

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

Granted
3/16/77

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	Nos. 66 C 1459
v.	)	66 C 1460
	)	(Consolidated)
CHICAGO HOUSING AUTHORITY and	)	
PATRICIA HARRIS, Successor to	)	
Carla A. Hills, Secretary of the	)	
Department of Housing and Urban	)	
Development, et al.,	)	
	)	
Defendants.	)	

MOTION FOR LEAVE TO FILE STATUS REPORT

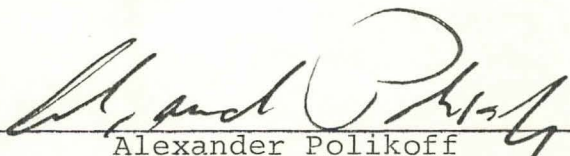
NOW COME PLAINTIFFS, by their attorneys, and move the Court for leave to file a status report, a copy of which is attached hereto.

In support of this motion plaintiffs state that in view of the recent reassignment of this case and the complex and lengthy nature of the litigation, it may be convenient for the Court and the parties to have available the attached written report by plaintiffs for consideration at the status report set by previous order for April 8, 1977.

Respectfully submitted,

March 15, 1977

Alexander Polikoff
109 N. Dearborn Street
Chicago, Illinois 60602
(312) 641-5570



Alexander Polikoff
One of the Attorneys for Plaintiffs

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	NO. 66 C 1459
GEORGE W. ROMNEY, Secretary of	)	NO. 66 C 1460
the Department of Housing and	)	(Consolidated)
Urban Development, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OPINION and JUDGMENT ORDER

The facts of these cases have often been recited and need no repetition here.* This matter comes before me today on plaintiffs' motion (1) to defer my ruling on the proposed final judgment orders submitted by HUD and plaintiffs; (2) to determine that it is necessary to consider a metropolitan plan for relief; and (3) to provide for the preparation of such plans by HUD and CHA. For the reasons stated below, that motion is denied.

Stated simply, this lawsuit attacks racial discrim-

* See Gautreaux v. Chicago Housing Authority, 265 F.Supp. 582 (N.D.Ill. 1967), 296 F.Supp. 907 (N.D.Ill. 1969), 304 F.Supp. 736 (N.D.Ill. 1969, aff'd, 436 F.2d 306 (7th Cir. 1971); Gautreaux v. Romney, 448 F.2d 731 (7th Cir. 1971); 342 F.Supp. 827, aff'd, Slip Opinion dated May 18, 1973 (7th Cir.).

ination in public housing within the City of Chicago. Both defendants have previously been found liable to plaintiffs because they either fostered or tolerated the unconstitutional implementation of federal housing statutes. And, having already entered an appropriate judgment against CHA, what remains before me is the relief to be obtained from HUD.

Plaintiffs' motion asks me to consider the propriety of metropolitan area relief similar to that granted in Bradley v. Milliken, Slip Opinion Nos. 72-1809 and 72-1814, 42 U.S.L.W. 2022 (6th Cir. 1973), which was a case dealing with racial segregation in the Detroit public school system. But, although such relief may have been justified in Bradley, it is simply unwarranted here because it goes far beyond the issues of this case. Unlike education, the right to adequate housing is not constitutionally guaranteed and is a matter for the legislature. Lindsey v. Normet, 405 U.S. 56, 74 (1972). Of course, once such legislation is enacted into law, it is constitutionally impermissible to administer it in a racially discriminatory manner. Here, for example, the evils of racial discrimination in public housing were fostered

by decisions of the housing authority of the City of Chicago and tolerated by the federal agency which financed such projects.

However, the wrongs were committed within the limits of Chicago and solely against residents of the City. It has never been alleged that CHA and HUD discriminated or fostered racial discrimination in the suburbs and, given the limits of CHA's jurisdiction, such claims could never be proved against the principal offender herein. After years of seemingly interminable litigation, plaintiffs now suggest that I consider a metropolitan plan for relief against political entities which have previously had nothing to do with this lawsuit. The factual basis for their request is an opinion of an urbanologist that by the year 2000 the entire geographic area of the City of Chicago will be within the limited public housing area as defined by the judgment order entered on July 1, 1969. This is simply inadequate to support a request to consider imposing obligations upon those who were and are incapable of discriminatory site selection within the City of Chicago.

Furthermore, plaintiffs should not have to be reminded that no public housing has been built in this City since my order of July 1, 1969 because the municipal

authorities refused to approve sufficient sites for such housing and recently because of a lack of funds.

But, now that one of those obstacles has been eliminated by the Seventh Circuit's recent affirmance of my order to build housing in Chicago without City Council approval, plaintiffs have curiously raised an issue that would let the principal offender, CHA, avoid the politically distasteful task before it by passing off its problems onto the suburbs.

