

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

RECEIVED

DEC 19 1997

Judge Marvin E. Aspen
U.S. District Court

DOROTHY GAUTREAUX, et al.,)
)
Plaintiffs,)
)
v.) 66 C 1459
)
CHICAGO HOUSING AUTHORITY,)
)
Defendant.)

**PLAINTIFFS' RESPONSE
TO
CHA EMERGENCY MOTION TO CLARIFY INJUNCTION**

Part I of this Response clarifies the issue presented by CHA's motion. Part II responds to the four arguments advanced in support of the motion, and shows that the development of new public housing funded by HOPE VI is subject to the judgment order. Part III, together with the affidavits of Professor Paul Fischer and Philip Hickman attached as Exhibits A and B, respectively, shows that even were the Court to adopt CHA's view that HOPE VI-funded new public housing is not now subject to the judgment order, plaintiffs would be entitled to have the Court adjust the remedy in this case so as to embrace such housing. Part IV shows that the judgment order, applied to HOPE VI-funded new public housing, implicates no separation of powers or federalism concerns.

I. Clarification of the Issue

CHA's motion and memorandum frame the issue as whether the judgment order against CHA "govern[s] HOPE VI funding and programs," contending that "such funding and

programs are not part of the relief granted to the plaintiffs in this case." (CHA Motion 1.)

However, plaintiffs have never asserted that the judgment order governs HOPE VI "funding and programs." They have asserted only that if and to the extent CHA uses HOPE VI funding to develop new public housing, the order applies to such housing.¹ The applicability of the judgment order to new public housing does not turn on the particular HUD funding stream employed; such a constricted reading of the order would be incompatible with its remedial purpose and broad language.

The judgment order is not limited to specific HUD funding programs or specific sources of CHA funds; there is no mention of "Gautreaux development money" as it is styled in CHA's papers. The judgment order governs development of new public housing regardless of funding source:

"CHA shall not authorize, approve or implement any plan for Dwelling Units, nor . . . seek any approval or request or accept any assistance from any government agency with respect thereto . . . unless such plan affirmatively requires . . . [adherence to the locational requirements of the judgment order]." 304 F.Supp. at 738 (emphasis added).

The judgment order does, however, distinguish between newly developed and existing housing. "Dwelling Unit" is defined as an apartment or single-family residence,

"initially made available to and occupied by a low-income non-elderly family, subsequent to the date hereof, directly or indirectly by or through CHA, whether in a structure owned in whole or in part by CHA (whether or not newly constructed) or to be otherwise made available for occupancy by or through CHA to such a family." 304 F.Supp. at 737 (emphasis added).

CHA incorrectly says, "'Dwelling Unit' is defined broadly as including each and every unit of

¹ HOPE VI is a voluntary program. As discussed below, CHA has received three HOPE VI grants. As far as plaintiffs are aware, no other CHA HOPE VI applications are pending.

family public housing in the CHA system . . ." (CHA Memorandum 14.) This ignores the critical language, "initially made available . . . subsequent to the date hereof . . ." (emphasis added). The excised language draws a bright line between public housing in existence before the date of the judgment order, and that developed ("initially made available") after the date of the order. The latter (newly developed public housing, whatever its manner of development or source of funding) is subject to the judgment order; the former, whatever CHA's activities with respect to it (repair, rehabilitation, demolition, etc.) is not.

The HOPE VI program authorizes many types of activities, for example, social services, and rehabilitation and demolition of existing public housing. Plaintiffs have not asserted that the judgment order governs such activities. They contend only that to the extent HOPE VI funds are used to develop new public housing, the HOPE VI source of funding does not remove the development of such housing from the ambit of the order.

Thus, the issue before the Court is not whether the judgment order "governs CHA's HOPE VI funding and programs"; the issue is whether CHA advances any persuasive reason for removing from the coverage of the judgment order an activity -- development of HOPE VI-funded new public housing -- to which the order on its face undeniably applies.²

² While CHA purports to request "clarification" of the judgment order, what it really seeks is modification of the order to eliminate certain development activity that is presently covered. CHA's motion thus implicates the standards applicable to a defendant seeking to modify a judgment order. See U.S. v. United Shoe Machinery Corp., 391 U.S. 244, 248 (1968) ("[A] decree ... may not be changed in the interests of the defendants if the purposes of the litigation ... have not been fully achieved"). See also U.S. v. Local 560 (I.B.T.), 974 F.2d 315, 331 n. 9 (3d Cir. 1992).

II. New HOPE VI-Funded Public Housing is Subject to the Judgment Order

On what grounds does CHA contend that new public housing funded by HOPE VI should be excluded from the judgment order? Four reasons are advanced in paragraphs 3-6 of CHA's motion, supported by pages 11-18 of CHA's memorandum. First, CHA says HOPE VI was enacted after the judgment order was entered. (Motion par. 3.) Referring to the Court's recent statement that because the Section 8 program did not exist when the judgment order was entered, that program was not part of the relief provided to the plaintiff class, CHA says the Court's reasoning applies with equal force to HOPE VI (id).

Not so. Public housing was in existence in 1969, and remains public housing whether funded by HOPE VI or otherwise. The HOPE VI legislation explicitly refers to "conventional" public housing as a permitted HOPE VI activity. (CHA Exhibit B, 42 Sec. 1437l, p. 256.) HUD's HOPE VI Guidebook says the development of HOPE VI funded public housing "must be" in accordance with the familiar rules and regulations (24 CFR part 941) that govern non-HOPE VI-funded public housing. (Exhibit C, attached.) The Guidebook also authorizes such housing to be located anywhere -- the new housing need not be located on or near the site of the housing it replaces (id). In other words, HOPE VI-funded public housing remains good, old, familiar public housing, governed by the same laws and regulations as public housing funded in other ways.

Thus, the Court's reasoning respecting Section 8 not only does not apply with "equal force," it cannot be said to apply at all, to HOPE VI-funded new public housing.³

³ It would indeed be a novel application of equitable principles if defendants could avoid remedial obligations simply by changing the form of their programs. Even if HOPE VI-funded new public housing were to be viewed as a "new and further remed[y]" not covered

Second, CHA says that a prior opinion of this Court declined to extend the judgment order to reach funds planned to be spent on revitalizing existing public housing in limited areas. (Motion par. 4.)

CHA's reference is to the Court's 1991 order denying plaintiffs' motion to delay then-planned rehabilitation of four CHA high-rises in North Kenwood-Oakland.⁴ However, at issue in that instance was CHA's plan to rehabilitate existing high-rise housing (initially made available before July 1, 1969), not to develop new public housing; the Court's order turned not on the source of the rehabilitation funds, but on the fact that rehabilitation of existing public housing was not covered by the judgment order.

In contrast, when CHA's approach to revitalizing existing public housing in a limited area did involve demolition of existing and replacement with new public housing, all parties joined in seeking an order from this Court authorizing the Receiver to construct eighteen replacement public housing units in Lawndale. This "precedent" shows that until the present controversy the parties have indeed viewed the judgment order as governing the development

by the judgment order, Freeman v. Pitts, 503 U.S. 467, 492 (1992), the Court would still have to consider the contribution such housing could make to attaining the as-yet-unachieved remedial goal in this case, and whether its "inherent capacity to adjust remedies," Freeman, 503 U.S. at 487, should therefore lead it to bring such housing within the ambit of the judgment order. This issue is discussed in Part III below, but it is one the Court need not reach because good, old, familiar public housing, whatever its funding source, is covered by the judgment order.

⁴ Plaintiffs sought an order under both the consent decree with HUD and the judgment order against CHA staying rehabilitation and directing HUD, CHA and the Receiver to cooperate in a scattered site development plan for North-Kenwood Oakland. The Court said, "[I]t is not apparent to us that plaintiffs will necessarily lose what they seek without an order from the court." (CHA Ex. I.) The Court was prescient. Following plaintiffs' Motion for Further Relief filed on August 5, 1991, and the ensuing negotiations, CHA's plan to rehabilitate the four high-rises was abandoned and scattered site construction was authorized in North Kenwood-Oakland by this Court's order of June 3, 1996. (CHA Ex. H.)

of new public housing in limited areas as replacement for to-be-demolished public housing.⁵

Third, CHA says plaintiffs' course of conduct respecting HOPE VI shows that plaintiffs themselves do not understand the judgment order to govern HOPE VI-funded new public housing. (Memo. 16.) The facts belie CHA's assertion.

The first of CHA's four HOPE VI applications was submitted in 1993 for Cabrini-Green and proposed both new (replacement) public housing as well as a variety of other activities. When, after the fact, plaintiffs and the Receiver learned that CHA had applied for HOPE VI funding for Cabrini-Green and proposed to use some of the monies for new housing, the Receiver and CHA agreed --

"that as Receiver under the court order in the Gautreaux case, you will perform the function of CHA's 'development manager' for the Cabrini-Green development program, including the HOPE VI program, similar to the manner in which you are functioning in the Henry Horner Homes development program." (Exhibit D, attached.)

After lengthy negotiations CHA declined to enter into the contemplated development management agreement; however, since the Receiver is in fact involved in the development of the new public housing portion of Cabrini HOPE VI activities, it has chosen to continue to try to work out suitable arrangements with CHA without seeking the Court's intervention.

(Receiver's Statement 7-9.)

CHA's second HOPE VI application (in 1996, for Horner/ABLA) proposed only new public housing, 200 units at ABLA and 150 at Horner. In this instance, therefore, CHA and

⁵ The Court's order of 12/10/93 actually authorized a joint venture between the Receiver and an affiliate of CHA to develop the Lawndale and certain other units. The joint venture is under the overall management of the Receiver and is further discussed below. The Model Cities decision cited by CHA in this context does not offer an analogy, for "CHA does not provide any housing, low rent or otherwise, with any funds distributed under the Model Cities Programs." Gautreaux v. Romney, 457 F.2d 124, 126 (7th Cir. 1972).

the plaintiffs executed an agreement "up front" that the HOPE VI public housing funds, if received, would only be spent upon the mutual agreement of the parties, with this Court to resolve any disagreement. (Exhibit E, attached.) Thereafter, CHA and the Receiver entered into a development management agreement for the 350 proposed HOPE VI-funded new public housing units which, among other things, provides:

"... after seeking approval from counsel for the Gautreaux plaintiffs, [Habitat] shall prepare a request to the U.S. District Court for permission to build replacement public housing in the ABLA area by declaring it a "Revitalizing Area."

(Exhibit F, attached, p. 2.)

As to CHA's third HOPE VI application (for Robert Taylor Homes, also in 1996) plaintiffs were advised by CHA that no new public housing was proposed, and therefore raised no question concerning it.⁶

Finally, in 1997 CHA's HOPE VI application for ABLA was another "mixed" request, with some funds for new public housing, some not. Plaintiffs therefore sought CHA's acknowledgment that "court orders require the Receiver to develop all public housing units, including any to be developed at ABLA, even though HOPE VI funds are used." (Exhibit G, attached.) CHA declined the requested acknowledgment, but because the CHA application was rejected by HUD there was no occasion to pursue the ABLA request further.

Far from showing that plaintiffs do not believe HOPE VI-funded new public housing is subject to the judgment order, plaintiffs' conduct demonstrates the contrary. CHA points

⁶ In the preparation of this Response plaintiffs learned that they were either misadvised by CHA or misunderstood the advice -- that new (replacement) housing was in fact proposed but not on-site. Plaintiffs are now advised that housing development has not yet begun under the Taylor application and that CHA is currently engaged in amending or refining it.

out that plaintiffs have not objected to CHA's HOPE VI applications (Memo. 16), and have not treated them as subject to the judgment order. (Motion, par. 5.) This is correct; a decent respect for the limits of the judgment order requires a practical accommodation -- to which CHA initially agreed -- between CHA's entitlement to control HOPE VI funds not subject to the judgment order (e.g., for social services) and the Receiver's responsibility respecting HOPE VI-funded new public housing that is subject to the order. Moreover, the applicability of the judgment order cannot be determined definitively at the HOPE VI application stage; HOPE VI applications, once granted, may be and have been subsequently amended before a final commitment of funds. (Thus HUD only raised the question of this Court's approval at a stage of the Cabrini HOPE VI process that followed the initial application by several years.)⁷

Fourth, CHA says "[t]he proper interpretation of the judgment order is that it has no application to the revitalization of existing public housing in Limited Areas, the activities funded by the HOPE VI program." (Motion par. 6.) This is true with respect to HOPE VI dollars devoted to other activities than new public housing, since the judgment order does not cover such other activities. However, as the Lawndale and Horner instances (among others) illustrate, to the extent revitalizing public housing in limited areas is to be accomplished by replacing it with new public housing, the judgment order does apply to the development of

⁷ CHA also strives to base an argument upon our reference to the impending exhaustion of scattered site funding. (Memo. 16.) But our explicit reference, which CHA ignores, was to "incremental funding" as one of two "principle" remedial mechanisms. (Plaintiffs' Motion filed 3/21/97, p. 2.) As the Fischer and Hickman affidavits show, incremental funding accounts for over 2,500 remedial units, whereas replacement housing funding and HOPE VI funding account for fewer than 1,000 units each. CHA's "argument" would of course apply as well to the replacement housing funding (Hickman affidavit, par. 3), much of which has already been subjected to this Court's orders.

such new housing.

CHA also incorrectly "interprets" the judgment order as limited to "regulation of the aggregate increase in the supply of CHA's housing stock." (Memo. 13-14, 16.) There is no basis for this "aggregate increase" theory, either in the language of the judgment order or in the practice of the parties. There was no "aggregate increase" in connection with the Court's Lawndale or Henry Horner orders (the aggregate number of units in each case remained unchanged), and in North Kenwood-Oakland there is to be an aggregate decrease from the several hundred units to be demolished to 241 new units to be provided.⁸

* * *

Thus, CHA's four arguments are misdirected to a circumstance that does not exist -- an imagined attempt by plaintiffs to govern or control HOPE VI funding for social services, demolition and other activities. With respect to the use of HOPE VI funding for new public housing, the arguments fail completely to support CHA's theory that the judgment order does not apply to new public housing which is (a) to be provided in limited or revitalizing areas as replacement for housing to be demolished, or (b) which is funded by some new or different HUD funding stream than the one or ones in existence in 1969.

