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7/10/74
JMA

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

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

PLAINTIFFS' REPORT TO THE COURT
PURSUANT TO ORDER OF MAY 6, 1974.

This Report and the accompanying motion are submitted pursuant to this Court's order of May 6, 1974, which granted plaintiffs 45 days in which to conduct discovery relative to the issues raised in plaintiffs' then pending motion for a hearing, and granted plaintiffs 20 days thereafter to file motions or other papers. The Report is in two parts: (1) What was done pursuant to the May 6 order, and (2) Plaintiffs' suggestion as to what action the Court should now take. Granting the accompanying motion would implement the suggestion.

I. WHAT WAS DONE PURSUANT TO THE MAY 6 ORDER

Pursuant to the Court's order of May 6, 1974, depositions of HUD and CHA were taken on May 28, June 6 and June 20, 1974. The subject matter of the interrogation was twofold: the status of the 1500 dwelling units which are the subject of previous orders of the Court and for which HUD funding has been authorized, and the status of CHA/HUD planning to utilize the new Section 23 New Construction Program (final HUD regulations for which have now been published) to provide additional units beyond the initial 1500. This Part I states the relevant facts disclosed in the depositions succinctly and non-perjoratively. It speaks as of June 20, 1974, the date of the last deposition (except that in one respect it is supplemented by a fact contained in CHA's Report to the Court of July 1, 1974).

A. Status of 1500 Units

So-called "development programs" have now been prepared by CHA and submitted to HUD for 1500 dwelling units as follows:*

(a) Development Program 2-90 for	12 units	
Development Program 2-91 for	18 units	
Development Program 2-93 for	18 units	
Development Program 2-94 for	<u>15 units</u>	63 units
(b) Development Program 2-85 for		204 units
(c) Development Program 2-86 for	204 units	
Development Program 2-87 for	<u>829 units</u>	1033 units
(d) Development Program 2-92 for		200 units
		<u>1500 units</u>

} 267

*The development programs for 63 units were hand-delivered to HUD on the morning the CHA deposition commenced, May 28, 1974. The remaining development programs were delivered shortly thereafter.

The status of each of these development programs is given in the succeeding paragraphs.

(a) 63 Units (Development Programs 2-90, 2-91, 2-93, 2-94)

- (1) Sites for these 63 units have been selected by CHA, approved by HUD and acquired by CHA (except that CHA has an option rather than title to one site) - 11 sites in all.
- (2) CHA has signed contracts for the construction of the 63 units with contractors, subject to HUD approval.
- (3) It will take an uncertain amount of time - perhaps 5 to 6 weeks, perhaps less - before HUD can approve the construction contracts, which must be done before construction can begin.
- (4) HUD is reviewing the development programs; it will take 10 days to 2 weeks more before HUD will be ready to approve them.*

*A development program for these 63 units and for the 204 units referred to in the next paragraph - a total of 267 units - was previously approved by HUD, thereby assuring CHA of federal funds for the development of those units. The resubmitted development programs (2-90, 91, 93, 94 and 85) reflect a recasting of the proposed means of development, i.e., the use of the so-called "turnkey" method. By contrast, development programs 2-86, 2-87 and 2-92 have not been previously approved in any form and HUD funding for the 1233 units covered by those programs will not be assured - even though it has been authorized - until the programs are approved by HUD.

(b) 204 Units (Development Program 2-85)

