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

DOROTHY GAUTREAUX, et al,

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY,
et al,

Defendants.

)
)
)
) No. 66 C 1459
) 66 C 1460
) (Consolidated)
)
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)
)

REPLY TO HUD MEMORANDUM IN OPPOSITION
TO PLAINTIFFS' MOTION FOR A RULING

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Notwithstanding its strident rhetoric a surprising amount of agreement emerges out of HUD's memorandum filed on April 4, 1973: agreement on the identity of the issue before the Court for decision, and a substantial measure of agreement on the steps to be taken after a ruling on that issue. Following a brief discussion of these areas of agreement we will deal with the differences that remain between the parties.

- I. It is Agreed that the Issue Before the Court for Decision is Whether a Metropolitan Plan is Necessary to Afford Plaintiffs Full Relief. Such a Plan is Necessary and the Court Should so Rule.

Based on the testimony and other evidence received by this Court in November, 1972, and based on the procedure approved by

the Sixth Circuit Court of Appeals in Bradley v. Millikin, Nos. 72-1809--72-1814, plaintiffs have moved for the entry of an order determining that a metropolitan plan is necessary to afford plaintiffs complete relief. A proposed form of order, including findings of fact and conclusions of law, has been submitted to the Court. Plaintiffs' memorandum supporting their motion explains why such an order is necessary and appropriate at this time.

HUD agrees that the necessity of metropolitan relief in this case is the issue now before the Court for decision:

"[I]n Bradley v. Milliken, supra, the court had already determined that a plan, which was metropolitan in scope, was necessary to afford plaintiffs complete relief, and that a Detroit-only plan was inadequate for such purpose. Such a finding has not been made in the Gautreaux litigation, although precisely this issue is before the court for decision, on the basis of the testimony and documentary evidence introduced at the November hearings." HUD memorandum, pp.6-7.

The parties are thus in agreement that the issue of metropolitan relief is now ripe for decision.

HUD then argues not that a metropolitan plan is unnecessary,* but that "it is by no means clear from the record" in this case

*HUD has often stated that the problems of what it calls the "real city" can only be dealt with effectively by metropolitan plans. In its current memorandum HUD says it "has never questioned the desirability of a metropolitan wide plan, but rather has interposed various legal objections to the particular plan plaintiffs have proposed ..." HUD memorandum, p.9.

that such a plan is necessary:

"In the Department's view it is by no means clear from the record in the instant case that a metropolitan remedy is necessary as a matter of law or fact to accord the plaintiffs the relief to which they are entitled." HUD memorandum, p.7.

Two arguments are given to support this "by no means clear" stance. The first is based on an obvious misreading of Swann v. Board of Education, 402 U.S. 1. HUD quotes the portion of the Swann opinion which observes that, though few communities will remain demographically stable, neither school authorities nor district courts are required to make year-by-year adjustments of racial composition "once the affirmative duty to desegregate has been accomplished ...," and that, absent deliberate attempts to fix or alter demographic patterns to affect racial composition, further intervention by a district court should not be necessary. (HUD memorandum, pp.7-8.) HUD then argues from this passage that since there is no evidence of attempts to fix or alter demographic patterns to affect the racial composition of the areas where public housing is to be located in the future under this Court's 1969 judgment order, Swann militates against the entry of plaintiffs' proposed order. (Id. at p.8.)

But this argument is belied by the very language HUD quotes. The Swann opinion plainly says that further intervention becomes unnecessary "once the affirmative duty to desegregate has been accomplished ...". There are cases without number (including Swann itself) in which further intervention has not only been

upheld but mandated where that affirmative duty has not yet been accomplished. Since it has, of course, not yet been accomplished here, HUD's Swann quotation is obviously inapplicable to the present stage of this case.*

HUD's second argument, contained in a footnote at page 7 of its memorandum, is based on another quotation from Swann, this one the adage that the nature of the violation determines the scope of the remedy.** Since the violation of plaintiffs' rights by

*CHA has filed a memorandum in which it continues to parrot the assertion that the entry of the 1969 judgment order should have ended the case as to it. Swann and scores of other desegregation cases make it clear that it is the implementation, not the entry, of a desegregation decree that ends a desegregation case, and that further intervention by the court becomes unnecessary only "once the affirmative duty to desegregate has been accomplished ..." (emphasis added.) Cases without number, including Swann itself, also make it clear that on the road to implementation - "accomplishment" - the court must take account not only of newly developed or demonstrated facts but of further insights into what kind of decree is necessary to provide full relief. In this latter respect, too, Swann stands directly opposed to CHA's suggestion (CHA memorandum, p.5) that because nothing was said in the Court's 1969 judgment order about a desegregation plan that would encompass the Chicago Urbanized Area, it is not now proper for the Court to consider such a plan. The initial desegregation plan in Swann was based on geographic zoning with a free transfer provision and said nothing about busing. 402 U.S. 1, 7. Three years later Swann filed a motion for further relief pursuant to which the district court ultimately approved a new desegregation plan which involved many remedial features not mentioned in the earlier decree, including provisions for grouping outlying schools with inner city schools and massive transportation back and forth between them. 402 U.S. 1, 10. The Supreme Court in Swann affirmed the new district court order. 402 U.S. 1, 32.

