

72-1486

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

DOROTHY GAUTREAUX, et al.,

Plaintiffs-Appellees

v.

CHICAGO HOUSING AUTHORITY,

Defendant-Appellant.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF ILLINOIS - EASTERN DIVISION

Brief and Appendix for the Appellant
Chicago Housing Authority

Patrick W. O'Brien
Watson B. Tucker
231 South LaSalle Street
Chicago, Illinois 60604
ST 2-0600

OF COUNSEL:

Kathryn M. Kula
Mayer, Brown & Platt



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Brief for the Appellant,
Chicago Housing Authority

Issue Presented

Whether the district court abused its discretion by amending its July, 1969 Judgment Order against the Chicago Housing Authority (CHA) by ordering CHA to proceed to acquire public housing sites, regardless of action or inaction by the Chicago City Council under applicable Illinois or Federal law,

in accordance with specific timetables and specified procedures, without a factual showing that any such order directed against CHA was justified or proper.

Statement of the Case

This is the fourth time that one or both of these consolidated cases have been before this court for consideration. (See 436 F.2d 306, 448 F.2d 731, ___ F.2d ___.)

The order of April 10 was entered after a hearing on two matters: the supplemental complaint filed on February 2, 1972, and on a plan filed on the same date by the CHA pursuant to paragraph 2 of an order on CHA of January 3, 1972 (A12).

(a) The Supplemental Complaint. On February 2, 1972, the plaintiffs were given leave to file a "Supplemental Complaint" in this 1966 case which brought into the lawsuit (for the first time) the City of Chicago, its Mayor, and each of its aldermen. The gist of the supplemental complaint was that an Illinois statute providing that land for public housing could not be acquired without the approval of the City Council (Ill. Rev. Stat. ch. 67 1/2, § 9), as applied to the instant case, was depriving plaintiffs of relief because the Chicago City Council was not approving public housing sites submitted by CHA. Although the supplemental complaint nominally sought relief against CHA, it really sought a declaratory judgment against

Chicago and its aldermen that the Illinois statute should be ignored by CHA, so that the City Council would not have a voice either in the location of public housing sites in Chicago or in the amount of public housing in Chicago. The supplemental complaint made no charges against CHA.

Perhaps the reason why the City and City Council were not brought in as parties until six years after the commencement of this litigation was the view expressed by the district court in 1969 that its very detailed 1969 Judgment Order against CHA somehow would be binding upon the City Council of Chicago (see 296 F. Supp. at p. 914 and 304 F. Supp. at p. 741).

Here it must be noted that the Illinois statute, a 1949 amendment to the Illinois Housing Authorities Act, did not grant Chicago any greater control over public housing than federal law grants every municipality in the nation. Section 15(7) (b) of the United States Housing Act of 1937, as amended (47 U.S.C. § 1401 et seq.), requires as a condition precedent to obtaining federal funding that a local housing authority enter into an agreement with the governing body of the locality involved providing for the local cooperation required by the Federal Act. That Agreement is commonly referred to as a "Cooperation Agreement." Local housing authorities usually enter into Cooperation Agreements with their local governing

NO

bodies only after a project site has been identified. Thus, local governing bodies throughout the country exercise the power to approve or disapprove site locations for public housing even absent such a state statutory requirement. Prior to the 1949 Amendment to the Illinois Housing Authorities Act, giving the City Council of the City of Chicago the power of site approval for public housing, all Cooperation Agreements between CHA and the City related to specific and identified projects. But, after the 1949 Amendment, CHA entered into a blanket Cooperation Agreement with the City of Chicago without identification of project locations.

(b) The Order of January 3, 1972, Against CHA. That three part order, from which CHA did not appeal, merely required CHA to file certain plans with the district court:

(1) Under part 1, CHA was required to state its plans for promptly acquiring public housing sites previously approved by the City Council; CHA complied with this part of the order on January 18, 1972 (A9).

(2) Under part 2, CHA was required to submit a plan for the acquisition of sites--regardless of any action taken by the Chicago City Council--in a number sufficient to provide 1,500 public housing units; CHA complied with part 2 by filing its response on February 2, 1972 (A12).

(3) Part 3 of the January 3 order required CHA to submit a plan for the acquisition of sites sufficient to provide 7,000 additional public housing family units. CHA complied with this part 3 by filing its response on March 17.

The order also set dates for separate hearings on each of CHA's plans. The hearing on CHA's plan 2 was set for the same time as the hearing on the supplemental complaint.

(c) The Hearing of April 4-6, 1972. No significant portion of the hearing may be said to have concerned itself with the plan of CHA's filed in accord with the order of January 3, 1972. The contents of that document were not an issue. When CHA's plan was the subject either of comment or of testimony it was peripheral. The only reference to it in the order of April 10, 1972, was that there had been a hearing about it (A26).

The hearing on the supplemental complaint involved no charges or allegations against CHA since none were made in the supplemental complaint. In closing argument, however, plaintiffs' counsel did suggest that CHA had done nothing to "move the City Council to action" since April 16, 1971. However, the record includes Plaintiffs' Ex. 2, an April 15, 1971, letter from the Executive Director of CHA to the Chairman of the Rules Committee of the Chicago City Council, which read as follows:

"At the City Council meeting of March 10, 1971, the Clerk of the Council introduced the Chicago Housing Authority's list of 275 sites suitable for the construction of approximately 1,746 units of public housing. This matter was then referred to the Rules Committee.

"The purpose of this letter is to urge you as the new Chairman of the Rules Committee to place this matter on the agenda of your first Committee meeting for appropriate action to permit the sites to be referred to the Planning and Housing Committee for its consideration and action. Because of the urgency of this matter, it is respectfully requested that a meeting be called for as early a date as possible.

"The urgency I refer to is, of course, the dire need for additional housing for Chicago's families of low income. And affirmative, prompt action by the City Council in connection with these sites is a prerequisite to construction by CHA for additional housing to meet that need.

"Moreover, Judge Richard J. Austin has ruled that the placement of family public housing in past years was discriminatory and ordered that such pattern be reversed. The Authority's current site program will implement that order.

"We earnestly seek your assistance in this matter and would appreciate hearing from you as to when action will be taken by your Committee."

(d) The Order of April 10, 1972. The findings of fact and conclusions of law entered on April 10, 1972, made hardly any reference to CHA. There was no finding that CHA had not been putting forth its best efforts in accord with the 1969 Judgment Order.

The findings of fact included only one reference to the CHA: that CHA had been prevented from providing additional housing units in conformity with the Judgment Order of 1969 because of what the Court termed the City's "failure to conduct

hearings and approve acquisitions." The district court's conclusions of law made no reference to CHA: the stress was all upon what the district court three times termed the "failures of the City and Council."

