
IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Nos. 71-1732, 33, 34
and 71-1807

DOROTHY GAUTREAUX, et al.,

Plaintiffs-Appellees,

v.

GEORGE W. ROMNEY,

and

Defendant,

CITY OF CHICAGO, CENTRAL ADVISORY
COUNCIL, and CHICAGO HOUSING
AUTHORITY,

Intervenor-Appellants.

On Appeal from the United States District Court
for the Northern District of Illinois

Honorable Richard J. Austin, District Judge

ANSWER OF CHICAGO HOUSING AUTHORITY
TO PETITION FOR REHEARING

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Plaintiffs' petition for rehearing ignores the basic facts that in the proceedings in the district court there was neither an issue framed nor a hearing had nor a finding made with respect to whether Model Cities programs in the City of Chicago were defective because of inadequate relocation plans. Both the district court and plaintiffs also ignore the fact that the basic litigation against CHA and HUD never charged the City of Chicago with any illegal conduct as to low income public housing, Model Cities or anything else, and that the City of Chicago had not been found guilty of any illegal conduct. The 1969 order against CHA dealt with CHA's tenant assignment and site selection procedures and provides no warrant for the district court, guided by plaintiffs, roaming through the myriad federal programs in search of a lever to use to bend the City of Chicago to its will.

This court's majority opinion dealt with the real issues and dispelled the smokestream of rhetoric and irrelevancies advanced by plaintiffs. Plaintiffs' petition also repeats the charge that the district court has been faced with "intransigence" (p. 14). Plaintiffs' persistent sounding of this theme apparently resulted in misleading the dissenting judge who stated (p. 29) that since 1969 the district court's "orders have

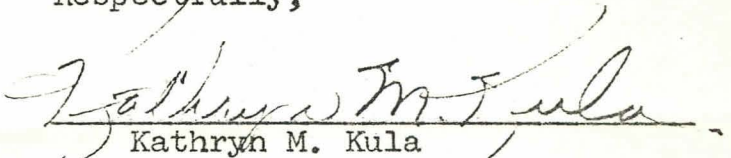
been ignored and its efforts frustrated". CHA has been charged off and on the record with such conduct and CHA has invited the plaintiffs upon each such occasion to either attempt to make such a charge stick in a proper proceeding or to be quiet on the subject. Plaintiffs have not done so. They prefer to persist in the well known technique of repeating baseless charges again and again until some begin to believe that what is said so often must be true. CHA has been bound by each order of the district court since 1969 and the fact is that it has complied with the letter and spirit of each such order. It is high time for plaintiffs to frankly acknowledge what they know - that the order upon CHA is limited and that CHA's powers are limited - and to cease using CHA as a whipping post for their frustrations.

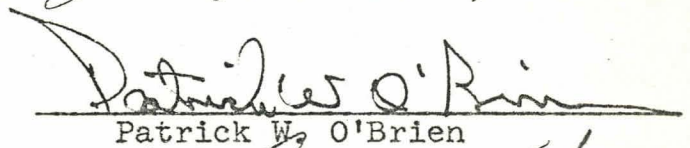
What plaintiffs and the district court have forgotten is something that the Supreme Court recently restated, namely that "the Constitution does not provide judicial remedies for every social and economic ill". Lindsey v Normet, _____ U.S. _____, 40 LW 4185 (Feb. 23, 1972). If that be true, it logically follows that orders in the district court against CHA and any lawful orders entered against HUD may leave unresolved many of the housing ills in the City of Chicago.

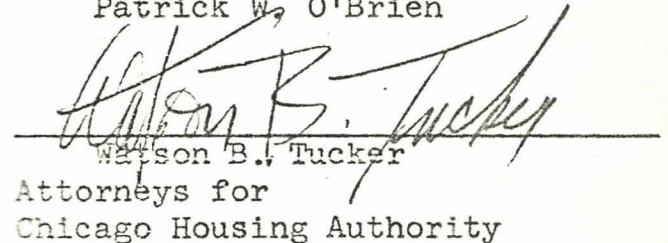
Plaintiffs insist that the restraint, patience and caution of the district court, that it is a "beleagured" court, are factors to be weighed heavily. Plaintiffs pass over those portions of the district court's pronouncements which assume that its orders have been disobeyed by CHA and that the pursuit of legal remedies in this case are acts of lese majesty. Thus, when CHA consults counsel the district court characterizes it as "frantically consulting all the legal talent available to it". When the CHA does not appeal from an order from the district court, the district court assumes that an appeal of its decree would be "hopeless". When CHA does appeal from an order of the district court it is described as going "screaming and protesting" to the Court of Appeals. When CHA is noted as complying with an order of the district court it is said to have complied to a "gun at its head". When the Mayor of the City of Chicago disagrees with an order of the district court in a case in which neither he nor the City is a party, the Mayor is compared by the district court with "Chief Executives" "in other parts of this country [who] 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".

What this litigation needs is more attention to the precise formulation of issues as they arise. What the case does not need is any more doses of rhetoric. This court's opinion of March 8, 1972, is a model in both respects and should not be altered.

Respectfully,


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PROOF OF SERVICE

Patrick W. O'Brien, one of the attorneys for
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