**HUD does not quote the very next sentence from Swann: "In default by the school authorities of their obligation to proffer acceptable remedies, a district court has broad power to fashion a remedy that will assure a unitary school system." 402 U.S. 1, 16.

HUD and CHA occurred inside Chicago, HUD says, the remedy may not extend outside Chicago.

Bradley v. Milliken furnishes the obvious response. In that case the violation occurred inside Detroit but to remedy the violation it was found necessary to extend the remedial action outside Detroit. The appropriate adage here is rather that equity will provide full relief, and if full relief for a federal constitutional wrong cannot be provided within Chicago, there is nothing, as Bradley and numerous other cases, federal and state alike, demonstrate, to prevent a federal court from bridging local political boundary lines to vindicate federal constitutional rights.* Swann neither says nor holds anything to the contrary.

* "We reject the contention that school district lines are sacrosanct and that the jurisdiction of the District Court to grant equitable relief in the present case is limited to the geographic boundaries of Detroit." (Opinion in Bradley v. Milliken, p.66.)

"Political subdivisions of States - counties, cities, or whatever - never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities, created by the State to assist in the carrying out of state governmental functions." Reynolds v. Sims, 377 U.S. 533, 575 (1964).

"[P]olitical subdivisions of the states, whether they be counties, cities or whatever' are not 'sovereign entities' and may readily be bridged when necessary to vindicate federal constitutional rights and policies." Jenkins v. Township of Morris School District, 279 A.2d 619, 628 (S.Ct. N.J. 1971).

The parties are thus agreed that the necessity of a metropolitan wide plan is the issue before the Court for decision. HUD's two arguments against an affirmative ruling on that issue are without merit. It is submitted that the uncontradicted evidence and the applicable law (see the proposed findings of fact and conclusions of law in plaintiffs' proposed order) call for an affirmative ruling.

II. There is Substantial Agreement on the Steps to Be Taken Following a Ruling that a Metropolitan Plan is Necessary - Namely, Joining Additional Parties

Following the procedure approved by the Sixth Circuit Court of Appeals in Bradley, plaintiffs seek an affirmative ruling on the necessity of metropolitan relief before joining additional parties. Still following the Bradley procedure, we have said we will join the affected additional parties following such a ruling. (Plaintiffs' Memorandum, pp.14-15.)

HUD does not appear to differ with this procedure. It agrees that if the Court rules in favor of metropolitan relief additional parties should then immediately be joined:

"If the court rules on the evidence that complete relief demands a metropolitan wide plan, now is the appropriate time for plaintiffs to ask leave to join the additional parties needed for further proceedings in this case." (HUD memorandum, p.9.)

However there is some disagreement on who the additional parties should be.

HUD makes two different suggestions but, except for asserting

that plaintiffs' proposal in this regard does not go far enough, studiously avoids our discussion of who the "affected parties" are. (The discussion is in the Appendix on Parties attached to plaintiffs' memorandum.) HUD's suggestions are that, in addition to the parties plaintiffs have proposed to add, either (1) "all those communities which heretofore have been unwilling to sign a Cooperation Agreement with a local housing authority," or (2) all 193 suburban communities in the Chicago Urbanized Area, should be added. (HUD memorandum, p.10.)

In the Appendix on Parties to our memorandum we have stated why we do not believe that the municipalities in either of the two groups HUD suggests are "affected parties" at this stage of the litigation. We will not repeat that argument here, especially since HUD has not addressed it. As Bradley shows, additional parties should be joined after, not before, the Court has ruled that a metropolitan plan is necessary, and the determination of who the additional parties should be may and should be made promptly after a ruling on the metropolitan remedy. (We will of course join whomsoever the Court directs us to join. The Appendix on Parties gives our views.*)

*HUD says we have "refused" to make the state a defendant (HUD memorandum, p.5) and then inconsistently appears to argue that the state should not be joined, apparently because it has committed no "independent" wrong. (Id. 5-6, n.2.) But Bradley explicitly rejected any requirement of an "independent" wrong as a prerequisite to requiring the participation of agencies of the state in plans to remedy the wrongs of other state agencies. (Opinion in Bradley, p.68. See plaintiffs' memorandum, p.11.)
(footnote continued on p.8)

III. Other HUD Assertions are Without Merit

Apart from the two areas of basic agreement already discussed HUD makes several assertions to which we will respond.

A. Plaintiffs Do Not Seek Delay

HUD's memorandum charges us with seeking delay, retravelling already covered ground, etc. That plaintiffs want delay (for what conceivable reason?) is a charge that may be ignored. We have pointed out, as we felt it our duty to do, that a rehearing was granted in the Bradley case, and we suggested that the Court might wish to defer consideration of plaintiffs' motion until the decision on rehearing has been rendered. We will of course abide this Court's judgment on that.

We are not retravelling ground already covered. Bradley,
(footnote continued from p.7)

In Franklin v. Quitman County Bd. of Ed., 288 F.Supp. 509, 519 (N.D. Mass. 1968), the court said,

"The affirmative obligation to seek means of disestablishing state-imposed segregation must be shared by all agencies, or agents of the state ... who are charged by law with, and who exercise, official public school functions. Neutrality must be forsaken for an active, affirmative interest in carrying out constitutional commands."

