
In The
United States Court of Appeals
for the Seventh Circuit

Nos. 98-1807 & 98-2311 (Consolidated)

DOROTHY GAUTREAUX, et al.

Plaintiffs-Appellees,

v.

**CHICAGO HOUSING AUTHORITY, a
corporation, and JOSEPH SHULDINER,
Executive Director, in his official capacity,**

Defendants-Appellants.

Appeal from the United
States District Court for the
Northern District of Illinois
Eastern Division

No. 66 C 1459

**Honorable
Marvin E. Aspen
Judge Presiding**

**BRIEF OF THE RECEIVER,
APPELLEE IN NO. 98-2311**

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CERTIFICATE OF INTEREST

Appellate Court No: 98-1507

Short Caption: Gauthreaux v. CHA

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- (1) The full name of every party or amicus the attorney represents in the case:

Daniel E. Levin and The Habitar Co, Inc

- (2) If such party or amicus is a corporation:

- i) Its parent corporation, if any; and

N/A

- ii) A list of stockholders which are publicly held companies owning 10% or more of the stock in the party or amicus:

N/A

- (3) The names of all law firms whose partners or associates have appeared for the party in the case or are expected to appear for the party in this court:

Miller, Shakkman, Hamilton, Kutzon & Schifke

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TABLE OF CONTENTS

Table of Contents	i
Table of Cases, Statutes and Other Authorities	iv
Certificate of Compliance With Circuit Rule 32(D)(2)	vii
JURISDICTIONAL STATEMENT	1
STATEMENT OF ISSUES ON APPEAL	2
STATEMENT OF THE CASE	4
A. Nature of the Case	4
B. Course of Proceedings Leading to These Appeals	5
C. Disposition Below	8
D. The Stay Motions	9
STATEMENT OF FACTS	10
A. The Appointment of the Receiver <u>and the Scope of Its Authority</u>	11
1. The circumstances leading to the appointment of the Receiver	11
2. The pertinent terms of the Receiver Order	11
3. The results thus far of the Receivership	12
B. The HOPE VI Disagreement <u>Between the Receiver and CHA</u>	13
C. The Receiver's Notification to <u>Chief Judge Aspen of the Disagreement</u>	16
D. Efforts to Obtain Cooperation After The <u>District Court Entered Its February 23, 1998 Order</u>	17
1. The March 10 meeting	17

2.	Plaintiff's motion for further relief	18
3.	The Receiver's Emergency Motion	19
E.	<u>The Court's May 19 Hearing and Order</u>	19
F.	<u>Events Following the May 19 Order</u>	21
SUMMARY OF ARGUMENT		22
ARGUMENT		24
I.	THERE ARE SERIOUS JURISDICTIONAL QUESTIONS	24
A.	Receiver's Statement Concerning <u>Appellate Jurisdiction</u>	24
B.	The Appeal of the May 19 <u>Order is Probably Not Moot</u>	26
II.	THERE HAS BEEN NO EXPANSION OF THE RECEIVER'S POWERS. THIS COURT SHOULD ACCORD DEFERENCE TO CHIEF JUDGE ASPEN'S INTERPRETATION AND IMPLEMENTATION OF REMEDIAL ORDERS THAT HAVE NEVER BEEN APPEALED OR CHALLENGED	27
A.	The May 19 Order Should be Reviewed Under an <u>Abuse-of-Discretion Standard</u>	27
1.	The May 19 Order is entitled to deference because Chief Judge Aspen was enforcing the Receivership Order that he entered	27
2.	Chief Judge Aspen's Order reaffirming the CHA's duty to cooperate with the Receiver is also entitled to deference because of his broad power in remedying a finding of intentional racial discrimination	28
B.	<u>The CHA Mischaracterizes the May 19 Order</u>	31
C.	The District Court's Interpretation Of Its <u>Unambiguous Receiver Order Was Correct</u>	32