But the order entered solely involves CHA. It was ordered that § 9, ch. 67 1/2, Illinois Revised Statutes "shall not be applicable to CHA's actions (A31) and that CHA must acquire sites for 1,500 units of public housing in the City of Chicago "regardless of any action taken or not taken by the [City] Council" (A32, 3). In addition, the district court imposed upon CHA a complex and new procedure for the processing of sites that had not been mentioned either prior to or during the hearing. As to a list of 106 sites to be served upon CHA by the City, the mandated procedure for CHA was:

- (1) 20 days to "consider, and make available at its offices to the public for inspection, all comments from any source relating to such sites as are submitted to it in writing" (A31);
- (2) 10 days later CHA was ordered to "file with the Court, and serve upon HUD and counsel for the plaintiffs, a final list of such of the sites served upon it by the City under paragraph 3A hereof as in the judgment of CHA, taking into consideration both the comments received under paragraph 3B hereof and the need to effectuate the previous orders of this Court, are appropriate for the provision of Dwelling Units pursuant to such previous orders" (A31);

- (3) Then, "Immediately" to "begin all steps and procedures necessary or appropriate to acquire such sites and provide Dwelling Units thereon, including without limitation, (a) the preparation and submission of plans and proposals, including a so-called Development Plan, relating thereto to HUD, (b) the acquisition of such sites, regardless of any action taken or not taken by the Council with respect thereto, upon HUD's approval of such Development Plan, and (c) the provision of Dwelling Units thereon as promptly as may be" (A31-2).

With respect to a list of all of the "vacant, residentially zoned parcels of land in the General Public Housing Area of the City" to be supplied CHA by the City the mandated procedure was:

- (1) 70 days to "file with the Court and serve upon counsel for HUD, the City and the plaintiffs, a list of such sites as will in the judgment of CHA, when added to the sites approved by the Council in June, 1971, and the sites referred to in paragraph 3C hereof, be sufficient for the provision of an aggregate of 1500 Dwelling Units in conformity with the Judgment Order" (A32);
- (2) 30 days to "receive, consider and make available at its offices to the public for inspection, all comments from any source relating to such sites as are submitted to it in writing" (A32);
- (3) 20 days to "file with the Court and serve upon HUD and counsel for the plaintiffs a final list of such of the sites referred to in paragraph 4B hereof as in the judgment of CHA, taking into consideration both the comments received under paragraph 4C hereof

and the need to effectuate the previous orders of this Court, are appropriate for the provision of the aggregate of 1500 Dwelling Units referred to in paragraph 4B hereof" (A32-3);

- (4) Then, "Immediately" to "begin all steps and procedures necessary or appropriate to acquire such sites and provide Dwelling Units thereon, including without limitation, (a) the preparation and submission of plans and proposals, including a so-called Development Plan, relating thereto to HUD, (b) the acquisition of such sites, regardless of any action taken or not taken by the Council with respect thereto, upon HUD's approval of such Development Plan, and (c) the provision of Dwelling Units thereon as promptly as may be" (A33).

Since the Judgment Order of 1969 the district court has made three major alterations in it by further orders against CHA: July 20, 1971, January 3, 1972, and April 10, 1972. No order of any sort has yet been entered against HUD requiring it to do or not do anything. Plaintiffs brought the City of Chicago, its Mayor and aldermen in as parties six years after the commencement of the law suit, and then did not ask for an order on them or any of them. The record of this entire protracted proceeding shows that the erection of public housing requires the cooperation of HUD, CHA and the City, yet plaintiffs persist in seeking order after order against CHA. Moreover, the record shows that when CHA does not appeal from an order against it, the district court assumes that

CHA had determined that such an appeal would be "hopeless"; when CHA does appeal from an order of the district court it is characterized by the district court as going "screaming and protesting to the Court of Appeals" (332 F. Supp. at pp. 367, 368).

Argument

The district court abused its discretion by imposing upon CHA the duty affirmatively to proceed, without regard to City Council action or applicable state law, in accordance with detailed timetables and procedures, because there is no evidence that such action was called for by or would implement the Judgment Order of July 1, 1969.

Plaintiffs' case included no facts justifying further orders or relief against CHA. Indeed, plaintiffs and the district court have completely lost sight of the fact that the focus of this 1966 lawsuit was upon CHA's tenant assignment and site selection procedures. The February 10, 1969 Memorandum Opinion (226 F. Supp. 907), which was the basis for the Judgment Order against CHA, was divided into three parts: "I. Discriminatory Tenant Assignment Practices", "II. Discriminatory Site Selection Procedures", and "III. Relief". As to relief, the court directed the parties to "attempt to formulate a comprehensive plan to prohibit the future use and remedy

the past effects of CHA's unconstitutional site selection and tenant assignment procedures" (emphasis added). Those procedures have been changed, so that plaintiffs have had the relief that they sought against CHA.

The order appealed from was an abuse of discretion because, without any proper factual foundation, it requires that everyday details of CHA's operations and the exercise of its judgment be made a matter of intensive scrutiny in open court. And, of course, it involves the time and attention of the court be devoted to matters not ordinarily deemed within the province of the judiciary.

The problems created by the order of April 10 are well illustrated by the one-day hearing held before the district court on May 28, 1972. That hearing involved the order on appeal. For the first batch of sites covered by the April 10 order, CHA had been ordered to consider all written comments about the proposed sites from any source during a 20 day period. CHA received about five thousand of such written comments, and on May 28 CHA's counsel moved in the district court for an additional 30 days to consider them. Plaintiffs' counsel objected on the ground that most of the comments were unworthy of consideration. An evidentiary hearing resulted.

In the course of that hearing the efforts of CHA were characterized by plaintiffs' counsel as "ridiculous" (May 18 tr. p. 83). As to the evidence of CHA's procedure for "considering * * * all comments from any source" as directed by its order of April 10, 1972, the district court observed: "I don't know that is your procedure or whether it is something more devious than that." Counsel for CHA replied: "* * * if it is more devious, if your Honor believes that, than I recommend that you cite us for contempt of court or instruct Mr. Polikoff to do so and we will defend ourselves, but I don't think that we ought to constantly be forced to defend ourselves against these snide remarks. I say again, these boxes are simply what the public sent us. Your Honor set aside a 20-day period. We can't reject things until we have considered them. That is what the word 'consider' means, read, evaluate." The district court said: "How many people does it have to be considered by, all levels from the lowest to the highest, if there is any higher intelligence in the CHA?" (May 28 tr. pp. 86-7.) Later the district court said that CHA's screening procedures might be aided if it felt able to afford the services of one of the lawyers' ten year old daughter (May 28 tr. p. 108). After stating that CHA had not made a sincere effort to try and meet the deadline

the court granted a seven day extension (May 28 tr. p. 109). Both the district court's and plaintiffs' counsel's ridicule of CHA's efforts to comply with one of the terms of the order now on appeal underscore the abuse of discretion inherent in the latest order against CHA.

