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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, JAMES T. LYNN, Successor to GEORGE W. ROMNEY, Secretary of the Department of Housing and Urban Development, et al., Defendants.	)	No. 66 C 1459 66 C 1460 (Consolidated)

FEDERAL DEFENDANT'S MEMORANDUM IN OPPOSITION TO THE ORDER PROPOSED BY PLAINTIFFS ON SEPTEMBER 30, 1974

INTRODUCTION

Since January 16, 1974, the parties to this litigation have been filing pleading upon pleading with the Court, but as yet not a single matter has come up for definitive ruling. In the usual scenario, plaintiffs file a proposed motion or order with the Court, either with or without a supporting memorandum. The defendants then file responsive memoranda, which are followed in turn by plaintiffs' reply and defendants' rejoinders. Then when the matter is fully ripe for ruling, plaintiffs abandon the motion or order pending before the Court and dart in a new direction, thereby igniting the entire pleading process once again. In the instant case, after the defendants had filed their responses and objections pursuant to the Court's order of September 10, 1974, plaintiffs' counsel approached the defendants and requested that they agree that he be furnished an opportunity to reply. However, rather than filing a reply, on September 30, 1974 the plaintiffs abandoned the motion which had been pending and filed a new pleading seeking the appointment of a Gautreaux Commissioner. It is now incumbent upon the defendants to register their strenuous opposition to plaintiffs' newest stratagem. However, the federal defendant believes that, in addition to calling the Court's attention to all of its post-January, 1974 pleadings (which are identified in the second paragraph of the federal defendant's September 23rd pleading), it is time for both the parties and the Court to sit back and assess the present posture of the Gautreaux litigation in its proper perspective. We feel that if the Court rereads the documents filed with it since January 16, 1974, the Court will be convinced that there is no legal or factual basis whatever for the appointment of a Gautreaux Commissioner.

I

The following actions of the Department make it manifest that HUD has been utilizing its best efforts since entry of the "final" judgment order against the Department on September 11, 1973. By that order, HUD was directed to use its best efforts to cooperate with the Chicago Housing Authority in its efforts to increase the supply of low-rent public housing in the City of Chicago in a non-discriminatory basis. This was to be done in conformity with all federal statutes applicable to the low-rent housing program, all rules and regulations promulgated by HUD for the administration of that program, and all final non-appealable orders entered by this Court in the litigation. It was within that limited context that the Department was ordered to exercise its best efforts to cooperate with the Chicago Housing Authority. Although the federal program role and the federal regulations implementing the low-rent housing programs are national in scope, the following best efforts actions have been taken by the Department specifically to assist the low-rent housing program in the City of Chicago.

(1) A special exemption of Projects Ill. 2-86 and Ill. 2-87, comprising 1,032 units, was granted from the suspension/moratorium which was imposed by the Department on the low-rent public housing program on January 5, 1973. This special exemption was granted on March 12, 1974, less than two months after the United States Supreme Court refused to grant a petition for certiorari of the "City Council Bypass Order."

(2) HUD approval of significant departures and substantial deviations from normal procedures governing turnkey construction of low-rent public housing. This approval, covering not only Project 2-85 but also 2-86 and 2-87, was requested by CHA on January 18, 1974; Departmental approval was granted approximately two months later on March 22, 1974.

(3) On April 8, 1974, plaintiffs' attorney asserted that there were 201 "missing units." Although it was explained to the plaintiffs' attorney that these units represented those which CHA would be permitted to construct in the limited public housing area in accordance with this Court's decrees and that an exemption from the moratorium for these units was not being considered until such time as CHA had initiated construction of the 1,299 units in the general public housing area, the Department agreed to plaintiffs' request that these 201 additional units be authorized for immediate processing. On May 21, 1974, slightly more than a month after plaintiffs' request with respect to these units, CHA was authorized by HUD to submit a development program for these units from Program Reservation 2E.

