

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

Rec'd
MAA
11/5/74

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.)	)	

COMMENTS OF PLAINTIFFS ON
PROPOSED ORDER OF REFERENCE

As invited by the Court, plaintiffs respectfully submit the following comments respecting the proposed reference order submitted to the parties on November 1, 1974.

1. Plaintiffs continue to believe that it is highly desirable - perhaps necessary - for effective, expeditious performance of the duties set out in the proposed reference order that a person knowledgeable about housing problems and programs perform the task contemplated by the Court. It may well be that the "normal bureaucratic procedures" that are supposed to have prevented performance of the Court's previous orders can only be effectively cut through by one who possesses

considerable knowledge about substantive housing programs and the bureaucracies which administer them. At the very least, someone not versed in these matters may require substantial time to become familiar with them, producing delay inconsistent with the Court's determination that the matter must be referred "for immediate attention and proposals." (Emphasis added.) In each of the Charlotte-Mecklenberg, Shannon, Hamtramck and Indianapolis cases, such well qualified persons were appointed.

We therefore continue to urge the appointment of such a person as Master rather than a Magistrate. In this connection we note that it is not necessary before such a step is taken that there be evidence that a party has directly contravened orders of the Court. It suffices that, as here, the defendants have been given ample opportunity to make remedial proposals of their own and have not done so. (Although the prior judgment orders have demonstrably not provided adequate relief, the defendants have repeatedly said they have nothing further to propose.)*

*If the Court felt that it were necessary to make a finding that its prior orders had been "contravened" there is justification for doing so. The Court's order of April 10, 1972 ordered CHA to "immediately ... begin all steps and procedures ... to acquire ... sites and provide Dwelling Units thereon." (342 F.Supp. 827, 830 (1972), emphasis added.) Notwithstanding that order CHA has to this day submitted no sites to HUD that were not among the small number approved by the City Council in June of 1971.

We note that the proposed reference order provides that with the Court's approval the Master may employ and consult with such persons as he deems necessary for the performance of his prescribed duties. Should the Court reject our renewed request for the appointment of a person knowledgeable about housing problems and programs as Master (or "Commissioner" - the name is irrelevant under Rule 53(a)), we urge that the proposed reference order be modified to indicate clearly that the Master is authorized and encouraged to employ such a person. In that regard we suggest that the following language be added at the bottom of page 4: "including particularly persons not affiliated with any of the parties who have specialized knowledge concerning federally subsidized housing programs."

2. The reference order does not include the material contained in paragraphs 1-3 of plaintiffs' proposed order of September 30, 1974. These paragraphs require HUD to include CHA in the first allocation of Section 23 units and direct CHA to select additional sites and submit them to HUD. No satisfactory reason has been given why action on these two matters should not proceed immediately and simultaneously with the study and review to be conducted by the Master. Plaintiffs therefore request that such paragraphs be included in the Court's order.

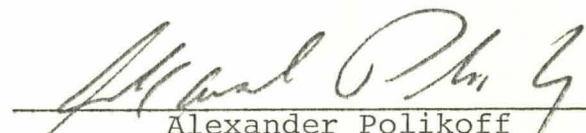
3. Since a Magistrate is a full time judicial officer, presumably no fees will be payable to him or her for serving

as Master in this matter. However, disbursements may be made for expenses and the proposed order of reference is silent as to who shall bear them. Since it is not possible for plaintiffs to do so (we assume the Court knows that no attorney fees have ever been sought or paid to any of plaintiffs' attorneys in this matter), it is suggested that the reference order expressly provide that the defendants be responsible for expenses incurred under it. This follows the procedure employed in the cases referred to above. For example, the Hamtramck funding order, a copy of which is attached hereto for the Court's convenience, provides:

"Federal defendants and Municipal Defendants are jointly and severally responsible for assuring that payments be made to Professor Loss in the following amounts, upon the following dates ..." (Order of May 1, 1972, p.2.)

Respectfully submitted,

By:


Alexander Polikoff
One of the Attorneys for Plaintiffs

November 5, 1974

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

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

SARAH SIMS GARRETT, et.al.,

Plaintiffs,

vs.

Civil Action No. 32004

CITY OF HAMTRAMCK, a municipal
corporation, et. al.,

Defendants.

ORDER FOR FUNDING TO ASSIST IN PREPARING A PLAN
AND
TO ENJOIN TAKING OF A SURVEY

At a session of said Court, held in the Federal
Building in the City of Detroit, Michigan on
the 1st day of ~~April~~^{MAY}, 1972.