Therefore, for the reasons stated above and in defendant HUD's memorandum of March 30, 1973, plaintiffs' motion to consider metropolitan relief is denied. Further,

A. IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That plaintiffs' motion for summary judgment on Counts I and II of the complaint in Case Number 66 C 1460 be and hereby is granted;

B. IT IS FURTHER ORDERED, ADJUDGED AND DECREED:

That the defendant, George W. Romney, Secretary of the Department of Housing and Urban Development, his successors, his officers, agents, servants, employees, representatives, and each of them shall use their best efforts to cooperate with CHA in its efforts to increase the supply of dwelling units, in conformity with:

(a) all federal statutes applicable to the low

rent housing program;

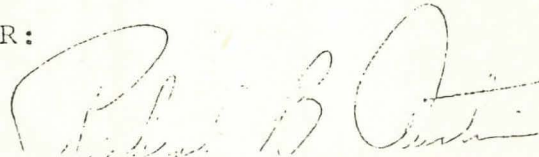
(b) rules and regulations promulgated by HUD for the administration of said program; and,

(c) the provisions of the Judgment Order entered by this court in the companion case (No. 66 C 1459) on July 1, 1969, as amended, as well as all other final, nonappealable orders entered by this court from time to time in these proceedings;

C. IT IS FURTHER ORDERED, ADJUDGED AND DECREED:

That the defendant George W. Romney, Secretary of the Department of Housing and Urban Development, his successors, officers, agents, servants, employees, representatives, and each of them are hereby permanently enjoined and restrained from approving and funding development programs for low rent family public housing in the City of Chicago which are inconsistent with the terms of this Judgment Order.

ENTER:



Judge, United States District Court

DATED: September 11, 1973

(1) The judgment order entered herein on September 11, 1973, which directs the defendant, Department of Housing and Urban Development ("HUD") to use its best efforts to cooperate with the Chicago Housing Authority to increase the supply of low-rent public housing in accordance with laws, applicable regulations and the judgment order entered herein on July 1, 1969, as amended, shall not be interpreted to preclude Housing and Urban Development

from approving a Housing Assistance Plan filed with it by the City of Chicago pursuant to the Housing and Community Development Act of 1974 if such Plan provides that,

- (a) Not less than 60% of the funds made available by HUD for annual contributions contracts and housing assistance payments contracts for use in the City of Chicago pursuant to Section 8 of Section 201(a) of the Housing and Community Development Act of 1974 shall be allocated for non-elderly housing;
 - (b) Not less than 60% of the housing units provided by the funds allocated under paragraph (a) preceding (whether newly constructed, substantially rehabilitated or existing) shall be physically located within the General Public Housing Area as defined in the Court's judgment order of July 1, 1969, as amended, and shall conform to the provisions of Article III.C, D and E and Article IV of said judgment order (except that 60% shall replace 75% in Article III.C and D and Article III.B shall not apply) as though they were Dwelling Units thereunder and had been or were to be made available by or through the Chicago Housing Authority; and
 - (c) Not less than 50% of the housing units allocated under paragraph (b) preceding shall be made available for occupancy by members of the plaintiff class in accordance with orders previously entered herein.
- (2) Except as and to the extent specifically provided in this order, this Court's judgment orders previously entered herein, as previously modified, remain in full force and effect.
 - (3) This Court retains jurisdiction of this matter for all purposes, including enforcement and the issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order

upon the presentation of relevant information with respect to proposed housing developments designed to achieve results consistent with judgment orders previously entered herein, material changes in conditions existing at the time of this order or any other matter.

ENTER:



Judge, United States District Court

Dated: May 5, 1975

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

DOROTHY GAUTREAUX, et al,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
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CHICAGO HOUSING AUTHORITY,	)	Consolidated
CARLA A. HILLS, Secretary of	)	
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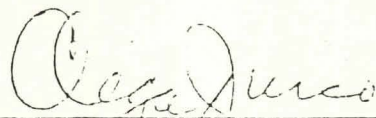
RECOMMENDATION OF MASTER

In the proceedings being conducted pursuant to the Memorandum Opinion and Reference Order of the Honorable Richard B. Austin, dated November 7, 1974, the plaintiffs have appeared before me by counsel and requested that I recommend the entry of an order in the form attached hereto. The representations advanced in support of plaintiffs' request are contained in the report of the proceedings held before me this day. The Department of Housing and Urban Development has represented to me by counsel that it does not object to the entry of the proposed order; The Chicago Housing Authority has stated its objection for the record.

Wherefore, being of the opinion that the entry of the proposed order would further the objectives of the judgment

orders previously entered in this consolidated case, I do hereby recommend that an order in the form attached hereto be entered by the District Court. The foregoing is an interim recommendation only and is not the final Report of the Special Master called for by the reference order of November 7, 1974.

