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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 66 C 1459
v.	)	66 C 1460
	)	(Consolidated)
CHICAGO HOUSING AUTHORITY and	)	
JAMES T. LYNN, Successor to George	)	
W. Romney, Secretary of the	)	
Department of Housing and Urban	)	
Development, et al.,	)	
	)	
Defendants.)	)	

BRIEF IN SUPPORT OF PLAINTIFFS'
MOTION FOR A HEARING

This brief is in support of plaintiffs' pending motion for a hearing, and is filed pursuant to the order of this Court of April 2, 1974.

BACKGROUND

For convenience, a copy of the pending motion and supporting papers are attached hereto. The motion asks that a hearing be held to determine the current status of the respective efforts of CHA and HUD to comply with this Court's outstanding orders. In statements to the Court, particularly on April 2, plaintiffs' counsel has said that he thought such a hearing might disclose that an additional order is needed, more specific than a general "best efforts" order, if the remedial housing the Court has decreed

is ever to be provided.

This current effort to turn the Court's decrees into a housing reality began after the U.S. Supreme Court in early January denied certiorari in the "City Council by-pass" phase of this consolidated case. Plaintiffs' counsel then sent a letter to counsel for CHA and HUD requesting information. When almost a month elapsed without response, the motion for a hearing was filed on February 14. Answering letters were then sent by CHA and HUD in early and mid-March. The answers contained "information gaps" and so a further request for information was made by a letter of plaintiffs' counsel dated March 18, 1974. Answers to this further letter came at the end of March, but information gaps still remain as discussed in the next section of this brief. (Copies of all the letters referred to have previously been sent to the Court by respective counsel.)

It is plaintiffs' position that a hearing should be held to fill in the information gaps so that the Court may determine whether a further, specific order should be entered in order to achieve realistic compliance with the objectives of the decrees previously entered in this consolidated case.

INFORMATION GAPS

The following questions are raised and not answered by the correspondence referred to above.

1. Lost Units. Although CHA had applied for and this Court had previously entered orders respecting 1500 proposed units, HUD has now approved only 1299 units for development and says, "CHA has never taken any action with regard to the remaining units." (Flando letter of March 28, 1974, p.7.) Can CHA and HUD now take steps to "recapture" the 201 lost units so they will be available to implement the Court's orders? A hearing might provide the answer and indicate whether a further, specific order in this respect is desirable.
2. Project 2-85: Costs and Sites. Two information gaps exist respecting the 267 units in CHA's Project 2-85.

Costs. The correspondence discloses that CHA submitted construction contracts for some 50 units for HUD's approval but that HUD disapproved the contracts because construction costs exceeded HUD's "prototype costs" limits. Apparently there is a controversy between HUD and CHA as to whether CHA's proposed construction costs are unrealistically high for the Chicago area, or whether HUD's prototype costs for the area are unrealistically low.

It appears that for a long time CHA and HUD were not meeting to resolve that controversy. Then, on February 27, 1974, HUD wrote CHA that "we want to have a meeting ... to determine why the 50 units,

... cannot be built within the prototype limits ..." (Waner letter of February 27, 1974, p.1.) Such a meeting was apparently held, but the correspondence does not disclose whether the question was answered. Instead it discloses that another and different form of invitation for construction bids is now to be used by CHA. But if the costs on these new bids also exceed HUD prototype costs, the parties will be back where they were many months ago. The correspondence does not disclose what plans the parties have to deal with the situation which will exist if that happens. A hearing might elicit the answer so that the Court could determine whether a specific order in this respect is desirable.

Sites. The costs controversy discussed above relates to only 50-odd units of the 267 units in Project 2-85. Apparently CHA has never finally submitted for HUD's approval the sites for the remaining units in this project, or, if CHA has done so, HUD has not approved them. It is difficult, perhaps impossible, to determine from the correspondence what the status of these remaining sites is and what steps need to be taken, by whom, before the sites can be approved, contractors obtained and

construction begun. A hearing might provide the answers, and would disclose whether a further specific order in this respect is desirable.

3. Projects 2-86 and 2-87. Except for vague generalities, the correspondence does not disclose the plans or time schedule of the parties respecting these projects for an aggregate of 1,032 units. However, a letter from HUD to CHA dated March 26, 1974, says that with respect to these projects HUD assumes that its conclusion on "financial feasibility" will differ from CHA's conclusion. (Sperry letter, dated March 26, 1974, Ex. D to CHA's report filed April 1, 1974 with the Court.) The correspondence does not disclose what the "financial feasibility" issue may be, its significance with respect to the development of Projects 2-86 and 2-87, and, assuming some sort of problem is presented, what steps CHA and HUD are taking to resolve the problem. A hearing might disclose the answer, as well as the specific plans and timetables of the parties with respect to these projects, so that the Court could determine whether a further specific order in this respect should be entered.
4. Section 23. There is similarly nothing specific in the correspondence with respect to the plans and timetable of CHA and HUD to utilize the new Section 23 program to

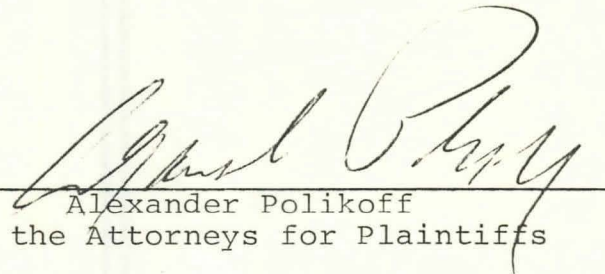
implement the Court's orders. Mr. O'Brien's letter suggests, however, that there may be two problems. First, he says that "HUD has under review" the City Council ordinance permitting CHA to enter into the Section 23 leasing program, and, second, he says there is "some doubt" that HUD's proposed Section 23 regulations "conform with the intent of existing Section 23 legislation." (O'Brien letter of March 29, 1974, pp. 2, 3.) These statements appear to be intimations of obstacles that may stand in the way of using the new Section 23 program to implement the Court's orders. A hearing might disclose whether there are obstacles in fact, and if so what CHA and HUD are doing to overcome them, and indicate whether a further specific order may be desirable in this respect.

CONCLUSION

The letters of plaintiffs' counsel referred to above and in the Court's possession set out the reasons why a question may be raised as to whether the outstanding "best efforts" orders are sufficiently precise and specific to assure that in truth and in fact CHA and HUD are doing everything that can be done to carry out the remedial purposes of the Court's decrees. That material will not be repeated here. It should suffice to say that the record of the performance of CHA and HUD to date in this cause

justifies the request that a hearing be held to fill in the information gaps outlined above. (Correspondence that spreads out over months, fails to provide complete information and continually raises new questions, is obviously not the right way to proceed.) The Court will then be in a position to determine whether a further and specific order is desirable to achieve the purpose of its decrees.

Respectfully submitted,



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One of the Attorneys for Plaintiffs

April 8, 1974

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