⁸ CHA cites Youakim v. McDonald, 71 F.3d 1274 (7th Cir. 1995), cert. denied, 116 S.Ct. 2571 (1996). Youakim is indeed relevant. It says injunctions must be construed, like other disputed writings, in their proper context, and that courts will at times find that conduct violates an injunction if it threatens the spirit if not the literal language . . ." 71 F.3d at 1283. Of particular relevance is Youakim's admonition to pay "proper heed to the nature of plaintiffs' claim in the underlying litigation . . ." Id. at 1285. Here plaintiffs claim was about the location of CHA's new public housing; it had nothing to do with the particular funding stream for the housing.

A final point bears on all four of CHA's arguments, singly and collectively. The judgment order is not a consent decree to be construed or "interpreted" as a bargain between parties. It is a remedial desegregation order entered after an adjudication of liability. Such an order is "designed as nearly as possible 'to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct.'" Missouri v. Jenkins, 515 U.S. 70, 88 (1995), quoting Milliken v. Bradley, 418 U.S. 717, 746 (1974). The position victims in this case "would have occupied" is that of having a choice of public housing located in white or integrated as well as black neighborhoods. The judgment order seeks to provide that choice, over time, by requiring portions of new public housing to be provided in white or integrated neighborhoods and, more recently, in revitalizing areas as well.⁹

If enough public housing, properly located to bring about "restoration," has not yet been provided, the Court may ask whether HOPE VI-funded new public housing can

⁹ For example, respecting the Horner Revitalizing Area the Court said:

"The Court being cognizant that the principle remedial purpose of the orders previously entered in these consolidated cases has been and is to provide plaintiff class families with desegregated housing opportunities; and

The Court also being cognizant that on occasion it has permitted public or assisted housing to be provided in census tracts other than the General Public Housing Area upon a sufficient showing of "revitalizing" circumstances such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made; and

The Court being of the view that such a forecast can be made with respect to the HRA if the terms and conditions of this order are met . . ."
(Order of August 14, 1995, p. 2.)

As the Court knows, the terms and conditions included a requirement for mixed-income tenancy.

contribute to reaching the as-yet-unachieved remedial objective. We address this question in Part III below.

III. HOPE VI-Funded New Public Housing is Needed to Reach the Unachieved Remedial Goal in this Case and Should Therefore be Subject to the Judgment Order

Should the Court adopt CHA's view that the development of HOPE VI-funded new public housing is a "new and further remedy" under Freeman v. Pitts, 503 U.S. 467, 492 (1992), not covered by the judgment order, that would not end the inquiry. Because such housing is needed to provide plaintiffs the relief to which the Court has already determined they are entitled, the Court should in that event subject such housing to the requirements of the judgment order.

The attached affidavits of Professor Paul Fischer (Exhibit A) and Philip Hickman (Exhibit B) provide data respecting CHA's family public housing in operation or under construction as of November 26, 1997. In 1969 Judge Austin determined that, excluding four segregated White projects, housing units located in census tracts between 50% and 100% Black represented 99-1/2% of CHA's total family units then in operation or development. 296 F. Supp. at 910. This determination was a predicate for Judge Austin's liability determination and for the subsequent entry of the judgment order. 296 F. Supp. at 910; 304 F. Supp. at 737. Making "conservative" (i.e., favorable to CHA) assumptions, the comparable percentage as of November 26, 1997 is 85.2%.¹⁰ Thus, although some progress has been

¹⁰ CHA's total family units in operation or under construction as of 11/26/97 were 31,873. Sections I-V of Fischer Exhibit X. The units in census tracts between 50 and 100% Black were 27,149, consisting of units so located shown in Sections I and II, and the 18

made, there remains a long way to go before the vestiges of CHA's segregated system will be eliminated. Since virtually all of today's units located in Black neighborhoods are the identical units found by Judge Austin to have been wrongfully sited (Section I of Fischer Exhibit X), today's racial imbalance in unit location is directly and causally linked to CHA's original wrong. (The units are still overwhelmingly -- 97% -- occupied by Blacks. Exhibit H, attached.)

The Fischer and Hickman affidavits also show that CHA's constitutional violation will not be fully remedied even with all the public housing funds currently available to the Receiver, and even assuming that each of the units developed with these funds is located in a general area, or in a revitalizing area with full "credit" given. Thus, even if it is assumed that all funding for new public housing presently available to the Receiver results in the development of remedial units, more than four of every five of CHA's family units would

Lawndale units in Section V, of Fischer Exhibit X. Thus 27,149/31,873 is 85.2%.

This computation makes several assumptions favorable to CHA. First, it uses 50+% Black as the criterion for Black-area units, even though Judge Austin himself later determined that the remedial criterion should be 30%.

Second, it ignores the fact that some of the apparent "progress," that attributable to demolition, is statistical only, for while demolishing Black-area units improves the arithmetic picture it provides no remedial units.

Third, it gives CHA "credit" for all 364 replacement units in revitalizing areas. (Exhibit B, par. 3.) This treats a long term hope for racial integration as if it were a present reality. Fairer alternatives would be to omit revitalizing area units from the computation, or to give CHA "credit" for such units only as integration is achieved.

Fourth, Judge Austin excluded the four White projects from his computation but we have included them as remedial units, as well as units which because of demographic change are now in census tracts with less than 50% Black population (e.g., the 130 Cabrini Extension units in census tract 818).

still be units determined by Judge Austin to have been unlawfully sited.¹¹ Since HOPE VI is one of the few funding vehicles currently available for new public housing (Exhibit B, par. 4), to exclude HOPE VI-funded new public housing from the mix of remedial units would likely eviscerate any prospect that plaintiffs will ever receive the relief intended by the judgment order.

Under these circumstances the law is clear and compelling that plaintiffs are entitled to the "new and further" remedy (if it be so viewed). CHA has been adjudicated a constitutional wrongdoer. Green v. County School Bd., 391 U.S. 430, 435 (1968), holds that a school district so adjudicated, which has not yet fully disestablished segregation, has an ongoing mandatory responsibility to eliminate all vestiges of its dual system. Freeman makes it clear that the Green duty continues to apply to local government bodies who have not yet completely disestablished their segregated systems. Freeman, 503 U.S. at 472, 474.

In such a case a district court's duty is to enter orders that will so far as possible eliminate segregatory effects. Louisiana v. United States, 380 U.S. 145 (1965). The duty is a continuing one.

"[W]hatever [desegregation] plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed." Green, 391 U.S. at 439.

"[T]he remedial power of a federal court that adopts a desegregation plan is not thereafter limited to enforcement of the details of the original plan." United States v. Lawrence County School Dist., 799 F.2d 1031, 1043 (5th Cir. 1986).

See also, United States v. United Shoe Mach. Corp., 391 U.S. 244, 251 (1968),

¹¹ Treating all units referred to in paragraphs 2 and 3 of the Hickman affidavit as remedial units except for the 18 Lawndale units already under construction in a limited area, the arithmetic is 27,149/32,583 or 83.3%.

"If the decree has not, . . . after 10 years, achieved its 'principal objects,' . . . the time has come to prescribe other, and if necessary more definitive, means to achieve the result."

We quote at some length from the Fifth Circuit's opinion in Lawrence County because it is so relevant to CHA's basic contention that plaintiffs are entitled only to the remedial order originally issued, narrowly interpreted:

"The Board and the United States both contend that once a court orders a school board to comply with a desegregation plan the court has power only to insist on compliance with its order. The court they state, "may not grant broader and entirely different 'relief than contemplated in an extant decree previously determined by this court to be constitutionally adequate.'" . . . We do not agree.

While judicial remedies for unconstitutional action must be targeted to elimination of the unconstitutional chancre, the remedial power of a federal court that adopts a desegregation plan is not thereafter limited to enforcement of the details of the original plan . . . [T]he adoption of the plan does not exhaust the power of the court to direct elimination of vestiges of segregation that remain or become apparent only after the plan has been put into place . . .

'A school district with a history of operation of de jure segregated schools is under a continuing constitutional obligation to eradicate the vestiges of that dual school system. The failure sufficiently to satisfy this obligation continues the constitutional violation. . . . Inasmuch as an injunctive decree is drafted in light of what the court believes will be the future course of events, a court must continually be willing to redraft the order at the request of the party who obtained equitable relief in order to insure that the decree accomplishes its intended result.'" (799 F.2d at 1042-46, emphasis added, citations omitted.)

Certain principles relating to a district court's "redrafting" duty emerge from Freeman. First, the defendant "bears the burden of showing that any current [racial] imbalance is not traceable, in a proximate way, to the prior violation." Freeman, 503 U.S. at 494. Accord, U.S. v. Fordice, 505 U.S. 717, 739 (1992) ("Brown and its progeny . . . established that the burden of proof falls on the State, and not the aggrieved plaintiffs, to establish that it has

dismantled its prior de jure segregated system.") The Fischer and Hickman affidavits show that CHA cannot shoulder this Freeman burden with respect to the present racial imbalance in the location of CHA's family public housing units. The vast majority of such housing remains in the still-segregated original locations; sufficient housing in non-segregated locations to redress the imbalance has not yet been provided.

Second, "The duty and responsibility of a school district once segregated by law is to take all steps necessary to eliminate the vestiges of the unconstitutional de jure system." Freeman, 503 U.S. at 485. Freeman adds, "Once the racial imbalance due to the de jure violation has been remedied, the school district is under no duty to remedy imbalance that is caused by demographic factors," 503 U.S. at 494; here, however, as the Fischer and Hickman affidavits show, the imbalance has never been remedied. As applied to CHA, therefore, the principle is that CHA has a continuing duty to take "all steps necessary" to eliminate the vestiges of its unconstitutional de jure system. Because the original racial imbalance attributable to the de jure violation has never been remedied, post-1969 demographic changes do not relieve CHA of its "all steps necessary" duty.¹²

¹² Based on Freeman the Supreme Court vacated a judgment of the Tenth Circuit Court of Appeals and remanded for further consideration. 503 U.S. 978 (1992). Following consideration of Freeman the Tenth Circuit reinstated its prior opinion, Brown v. Board of Education of Topeka, 978 F.2d 585 (10th Cir. 1992), after which the Supreme Court denied certiorari. 509 U.S. 903 (1993.) Brown provides a helpful gloss on these two Freeman principles:

"Neither Dowell nor Freeman suggests that the plaintiffs in the remedial phase of school desegregation litigation must make a new showing of discriminatory intent in order to obtain relief from a current condition of segregation." 978 F.2d at 589.

"The Constitution does not permit the courts to ignore today's reality because it

Third, a court should give "particular" attention to the defendant's record of compliance, addressing itself to whether the defendant has "complied in good faith with the desegregation decree since it was entered. . .," Freeman, 503 U.S. at 491-92 (quoting from Board of Education v. Dowell, 498 U.S. at 249-50), because, as Freeman says, the defendant's obligation amounts to "an affirmative commitment to comply in good faith with the entirety of a desegregation plan. . ." Id. at 499.

This Court should therefore give particular attention to CHA's sorry compliance record: for years a recalcitrant CHA had to be subjected to a series of implementation orders (see, e.g., 436 F.2d 306; 384 F.Supp. 37, 38 ("the effect and import of my orders have been avoided and frustrated for over five years")); and for more years it failed so abysmally to perform its desegregation duties that a Receiver had ultimately to be appointed, a step CHA vigorously and successfully twice opposed, and to which it agreed on the third occasion only at the eleventh hour.

Following appointment of the Receiver, CHA became obligated to "provide full cooperation and assistance" to the Receiver. (Order of 8/14/87, par. 7.) Yet as the Court is aware the Receiver recently felt compelled to file an emergency motion and since then, notwithstanding the Court's urging cooperation, CHA has not offered the degree of cooperation that would be desirable. (For an example, see Exhibit I, attached.) Moreover,

is temporally distant from the initial finding [of violation]. Temporal distance matters only to the extent that changes across that time period, unconnected to the de jure's system lingering effects, are responsible for what is observable today." 978 F.2d at 590.

Accord (as to temporal distance), Keyes v. School District No. 1, 413 U.S. 189, 210-11 (1973).

CHA's post-Receivership efforts to provide remedial housing on its own have failed to such an extent that they can hardly be called good faith.¹³

These three Freeman principles, applied to the facts respecting the persistence of the locational imbalance caused by CHA's original violation, demonstrate that even were HOPE VI-funded new public housing to be viewed as a "new and further remedy" not covered by the judgment order (a view, we emphasize, we do not believe to be justified), plaintiffs would be entitled to have the Court exercise its "inherent capacity to adjust remedies," Freeman, 503 U.S. at 487, to embrace HOPE VI-funded new public housing within the judgment order. Should the Court be of the view that such housing is to be treated as a new and further remedy not presently covered by the judgment order, we request that Part III of this Response be accepted as plaintiffs' motion for such an exercise of the Court's equity power.

¹³ CHA requested and was given authority to demonstrate its own development ability through the "CHA Demonstration Program," an agreed-upon, court-sanctioned transfer of development authority from the Receiver to CHA for 350 new public housing units. (Order of 3/9/90.) After CHA failed to get development underway in the allotted two years, the agreement was extended for two years more. (Order of 3/6/92.) With time running and still no progress in sight, a joint venture between Habitat and a CHA affiliate was created "to speed up the process of transferring from the Receiver to CHA [Habitat's] acquired development experience." (Exhibit J, attached.) This "teaching" effort has come to naught, as the Statement of the Receiver shows. (Statement 4, n. 2.) The Demonstration Program and the joint venture are thus two additional instances of CHA's failure to carry out its remedial responsibilities.