Respectfully submitted,



Magistrate, ~~United States~~ District Court

Dated: May 5, 1975



FULL TEXT OF AGREEMENT BETWEEN PLAINTIFFS AND HUD CONCERNING
IMPLEMENTATION OF GAUTREAUX SUPREME COURT DECISION

Mr. Alexander Polikoff, Esquire
109 North Dearborn Street
Chicago, Illinois 60602

Dear Mr. Polikoff:

Subject: The *Gautreaux* Litigation

This letter will confirm the understandings which, subject to submission for consideration by the District Court, HUD and the plaintiffs intend to carry out. It is intended that the steps set forth in this letter will enable the Court and the parties to the litigation to consider metropolitan-wide relief at a future point in time on a more informed basis. Neither the plaintiffs nor HUD make any representations as to what their respective positions ultimately will be regarding metropolitan-wide relief.

The said understandings are as follows:

1. HUD will develop a one year Section 8 demonstration program intended to house approximately 400 plaintiff class families in existing housing throughout the Chicago Standard Metropolitan Statistical Area (SMSA) along the following lines:

a. Not more than 25% of the families to be housed under this demonstration may locate in any portion of the City of Chicago or in minority areas (to be designated by agreement between HUD and the plaintiffs) of the Chicago SMSA outside of the City of Chicago. To the extent that any such families locate in the City of Chicago, it is understood that the units in which such families would be housed will be subject to existing court orders and should be treated as a separate category of units under those orders.

b. HUD will enter into a contract with the Leadership Council for Metropolitan Open Communities under which the Leadership Council will provide the services of approximately six professional and three clerical employees to locate, counsel and assist members of the plaintiff class to find existing units, and locate owners of housing willing to participate in the demonstration program. It is intended that the Leadership Council's activities will commence on or about July 1, 1976.

c. The Leadership Council will contact members of the plaintiff class in numbers and pursuant to a method to be determined, and will counsel and assist families who respond. These activities will be designed to house approximately 40 new subsidized families per month after the first few months.

d. The 400 units will not be allocated among the counties, but tentative goals for distribution of such units among the counties are: approximately 100 to 150 units for Cook County, approximately 25 to 40 units for each of the other 5 counties in the Chicago SMSA and 0 to 100 units for Chicago plus designated minority areas outside Chicago. It is intended that families be located in each county in a dispersed fashion.

e. All housing authorities in the SMSA will be given the opportunity to participate. Participating housing authorities will inspect units prior to occupancy, assist in initial occupancy, execute and administer the subsidy contract with owners, and perform the other functions of housing authorities under the Section 8 existing housing program. Housing authorities will receive the established 8 1/2% fee. The initial occupancy fee will be set at \$100, subject to adjustment by HUD, in view of the

fact that services funded by HUD will be provided by the Leadership Council as referred to above. In areas where no housing authority has been organized or where an existing housing authority declines to participate, HUD will perform or cause to be performed the functions assigned to housing authorities under the Section 8 existing housing program.

f. HUD will amend annual contribution contracts with participating housing authorities to add the contract authority necessary to fund in full the additional number of units which each housing authority administers pursuant to the demonstration program.

2. Funding of the Chicago Housing Authority Section 8 existing housing program, as distinguished from the demonstration program under paragraph 1 above, is outside the scope of this letter. It is HUD's intention to provide additional authority to CHA for its Section 8 existing housing program to be used in accordance with such orders as are applicable in the Gautreaux litigation. In this connection, HUD initially plans to make available to CHA in the near future authority for approximately 875 family units of Section 8 existing housing.

3. Prior to June 30, 1977, HUD may invite further applications for additional authority for Section 8 existing housing programs in the SMSA outside of the City of Chicago up to the following amounts without imposition of any additional requirements or conditions by reason of the Gautreaux litigation: 1250 units on or before June 30, 1976; 500 units between July 1, 1976, and September 30, 1976; no units between October 1, 1976, and December 31, 1976; 500 units between January 1, 1977, and March 31, 1977; and 500 units between April 1, 1977, and June 30, 1977. Any units not provided to housing authorities by the close of the specified periods may be provided in the subsequent periods. Prior to June 30, 1977, HUD will not invite applications for Section 8 existing housing units in excess of the above without the consent of the plaintiffs.

4. HUD may proceed to advertise for approximately 1500 additional units of Section 8 new construction and substantial rehabilitation in the Chicago SMSA of which approximately 900 will be family units. With respect to said Section 8 family units, HUD will encourage but not require developers responding to the advertisement or subsequent readvertisements prior to June 30, 1977, to make special efforts to house members of the plaintiff class. Prior to June 30, 1977, or such earlier date as plaintiffs file a pleading against HUD covered by paragraph 8, HUD will not advertise further Section 8 new construction or substantial rehabilitation units in the Chicago SMSA without the consent of plaintiffs.