D.	<u>The CHA's Arguments Are Irrelevant and Wrong</u>	34
1.	The CHA's "points" are irrelevant because CHA ignores the plain language of the Receiver Order	34
2.	The arguments the CHA makes are not proper since the CHA has not moved to terminate or modify the Receivership	34
3.	The CHA's arguments are wrong	35
(a)	The Receiver Order is no less binding on the CHA because the CHA agreed to it	35
(b)	The Receiver Order expressly covered "future" programs such as HOPE VI	36
(c)	CHA has not introduced evidence that it is competent to build remedial replacement housing. The record is to the contrary, and also shows that the CHA is unwilling to comply with the <i>Gautreaux</i> decree	37
(d)	The CHA's suggestion that there is no need for the cost of imposing a receivership over a massive federally funded program is mistaken rhetoric	38
E.	<u>CHA had no Right to an Evidentiary Hearing</u>	40
F.	<u>The CHA Previously Agreed to Treat HOPE VI as Subject to the Receivership</u>	42
1.	The Receiver was involved in prior, successful HOPE VI applications	43
2.	The CHA's prior, successful applications emphasized the Receiver's participation and praised the Receiver	43
CONCLUSION		46

TABLE OF CASES, STATUTES AND OTHER AUTHORITIES

Cases

<u>ACORN v. Illinois State Bd. of Elections,</u> 75 F.3d 304 (7 th Cir. 1996)	25
<u>Alexander v. Chicago Park District,</u> 927 F.2d 1014 (7 th Cir. 1991)	35
<u>AOPA v. Hinson,</u> 102 F.3d 1421 (7 th Cir. 1996)	27
<u>Bd. of Educ. of Okla. City v. Dowell,</u> 498 U.S. 237 (1991)	35
<u>Bell v. Little Axe Ind. Sch. Dist. No. 70,</u> 766 F.2d 1391 (10 th Cir. 1985)	42
<u>Ferrell v. Pierce,</u> 743 F.2d 454 (7 th Cir. 1984)	28
<u>Gautreaux v. Landrieu,</u> 498 F. Supp. 1072 (N.D. Ill. 1980)	11
<u>Gautreaux v. Pierce,</u> 1987 WL 13590 at * 1 (N.D. Ill. July 9, 1987)	11
<u>GTE Sylvania, Inc. v. Consumers Union of the United States, Inc.,</u> 445 U.S. 375 (1980)	35
<u>Haley v. Pataki,</u> 60 F.3d 137 (2d Cir. 1995)	21
<u>Harris v. Rivera Cruz,</u> 20 F.3d 507 (1 st Cir. 1994)	33, 40
<u>Hastert v. Ill. State Bd. of Elec. Comm'rs,</u> 28 F.3d 1430 (7 th Cir. 1993)	28
<u>Holland v. Sterling Enterprises, Inc.,</u> 777 F.2d 1288 (7 th Cir. 1985)	1
<u>Illinois ex rel. Hartigan v. Peters,</u> 861 F.2d 164 (7 th Cir. 1988)	25

<u>In Re Chicago Rock Island & Pacific Rwy. Co.,</u> 860 F.2d 267 (7 th Cir. 1988)	28
<u>Keyes v. Sch. Dist. No. 1,</u> 895 F.2d 659 (10 th Cir. 1990)	31
<u>Manges v. Seattle-First Nat'l Bank,</u> 29 F.3d 1034 (5 th Cir. 1994)	21
<u>Milliken v. Bradley,</u> 433 U.S. 267 (1977)	29, 30
<u>Missouri v. Jenkins,</u> 515 U.S. 70 (1995)	35
<u>Opoka v. INS,</u> 94 F.3d 392 (7 th Cir. 1996)	21
<u>Orion Sales, Inc. v. Emerson Radio Corp.,</u> ___ F.3d ___, No. 97-2812 (7 th Cir. July 6, 1998)	26
<u>Parents for Quality Education v. Indiana,</u> 977 F.2d 1207 (7 th Cir. 1992)	29
<u>Rufo v. Inmates of Suffolk Jail,</u> 502 U.S. 367 (1992)	28
<u>Schering Corp. v. Ill. Antibiotics Co.,</u> 62 F.3d 903 (7 th Cir. 1995)	28
<u>SEC v. Hardy,</u> 803 F.2d 1034 (9 th Cir. 1986)	28
<u>South v. Rowe,</u> 759 F.2d 610 (7 th Cir. 1985)	28
<u>Stewart v. Taylor,</u> 104 F.3d 965 (7 th Cir. 1997)	27
<u>Swann v. Charlotte-Mecklenburg Bd. of Educ.,</u> 402 U.S. 1 (1971)	30
<u>Tiverton Bd. of License Comm'rs. v. Pastore,</u> 469 U.S. 238 (1985)	21
<u>United States v. Fordice,</u> 505 U.S. 717 (1992)	29

