

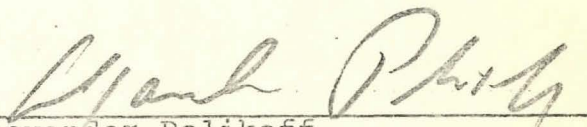
IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
-vs-	)	66 C 1460
	)	
GEORGE W. ROMNEY, et al.,	)	(Consolidated)
	)	
Defendants.	)	

MOTION FOR LEAVE TO FILE MEMORANDUM

Now come plaintiffs, by their attorneys, and move
the Court for leave to file instanter the motion attached
hereto.

Respectfully submitted,


Alexander Polikoff
One of the Attorneys for Plaintiffs

Alexander Polikoff
109 North Dearborn Street
Chicago, Illinois 60602
(312) 641-5570

Granted 2/24/72

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

17
Court
fl

Name of Presiding Judge, Honorable RICHARD B. AUSTIN

Cause No. 66 C 1459-1460 - Cons.

Date 1/24/72

Title of Cause GAUTREUX V CHA ET AL

Notice
granted
Brief Statement
of Motion

MOTION OF PLAINTIFFS FOR LEAVE TO FILE
MEMORANDUM INSTANTER

Wld

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and
Addresses of
moving counsel

ALEX POLIKOFF

109 W DEARBURN ST.

Representing

PLAINTIFFS

Names and
Addresses of
other counsel
entitled to
notice and names
of parties they
represent.

PATRICK O'BRIEN ETC

231 S. LA SALLE ST.

DEFENDANTS

Reserve space below for notations by minute clerk

granted

Austin J

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
-vs-	)	66 C 1460
	)	
GEORGE W. ROMNEY, et al.,	)	(Consolidated)
	)	
Defendants.	)	

MEMORANDUM

PLAINTIFFS' PROPOSED FINAL ORDER DOES NOT
RELIEVE CHA OF RESPONSIBILITY OR CONSTITUTE
A NEW LAW SUIT

On July 6, 1972 the Court expressed concern that plaintiffs' outline of a proposed final order would "let CHA off the hook" and looked like a "new law suit." This memorandum addresses those two concerns.

I. PLAINTIFFS DO NOT PROPOSE "LETTING CHA OFF THE HOOK."

The Court has so far entered two orders against CHA which specify numbers of dwelling units - 1,500 units in the order of April 10, 1972 (preceded by several other orders respecting development of the same 1,500 dwelling units), and 7,000 units in the order of January 3, 1972. Both orders stem from the underlying obligation imposed

upon CHA by the judgment order of July 1, 1969 "to increase the supply of Dwelling Units as rapidly as possible."

Plaintiffs' proposed final order would not affect CHA's obligations under these outstanding orders in any way. Plaintiffs' intend to do everything in their power to see that such orders are complied with, and that the 8,500 dwelling units of which they speak are ultimately provided by CHA as rapidly as possible in compliance with the terms of the 1969 order.

But if these 8,500 units were miraculously provided tomorrow, plaintiffs would not have full relief. Only as few as 4,250 of the 8,500 units need be offered to the plaintiff class under the terms of the 1969 order. These 4,250 non-discriminatory units must be measured against the more than 30,000 segregated units which constitute the wrong the Court is obligated to remedy. 4,250 families is only a fraction of the number of families in the plaintiff class who have been discriminated against by CHA and HUD; who now live in segregated public housing or do not live in public housing at all because by deliberate government action they have been denied the opportunity to live in unsegregated public housing; and who are entitled under this Court's orders and under the law of the land to be offered unsegregated housing as constitutionally required relief.

Therefore, many more than 4,250 units must be supplied and offered to the plaintiff class before it will have received full relief. Moreover, as the sad history of the first 1,500 units shows, the "lead time" necessary to provide adequate housing is substantial. If housing beyond the 4,250 units is to be provided while plaintiffs are still alive to enjoy it, the orders setting in motion the necessary procedures should be entered now, not at some distant future date.

Plaintiffs' outline of a proposed final order is an effort to develop those procedures - an order providing for the appropriate number and general location criteria for the remaining dwelling units which are necessary for full relief in, and therefore to terminate, this litigation.

