

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable JOHN POWERS CROWLEY

Cause No. 66 C 1459
66 C 1460

Date May 19, 1978

Title of Cause GAUTREAUX v. CHA

Brief Statement of Motion Ruling on objections to interim report of Master
and on plaintiff's motion re consultation with expert

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel

Representing

Names and Addresses of other counsel entitled to notice and names of parties they represent.

Reserve space below for notations by minute clerk
Ruling held. Defendants' objections to the submission
of the Master's Report are overruled. Plaintiffs' motion
for an order authorizing the master to employ and consult
an expert is granted. (see TWO DRAFTS for particulars)

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	NO. 66 C 1459
	)	66 C 1460
GEORGE W. ROMNEY and	)	
CHICAGO HOUSING AUTHORITY,	)	
et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OPINION AND ORDER

John Powers Crowley, District Judge

On November 7, 1974, Judge Austin referred this litigation to a master for purposes of recommending to the Court "a plan of action that will expedite the realization of my various orders and judgments." Gautreaux v. Chicago Housing Authority, 384 F. Supp. 37 (N.D. Ill., 1974). These orders and judgments, of course, were those directed at the location of public housing in Chicago. In her most recent report to this Court, the Master has recommended that an expert in the area of urban housing be employed and consulted in preparation for the Master's final report. Pursuant to this proposal, plaintiff has filed a motion for the appointment of an expert to report to the Master.

Defendant, Chicago Housing Authority (CHA) strongly objects to the plaintiffs' motion.

CHA's objection to plaintiffs' motion to appoint an expert is based on the Seventh Circuit's opinion in CHA v. Austin, 511 F. 2d 82 (7th Cir., 1975), in which the original order of reference was challenged. In Austin, the Seventh Circuit upheld the reference by narrowly construing its scope. Though the reference contained certain ambiguous language as to the Master's role, the Seventh Circuit observed that "the District Court appears to be seeking assistance in exploration of possible alternative courses in a difficult area" and that Judge Austin had properly retained the authority to make the final determination. 511 F. 2d at 83.

Preliminarily, this court makes two observations: (1) the Seventh Circuit specifically stated that it was not deciding the question of the propriety of the order of reference. The case was decided simply on the narrow question of whether the extraordinary remedy of mandamus was appropriate; and (2) that portion of the reference which provided that the Master could employ and consult with "persons... who possess specialized knowledge" was not at issue.

CHA has not asked this Court to vacate Judge Austin's order. To do so would violate the notion that courts of

concurrent jurisdiction do not sit in review of each other's orders. Rather CHA's objections go to the scope of the order and compliance with its terms. Specifically at issue are the closing lines of the order of reference which provide that:

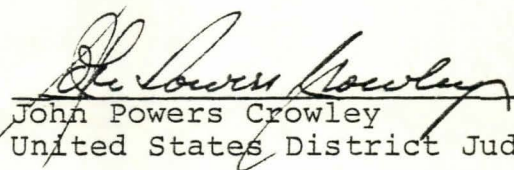
the Master, with the Court's approval, may employ, and consult with, such persons as he deems necessary for the performance of his prescribed duties, including particularly persons not affiliated with any of the parties, who possess specialized knowledge concerning federal subsidized housing programs. 384 F. Supp. at 38.

The CHA's objection to consultation with an expert is that the Master cannot do by indirection that which she is prohibited from doing directly. This, of course, is true. However, consultation with an expert, in this case, is no more intrusive on judicial authority than was the original reference to the Master.

The purpose of the expert in this case is not to make findings of fact, but is merely to assist the Master in her report to this Court with respect to an appropriate remedy. See: Armstrong v. O'Connell, 416 F. Supp. 1325 (E.D. Wisc., 1976). It does not involve, as in LaBuy v. Howes Leather Co., 352 U.S. 249 (1957), an attempt to refer an entire trial on the merits to the Master. Rather the

questions to which the expert will address himself are narrowly defined and involve particularized issues. The parties will at all times participate in the expert's inquiry, be given notice of precisely what recommendations will be made to this Court, and be able to frame their objections to the final report accordingly. See, Mathews v. Weber, 423 U.S. 269 (1976). CHA's fear that the experts inquiry will result in factual findings upon which a contempt citation might be based is unfounded in the absence of pleadings to that affect. CHA v. Austin, 511 F. 2d 82, 83 (7th Cir., 1975).

Accordingly, defendants' objections to the submission of the Master's Report are overruled. Plaintiffs' motion for an order authorizing the master to employ and consult an expert is granted.


John Powers Crowley
United States District Judge

DATED: May 19, 1978.