(4) The Chicago Area Office was granted authority to waive Minimum Property Standards on a case by case basis with respect to sites for public housing in the City of Chicago. CHA had represented to the Department that due to the generally prevailing lot sizes in the City of Chicago, CHA would be unable to obtain sufficient sites unless a waiver was granted.

(5) Due to the fact that there was a distinct possibility that Projects could not demonstrate financial feasibility in accordance with HUD regulations, the Department subjected these Projects to an expeditious financial feasibility analysis to determine whether it was necessary to grant a waiver. A waiver did not prove necessary.

The above five actions of the Department represent deviations or exceptions from normal processing requirements which the Department took with respect to CHA projects. The prior pleadings which are a part of the record make it clear that when CHA presented a request or an application or a submission upon which HUD could act, Departmental action and/or review was expeditious. Although the Department seeks timely processing of all applications, the facts are indisputable that expeditious handling and processing has occurred at every stage with respect to CHA projects.

II

The facts are so overwhelming that HUD has been exercising its best efforts that plaintiffs have chosen not to dispute the fact. Rather they seek entry of the purported modification of the best efforts final order solely on the basis that they find the pace of new construction too slow for their suiting. Consequently, Plaintiffs' solution to problems resulting from application and interaction of the complex federal and state statutory scheme governing the low-rent public housing program is to have HUD disregard any law or regulation that interferes with any relief to which they have made unilateral claim to entitlement. The following examples should suffice that plaintiffs' version of best efforts is to cast law and regulation to the wind.

(1) In the January 16, 1974 letter from the plaintiffs' attorney to Assistant United States Attorney Schaeffer and CHA Attorney O'Brien, a copy of which was also sent to the Court, the plaintiffs made it clear that they were upset with the Department's insistence that CHA adhere to statutory prototype cost limitations, 42 USC 1415(5); 24 CFR 275, Appendix. This section of the Housing Act of 1937 is not to their suiting. Nor do plaintiffs care for the Congressional declaration of policy that the objectives of the low-rent housing program are to be accomplished while effecting economies. 42 USC 1401. Apparently, in plaintiffs' view, the Department's best efforts are to provide the Chicago Housing Authority with a blank check and CHA is to fill in whatever sum is sufficient to result in plaintiffs' state of satisfaction.

(2) The plaintiffs have long voiced their dissatisfaction with 42 USC 1401 and 1415(7) which restrict the federal program role in the public housing program and call for maximum local initiative. Instead they prefer a federal statutory scheme where HUD is not only planner, builder, and manager but also where the Department will take on any other roles plaintiffs find necessary to obtain the relief they seek.

(3) Plaintiffs also do not like the Cooperation Agreement requirement imposed by the Housing Act of 1937, 42 USC 1415(7)(a)(i) and (b)(1). This is another statutory section which must be ignored as an impediment to the relief they seek.

(4) Nor are the plaintiffs happy with the National Environmental Policy Act, 42 USC § 4321 et. seq. They manifest irritation that HUD will not acquiesce in CHA's request to approve siteless development programs. Plaintiffs are unconcerned with the difficulty, if not impossibility, of assessing environmental impact of a project, when its siting is unknown. Nor do plaintiffs appear to be concerned by the fact that HUD is presently being challenged in the appellate court by individuals and organizations who contend that HUD has not fulfilled its NEPA responsibilities with respect to the very projects which are the subject of the _Gautreaux_ litigation.

Nucleus of Chicago Homeowners Association, et al. v. Romney, et al., 6 ERC 1094, (N.D. Ill. November 21, 1973); oral arguments heard by the Seventh Circuit October 22, 1974.

Moreover, the Court should remember that HUD's error, which the Seventh Circuit held, rose to constitutional dimension, was funding the Chicago Housing Authority when it knew of CHA's discriminatory _site selection_ policy. It is to be assumed that it is plaintiffs' view that HUD's error will be rectified by not requiring the identification of sites prior to entering a funding commitment!