The fair share plan to be submitted by the plaintiffs by September 1, 1972 may well call for more than 8,500 units to be located in the City of Chicago. If so, such additional units would be provided under the terms of the orders governing the first 8,500 units, as they may be modified from time to time by the Court. However, it is obvious (and a principle agreed upon by plaintiffs and defendants alike) that the total number of units needed for full relief in this case cannot and should not be located exclusively within Chicago. (See Memorandum #2, submitted to the Court on July 3, 1972. The Court has itself recognized this in principle in the 1969 order by authorizing

certain of the dwelling units to be located outside of Chicago.) The outline of a proposed final order merely proposes a rational way in which to develop criteria for the general location of the necessary additional units and to assure that, as and when Congress appropriates funds and HUD allocates them to this area, HUD and CHA in fact see to it that the units are provided in accordance with such criteria.

The responsibility to provide such additional units would not, under plaintiffs' proposed order, be any the less CHA's obligation than the responsibility to provide the first 8,500 units. But in deference to the principle of local determination and the desirability of community acceptance, other housing authorities would be given a "first option" to provide the court-ordered housing in their own areas of operation. Plaintiffs' proposed order specifically contemplates that if the local housing authority does not exercise this "option" and provide the court-ordered housing, CHA will be ordered to do so.

We do not believe that any of the above can fairly be described as relieving CHA of its responsibilities, or letting it off the hook in any way.

II. PLAINTIFFS HAVE NOT PROPOSED A NEW LAW SUIT.

Nor can any of the above fairly be said to constitute a "new law suit." It is certainly not a new law

suit to propose that some of the additional dwelling units needed for relief be located outside of Chicago. That is made plain by the 1969 order itself. And this Court's order of December 23, 1971 specifically invited the submission of plans for full relief "which are not confined in their scope to the geographic boundary of the City of Chicago."

Nor does the potential desirability or necessity of involving additional parties make this proposal a new law suit.* Previously in this litigation, when non-parties (members of the Chicago City Council) blocked CHA from carrying out orders of this Court by their inaction, the Court authorized the joinder of such non-parties and then entered a declaratory judgment setting aside the requirement that CHA obtain their consent to its proposed action. Thereby it unblocked the way to CHA's performance. No order requiring affirmative action by the newly joined parties was needed or entered.

This is a precise analogy to what is contemplated by plaintiffs' proposed final order. No order requiring affirmative action by non-parties is suggested or

* The practical effect of the first option principle may be to make it unnecessary to add very many new parties. If this Court's order presents local housing authorities and communities with the choice between providing the needed housing themselves or having CHA do so, they may well choose the former and thereby obviate the need for their formal participation in this case.

contemplated. All that is proposed is that, if and when a factual record develops which shows that CHA is being blocked from compliance with this Court's orders by the refusal of non-parties to consent to necessary CHA action, a declaratory judgment be entered setting aside the requirement of such consent for the limited purpose of achieving full relief in this law suit. In the briefs and arguments which preceded the entry of this Court's order of April 10, 1972, granting precisely such a declaratory judgment, we have shown that there is "ample authority" (quoting a HUD memorandum on the point) for the Court to take such action. Doing so again would not make this a "new law suit."

* * *

The Court is obliged to provide full and effective relief.

"[T]he Court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past ..." Louisiana v. United States, 380 U.S. 145, 154 (1965).

"The obligation of the district courts, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation....[W]hatever plan is adopted will require evaluation in practice, and the

Court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed." Green v. School Board of New Kent County, 391 U.S. 430, 439 (1968).*

In this very case the Court has said, "[E]xisting patterns of racial segregation must be reversed if there is to be a chance of averting the desparately intensifying division of Whites and Negroes in Chicago." Gautreaux v. CHA, 296 F.Supp. 907, 915 (N.D.Ill. 1969).

