

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	66 C 1460
GEORGE W. ROMNEY, Secretary	)	(Consolidated)
of the Department of Housing	)	
and Urban Development, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OF CHA IN OPPOSITION TO
PLAINTIFFS' MOTION FOR A RULING ON
THE PROPRIETY OF CONSIDERING METRO-
POLITAN RELIEF AND IN SUPPORT OF THE
ENTRY OF FEDERAL DEFENDANTS' PROPOSED
JUDGMENT ORDER

Pending before this Court since the September, 1971,
opinion of the Court of Appeals reversing entry of summary
judgment for HUD has been the issue of the form of the
order to be entered against HUD.

HUD presented its proposed form of order on April 26,
1972. It was basically a "best efforts" order which par-
alleled the judgment order against CHA.

Plaintiffs presented their first version of an order
on HUD on September 25, 1972. In fact, however, instead of
an order on HUD, plaintiffs' proposed order of September 25
was yet another order on CHA. The gist of it was that CHA
be ordered to go to municipalities in the Counties of Cook,

DuPage and Lake falling within the "Chicago Urbanized Area", as that area is defined by the 1970 census, and seek approval for public housing units. Plaintiffs' draft order provided that, failing to obtain approval from these municipalities, CHA would be directed to by-pass those municipalities in the same fashion that this Court ordered CHA to by-pass the City of Chicago on April 10, 1972^{*}/. CHA, if the order proffered by plaintiffs in September, 1972, was entered would be under a mandate "from time to time apply to this Court for any further orders it may deem necessary or desirable to enable it to do increase the supply of Dwelling Units, including without limitation such orders respecting CH. 67-1/2 Ill. Rev. Stats. §27(c), 42 U.S.C. §1415(7)(b) and 42 U.S.C. §1421b(a)(2) as will enable CHA to so increase the supply of Dwelling Units in the Urbanized Area outside of Chicago without first obtaining the contracts, cooperation agreements and local approvals provided for, respectively, under such statutes".

In November, 1972, there was a three day hearing before this Court in which plaintiffs and HUD presented evidence and argument^{**}/. CHA's position in opposition to the order

^{*}/ Defendants' appeals from the Order of April 10, 1972 are pending in the U.S. Court of Appeals for the 7th Circuit. Oral argument was had on January 12, 1973.

^{**}/ The transcript of the November 27-29, 1972, actually is mostly argument and statements of plaintiffs' counsel.

then sought is at pages 449-452 of the Nov. 29, 1972 transcript.

Plaintiffs now seek to avoid a ruling on either their or HUD's proposed final judgment orders. But they do seek yet another order on CHA. Their new proposed order directs CHA, either working separately or with HUD, to file with the Court and serve upon counsel for plaintiffs "recommendations for comprehensive metropolitan-wide relief in this case, including a form of proposed judgment order or orders designed to provide such relief" and to include recommendations for the joinder of "additional parties" (§ 3).

The order plaintiffs now seek also asks this Court to determine "that it is necessary and appropriate to consider a metropolitan plan to remedy the past effects of the unconstitutional site selection procedures employed by CHA and approved and funded by HUD" and lays the groundwork for an immediate appeal on that issue pursuant to 28 U.S.C. §1292(b) (§ 1).

In an "Appendix" (i) to their new motions plaintiffs assert:

***if the Court rules favorably on the propriety and necessity of considering a metropolitan remedy in this case, plaintiffs will ask leave to join the following five housing authorities, which are all the authorities in the Chicago urbanized area:

Housing Authority of Cook County
DuPage County Housing Authority
Lake County Housing Authority
Waukegan Housing Authority
North Chicago Housing Authority

In addition, plaintiffs would consider it appropriate to ask leave to join the State of Illinois which has a continuing supervisory authority over all these housing authorities. Ill. Rev. Stats., Ch. 67-1/2. § 13".

Plaintiffs also say that municipalities would be brought in later as sites for public housing were proposed within their borders and that there is no need to hurry on this because many municipalities "may not be affected for years to come" (ii).