Statutes

28 U.S.C. §1291	2, 25
28 U.S.C. §1292(a)(1)	2, 25
28 U.S.C. §1292(a)(2)	25
28 U.S.C. §§1331 and 1343	1
42 U.S.C. §§1981 and 1983	1, 4

Other Authorities

<i>Moore's Federal Practice</i> §§66.06[4][a], 67.07[3] (3d Ed. 1998)	28
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CERTIFICATE OF COMPLIANCE WITH CIRCUIT RULE 32(D)(2)

The undersigned, one of the attorneys for Receiver, hereby certifies pursuant to Circuit Rule 32(d)(3) that the following Brief of Receiver, Appellee in No. 98-2311 complies with the type volume limitation of Circuit Rule 32(d)(2). The word processing program indicates that the Brief contains 13,896 words.



One of the Attorneys for Receiver

Daniel E. Levin and The Habitat Co., Inc. are the Court-appointed Receiver for the Chicago Housing Authority in the District Court ("Receiver"). The Receiver was the movant whose motion of May 18, 1998 was granted by an order of the District Court dated May 19, 1998 ("May 19 Order"), which the CHA has appealed in No. 98-2311. The Receiver is therefore an appellee with respect to the May 19 Order and submits this brief in support of affirmance of that Order. On May 20, 1998 the District Court gave the Receiver permission to participate in this appeal.^{1/} [RA.29.]^{2/}

JURISDICTIONAL STATEMENT

The Statement of Jurisdiction contained in the Brief of Defendants-Appellants Chicago Housing Authority and Joseph Shuldiner ("CHA Br.") at 1-2 is not complete and correct under Seventh Circuit Rules 3(c) and 28(b).

Statement Concerning the District Court's Jurisdiction -- Circuit Rule 28(b)(1).

The District Court has jurisdiction over this action under 28 U.S.C. §§1331 and 1343. The case arises under the Fourteenth Amendment of the Constitution and is brought under 42 U.S.C. §§1981 and 1983.

^{1/} A receiver may participate in an appeal if given permission by the Court appointing it. See, e.g., Holland v. Sterling Enterprises, Inc., 777 F.2d 1288, 1291 (7th Cir. 1985).

^{2/} The abbreviation "RA" refers to the Receiver's Supplemental Appendix. That Appendix has three parts. The first part contains pertinent orders and transcript pages and is attached to this Brief. Citations will simply refer to the page number, e.g., "RA.22." In addition, there are two separately bound volumes of record documents, consisting largely of the Affidavits (with attached exhibits) submitted by the Receiver in the District Court. Citations will refer to the page number and the volume in which the page is found, e.g., "RA.150 (Vol.I)" or "RA.400 (Vol.II)."

Statement Concerning Jurisdiction of the Court of Appeals – Circuit Rules 28(b)(2)-(3)

The CHA's notice of appeal concerning the May 19 Order was filed on May 20, 1998. No motions to alter, amend or reconsider were filed. There are no motions currently pending in the District Court. The appeal of the May 19 Order has been consolidated with No. 98-1807, the CHA's appeal of the District Court's February 23 Order.

There are serious questions concerning the Court's jurisdiction over the appeal of the May 19 Order. To avoid duplication, the Receiver refers the Court to the jurisdictional statement and argument being filed by the plaintiffs in their merits brief. Plaintiffs make a substantial showing that appellate jurisdiction may not lie under either 28 U.S.C. §1291 or 28 U.S.C. §1292(a)(1).

An additional jurisdictional problem, discussed in Argument Section I below, is mootness. The May 19 Order compels the CHA to cooperate with the Receiver in connection with the preparation by June 29, 1998 of the HOPE VI application. That application was completed and submitted on June 29. However, the case appears to satisfy the "capable of repetition, yet evading review" exception to the mootness doctrine. See pp. 26-27 below.

STATEMENT OF ISSUES ON APPEAL

As discussed below, the Receiver has acted on the understanding that the 1969 Injunction Order in this case governs the CHA's application for and use of funds for housing under the HOPE VI program. The Receiver defers to the parties to brief whether Chief Judge Aspen's February 23 Order so holding was correct.