Moreover, there is no evidence that this latest order against CHA will be effective. Thus, counsel for the City of Chicago pointed out: "I think it is important that the Court at least be aware of the issue that at the time of the passage of an approval of this cooperative agreement, Section 9 of the act which says that the City Council shall approve all sites was in force at that time, and I would just remind the Court at this point that there would be some question in my mind as to the validity of any provisions in the cooperative agreement, in view of the prayer of Plaintiffs, and I think that should be related or pointed out at this time" (April 4-6 tr. p. 404). And counsel for HUD pointed out to the court: "We were speaking that morning in court as to whether or not HUD would be able to approve a program for the development of housing if the state statute were circumvented. And I said among the various considerations one consideration is the opinion of the attorney for the local housing authority that everything has taken place in accordance with local law, and

we relied upon the local attorney for that assurance. And I said on that one point that if there were a final non-appealable order, and that was the basis of the attorney's opinion, that section 9 of the state statute doesn't apply, that we would get over that one hurdle. But there are a whole host of considerations that go into approval of a development program for public housing. And what I am saying to you is that one of those considerations is that we must have an opinion of bond counsel that the bonds ultimately to be marketed for those units will in fact receive a favorable opinion. And I don't know, and I don't intend to try to anticipate what the bond counsel might opine regarding this unique procedure. And the bond counsel may confine his comments only to the deviation from the state statute, but there may be other factors" (tr. p. 532). Those matters, when coupled with plaintiffs' piecemeal approach to the litigation, make it clear that unless this case is encompassed within some sensible parameters, all that lies ahead is years of useless courtroom bickering.

It is obvious that CHA has become the scapegoat for the fact that the Judgment Order of July 1969 against CHA has hurt the cause of low income family public housing and has had no impact whatsoever on the desegregation of such housing in Chicago. CHA has never been seriously charged with not

complying with any order directed against it and, thus far, it is the only party to these six year old proceedings that has been ordered to do anything. It ought now to be obvious that orders against CHA like that of April 10, 1972, are arbitrary. And, in this connection, it ought not to be forgotten that in the district court's Memorandum Opinion of 1969 it found that "CHA officials never entertained racist attitudes" and that "'the racial character of the neighborhood has never been a factor in CHA's selection of a suitable site'" (296 F. Supp. at p. 914).

Although at every opportunity plaintiffs urge that the halt in public housing construction is CHA's fault, common sense suggests that the trouble lies in the notion that the underlying problems are solvable by focusing on CHA and showering it with detailed orders to do this and to do that. Meanwhile, cries for help from those most directly involved are unheeded. Much of the hearing of April 4-6 concerned the need and the demand for public housing within the minority community (see April 4-6, 1972 tr. pp. 222-236 (housing demand in Lawndale); 285-303 (20th ward, particularly Woodlawn); 316-343 (4th ward); and 345-393 (Spanish speaking areas)). Representatives from these areas, as well as representatives on behalf of the City, practically begged the district court to modify the original judgment to permit housing in these and similar areas;

but plaintiffs' counsel characterized all of these pleas as "irrelevant", and the district court denied all such motions.

Thus, the order of April 10, 1972 has increased the frustration over the ineffectiveness of the July 1969 judgment order, and, as far as CHA is concerned, the latest order promises to do nothing but add to CHA's already awesome burdens while contributing nothing to the complex problem of providing integrated public housing opportunities in the Chicago area.

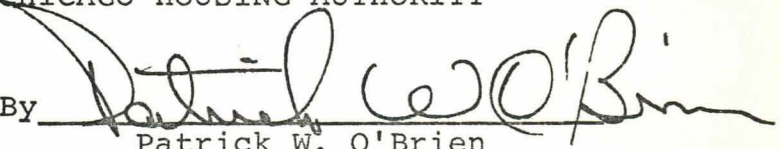
Conclusion

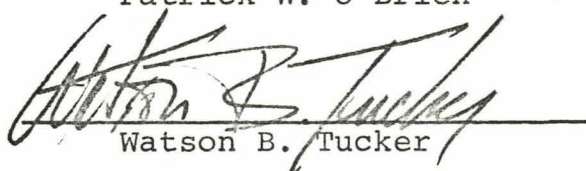
The April 10, 1972 order is improper. It was entered without adequate foundation. This Court should vacate and set it aside.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

By


Patrick W. O'Brien


Watson B. Tucker

231 South LaSalle Street
Suite 1955
Chicago, Illinois 60604
ST 2-0600

Its Attorneys

Of Counsel:

Kathryn M. Kula
Mayer, Brown & Platt

APPENDIX TO BRIEF OF CHA

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

DOROTHY GAUTREAUX, et al.,)

Plaintiffs)

v.)

GEORGE W. ROMNEY and CHICAGO)
HOUSING AUTHORITY, et al.,)

Defendants)

No. 66C 1459
66C 1460
(Consolidated)

STIPULATION OF FACTS BETWEEN PLAINTIFFS
AND CHICAGO HOUSING AUTHORITY

Plaintiffs and Chicago Housing Authority ("CHA"), acting through their respective attorneys, hereby stipulate that the following are facts and require no proof:

1. On March 5, 1971, CHA submitted 235 sites (accommodating approximately 1,450 public housing units) in the general public housing area to the Chicago City Council.
2. The sites were thereafter referred to the City Council's Planning and Housing Committee for consideration.
3. During June 1971 the Planning and Housing Committee held hearings on 43 of the submitted sites. The Committee approved 12 of said sites and disapproved 31 of said sites.
4. Subsequently, CHA's staff concluded that 83 of the

235 sites (including four of the 12 which had been approved by the Committee) were unavailable for public housing, for the following reasons:

a. The 1970 census figures disclosed that 17 of the sites were within the Limited Public Housing Area;

b. Building permits had been issued to the owners of 25 of the sites.

c. 27 of the sites were too close to CHA's proposed development at 116th and Torrence; and

d. 14 of the sites were planned for such uses as Board of Education construction, Park District construction, or adjacent business expansion.

5. Committee hearings have not been held either on 79 of the 83 sites deemed unavailable for public housing by CHA, or on the remaining 113 sites submitted to the Chicago City Council on March 5, 1972.

6. In June 1971, the Chicago City Council approved 32 additional sites in the general public housing area for public housing construction; these additional sites had not been in CHA's March 5, 1971 submission. The City Council also approved the 12 CHA-submitted sites which had been approved by the Planning and Housing Committee, yielding a total of 44 approved sites in the general public housing area.

7. By resolution No. 71 CHA-177, dated November 11,

1971, CHA accepted and approved 27 of the city's 32 additional sites; CHA did not approve the other five sites because CHA learned that such sites were either unavailable for public housing or unacceptable to HUD.

8. Of the 39 sites approved by both CHA and the City of Chicago, 36 were originally included in CHA's Project Ill. 2-85 (the three having been eliminated for one or more of the reasons set forth in paragraphs 4a through 4d). CHA has since had to remove nine of the 36 sites from active consideration for the following reasons:

a. In the case of seven of such sites, either building permits have been issued to the owners thereof, or the owners have instituted mandamus proceedings to compel the issuance of such permits;

b. In the case of one such site, owned by Illinois Bell Telephone Company, the owner has indicated that it intends to utilize the property for construction of additional telephone facilities; and

c. In the case of one such site, owned by the Board of Education, the Board has indicated that it intends to develop the property for school purposes.

9. CHA's Project Ill. 2-85 currently consists of 27 sites estimated to accommodate 177 dwelling units. The current status of land acquisition procedures for these 27 sites is as follows:

a. Title reports were ordered on February 22, 1972 and all have been received.

b. On February 10, 1972, CHA requested HUD to make the required appraisals. HUD has advised that it would start appraising on or about March 29, 1972. As soon as appraisal reports are returned to CHA, staff will proceed promptly to begin negotiations with the owners for acquisition of the sites.

c. Proposals from three qualified surveyors have been solicited and received. Contracts have been signed, and it is anticipated that all surveys will be completed by April 15, 1972.

