to make that recommendation to the Plan Commission? Are you 90 per cent of the way there or 10 per cent of the way there or 50 per cent?

A Well, part of the difficulty is that on the basis of the initial sites, as we then get suggested alternate sites being submitted to the committee before the hearings, we try to review those as well, so that on all of the sites that were submitted by the Housing Authority or those other alternate sites received to date from other groups I would say maybe we are about halfway.

alf way.

Hill - cross

Q Half way on which ones?

A About 50 per cent on the total, you know, about 50 per cent of the total package of all sites.

Q How many is all sites now?

A That would be --

Q That would be the 190 plus the alternate sites and substitute sites that you are considering making what total?

A Well, as I indicated yesterday, in addition to looking at the individual sites that had been suggested we have also been looking at new community proposals which would have as a part of those new communities a percentage of the units in the low rent category, either low rental units or which might be developed under the ownership program for low-income families, and in those areas where we have been looking at that, we have been looking at substantial tracts which in fact are talking about quantities of units as opposed to an individual site.

Q All right, treating such tracts as single sites for purposes of this question, how many additional or substitute or alternate sites have you been examining, that is in addition to the 190?

Hill - cross

A Well, I don't think you could consider it as a single site as an alternate, because in certain of the areas which we are considering a new community plan which in fact, under your definition of a single site, might have 300 units scattered throughout it, so that would certainly would not be equivalent of a single site in terms of the materials that have been submitted so far. I think the magnitude is different.

Q All right, let me reask the question this way: Excluding for purposes of this question those large tracts, I will ask you another question about those in a moment, but excluding those for purposes of this question, how many additional sites, as you define them, have you been considering, that is in addition to the 190?

A Oh, I would expect something -- and I am pulling a figure out of the air, but based upon just general memory about 100 maybe.

Q About another 100?

Now, when you said that you had completed your analysis of roughly 50 per cent of the way, let me ask you, does that include the 190, have you only

Hill - cross

got 50 per cent of the way down the road on your analysis of the 190, or do you have a larger percentage of work done on that first 190 and a smaller percentage on the more recent submitted sites?

A I don't think it is possible to give any kind of response of, you know, 50 per cent on this group of 10 and 70 per cent on that group of 35. In terms of giving you a figure on 50 per cent, it was figured that we are about half way on all of them.

Q All right.

A Some of them may be more simple and are completed fully and others may not be 50 per cent.

THE COURT: And if you had devoted your time to the 190 and not gone into this additional 100, you might have been through, is that right?

THE WITNESS: Perhaps, your Honor, except for outstanding information such as school enrollment data, as an example.

BY MR. POLINOFF:

Q Now, in addition to the 190, I will call them original sites, and the new 100 that you have been considering, approximately how many of these tracts that you wanted to distinguish from sites have you also been considering?

A Two major areas.

Q When the City Council Planning Committee considered in formal hearings of the first 85 sites, had the Plan Commission already received your recommendation?

A No.

Q How long after the commencement of those City Council Planning Committee hearings was your recommendation to the Plan Commission delivered?

A At the meeting following -- at the Plan Commission meeting following the meeting of the Committee.

Q What interval of time was there, approximately, between the two?

A A couple of weeks, week, depending upon the scheduling of the meeting.

Q Do you recall what your recommendation was with respect to the 85 old sites plus the 50 new ones as compared to what the City Council -- let me first ask you this -- compared to what the Plan Commission finally recommended?

A The Plan Commission --

Q Let me withdraw that question, it is poorly phrased.

Did the Plan Commission accept your recom-

mendations?

A Yes.

Q Was there any deviation?

A I don't believe so.

Q All right. Did the City Council's final action differ from the Plan Commission recommendation?

A I believe in the final scheduling the Plan Commission acted after the committee recommendations were in, in terms of timing, both concurred in the sites that were approved by the other.

Q I see. So that --

A All the sites, 732 that were approved by the Council were also approved by the Plan Commission.

Q Thank you. Now, returning to the 100 sites for -- returning the 100 sites for 732 units that were approved by the three bodies, ultimately, including the City Council itself, Mr. Hill --

A Who were the other two?

Q -- Plan Commission and the City Council planning committee.

A Oh, all right.

Q Those 100 sites you said were then submitted to HUD for approval?

A We advised the Housing Authority that the Plan Commission had approved those and that they

had then been approved also by the City Council.

THE COURT: Is it my understanding, Mr. Polikoff or Mr. Witness, that the 732 units in the 100 sites embrace the 288 that come within the general area?