Recognizing that since the last demonstration program and creation of the joint venture CHA has undergone a management change, the Receiver suggests another demonstration program opportunity for CHA. (Statement 10-11.) If this is what CHA would like, plaintiffs too are willing to work out another such opportunity, so that present CHA management can show whether, under current conditions and in compliance with its judgment order responsibilities, CHA is able to perform effectively some of the development tasks now assigned to the Receiver.

IV. The Judgment Order's Coverage of HOPE VI-Funded Public Housing Implicates No Separation of Powers or Federalism Concerns

The first of CHA's two separation of powers arguments is that an interpretation of the judgment order that "requires the CHA to use its HOPE VI funds in compliance with the building program set forth in the [judgment order] raises serious [but unidentified] separation of powers concerns." (Memo. 18.) However, in the first of three cases cited by CHA in this context, the judgment order "restrict[ed] the executive branch of the federal government in the performance of its constitutional responsibilities . . ." Alliance to End Repression v. City of Chicago, 742 F.2d 1007, 1009-10 (7th Cir. 1984). Here no action of the federal government is restricted at all. Unlike a "remarkable judicial intervention in vital executive functions . . . precipitating a . . . confrontation between the judicial and executive branches" (Alliance, 742 F.2d at 1009-1010, 1015, 1019), the judgment order does not restrict HUD in any way in the performance of its HOPE VI responsibilities.¹⁴

¹⁴ Neither does the judgment order rewrite Congress' HOPE VI rules, as CHA perhaps implies in its reference to Mobil Oil. (Memo. 18.) Moreover, the very language CHA misquotes makes it clear that Congress does not view HOPE VI as overriding court orders. See CHA Exhibit B, page 1.C.7, reading in full, "[N]one of such [HOPE VI] funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments unless expressly permitted herein." (Emphasis added to language omitted by CHA.) This Congressional language does not exempt HOPE VI funding from desegregation or other court orders; it merely prohibits giving a competitive advantage to desegregation or other litigants, as CHA was given in 1996 for its Horner/ABLA application. (As a result of plaintiffs' willingness to treat the 1996 award to CHA as "comparable relief" under the consent decree with HUD, CHA was given an "absolute priority" to the 1996 funds.) Cf. Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 17 (1971), where, with reference to a statute that referred explicitly to judicial power, the Supreme Court found "no suggestion of an intention to . . . withdraw from courts their historic remedial powers." Nor, finally, does the judgment order require a non-party (HUD) to fund any of the defendant's (here CHA's) activities, the point at issue in CHA's last-cited case, Chicago Board of Education. (Memo. 18.)

Neither does the judgment order mandate CHA to take any steps that conflict with HOPE VI, since HOPE VI authorizes its funds to be used for new public housing, subjects that housing to the familiar public housing statutory and regulatory scheme, and permits the housing to be located anywhere, off as well as on site.

CHA implies that the Cabrini HOPE VI project may founder because there is "no possibility of creating an identical number of replacement units in the General Area . . ." (Motion par. 10), but there is no basis in the judgment order or the history of this case for that in terrorem prediction. The judgment order is flexible enough for CHA to make any proposal it wishes respecting the new public housing parts of its proposed plans: Article IV allows the Court to approve projects which are not required to meet Article IV limitations, and the Court retains jurisdiction under Article X "for all purposes," including "modifying or supplementing the terms of this order . . ." because of "changes in conditions . . ." or "any other matter."

Ignoring these provisions CHA says, "The Injunction does not permit building in Revitalizing Areas . . . Thus, compliance with the Injunction is not possible." (Memo. 4.) History, of course, teaches the contrary: in both the Horner and North Kenwood-Oakland Revitalizing Areas the Court, at the behest of the parties (including CHA), authorized the Receiver to develop new public housing.

CHA's other separation of powers point is that absent a finding that HOPE VI violates the Fourteenth Amendment, "forc[ing]" CHA to submit to a waiver process "to comply with federal law in the use of its HOPE VI monies" conflicts with the HOPE VI "focus" on local governing body approval. (Memo. 18-19.) But CHA is not forced to submit to a waiver

process to so comply, and there is no such "focus."

Without a waiver CHA and the Receiver could simply choose to locate HOPE VI-funded new public housing in accordance with the judgment order (as modified by the "fifty-fifty" order of this Court of 10/29/82). If in particular circumstances it were desired to locate HOPE VI-funded new public housing otherwise than in conformity with the 10/29/82 order and a waiver were therefore sought, there would be no incompatibility between HOPE VI -- which imposes no requirement as to the location of new public housing -- and a judgment order waiver.¹⁵

As to the supposed "focus" on local government approval, such approval is merely one of many HOPE VI requirements. Indeed, no public housing, however funded, can be built unless local government approval is secured. 42 USC Sec. 1437c(e)(2).

CHA's federalism concern likewise relates to "requiring" CHA to submit to a waiver process (Memo. 19), and what has already been said about waivers applies here as well.

CHA says that the waiver process "improperly cede[s] some of the CHA's prioritizing power . . ." (Memo. 19), and does not lead to "the program that it would have created without having

¹⁵ The examples of Lawndale, Henry Horner and North Kenwood-Oakland show that obtaining Court approval in such a circumstance is hardly an unworkable requirement; CHA's bare, conclusory assertion provides no reason to doubt that it will be workable at Cabrini as well. Nor is court approval required for an entire HOPE VI project, as CHA implies is the case at Cabrini (Motion pars. 11, 12), or for "initiatives outside of the scope" of the judgment order. (Motion 4.) At most, approval may be required respecting the location of new public housing which becomes part of the Cabrini and other projects, but only as to that part and only if CHA and the Receiver wish to depart from the "fifty-fifty" locational rule.

CHA says plaintiffs' counsel's "public housing philosophy" is not consistent with HOPE VI. (Motion par. 11.) What is relevant is the judgment order, not counsel's philosophy.

to negotiate . . ." (Motion 4.) Of course the issue is not whether CHA winds up with the program it "would have created" were it not under a continuing obligation to desegregate its public housing system. Desegregation must be one of CHA's "prioritizing" obligations -- regardless of what its priorities might otherwise have been -- including taking "all steps necessary" to achieve desegregation, an obligation unmentioned in CHA's motion or memorandum.

In any case, the underlying judgment order is a remedy for a Fourteenth Amendment violation. As the Supreme Court has made clear, no federalism concerns at all are raised by requiring the wrongdoer to apply to court when it wishes to modify such an order.

"The Tenth Amendment's reservation of nondelegated powers to the States is not implicated by a federal court judgment enforcing the express prohibitions of unlawful state conduct enacted by the Fourteenth Amendment [citation omitted]. Nor are principles of federalism abrogated by the decree." Milliken v. Bradley, 433 U.S. 267, 291 (1977).¹⁶

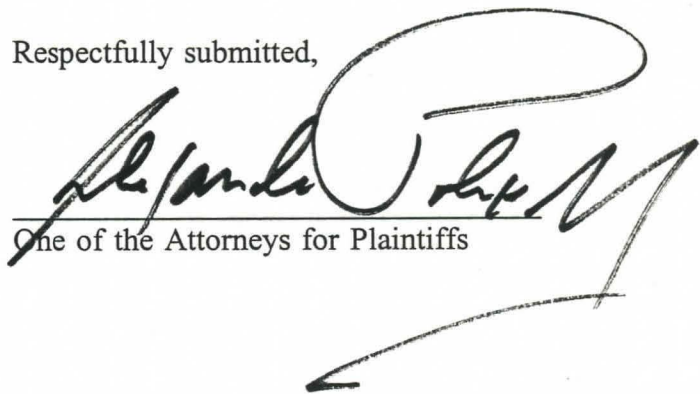
Conclusion

The judgment order applies to all newly developed public housing, whatever its funding source; CHA's four arguments to the contrary, based in good part on a mischaracterization of the issue, are wholly unpersuasive. However, even if the judgment

¹⁶ CHA's two "federalism" cases (Memo. 19) support no different view. In Hoover v. Wagner, 47 F.3d 845 (7th Cir. 1995) an injunction against a state judge and a city police chief was denied for want of equity; the reasons included that what the plaintiffs sought would be "close to . . . an advisory opinion" amounting to "an empty command" to avoid committing errors in enforcing an injunction, as well as an interference with an ongoing state court proceeding (*id.* at 851). And in ACORN v. Edgar, 56 F.3d 791 (7th Cir. 1995), an injunction against Illinois' refusal to comply with the motor voter law was upheld as a "proper remedy, and of course a lawful one." 56 F.3d at 798. Stripped from the injunction was a single paragraph that required Illinois to do more than the law required (*id.*).

order were to be viewed as not now covering HOPE VI-funded new public housing, plaintiffs would be entitled to have the Court exercise its inherent equity power to adjust the remedy in this case to embrace such housing. CHA's motion should therefore be denied.

Respectfully submitted,


One of the Attorneys for Plaintiffs

December 19, 1997

Alexander Polikoff
Julie Elena Brown
BUSINESS AND PROFESSIONAL PEOPLE
FOR THE PUBLIC INTEREST
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Chicago, Illinois 60603
312/641-5570; fax: 312/641-5454

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Exhibits to Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction

- A. Affidavit of Professor Paul B. Fischer
- B. Affidavit of Philip A. Hickman
- C. HUD HOPE VI Guidebook, Page 1.D.1.
- D. Letter, Edwin Eisendrath to Daniel Levin, 11/14/95
- E. Letter, Alexander Polikoff to Joseph Shuldiner, 7/25/96
- F. Horner/ABLA Development Management Agreement, 4/21/97
- G. Letter, Alexander Polikoff to Andrew Rodriguez, 7/15/97
- H. CHA Brochure, Transforming Public Housing, 1996
(excerpt)
- I. Letters, Philip A. Hickman to Jerome Butler, 8/5/97,
10/6/97
- J. Letter, Alexander Polikoff to John Herold, 9/21/93

State of California)
)
County of Santa Barbara)

AFFIDAVIT

I, Paul B. Fischer, being sworn, on oath say:

1. I received my Ph.D. in political science from the University of Massachusetts.

I am presently Professor of Politics and Chairman of the Politics Department at Lake Forest College where I have been a member of the faculty since 1971. From 1979 to 1981, I was a member of the urban policy staff of the U.S. Department of Housing and Urban Development in Washington, D.C., serving as specialist on housing desegregation programs to the Assistant Secretary of Community Planning and Development. Since returning to Lake Forest College in 1981, I have consulted on a number of housing desegregation cases around the country, have written extensively on the issue of segregation in federally assisted housing, and have completed a number of studies dealing with race and subsidized housing.

2. Exhibit X, attached hereto and made a part hereof, includes a listing of the Chicago Housing Authority's family public housing projects completed or under construction as of November 26, 1997. Exhibit Y, attached hereto for the Court's convenience, is a copy of the Affidavit of Dr. Harold M. Baron filed in this case on July 22, 1968, together with Exhibit A to the Baron Affidavit. Exhibit X shows the census tracts of the U.S. Bureau of the Census for the City of Chicago for the 1960 and 1990 censuses within which such Chicago Housing Authority family public housing projects are located, and the percentages of Black population within such tracts according to the 1960 and 1990 censuses. Exhibit X also provides completion date

information and the number of dwelling units respecting each project, and relevant changes respecting the projects since the filing of the Baron Affidavit. Exhibit X accurately states the facts contained therein, based on the sources listed therein.

Further affiant sayeth not.

State of California
County of Santa Barbara

Paul B Fischer

Paul B. Fischer

Subscribed and Sworn to
before me this 18 day
of December, 1997.

Kerri Herrmann
Notary Public



I. BARON AFFIDAVIT PROJECTS

	NAME	COMP DATE	CHANGES SINCE BARON	CT # 1960	CT # 1990	%BLK 1960	%BLK 1990	UNITS BARON	UNITS 26-Nov-97	NOTE (1)
1	JANE ADDAMS	1938		429	2832	57.2	87.1	988	992	
2	TRUMBULL	1938		701	5105	2.9	32.6	452	456	
3	LATHROP HOMES	1938		100	504 707	2.4	1.8 23.6	923	925	
4	WELLES HOMES	1941		557	3511 3602	99.8	100.0 100.0	1652	1658	
5	CABRINI HOMES	1942		127 134	808 819	84.1	99.8 98.6	586	586	
6	BROOKS HOMES	1943		434Z	2839	96.3	99.8	834	834	
7	BRIDGEPORT	1943		770	6009	0.0	0.0	141	141	
8	LAWNDALE GARDENS	1942		770	3012	0.4	7.9	128	128	
9	ALTGELD GARDENS	1943		717Z	5401	90.0	97.8	1498	1500	
10	WENTWORTH	1944		534	3406	99.7	100.0	422	422	
11	DEARBORN HOMES	1947		539	3504	99.6	98.9	800	800	
13	LECLAIRE COURTS	1948		723	5602	51.6	100.0	315	316	
14	OGDEN COURTS	1948		457	2915	60.9	87.6	136	136	
15	MAPLEWOOD COURTS	1948		382	2808	88.9	100.0	132	132	
16	HARRISON COURT	1948		373	2711	86.0	99.7	126	126	
17	LOOMIS COURTS	1953		434 434Z	2839	96.3	99.8	126	126	