Dated April 4, 1972

CHICAGO HOUSING AUTHORITY

DOROTHY GAUTREAUX, et al.

By

Watson B. Tucker

One of its attorneys

By

One of her attorneys

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	No. 66 C 1459
	)	
v.	)	No. 66 C 1460
	)	
GEORGE W. ROMNEY, and CHICAGO	)	(Consolidated)
HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

ORDER

This matter coming on to be heard pursuant to plaintiffs' motion for further relief filed November 24, 1971, and the Court having considered the oral and written presentations of the parties and being fully advised; and the Court having retained jurisdiction of this matter for all purposes, specifically including enforcement of this Court's judgment order of July 1, 1969, which order, among other things, obligates the defendant Chicago Housing Authority ("CHA") to "use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of [such] judgment order," and directs CHA to "take all steps necessary to that end, including making applications for allocations of federal funds and carrying out all necessary planning and development;" and it appearing to the Court that

pursuant to such reservation of jurisdiction further orders are necessary to enforce such judgment order and "to remedy the past effects of CHA's unconstitutional site selection" as provided in this Court's Memorandum Opinion of February 10, 1969;

IT IS HEREBY ORDERED:

1. CHA shall file with the Court and serve upon attorneys for plaintiffs within 15 days from the date hereof (i.e., on or before January 18, 1972) a specific plan for,

- (a) the prompt acquisition by CHA of sites for public housing units previously submitted by CHA to the City Council of the City of Chicago ("City Council") pursuant to this Court's orders of July 20, 1970 and March 1, 1971, and since approved by the City Council, and

- (b) the prompt construction of public housing units thereon,

such plan to include specific identification of sites to be acquired, the number of housing units to be constructed thereon, and a specific time schedule by which all major steps to and including the completion and renting of housing units thereon are proposed to be accomplished;

2. CHA shall file with the Court and serve upon attorneys for the plaintiffs within 30 days from the date hereof (i.e., on or before February 2, 1972) a specific plan for,

(a) the prompt acquisition by CHA, regardless of any action taken or not taken by the City Council, of such number of additional sites for public housing units as will, when added to the sites referred to in paragraph 1 of this order, permit CHA to provide the 1500 public housing units referred to in this Court's orders of July 20, 1970 and March 1, 1971, and

(b) the prompt provision of public housing units thereon,

such plan to include specific identification of sites to be acquired, the number of housing units to be constructed or otherwise supplied thereon, and a specific time schedule by which all major steps to and including the completion and renting of housing units thereon are proposed to be accomplished; and

3. CHA shall file with the Court and serve upon attorneys for the plaintiffs within 45 days from the date hereof (i.e., on or before February 17, 1972) a specific plan for,

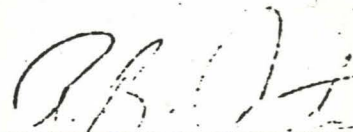
(a) the prompt acquisition by CHA, regardless of any action taken or not taken by the City Council, of such number of additional sites for public housing units as will permit CHA to provide 7,000 public housing

units in addition to the 1500 such
units hereinabove referred to, and
(b) the prompt provision of public housing
units thereon,

such plan to include the proposed method for specific identification of the sites to be acquired and a specific time schedule by which all major steps to and including the completion and renting of housing units thereon are proposed to be accomplished.

4. A hearing for the consideration of each of such plans, respectively, and the entry of further orders in connection therewith, is hereby set, without further notice, 15 days following the last day for the filing and service thereof, at 10 o'clock A.M., to wit, on February 2, 1972, February 17, 1972 and March 3, 1972, respectively.

ENTER:



Judge

January 3, 1972

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

U.S. DISTRICT COURT
CLERK

JAN 1 1972

DOROTHY GAUTREAUX, et al.,

Plaintiffs

v.

GEORGE W. ROMNEY and CHICAGO
HOUSING AUTHORITY, et al.,

Defendants

RECEIVED
NO. 66 C 1460
(Consolidated)

RESPONSE OF CHA TO PART I OF
THE ORDER ENTERED UPON CHA ON
JANUARY 3, 1972

1. In June, 1971, the City Council approved 100 sites estimated to accommodate 732 units of public housing. A summary of site locations is as follows:

	<u>No. of Sites</u>	<u>Proposed No. of Units</u>
General Public Housing Area (GPHA) (70% or more white census tracts)	44	302
Limited Public Housing Area (LPHA) (70% or more white census tracts)	17)) 56	137)) 430
Limited Public Housing Area (LPHA) (30% or more non-white census tracts)	39) 100	293) 732

2. Of the 44 sites located in the GPHA, HUD approved 40 sites estimated to accommodate approximately 288 dwelling units.

3. Of the 40 sites approved by HUD, 36 sites (estimated to accommodate 267 dwelling units) were included in a Development

Plan (Project ILL-2-85) and submitted to HUD for approval on November 16, 1971. (See Attachment No. 1) (Four (4) sites were eliminated by CHA staff for reasons set forth in Reports Nos. 2 and 3, filed with the Court on September 30, 1971 and December 31, 1971, respectively.)

4. Of the 36 sites in Project ILL-2-85, building permits have been issued to the owners of four sites (suitable for 41 units) and the owners of three other sites (suitable for 27 units) have brought mandamus proceedings for the issuance of permits and such an order has been issued by the Court with respect to one site (suitable for 6 units). As of January 11, 1971, construction had commenced on one of the sites for which a building permit had been issued and construction was completed on one of the sites for which a building permit had been issued. (See Attachment No. 1)

5. The 29 other sites in Project ILL-2-85 are estimated to accommodate 199 dwelling units; 9 of these 29 sites (72 dwelling units) will require zoning changes. (See Attachment No. 1)

6. CHA has not received approval from HUD of the Development Plan for Project ILL-2-85.

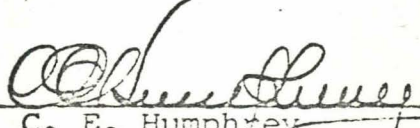
7. Upon receipt by CHA of HUD approval of the Development Plan for Project ILL-2-85, CHA will immediately proceed with land acquisition procedures which include obtaining land appraisals, securing title searches, hiring negotiators to acquire land through voluntary conveyances and instituting eminent domain proceedings, if necessary.

8. On the basis of CHA staff analysis of time involved in necessary procedures, actions and approvals for land acquisition and construction, it is estimated that after receipt of HUD approval of the Development Plan for Project ILL-2-85; it will take 13 months for completion and occupancy of the first unit where the site has been obtained through voluntary acquisition and 23 months for completion and occupancy of the last unit. However, if condemnation is necessary to acquire title, it is estimated that it will take 22 months for completion and occupancy of the first unit and 32 months for completion and occupancy of the last unit. (See Attachment No. 2) This latter estimate assumes that the only issue involved in the eminent domain proceedings is the ascertainment of just compensation for the property and that no challenge is made to CHA's legal power to condemn.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

By: _____


C. E. Humphrey
Executive Director

Dated: January 18, 1972

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

FILED

FEB 2 1972

H. STUART CUNNINGHAM

At _____
CLERK

DOROTHY GAUTREAUX, et al.,)

Plaintiffs)

v.)