Accord: Lee v. Macon County Bd. of Educ., 267 F.Supp. 458, 478-79 (M.D. Ala. 1967) (three judge court), aff'd. sub nom. Wallace v. United States, 389 U.S. 215 (1967); United States v. Texas, 321 F.Supp. 1043, 1056-1057 (E.D. Tex. 1970), 330 F.Supp. 235 (E.D. Tex. 1971 supplemental opinion), modified and aff'd, 447 F.2d 441 (5th Cir. 1971) ("The State is obligated to oversee the actions of its agencies to insure against violation of the constitutional rights of individuals.").

which was decided after our proposed judgment order was submitted on September 25, 1972, suggests that it would not be proper for the Court to enter that order without first joining the "affected parties" but that prior to such joinder it would be proper for the Court to rule on the necessity of a metropolitan remedy. Accordingly we filed a proposed order in accordance with the Bradley-approved procedure, including a provision which will (as in Bradley) permit prompt appellate review of the threshold metropolitan-remedy ruling. That cannot fairly be called retravelling already covered ground.

We are accused of not going far enough (with sinister motivation) in our proposed order because the order provides for a ruling that it is necessary and appropriate to consider a metropolitan plan, rather than that a metropolitan plan is necessary. In this respect we merely followed the Bradley language and would have no objections at all to the formulation HUD seems to prefer. However the order reads, it will clearly be interlocutory and subject to later revision by the Court.

B. The Mahaley Case Strongly Supports Plaintiffs' Proposed Order

HUD finds the Mahaley decisions, attached to its memorandum, "[m]uch more directly in point" than Bradley (HUD memorandum, p.11), and says we have ignored them. (Id. 16.) Hardly. Mahaley was decided 3-1/2 weeks after plaintiffs' memorandum was filed; we could not have discussed the decisions before they were rendered. But believing that Mahaley was relevant and that it

strongly supported plaintiffs' position, we delivered in open court to the law clerk of this Court copies of the Mahaley opinions which are now attached to HUD's memorandum.*

Mahaley supports plaintiffs' argument that a metropolitan plan should be developed.

"CMHA [the local housing authority] and the City of Cleveland were charged with the leadership to integrate housing patterns in Cleveland. This can only be viewed as a temporary solution. CMHA, the City of Cleveland and the municipalities within Cuyahoga County must act together if segregation in racial housing patterns is to be once and forever eliminated." (Opinion and order of Chief Judge Battisti, pp. 8-9.)

Mahaley also shows that suburbs which may some day be affected by the metropolitan plan need not be joined before the plan is adopted and effectuated with respect to other suburbs. Thus, although only five suburbs were defendants in Mahaley, the opinion directed the housing authority to prepare a plan for all suburbs in Cuyahoga County (over 50 in number), the court recognizing that the plan could be effectuated only as to suburbs which were made defendants.

"In preparing the plan CMHA should examine the needs of each suburban community in Cuyahoga County recognizing that it can only be effectuated as to the defendant suburban cities." (Id. 25.)

The order told CMHA to submit a plan reflecting the need of

*This was done on March 5, 1973, when we appeared in response (but did not object) to HUD's request for additional time to file its memorandum.

"each suburban city" for low income housing, including "the number of units to be used to house those residents of the City of Cleveland who would wish to move into that community." (Order of February 22, 1973, attached to HUD's memorandum.)

Finally, Mahaley makes it clear, as we have argued in this case several times already, that the federal cooperation agreement requirement is no more of a bar to full and effective relief* than is the state requirement for city council approval of sites which this Court has already disposed of.** It is true that the jurisdiction of CMHA extended throughout Cuyahoga County but, as we have already demonstrated, local jurisdictional lines cannot stop federal constitutional relief short of its goal of a full and complete remedy.

In short, Mahaley strongly supports plaintiffs' proposed order and shows that the cooperation agreement requirement will not be a bar to implementation of the metropolitan plan which results from it.

*As in Mahaley the record in this case includes evidence of the unsuccessful efforts of the housing authority (CHA and the Cook County Housing Authority, acting jointly) to obtain cooperation agreements from municipalities throughout the county. See CHA's Quarterly Report No. 6, filed October 6, 1972, p.7.

**The Hamtramck order of March 30, 1973, attached hereto and referred to in the text, infra, provides that the court-ordered plan "shall be deemed ... to have received the necessary city approval," and further, "To the extent that the ... plan may conflict with any zoning ordinances, these ordinances shall be deemed inapplicable to the extent of any such inconsistency." (p.5.)

C. HUD May Be Ordered to Plan

HUD continues to insist that it may not be ordered to do any planning, saying that its position on this issue has been repeated ad infinitum. (HUD Memorandum, p.2.) Such repetition does not make the position sound. We think HUD is wrong as a matter of law (and will not repeat our previous arguments to that effect).*

HUD is also incorrect on the facts when it asserts that in none of the cases it refers to (HUD memorandum, p.6) was HUD ordered to engage in planning activities going beyond its statutory authority. In City of Hamtramck HUD was ordered, along with local officials and after consultation with the plaintiffs, to "design and implement an amended renewal plan for the Wyandotte Area of Hamtramck." Guidelines for the amended plan were spelled out in the court's order. (Page 4 et seq. of the order entered March 30, 1973, in Garrett, et al v. City of Hamtramck, et al, a copy of which is attached hereto.)