(5) Plaintiffs request to be a dominant voice in the selection of the _Gautreaux_ Commissioner. Although the Commissioner and his retinue are to be paid with HUD funds, it is apparently plaintiffs' intention

to cast to the wind applicable Civil Service Regulations and the Department's modified merit staffing procedures.

(6) Finally, the plaintiffs' newest pleading makes it clear they have no use for the Housing and Urban Development Act of 1965 which creates the Department of Housing and Urban Development. The HUD Act, 42 USC 3531 et. seq., states that the head of the Department shall be a Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and that the Department shall be administered under the supervision and direction of the Secretary. In place of the Secretary and the statutorily created officers of the Department, 42 USC 3533, there is now to be a judicially appointed Gautreaux Commissioner, who is to supervise the operations and direction of the Department in Chicago and its suburbs.

This may be the apex of plaintiffs' disregard for any law or regulation not to their suiting, but the evidence should make it entirely clear that these discarded statutes represent just the tip of the iceberg. Moreover, we will leave to our co-defendant to list with particularity the state statutes which must be disregarded as an impediment to the results plaintiffs seek. The court should be aware that disregard of applicable law and regulation is the manner in which plaintiffs have urged the Department to implement an order where best efforts are to be exercised "in conformity with" all federal statutes, rules and regulations, and final non-applicable orders.

III

For reasons which the Department believes are now abundantly obvious, HUD will not consent to the appointment of a Commissioner but rather will continue to insist that the Secretary is the only duly authorized executive head of the Department of Housing and Urban Development. Mr. O'Brien, Attorney for the Chicago Housing Authority, has clearly set forth in the memorandum of CHA in opposition to the Order proposed by plaintiffs, the fact that there is no legal foundation upon which to base appointment of a Gautreaux Commissioner. The federal defendants join CHA's memorandum that such appointment would be patently illegal. Moreover, there has been no factual showing whatsoever that HUD has not been exercising its best efforts and plaintiffs do not even purport to make such a showing.

IV

In the long-forgotten complaint in this action, the plaintiffs prayed for a declaration that the Secretary had assisted in the carrying on of a racially discriminatory housing system and an injunction against the funding of projects proposed by the Chicago Housing Authority, whose sites had been selected on a racially discriminatory basis. The Secretary raised the defense of sovereign immunity in the district court but abandoned it on appeal. Nevertheless the Circuit Court treated that issue briefly by noting that "the doctrine [of sovereign immunity] does not bar a suit such as this which is challenging alleged unconstitutional and unauthorized conduct by a federal officer." Gautreaux v. Romney, 448 F.2d 731, 735 (7th Cir. 1971).

Assuming the correctness of the Circuit Court's original discussion of the application of the doctrine to the issues then before the Court, we submit that the doctrine applies to the radically different issues now being presented. The recent decision in Schlafly v. Volpe, 495 F.2d 273 (7th Cir. 1974), establishes the rule in this circuit that even though an official's conduct was ultra vires or unconstitutional, the doctrine of sovereign immunity bars a suit "where to do otherwise would impose 'an intolerable burden on governmental functions, outweighing any consideration of private harm.'" Id. at 280. This rule bars the plaintiffs' attempt to appoint a housing Commissioner or "czar" as the Chicago Housing Authority asserts.

In Schlafly, the plaintiffs challenged the legality of a freeze on federal funding of certain highway construction projects. The only relief necessary was an order directing the Secretary of Transportation to release funds which had already been committed to the projects. Additionally, the court noted that the "resultant release of funds is only to the extent that Congress has already authorized them to be appropriated and expended." Id.

The issues raised by plaintiffs' proposed order are fundamentally different. The order seeks far more than the mere release of funds already authorized and appropriated. It seeks the creation of a new bureaucracy to be carved out of the Department of Housing and Urban Development. The Commissioner to be appointed by the Court (under plaintiffs' proposal) would have full access to whatever space, secretarial and stenographic assistance, business machines, draftsmen and computors of the Department of Housing and Urban Development and whatever other physical facilities and personnel that he deemed appropriate. This, of course, would be paid for by the defendants. Additionally, under plaintiffs' proposed order the defendants would be required to put under the control of the Commissioner their "full professional, technical and other" staff personnel which the Commissioner might need in familiarizing himself with the public housing system and the various problems to be solved in implementing the prior orders of the Court.