GEORGE W. ROMNEY and CHICAGO
HOUSING AUTHORITY, et al.,)

Defendants)

No. 66C 1459

66C 1460

(Consolidated)

RESPONSE OF CHA TO PART II OF THE ORDER ENTERED
UPON CHA ON JANUARY 3, 1972

At the outset, we respectfully point out that CHA is filing this response only because it has been ordered to do so. This response, as well as the response of January 18, 1972 (dealing only with City Council approved sites), is not a waiver by CHA of any of its previous objections. CHA has argued that the method of increasing the supply of public housing contemplated by this Court's January 3 order--that is, by ordering CHA to proceed without regard to action by the Chicago City Council--is the wrong way to try to achieve an expansion of public housing facilities. CHA has previously objected to the contemplated procedure (see our brief of

December 21, 1971, and the transcript of the January 3, 1972 hearing) and renews all of its previous objections.

Attached hereto as Exhibit A is a statement of C. E. Humphrey, executive director of CHA, setting forth the specific CHA staff response to Part II of this Court's January 3, 1972 order.

The timetables set forth in Exhibit A give no consideration to the following contingencies, any one of which may radically alter such timetables in a manner impossible to predict:

(a) Depending upon the plan, if any, ordered implemented by this Court, CHA may or may not seek judicial review. Such judicial review might take anywhere from six months to three years to complete.

(b) The City of Chicago, and the City Council, have not been made defendants for purposes of relief or for any other purpose, in this proceeding. If and when they are brought in, it is conceivable that further hearings, arguments and appeals would have significant effects upon the timetables set forth in Exhibit A. The extent of those effects is impossible to predict.

(c) It may reasonably be anticipated that some of the properties identified in Exhibit A can be obtained through voluntary sale but that others will have to be obtained through condemnation proceedings in the state court. With respect to properties which fall within the latter category, the timetables might be disrupted to a relatively slight extent, if only lower court proceedings are involved, or to a very substantial extent, if review in the Illinois Supreme Court and/or United States Supreme Court is sought on the question of whether such condemnation proceedings are proper. Moreover, it is not possible to predict whether the result in any particular condemnation case would control other condemnation cases.

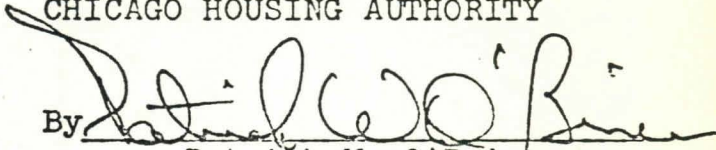
(d) The potential sources of delay set forth in subparagraphs (a), (b) and (c) hereof are probably the most serious, but not the only, such sources. For example, CHA may encounter difficulty in obtaining title insurance, in obtaining HUD approval for specific projects, or in obtaining zoning approval. None of these difficulties are taken into consideration in the Exhibit A's timetables and any one, or all, could result in additional trials and appeals

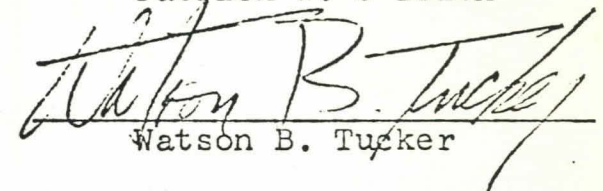
in this or in other courts.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

By


Patrick W. O'Brien


Watson B. Tucker

231 South LaSalle Street
Chicago, Illinois 60604
ST 2-0600

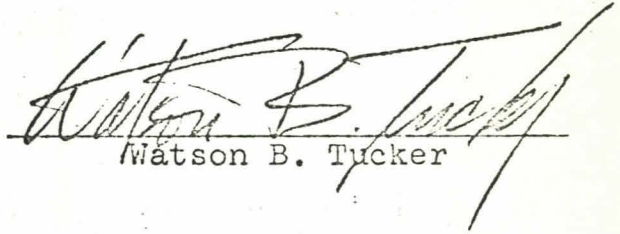
Attorneys for Chicago Housing
Authority

Of Counsel:

Kathryn M. Kula
Mayer, Brown & Platt

CERTIFICATE OF MAILING

The undersigned hereby certifies that on February 2, 1972 he served copies of the foregoing Response of CHA to Part II of the Order Entered upon-CHA on January 3, 1972 by ~~mailing~~ ^{handing} same, ~~with postage fully prepaid,~~ to the attorney for plaintiffs.


Watson B. Tucker

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

DOROTHY GAUTREAUX, et al

Plaintiffs,

v.

GEORGE W. ROMNEY and CHICAGO
HOUSING AUTHORITY, et al

Defendants.

NO. 66 C 1459

NO. 66 C 1460

(Consolidated)

EXHIBIT A TO THE RESPONSE OF CHA TO
PART II OF THE ORDER ENTERED UPON
CHA ON JANUARY 3, 1972

1. CHA has an approved allocation from HUD for 1,500 units of family public housing.
2. Compliance with Section III B and C of the Court's Order of July 1, 1969, requires the location of 1,300 of the 1,500 unit allocation in the General Public Housing Area (GPHA). Compliance with this requirement will then permit the location of 200 units in the Limited Public Housing Area (LPHA).
3. CHA has previously identified 29 sites, estimated to accommodate 199 family dwelling units, all located in the GPHA. See Response of CHA to Part I of the Order Entered Upon CHA on January 3, 1972, filed with the Court on January 18, 1972.

4. CHA herewith identifies an additional 149 sites estimated to accommodate 1,385 dwelling units. See Attachment No. 1 hereto. Facts pertinent to these sites are as follows:

A. GPHA

(i) No. of Sites: 115; Estimated No. of Units: 1,131.

(ii) All of said sites were submitted by CHA to the City Clerk on March 5, 1971 and have not been approved by the City Council for acquisition by CHA.

(iii) 56 sites, estimated to accommodate 862 dwelling units, require zoning changes.

(iv) On December 10, 1971 and January 6, 1972, CHA inquired of HUD whether HUD would fund a low-rent housing program in Chicago located on sites which have not been approved by the City Council if so ordered by this Court either with or without an express finding that the State statute requiring City Council approval is unconstitutional or is being applied unconstitutionally. See Attachments Nos. 2A and 2B. To date, CHA has received no answer to these inquiries.

B. LPHA

(i) No. of Sites: 34; Estimated No. of Units: 254.

(ii) All of said sites have been approved by the City Council and HUD.

(iii) One site, estimated to accommodate 4 dwelling units, requires zoning changes.

(iv) It is noted that the exact number of units to be placed under construction in the LPHA will be conditioned upon the number of units to be constructed in the GPHA.

5. The timetable for development of the 450 dwelling units on the site at 116th and Torrance is estimated to be three years from the date of HUD approval. See letter dated December 9, 1971 from Commissioner Hill of the Department of Development and Planning of the City of Chicago to Mr. John Waner, Director of the Illinois Area Office of HUD (Attachment 3).

