

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
vs.	)	No. 66 C 1460
	)	
CHICAGO HOUSING AUTHORITY,	)	(Consolidated)
et al.,	)	
	)	
Defendants.	)	

ANSWER OF DEFENDANT THOMAS E. KEANE

Now Comes Thomas E. Keane, a defendant in the above-entitled cause, and for Answer to Plaintiffs' Supplemental Complaint, states as follows:

1. Paragraph 1 of the Supplemental Complaint does not refer to this defendant and no response is made thereto.

2. Defendant admits the allegations of Paragraph 2, which asserts that the named defendants are all of the duly elected and acting members of the City Council and reside within the City of Chicago, insofar as it refers to this defendant.

3. Defendant admits the allegations of paragraph 3 which asserts that the City of Chicago is a Municipal Corporation having a population of more than 500,000 and is governed by the City Council.

4. Defendant admits that on February 10, 1969, this Court filed a memorandum opinion reported at 296 F.Supp.907.

5. Defendant admits that on July 1, 1969, this Court entered a judgment order, reported at 304 F.Supp.736.

6. Answering paragraph 6, defendant admits that on September 10, 1971, the Court of Appeals for the Seventh Circuit filed an opinion in this cause, reported at 448 F.2d 731, but neither admits nor denies the remainder of paragraph 6 which states a conclusion.

7. Defendant admits that the quotation set forth in paragraph 7 is taken from the judgment order of July 1, 1969.

8. Defendant denies paragraph 8 which fails to allege facts, but rather asserts a conclusion.

9. Defendant admits that part of paragraph 9 which paraphrases Illinois Revised Statutes, Chapter 67½, paragraph 9; defendant neither admits nor denies the last sentence of paragraph 8 of the ground that he is without knowledge or information sufficient to form a belief.

10. Defendant admits that from July 1, 1969, until March 5, 1971, the Chicago Housing Authority did not advise the City Council of any real property that it proposed to acquire in accordance with the provisions of Illinois Revised Statutes, Chapter 67½, paragraph 9, but denies the remainder of paragraph 10 as being conclusory and asks that it be stricken.

11. Defendant admits that on March 1, 1971, an order was entered directing the Chicago Housing Authority to advise the City Council on or before March 5, 1971, of real property proposed to be acquired by it for the purpose of providing sites for 1500 dwelling units and that on March 5, 1971, the Chicago Housing Authority did so advise the City Council.

12. Defendant has no knowledge of the allegations set out in paragraph 12, and therefor neither admits nor denies them, except that he admits that the City Council did approve the acquisition by the Chicago Housing Authority of certain real property as set out in paragraph 12(a) and (b).

13. Defendant admits the allegations set out in paragraph 13.

14. Defendant denies the allegation set out in paragraph 14 and states that the allegations are conclusions and should be stricken.

15. On Defendant's best information and belief, this Court entered an order on January 3, 1972, the contents of which are a part of this record in this cause.

Answering further, defendant pleads the following matter in bar of the Supplemental Complaint:

16. Defendant is duly elected alderman of the 31st Ward in the City of Chicago, the boundaries of which are as follows, starting at the intersection of North Avenue and Western Avenue, south on Western Avenue to Division Street, west to Rockwell Street, south to Augusta Blvd., west to Washtenaw Avenue, north to Cortez

Street, west to California Avenue, south to Chicago Avenue, west to the Beltline Railroad tracks, north along the Beltline Railroad right-of-way to North Avenue, east on North Avenue to the point of beginning.

17. The Judgment Order entered in this cause on July 1, 1969, has created a "Limited Public Housing Area" which is defined in 304 F.Supp. 736, at 737, as

"...that part of the County of Cook in the State of Illinois which lies either within census tracts of the United States Bureau of the Census having 30% or more non-white population, or within a distance of one mile from any point on the outer perimeter of any such census tract."

18. Substantially all of the 31st Ward lies within one mile of census tracts which have a 30% or more non-white population, to wit, census tracts numbered 2315, 2315, and 2317 in the City of Chicago.

19. The Judgment Order entered in this cause on July 1, 1969, has enjoined the construction of dwelling units within the "Limited Public Housing Area" until the Chicago Housing Authority has constructed not less than 700 dwelling units outside of the "Limited Public Housing Area."