This brief addresses Chief Judge Aspen's May 19 Order, which, on the Receiver's motion, held that the 1987 Receiver Order he entered "obligates the CHA to cooperate with the Receiver" and ordered the CHA "to coordinate its 1998 HOPE VI application with the Receiver and to provide the Receiver with the information it has requested." [RA.28.]

The issues with respect to the May 19 Order are:

1. Is the appeal of the May 19 Order moot in light of the completion and submission to HUD of the HOPE VI application on June 29, 1998?

2. Assuming the Court has jurisdiction to decide the CHA's appeal of the May 19 Order, did Chief Judge Aspen abuse his discretion:

A. By interpreting the language "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459" from the 1987 Receivership Order, which he entered, to apply to the CHA's application for non-elderly public housing development funds HUD's HOPE VI statute, and

B. By ordering CHA to comply with its duty of cooperation under the 1987 Receiver Order by (a) coordinating its 1998 HOPE VI application with the Receiver and (b) providing the Receiver with certain factual information it had requested?

STATEMENT OF THE CASE

A. Nature of the Case.

Plaintiffs brought a class action under 42 U.S.C. §§1981 & 1983 alleging that *de jure* housing segregation practiced by CHA violated plaintiffs rights under the Fourteenth Amendment. In 1969 Judge Austin found the CHA liable for intentional segregation. 296 F. Supp. 907 (N.D. Ill. 1969). He entered an Injunction (the "1969 Injunction Order"). 304 F. Supp. 736 (N.D. Ill. 1969). [RA.1.] The Injunction Order required CHA to locate "Dwelling Units" in conformity with the requirements of the Order, which originally provided that three Units would have to be located in the "General Public Housing Area" for every unit located in the "Limited Public Housing Area." The 3:1 ratio was later amended to a 1:1 ratio.

From 1969 to 1987, the CHA made virtually no progress in implementing the 1969 Injunction Order. After warnings by Judges Crowley and Aspen that the District Court would impose a receivership if the CHA continued to fail to remedy its constitutional violations, see below at 11, on August 14, 1987, Judge Aspen appointed Daniel E. Levin and The Habitat Company as the Receiver for the development of new, non-elderly public housing by the CHA ("1987 Receiver Order" or "Receiver Order"). [RA.7.] The Receiver has since served as developer for over 2,200 units of housing, which are now either complete or under construction. [RA.271 ¶100 (Vol.I).]

The Receiver Order gave the Receiver broad powers with respect to the development of "scattered-site housing," which the Order defined as certain existing housing development programs and "all CHA non-elderly public housing development programs which may in the future be

authorized by HUD during the pendency of Civil Action No. 66 C 1459.” [RA.8.] In addition, the Receiver Order states that “CHA . . . shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver’s responsibilities hereunder.” [RA.12.] Finally, the Receiver Order expressly lists “submission to HUD of applications for funding” as a Receiver responsibility. [RA.9.]

The CHA has never sought to dissolve or modify either the 1969 Injunction Order or the 1987 Receiver Order. [RA.34.] With respect to the former, CHA counsel told Chief Judge Aspen in February 1998 that the CHA does not want to vacate the Injunction and that “[t]he Gautreaux remedy should stay in place.” [2/10/98 Tr. at 36, reproduced in plaintiffs’ appendix.]

B. Course of Proceedings Leading to These Appeals.

In 1993 the CHA filed its first in a series of several applications to HUD for housing development funds under the then-new HOPE VI statute, 42 U.S.C. 1437l (note) (reproduced in plaintiffs’ appendix). The CHA did not inform the Receiver of its initial application for HOPE VI funds. After the Receiver learned of the application and raised objections to CHA disregarding the Receiver Order, the CHA agreed that the Receiver would act as “development manager” and function as the developer with respect to HOPE VI-funded projects. The CHA made several statements to HUD so indicating, and also represented to HUD that the housing built with HOPE VI funds would be sited in compliance with the requirements of the Gautreaux Court. See pp. 44-45 below.

In late 1996 the CHA stopped cooperating with the Receiver with respect to the HOPE VI program. After the Receiver raised the issue with the District Court in July 1997, in September 1997

the CHA filed its motion to “clarify” the 1969 Injunction Order. That motion sought “clarification” that the 1969 Injunction Order did not apply to the CHA’s use of HOPE VI funds. The matter was briefed and oral argument was heard in February 1998.^{3/} Chief Judge Aspen denied the CHA’s motion in his February 23 Order, which the CHA appealed on March 26.