6. With respect to the balance of the sites in the GPHA, it is estimated that after City Council approval or a final Court determination that obviates the requirement of City Council approval of sites, it will take 15 months for completion and occupancy of the first unit and 25 months for completion and occupancy of the last unit where the site has been obtained through voluntary acquisition. However, if condemnation proceedings are necessary, it is estimated that after City Council approval, or a final Court determination which obviates the requirement of City Council approval of sites, it will take 27 months for completion and occupancy of the first unit and 37 months for completion and occupancy of the last unit. See Attachment No. 4.

With respect to the sites located in the LPHA which already have been approved by the City Council, approximately the same timetable would be applicable. However, inception of the initial and intermediary procedures might have to be delayed pending the

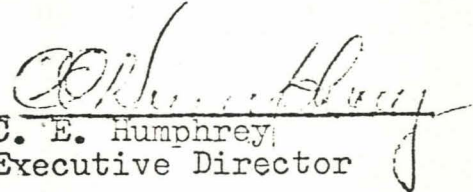
accomplishment of land acquisition of sites in the GPHA, thus delaying the ultimate date for start and completion of construction of units in the LPHA.

The above estimates are based on staff analysis of the time involved in necessary procedures, actions and approvals for land acquisition and construction. However, there are so many variables and unknowns, and many actions and approvals outside CHA's control, the Court should be apprised that the timetable in Attachment No. 4 is CHA staff's best "guesstimate." Many assumptions had to be made, i.e., that HUD will approve all Development Plans within a 4 month period after submission by CHA; that in the event condemnation proceedings are necessary, the only issue involved in the proceedings is the ascertainment of just compensation for the property and no challenge is made to CHA's legal power to condemn; that zoning changes will be accomplished in "routine fashion" in approximately two to three months per parcel.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

By


C. E. Humphrey
Executive Director

Dated: February 2, 1972

RECEIVED
MAR 17 1972

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

DOROTHY GAUTREAUX, et al.,
Plaintiffs

v.

GEORGE W. ROMNEY, and CHICAGO
HOUSING AUTHORITY, et al.,
Defendants

No. 66 C 1459
66 C 1460
(Consolidated)

RESPONSE OF CHA TO PART III OF THE ORDER
ENTERED UPON CHA ON JANUARY 3, 1972

CHA cannot propose a plan for "the prompt acquisition by CHA, regardless of any action taken or not taken by the City Council, of such number of additional sites for public housing units as will permit CHA to provide 7,000 public housing units" in addition to the 1,500 units covered in CHA's January 18 and February 2, 1972 responses to Parts I and II of this Court's order of January 3, 1972.

The following factors make it impossible for CHA to propose a plan providing for 7,000 additional public housing units:

1. There are many uncertainties and unresolved difficulties with respect to proceeding with the 1,500 units for

which there is a unit allocation from HUD (see our brief of December 21, 1971, pps. 15-19, and CHA's response to Part II of the January 3, 1972 order). CHA cannot go about allocating its own manpower and resources toward future construction--i.e., toward an additional 7,000 units--until CHA knows what it will have to do concerning the current 1,500 units.

2. At present there is no unit allocation for CHA from HUD for any public housing in excess of the present 1,500 units allocation. A HUD approved allocation of units is, of course, essential to planning and development of any additional units. On December 28, 1971, CHA submitted to HUD an application for a new reservation of 3,500 units of family public housing. (See CHA's Report to the Court Pursuant to Order of April 16, 1971 filed with the court on December 30, 1971.)

3. A very substantial number of such a large quantity of public housing units belong, in the judgment of CHA, in the metropolitan area outside the Chicago city limits, i.e., the counties of Cook, Kane, DuPage, McHenry, Lake and Will. At present there is no agency with jurisdiction beyond the city limits of the City of Chicago which has presented a plan for public housing that is metropolitan in scope, and unilateral efforts by CHA in this regard have not been successful.

4. It may be that an order will be entered in this case against HUD which will eliminate some existing barriers to a realistic metropolitan plan for public housing. Until then, and

depending upon the content of the order, CHA is at a loss as to how to proceed. CHA will, however, submit to this Court its detailed suggestions with respect to an appropriate order upon HUD, e.g., that HUD be ordered to (i) utilize all financial resources available under Title V of the Housing Act of 1970 to provide rental assistance payments to assist eligible families of low income to obtain housing in suburban communities and to (ii) call a regional meeting of state and local governments to institute a "fair share" plan for the distribution of public housing in suburban communities. (Such suggestions, however, will be subject to the oft-expressed view of CHA that this case is a site selection and tenant assignment case and that, with respect to the matters and things set forth in the complaint, the plaintiffs, as to CHA, have had their relief.)

5. It is premature to propose a method for specific identification of sites in the number suggested by Part III of the order of January 3, 1972 until a lawful metropolitan program for low-income public housing in the Chicago area has been established.

6. Any planning activity of the sort contemplated by Part III would be premature until this Court has ruled on the issues presented by the Supplemental Complaint and the responsive pleadings of the City of Chicago, its Mayor and Aldermen.

7. It is the judgment of CHA that there is not enough suitable land in the City of Chicago for 7,000 additional units

of public housing apportioned in accordance with the order of July 1, 1969; CHA does not have funds available to it to check the soundness of its views. It is the judgment of CHA that the July 1969 decree would have to be substantially amended before enough suitable land could be found within the City to accommodate 7,000 units of housing.

It is appropriate, in CHA's view, to close its response to Part III of this Court's order of January 3, 1972, with its recommendation that this Court's order of July, 1969 ought to be amended in the following particulars:

- (a) Eliminate the limitations on public housing outside the City of Chicago;
- (b) Eliminate the buffer zone; areas which would have fallen within it should be redefined to fall within the General Public Housing Area; and
- (c) Revise the ratio of units built in the General Public Housing Area to those in the Limited Public Housing Area to 1 to 3 instead of 3 to 1.

Such modifications of the decree provide the best hope for increasing the supply of public housing in the City of Chicago.

It is the further judgment of CHA that the soundest criteria for the location of a substantial number of additional low-income family public housing units in the Chicago metropolitan area (the counties of Cook, Kane, DuPage, McHenry, Lake and Will) are as follows:

(1) Where the eligible families live;

(2) Where the potential sources of employment are located.

Along with the foregoing there should be a program for the development of a reasonable number of units on scattered sites so that experience may be gained on the issue of whether the scattered sites approach is a workable solution for the provision of substantial additions to the supply of low-income family public housing.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

By


C. E. Humphrey
Executive Director

March 17, 1972

FINDINGS OF FACT

A. Pursuant to previous orders of this Court CHA is under a duty to use its best efforts to increase the supply of Dwelling Units in conformity with the Judgment Order as rapidly as possible.

B. To that end, and pursuant to orders of this Court, on March 5, 1971 CHA submitted to the defendant members of the City Council ("Council") of the defendant City of Chicago ("City"), and to the Chicago Plan Commission, an agency of the City, proposed sites for the provision of not fewer than 1500 Dwelling Units.