	NAME	COMP DATE	CHANGES SINCE BARON	CT # 1960	CT # 1990	%BLK 1960	%BLK 1990	UNITS BARON	UNITS 26-Nov-97
18	ARCHER COURT	1952		524	3402	7.0	8.4	147	147
19	PRAIRIE COURTS	1958		548	3501 3502	94.6	75.1 100.0	326	326
20	ABBOTT HOMES	1955		434Z	2839	96.3	99.8	1204	1218
21	CABRINI EXT-SOUTH	1958	418 demolished 130 units in majority white ct	134	808 818	84.0	99.8 37.9	1900	1503
22	OLANDER	1953		547	3604	99.5	99.6	150	150
23	MURRAY HOMES	1954		717Z	5401	90.0	97.8	500	500
24	LECLAIRE EXT	1954		723	5602	51.6	100.0	300	300
25	ICKES HOMES	1955		521	3303	95.7	99.8	799	803
26	WELLES EXT	1955		557	3511	99.8	100.0	642	650
27	LOWDEN HOMES	1954		685	4902	98.0	99.7	128	128
28	HORNER HOMES	1957		378Z	2804 2815	97.3	100.0 100.0	917	920
29	STATEWAY GARDENS	1958		542	3515	99.8	99.5	1639	1644
30	ROCKWELL GARDENS	1960		382	2808	88.9	100.0	851	855
31	ROCKWELL GARDENS	1960		382	2808	88.9	100.0	140	140
32	ROCKWELL GARDENS	1961		382	2808	88.9	100.0	136	138
33	PRAIRIE COURTS EXT	1958		548	3501 3502	95.7	75.1 100.0	202	203
34	OLANDER HOMES	1956		562	3604	98.3	99.6	150	150

	NAME	COMP DATE	CHANGES SINCE BARON	CT # 1960	CT # 1990	%BLK 1960	%BLK 1990	UNITS BARON	UNITS 26-Nov-97	
35	GREEN HOMES	1962		127	804 805	86.7	95.6 98.3	1096	1099	
36	BROOKS EXTENSION	1961		434Z	2838	96.3	99.7	452	453	
37	WASHINGTON PK HMS	1961		28 SS	28 SS	96.4	app 98.0+	1445	1429	NOTE (2)
38	HORNER EXT	1961	466 demolished	376Z	2805	99.7	100.0	738	279	
39	DARROW HOMES	1961	240 demolished	559 127	3602	99.8	100.0	479	239	
40	TAYLOR HOMES	1962	157 demolished	579	3805 3806 3807 3816 3817 4002	100.0	100.0 100.0 99.8 100.0 99.8 97.8	4328	4258	
41	LAKE MICHIGAN HOMES	1963		562	3604	98.3	99.6	459	469	
42	SCATTERED SITES	1967	36 demolished	12 SS	12 SS	99.3	app 99.0+	300	264	NOTE (3)
43	HILLIARD CENTER	1966		522	3302	95.7	94.5	344	346	
44	MADDEN PARK HMS	1970		575	3603	99.2	100.0	460	453	
45	HORN ADAMS&WOOD	1970	combines baron 45 and 46	413	2815 3605	78.3	100.0 100.0	285	296	
47	SCATTERED SITES	1974	76 units projected but not built	877 561 575 575 575 585	3801 2705 2317 6802	95.4 98.0 99.2 99.2 99.2 99.7	99.0 100.0 98.3 99.0	194	118	

	NAME	COMP DATE	CHANGES SINCE BARON	CT # 1960	CT # 1990	%BLK 1960	%BLK 1990	UNITS BARON	UNITS 26-Nov-97
48	43RD AND PRINCETON	1965	23 units in majority white ct	564Z	3701 6101	94.2	99.2 10.4	98	98
49	SCATTERED SITES	1969		118 119	717 715	1.5 0.2	15.9 6.1	18	18
50	HYDE PARK APTS	1967		611 619	4101 4106 4112	4.7 0.9	52.5 37.7 7.4	12	12
52	LAWNDALE	1969	140 units projected but not built	450A 450B 452 454 461	2913 2914 2911 2912 2910	99.2 98.9 98.0 91.3 97.8	99.9 97.6 99.3 98.3 99.1	308	168
54	75TH AND EGGLESTON	1968		884	6813	53.0	98.0	6	6
TOTAL BARON AFFIDAVIT NOTE (4) PROJECTS								30412	29058

**II. UNITS "PASSED"
BY JUDGE AUSTIN,
NOT INCLUDED IN
SECTION I.**

IL2-74	1971	452	2911	98.0	99.3	53
--------	------	-----	------	------	------	----

		DATE	UNITS
III. CHA SCATTERED	NOTE (5)	1972-87	
SITE UNITS			
IL76			6
IL81			3
IL84			15
IL85			51
IL90			12
IL91			18
IL93			19
IL94			15
IL95			49
IL96			65
IL101			2
IL102			149
IL103			101
IL105			49
IL111			24
IL112			47
TOTAL			625
IV. RECEIVER	NOTE (5)	1988-11/26/97	1717
SCATTERED			
SITE UNITS			
V. RECEIVER	NOTE (5)	1988-11/26/97	420
REPLACEMENT			
UNITS			

NOTES:

NOTE (1): Completed or under construction as of 11/26/97

NOTE (2): Scattered sites comprising Washington Park Homes:

CT#1960	CT#1990	%BLK1960	%BLK1990
553	3601	99.7	97.8
553	3602	99.7	100.0
558	3603	93.8	100.0
560	3801	98.9	99.0
562	3807	98.3	99.8
575	3808	99.2	100.0
577	3810	99.7	100.0
577	3815	99.7	100.0
578	4005	99.1	100.0
584	4201	99.4	100.0
584	3803	99.4	98.7
601	3804	96.6	100.0
877	4001	65.4	99.4
603	4008	99.6	98.6
877	6802	95.4	99.0
632	3513	66.9	98.1
607	3604	99.2	99.6
607		99.2	
607		99.2	
577		99.7	
578		99.1	
578		99.1	
578		99.1	
577		99.7	
577		99.7	
581		99.6	
582		99.8	
585		99.7	

NOTE (3): Scattered sites comprising Baron Affidavit Project 47:

CT#1960	CT#1990	%BLK1960	%BLK1990
562	3804	98.3	100.0
575	3803	99.2	98.7
577	3809	99.7	99.7
575	3807	99.2	99.8
578	3810	99.1	100.0
583	3801	99.8	99.0
581	4008	99.6	98.6
584	3604	99.4	99.6
585		99.7	
607		99.2	
578		99.1	
575		99.2	

NOTE (4): Baron Affidavit projects not included in Section I.

	Baron #	
RACINE COURTS	12	sold
TWO SCATT SITES	51	not built
TWO SCATT SITES	53	not built

NOTE (5): All units in Sections III, IV, and V assumed to be in General or Revitalizing Areas.

SOURCES: Information used to produce this Exhibit was based on the following:

SECTION I. BARON AFFIDAVIT AND CHA

SECTION II. CHA

SECTION III. CHA

SECTION IV. HICKMAN AFFIDAVIT

SECTION V. HICKMAN AFFIDAVIT

All census data from US Bureau of the Census, 1990 Census Data. Database: C90STF3A

Baron Affidavit refers to the affidavit filed on July 22, 1968 in Gautreaux v. CHA, 66 C 1459. CHA information was made available in several meetings with CHA staff during November 1997 and included printed data represented to be accurate to the best of CHA's knowledge. Hickman affidavit refers to Exhibit B attached to the plaintiff's Response to the CHA's Emergency Motion.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOROTHY GAUTREUX, ODELL JONES,
DOREATHA R. CRENCRAW, EVA RODGERS,
JAMES RODGERS and ROBERT M. FAIRFAX,
Plaintiffs,

V.

No. 66 C 1459

THE CHICAGO HOUSING AUTHORITY, a)
Corporation, and ALVIN E. ROSE,)
Executive Director,)
)
)
Defendants.)

STATE OF ILLINOIS)
COUNTY OF C O O K) SS

HAROLD M. BARON, being duly sworn on oath,
says:

1. I received my A.B. from Amherst College and my Ph.D. in history from the University of Chicago. I am presently Director, Research Department, Chicago Urban League, and have held this position since 1962. From 1961 to 1962 I was a Specialist in the Research Department of the Chicago Urban League. From 1958 to 1961 I was an Instructor, Department of Social Science, Chicago City Junior College. I am a member of the American Economic Association, the American Historical

Association, the National Association of Intergroup Relations Officials, Phi Beta Kappa, and a member of Research Advisory Committee of the Chicago Commission on Human Relations. I am the author of numerous articles in the area of urban race relations. I am the former Chairman of The Social Research Subcommittee, Chicago Association of Commerce and Industry.

The Research Department of the Chicago Urban League is staffed by four full-time and three part-time research professionals. It conducts a variety of studies in fields related to urban race relations, including housing and land usage, education, employment, labor markets, welfare, etc. As Director of the Research Department, I have general supervision over the activities of the Department and its publications.

2. Exhibit A, attached hereto and made a part hereof, is a list of the Chicago Housing Authority's regular family housing projects. It shows the census tracts of the U.S. Bureau of the Census for the City of Chicago within which such projects are located, and the percentage of Negro population within such tracts, according to the relevant decennial censuses. Such

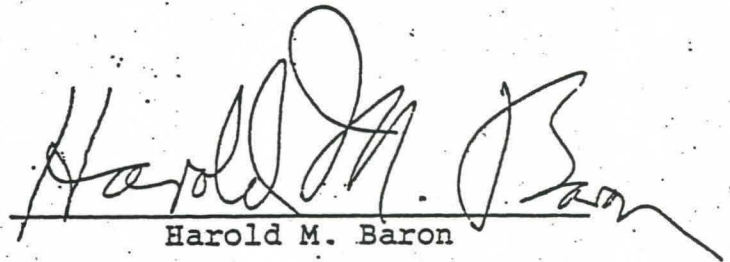
exhibit also shows the dates of site acquisitions, the number of dwelling units in such projects and the completion dates thereof as the same appear in Chicago Housing Authority reports; the dates of approval by the City Council of Chicago of such sites as the same appear in the proceedings of the City Council; and certain related information. Such exhibit accurately states the facts stated therein, based on such sources.

3. Exhibit B, attached hereto and made a part hereof, is a list showing the so-called 1950 program of the Chicago Housing Authority (being sites initially approved by the Commissioners of the Chicago Housing Authority and submitted to the City Council for approval, a list of the sites for such program as ultimately approved by said Commissioners and the City Council of Chicago, and certain related information, all as appears from the relevant decennial census of the U.S. Bureau of the Census for the City of Chicago, from reports of the Chicago Housing Authority and from the proceedings of the City Council of Chicago. Such exhibit accurately states the facts stated therein, based on such sources.

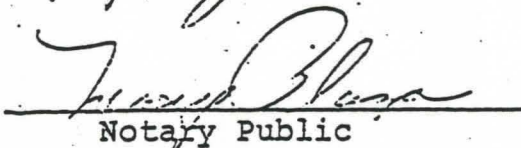
4. Exhibit C shows the number of white and non-white single individuals and families eligible for

admission to public housing in Chicago based upon data taken from the 1960 decennial census of the U.S. Bureau of Census, and, as to income ceilings, from the annual statistical reports of the Chicago Housing Authority. Such exhibit accurately states the facts stated therein, based on such sources.

5. Exhibits D, E, F and G are maps which accurately state the facts depicted therein, based on the data referred to on such exhibits.


Harold M. Baron

Subscribed and sworn to
before me this 22nd day
of July, 1968.


Notary Public

Project	Date of City Council Approval of Sites	Date of Site Acquisition	Date of Completion of Project	Census Tract Number	Percentage of Negro Population in the Census Tract				No. of Dwelling Units
					1930	1940	1950	1960	
1. Ill. 2-23 Jane Addams Houses	Taken over from Federal Public Works Administration	1934	1938	429	2.7%	-0-%	5.0%	57.2%	988
2. Ill. 2-25 Trumbull Pk. Homes	Taken over from Federal Public Works Administration	1935	1938	701	-0-%	-0-%	-0-%	2.9%	452
3. Ill. 2-24 Lathrop Homes	Taken over from Federal Public Works Administration	1935	1938	100	-0-%	-0-%	-0-%	2.4%	923
4. Ill. 2-1 Ida B. Wells Homes	No approval required	1938	1941	557		99.8%	100.0%	99.8%	1,652
5. Ill. 2-2 Cabrini Homes	No approval required	1940	1942	127 & 134		32.6%	74.7%	84.0%	586
6. Ill. 2-3 Robert Brooks Homes	No approval required	1941	1943	434 (1940) 433 & 434 (1950) 434Z (1960)		81.5%	95.4%	96.3%	834
7. Ill. 2-4 Bridgeport Homes	No approval required	1942	1943	770		-0-%	-0-%	-0-%	141

Page One

Exhibit A

	<u>Project</u>	<u>Date of City Council Approval of Sites</u>	<u>Date of Site Acquisition</u>	<u>Date of Completion of Project</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in the Census Tract</u>			<u>No. of Dwelling Units</u>
						<u>1940</u>	<u>1950</u>	<u>1960</u>	
8.	Ill. 2-5 Lawndale Gardens	No approval required	1942	1943	770	-0-%	-0-%	0.4%	128
9.	Ill. 2-7 Altgeld Gardens	No approval required	1943	1945	717 717Z (1960)	0.4% ¹	84.0%	90.0%	1,498
10.	Ill. 2-8 Wentworth Gardens	No approval required	1944	1947	534	16.5%	97.0%	99.7%	422
11.	Ill. 2-9 Dearborn Homes	No approval required	1947	1950	539		87.0%	99.6%	800
12.	RH-1 Racine Courts	August 27, 1948	1948	1951	934		65.0%	66.6%	120
13.	RH-2 Leclaire Courts	August 27, 1948	1948	1950	723		-0-%	51.6%	315
14.	RH-3 Ogden Courts	August 27, 1948	1948	1952	457		1.0%	60.9%	136
	RH-6 Kaplewood Courts	August 27, 1948	1948	1950	382		30.0%	88.9%	132
16.	RH-5 Harrison Courts	August 27, 1948	1948	1950	373		13.0%	86.0%	126