*HUD also continues to assert that "there is a profound difference between school cases and housing cases." (HUD memorandum, p.4.) Its citation of San Antonio Independent School District v. Rodriguez, 41 L.W. 4407 (1973), and Lindsey v. Normet, 405 U.S. 56 (1972), in this regard is puzzling for Rodriguez and Lindsey held that education and housing, respectively, were not "fundamental" interests under the Federal Constitution. See Rodriguez, 41 L.W. at 4416-17. Thus in this respect education and housing are on a par. (In Rodriguez the Court's opinion asked rhetorically, "How, for instance, is education to be distinguished from the significant personal interests in the basics of decent food and shelter?" 41 L.W. at 4418.) "[A] school desegregation case does not differ fundamentally from other cases involving the framing of equitable remedies to repair the denial of a constitutional right." Swann v. Charlotte Mecklenburg Bd. of Ed., 402 U.S. 1, 15-16 (1971).

In any event, as we have suggested (plaintiffs' memorandum, p.16), HUD could obtain an interlocutory review of an order directing it to plan and set its doubts speedily at rest.*

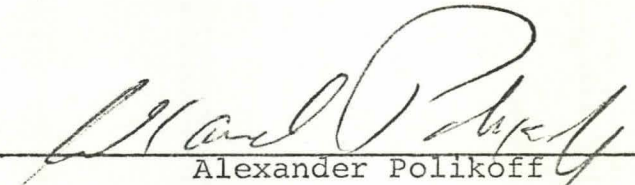
Conclusion

We have proposed a procedure for ruling on the issue the parties agree must now be ruled upon, a procedure that isolates that issue from other questions in the case, permits of prompt appellate review, and accords precisely with the procedure approved by the Sixth Circuit Court of Appeals. On the merits of the issue we think the facts and the law plainly call for an affirmative ruling. As to this the Court is respectfully referred to plaintiffs' proposed findings of fact and conclusions of law. Plaintiffs' motion should be granted and the order plaintiffs propose should be entered (modified, if the

*HUD submits the Administration's Fiscal Year 1974 Budget to the Court, suggesting there may be no money available next year to implement a plan. Congress will of course ultimately determine what money is to be available. Mahaley and Hamtramck, in both of which the planning orders were entered after the 1974 Budget was prepared, show that planning to remedy constitutional wrongs is not to be aborted because money may be unavailable to implement the completed plan.

Court concurs, in the fashion suggested by HUD at the bottom of page 8 of its memorandum).

Respectfully submitted,



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One of the Attorneys for Plaintiffs

April 30, 1973

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

SARAH SIMS GARRETT, et al.,

Plaintiffs

v.

CITY OF HAMTRAMCK, a
Municipal Corporation,
et al.,

Defendants

Civil Action No. 32004

ORDER

After an extensive trial, this Court found in its opinion of November 22, 1971, 335 F. Supp. 16 (1971), that the defendants have intentionally planned and implemented a series of urban renewal projects and other government programs designed to remove a substantial portion of Black citizens from the city, in violation of plaintiffs' federal statutory and constitutional rights. Pursuant to that opinion, the Court ordered the parties to submit a proposed program designed to remedy the wrongs suffered and continuing to be suffered by virtue of defendants' conduct.

Having studied the submissions of the parties, and held hearings with respect thereto, the Court makes the following Findings of Fact in addition to those in its opinion of November 22, 1971:

1. Defendants' past actions have intentionally and unlawfully displaced at least 467 to 556 housing units occupied by Black families and individuals. These units are comprised of at least 86 from the Denton-Miller area, 34 from the Grand Haven area, 143 from the Smith-Clay (R-29) area, 183 due to Chrysler Expressway construction, and 21 from the Wyandotte (R-31) area.

2. Defendants' ongoing urban renewal activities (and other official activities related thereto) will soon be responsible for displacing at least 497 to 508 additional housing units, for which adequate replacement housing must be found. These additional units consist of at least 102 from the Denton-Miller area, 191 from the Grand Haven area, 81 from the Wyandotte area, and 123 attributable to code enforcement activities for substandard units in other areas of Hamtramck.

3. Approximately 600 of these units (described in paragraphs 1 and 2), have been or now are occupied by low and moderate income families eligible for housing subsidies under 12 U.S.C. §1701 et seq. and 42 U.S.C. §1401 et seq.

4. No more than 25% of these units (described in paragraphs 1 and 2) have been or are being occupied by the elderly.

5. The 964 to 1,064 housing units needed to accommodate this displaced population should consist of approximately 50% one-bedroom, 25% two-bedroom, 15% three-bedroom, 7% four-bedroom, and 3% five-bedroom units.

6. Because of the extremely low vacancy rate and the racially discriminatory and closed nature of the Hamtramck real estate market, these 964 to 1,064 replacement housing units cannot be obtained from the present private housing market in the City of Hamtramck.