4,250 units compared to more than 30,000 would not "eliminate the discriminatory effects of the past" or "completely remove" state-imposed segregation. It would not reverse the pattern of public housing segregation in Chicago. It would leave over 25,000 families residing in public housing, and many times that number of eligible families, without any remedy at all for governmentally imposed housing segregation. Plaintiffs' approach to a final order does not let CHA off the hook or constitute a new law suit because it proposes a rational way to provide the necessary relief for those remaining thousands of families, and does so based

* Green also shows that it is the duty of defendant governmental agencies to formulate and carry out effective plans to provide a full remedy for past segregation. However, CHA and HUD have refused to produce realistic plans of their own and have refused to cooperate with plaintiffs to produce a joint plan. In default of performance by those who should have done the work, plaintiffs have tried to comply with the command of this Court and the law to develop a comprehensive plan for full and effective relief.

on legal principles which this Court has already employed
and on planning principles which HUD affirmatively espouses.*

Respectfully submitted,



Alexander Polikoff
One of the Attorneys for Plaintiffs

Alexander Polikoff
109 North Dearborn Street
Chicago, Illinois 60602
(312) 641-5570

* It should perhaps be emphasized that at this stage plaintiffs have merely proposed for informal discussion with the Court and the parties an outline of a proposed final judgment order. Plaintiffs expect to bear the burden of persuading the Court in a formal evidentiary hearing that a specific proposed judgment order is both necessary and appropriate.

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
-vs-	)	66 C 1460
	)	
GEORGE W. ROMNEY, et al.,	)	(Consolidated)
	)	
Defendants.	)	

NOTICE

PLEASE TAKE NOTICE that on July 24, 1972, at the opening of Court or as soon thereafter as counsel may be heard, I will appear before Judge Richard B. Austin in the Courtroom usually occupied by him in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or before such other judge who may be sitting in his place and stead, and then and there present plaintiffs' motion for leave to file a memorandum instant, a copy of which motion and memorandum are attached hereto.


Alexander Polikoff
One of the Attorneys for Plaintiffs

July 18, 1972

Alexander Polikoff
109 North Dearborn Street
Chicago, Illinois 60602
(312) 641-5570

ATTACHMENT "A"

LIST OF PERSONS ENTITLED TO NOTICE

James R. Thompson, Esquire
United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
Attn: James C. Murray, Esquire

Richard L. Curry, Esquire
Corporation Counsel
City of Chicago
City Hall
Chicago, Illinois 60602

Patrick W. O'Brien, Esquire
Mayer, Brown & Platt
231 South La Salle Street
Room 1955
Chicago, Illinois 60604

Robert S. Fiffer, Esquire
Allan N. Lasky, Esquire
Joel L. Widman, Esquire
209 South La Salle Street
Room 1100
Chicago, Illinois 60604

Thomas E. Keane, Esquire
111 West Washington Street
Room 1923
Chicago, Illinois 60602

Seymour Simon, Esquire
39 South La Salle Street
Chicago, Illinois 60603

Claude W. B. Holman, Esquire
54 West Randolph Street
Room 400
Chicago, Illinois 60601

Harold T. Berc, Esquire
33 North La Salle Street
35th Floor
Chicago, Illinois 60602

Wilson Frost, Esquire
134 North La Salle Street
Room 606
Chicago, Illinois 60602

Alex Elson, Esquire
Elson, Lassers and Wolff
11 South La Salle Street
Room 3400
Chicago, Illinois 60603

Marylou Hedlund
930 West Castlewood Terrace
Chicago, Illinois 60640

John J. Hoellen, Esquire
1940 West Irving Park Road
Chicago, Illinois 60613

Francis X. Lawlor
1725 West 69th Street
Chicago, Illinois 60649

Lee A. Freeman, Jr., Esquire
Freeman, Freeman & Salzman
One North La Salle Street
Chicago, Illinois 60602

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for plaintiffs, hereby certifies that he served a copy of the foregoing notice, motion and memorandum referred to therein by mailing the same to the persons listed on Attachment A at the addresses there given, this 18th day of July, 1972.

David P. Kelly

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

19
count
file

Name of Presiding Judge, Honorable RICHARD E. AUSTIN

Cause No. 66 C 1459 - CONS.

Date July 24, 1972

Title of Cause GAUTREAUX vs C. H. A.

Brief Statement
of Motion

HEARING

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below. (separate lists may be appended).

Names and
Addresses of
moving counsel

Representing

Names and
Addresses of
other counsel
entitled to
notice and names
of parties they
represent.

Reserve space below for notations by minute clerk

Argts hd and cause contd to Aug. 7, 1972 for status rept

Austin J

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.