5. HUD shall be free to transfer Section 8 authority currently allocated for use in the Chicago SMSA to the Illinois Housing Development Authority (IHDA), and to allocate additional authority to IHDA for use in the Chicago SMSA, prior to June 30, 1977, all subject to the continued existence of arrangements acceptable to the plaintiffs for the marketing of Section 8 units in the IHDA projects in which such authority is utilized.

6. Plaintiffs and HUD agree to explore actively the possibilities of housing members of the plaintiff class through utilization of the FHA multifamily program, the program to provide Section 8 assistance to multifamily projects in need of further financial assistance, and the programs for disposition of

HUD acquired projects, as well as any other programs which are implemented by HUD prior to June 30, 1977.

7. Plaintiffs and HUD agree to work actively toward development of a conceptual framework for the ultimate disposition of the pending suit, for future use by the Court and the parties.

8. Plaintiffs agree to postpone seeking a metropolitan-wide relief order from the District Court for nine months from July 1, 1976, while the foregoing steps are implemented. After the expiration of the said nine month period, plaintiffs will be free to file pleadings in the Gautreaux litigation seeking metropolitan-wide relief or relief preliminary to metropolitan-wide relief, provided that in the event such a pleading is filed between April 1, 1977, and June 30, 1977, HUD shall be entitled to terminate the operation of the demonstration program under paragraph 1 above, and HUD's encouragement efforts under paragraph 4 above. Nothing in this paragraph 8 shall prevent plaintiffs from filing pleadings at any time seeking any type of relief from the Chicago Housing Authority, provided that any motion or pleadings seeking judicial relief to require the Chicago Housing Authority to seek authorization to operate housing programs outside of the City of Chicago and filed prior to June 30, 1977, shall be delivered in final draft to HUD at least 60 days prior to filing to enable HUD to determine what action to take in the Gautreaux litigation and under this letter, and provided further, that the subsequent filing by plaintiffs of such pleadings prior to June 30, 1977, shall relieve HUD of any obligation to continue operation

thereafter of the demonstration program under paragraph 1, above, or to continue encouragement efforts under paragraph 4, above, but shall not limit or terminate any rights of HUD under this letter. Any unobligated Section 8 authority for new construction or substantial rehabilitation under paragraph 4 shall continue to be exempt after June 30, 1977, from plaintiffs' efforts in litigation to obtain metropolitan-wide relief, but only to the extent that such unobligated Section 8 authority is subsequently obligated pursuant to advertisements or readvertisements made prior to June 30, 1977. Commencing July 1, 1977, or the date on which HUD terminates the demonstration program or encouragement efforts pursuant to this paragraph 8, based upon a pleading filed by plaintiff on or after April 1, 1977, unobligated Section 8 authority for existing housing under paragraph 3 shall not thereafter be exempt from plaintiffs' efforts in litigation to obtain metropolitan-wide relief.

Sincerely,

/s/Robert R. Elliott

Robert R. Elliott
General Counsel

Accepted:

/s/Alexander Polikoff
Alexander Polikoff

Date: June 7, 1976

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

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Plaintiffs,	)	
	)	Nos. 66 C 1459
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Carla A. Hills, Secretary of the	)	
Department of Housing and Urban	)	
Development, et al.,	)	
	)	
Defendants.	)	

NOTICE

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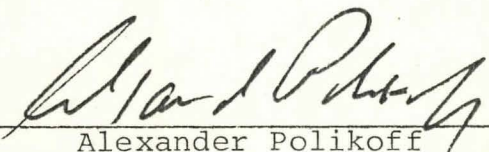
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PLEASE TAKE NOTICE that on Tuesday, March 15, 1977 at the opening of Court or as soon thereafter as counsel may be heard, I will appear before the Honorable Judge John Powers Crowley in the courtroom usually occupied by him in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or before such other judge as may be sitting in his place and stead, and then and there present plaintiffs' Motion for Leave to File Status Report, a copy of which Motion and Status Report are hereby served upon you.

Respectfully submitted,

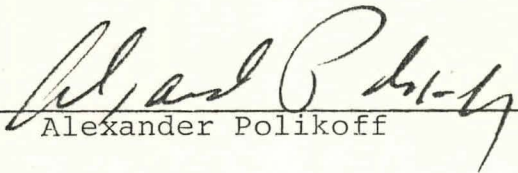


Alexander Polikoff
One of the Attorneys for Plaintiffs

March 8, 1977

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for plaintiffs, hereby certifies that he served copies of the foregoing Notice, Motion and Status Report referred to therein upon the persons named in the Notice by mailing a copy of same to them in the United States mail, postage prepaid, at the addresses shown on the Notice this 8th day of March, 1977.


Alexander Polikoff

Alexander Polikoff
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