- (1) CHA selected 69 sites and submitted them to HUD for tentative approval. The submission was completed in March, 1974.
- (2) HUD has not yet given its tentative approval of any of the 69 sites, though it has disapproved some. HUD has been delayed in doing so because it has not yet received comments on the sites from the North-eastern Illinois Planning Commission, which in turn has been delayed because it has not yet received comments from the Department of Development and Planning of the City of Chicago. After receipt of NIPC's comments it will take HUD an additional one to two weeks to respond to CHA's request for tentative site approval. (HUD is free to act without waiting further for NIPC's comments but has chosen not to do so.)
- (3) Following HUD's tentative approval CHA must request HUD appraisals of the approved sites. The requests would presumably be made promptly (within a few days) after HUD's tentative site approval was received.
- (4) It would then take HUD several months to make all the appraisals; however, the appraisals can be delivered individually to CHA as they are made.
- (5) HUD contemplates that it may not approve sufficient sites from among the 69 submitted for all of the 204 units in the development program.
- (6) CHA will not begin to acquire any site until it has received HUD's tentative approval and appraisal for that site. The acquisition process will take many months.
- (7) CHA will not make arrangements for construction until sites are acquired.
- (8) HUD is reviewing the development program; it will take 10 days to 2 weeks more before HUD will be ready to approve it.

(c) 1033 Units (Development Programs 2-86 and 2-87)

- (1) CHA has submitted no sites to HUD for any of these units. It has a list of "old sites" (those submitted to the City Council in March 1971 pursuant to order of this Court) which it has begun to re-examine within the last 8-10 weeks. The number of these "old sites" is not sufficient for the 1033 units (CHA estimates the shortfall at between 90-120 sites). CHA has not begun the process of identifying additional new sites except that it has instructed its staff to look for new vacant sites in the process of re-examining the old sites. There is no estimate as to how long it will take CHA to complete its re-examination of the old sites and submit them to HUD, and to identify and submit the necessary number of new sites to HUD. (CHA says it lacks adequate staff resources for these purposes.)
- (2) The development programs are not now being processed by HUD because HUD has not decided how to handle CHA's request for development program approval. The problem for HUD arises because CHA has asked for HUD approval of the development programs without submitting sites, a departure from usual practice. Apparently the development programs will not be processed by HUD until higher HUD officials make a decision on this point. No information is available as to when that decision will be made.

(d) 200 Units (Development Program 2-92)

- (1) No sites have yet been selected by CHA or submitted to HUD, but these units are to be located in the Limited Public Housing Area of the City of Chicago and CHA has said that it anticipates no difficulty in finding suitable sites. It does not plan to initiate site selection for this development program until it has approximately 700 units in the General Public Housing Area of the City of Chicago in some stage of development.
- (2) The development program is not being processed by HUD for the same reason as is given with respect to Development Programs 2-86 and 2-87.

B. Status of Plans to Utilize Section 23 Program

Final regulations for the Section 23 New Construction Program were published in the Federal Register on April 22, 1974. HUD and CHA have not yet met to discuss the manner in which the Section 23 Program may be used to implement the Court's decree; they plan to hold the first such meeting on July 17, 1974. Neither HUD nor CHA has apparently yet developed any specific plan or program as to the manner in which the Section 23 Program is to be utilized to implement the Court's decree, except that CHA has requested and received from HUD an opinion that the new Section 23 Program is authorized to be used in Chicago.

II. PLAINTIFFS' SUGGESTION AS TO WHAT ACTION THE COURT SHOULD NOW TAKE

It is obvious that unless something is done to speed up the normal bureaucratic processes, production of the 1500 units will continue at a snail's pace and it will be years before these units are in fact constructed. ¹ For example, although it is now nearly 6 months since the Supreme Court denied certiorari in the City Council by-pass phase of the case, CHA has not selected a single one of the additional sites it needs to complete the full complement of 1500 dwelling units, or even submitted to HUD any of the "old sites" it had sent to the City Council in March, 1971. HUD has not yet even decided whether it can process development programs 2-86, 2-87 and 2-92 without submission of sites for these programs.