THE WITNESS: Yes, your Honor.

MR. POLIKOFF: That's correct.

THE COURT: So that those of the 732 that are not included in the 288 have to do with a different area of the general area, this is the limited area?

THE WITNESS: The limited or the one-mile zone.

THE COURT: All right.

THE WITNESS: Yes, your Honor.

BY MR. POLIKOFF:

Q Those 100 sites were then submitted to HUD?

A That is my understanding. I did not submit it. I believe the Housing Authority did.

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Hill - cross

Q I believe you testified that your understanding also was that subsequently to that submission HUD had approved some of those 100, disapproved others, and had not acted at all, approving or disapproving on still a third group, is that correct?

A Yes.

Q All right.

Now, if you know how many of the 100 has HUD approved?

A Based upon the HUD letter of August 11, which was presented yesterday afternoon, the count by my staff is that HUD approved in that letter 34 sites for 241 units.

Q May I interrupt for just a moment to show you that letter, particularly the top of the second page. I believe the letter states that 36 is the correct number?

A If you would like me to explain --

Q Please.

A I said, according to the count by my staff HUD approved 34 sites for 241 units because they double counted two sites, the site at 6601-05 North Clark Street and 6100 North California.

Hill - cross

Q So, of the 100 --

A Which I think is understandable if you got 100 sites that are being compiled, that you may, by clerical error, have a couple of them listed in that fashion.

Q Of the 100, HUD has approved 34 of the sites for how many units?

A 241 would be my count based upon my staff.

Now, there may be some subsequent changes. They might have shifted a few units from one to the other, or something, but based upon counting the sites and the units proposed, that would be it.

Q And HUD has disapproved how many, Mr. Hill?

A 5 sites for 35 units.

Q Now --

A On the basis that their letter indicates they disapproved 4, but based upon the worksheet tallies, it appears that there were 5 that they marked out.

Q All right.

Now, that totals -- using your figures, 39 sites that had been acted upon by HUD for 276 units?

Hill - cross

A Correct.

Q Should the balance be in the category of nonaction by HUD, that is, 61 units -- 61 sites, excuse me -- not acted upon by HUD?

A In reviewing their letter of the worksheets my staff finds that 5 sites with 24 units were not listed in the letter and I don't know what the action is on those.

Q With that exception then, the 5 as to which you have no knowledge, the balance which would then be 56 sites, has not been acted upon by HUD so far as you know?

A That is my understanding.

Hill - cross

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understanding

Q That is your understanding?

A 432 units.

Q For 432 units, 56 sites.

Just so I am clear, your understanding is that HUD has not acted upon 56 sites for 432 units?

A Yes.

Q All right. Do you know why HUD has not acted with respect to those sites?

A Based on their letter, it is my understanding that they have not acted on them because these are in limited areas or within the one-mile zone.

Q Have you discussed that question with HUD yourself?

THE COURT: Do I gather then that the opposite side of the coin is that all of those that they have acted on either approving or disapproving are in the general area of the 276?

THE WITNESS: Yes, your Honor.

THE COURT: All right.

BY MR. POLIKOFF:

Q Now, could you explain to me how HUD's non-action is holding up CHA's acquisition of those sites?

MR. O'BRIEN: Your Honor, I will object to that question. This man -- we have CHA,

member here, people here, I think this whole line of inquiry has gone far beyond anything that we are supposed to be doing.

THE COURT: I doubt that there is any basis for that question because to my knowledge there hasn't been any evidence that is holding it up. The objection is sustained.

MR. O'BRIEN: Thank you, Judge. I embrace your additional objection.

THE COURT: I am getting overwhelmed by your approval of my conduct.

MR. O'BRIEN: I am trying to recoup after those objections yesterday.

THE COURT: Once yesterday and once today.

BY MR. POLIKOFF:

Q It is not a major point but yesterday, Mr. Hill, at Page 350 of the transcript --

MR. NEAL: Would you please show to the witness.

MR. POLIKOFF: I would like to read it first so the Judge will know what I am referring to. You said, "Yes, they," meaning HUD, "have not acted upon a list of sites submitted by the Chicago Housing Authority which have already

received City Council and Plan Commission approval. They have not acted upon those sites. I would say they are holding up the housing authority being able to proceed with acquisition."

BY MR. POLIKOFF:

Q Now, I show you that. You may not know the answer to my pending question. If you don't, you can say so. But if you can answer it, I would like to know to what you were referring when you made that answer. How is HUD's nonaction, if you know, holding up CHA's acquisition of sites?