CHA opposes all of plaintiffs' proposed orders on it for the reasons set forth below.

1. The Relief Now Sought Goes Far Beyond The Issues Embraced In The 1966 Complaints.

The plaintiffs in this case are black residents of CHA projects or black applicants for such housing. Plaintiffs prevailed in this cause because, "as present and future users of the system, [they] have the right under the Fourteenth Amendment to have sites selected for public housing projects without regard to the racial composition of either the surrounding neighborhood or of the projects themselves" (296 F.Supp. at 913, 265 F.Supp. at 582, 583). That right has now been secured for these plaintiffs and CHA again suggests that, as to it, the case is over.

The Judgment Order of July 1969 against CHA provided in pertinent part that CHA administer: "its public housing system

in every respect (whether or not covered by specific provision of this judgment order) to the end of disestablishing the segregated public housing system which has resulted from CHA's unconstitutional site selection and tenant assignment procedures. Without limiting the foregoing,

"A. CHA shall use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of this judgment order and shall take all steps necessary to that end, including making applications for allocations of federal funds and carrying out all necessary planning and development" (304 F.Supp. at 741, emphasis added).

Nothing was said in that Order or proposed to be included in it about CHA becoming either the instrument for, or the planner of, a solution to the complicated problem of providing a massive desegregated scattered site program for the Chicago Urbanized Area.

As a matter of fact, CHA has already declared to this Court that more modest planning than that now proposed by plaintiffs is beyond its capacity. When CHA on January 3, 1972, was directed to file with this Court a "specific plan" for 7,000 public housing units, it replied on March 17, 1972 that

it was "impossible" for it to do so and set forth the factors which made it impossible.

2. Plaintiffs Are, In Fact, Proposing A New Lawsuit And
CHA Should Not Be Involved In It.

CHA has expressed to this Court on many occasions that from the social view (e.g., Tr. November 29, 1972, p. 451) the problems in providing public housing should be approached on a metropolitan basis. But CHA has always and still insists that this lawsuit as presently constituted is not a proper vehicle to solve that complicated problem.

However, as CHA pointed out in its brief filed on December 21, 1971:

"If plaintiffs' goal [in this 1966 case] is metropolitan-wide public housing they should amend the pleadings and join as defendants all of the municipalities within the Northern District of Illinois, and, after hearings on, among other things, the capacity of each for the location of public housing, seek to have quotas assigned to each of them. In addition, the defendants in the new suit should include those state and local officials who have the power to levy taxes, to make appropriate changes in local ordinances and regulations, and who in general have the ability to see that metropolitan housing programs can be accomplished".

And, on November 29, 1972, CHA argued that (p. 451) that if other housing authorities are not doing what they should, plaintiffs should bring them in. We repeat what we also then said:

"***leave CHA alone. [Plaintiffs] have won against CHA"
(Tr. p. 452).

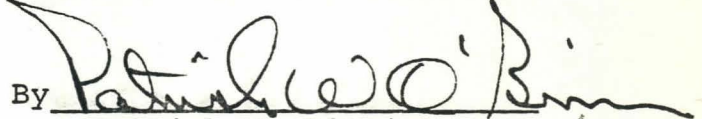
Plaintiffs now, according to the Appendix to their memorandum, do plan to bring in other parties. They thus now admit that CHA's position has been correct. But those new parties ought to be parties in a new lawsuit, a case that does not involve CHA. There must be an end to litigation and, CHA, so long as it continues to comply with the orders against it, ought to be freed from the obligation to attend hearing after hearing where orders are proposed against it then withdrawn as was the case in September and November 1972.

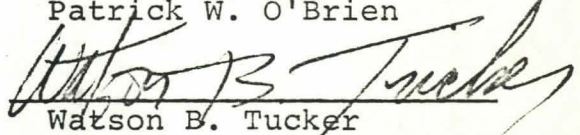
CONCLUSION

CHA urges the Court to sign the order proposed by HUD which will bring this case to an end except for any future amendments to the Judgment Orders against CHA and HUD.

Respectfully submitted,

CHICAGO HOUSING AUTHORITY

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