20. The Judgment Order entered in this cause on July 1, 1969, has enjoined the provision of leased dwelling units within

the "Limited Public Housing Area" unless 75% of the total number of leased dwelling units, immediately following their occupancy, are located outside of the "Limited Public Housing Area."

21. As a result of the facts alleged in paragraphs 17, 18, 19, and 20 above, no public housing may be constructed within the 31st Ward and no leased dwelling unit may be made available within the 31st Ward.

22. Since approximately 30% of the residents of the 31st Ward are Spanish-speaking, many public and private commercial services have developed and are present in the 31st Ward which provide a cultural familiarity that is largely unavailable within most of the "General Public Housing Area" as defined by the Judgment Order of July 1, 1969.

23. Many residents of the 31st Ward qualify economically for low-income family residential accommodations and desire at the same time to reside in a community with their Spanish-speaking relatives, friends, acquaintances and neighbors, but cannot do so because no such housing may be constructed or leased within the community because of the Judgment Order of July 1, 1969.

24. The Judgment Order of July 1, 1969, arbitrarily and unreasonably prevents the Spanish-speaking residents of the 31st Ward who are eligible for public housing from obtaining such housing unless they leave the Spanish-speaking community.

Accordingly, the effect of the Judgment Order of July 1, 1969 is to deny the Spanish-speaking residents of the 31st Ward due process of law by depriving them arbitrarily and unreasonably of the liberties to which they are entitled under the 14th Amendment to the Constitution of the United States as well as equal protection of the laws to which they are also constitutionally entitled.

Also answering further, defendant pleads the following in bar of the Supplemental Complaint:

25. Defendant, as a member of the City Council of the City of Chicago, has a duty to participate in the necessary legislative approval of the exercise of the power of eminent domain in connection with the acquisition of real property or an interest in real property by the Chicago Housing Authority.

26. The legislative approval required by Ill.Rev.Stat. Ch.67½, par.9, for the exercise of the power of eminent domain ensures that all the people of the City of Chicago, through their elected representatives, will have a voice in a decision which may lead to large expenditures of local governmental funds for increased public services and to lower tax revenues.

27. The statutory provision requiring the approval of the governing body of a municipality having a population of 500,000 prior to the acquisition of real property or an interest in real property by a housing authority (Ill. Rev. Stat. Ch.67½,

Par.9) which is applicable to all public housing within the City of Chicago, was adopted by the General Assembly of the State of Illinois in 1949 (Laws of Illinois, 1949, p.1013 et seq.), long before the filing of the Complaints in this consolidated suit.

28. Defendant, in deciding whether to grant or to withhold his approval of any proposed construction of public housing by the Chicago Housing Authority, has the duty to consider not only the plans submitted by the Chicago Housing Authority but may properly consider the availability of alternative methods of providing safe, sanitary, and economical housing to ensure that public housing is accessible to all residents in need of such housing.

29. Among the possible alternatives to the construction of public housing which would possibly obviate or at least lessen the need for exercising the drastic power of eminent domain and obtain desegregated housing is a program currently under study in selected locations pursuant to 12 U.S.C. 1701z-3, which provides for the distribution of monthly housing allowances to low income families to assist them in obtaining rental housing of their choice in existing standard housing units.

30. The existence of reasonable alternatives, including the one referred to in paragraph 29 of this Answer, establishes that the City Council's failure to approve all of the sites submitted to it by the Chicago Housing Authority is not arbitrary,

capricious, or a conscious plan to deprive plaintiffs, or anyone else, of their constitutional rights.

Affirmative Defense

The Supplemental Complaint fails to state a claim against Thomas E. Keane on which relief can be granted.

WHEREFORE, Defendant prays this Court to enter judgment dismissing the Supplemental Complaint with prejudice; and to vacate the Judgment Order of July 1, 1969, so that it no longer deprives the Spanish-speaking residents of the 31st Ward, represented by defendant, of their rights under the Fourteenth Amendment of the Constitution of the United States; and to grant such further relief as may be just and proper.


Thomas E. Keane

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