7. Consistent with good planning, at least 430-440 housing units can be built in the Wyandotte (R-31) area, and at least 100-120 housing units can be built on a site located along the extreme northeastern corner of the city between Alpena

Avenue and the corporate boundary line. Very few additional housing units can be newly built in Hamtramck without clearance of existing structures.

8. For the reasons set forth in paragraph 6, the 404-534 replacement units which will be needed in addition to those constructed in the Wyandotte (R-31) and Alpena Avenue areas cannot be obtained from the present private housing market in the City of Hamtramck unless the following specific measures are taken: (a) implementation of a system to give public notice of all the residences offered for rent or sale in Hamtramck; (b) clarification of the acts which constitute discrimination under the Hamtramck Fair Housing Ordinance; (c) elimination of various exemptions from said Ordinance which presently make it ineffective; (d) implementation of a system whereby all homeowners in Hamtramck who move into new units in the Wyandotte or Alpena areas give a first option on their present homes, at a fair price, either to displacees or to the City for rehabilitation and/or resale to displacees; (e) implementation of a system which assures that when displacees who are eligible for government housing subsidies request assistance in finding a home, City officials will accompany them to inspect homes for sale or rent, and will acquaint the owners or landlords with the various applicable government subsidy programs which guarantee certain purchase or rental payments.

9. Unless there are certain rezonings, elimination of variances, and prohibitions against demolition, industrial expansion will continue to eliminate residential units in Hamtramck which are vital to maintaining the housing supply available to the plaintiff displacees.

10. Many eligible displacees will not be able to learn about and respond to their opportunity for housing in Hamtramck, pursuant

to this Court's Order, unless there is an affirmative marketing strategy by which every reasonable effort is made to notify displacees personally and afford them all an equal opportunity to apply for the available housing units.

11. Many displacees will not be able to afford to move back to take advantage of their housing opportunity in Hamtramck unless they receive adequate moving expenses and other relocation payments.

In view of all the above, the Court finds that the following provisions of this Order are individually and collectively necessary to remedy the unlawful actions of defendants. Therefore,

IT IS HEREBY ORDERED:

I. Defendants City of Hamtramck and its officials ("city") and U.S. Department of Housing and Urban Development and its officials ("HUD") shall, after consultation with plaintiffs, design and implement an amended renewal plan for the Wyandotte Area of Hamtramck. Under such plan, the Wyandotte Area shall be devoted to maximum residential use, consistent with sound urban planning, so as to provide a source of adequate relocation housing for those individuals ("displacees") who have been and are to be displaced from their homes by urban renewal projects, and by other actions of defendants found unlawful by this Court's opinion of November 22, 1971.*

*/ I.e., all Blacks who were displaced by the Smith-Clay urban renewal project, the Chrysler Expressway, the Wyandotte urban renewal project, or by code enforcement and industrial expansion in the Denton-Miller and Grand Haven-Dyar-Dequindre areas, and who were unable to relocate in decent, safe, and sanitary housing in Hamtramck; and all persons who are presently subject to displacement by a variety of governmental activities in the Wyandotte, Denton-Miller, and Grand Haven areas, as well as in other areas of the city where, for example, housing units may be removed under a comprehensive code enforcement program.

A. Such plan must provide for construction of at least 430 residential units, of which approximately 100 shall be apartment units designed for senior citizens, approximately 130 shall be apartment units for individuals and families of all ages, and approximately 200 shall be townhouses. The number of bedrooms in the different units constructed shall approximate the unit size requirements of the displaced population.

B. In administering the Wyandotte renewal plan defendants shall take all steps necessary to make maximum utilization of federal and state programs to subsidize low- and moderate-income housing.

C. If, in administering the plan, any quotas or administrative guidelines with regard to demographic makeup of tenants eligible for publicly subsidized housing programs shall conflict with maximum use of Wyandotte for displacees, defendants shall adjust or waive such quotas or guidelines.

D. To the extent that any federal or state program providing housing subsidies requires for eligibility that the Wyandotte plan be approved by the local government, or be part of the locality's "Workable Program for Community Improvement," the Wyandotte plan shall be deemed to be part of the Hamtramck Workable Program and to have received the necessary city approval.

E. To the extent that the Wyandotte renewal plan may conflict with any zoning ordinances, these ordinances shall be deemed inapplicable to the extent of any such inconsistency.

F. Defendants shall be jointly liable to make all arrangements necessary for the financing of the Wyandotte plan. The remedial plan adopted pursuant to this Court's Order shall be deemed to have been in execution since the date of this Court's Order, November 22, 1971.

G. The Proposed Amendatory Plan for Renewal of the Wyandotte Area, described in plaintiff's proposed program filed October 10, 1972, and more fully developed in Appendix "D" thereto, is hereby adjudged consistent with the criteria enunciated in this Order.

II. Since the new units to be constructed in Wyandotte will fall far short of the number needed to accommodate the displacees, defendants shall, in consultation with plaintiffs, design and implement a plan for the seven-acre tract of land located along the extreme northeastern corner of Hamtramck between Alpena Avenue and the corporate boundary line (hereafter, the "Alpena area"). Defendants shall begin land acquisition in this area immediately, through condemnation if necessary. The plan to be developed shall utilize at least four acres of the Alpena area for residential purposes and shall provide for construction of at least 100 units.

