Feb. 22, 1978

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

DOROTHY GAUTREAUX, et al. Plaintiffs, v. CHICAGO HOUSING AUTHORITY, PATRICIA ROBERTS HARRIS, Secretary of Department of Housing and Urban Development, et al., Defendants,	)	No. 66 C 1459 66 C 1460 (Consolidated)

MOTION

Defendant, Patricia Roberts Harris, Secretary, Department of Housing and Urban Development, by her attorneys, and pursuant to paragraph (3) of the order of this Court entered on May 5, 1975, hereby moves the Master to make a recommendation to the Court in substantially the form attached hereto. The purpose of defendant's motion, seeking a recommendation by the Master, is to exempt the operation and administration of the Section 8 substantial rehabilitation program (Section 8 of the United States Housing Act of 1937, as amended) from the requirements in paragraphs 1(b) with respect to location of projects, and in paragraph 1(c), to reduce from 50 percent to 20 percent the minimum number of units that must be made available to plaintiffs in Section 8 new construction and/or substantial rehabilitation projects in the City of Chicago.

In support of this motion, Defendant Harris represents that,

(a) Rehabilitation of existing housing units improves the existing housing stock without adding new housing units which might otherwise increase minority concentration;

(b) The limited public housing area of the City of Chicago (as defined in the Court's previous orders) contains many of the properties in the City of Chicago most suitable for rehabilitation, and also contains many of the areas of the City of Chicago with the greatest potential for revitalization;

(c) Rehabilitation of the existing housing stock is an important part of the goals of the U. S. Department of Housing and Urban Development for helping to achieve revitalization of urban areas in general, and of the City of Chicago in particular;

(d) During the 1978 federal fiscal year beginning on October 1, 1977, over 5.5 million dollars have been made available for the rehabilitation of over 1,000 housing units in the City of Chicago under the Section 8 substantial rehabilitation program (24 CFR Part 881);

(e) Previous experience under the Section 8 substantial rehabilitation program in Chicago indicates that rehabilitation on the scale contemplated and desired by HUD may not be achieved under the locational restrictions contained in existing orders in this case; and

(f) Apart from such locational restrictions, the defendant will continue to consider and review applications for assisted housing projects under the Section 8 substantial rehabilitation program in the City of Chicago in accordance with all program requirements that apply on a national level (including the requirement that sites and neighborhoods be suitable from the standpoint of facilitating and furthering full compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063), and an applicant must satisfy appropriate criteria for determining that the site of a proposed rehabilitation project shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons.

Defendant also represents that it is undertaking certain efforts pursuant to a letter agreement (copy attached) dated July 29, 1977, as amended, with the plaintiffs which are intended to expand the opportunities for members of the plaintiff class to live in housing assisted under Section 8 new construction and/or substantial rehabilitation housing assistance payments programs throughout the Chicago metropolitan area, and that modification of the existing order respecting access for members of the plaintiff class to such assisted housing in the City of Chicago is desirable to provide consistency between provisions applicable in the metropolitan area outside Chicago and provisions applicable to similar assisted housing within the City of Chicago.

Defendant further represents that it has discussed the modifications of court orders hereby proposed with attorneys for the plaintiffs, who agree that the interests of the plaintiff class will be served by the modifications proposed.

Wherefore defendant respectfully moves the Master to recommend to the Court entry of an order in the form proposed herewith.

Respectfully submitted,

Richard J. Flando

RICHARD J. FLANDO
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U. S. Department of Housing and
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John Jensen

JOHN JENSEN
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FEB. 22, 1978

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THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

July 29, 1977

Mr. Alexander Polikoff
Business and Professional People
for the Public Interest
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. This letter supplants the letter of understanding from Robert R. Elliott, then General Counsel of HUD, to you, dated June 7, 1976, as extended on June 29, 1977 and further extended on July 15, 1977, and July 21, 1977, and the provisions of that letter are deemed to be replaced by those contained herein. It is intended that the steps set forth in this letter will further 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 continue the development of the demonstration program initiated pursuant to paragraph 1 of the letter of June 7, 1976, to provide plaintiff class families with housing assistance throughout the Chicago Standard Metropolitan Statistical Area (Chicago 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 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 which will amend Contract H-4086, dated August 6, 1976, previously entered into between HUD and the Leadership Council pursuant to the letter of June 7, 1976. Under the amended contract the Leadership Council will initially provide the services of approximately 6 professional and 3 clerical employees to locate, counsel and assist members of the plaintiff class to find housing units, and to locate owners of housing willing to participate in the demonstration program. It is expected that the numbers of families to be counseled and units to be made available will increase over the period of the amended contract, and the provisions of the amended contract will provide that the number of such employees may increase, subject to the approval of the Government Technical Representative, to approximately 12 professional and 5 clerical employees by December 31, 1978, as the number of available units and families to be counseled indicates is appropriate.