	<u>Project</u>	<u>Date of City Council Approval of Sites</u>	<u>Date of Site Acquisition</u>	<u>Date of Completion of Project</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in the Census Tract</u>		<u>No. of Dwelling Units</u>
						<u>1950</u>	<u>1960</u>	
17.	RH-7 Loomis Courts	August 27, 1948	1949	1953	434 434Z (1960)	97.0%	96.3%	126
18.	RH-8 Archer Courts	August 27, 1948	1950	1952	524	8.5% ²	7.0% ²	147
19.	RH-9 Prairie Courts	August 27, 1948	1950	1958	548	98.0%	94.6%	326
20.	Ill. 2-17 Abbott Homes	March 2, 1950	1951	1955	433 & 434 (1950) 434Z (1960)	95.4%	96.3%	1,204
21.	Ill. 2-20 Cabrini Homes Ext.	March 2, 1950	1954	1958	127 (1950) 134 (1960)	74.7%	84.0%	1,900
22.	Ill. 2-14 Olander Homes	August 4, 1950	1951	1953	547	99.5%	99.5%	150
23.	Ill. 2-11 Murray Homes	August 4, 1950	1951	1954	717 717Z (1960)	84.0%	90.0%	500
24.	Ill. 2-15 Leclair Cts. Ext.	August 4, 1950	1951	1954	723	-0-%	51.6%	300
25.	Ill. 2-16 Ickes Homes	August 4, 1950	1951	1955	521	99.0%	95.7%	799

	<u>Project</u>	<u>Date of City Council Approval of Sites</u>	<u>Date of Site Acquisition</u>	<u>Date of Completion of Project</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in Census Tract</u>		<u>No. of Dwelling Units</u>
						<u>1950</u>	<u>1960</u>	
26.	Ill. 2-18 Ida B. Wells Ext.	August 4, 1950	1951	1955	557	100.0%	99.8%	642
	Ill. 2-13 Lowden Homes	August 4, 1950	1952	1954	685	100.0%	98.0%	128
28.	Ill. 2-19 Horner Homes	August 4, 1950	1953	1957	378 (1950) 378Z (1960)	92.0%	97.3%	917
29.	Ill. 2-22 Stateway Gardens	August 4, 1950	1954	1958	542	100.0%	99.8%	1,639
30.	Ill. 2-21 Rockwell Gardens	August 4, 1950	1957	1960	382	30.2%	88.9%	851
31.	Ill. 2-6 Rockwell Gardens	August 4, 1950	1958	1960	382	30.2%	88.9%	140
32.	Ill. 2-38 Rockwell Gardens	August 4, 1950	1959	1961	382	30.2%	88.9%	136
33.	Ill. 2-29 Prairie Cts. Ext.	March 11, 1953	1956	1958	548	98.0%	95.7%	202
34.	Ill. 2-26 Olander Homes Ext.	April 22, 1953	1954	1956	562	56.5%	98.3%	150

	<u>Project</u>	<u>Date of City Council Approval of Sites</u>	<u>Date of Site Acquisition</u>	<u>Date of Completion of Project</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in the Census Tract</u>		<u>No. of Dwelling Units</u>
						<u>1950</u>	<u>1960</u>	
35.	Ill. 2-30 Wm. Green Homes	January 26, 1955	1959	1962	127	79.1%	86.7%	1,096
36.	Ill. 2-31 Robert Brooks Homes Ext.	May 12, 1955	1959	1961	4342		96.3%	452
37.	Ill. 2-34 Washington Park Homes	May 12, 1955	1959	1961	28 Scattered Sites ³		96.4% ³	1,445
38.	Ill. 2-35 Horner Homes Ext.	May 12, 1955	1959	1961	3762		99.7%	738
39.	Ill. 2-36 Darrow Homes	May 9, 1956	1958	1961	559 and 127		99.8%	479
40.	Ill. 2-37 Taylor Homes	May 9, 1956	1959	1962	579		100.0%	4,328
41.	Ill. 2-41 Lake Michigan Homes	December 29, 1958	1961	1963	562		98.3%	459
42.	Ill. 2-54 12 Scattered Sites:	December 29, 1958 (6 Sites) May 12, 1955 (6 Sites)	1965	1967	12 Scattered Sites ⁴		99.3% ⁴	300

	<u>Project</u>	<u>Date of City Council Approval of Sites</u>	<u>Date of Site Acquisition</u>	<u>Date of Completion of Project</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in the Census Tract 1960</u>		<u>No. of Dwelling Units</u>
43.	Ill. 2-46 Hilliard Center	May 8, 1963	1964	1966	522	95.7%		344
44.	Ill. 2-33 Kadden Park Homes	March 24, 1965	1967	----	575	99.2%		460
45.	Ill. 2-12 Washtenaw & 12th Place	April 7, 1965	1968	----	457	60.9%		176
46.	Ill. 2-27 Adams & Wood	April 7, 1965	1967	----	413	78.3%		109
47.	Ill. 2-28 Six Scattered Sites	April 7, 1965 (2 Sites) January 21, 1959 (3 Sites) May 9, 1956 (1 Site)	1967	----	877 561 575 575 575 585	95.4% 98.0% 99.2% 99.2% 99.2% 99.7%	16 130 } 24 } 24	)))))) 194
48.	Ill. 2-32 43rd & Princeton	April 7, 1965	1968	----	564Z	94.2%		98
49.	Ill. 2-51 Two Scattered Sites	July 7, 1965	1968 (from Dept. of Urban Renewal)	----	118 119	1.5% 0.2%	12 6	)) 18

Project	Date of City Council Approval of Sites	Date of Site Acquisition	Date of Completion of Project	Census Tract Number	Percentage of Negro Population in the Census Tract 1960		No. of Dwelling Units
50. Ill. 2-59 Hyde Park Area Apartments	July 7, 1965	1966 (from Dept. of Urban Renewal)	1967	611 619	4.7% 0.9%	6 6	} 12
Ill. 2-63 Two Scattered Sites	July 11, 1966 May 12, 1955	----- 1958	----- -----	645 562	88.4% 98.3%	54 144	
52. Ill. 2-64 Lawndale Area	July 11, 1966	1968	-----	450A 450B 452 454 461	99.2% 98.9% 98.0% 97.3% 97.8%	139 42 63 58 6	} 308
53. Ill. 2-65 Two Scattered Sites	July 11, 1966	-----	-----	363Z 282	54.3% ⁶ 14.3% ⁷	99 33	
54. Ill. 2-69 75th and Eggleston	November 15, 1967	-----	-----	884	53.0% ⁸	6	

Footnotes for Exhibit A:

Footnote 1 (Page 2):

The site of the Altgeld Gardens project was isolated from other residential areas by industrial land usage. At the time of selection the site was vacant and separated by open prairie and a railroad embankment from a small white settlement that lay within Census Tract No. 717. The population of the project constitutes the bulk of the population of the census tract.

Footnote 2 (Page 3):

The Archer Courts Project is located in a neighborhood with a large number of persons of Oriental descent. In 1950, the non-white population other than Negro in Census Tract 524 was 16.5% of the total; in 1960, it was 27.9% of the total.

Footnote 3 (Page 5):

Identification of scattered sites comprising Project

Ill. 2-34:

<u>Location</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in Census Tract - 1960</u>	<u>No. of Dwelling Units</u>
35th and Calumet	553	99.7	22
37th and Calumet	553	99.7	8
37th and Ellis	558	93.8	10
38th and Lake Park	560	98.9	24
40th and Oakenwald	562	98.3	155
40th and Langley	575	99.2	44
40th and Prairie	577	99.7	12
41st and Prairie	577	99.7	155
42nd and Wabash	578	99.1	6
44th and Cottage Grove	584	99.4	313
45th and Champlain	584	99.4	52
51st and Calumet	601	96.6	8
57th and Stewart	877	95.4	56
57th and Wabash	603	99.6	6
58th and Normal	877	95.4	16
62nd and Blackstone	632	66.9	10
63rd and Calumet	607	99.2	171
63rd and Indiana	607	99.2	155
63rd and Wabash	607	99.2	182
3905-15 Indiana	577	99.7	4
4010-24 Wabash	578	99.1	8
4033-43 Wabash	578	99.1	6
4023-25 Michigan	578	99.1	6
4013-27 Prairie	577	99.7	8
4220-34 Prairie	577	99.7	8
4417-27 Wabash	581	99.6	6
4441-47 Prairie	582	99.8	4
4614-36 Wabash	585	99.7	12

Footnote 4 (Page 5):

Identification of scattered sites comprising Project

Ill. 2-54:

<u>Location</u>	<u>Census Tract Number</u>	<u>Percentage of Negro Population in the Census Tract - 1960</u>
40th and Ellis	562.	98.3
40th and Vincennes	575.	99.2
40th and Prairie	577.	99.7
41st and Langley	575	99.2
42nd and Wabash	578.	99.1
44th and St. Lawrence	583.	99.8
45th and Wabash	581.	99.6
45th and Champlain	584.	99.4
46th and Wabash	585.	99.7
62nd and Wabash	607.	99.2
Pershing and Indiana	578	99.1
Bowen and Cottage Grove	575	99.2

Footnote 5 (Page 6):

Vital statistics data for 1964 and 1965 indicate that Census Tract 457 had a substantially higher percentage of Negro population by 1965. (Vital statistics data for census tracts used in this and subsequent footnotes were obtained from the Chicago Board of Health.)

Footnote 6 (Page 7):

Vital statistics data for 1964 and 1965 indicate that Census Tract No. 3632 had a substantially higher percentage of Negro population by 1965.

Footnote 7 (Page 7):

Vital statistics data for 1964 and 1965 indicate that Census Tract No. 282 had a substantially higher percentage of Negro population by 1965.

Footnote 8 (Page 7):

Vital statistics data for 1964 and 1965 indicate that Census Tract No. 884 had a substantially higher percentage of Negro population by 1965.

STATE OF ILLINOIS)
)
COUNTY OF C O O K)

AFFIDAVIT

I, Philip A. Hickman, being sworn, on oath say:

1. I am Senior Vice President of The Habitat Company, which was appointed, jointly with Daniel Levin, as Receiver in this case by order of this Court of August 14, 1987. The Receivership became effective in December 1987. Since its inception I have been in charge of the scattered-site program of the Receivership.

2. From the effective date of the Receivership through November 26, 1997, the Receivership has received "non-replacement"¹ funding for 1856 new public housing units. (A portion of such funding has come through the Joint Venture, approved by order of this Court of December 10, 1993, for which the Receiver has overall management and control.) As of November 26, 1997 the Receivership had developed, completed and turned over to CHA or its private managers, or had placed under construction, 1717 of such units. As of such date 139 of such 1856 units remained under development, i.e., construction contracts had not yet been entered into.

3. From the effective date of the Receivership through November 26, 1997, the Receivership (or the Joint Venture) has

¹ As used herein, "replacement" funding means funding for new public housing units to replace all or some portion of demolished or to be demolished public housing units; "non-replacement" funding means funding for new public housing units that do not replace other units demolished or to be demolished.

received "replacement" funding for 991 new public housing units as follows:

18 units	-	Lawndale
317 "	-	Washington Park
466 "	-	Henry Horner
<u>190</u> "	-	Cabrini-Green

991 units

As of November 26, 1997, the Receivership had developed, completed and turned over to CHA or its private managers, or had placed under construction, 420 of such units. As of such date 571 of such 991 units remained under development, i.e., construction contracts had not yet been entered into. Of such 420 units completed or under construction, 18 are in the Limited (Lawndale) Area, 38 are in the General Area, 33 are in the North Kenwood-Oakland Revitalizing Area, and 331 are in the Horner Revitalizing Area.

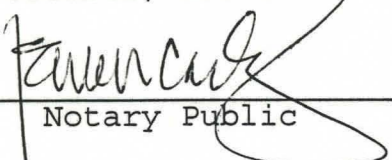
4. I am informed and believe that since fiscal year 1995, funding for new public housing units has been made available by Congress exclusively or primarily as replacement for public housing units to be demolished. Public housing authorities may demolish public housing units only pursuant to demolition applications approved by HUD. Since fiscal year 1995 most or a substantial part of CHA demolition applications have been made in connection with HOPE VI applications. I am informed and believe that CHA has received preliminary allocations of HOPE VI funding for several hundred units of replacement housing relating to such demolition applications, and that none of such replacement

housing has yet been developed or placed under construction. Were the Receiver unable to employ replacement housing funds, including such funds made available to CHA pursuant to HOPE VI-related demolition applications, it is unlikely that absent new sources of funding the Receiver would be able to develop any new public housing in addition to that referred to in paragraphs 2 and 3 above.

Further affiant sayeth not.


Philip A. Hickman

Subscribed and Sworn to
before me this 18th day
of December, 1997.


Notary Public



HOPE VI ACTIVITIES AND PROGRAM REQUIREMENTS

In the absence of program Regulations, each HOPE VI grant is governed by the NOFA under which the grant was awarded, and the Grant Agreement executed between the Grantee and HUD.

In addition, the administration of grant and sub-grant funds is subject to all applicable rules, regulations, and policies issued by the Office of Management and Budget (OMB), the General Accounting Office (GAO) and HUD, and to other applicable state and Federal laws and regulations.

The following is a list of eligible HOPE VI activities and the corresponding HUD regulations that apply.

1. Total or partial demolition of buildings or disposition of property (subject to the requirements of section 18 of the 1937 Act (42 U.S.C. 1437p). **Demolition and disposition** activity funded by HOPE VI must be conducted in accordance with 24 CFR part 970.
2. Capital costs of major reconstruction, rehabilitation, and other physical improvements (including energy retrofits) (subject to TDC limitations). **Rehabilitation and physical improvement** activities must be conducted in accordance with 24 CFR 968.112(b), (d), (e), and (g)-(o), 24 CFR 968.130, and 24 CFR 968.135(b) and (d). These provisions were published in the Federal Register on March 5, 1996 (61 FR 8712, 8738), and are included in the May 1, 1996 codification of the Code of Federal Regulations.
3. Capital costs of replacement housing, including homeownership housing (subject to TDC limitations).