Following the February 23 Order, the Receiver invited the CHA and HUD to discuss its implementation. At a meeting on March 10, 1998, the Executive Director of the CHA said he did not agree with the Court’s Order, would act inconsistently with it, and that the Receiver would have to go to Court to stop him. [RA.305-18 (Vol.II).] On March 13, 1998, the Receiver wrote the Court seeking instructions. [Id.]

On March 18, 1998, the plaintiffs filed a Motion for Further Relief, which sought the following order from the Court: that CHA (1) cease unilateral activities incident to the development of non-elderly public housing (“Housing Development Activities”) (which was the Receiver’s responsibility under the Receiver Order), (2) provide the Receiver with certain information and documents, (3) meet with and respond to questions by the Receiver concerning Housing Development Activities, (4) execute documents necessary to transfer authority to the Receiver concerning Housing Development Activities, (5) not apply for funding for Housing Development Activities without written consent of the Receiver, and advise and consult with the Receiver concerning funding availability (including HOPE VI), and (6) provide a written statement of CHA’s plans for the vigorous pursuit of desegregation opportunities. See Motion for Further Relief, Proposed Order. That Motion was subsequently joined by the Receiver and supported by detailed

^{3/} The transcript of the oral argument of February 10, 1998 is included in the plaintiffs’ supplemental appendix.

affidavits from the Receiver, which chronicled various ways in which the CHA had failed to cooperate with the Receiver and had threatened to act in ways that would violate court orders. See pp. 13-18 below. The facts set forth in Receiver's affidavits have not been contradicted or denied by the CHA.^{4/} The Motion for Further Relief was fully briefed by April 13, 1998.

On March 31, 1998 HUD published in the Federal Register its Notice of Funding Availability ("SuperNOFA") making up to \$35 million in funds potentially available for Chicago public housing. [RA.389 (Vol.II).] The application deadline was June 29, 1998.

Believing that under the plain terms of the 1969 Injunction Order, the 1987 Receiver Order and the February 23 Order the process of applying for HOPE VI funds for housing development pursuant to the SuperNOFA was within the Receiver's authority and duties, the Receiver wrote CHA Executive Director Joseph Shuldiner on May 5, 1998 to seek pertinent information from the CHA and to ask for cooperation in the preparation of a competitive application. [RA.490 (Vol.II).] No one from CHA responded to the letter. On May 15, 1998 the Receiver's counsel again wrote CHA's counsel, noting that the Receiver had received no response to its May 5 letter, that the time for preparing an application was "rapidly dwindling," and stating that the Receiver would move on May 18, 1998 for Chief Judge Aspen's assistance if the CHA did not confirm its willingness to cooperate. [RA.514 (Vol.II).]

^{4/} The CHA moved to strike the Receiver's affidavits on April 6, 1998. After briefing, the District Court denied the motion by order dated April 17, 1998. In its reply brief submitted April 13 concerning its motion to strike, the CHA stated it "may" seek leave to supplement the record if the Court were to deny its motion to strike. CHA Reply at 7. After the motion to strike was denied, CHA never submitted counter-affidavits or otherwise contradicted the Receiver's evidence.

Again receiving no response from CHA, the Receiver filed on May 18, 1998 its "Emergency Motion For Entry of Order Implementing CHA's Duty of Cooperation" ("Emergency Motion"). [RA.481 (Vol.II).] The Emergency Motion asked the Court to order CHA to provide the Receiver with the five categories of information set out in the Receiver's May 5 letter to Mr. Shuldiner and to cooperate with the Receiver and representatives of the City of Chicago in the coordination and preparation of an application pursuant to the SuperNOFA. [RA.487-88 ¶¶13-15 (Vol.II).]

C. Disposition Below.

On May 19, 1998 Chief Judge Aspen granted the Receiver's Emergency Motion. He rejected the CHA's contention that the Receiver's status with respect to HOPE VI is "not obvious from our prior orders in this case." [RA.28.] He then quoted the 1987 Receiver Order in holding:

HOPE VI is a 'non-elderly public housing development program[] . . . authorized during the pendency' of the *Gautreaux* litigation, and it therefore fits entirely within the Receiver's jurisdiction. On February 23 we held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the *Gautreaux* judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver. . . .