The provisions of Sections B-F of Part I of this Order shall apply equally to the plan for the Alpena area.

III. All individuals or families who wish to rent or purchase units in the Wyandotte or Alpena areas, and who own a home in Hamtramck, shall be required, as a condition of applying for entry into the subsidized Wyandotte or Alpena developments, to sign an agreement to offer their home for sale to any willing purchaser (including the Hamtramck Housing Commission) referred by the city's relocation officials; provided, however, that (1) in no event shall the owner be obliged to accept a lesser price for his home from a purchaser referred by city relocation officials than he is offered in good faith by another bidder who does

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not come through relocation channels; and provided, further, that (2) the owner's obligation to give the city or displacees this "first option" shall terminate if no willing purchaser has come forward through this channel, and is prepared to close the transaction, by the date on which the owner is permitted (by his rental or purchase agreement) to move into the Wyandotte or Alpena housing unit. There shall be the following additional conditions:

(1) If the Hamtramck Housing Commission or the city bids on the home, the price offered the seller shall not be less than the price determined by the standard HUD appraisal process.

(2) If the only bidder is someone referred by relocation officials (including the Hamtramck Housing Commission or the city itself), the owner must accept the purchase price he is offered or else forego his opportunity for a home in Wyandotte or Alpena.

(3) If there is more than one bidder, and if the Hamtramck Housing Commission or the city makes the highest bid, the seller must accept that highest bid or else forego his opportunity for a home in Wyandotte or Alpena.

(4) Any person who owns a home but (i) sells it within four months before he applies for Wyandotte or Alpena housing, without offering it for sale (as above) for relocation purposes, or (ii) otherwise attempts, through the sale of his home on the private market, to circumvent the procedures for making the previous homes of Wyandotte or Alpena residents available (as above) for relocation purposes, shall not be eligible to purchase or rent a home in Wyandotte or Alpena.

The defendant city shall bid (or arrange, if the city wishes, for the Hamtramck Housing Commission to bid) on all units which (i) are offered for sale under this mechanism, (ii) can be made suitable for relocation housing, and (iii) are not bid upon by a displacee entitled to protection under this Court's Order. HUD shall allocate sufficient funds to the city and its Housing Commission to cover the anticipated costs of such an acquisition program. The units so acquired, as well as Hamtramck housing units acquired by HUD through foreclosure or otherwise, shall be rented or sold to displaced low- or moderate-income families under appropriate rental or sales programs under federal and state law.

In connection with the foregoing bidding requirement, the defendants shall develop and promulgate joint regulations which carefully articulate the standards under which (i) a unit will be judged suitable for relocation purposes, (ii) a substandard unit which is otherwise suitable will be acquired and rehabilitated for relocation needs, and (iii) a reasonable maximum bidding price (including rehabilitation costs) will be determined. Under these regulations, units in the Denton-Miller area^{*/} shall not be judged suitable for relocation purposes.

IV. In order to make known to displacees the housing and benefits available pursuant to this Court's Order, defendants shall retain the services of an established private research and interviewing firm to design the details and carry out the mechanics of a notification process. This process shall comply with all the

*/ The residential area bounded by Conant Avenue on the east, a straight line parallel to, and 180 feet south of, Denton Avenue on the south, Joseph Campau Avenue on the west, and the rail-road tracks on the north.

minimum requirements of a relocation assistance advisory program, as contained in 24 C.F.R. §§ 42.100-42.115 (1972) and Act No. 227, Mich. Public Acts of 1972, § 3; and, in addition, shall contain the following essential elements:

A. Periodic notices, over sustained periods of time, in the newspapers and radio stations directed especially at the Black community in the Metropolitan Detroit Area, as well as in the other, more widely received newspapers, radio, and television stations;

B. A sustained effort to trace all displacees and make personal visits to their present homes, at a time convenient to each displacee, in order to explain thoroughly the relocation opportunities, answer all questions, and fill out application forms;

C. A procedure whereby displacees can file applications directly with a central office, or give applications to the home interviewer, who will promptly file them in the central office;

D. A mechanism for arranging inspections of floor plans and model units in the Wyandotte and Alpena developments, when available, and for inspection of units in the existing housing stock made available through the city by the "first option" mechanism in Part III of this Order.

This notification process shall not commence until final architectural plans and specifications for the housing units to be provided pursuant to this Court's Order are available to be shown to displacees.

The costs of this notification process shall be allocated between HUD and the city on a negotiated basis.

V. In order to choose from among eligible applicants for housing units made available pursuant to this Court's Order in Wyandotte, Alpena, or in units acquired by defendants from the existing housing stock, under Part III of this Order or otherwise, defendants shall establish objective rules of priority which shall provide that:

A. All eligible displacees shall share a first and equal priority as to units made available at each stage or section of development of Wyandotte or Alpena. Units from the existing housing stock, obtained by defendants pursuant to Part III of this Order or otherwise, shall be deemed part of whatever section of Wyandotte or Alpena is then available for applications. If no such section is then available, these units will be deemed a separate "section" for purposes of application priorities.