C. Acquisition of such sites or alternative sites by CHA is necessary to enable CHA to increase the supply of Dwelling Units in conformity with the Judgment Order as rapidly as possible.

D. Under the following provision of Section 9, Ch. 67-1/2, Illinois Revised Statutes, CHA may not acquire real property until the acquisition thereof has been approved by the Council:

"If the area of operation of a housing authority includes a city, village or incorporated town having a population in excess of 500,000 as determined by the last preceding Federal census, no real property or interest in real property shall be acquired in such municipality by the housing authority until such time as the housing authority has advised the governing body of such municipality of the description of the real property, or interest therein, proposed to be acquired, and the governing body of the the municipality has approved the acquisition thereof by the housing authority."

E. On and prior to July 1, 1971, the City (through two of its agencies) and the Council approved the acquisition

of certain real property by CHA which is presently sufficient to provide fewer than 200 Dwelling Units in conformity with the Judgment Order.

F. Since July 1, 1971, no committee of the Council has conducted hearings with respect to, and neither the City nor the Council has approved the acquisition of, any real property by CHA for the purpose of providing Dwelling Units in conformity with the Judgment Order.

G. Such failure to conduct hearings and to approve any such acquisition since July 1, 1971 is unjustified, there having been no showing of supervening necessity therefor, or indeed any showing of any necessity or reason at all, and the evidence having shown that many of the sites referred to in paragraph B above are suitable for the provision of Dwelling Units.

H. Such failure to conduct hearings and approve acquisition has the effect of preventing CHA from providing additional Dwelling Units in conformity with the Judgment Order, thereby denying relief to the plaintiffs to which they are entitled and frustrating and preventing this Court from assuring that such relief is provided.

CONCLUSIONS OF LAW

A. Under the evidence in this case, the effect of the failures of the City and Council since July 1, 1971 to approve any acquisition of real property by CHA for the purpose of

providing additional Dwelling Units in conformity with the Judgment Order has been and continues to be to thwart the correction of federal constitutional wrongs. Such failures may not be permitted to thwart such correction. Crow v. Brown, 332 F.Supp. 382, 390-92 (N.D.Ga. 1971), and cases there cited; aff'd., ___ F.2d ___ (5th Cir., Mar. 15, 1972, No. 71-3466). The affirmative obligation to seek means of disestablishing state-imposed segregation must be shared by all agencies or agents of the state. Franklin v. Quitman County Board, 288 F.Supp. 509, 519 (N.D.Miss. 1968).

B. Under the evidence in this case, taken together and viewed in their historical context, such failures of the City and the Council violate the rights of the plaintiffs and the class they represent under the equal protection clause of the Fourteenth Amendment to the United States Constitution. Crow v. Brown, supra, 332 F.Supp. at 392.

C. Under the evidence in this case, the effect of the operation of the foregoing provision of Section 9, Chapter 67-1/2, Illinois Revised Statutes, has been and is to deny plaintiffs the relief to which they are entitled under the Judgment Order and to prevent this Court from assuring that a full remedy is provided for the violations of federal constitutional rights which this Court's memorandum opinion of February 10, 1969 found to have occurred.

D. Under the evidence in this case, the Court has the power and duty to take appropriate action to provide such remedy

notwithstanding the foregoing provision of Section 9, Chapter 67-1/2, Illinois Revised Statutes, and notwithstanding such failures of the City and the Council. Louisiana v. United States, 380 U.S. 145 (1965); Haney v. County Board of Education, 429 F.2d 364 (8th Cir. 1970); United States v. Greenwood School District, 406 F.2d 1086 (5th Cir. 1969); Bradley v. School Board, 324 F.Supp. 1372 (E.D.Ark. 1971); United States v. Texas, 321 F.Supp. 1043 (E.D.Tex. 1970); Burleson v. County Board, 308 F.Supp. 352 (E.D.Ark. 1970); Crow v. Brown, supra; Kennedy Park Homes Ass'n. v. City of Lackawanna, 318 F.Supp. 669 (W.D.N.Y.), aff'd., 436 F.2d 108 (2d Cir. 1970); Southern Alameda Spanish Speaking Organization v. City of Union City, 424 F.2d 291, 295-96 (9th Cir. 1970); Hawkins v. Town of Shaw, 437 F.2d 1286, 1291-92 (5th Cir. 1971).

FOR THE FOREGOING REASONS IT IS HEREBY ORDERED:

1. The motions to dismiss the supplemental complaint and for jury trials be and the same hereby are denied.
2. Until the further order of this Court the following provision of Section 9, Chapter 67-1/2, Illinois Revised Statutes, to wit:

"If the area of operation of a housing authority includes a city, village or incorporated town having a population in excess of 500,000 as determined by the last preceding Federal census, no real property or interest in real property shall be acquired in such municipality by the housing authority until such time as the housing authority has advised

the governing body of such municipality of the description of the real property, or interest therein, proposed to be acquired, and the governing body of the municipality has approved the acquisition thereof by the housing authority."

shall not be applicable to CHA's actions, including without limitation the acquisition of real property in the City of Chicago, taken for the purpose of providing Dwelling Units.

3A. Within 10 days from the date hereof the City shall file with the Court and serve upon Counsel for CHA, HUD and the plaintiffs the addresses of 106 sites referred to in plaintiff's Exhibit 8, the relevant page of which is attached hereto as Appendix 1.

3B. During the 20 days following such filing and service CHA shall receive; consider, and make available at its offices to the public for inspection, all comments from any source relating to such sites as are submitted to it in writing.

3C. Within 10 days following the end of such 20 day comment period CHA shall file with the Court, and serve upon HUD and counsel for the plaintiffs, a final list of such of the sites served upon it by the City under paragraph 3A hereof as in the judgment of CHA, taking into consideration both the comments received under paragraph 3B hereof and the need to effectuate the previous orders of this Court, are appropriate for the provision of Dwelling Units pursuant to such previous orders.

3D. Immediately upon such filing and service pursuant to paragraph 3C hereof, CHA shall begin all steps and procedures

necessary or appropriate to acquire such sites and provide Dwelling Units thereon, including without limitation, (a) the preparation and submission of plans and proposals, including a so-called Development Plan, relating thereto to HUD, (b) the acquisition of such sites, regardless of any action taken or not taken by the Council with respect thereto, upon HUD's approval of such Development Plan,^{and} (c) the provision of Dwelling Units thereon as promptly as may be.

4A. Within 15 days from the date hereof the City shall deliver to CHA a list of all the vacant, residentially zoned parcels of land in the General Public Housing Area of the City of which it has knowledge.

4B. Within 70 days from the date hereof CHA shall file with the Court and serve upon counsel for HUD, the City and the plaintiffs, a list of such sites as will in the judgment of CHA, when added to the sites approved by the Council in June, 1971, and the sites referred to in paragraph 3C hereof, be sufficient for the provision of an aggregate of 1500 Dwelling Units in conformity with the Judgment Order.

4C. During the 30 days following such filing and service CHA shall receive, consider and make available at its offices to the public for inspection, all comments from any source relating to such sites as are submitted to it in writing.