(c) The Leadership Council will contact members of the plaintiff class substantially in accordance with the practice developed under Contract H-4086, and will counsel and assist families who respond.

(d) It is intended that units to be made available to members of the plaintiff class under this demonstration program during the period July 1, 1977 to December 31, 1978 will be supplied as follows:

(i) After August 5, 1977, HUD will make available for the demonstration program, funds for no fewer than 500 units under the Section 8 Housing Assistance Payments Program -- Existing Housing among the counties in the Chicago SMSA (including any unutilized portion of the 400 units previously allocated pursuant to the letter of June 7, 1976). The tentative goals for distribution of such units among the counties are: approximately 150 units for Cook County, 145 units for DuPage County, 20 units for each of the other four counties in the Chicago SMSA, and 0-125 units for Chicago plus designated minority areas outside Chicago. It is intended that families be located in each county in a dispersed fashion.

Subject to the provisions of Contract H-4156 between HUD and the Fair Housing Center of Home Investments Fund, entered into pursuant to the letter of June 7, 1976, all public housing authorities in the Chicago SMSA will be given the opportunity to participate in the Section 8 Housing Assistance Payments Program — Existing Housing referred to above. Participating public housing authorities will provide for (1) the inspection of units prior to occupancy, (2) assistance in initial occupancy, (3) execution and administration of the Housing Assistance Payments Contract with owners, and (4) performance of the other functions of public housing authorities under the Section 8 Housing Assistance Payments Program — Existing Housing other than those functions being performed by the Leadership Council under Contract H-4086. Public 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 public housing authority has been organized or where an existing public housing authority is unable or unwilling to participate, HUD will perform, by amendment or extension of Contract H-4156 with the Fair Housing Center of Home Investments Fund, or will otherwise provide for the performance of the functions normally assigned to public housing authorities under the Section 8 Housing Assistance Payments Program — Existing Housing.

HUD will amend Annual Contributions Contracts with participating public 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.

(ii) After July 1, 1977, HUD will make available to members of the plaintiff class a total of no fewer than 500 units through the Section 8 Housing Assistance Payments Program — New Construction and/or Substantial Rehabilitation and the

Traditional Public Housing Program among the counties in the Chicago SMSA. The availability of these units will be assured through marketing arrangements reasonably acceptable to the plaintiffs for all units funded in the Chicago SMSA under (1) Set-asides for state housing finance and/or development agencies under the Section 8 Housing Assistance Payments Program, (2) Notices of Fund Availability (NOFAs) for New Construction and/or Substantial Rehabilitation under the Section 8 Housing Assistance Payments Program and (3) Notices of Housing Assistance Availability (NOHAAs) under the Traditional Public Housing Program. No more than 25% of the units in any single project funded under this subparagraph d(ii) shall be required to be made available to members of the plaintiff class.

(iii) HUD agrees to establish promptly (but in any event not later than October 1, 1977,) a special set-aside of not fewer than 500 units under the Section 8 Housing Assistance Payments Program — New Construction and/or Substantial Rehabilitation for use in multifamily projects located in the Chicago SMSA and insured under Section 221(d)(4) of the National Housing Act. HUD will encourage sponsors of all Section 221(d)(4) projects in the Chicago SMSA to enter into an Agreement to Enter Into Housing Assistance Payments Contract for 20 percent of the units in each such project and will accord a priority in processing applications for mortgage insurance to all such sponsors who so agree as well as to other sponsors whose applications for insurance involve the utilization of housing assistance under the Section 8 Housing Assistance Payments Program. Twenty percent, but no fewer than three of the assisted units in each such project participating in this special Section 8 set-aside program, shall be made available to members of the plaintiff class through marketing arrangements, reasonably acceptable to the plaintiffs. Such availability to members of the plaintiff class will be provided through arrangements with mortgagors for the notification of the Leadership Council 30 days in advance of initial marketing and acceptance of applications for occupancy and for making the requisite number of units available to members of the plaintiff class referred by the Leadership Council during such 30 day period on the same terms as to the qualifying public at large, provided that no mortgagor will be expected to keep units available beyond such 30 day preoccupancy period. Any units occupied by members of the plaintiff class pursuant to such arrangements shall be counted toward the minimum goal of 500 units established in subparagraph (d)(ii) hereof.