PRESENT: HONORABLE DAMON J. KEITH, UNITED STATES
DISTRICT JUDGE.

This matter having come before the Court on Plaintiffs'
Motion For Funding to Retain Planner and Equal Opportunity
Specialist to assist Plaintiffs in preparing a program as des-
cribed in the Court's Order of November 22, 1971, in the above-
entitled action; and

Defendants having failed to prepare such a proposed program
in cooperation with Plaintiffs in a timely fashion as required
by this Court in its order of November 22, 1971; and

The Court having instructed the various parties, individually
or jointly, to prepare a proposed program as described in the
Court's Order, to be submitted to the Court on or before August 8,
1972; and

It appearing that Plaintiffs, low income persons, do not have resource to prepare such a program without financial assistance; and

It appearing that the consultants whom Plaintiffs desire to retain are well qualified and capable of rendering necessary assistance in this connection; and

It appearing that it would not be appropriate for the City of Hamtramck to conduct a survey of persons displaced by governmental activities in the City of Hamtramck; and

It appearing that Federal Defendants have not objected to Plaintiffs' requests and have found such requests reasonable; and

A hearing on this Motion having been held, and the Court being fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That Defendants set aside and make available Twenty-Five Thousand (\$25,000.00) Dollars for payment to Professor John Loss, as specified below, for services to be rendered by him and under his supervision prior to August 8, 1972, in preparing a new plan for the Wyandotte Area Renewal Project (Mich. R-31), in Hamtramck, in compliance with this Court's Order of November 22, 1971.

Insofar as possible, the Defendants shall furnish such funds from the budget for the Wyandotte Area Renewal Project (Mich. R-31), and Municipal Defendants are hereby ordered to make any necessary applications for distributions of such funds forthwith. Federal Defendants and Municipal Defendants are jointly and severally responsible for assuring that payments be made to Professor Loss in the following amounts, upon the following dates:

<u>Date</u>	<u>Amount</u>
June 1, 1972	\$ 8,334.00
July 1, 1972	8,333.00
August 8, 1972	8,333.00
Total	\$25,000.00

2. That Defendants set aside and make available Four

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2. That Defendants set aside and make available Four
Thousand (\$4,000.00) Dollars for payment to Mr. Yale Rabin, as
specified below, for services to be rendered by him prior to

August 8, 1972, in preparing a "profound, meaningful, comprehensive and enforceable program to eliminate the existing discrimination in housing within the City of Hamtramck," in compliance with this Court's Order of November 22, 1971.

Insofar as possible, the Defendants shall furnish such funds from the budget for the Wyandotte Area Renewal Project (Mich. R-31) and Municipal Defendants are hereby ordered to make any necessary application for distributions of such funds forthwith. Federal Defendants and Municipal Defendants are jointly and severally responsible for assuring that payments be made to Mr. Rabin in the following amounts, upon the following dates:

<u>Date</u>	<u>Amount</u>
June 1, 1972	\$ 2,000.00
June 15, 1972	<u>2,000.00</u>
Total	\$ 4,000.00

3. That Municipal Defendant's, their officers, agents, employees, and representatives be, and they are hereby, enjoined from contacting, surveying, or attempting to contact and survey persons displaced or to be displaced by governmental activities in Hamtramck, until such time as the Court approves a specific method for so doing or until all parties to this action approve of a specific method.

DAMON J. KEITH

DAMON J. KEITH
UNITED STATES DISTRICT JUDGE

Dated:

Approved:

Edmund Torcellini, for
Municipal Defendant

Robert Rosenberg, for
Federal Defendants

A TRUE COPY

FREDERICK W. JOHNSON, Clerk

BY Frederick W. Johnson
DEPUTY CLERK

Robert C. King, for Plaintiffs



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 Comments of Plaintiffs on Proposed Order of Reference referred to therein upon the parties named in the Notice at the addresses there shown, by delivering a copy to them this 5th day of November, 1974.



Alexander Polikoff

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

DOROTHY GAUTREAU, et al.,

Plaintiffs,

vs.

CHICAGO HOUSING AUTHORITY, JAMES T.
LYNN, Successor to George W. Romney,
Secretary of Department of Housing
and Urban Development, et al.,

Defendants.

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

MEMORANDUM OPINION and REFERENCE ORDER

These consolidated cases come before me now on Plaintiffs' motion to appoint a Commissioner to formulate plans for the expeditious construction of new public housing units in the City of Chicago. Since there is no evidence of record that Defendants Chicago Housing Authority (CHA) and United States Department of Housing and Urban Development (HUD) have directly contravened my prior judgments and since Plaintiffs' request is overbroad, the motion must be denied. However, in light of the exceptional circumstances presented here and in the interests of justice, I conclude that this matter must be referred to a Master for immediate attention and proposals.