. . . Our order of August 14, 1987, appointing the Receiver obligates the CHA to cooperate with the Receiver and to provide the Receiver with the information it needs. It is now clear, if it was not before, that this means that the CHA is to coordinate its 1998 HOPE VI application with the Receiver and to provide the Receiver with the information it has requested.

[RA.28.]

On May 21, 1998 Chief Judge Aspen denied plaintiffs' Motion for Further Relief as moot. [RA.31-32.] He concluded that the relief plaintiffs sought would not be "necessary" because of his holding of May 19 that HOPE VI housing development funds were within the scope of the 1987 Order appointing the Receiver. [RA.32.] "Many of the problems detailed in the plaintiffs' motion

concern the CHA's HOPE VI-related activity, and those problems were addressed by our prior order." Id. In addition, the Court ruled that to the extent plaintiffs' motion raised issues unrelated to the Receiver's role in the HOPE VI program, "we think it best that the Receiver bring those issues to this Court's attention if it so chooses."^{5/} Id.

D. The Stay Motions.

On March 20, 1998 the CHA moved in the District Court for a stay pending appeal of the February 23 Order. After briefing, Chief Judge Aspen denied the motion on May 12, 1998. [RA.25.]

On May 20, 1998 the CHA moved Chief Judge Aspen for a stay of his May 19 Order. After expedited briefing, on May 22, 1998 Chief Judge Aspen denied the CHA's motion. [RA.33-34.]

In his ruling, Chief Judge Aspen observed that:

the CHA's motion rests at least in part on untenable overreadings of our May 19 order. That order did not 'turn over all of the CHA's powers and responsibility for the 1998 HOPE VI application to the Receiver.' CHA's Mot. ¶13; *see also id.* ¶14. It merely stated that the Receiver would have to be involved (i.e., that the Receiver and the CHA would have to cooperate) in preparing the application in light of the fact that the receivership order gave the Receiver 'all powers of CHA' with regard to the development and administration of 'all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency' of the *Gautreaux* litigation.

[RA.34.]

Chief Judge Aspen also rejected the CHA's contention that the May 19 Order was a new "mandatory injunction," "since it does nothing more than reaffirm that the receivership order means

^{5/} The Receiver has not yet brought such a motion, but may do so if the CHA's lack of cooperation persists.

what it already says.” Id. With respect to CHA’s argument that factual findings were needed, Chief Judge Aspen ruled that CHA “has the situation in reverse: only if we modified or terminated the receivership order (and the CHA has repeatedly threatened to make a motion to that effect but has not yet made one) would factual findings be necessary.” Id. Finally, addressing the first of the four traditional stay factors, Chief Judge Aspen found the CHA unlikely to succeed on appeal because:

It has never offered any argument as to how the plain language of the receivership order could be interpreted to give the Receiver no role in HOPE VI-funded development, and we are aware of none. The CHA’s only hope of achieving that outcome is to move for a modification (or termination) of the receivership order, but it has not made such a motion, it has not presented any evidence justifying such a motion, and a modification of the receivership order is not before the appellate court.

Id.

On May 19, the CHA moved this Court to stay the February 23 Order, and on May 20, it moved to stay the May 19 Order. This Court denied both of CHA’s stay motions on May 29, 1998. It also ordered that the jurisdictional issues raised by the parties be briefed as part of the merits briefs of the parties.

STATEMENT OF FACTS

The Receiver is briefing only the validity of the Court’s May 19 Order. Accordingly, we summarize certain facts that relate to the Receiver’s duties and performance, and the CHA’s recent efforts that have hindered the Receiver and led to the Receiver’s decision to file its Emergency Motion that Chief Judge Aspen granted in the May 19 Order. The history of the Receiver’s activities in HOPE VI-funded projects is set forth because of the CHA’s erroneous contentions that the May 19 Order “impose[d] a receivership” on CHA and “transferred the CHA’s authority over HOPE VI-

funded housing development to a receiver,” and that Chief Judge Aspen “conducted no inquiry into either the need for a receiver or the receiver’s qualifications with regard to HOPE VI.” CHA Br. 35. Other background facts are stated in the Brief of the Plaintiffs.