2. Funding of the Chicago Housing Authority Section 8 Housing Assistance Payments Program -- Existing Housing, as distinguished from the demonstration program under paragraph 1 above, is outside the scope of this letter.

3. Prior to December 31, 1978, HUD may use additional contract authority for the Section 8 Housing Assistance Payments Program -- Existing Housing in the Chicago SMSA outside of the City of Chicago for up to 5500 units without imposition of any additional requirements or conditions by reason of the Gautreaux litigation. Prior to December 31, 1978, HUD will not use additional contract authority for the Section 8 Housing Assistance Payments Program -- Existing Housing in excess of the above without the consent of the plaintiffs.

4. Prior to December 31, 1978, or such earlier date as plaintiffs file a pleading against HUD covered by paragraph 7, HUD will not for the Chicago SMSA (a) fund the programs referred to in paragraph 1(d)(ii) hereof except pursuant to the arrangements reasonably acceptable to the plaintiffs referred to in said paragraph; or (b) obligate or otherwise permit housing assistance funds (Section 8 Housing Assistance Payments Program -- New Construction and/or Substantial Rehabilitation or Traditional Public Housing Program) to be used for elderly units as compared with non-elderly (family and large family) units other than in the same proportion as the three year goals by household type identified in the composite of all approved Housing Assistance Plans (HAPs) in the Chicago SMSA; provided that, funding of elderly units may be in excess of such proportion if it is demonstrated to the satisfaction of HUD that the community in which such units are proposed to be located is making substantial progress in meeting the lower income housing needs of non-elderly families and funding of such elderly units conforms to any applicable HAP. Without limiting the foregoing, HUD will consult with the plaintiffs if it proposes to issue NOFAs or NOHAAs or make Set-asides to state housing finance and/or development agencies in the

Chicago SMSA which do not condition the funding of elderly units upon the provision of non-elderly units.

5. Plaintiffs and HUD agree to explore actively all possibilities of housing, members of the plaintiff class through utilization of the programs referred to in paragraph 1(d) hereof and any further programs which are implemented by HUD prior to December 31, 1978.

6. Plaintiffs and HUD agree to work actively and to cooperate during the term of this agreement to develop a framework for the ultimate disposition of the pending suit, for future use by the court and the parties. Development of such a framework requires the generation and/or organization of data and the evaluation of at least the following factors: the size, socio-economic characteristics and housing preferences of the plaintiff class; the relative cost effectiveness of the demonstration program and other efforts contemplated by this agreement to provide housing opportunities in the Chicago SMSA for members of the plaintiff class outside areas of minority racial concentration; and the appropriate allocation between the City of Chicago and the remainder of the Chicago SMSA of funds and efforts pursuant to these programs or other alternative programs for providing a remedy to members of the plaintiff class.

7. Plaintiffs agree to postpone seeking a metropolitan-wide relief order from the District Court for twelve months from July 1, 1977, while the foregoing steps are implemented. After the expiration of the said twelve month period, plaintiffs will be free to file pleadings in the Gautreaux litigation seeking metropolitan-wide relief or relief preliminary to metropolitan-wide relief. Nothing in this paragraph 7 shall prevent plaintiffs from filing pleadings at any time seeking any type of relief from the Chicago Housing Authority, provided that any motion or pleading 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 December 31, 1978, 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. The filing of such a pleading seeking metropolitan-wide relief, or of such a pleading against the Chicago Housing Authority, shall not limit or terminate any rights of HUD under this letter but shall relieve HUD of any obligation to continue operation thereafter of the demonstration program under paragraph 1 above, except only that HUD shall remain obligated to continue such program with respect to such of the units to be made available to members of the plaintiff class under subparagrahs 1(d)(ii) and 1(d)(iii) hereof as are in projects for which (1) Set-aside contract authority for