In our view, the appointment of a Commissioner with such broad powers, including the power to requisition whatever Government assistance in the form of clerical and professional personnel and office necessities, would indeed impose an intolerable burden on governmental functions. And this burden would by far outweigh any consideration of harm. Certainly when one is considering the harm that might be inflicted by the failure of the Court to appoint such a Commissioner, one must consider the necessity for such appointment in terms of whether the secretary has been found to have violated this Court's prior orders. As has been pointed out on numerous occasions, no such violation has been alleged or proven.

In support of our view, we invite the Court's attention to a case in which a radical proposal for a remedial order was rejected. Specifically, in Williams v. Phillips, Civil Action No. 490-73 (D.C. June 27, 1973), the Court rejected a suggestion that a new official be designated to dispense governmental funds. The Court stated "[i]n essense the relief sought would have the judicial department establish a trusteeship over one branch of the executive department." Id. at 5. (A copy of the memorandum opinion is attached hereto as Exhibit A.) The remedy sought by the plaintiffs herein is similar.

CONCLUSION

The Department strenuously objects to plaintiffs' proposal to appoint a Gautreaux Commissioner. When the current line of pleadings began, plaintiffs' attorney requested the Court to utilize discovery methods so that he would be in a position to demonstrate to the Court a lack of best efforts and so that he could inform the Court of remedial measures which might be taken to implement the Court's orders. After exhaustion of all the discovery he had requested, he no longer attempts to challenge the fact that HUD has exercised its best efforts. Unable to come up with any recommendations for the Court, he sought to switch the onus to HUD and CHA. Now in his newest maneuver, he wants the onus transferred to a Gautreaux Commissioner. We suggest to the Court that plaintiffs counsel has been immersed in this case since 1966, and after all the discovery he has taken, if he has any lawful recommendations as to how HUD can better implement the best efforts order, he make that known to the Court. If he does not have any such recommendations, he should allow HUD, unharassed, to continue to exercise its best efforts so that plaintiffs might obtain the relief they profess to be seeking.

JAMES R. THOMPSON
United States Attorney

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES ATTORNEY
NORTHERN DISTRICT
CHICAGO, ILLINOIS

Senator Harrison A. Williams, Jr., et al.,)
)
Plaintiffs)
)
v.) Civil Action No. 490-73
)
Howard J. Phillips,)
)
Defendant)

FILED
JUN 27 1973
JAMES F. DAVEY, Clerk

MEMORANDUM AND ORDER

On June 22, 1973, the United States Court of Appeals for the District of Columbia Circuit entered an Order refusing to stay the June 11, 1973 Order of this Court declaring the defendant Howard J. Phillips to be serving illegally as Acting Director of the Office of Economic Opportunity [OEO] and enjoining him from taking any action as Acting Director. In addition the Court of Appeals remanded the case to this Court to consider certain objections to this Court's June 11, 1973 Order rais by the defendant and amici curiae in the Court of Appeals on the application for a stay. Some of those objections sought clarification rather than reversal of the Order. Other of the objections were based upon allegations of irreparable injury to OEO, its programs, and third parties dealing with it. The Court of Appeals determined that those allegations raised questions of fact concerning the actual effect of this Court's injunction, which required further development on the record.

In response to that remand, this Court held a hearing late on Monday, June 25, 1973. At that time the Court heard the views on remand from both counsel for the plaintiffs and counsel for the defendant. At the same time counsel for the plaintiffs in the several other actions pending before this Court involving

OEO[1/] were given the opportunity to express their views on the remand, although they did not participate in a formal sense as amici curiae.