Public housing development (including on-site reconstruction as well as construction of off-site housing) funded by HOPE VI must be conducted in accordance with 24 CFR part 941. (Streamlined 941 subparts A-E were published in the Federal Register on July 22, 1996.)

Mixed finance development must be conducted in accordance with 941 subpart F (published in the Federal Register on May 2, 1996 (61 FR 19708, 19714)).

Units acquired or otherwise provided for homeownership under section 5(h) of the 1937 Act must be administered in accordance with 24 CFR part 906; housing opportunity programs of construction or substantial rehabilitation of homes must be administered in accordance with 24 CFR part 280 (the Nehemiah Program);

Housing activities under the HOPE II program must be conducted in accordance with 24 CFR subtitle A, appendix B;

Housing activities under the HOPE III program must be conducted in accordance with 24 CFR subtitle A, appendix C;

U. S. Department of Housing and Urban Development
Secretary's Representative

November 14, 1995

Distribution: 11/17/95 kac
Executive Office
J. Shuldiner
A. Vargas
J. Nelson
E. Moon
Dr. C. Adams
H. Helton
M. Johnson
R. Monacchio
D. Moore

S. Orloff
Pattillo/Owens
B. Prescott
A. Rodriguez
A. Rytman
File

Mr. Daniel Levin
Chairman
The Habitat Company
350 West Hubbard Street
Chicago, IL 60610

RE: Cabrini Green Development Program

Dear Mr. Levin:

This will confirm our understanding and agreement that as Receiver under the court order in the Gautreaux case, you will perform the function of CHA's "development manager" for the Cabrini Green development program, including the Hope VI program, similar to the manner in which you are functioning in the Henry Horner Homes development program.

Sincerely,



Edwin Eisendrath
Secretary's Representative

Copy for J. Shuldiner

EXHIBIT D

Ralph Metcalfe Federal Building • 77 West Jackson Boulevard • Chicago, IL 60604-3507

CHA 331

312 641 5570: # 2

31226333270-

: 11-25-97 : 10:11 :

SENT BY:



Business and Professional People
for the Public Interest

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President

Sherry B. Goodman

Ann Smith

Robert M. Weissbourd

Vice Presidents

Camilla Hawk Diaz-Perez

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Diane W. Dahl

Susan Davis

Leon M. Despres

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Kevin Donnellon

Gary Eddin

Harriet Wilson Ellis

William Farley

William Geller

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Graham Grady

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Marc Hilton

Donald J. Jackson

Stephen Johnson

Joseph Kellman

Steve Kersten

Iris Krieg

Susan Larson

Paul Lehman

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Paul Levy

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Rita McLennan

E. Hoy McConnell, II

Elena B. Mulcahy

Thomas J. Murphy

Alexander Polikoff

Hipolito Roldan

Jeremy Warburg Russo

Lowell Sachnoff

Alan Saks

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Jeanne L. Nowaczewski

Staff Counsel

Administrative Staff

Manos

Administrative Director

Eva Dziekonski

Systems Manager

Paula Kruger

Mary Rice

Administrative Staff

July 25, 1996

**COPY BY FAX
ORIGINAL BY MAIL**

**Mr. Joseph Shuldiner
Executive Director
Chicago Housing Authority
626 West Jackson Boulevard
Chicago, Illinois 60661**

Dear Joe:

This letter attempts to set out the understanding I believe we reached at our meeting in Betsy Julian's conference room on July 16 concerning the FY1996 Gautreaux set-aside.

Although we do not agree, HUD is taking the position that the FY1996 set-aside must be made available to Gautreaux plaintiffs pursuant to a CHA HOPE VI application for demolition of one or more CHA buildings under a NOFA to be issued shortly. Nonetheless HUD has said,

"For your information, the HOPE VI grants will be awarded under a competitive process. However, the NOFA will provide an absolute priority for a CHA HOPE VI application seeking funding for up to 350 replacement public housing units in order to fulfill the present obligation to provide comparable relief in lieu of 350 section 8 new construction units that were required by the decree."

Under these circumstances, we have agreed as follows:

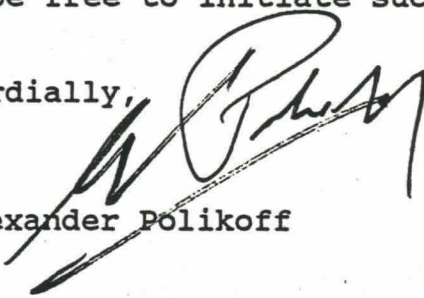
- (1) CHA will work with the Gautreaux plaintiffs to prepare and submit an application under the forthcoming NOFA for the specific purpose of obtaining the "absolute priority" funding for 350 replacement public housing units referred to in Secretary Cisneros' letter. (CHA intends to submit a separate NOFA application for funding in addition to this "absolute priority" amount.)
- (2) The FY1996 Gautreaux set-aside funding will only be expended, and the buildings to be demolished for which any part of the FY1996 Gautreaux set-aside is

EXHIBIT E

to be used as replacement housing will only be selected, upon the mutual agreement of CHA and the Gautreaux plaintiffs, or pursuant to a decision of the Gautreaux court under paragraph (3) below.

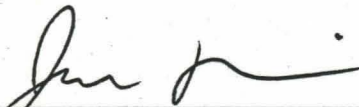
- (3) If after a reasonable time CHA and the Gautreaux plaintiffs are unable to agree upon the expenditure of some part or all of the FY1996 Gautreaux set-aside funding, or upon such selection of buildings to be demolished, the disagreement of the parties shall be submitted for resolution to the Gautreaux court. Either party shall be free to initiate such submission.

Cordially,


Alexander Polikoff

ALP:mm

AGREED:


Joseph Shuldiner, Executive Director
Chicago Housing Authority

cc: Edwin Eisendrath



The Chicago Housing Authority

Edwin Eisendrath
Chairman

Joseph Shuldiner
Executive Director

Executive Committee
Rosanna Marquez
Artensa Randolph
Timothy W. Wright III
Dr. Mildred Harris

Ed Moses
*Deputy Executive
Director for Community
Relations & Involvement*

Ana Vargas
*Deputy Executive
Director for Finance and
Administration*

Jerome M. Butler
General Counsel

April 30, 1997

Mr. Daniel Levin
Chairman
The Habitat Company
350 W. Hubbard St.
Chicago, Illinois 60610

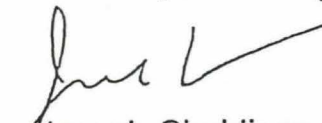
Dear Mr. Levin:

**SUBJECT: TRANSMITTAL OF EXECUTED HORNER HOPE VI
AND ABLA/BROOKS EXTENSION HOPE VI
DEVELOPMENT MANAGEMENT AGREEMENT**

Enclosed is one (1) original executed Horner HOPE VI and ABLA/Brooks Extension HOPE VI Development Management Agreement dated April 21, 1997. This document details provisions for The Habitat Company to perform development manager services for the 350 public housing replacement units contemplated under the HOPE VI Program. ABLA/Brooks Extension will receive 200 replacement public housing units and Henry Horner homes will receive 150 replacement public housing units.

Please do not hesitate to contact Andrew Rodriguez of my staff at (312) 791-8500, Extension 4501 if you have any questions or if we can provide assistance.

Sincerely,


Joseph Shuldiner
Executive Director

Enclosure

cc: Andrew Rodriguez, Director, Redevelopment Division
Valerie Jarrett, Executive Vice-President, The Habitat Company
Phillip Hickman, Senior Vice-President and Director of Scattered
Sites, The Habitat Company

EXHIBIT F

HORNER HOPE VI AND
ABLA/BROOKS EXTENSION
HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

April 21

This AGREEMENT ("Agreement") is made and entered into as of _____, 1997 between the Chicago Housing Authority, a municipal corporation organized and existing under the laws of the State of Illinois (the "Authority"), and The Habitat Company, an Illinois corporation ("Habitat").

RECITALS:

- A. The Authority is a public housing agency authorized to operate public housing in the City of Chicago pursuant to the Illinois Housing Authorities Act. Daniel Levin and The Habitat Company were appointed Receiver for the development of all non-elderly CHA public housing development programs on August 14, 1987, by the U.S. District Court (Gautreaux Case).
- B. The Authority submitted an application to the United States Department of Housing and Urban Development ("HUD") for funding of a Hope VI-Urban Revitalization Demonstration Program (Hope VI) pursuant to which HUD authorized the development of 200 units of housing to replace units scheduled for demolition in the public housing development community known as Brooks Extension (IL 2-31), which is a part of the combined public housing property known as ABLA (Abbott, Brooks, Loomis, Addams) and 150 units of housing to replace units scheduled for demolition in the public housing development community known as Henry Horner Homes - Phase II (IL 2-19), and Extension (IL 2-35), all as described in the application.
- C. HUD approved funding for the Hope VI-Urban Revitalization Demonstration Program and pursuant thereto, HUD and the Authority plan to enter into an Implementation Grant Agreement (Form HUD- 1 044) to develop 200 replacement public housing units for the total amount of twenty-four million four hundred eighty-three thousand two hundred fifty dollars (\$24,483,250), and to develop 150 replacement public housing units for the total amount of eighteen million four hundred thirty-five thousand three hundred dollars (\$18,435,300).
- D. Hope VI provides for the integration of public housing units into a sustainable, mixed-income community, which requires coordinated and comprehensive planning, and effective implementation of the plan.
- E. The Authority desires to contract with Habitat to be development manager for the 350 public housing replacement units contemplated under HOPE VI Program (The Program). The Authority may desire to delegate to Chicago Metropolitan Housing Development Corporation (CMHDC) certain responsibilities/activities referred to in this Agreement as those of the Authority.

- F. Notwithstanding this contract, the terms of the Receivership Order in the Gautreaux Case dated August 14, 1987, appointing Daniel Levin and The Habitat Company as Receiver for the development of all non-elderly CHA public housing development programs (Receiver) are not affected or altered in any way by this contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Obligations of Habitat and the Authority. Habitat and the Authority shall cooperate with each other in coordinating and managing the planning and implementation of the Program in accordance with the provisions of the Program in accordance with the provisions of the Annual Contribution Contract No. IL06URD00___ (Note: issuance by HUD is pending at this time (the "ACC")), as the same may be amended from time to time, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. Habitat agrees that in performing its obligations hereunder, it will comply with all applicable laws, including but not limited to, the applicable provisions of the United States Housing Act of 1937, as amended, the ACC and the applicable HUD regulations and HUD handbooks, but nothing shall prevent Habitat from requesting the Authority to seek a waiver of any of the applicable provisions of any of the foregoing. Habitat understands that although the Authority may request a waiver from HUD, there is no guarantee that HUD will grant such a waiver. In such event, Habitat shall not be relieved of performing its obligations hereunder in accordance with all applicable laws and regulations.
- A. Planning Phase. The Authority in conjunction with Habitat shall solicit comment from the City of Chicago agencies, elected officials, community and business organizations and residents of ABLA. The Authority and Habitat shall solicit qualifications and proposals from, and retain design professionals and other consultants deemed necessary by Habitat to assist in the physical planning and coordination of the development contemplated. The Authority shall review with Habitat the proposals and approve of the contracts for the selected design professionals and consultants.

Habitat and the Authority shall solicit and analyze the proposals in light of the comments received. Habitat shall assist, as requested, and cooperate with the Authority with regard to the preparation of a revised HOPE VI Revitalization Plan for submission to HUD, if necessary, and after seeking approval from counsel for the Gautreaux plaintiffs, shall prepare a request to the U.S. District Court for permission to build replacement public housing in the ABLA area by declaring it a "Revitalizing Area."

- B. Implementation Phase. Upon the Authority's and HUD's approval of an acceptable development program (the "Approved Program"), Habitat shall in cooperation with the

Authority, be responsible for all aspects of the implementation phase of the Approved Program including, without limitation:

- 1) Land acquisition, as necessary;
- 2) Unit design and density;
- 3) Determination of form of construction arrangement and negotiation of terms thereof,
- 4) Development budgets for each phase of the Program;
- 5) Selection of design professionals and consultants;
- 6) Negotiation of contracts with developers selected by Habitat to implement the Approved Program and
- 7) Supervision of the construction during the construction phase and coordination with the Authority and HUD during the warranty and post-construction phases.

The Authority and Habitat shall each delegate a staff person as the Official Representative (O.R.) to respectively represent the Authority and Habitat in business matters regarding this Agreement. The O.R. (or his/her designee) of the Authority shall provide prompt review of any request for approvals by Habitat. Examples of situations/activities requiring prior approval by the Authority's O.R. are:

- a. Contracts to acquire real property;
- b. Final design and the development site plan;
- c. Selection of design professionals and consultants;
- d. Construction contracts;
- e. The total development cost (TDC) budget prepared for HUD approval.

The Authority's approval of the total development cost budget attached hereto as Exhibit B expressly authorizes Habitat to expend and draw down funds from CHA to the extent the amounts are within the limitations in the following budget categories: administration, planning and IOD, site acquisition (except for the property purchases).

Habitat shall advise the Authority in advance of all communications, presentations and submissions to government officials, community organizations or representatives in connection with its role as Development Manager for the Program. Should the Authority deem it appropriate for Authority personnel to become involved in the aforesaid activities, Habitat shall fully operate with the Authority in any such effort.

- C. Personnel and Performance Habitat shall devote such time and personnel as necessary for the diligent, effective, thorough and careful performance of its duties hereunder. Habitat agrees to use its best skill and judgment in the performance of its obligations hereunder and to cooperate with Authority staff or agents in promoting the interests of the Approved Program. Habitat agrees to provide timely administration and advice, and to provide professional superintendence and administration of the work related to the Approved Program.