state housing finance and/or development agencies under the Section 8 Housing Assistance Payments Program has been committed, (2) Section 8 Housing Assistance Payments Program ACC/HAP Contract Lists have been executed, (3) Traditional Public Housing Program ACC Lists have been executed or (4) firm commitments to insure a mortgage under the Section 221(d)(4) Program have been issued on or prior to the date of filing such pleading, and modification, if appropriate, of Contract H-4086 shall be made to provide for such continuation. Commencing January 1, 1979, or the date on which HUD terminates the demonstration program based upon a pleading filed by plaintiffs on or after July 1, 1978, unobligated Section 8 Housing Assistance Payments Program -- Existing Housing contract authority under paragraph 3 shall not thereafter be exempt from plaintiffs' efforts in litigation to obtain metropolitan-wide relief.

8. In the event the demonstration program is not (by subsequent agreement) continued after December 31, 1978, HUD shall continue such program with respect to such of the units to be made available to members of the plaintiff class under subparagraphs 1(d)(ii) and 1(d)(iii) hereof as are in projects for which (1) Set-aside contract authority for state housing finance and/or development agencies under the Section 8 Housing Assistance Payments Program has been committed, (2) Section 8 Housing Assistance Payments Program ACC/HAP contract lists have been executed, (3) Traditional Public Housing Program ACC Lists have been executed or, (4) firm commitments to insure a mortgage under the Section 221(d)(4) Program have been issued on or prior to such date, and modification, if appropriate, of Contract H-4086 shall be made to provide for such continuation.

Sincerely,

Ruth T. Prokop

Ruth T. Prokop

Accepted:

Alexander Polikoff

Alexander Polikoff

Date: July 29, 1977

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

September 8, 1977

Mr. Alexander Polikoff
Business and Professional People
for the Public Interest
109 North Dearborn Street
Chicago, Illinois 60602

Dear Mr. Polikoff:

Subject: The Gautreaux Litigation

This letter will supplement our letter of understanding signed on July 29, 1977, in order that Paragraph 1(a) may be modified to reflect the intent of HUD and the plaintiffs.

Paragraph 1(a) is hereby corrected to read as follows:

> (a) Not more than 25% of the families to be housed under Subparagraph 1(d)(i) of 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 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.

It is further agreed by HUD and the plaintiffs that all other terms and provisions of the July 29, 1977 letter of understanding should remain in full force and effect and it is not the intention of the parties to modify the letter of understanding other than as provided above.

Sincerely,

Ruth T. Prokop

Ruth T. Prokop

Accepted:

Alexander Polikoff

Alexander Polikoff
Date: 9/14/77

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

February 13, 1978

Mr. Alexander Polikoff
Business and Professional People
for the Public Interest
109 North Dearborn Street
Chicago, Illinois 60602

Re: The Gautreaux Litigation

Dear Mr. Polikoff:

This letter will modify our letter of understanding signed on July 29, 1977, as supplemented on September 8, 1977, in order that mortgagors utilizing the special set-aside of Section 8 Housing Assistance Payments Program--New Construction and/or Substantial Rehabilitation units established in paragraph 1(d)(iii) will not be precluded from applying to the Government National Mortgage Association (GNMA) under its Program 25 described in the GNMA Sellers Guide at Chapter 9, page 140.1, section 925 (dated February 16, 1978).

Paragraph 1(d)(iii) is hereby amended by changing the number "20" to "21" in the second sentence of that paragraph. That sentence as amended will read as follows:

> "HUD will encourage sponsors of all Section 221(d)(4) projects in the Chicago SMSA to enter into an Agreement to Enter Into Housing Assistance Payments Contract for 21 percent of the units in each such project and will accord a priority in processing applications for mortgage insurance to all such sponsors who so agree as well as to other sponsors whose applications for insurance involve the utilization of housing assistance under the Section 8 Housing Assistance Payments Program."

It is further agreed by HUD and the plaintiff that all of the terms and provisions of the July 29, 1977 letter of understanding as supplemented on September 8, 1977, should remain in full force and effect and it is not the intention of the parties to modify the letter of understanding other than as provided above.

Sincerely,

Ruth T. Prokop

Accepted:

Alexander Polikoff

Dated: 2/14/78