² It is equally obvious that if nothing is done to speed up the normal bureaucratic processes with respect to the new Section 23 Program, the same snail's pace will be followed in

utilizing that program to implement the Court's decree. For example, although final regulations for the Section 23 Program were published on April 22, 1974 (and preliminary regulations months before that), CHA and HUD do not even plan to meet to discuss the Section 23 Program until July 17, almost 3 months after final publication of the regulations.*

The Court has a duty in a case such as this not only to see to it that effective desegregation plans are developed, but also that those plans are implemented with reasonable promptness. It is now more than five years since CHA was ordered to provide additional unsegregated housing for the plaintiff class as rapidly as possible. Surely it is now time for the Court to say that the normal routine of the bureaucracy is not sufficient to permit that mandate to be carried out with reasonable speed, and that special procedures must be developed so that the Court's decree can be carried out in a reasonable time from this

*Moreover, the new regulations change the Section 23 Program from the way it was when the Court's decree was entered, and this may necessitate a modification of the decree and special arrangements between HUD and CHA to utilize the new Section 23 Program to implement the Court's decree. For example, the decree says that HUD shall use its best efforts to cooperate with CHA to provide more dwelling units in conformity with HUD's rules and regulations. But under HUD's new Section 23 regulations leases under the program will apparently be entered into between the private landlord and a family certified by CHA, whereas the Court's decree was written in contemplation of the prior HUD regulations under which CHA was the lessee-sublessor of Section 23 units. Without the intervention of the Court there is no assurance that the Section 23 Program will be utilized at all to implement the Court's decree - a mere change in regulations by the wrongdoer, HUD, could then have the effect of foreclosing all relief beyond 1500 units.

date.

Accordingly plaintiffs suggest that the Court should require CHA and HUD to make specific recommendations to it respecting steps that can be taken, (a) to speed up the construction of the 1500 units, and (b) to develop and carry out a specific program for utilizing the Section 23 New Construction Program to implement the Court's decree. A motion to that effect accompanies this Report and will be presented to the Court when the matter is called (as provided in the Court's order of May 6) on the September Passed Case Calendar.

Respectfully submitted,

July 10, 1974

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



Alexander Polikoff
One of the Attorneys for Plaintiffs

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

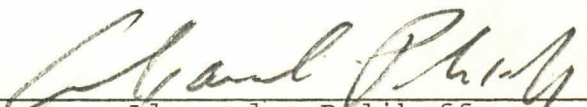
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	)	
Defendants.)	)	

MOTION

In accordance with plaintiffs' report submitted to the Court dated July 10, 1974, plaintiffs move for the entry of an order directing defendants CHA and HUD (1) to make recommendations to the Court respecting steps that can be taken to speed up the construction of 1500 dwelling units which are the subject of previous orders of the Court, and (2) to develop and carry out a specific program for utilizing the new Section 23 New Construction Program to implement the Court's decree to supply additional dwelling units as rapidly as possible.

Respectfully submitted,

July 10, 1974



Alexander Polikoff
One of the Attorneys for Plaintiffs

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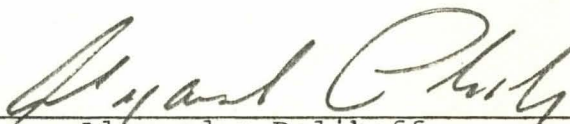
NOTICE

TO: Patrick W. O'Brien, Esq.	Robert B. Schaefer, Esq.
231 S. La Salle Street	Asst. U.S. Attorney
Room 1900	219 S. Dearborn Street
Chicago, Illinois 60604	Chicago, Illinois 60604

PLEASE TAKE NOTICE that we have this day filed with the Clerk of the United States District Court Plaintiffs' Report to the Court Pursuant to Order of May 6, 1974, and accompanying Motion, copies of which are herewith served upon you.

July 10, 1974

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



Alexander Polikoff
One of the Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Alexander Polikoff, one of the attorneys for plaintiffs, hereby certifies that he served a copy of the foregoing Notice and the Plaintiffs' Report to the Court Pursuant to Order of May 6, 1974 and accompanying Motion, referred to therein, upon the persons named in the Notice at the addresses there shown by mailing copies in the United States mail, postage prepaid, this 10th day of July, 1974.


Alexander Polikoff