In response to the suggestion of the Court of Appeals that motions might be filed for clarification or modification of this Court's injunction, the defendant filed a Motion for Relief From Judgment. That motion sought an order vacating the June 11, 1973 Order enjoining the defendant from taking any action as Acting Director of OEO. A modification of the declaration that the defendant was serving unlawfully and illegally was sought by holding that declaration to be effective as of July 1, 1973. In support of his motion the defendant attached his affidavit in which he stated that until the issuance of the June 11, 1973 Order, he intended to authorize, through subordinate officials, the making of additional grants and contracts totalling approximately $142 million before the end of fiscal year 1973. Recipients of those grants would have included, among others, Community Action Agencies, legal services organizations and migrant programs. The defendant further averred that to the best of his knowledge, information, and belief that no fiscal year 1973 funds have been legally obligated by OEO since the June 11, 1973 Order.

In connection with this motion and affidavit, the Court was advised by counsel that two or three grants had been made

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1/ The other cases are: Hayes v. Phillips, Civil Action No. 613-73; Migrant Legal Action Program v. Phillips, Civil Action No. 614-73; Goldman v. Phillips, Civil Action No. 956-73; Urban Planning Aid, Inc. v. Phillips, Civil Action No. 972-73; Rural Housing Alliance v. Phillips, Civil Action No. 976-73; United Migrants for Opportunity, Inc. v. Phillips, Civil Action No, 1141-73; West Central Missouri Rural Development Corp. v. Shultz, Civil Action No. 1237-73.

by OEO officials or employees since June 11, but that in each instance the grant was cancelled by other members of the OEO staff. In one or two of these instances, the Deputy General Counsel of OEO, who was present at the hearing, stated that he had ordered cancellation. The same Deputy General Counsel reported that a grant had been made by the OEO regional director for New York and that the grant had been cancelled by another OEO staff member. The regional director subsequently was placed on administrative leave. The Court inquired of the Deputy General Counsel whether the defendant's affidavit could be taken as an assurance that if the defendant were permitted to serve he would make grants and obligate the $142 million before the end of the fiscal year on June 30, 1973. The Deputy General Counsel stated that no such assurance could be given.

In this Court's view, whether the defendant would have made additional grants or contracts totalling $142 million before the end of fiscal year 1973 is totally beside the point. As has been made known in the June 11, 1973 Opinion and Order of this Court, this defendant has been illegally and unlawfully serving as Acting Director of OEO since the end of January, 1973. To re-establish him in that position would make a mockery of the law and would exceed even the liberal bounds of equity. The defendant's Motion for Relief From Judgment will be denied.

Also filed on the date of the remand hearing was a motion to intervene by the National Legal Aid & Defender Association, California Rural Legal Assistance, Inc., and the Michigan Migrant Legal Assistance project, Inc., [2/] accompanied by a motion to modify the June 11, 1973 Order. The proposed order submitted by the applicants

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2/ The last named proposed intervenor is also a plaintiff in Civil Action No. 1141-73, note 1, supra.

for intervention would have reaffirmed the June 11, 1973 Order that the defendant was serving illegally and unlawfully in office because he was not appointed Director of OEO by the President and confirmed by the Senate as is required by 42 U.S.C. § 2941(a) (1970). That order would have declared further that certain regulations promulgated by the defendant on May 25, May 30, and June 4, 1973, were not valid and of no force and effect. The proposed order finally provided that the June 11, 1973 Order would be modified to allow the defendant to take such actions as are reasonably required to administer OEO and all programs funded or regulated by it, and to otherwise preserve the status quo pending the appointment and confirmation of a valid Director of OEO. The proposed order would have further required him to issue or renew grants funded as of January 29, 1973, if an application for funds had been made. Lastly, the proposed order would have forbidden the defendant from terminating or reducing or permitting the expiration of funds of any such program, or from repealing, promulgating, or permitting to become effective any rule, regulation, or directive. The proposed order on its face is entirely illogical and because such relief was sought, the motion to intervene will be denied.