B. To the greatest extent possible, personal notice shall be given to all displacees, wherever located, as each section is opened for applications. The period of notice for each section shall be deemed to commence when the future availability of the units in each section is first announced in the public news media in the Metropolitan Detroit Area or when formal efforts to contact the displacees personally are initiated, whichever is later. The period of notice shall extend for not less than 90 days before applications for units are formally accepted, and for not less than an additional 30 days before any selection of applicants is made. The date of selection shall be not more than 60 nor less than 45 days before the units are available for occupancy. The agency which the city shall designate as responsible for accepting and processing applications will be permitted to physically receive an application during the 90-day period prior to the date when such applications can be formally accepted. All applications received during this period will be deemed to have been filed and accepted; for purposes of determining the priority of applicants for various available units, on the first day when such applications may formally be accepted (i.e., the 91st day after the notice period began). An interviewer who contacts a displacee pursuant to the notification process described in Part IV may assist the displacee in

completing an application, and may physically deliver that application to the appropriate agency prior to the date upon which applications are formally accepted. All applications deemed filed on the first day for formal acceptance shall be listed in an order determined by lot.

C. The units made available in each section shall be subgrouped in appropriate categories of unit size. Eligible displacees may apply from time to time for one or more subgroups, in one or more project sections, provided that none of their preferences would be for too small or too large a unit for their needs.

D. Selection of applicants shall be made, for each subgroup of units, with strict reference to the order in which applications are filed -- first come, first served. On all days except the first day of formal acceptance (see "B" above), the time as well as the date of filing shall be stamped on each application, in order to determine priority. Defendants shall promptly notify successful applicants that their request for a unit has been granted. Applicants will be given a reasonable period of time within which to accept or reject the unit before it is offered to the next qualified applicant. Defendants shall promulgate reasonable rules which define the period of time within which an applicant must accept or reject the offer of a unit and specify the steps which the applicant must take to accept the offer.

E. If an applicant is not awarded a unit, or rejects the offer of a unit, he may apply for a suitable unit in a different or subsequently built section of development, in accordance with the foregoing procedure. Defendants shall determine whether to open all sections for application at one time, or to use a different application period for each section. If the latter approach is used, however, the notice provisions (see "B" above) shall apply to each application period.

F. Administration of this priority system shall be on a nondiscriminatory basis -- to be judged, in part, by the extent of the defendants' affirmative efforts to locate Black displacees and facilitate their participation in the system for providing relocation housing units.

G. If any of the new units in a particular development section have not been taken by eligible displacees within 30 days of the date such units are ready for occupancy (see "B" above), they shall be offered to the general public -- consistent with the guidelines governing the particular HUD subsidy program under which the units have been financed.

H. The defendants and the developers shall be free to negotiate how the priority system can be most effectively administered, although considerations of uniformity and centralization of information would suggest that a public agency or department be given the ultimate responsibility. Any public agency or department designated by the defendants to administer these rules of priority may delegate by contract various responsibilities to qualified private organizations, and shall so delegate the task of tracing displacees and collecting their applications for housing units, as more fully elaborated in Part IV above.

The foregoing conditions and the rules promulgated thereunder shall be made part of a three-party contract among the city, HUD, and each developer of units on the Wyandotte and Alpena sites developed under this Order.

VI. The defendants shall initiate a thorough study and review of the residential potential of the Grand Haven area^{*/} to

*/ The residential area bounded by the Chrysler Freeway on the east and south, and the corporate limits on the west and north.

determine whether it may appropriately be used to provide relocation housing for displacees, and otherwise be developed for improved residential use. In order to preserve the status quo during this study:

A. Defendant city is hereby enjoined from undertaking any residential code enforcement in Grand Haven without providing the persons thus displaced with decent, safe, and sanitary relocation housing within the city of Hamtramck; except that, in cases of emergency where continued occupancy would be dangerous to the health and safety of the residents of the substandard units, relocation housing may be provided outside the city, if necessary, so long as it is convenient to transportation, public facilities, and the displacee's place of work;

B. Defendants shall submit for approval by this Court any proposal for rehabilitation or renewal of Grand Haven, however financed, involving any of the defendants or their agents; and

C. Until concrete plans for the area have been developed by the city (with the requisite citizen participation) and approved by the Court, the city is hereby enjoined from taking any action (a) to rezone any part of Grand Haven to an industrial or commercial category, or (b) to grant a variance for industrial or commercial use in Grand Haven, or (c) to issue any building permits for nonconforming uses, or (d) to grant any demolition permits for Grand Haven (except in case of unmistakable emergency, as discussed in "A" above), or (e) to acquire or condemn any property in Grand Haven for nonresidential public use.

VII. In order to preserve the desirable residential character of areas where industrial expansion threatens to destroy further housing units needed to effectuate this Court's Order, defendants shall rezone to category R-2, permitting two-family dwellings, the following areas:

- A. Buffalo Blvd. (west side), Holbrook Avenue
to Comstock Avenue;
- B. Conant Avenue (west side), Holbrook Avenue
to Jacob Avenue;
- C. Holbrook Avenue (north side), McDougall Avenue
to Mitchell Avenue;
- D. Carpenter Avenue (south side), Fleming Avenue
to Jos. Campau Avenue;
- E. Carpenter Avenue (south side), Klinger Avenue
to Sobieski Avenue;
- F. Grand Haven Avenue (east side), Commor Avenue
to Woodland Avenue.