I would just like to understand what the stage of the administrative process is, if you know.

A I believe I also indicated yesterday that I don't consider myself to be an expert on the step-by-step process.

Q Why don't you just say you don't know if you in fact don't know?

A I say I am not an expert in the terms of the individual step-by-step process.

THE COURT: I don't think he said as an expert. Do you want to give us a non-expert opinion?

THE WITNESS: It is my non-expert opinion

on that particular point that CHA cannot proceed with the acquisition of those sites and count them into their program without HUD approval.

That's all.

BY MR. POLIKOFF:

Q Is CHA then --

A Maybe they can.

Q -- permitted to proceed with acquisitions so far as you know on the sites that HUD has approved?

A I am sorry.

Q Is CHA permitted to proceed with acquisition on the sites that HUD has approved, as far as you know?

A I think they are able to take some necessary implementating steps; to what extent those go, I don't know.

do not know.

Hill - cross

Q All right. Thank you.

Mr. Hill, it is a fact, I think you said yesterday that you were a major participant for the City in the drafting of the letter of intent?

A I participated in the drafting of it, yes. If I used the word major, maybe that was overstating it, but I had some role in it.

Q Was it intended by the draftsmen of that document, Mr. Hill, that the alternate and -- let me withdraw that question.

THE COURT: Which document are we talking about?

MR. POLIKOFF: The letter of intent dated May 12, 1971 which is in evidence, your Honor.

THE COURT: All right.

MR. POLIKOFF: The letter of intent.

BY MR. POLIKOFF:

Q Was it contemplated by the draftsmen of that document, you discussed the number of meetings that went into it, other drafts that were prepared before the final draft was agreed upon, my question is: Was it contemplated and understood by the draftsmen of that document in those discussions to

which you referred, that there would be in all likelihood an alternate or substitute site that would have to be considered in place of or in addition to the sites submitted by CHA, initially?

MR. O'BRIEN: Objection, your Honor.

MR. MURRAY: Objection.

MR. NEAL: Objection.

MR. O'BRIEN: Speculation of unidentified third parties, what was in their mind, my goodness.

MR. NEAL: The document speaks for itself.

MR. MURRAY: Yes, same objection, your Honor.

THE COURT: Mr. O'Brien, I sustain the objection.

MR. POLIKOFF: Can I respond, your Honor?

THE COURT: Yes.

MR. POLIKOFF: He testified yesterday --

THE COURT: You have made your question plural, draftsmen.

MR. POLIKOFF: All right. I will confine it to Mr. Hill.

BY MR. POLIKOFF:

Q Mr. Hill, did you --

THE COURT: That is the basis of his proper objection which for some reason or other I sustained.

Hill - cross

MR. POLIKOFF: I will confine it to Mr. Hill.

BY MR. POLIKOFF:

Q In those conversations about which you testified yesterday, referring to consideration of prior drafts of the letter of intent, did you participate in any discussions in which it was said, recognized that there would be a necessity of considering alternate or additional or substitute sites to the original package submitted by CHA?

A Am I to assume this is a rhetorical question, Mr. Polikoff?

Q No.

A Then I have to assume you didn't read the document. I will quote from the document on page 6, one brief paragraph:

"Based upon the information presently available it is expected that many of the sites will not be satisfactory and that alternate locations will need to be determined."

is determined

Q Now, in considering that --

THE COURT: I take it the answer to the question is yes?

MR. POLIKOFF: I assume so, your Honor.

BY MR. POLIKOFF:

Q In considering that possibility in these prior discussions, Mr. Hill, was account taken of that possibility? Did you participate in discussions in which account was taken of that possibility and it was decided to draft the document to take account of it, so as not to affect the schedule of site approvals specified in the document?

MR. NEAL: I am going to object to the form of the question, your Honor, and also again renew that the document speaks for itself.

THE COURT: No, he is going behind the document in which he played some part and he is asking for conversations that took place prior to the draft of the final document and the objection is overruled.

THE WITNESS: We discussed the time scheduling and we also discussed the difficulties of arriving at a precise time schedule.

BY MR. POLIKOFF:

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Q Well, did you discuss those difficulties

and not that time schedule in terms of arriving at dates by which CHA acquisition of sites could commence?

A The document talks about City Council and Plan Commission approval, and I don't want to quibble with you in that regard, so that they could then initiate the acquisition.

And, I just want to make sure you are not interpreting that particular provision that by those dates specified CHA would then be making offers to buy from the present owners.

The document refers to approvals in order to permit them to be able to proceed with acquisitions, approvals by the Plan Commission and the City of Chicago.