The history of these lawsuits is long and varied. For an extensive background discussion of this controversy, see Gautreaux v. Romney, 457 F.2d 124, 129 et seq. (7th Cir. 1971) (Sprecher, J., dissenting). After carefully examining the legal contentions and factual proofs of the parties, I

entered a Memorandum Opinion on February 10, 1969, holding that Defendant CHA intentionally and unconstitutionally discriminated, on the basis of race, in its public housing site selection and tenant assignment procedures in Chicago. Gautreaux v. Chicago Housing Authority, 296 F.Supp. 907 (N.D. Ill. 1969). On September 10, 1971, a similar finding was made against Defendant HUD by the United States Court of Appeals for the Seventh Circuit. Gautreaux v. Romney, 448 F.2d 731 (7th Cir. 1971). Each Defendant was ordered to use its "best efforts" to reverse the effects of its prior unlawful conduct. Gautreaux v. Chicago Housing Authority, 304 F.Supp. 736 (N.D. Ill. 1969), aff'd 436 F.2d 306 (7th Cir. 1971); Gautreaux v. Romney, 363 F. Supp. 690 (N.D. Ill. 1973), rev'd on other grounds Nos. 74-1048, 1049 (7th Cir., August 26, 1974). To that end, on July 1, 1969, I enjoined the further construction of public housing in any "non-white" section of Cook County, unless such action was accompanied by the simultaneous construction of at least 75 percent of all proposed units in "white" areas of the County. Gautreaux v. Chicago Housing Authority, 304 F.Supp. 736 (N.D. Ill. 1969), aff'd 436 F.2d 306 (7th Cir. 1971).

For the past five years and four months, no public housing construction has been undertaken by any party. Both HUD and CHA contend that they have employed their "best efforts" to fulfill the mandate of my orders and attribute this inordinate delay to "normal bureaucratic procedures."

For their part, Plaintiffs do not charge Defendants with bad faith but maintain that additional Court assistance is necessary to bring this dispute to a prompt and just conclusion. I agree. For reasons that are manifestly unclear to me, my orders in this case have been avoided and frustrated for over five years. To pinpoint the responsibility for this apparent lack of diligence and to develop methods for achieving compliance with my orders, the appointment of a Master is appropriate.

ORDER OF REFERENCE

Pursuant to the discretion vested in me by Fed. R. Civ. Pro. 53(a), this matter is referred to a United States Magistrate to serve as a Master. The Magistrate shall be selected according to the local rules.

The Master is directed to study and review the existing patterns of racial segregation in Chicago public housing, to determine and identify the precise causes of the five-year delay in implementing my judgment orders, and to recommend a plan of action that will expedite the realization of my various orders and judgments.

Defendants shall render their complete cooperation to the Master. By way of example and not as a limitation, the Master shall have full access to maps, drawings, reports, statistics, computer studies, and all other information concerning all aspects of the public housing system in Chicago which may be necessary to accomplish the purposes of this

order. He shall be supplied with any studies, plans, and partial plans for desegregation of the public housing system which Defendants individually or collectively may possess.

Defendants shall provide the Master with whatever professional, technical, and other assistance he may require to familiarize himself with the Chicago public housing system and the problems to be resolved in effectuating my orders and judgments and to otherwise comply with his delegated responsibilities. The full cooperation of Defendants' staffs is requested and will be appreciated.

At such time as the Master shall complete a final draft of his recommendations and comments, he shall furnish copies of the same to the parties. The Master shall then meet in executive session with the Secretary of HUD or his designees, the Board of CHA or their designees, and Plaintiffs' counsel or their designees, and review the same and discuss any suggested revisions. After such session or sessions, the final Report, as determined by the Master, shall be submitted to the Court for its review and possible use. Until the Master's Report is presented to the Court, it shall be deemed to constitute "work papers." All such work papers, and the contents thereof, shall be confidential; such papers shall not be disclosed to others, except as the Court may direct and except that the Master, with the Court's approval, may employ, and consult with, such persons as he deems necessary for the performance of his prescribed duties.

The Court retains jurisdiction over these cases for the entry of such further orders as may be appropriate.

Motion to appoint a Commissioner is denied.
Matter referred to a Master.

Judge, United States District Court

DATED: November , 1974.