4D. Within 20 days following the end of such 30 day comment period CHA shall file with the Court and serve upon HUD

and counsel for the plaintiffs a final list of such of the sites referred to in paragraph 4B hereof as in the judgment of CHA, taking into consideration both the comments received under paragraph 4C hereof and the need to effectuate the previous orders of this Court, are appropriate for the provision of the aggregate of 1500 Dwelling Units referred to in paragraph 4B hereof.

4E. Immediately upon such filing and service pursuant to paragraph 4D hereof, CHA shall begin all steps and procedures necessary or appropriate to acquire such sites and provide Dwelling Units thereon, including without limitation, (a) the preparation and submission of plans and proposals, including a so-called Development Plan, relating thereto to HUD, (b) the acquisition of such sites, regardless of any action taken or not taken by the Council with respect thereto, upon HUD's approval of such Development Plan, and (c) the provision of Dwelling Units thereon ^{promptly as} as / may be.

5. The Court retains jurisdiction over this matter for the entry of such further orders as may be appropriate to effectuate the provisions of this order or otherwise.

ENTER:

Judge

April 10, 1972

CERTIFICATION UNDER RULE 54(b)

With respect to the foregoing order it is hereby
certified in accordance with Rule 54(b) of the Federal Rules
of Civil Procedure,

- (a) That the Court has directed the entry of a
final judgment respecting a claim for relief
under the supplemental complaint; and
- (b) That the Court has determined that there is
no just reason for delay.

April 10, 1972

Judge

Entered
4/10/72

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

DOROTHY GAUTREAUX, et al.,
Plaintiffs,

vs.

CHICAGO HOUSING AUTHORITY,
et al.,
Defendants.

NO. 66 C 1459
66 C 1460

(Consolidated)

FILING OF DOCUMENTS PURSUANT
TO ORDER OF COURT

The CHICAGO HOUSING AUTHORITY, a defendant in this case, hereby files with the Clerk of this Court the attached list of sites pursuant to Paragraph 4B of the Order of this Court of April 10, 1972.

CHICAGO HOUSING AUTHORITY

BY

Kathryn M. Kula

KATHRYN M. KULA
General Counsel

DATED: June 19, 1972

CHICAGO HOUSING AUTHORITY
55 West Cermak Road
Chicago, Illinois 60616
Telephone: 791-8415

June 19, 1972

SUMMARY AND COMMENT

25 sites approved by City Council and included in Project ILL-2-85.....	171 d.u.
50 sites contained in list filed June 1, 1972.....	204 d.u.
518 sites contained in list filed herewith	1,771 d.u.
	<u>2,146 d.u.</u>

The formula established by the Court's Order of July 1, 1969, as applied to CHA's 1,500 dwelling unit allocation from HUD, requires that 1,300 units be located in the General Public Housing Area (GPHA) and permits 200 units to be located in the Limited Public Housing Area (LPHA).

Experience has shown that many sites, although apparently available at the time of initial identification, will not be available when development begins. For that reason CHA has included in this listing sites that will accommodate substantially more units than is required, when combined with previous listings, to produce 1,300 units in the GPHA.

With respect to the 200 dwelling units to be located in the LPHA, the City Council of the City of Chicago has approved sites in the LPHA that will produce in excess of 200 units. As development of the 1,300 units in the GPHA is undertaken, CHA intends to select sites for the 200 units in the LPHA from sites already approved by the City Council. Sites for the 200 units to be located in the LPHA are not included in the list filed herewith.

A 37

August 8, 1972

SUMMARY AND COMMENT

25 sites approved by City Council, included in Project ILL-2-85 and still viable, estimated to accommodate.....	170 d.u.
50 sites (estimated to accommodate 204 d.u.) contained in list filed June 1, 1972 and incorporated into a Development Plan submitted to HUD has been reduced to 47 viable sites, estimated to accommodate.....	195 d.u.
357 sites contained in list filed herewith, estimated to accommodate.....	1,041 d.u.
Total.....	1,406 d.u.

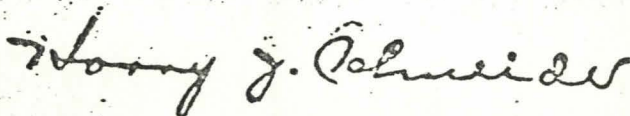
The formula established by the Court's Order of July 1, 1969, as applied to CHA's 1,500 dwelling unit allocation from HUD, requires that 1,300 units be located in the General Public Housing Area (GPHA) and permits 200 units to be located in the Limited Public Housing Area (LPHA).

With respect to the 200 dwelling units to be located in the LPHA, the City Council has approved sites in the LPHA that will produce in excess of 200 units. As development of the 1,300 units in the GPHA is undertaken, CHA intends to select sites for the 200 units in the LPHA from sites already approved or subsequently approved by the City Council. Sites for the 200 units to be located in the LPHA are not included in the list filed herewith. See Attachment No. 1 to Report to the Court Pursuant to Order of April 16, 1971 filed by CHA on June 30, 1971 for list of sites in LPHA approved by the City Council.

With respect to the 1,300 dwelling units to be located in the GPHA, on June 19, 1972 pursuant to Paragraph 4B of the

Order of April 10, 1972, CHA filed with the Court a list of 518 sites estimated to accommodate 1,771 dwelling units. This list was culled from a total of some 2,200 addresses which represented identified vacant residential property in the GPHA, the other sites having been eliminated because of unavailability, size, or landscaped side yards. See Report No. 5 to the Court Pursuant to Order of April 10, 1972, filed June 30, 1972.

Subsequent to June 19, 1972 and pursuant to Paragraph 4C of the Order of April 10, 1972, CHA received and considered all comments submitted in writing from any and all sources in connection with said 518 sites. On the basis of the comments received, considered and verified, CHA eliminated 161 sites estimated to accommodate 730 dwelling units. Sites were eliminated for the following reasons: site reserved for use by such public and private agencies as the Board of Education, the Chicago Park District, hospitals and churches; site already developed; site was in the Limited Public Housing Area; address duplications; side yards with owners living on adjacent lots who so advised CHA; site being used as a necessary business adjunct (such as a parking lot); existing plans for the development of the site by the owner; to effect a wider dispersal of sites and an equitable distribution of units within a ward area, some sites were deleted and the number of units on others was reduced.



Harry J. Schneider
Deputy Executive Director

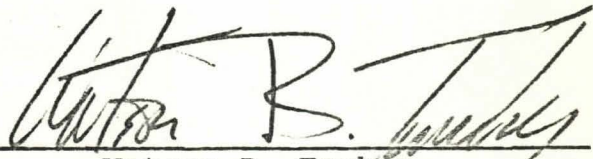
Certificate of Service

I hereby certify that on August 28, 1972, I served copies of the foregoing Brief for the Appellant, Chicago Housing Authority upon counsel for the other appellants, and for the appellees, by mailing same, with postage fully prepaid, to::

Alexander Polikoff, Esq.
109 North Dearborn Street
Chicago, Illinois 60602

Edward T. Joyce
Attorney for Edward R. Vrdolyak
77 West Washington Street
Chicago, Illinois 60602

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


Watson B. Tucker