Counsel for the plaintiffs advised the Court that a continuing resolution was about to be enacted by the Congress which would continue OEO as a federal agency after July 1, 1973. Counsel further advised the Court the continuing resolution would continue OEO at the fiscal year 1973 appropriation level until an appropriations bill is passed. Thus it appears that OEO will continue as an agency and under the terms of its statute will be receiving appropriations for grants and contracts to be acted upon in due course.

"Counsel in several of the other cases expressed concern because the current appropriation will revert to the general treasury if not fully obligated on or before June 30, 1973. To circumvent this possibility counsel in the recently filed case of West Central Missouri Rural Development Corp. v. Shultz, Civil Action No. 1237-73, would have this Court designate someone to serve as the trustee of unobligated funds of OEO. The trustee would be ordered to hold and control, although not expend, such funds on and after June 30, 1973, so that the current appropriation could be used in the next fiscal year. In essence the relief sought would have the judicial department establish a trusteeship over one branch of the executive department. The authorities cited in support of this proposition are unpersuasive and the proposition is without merit. In that case a pending application for a temporary restraining order will be denied." 2587216

Another suggestion by counsel for the various parties in the cases listed in note 1, supra, was that this Court should enter what in effect is a mandatory injunction obligating unspent fiscal year 1973 funds so that they would not revert to the treasury. But the Economic Opportunity Act of 1964, as amended, describes with considerable specificity the eligibility requirements for grantees. For this Court to enter a blanket injunction of the nature requested would in effect have this Court determine that such grantees were eligible for the funds for which they have applied. This is not a feasible solution.

[illegible]

The defendant has raised the question of who if anyone has current grant-making authority at OEO. The Court ordered the defendant at the remand hearing to present certain pertinent information which it has done. The Court requested that the defendant present two lists of currently serving OEO personnel with delegations of authority giving them grant-making authority. The first was a list of all personnel serving before January 31, 1973, and still employed at OEO, who had delegations of grant-making authority from prior validly serving Directors or their designees. The second category was those OEO employees issued grant-making authority between January 31, 1973, and March 1, 1973, by the defendant or his designees, and who are still employed at OEO. The later category was ordered for the purpose of making available to the Court of Appeals the state of OEO authority for the period of January 31 to March 1, 1973, in light of the remand considering but not holding that the defendant may have been legally in office for his first 30 days as Acting Director. This information is now in the record.

Since the remand hearing, counsel for the defendant has informed the Court that on June 26, 1973, the President appointed Alvin J. Arnett as Director of OEO, with Mr. Arnett's name to be sent to the Senate for its advice and consent. Under this Court's June 11, 1973, interpretation of 42 U.S.C. § 2941(a) and the Constitution, Mr. Arnett could not validly act as Director until he has been confirmed by the Senate pursuant to the President's nomination. As this Court recognized in that Opinion, however, emergency circumstances may create situations which require emergency action. The circumstances of this case do present such an emergency.

OEO, through its counsel at the remand hearing and through the defendant's affidavit, has informed the Court that approval of many OEO grants is being held up because OEO officials are uncertain of who may act on those grants. In addition, $142 million of OEO funds will revert to the treasury after June 30, 1973, unless those funds are obligated on or before that date. This Court recognizes further that Congress has created OEO to carry out certain purposes and has appropriated funds for those programs. See Local 2677, A.F.G.E. v. Phillips, _____ F. Supp. ______ (D.D.C. 1973). Confusion and uncertainty at OEO over carrying out those programs are a matter of record. Therefore, this Court, in attempting to fashion an equitable remedy that will enable OEO to carry out its functions, finds that an emergency situation exists at OEO and that new director Arnett may perform those functions reserved to the director. It is to be emphasized that the circumstances surrounding this solution are unique and call for a unique fashioning of an equitable remedy. As the Court of Appeals recognized in its denial of stay, one possibility of modification of this Court's order would have been to allow time for compliance with the Constitution's requirements. Brown v. Board of Education, 349 U.S. 294 (1955); Hecht Co. v. Bowles, 321 U.S. 321, 329-30 (1944). In effect, the Court is attempting to allow such compliance and still do equity. In order to fashion a truly equitable remedy, however, the Court orders that the director act upon all pending OEO grant applications which were to be funded with fiscal year 1973 money before noon June 30, 1973. Those applications for grants are listed in the affidavit of Robert Treuer filed with this Court at its request after the remand hearing.