D. No Employer/Employee Relationship. Notwithstanding the foregoing, it is explicitly acknowledged that Habitat is engaged as an independent contractor for the performance of the services described herein. The Authority and Habitat are not partners, or joint venturers, and have no employer/employee relationship.

2. Compensation. Habitat shall be paid a development manager fee ("Developer Fee") equal to the greater of 3% of the Total Development Cost ("TDC") or \$3672.49 per unit, for each completed unit of public housing under the Approved Program. This fee is provided for in the "planning" category of the Development Budget. Additionally, Habitat shall be reimbursed for all administrative costs directly associated with site acquisition, administration and planning ("Costs") listed in the Development Budget. Notwithstanding the foregoing, the sum of all Developer Fees and Administrative Costs payable by the Authority shall not exceed the greater of 7% of the TDC, or \$8569.14 per unit, whichever is greater. The portion of the Developer's Fee attributable to each completed unit shall be earned and paid upon completion (denoted by issuance of a Certificate of Occupancy by the City of Chicago) and transfer of such unit. Costs shall be paid within 30 days of receipt of an invoice. Habitat shall invoice the Authority no more than once each month. Notwithstanding the foregoing, it is expressly agreed to and acknowledged that the Authority shall not be responsible for the payment of salaries, wages or other employee compensation and benefits, FICA, payroll taxes, administrative costs, or any federal, state or local taxes relative to Habitat's business. In addition to the above fees and administrative costs to Habitat, the Authority shall receive fees of 3% of the TDC.

The Program contemplates the development of public housing but there may also be market rate housing in a mixed-income setting. To the extent that Habitat receives any development management fees or other compensation in connection with its role in the planning for and/or development of market rate housing, such fees or other compensation shall be divided between the Authority and Habitat as follows: 1/3(one third) to the Authority, 2/3(two thirds) to Habitat.

3. Resident Outreach. The Authority shall be the principal public spokesperson with respect to the Approved Program. As such, the Authority shall coordinate with, and be the principal communication link to the ABLA residents, their official representatives and their consultants. The Authority shall provide Habitat advance notice of such meetings and communications and shall cooperate with Habitat to facilitate the coordination of such communication by joint attendance at such meetings.

The Authority shall be responsible for the demolition and social service components of the Hope VI Program.

4. Cooperation of the Parties. The Authority and Habitat agree to fully cooperate with one another to carry out the planning and implementation of the Approved Program. Both parties agree to execute and deliver any all documents reasonably requested by the other or required

by any governmental authority relative to the Approved Program. The parties agree that if modifications of the ACC or waivers of HUD regulations or provisions are necessary to appropriately implement the Program, they will seek such amendments or waivers from HUD.

5. Indemnification. The Authority shall indemnify and hold Habitat harmless from and against all liabilities, costs, damages and expenses (including without limitation, reasonable attorneys' fees, disbursements and amounts paid in settlement of claims) incurred by Habitat in connection with the Authority's breach of any of its duties and obligations under this Agreement, except any resulting from the gross negligence, or willful breach of any obligation under this Agreement by Habitat, its agents, or others under its direct control. Habitat shall indemnify and hold the Authority harmless from and against all liabilities costs, damages and expenses (including without limitation, reasonable attorneys' fees, disbursements and amounts paid in settlement of claims) incurred by the Authority in connection with Habitat's breach of any of its duties and obligations under this Agreement, except any resulting from the gross negligence of Authority or its willful breach of its obligations under this Agreement.
6. Term. The term of this Agreement shall commence on the date hereof and shall expire upon completion of the Approved Program unless sooner terminated in accordance with the terms hereof. In the event that the (Program or) Approved Program is terminated, or otherwise limited or forestalled for reasons beyond the Authority's control, the Authority may, at its option, terminate this Agreement by written notice to Habitat. Upon termination of this Agreement, including termination pursuant to default, as provided in paragraph 7, Habitat shall immediately refrain from entering into any further contracts or agreements with respect to the implementation of the Approved Program, subject however to its obligations as Receiver, to the extent any obligations exist. Habitat shall also transfer to the Authority, at the time and in the manner reasonably directed by the Authority, all of its right, title and interest in completed and uncompleted work, supplies, materials, contracts, agreements, guarantees, books, papers, reports, records, plans, specifications, drawings, surveys, schedules, reports, and all other property resulting from and related to the performance of Habitat's obligations under this Agreement. Habitat shall be relieved of all responsibility to provide any further services hereunder and the Authority shall assume all and full responsibility for all matters and contracts assigned to it and for the performance of Habitat's obligations hereunder. Furthermore, upon such termination, Habitat shall be promptly paid all compensation for services provided prior to such termination.
7. Default. In the event that Habitat breaches any of its duties or fails to meet any of its obligations hereunder, the Authority shall notify Habitat in writing of such breach or failure. Habitat shall have thirty (30) business days from the date of receipt of such notice to cure such breach or perform such deficient obligation. It shall be an event of default if Habitat has failed to cure any breach or correct any performance deficiency within thirty (30) business days after receipt of notice given in accordance with the terms of this Agreement. Upon the occurrence of an event of default, the Authority shall have the following rights and remedies.

- (a) The right to terminate this Agreement as to any or all of the Approved Program activities effective at a time specified by the Authority;
- (b) All other rights and remedies available at law or in equity.

The parties acknowledge that this provision is solely for the benefit of the Authority and that if the Authority permits Habitat to continue to perform despite Habitat's default, Habitat shall in no way be relieved of any of its responsibilities, duties or obligations under this Agreement nor shall the Authority waive or relinquish any of these rights.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law or in equity. No delay or failure to exercise any right or power accruing upon any event of default shall impair any such right or power nor shall it be construed as a waiver of any event of default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

- 8. Minority and Women Business Enterprise Commitment. Habitat agrees to comply with the terms and conditions of the Authority's Minority Business Enterprise ("MBE") and Women Business Enterprise ("WBE") conditions, provided, however, that the Executive Director may waive the MBE and WBE participation requirements. The MBE and WBE schedules are attached as Exhibit C.

During the term of this Agreement, Habitat hereby agrees to provide, and to contract with all contractors and subcontractors performing work/services pursuant to this Agreement to provide, opportunities to the Authority Residents in accordance with C.F.R. Part 135. The MBE and WBE schedules and 24 C.F.R. Part 135 Participation plans shall be attached hereto as Exhibit C and incorporated by references as if fully set forth herein.

- 9. Audit Requirement. Habitat shall keep books, documents, paper, records and accounts in connection with the Approved Program accessible and open to audit by the authority, HUD, the Comptroller General of the United States or their duly authorized representatives, and allow inspection, copying, abstracting and transcriptions. Habitat shall make these records available to the Authority at reasonable times during the performance of this Agreement. In addition, Habitat shall retain all such documents and records in a safe place and make them available for at least three (3) years after the final payment is made in connection with this Agreement and all other pending matters are closed.

Payment of any invoice by the Authority does not constitute a waiver of the Authority's rights to subsequently question, compromise or request repayment or future credit for any invoice previously paid. Habitat shall maintain records showing actual time devoted and

costs incurred.

10. Drug-Free Workplace. Habitat should establish procedures and policies to promote a "Drug-Free Workplace" and should notify all employees of this policy for maintaining a "Drug-Free Workplace," including the penalties that may be imposed for drug abuse violations occurring in the workplace. Habitat agrees to notify the Authority, in writing, if any of its employees are convicted of a criminal drug offense in the workplace no later than ten (10) days after such conviction.

11. Conflict of Interest and Anti-Lobbying. No member of the governing body of the Authority or other units of government and no other officer, employee, or agent of the Authority or other unit of government who exercises any functions or responsibilities in connection with the Approved Program to which this Agreement pertains, shall have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and/or Authority executive and senior staff or employee shall be admitted to share in any part of this Agreement or any financial benefits arising thereunder.

Pursuant to the conflict of interest requirements in OMB Circular A- 1 02 and 24 CFR §85.36(b)(3), no person who is an employee, agent, consultant, officer, or appointed official of the Authority and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such HUD activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for itself or for those whom it has family or business ties, during his or her tenure with the Authority or for one year thereafter. Furthermore, the Authority represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended.

12. Compliance with HUD Regulations. In addition to the obligations stated in Paragraph 1, Habitat shall comply with the applicable provisions of HUD regulations, and all state and local laws, ordinances and executive orders including, but not limited to, the Uniform Administrative Requirements contained in 24 C.F.R. §§ 85.1 et seq., (1993), as amended; Title VI of the Civil Rights Act of 1967 (42 U.S.C. 2000d et seq.); Fair Housing Act (42 U.S.C. 3601-20 et seq.); Executive Order 11063, as amended by Executive Order 12259; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Rehabilitation Act of 1973 (29 U.S.C. 794); Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); National Environmental Policy Act of 1969 (24 CFR Part 58); Clean Air Act (42 U.S.C. § 7401 et seq.); Federal Water Pollution Control Act (33 U.S. C. § 1251 et seq.), as amended; Flood Disaster Protection

Act of 1973 (42 U.S.C. 4106); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); Executive Order 11246, as amended by Executive Orders 12086 and 11375; Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 483 1 (b)); Executive Order 12372; Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276); Byrd "Anti-Lobbying" Amendment (31 U.S.C. § 1352); Debarment and Suspension (Executive Orders 12549 and 12689); and the regulations implementing the laws as set forth in 24 C.F.R. Section 85.1 et seq., (1993), as amended.

13. Governing Law : Dispute Resolution. This Agreement will be governed as to performance and interpretation in accordance with the laws of the State of Illinois.

All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the performance thereof may, if so elected by a party, be submitted to, and determined by, arbitration if good faith negotiations among the parties do not resolve such claim, dispute or other matter within sixty (60) days. Such arbitration shall proceed in accordance with the Commercial Arbitration rules of the American Arbitration Association then pertaining (the "Rules"), insofar as such Rules are not inconsistent with the provisions expressly set forth in this Agreement, unless the parties mutually agree otherwise, and pursuant to the following procedures:

(a) Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. Each party shall appoint an arbitrator, and those party-appointed arbitrators shall appoint a third neutral arbitrator within ten (10) days. If the party-appointed arbitrators fail to appoint a third neutral arbitrator within ten (10) days, such third neutral arbitrator shall be appointed by the American Arbitration Association in accordance with the Rules. A determination by a majority of the panel shall be binding.

(b) Reasonable discovery shall be allowed in arbitration.

(c) The costs and fees of the arbitration, including attorney's fees, shall be allocated by the arbitrators.

(d) The award rendered by the arbitrators shall be final and judgement may be entered in accordance with applicable law and in any court having jurisdiction thereof.

14. Patents and Copyrights. The Authority reserves an exclusive, perpetual and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for the Authority's purposes, including, but not limited to, commercial exploitation: (a) the copyright or patent in any work or deliverables developed in connection with the implementation of the Approved Program under this Agreement; and (b) any rights of copyright or patent to which Habitat purchases ownership with the funds awarded pursuant to this Agreement. If HUD determines that the patent or copyright, which is

either developed or purchased by Habitat serves a federal government purpose, a royalty-free, non-exclusive and irrevocable license shall vest in HUD.

Any discovery or invention (37 C.F.R. part 40) arising out of, or developed in conjunction with the work to be performed under this Agreement shall become the exclusive property of HUD and be promptly and fully reported to HUD for a determination as to whether patent protection on such invention or discovery should be sought.

15. Religious Activities. Habitat agrees that in connection with this Agreement: (a) it shall not discriminate against any person on the basis of religion and shall not limit employment or give preference in employment to persons on the basis of religion; (b) it shall not discriminate against any person applying for employment on the basis of religion and shall not give preference to persons on the basis of religion; and (c) it shall provide no religious instruction or counseling, conduct no religious worship services, engage in no religious proselytizing, and exert no other religious influence in connection with its performance hereunder.
16. Miscellaneous.
 - A. Further Assurances. Each party shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement as are not inconsistent with the terms hereof.
 - B. Reporting. Each quarter, during the term of this Agreement, Habitat shall prepare a written report to the Authority describing the status of the Approved Program. Specifically, the report shall include an accounting of all expenditures made or incurred in connection with the Approved Program, and summaries of actions taken pursuant to Paragraph 1(b) hereof. Said report shall be delivered to the Executive Director of the Authority no later than the 20th day following the beginning of each quarter. In addition, Habitat shall attend regularly scheduled meetings at such time intervals the Authority deems desirable regarding Habitat's progress in implementing the Approved Program.
 - C. Authority. Each party warrants and represents to the other that its execution of this Agreement has been duly authorized and the individuals signing this Agreement on behalf of each party have the authority to do so.
 - D. Construction. The paragraph captions used in this Agreement are for the purposes of convenience only and are not intended to, and shall not, affect the meaning, interpretation or construction of the text of this Agreement.

- E. Entire Agreement: Amendment. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. It may not be modified or amended except with the written consent of both parties.
- F. Confidentiality. Each party, for itself and its agents and employees, agrees that the documents and information made available to it (other than documents and information otherwise available in the public domain) are to be held by each party in the strictest confidence, that copies shall not be distributed to any party other than such parties whose knowledge of such documents and information is reasonably necessary to effect the purposes of this Agreement.
- G. Enforcement Costs. If either the Authority or Habitat brings an action against the other party to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action shall be entitled to recover from the other party costs, reasonable attorney's fees and any other expenses incurred in connection therewith.
- H. Notices. All notices, waivers demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (i) if delivered by messenger, when received; provided that no item shall be deemed received unless such messenger obtains a written receipt therefor, (ii) if mailed, on the third business day after deposit in the United States mail, certified or registered, postage prepaid, return receipt requested, (iii) if telexed or telecopied, twenty-four hours after being dispatched by telex or telecopy with confirmation of valid transmittal with a copy delivered by mail in the manner set forth in subsection (ii) above, and (iv) if sent by commercial overnight carrier, prepaid for next day delivery, on the next business day after delivery to such courier, in each case addressed to the party's address appearing below:

Authority: Chicago Housing Authority
626 W. Jackson Boulevard
7th Floor
Chicago, Illinois 60661
Attention: Executive Director

Habitat: The Habitat Company
350 West Hubbard Street
Chicago, Illinois 60610
Attention: Chairman

or to such other address(es) or addressee(s) as any party entitled to receive notices hereunder shall designate to others in the manner provided herein for the service of notices.