A. The Appointment of the Receiver
 and the Scope of Its Authority

1. The circumstances leading to the appointment of the Receiver.

The seven-year history leading up to the District Court’s appointment of the Receiver is set forth in the plaintiffs’ brief, and will not be repeated here. District Court decisions on the issue are Gautreaux v. Landrieu, 498 F. Supp. 1072 (N.D. Ill. 1980), and Gautreaux v. Pierce, 1987 WL 13590 at * 1 (N.D. Ill. July 9, 1987). The latter is included in the plaintiffs’ appendix.

2. The pertinent terms of the Receiver Order.

Judge Aspen appointed the Receiver by order dated August 14, 1987. [RA.7.] The Court did not appoint the Receiver to “take over” the CHA as suggested by CHA; the Receiver’s authority was limited to the CHA’s non-elderly housing development program.

In entering the 1987 Receiver Order, the Court found that it had “no reasonable alternative but to exercise its inherent power to effectuate its own orders and to so appoint said receiver for the scattered site program.” [RA.7.] The Order defined the “scattered site program” as certain then-pending programs and “all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459” (emphasis

added). [RA.8.] The Receiver was appointed “to develop and administer the scattered site program as effectively and expeditiously as possible in compliance with the orders of this Court.” Id.

The scope of the Receiver’s authority was defined broadly:

The Receiver shall have and exercise all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including:

- (a) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (i) submission to HUD of applications for funding, development programs and other documents.

[RA.8-9 ¶2 (emphasis added).]

With respect to CHA’s duty to cooperate with the Receiver, the 1987 Receiver Order states:

CHA . . . shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver’s responsibilities hereunder, including without limitation providing full access to all information, records, documents, files relating to the scattered site program.

[RA.12 ¶7.]

3. The results thus far of the Receivership.

Since being appointed, the Receiver has developed new housing for the CHA in compliance with the Court’s desegregation orders.^{6/} Since 1987, through the construction of new or incremental scattered-site housing adding to the CHA’s aggregate housing stock, and through the construction of less concentrated, replacement housing on and near the sites of former high-rises (such as the

^{6/} In an August 1997 opinion, Chief Judge Aspen recounted that he had appointed the Receiver because “CHA proved inept at building public housing on scattered-sites,” a remedy the Court had required because of the CHA’s intentional segregation of public housing locations, and that “it was not until then that construction began in earnest.” [RA.16.]

Henry Horner Homes), the Receiver has been responsible for the construction of over 2,200 units of housing.^{7/} [RA.271 (Vol.I).] From 1987 to the present, with the exception of recent events described below, the Receiver has generally operated successfully with the cooperation of CHA. This cooperation included, until recently, housing to be funded under HOPE VI.^{8/} [See generally RA.80-100, 266-75 (Vol.I).]

B. The HOPE VI Disagreement
Between the Receiver and CHA.

The HOPE VI program was created by Congress in 1992. In 1993, the CHA applied for the first of several grants. Between 1993 and 1997, the CHA shifted from cooperating with the Receiver to opposition to any HOPE VI role for the Receiver or the Gautreaux court. Since these events are described by the plaintiffs in their brief, to avoid duplication the Receiver will not detail the history herein. Some of the key points are summarized below, with citations to the uncontradicted factual record supporting the points.

^{7/} The Receiver does not perform the construction. It acts as developer, with the construction contracts awarded pursuant to an open and competitive process in conformance with HUD regulations. [RA.96-97, ¶¶68-72 (Vol.I).] The Receiver submits quarterly reports of its activities to Chief Judge Aspen, with copies to the parties. In addition, the fee paid to the Receiver for its development activities is subject to the review and approval of the District Court, and any party can comment or object to the fee. CHA has never filed objections to fees paid to the Receiver. We note these points because the CHA has peppered its brief with allusions to the Receiver as a private company that earns a fee for its court-appointed activities. See, e.g., CHA Br. 7, 35-36. The Receiver's activities and fee statements have always been, and will continue to be, subject to judicial scrutiny and the comments of the parties.

^{8/} The housing produced by the Receiver with CHA cooperation has been nationally recognized. In January 1998, HUD Secretary Cuomo conferred the Secretary's Platinum Award on the Horner Homes Redevelopment Program. The Receiver is the developer for this \$50 million program, Phase II of which will be funded in part with HOPE VI money. Also, the Receiver's scattered site program received the Urban Land Institute's Award of Excellence in 1996. [RA.273 ¶106 & Ex. attached thereto (Vol.I).]