In case of the grant applications which have been denied since January 31, 1973, listed in the affidavit of the Deputy General Counsel, the new Director will be ordered to reconsider those denials deemed illegal and void because performed under Phillips' authority, before noon on June 30, 1973. If any details are sustained, full findings of fact and conclusions will be entered stating the reasons for those denials.

The emergency which has confronted this Court, OEO, and OEO beneficiaries is one that Congress could easily have prevented by providing for an orderly succession of power at OEO in the case of a vacancy such as it has done in the case of other independent establishments, e.g., Comptroller General, 41 U.S.C. §§ 42, 43a. It is hoped that Congress will recognize and rectify this situation which has placed all parties, but in particular the beneficiaries of OEO programs, in such a precarious position.

Appropriate orders will be entered in the individual grantee suits now pending before this Court.

Therefore, it is, this 27th day of June, 1973,

ORDERED That the motion of the defendant for relief from judgment be and is hereby denied;

FURTHER ORDERED That in the exercise of its equity powers, and with due consideration to the June 22, 1973 Order of remand from the United States Court of Appeals for possible modification of its decree Alvin J. Arnett, who has been nominated by the President as Director of the Office of Economic Opportunity and whose name has been submitted to the United States Senate for its advice and consent, is acknowledged by this Court to have authority in this emergency situation to act as Director of the Office of Economic Opportunity;

FURTHER ORDERED That Alvin J. Arnett or persons acting under valid delegations of his grant-making power as Director of the Office of Economic Opportunity are ordered to considered all pending applications for grants or benefits of funds under the Economic Opportunity Act of 1964, as amended, to be made from fiscal year 1973 funds by 12:00 noon on June 30, 1973, and to notify all applicants for funds of the decisions rendered on their applications by telegram or other means to assure that the applicant knows of the decision by 12:00 noon on June 30, 1973; that all pending applications include those listed in the affidavit of Robert Treuer filed with this Court on June 26, 1973, as well as any applications for fiscal year 1973 funds which have been made but which are not enumerated in that affidavit; if any of those grants are denied, the Director shall inform the grant applicant of that decision, along with full findings and conclusions on which the denial is based as soon as practicable but in no event later than 12:00 noon on ~~June 30~~ July 9, 1973;

FURTHER ORDERED that Alvin J. Arnett or persons acting under valid delegations of his grant-making power as Director of the Office of Economic Opportunity consider all those applications for grants denied by the Office of Economic Opportunity after January 31, 1973, listed in the affidavit of the Deputy General Counsel filed with this Court, by 12:00 noon on June 30, 1973, and if those grants are denied, that he inform the grant applicant of that decision, along with full findings and conclusions by 12:00 noon on ~~June 30~~ July 9, 1973;

FURTHER ORDERED That service of this Order on the United States Attorney's Office shall constitute service upon Alvin J. Arnett and the Office of Economic Opportunity.

W B Jones

J U D G E

Counsel

Alan B. Morrison
Suite 515
2000 P Street, N. W.
Washington, D. C. 20036

Attorney for Plaintiffs

Harold H. Titus, Jr.
United States Attorney
Robert S. Rankin, Jr.
Assistant United States Attorney
United States Courthouse
Washington, D. C. 20001

Harlington Wood, Jr.
Assistant Attorney General
Harland F. Leathers
John M. Nelson
Dennis G. Linder
Attorneys, Department of Justice
Washington, D. C. 20530

Attorneys for Defendant