Q Didn't the discussion that I am asking you about focus on dates by which those approvals would have been obtained so that CHA would then be in a position, as you said, to begin to commence acquisition?

A There were many discussions.

MR. O'BRIEN: I object to the form of the question. It assumes that the process is following approval and the evidence on that point is, has not been heard.

MR. POLIKOFF: I am asking for conversation.

THE COURT: I think this witness has already stated that he doesn't profess to be an expert as to what CHA has to do after getting these back approved by HUD and the City Council, he doesn't know exactly what steps CHA has to take, but he indicated that they at least did start taking some steps.

MR. O'BRIEN: Yes, sir.

THE COURT: Now, I think the semantic difficulty here is using the words acquisition when he has chosen not being an expert to say they could start taking some steps toward acquisition.

MR. O'BRIEN: Thank you, Judge.

THE COURT: If you would modify your question then.

MR. POLIKOFF: I will.

BY MR. POLIKOFF:

Q With that modification, will you now answer the question, Mr. Hill?

A We discussed many times this language as well as all the other language.

Q By this, you are referring to the language that appears in the letter of intent at the bottom of Page 6?

A That I quoted and the timetable.

Q Yes.

A And it varied considerably both in terms of the language as well as the dates and numbers of units from discussion to discussion as part of the deliberations between representatives of all of yourselves, the city and HUD, in terms of what might be target dates to work toward.

Q So that this language which you are referring to emerged from considerable discussion on that subject?

A That and all the others, yes.

Q Thank you. Mr. Hill, I believe you said that --

THE COURT: Maybe at this time before we start on a new subject matter we will take a five-minute recess for the morning.

THE CLERK: The Court will now take a five-minute recess.

(Short recess.)

THE COURT: You may proceed.

MR. POLIKOFF Thank you, your Honor.

BY MR. POLIKOFF:

Q Mr. Hill, I believe you testified that low income families, including CHA tenants or applicants or both, had been referred to developers of Section 235 buildings so that they might become purchasers of those buildings, is that correct?

A Yes, I did.

Q Let me ask you if the City has any written agreements with any of the developers of these 235 housing units to require that any of those dwellings in fact be made available for purchase by those low income families.

A The contracts are not with the City.

Q With whom are the contracts?

A With CDA-CHA.

Q CDA-CHA?

A In the CHA-CDA developments.

Q Is that a separate corporation?

A Which?

Q You called it CDA --

A Chicago Dwelling Association and the Chicago Housing Authority work cooperatively, and they are the

ones entering into the program for construction of 235 housing.

Q Jointly?

A There is a joint participation to the extent, I am not sure, in terms of who performs which actions.

Q And they jointly have --

MR. O'BRIEN: Your Honor, I have in my hand copies of the contracts about which Mr. Polikoff is inquiring. I would be willing to have them marked now, if Mr. Polikoff wishes, as CHA Exhibit 2. We plan to put them into this record for identification. We plan at least to put the key paragraph that Mr. Polikoff is inquiring about into this record through Miss Kula.

MR. POLIKOFF: Well, then, under those circumstances I will be happy to await Miss Kula and will desist from questions on this subject with Mr. Hill.

THE COURT: All right, that will diminish the cross examination.

BY MR. POLIKOFF:

Q On the final subject, Mr. Hill, of the rent supplement project, I am referring -- that is not an apt phrase for it -- I am referring to the

provision of the letter of intent on Page 5 that talks about increased use of rent supplements in Section 236 housing developments; has the City, to your knowledge, required that any of those developments which it has identified in submittals to HUD, did any of those developments make available 20 per cent of their units under rent supplement contracts?

contracts.

Hill - cross

MR. MURRAY: Your Honor, at this time I will object, and I have in my hand a letter which indicates that particular section, which I will have marked as an Exhibit, and if Mr. Polikoff has no objection to its authenticity, we can have that introduced as a Government Exhibit which deals with that particular framework of Section 236.

MR. POLIKOFF: Will this come in as part of the HUD case?

MR. MURRAY: It will be as far as we -- yes, I think so.

MR. POLIKOFF: Well, then, I will make the same arrangement.

THE COURT: Very good.

MR. POLIKOFF: I have no further questions for Mr. Hill.

THE COURT: Anything further from anybody else in regard to Mr. Hill?

MR. NEAL: No redirect, your Honor.

THE COURT: No redirect?

MR. NEAL: No, your Honor.

THE COURT: No other questions?

MR. O'BRIEN: No questions, Judge.