VIII. Until the relocation housing requirements of all eligible displacees have been met, defendants are hereby enjoined from taking any action (e.g., through condemnation, acquisition, or issuance of demolition permits) which will facilitate the elimination of housing units in the city, unless a corresponding number of new units (in addition to those built pursuant to Parts I and II of this Order) are provided within the city.

IX. In order to break down the pervasive pattern of private discrimination within the tightly closed Hamtramck housing market, defendant city shall amend its open housing ordinance, Hamtramck, Mich. Ord. No. 347 (1972), in a manner which will permit the application of the ordinance to a significant percentage of real estate transactions in Hamtramck and assure that all who seek housing in Hamtramck will have an equal opportunity to learn about and gain access to any available housing. The current Hamtramck open housing ordinance is hereby declared insufficient to accomplish those ends or to comply with this Court's prior order of November 22, 1971. The Court hereby notes for defendants' consideration and guidance that the following amendments to Hamtramck's current ordinance (or similar amendments which are equally effective in accomplishing the ends

described above) would be deemed to comply with this Court's prior order of November 22, 1971:

A. The prohibited discriminatory acts (and definitions thereof) in Section 1 of said ordinance shall be specifically enumerated in a manner similar or identical to the list of unfair housing practices and relevant definitions appearing in Sections 201, 202, and 102 of the Michigan Fair Housing Act of 1968, 19 MICH. STAT. ANN. § 26.1300 (201)-(202), (102) (1970).

B. Section 2 of said ordinance shall omit the words "(2) nor to a duplex dwelling; (3) nor to a three apartment dwelling;" and thereby exempt from the ordinance's coverage only the rental of a portion of a single-family dwelling where the remaining portion of the dwelling continues to be occupied by the lessor or a member of his immediate family.

C. The ordinance shall include a provision requiring any owner or lessor of a Hamtramck housing unit to refrain from (i) offering to sell or rent that unit until he has registered his intent to do so by listing the unit with an appropriate city registry, to be established by defendant city, and from (ii) accepting any offer to buy or rent that unit until the closing of business ten business days after he has registered his intent to sell or rent the unit.

X. In order to assure that displacees obtain access on a non-discriminatory basis to the existing private housing market in Hamtramck, defendants shall establish a procedure whereby relocation and/or public housing officials, as appropriate, (a) will accompany displacees who wish to inspect Hamtramck housing units offered for rent or sale on the open market, (b) will attempt to persuade the owner to rent or sell the unit to the displacee (on a nondiscriminatory basis); and (c) if the displacee is eligible for public housing, attempt to persuade the owner to rent or sell the unit under the applicable federal or state leased housing or acquisition program, for the benefit of low-income families.

XI. As a matter of providing complete equitable relief, in order to assure that displacees can take advantage of the relocation housing made available by this Order, defendants shall jointly adopt procedures and provide funds for adequate moving expenses and other relocation payments to displacees. The Court hereby notes for defendants' consideration and guidance that these benefits and procedures would be deemed adequate if they are patterned after those presently enumerated in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. §§ 4601-4655 (Supp. 1972), as interpreted in 24 C.F.R. §§ 42.1-42.215 (1972); 37 Fed. Reg. 14768 (1972).

XII. The defendants shall assume responsibility for assuring that all displacees who are living in substandard units and express a desire to relocate, but who cannot find suitable relocation housing in Hamtramck, under the provisions of this Order or otherwise, will be provided with decent, safe, and sanitary housing in Detroit or elsewhere in the Metropolitan Area, in accordance with the criteria and provisions of 42 U.S.C.A. §§ 4625 (c) (3) and 4626 (a) (Supp. 1972); 24 C.F.R. § 42.120 (1972) and 37 Fed. Reg. 14768 (1972); and will be provided with the relocation payments proposed for all displacees in Part XI, supra.

XIII. This Court shall retain jurisdiction over this matter for the entry of such further orders as may be appropriate to effectuate the provisions of this Order.

ENTER:


United States District Judge

Dated: Feb 6 3 57 PM 1973

A TRUE COPY

HENRY R. HANCOCK, Clerk

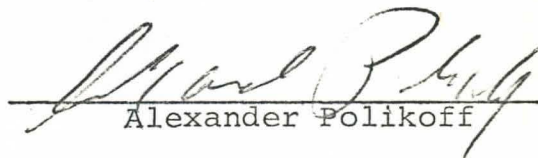
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DEPT. CLERK

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

Alexander Polikoff
109 N. Dearborn Street
Chicago, Illinois 60602
641-5570

CERTIFICATE OF SERVICE

Alexander Polikoff, one of the attorneys for the plaintiffs, hereby certifies that he served a copy of the foregoing notice and the Reply to HUD Memorandum referred to therein by mailing a copy of the same to the persons named in the notice at the addresses there shown, postage prepaid, this 30th day of April, 1973.


Alexander Polikoff