IN WITNESS WHEREOF, Habitat and the Authority have executed this Agreement as of the day and year first above written.

THE CHICAGO HOUSING AUTHORITY

By: 
Executive Director

THE HABITAT COMPANY

By: 
Chairman



Business and Professional People
for the Public Interest

Directors

Bettylu K. Saltzman
President

Sherry B. Goodman
Ann Smith
Robert M. Weissbourd
Vice Presidents

Camilla Hawk Diaz-Perez
Secretary

Rayman L. Solomon
Treasurer

James M. Alter
Lucy B. Ascoli
Frederick W. Axley
Sheldon L. Baskin
Julian L. Berman
Henry C. Binford
Barbara T. Bowman
Douglas W. Cassel, Jr.
Susan Davis

Leon M. Despres
Edward F. Dobbins, Jr.
Kevin Donnellon
Gary Edidin
Harriet Wilson Ellis
William Farley
William Geller
Eric Gershenson
Graham Grady
Frances R. Grossman
Marc Hilton

Donald J. Jackson
Stephen Johnson
Joseph Kellman
Steve Kersten
Iris Krieg
Susan Larson
Paul Lehman
Thomas J. Lenz

Paul Levy
Robert B. Lifton
Ralph Marire
George R. McCoy
Zabedee McLaurin
Rita McLennan
E. H. McConnell, II
E. Mulcahy

Clark Netusch
Alexander Polikoff
Hipolito Roldan
Lowell Sachnoff
Alan Saks
Dianne Sauter
Daniel Scheinfeld
Mary Skipton
Ada Skyles
Diann DeWeese Smith
Michael Spock
Leslie A. Stulberg
Sanjay Tailor
Judy Wise

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Harriet Hausman
Elliot Lehman
John McKnight
Dora Williams
Timothy W. Wright, III

Past Presidents

Gordon B. Sherman
Elliot Lehman
Robert B. Lifton
James W. Ashley
Alan Saks
E. Hoy McConnell, II

Attorneys

Alexander Polikoff
Executive Director

Julie Elena Brown
Adam Gross
Robert L. Jones, Jr.
Jeanne L. Nowaczewski
Laurel K. O'Sullivan
Staff Counsel

Administrative/Program Staff

Marissa Manos
Administrative Director

Eva Dziekonski
Systems Manager

E. Franetz
ton

Analysts

Stacey Marcus
Development/Small Schools Coordinator

Paula Kruger
Mary Rice
Administrative Staff

July 15, 1997

BY FAX: 312/207-0249

Mr. Andrew Rodriguez
Director/Redevelopment Division
Chicago Housing Authority
626 West Jackson Boulevard
Chicago, Illinois 60661

Dear Andy:

Here is a draft of the ABLA letter we discussed yesterday. Let me know if you'd like any changes to be made. As you can see, the letter calls for the current NOFA docket number, which I'd appreciate your filling in.

In the present circumstances I feel compelled to point out it remains the Gautreaux position that court orders require the Receiver to develop all public housing units, including any to be developed at ABLA, even though HOPE VI funds are used. Accordingly, unless and until court orders are changed or we agree to some other arrangement (as we have at Darrow pending a court order), I can only authorize CHA to use our ABLA letter upon the understanding that it too accepts that position.

Cordially,

Alexander Polikoff

ALP:mmm

cc: By Fax:

Jerome Butler (312/726-6053)
Joseph Shuldiner (312/627-0346)
Edwin Eisendrath (312/886-2729)
Rosanna Marquez (312/744-2324)

EXHIBIT G



**The New
Chicago Housing
Authority:
Transforming
Public Housing**

General Information



CHA	Units	Residents	Ethnic
Family Housing	28,480	67,339	Black — 97% White — 2% Hispanic — 1% Asia — 0%
Senior Housing	9,822	10,222	Black — 67% White — 23% Hispanic — 3% Asia — 6%
Scattered Sites	1,489	4,658	Black — 75% White — 5% Hispanic — 16% Asia — 1%
Subtotal	39,791	82,219	Black — 87% White — 8% Hispanic — 3% Asia — 2%
Section 8	15,696	43,532	
TOTALS	55,487	125,751	



CHA Officers

Chairman
Executive Director
Executive Advisory
Committee Members

Edwin Eisendrath
Joseph Shuldiner

Dr. Mildred C. Harris
Rosanna Marquez
Artensa Randolph
Timothy Wright III, Esq.

Deputy Executive Directors
Community Relations
Operations
Finance & Administration
General Counsel
Chief of Police

Edward Moses
John Nelson
Ana Vargas
Jerome Butler
George R. Murray



THE HABITAT COMPANY

October 6, 1997

Jerome Butler, Esq.
General Counsel
Chicago Housing Authority
626 West Jackson Boulevard
Chicago, Illinois 60661

**Re: Occupancy Data
Scattered Site Program
Chicago, Illinois**

Dear Mr. Butler:

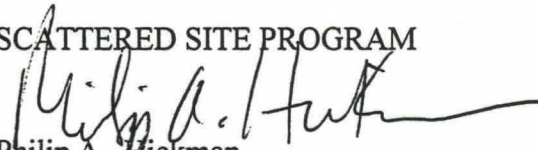
We have not received a response from your office to our letter dated August 5, 1997 regarding the occupancy data necessary for us to complete our reports to HUD. A copy of my August letter is enclosed.

Since the scattered site private managers are under direct orders by CHA not to provide occupancy information to us, we are looking to your office, per your direction, to provide us this information. Since it has been over two months since my previous letter, it is hoped that we could have this information within the next week or so in order to avoid further delay of our HUD reports.

If you have any questions or comments, please do not hesitate to contact me at 312-527-7492.

Sincerely,

SCATTERED SITE PROGRAM


Philip A. Hickman
Director

PAH:nlw

cc: Louis Berra
Joseph Shuldiner
Rich Monnocchio
Daniel Levin
Douglas R. Woodworth
Valerie B. Jarrett

EXHIBIT I



THE HABITAT COMPANY

FILE COPY

August 5, 1997

Jerome Butler, Esq.
General Counsel
Chicago Housing Authority
626 W. Jackson
Chicago, Illinois 60661

Subject: Occupancy Data
Scattered Site Program
Chicago, Illinois

Dear Mr. Butler:

Enclosed is a schedule of five programs for which 95% of the units have been completed and transferred to the Chicago Housing Authority. (Referred to as DOFA - Date Of Full Availability)

After DOFA is reached, we must report to HUD the date of "end of the initial operating period (EIOP)", which indicates 95% occupancy. In accordance with your request, we are requesting of your office the current occupancy for each of these programs in order for us to complete our EIOP report to HUD.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Scattered Site Program

Philip A. Hickman
Director

PAH/crs

cc: Daniel Levin
Douglas R. Woodworth
Valerie B. Jarrett

I:\USERS\CYNTHIA\PHIL\CORRESP\SSP\BUTL804.LTR



BPI

Business and Professional People for the Public Interest

17 East Monroe Street, Suite 212 • Chicago, Illinois 60603 • Telephone: (312) 641-5570 • FAX: 641-5454

BY FAX -
ORIGINAL BY MAIL

September 21, 1993

Mr. John Herold
Office of General Counsel
U. S. Department of Housing
and Urban Development
451 Seventh Street, S.W.
Washington, D. C. 20410-2000

Dear John:

I would like to confirm our conversation of yesterday respecting the proposed development of 18 West Side replacement scattered site units and 25 family self-sufficiency units.

You are correct that existing court orders call for all further public housing development in Chicago, other than the 350 units in the CHA demonstration program, to be undertaken by the Receiver, but the parties (plaintiffs, CHA and the Receiver) are in agreement that these 18 and 25 units respectively should be developed pursuant to the joint venture agreement in order to speed up the process of transferring from the Receiver to CHA the acquired development experience. None of the parties believes that a court order on this point is necessary, since the Judge has been apprised of the possibility that the 18 and 25 units would be developed in this way, and he himself indicated that he did not think a court order was necessary. None of the parties will, of course, raise any question about the proposed development of these units through the joint venture rather than the Receiver alone, and I am happy to give you this assurance in

EXHIBIT J

Directors

E. Hoy McConnell, II
President

Sherry Goodman
Bettylu K. Saltzman
Robert M. Weissbourd
Vice Presidents

Judy Wise
Secretary

Rayman Solomon
Treasurer

James M. Alter
Maria G. Arias-
Chapleau
Lucy B. Ascoli
Frederick W. Axley
Sheldon L. Baskin
Julian L. Berman
Henry C. Blinford
Barbara T. Bowman
Judy Langford Carter
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Gail Christopher
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Bernard Gordon
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Marc Hilton
Jack A. Jaffe
Joseph Keilman

Iris Krieg
Vincent Lane
Susan Larson
Samuel T. Lawton, Jr.
Elliot Lehman
Thomas J. Lenz
Paul Levy
Robert B. Lifton
Michael Maltz
George R. McCoy
John McKnight
Barry McNamara
Byron S. Miller
Elena B. Mulcahy
Thomas J. Murphy

Thomas L. Nicholson
Eugene Pekow
Alexander Polikoff
Hipolito Roldan
Marvin A. Rosner
Jeremy Warburg Russo
Anne C. Ruzicka
Alan Saks
Dianne Sautter
Daniel Scheinfeld
Michael Schwarzwald
Diann DeWeese Smith
Michael Spock
Cecil J. Troy
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Alan Saks

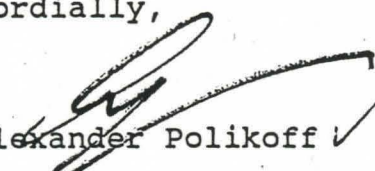
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Alexander Polikoff
Executive Director

Howard A. Learner
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David F. Jacobs
Mary Galloway James
Robert L. Jones, Jr.
Patricia M. Logue
Staff Counsel
Administrative Staff
Marissa Manos
Administrative Director
Eva Oziekonski
Systems Manager
Paula Kruger
Mary Rice
Administrative Staff

writing, as you requested. I have also asked CHA and the Receiver to indicate by their signatures to this letter that they are in accord.

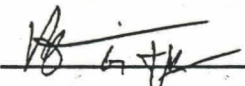
Cordially,


Alexander Polikoff ✓

ALP:mm

Approved And Agreed To:

CHICAGO HOUSING AUTHORITY

By:  _____

HABITAT COMPANY

By:  _____
Receiver

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

8
RECEIVED
DEC 19 1997
Judge Marvin E. Aspen
U.S. District Court

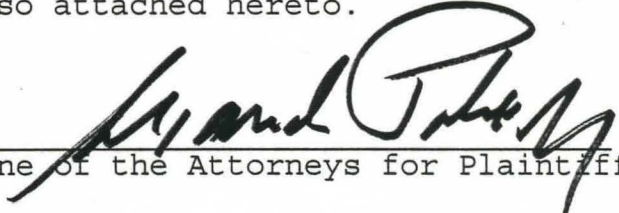
DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	
CHICAGO HOUSING AUTHORITY,	)	Hon. Marvin E. Aspen
	)	
Defendant.	)	

NOTICE OF FILING AND MOTIONS

To: Attached Service List

Please take notice that on Friday, December 19, 1997 we filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, the attached Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction.

Please also take notice that on Tuesday, December 23, 1997, at 9:30 a.m., we will appear before the Honorable Marvin E. Aspen in the courtroom usually occupied by him at 219 South Dearborn Street, Chicago, Illinois, and present (1) a Motion for Leave to File Instant Memorandum in Excess of 15 Pages in response to defendant Chicago Housing Authority's Emergency Motion to Clarify Injunction, a copy of which motion is attached hereto, and (2) a motion requesting oral argument respecting defendant Chicago Housing Authority's Emergency Motion to Clarify Injunction, a copy of which motion is also attached hereto.



One of the Attorneys for Plaintiffs

December 19, 1997

Alexander Polikoff
Julie Elena Brown
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FOR THE PUBLIC INTEREST
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DOROTHY GAUTREAUX, et al.,)
)
 Plaintiffs,)
)
 v.) 66 C 1459
)
 CHICAGO HOUSING AUTHORITY,)
)
 Defendant.)

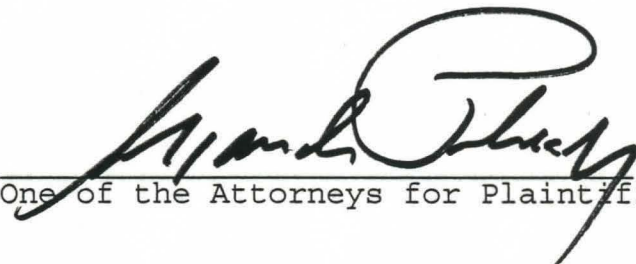
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	
CHICAGO HOUSING AUTHORITY,	)	
	)	
Defendant.	)	

MOTION TO SCHEDULE ORAL ARGUMENT

Plaintiffs respectfully move the Court to schedule oral argument at a time convenient to the Court respecting the defendant Chicago Housing Authority's Emergency Motion to Clarify Injunction.


One of the Attorneys for Plaintiffs

December 19, 1997

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CERTIFICATE OF SERVICE

I, Alexander Polikoff, an attorney, certify that on December 19, 1997 I caused to be served copies of the foregoing Notice of Filing and Motions, together with copies of Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction, Plaintiffs' Motion for Leave to File Instant Memorandum in Excess of 15 Pages, and Plaintiffs' Motion to Schedule Oral Argument, on the persons shown on the attached service list by personal service.



Alexander Polikoff

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