● Cabrini Housing Developments. After the Receiver objected to CHA's unilateral application in 1993 for HOPE VI funds for Cabrini-Green, the Receiver and CHA agreed that Habitat would function as the "development manager" for the construction of the replacement units. [RA.321 ¶¶18-19 (Vol.II); RA.82-84 ¶¶18-19, 21-27 (Vol.I).] This agreement was confirmed by letter dated November 14, 1995, written by the CHA's board chairman. [RA.159 (Vol.I).] The Receiver functioned as developer for the Cabrini-HOPE VI project for over a year, after which the CHA instructed the Receiver (in September 1996) to stop work, and CHA thereafter began performing some development tasks that are the Receiver's responsibility under the Receiver Order. [RA.84-87, 89-90 ¶¶28-39, 44-46 (Vol.I).]^{9/}

● ABLA & Horner Developments. In 1996, the CHA applied for and received HOPE VI funds for the ABLA ("ABLA I") and Horner ("Horner II") developments. The Receiver assisted in preparing the HOPE VI application. [RA.92-93 ¶¶54-57 (Vol.I).] The parties also entered into a Development Management Agreement dated April 21, 1997 (the "Agreement"), a copy of which is in the record. [RA.516-27 (Vol.II).]

● Taylor Housing Development. In 1996 the CHA applied for HOPE VI funding for redevelopment of the Robert Taylor Homes project without informing the Receiver. [RA.93-94 ¶58 (Vol.I).] After learning from a separate source that the CHA had applied, the Receiver asked CHA about the application and was told by CHA that the Receiver did not have to be involved because none of the funding was sought for replacement housing. [RA.94 ¶59.] This was untrue, as the Receiver subsequently learned. [RA.95 ¶¶60-62.] The CHA refused to produce the application,

^{9/} The Cabrini plan was not progressing because a class of Cabrini tenants had sued the CHA concerning the plan. See CHA Br. Exh. B-1. Accordingly, the Receiver did not immediately notify the Court, but continued discussions with the CHA. The Receiver notified the Court of the dispute in July 1997. See p. 16 below.

[RA.55-60 (Vol.I).], and only produced copies for inspection pursuant to the District Court's Order on May 20, 1998 compelling it to do so. [RA.30.]

- Demonstration project. The CHA attempted a demonstration project, with the Receiver's agreement and Judge Aspen's permission, to show that it has the ability to develop housing in compliance with the Injunction Order. This attempt by CHA was unsuccessful, and the Receiver has had to step in to complete the project. The CHA also asked the Receiver to assist it in the development of 44 replacement units at Cabrini, a project called "Mohawk North," which the CHA had begun unilaterally after asking the Receiver to stop development work with respect to Cabrini. [RA.91-92 ¶¶50-53 (Vol.I).]

- Darrow Housing Development. In 1997 the CHA, the Receiver and plaintiffs' counsel discussed the possibility that the parties would jointly request permission of the District Court for the CHA to construct 38 units of replacement housing for the Darrow development as another "demonstration" opportunity for the CHA. No agreement was reached, however. [RA.452 ¶5 (Vol.II).] Thereafter, in February 1998, without notifying the Receiver, the plaintiffs or the District Court, the CHA applied to the City of Chicago for zoning changes necessary to construct a new 105-unit project at Darrow. The Receiver and the plaintiffs only learned of the proposal by chance. [See RA.64 ¶7 (Vol.I), and attached submission to the Chicago Plan Commission of February 11, 1998; RA.98 ¶¶73-75 (Vol.I); RA.452-53 ¶¶5-8 (Vol.II).] The CHA's planned concentration of units at Darrow clearly violated the desegregation locational requirements of the 1969 Injunction Order, as modified. [Id.] On March 10, 1998 CHA Executive Director Shuldiner

told the Receiver that he intended to proceed with the Darrow project and that the Receiver would have to go to Court to try to stop him. [RA.314 (Vol.II).]

C. The Receiver's Notification to Chief Judge Aspen of the Disagreement.

In May 1997 the Receiver filed a motion with the District Court arising from certain disagreements with the CHA over the development of Horner replacement housing. See Receiver's Emergency Motion for Instructions, filed May 23, 1997. As a result, an in-chambers meeting was held with Chief Judge Aspen and was attended by the CHA, the plaintiffs and the Receiver on July 2, 1997. At that meeting the Receiver explained the disagreement over the Receiver's role in HOPE VI-funded new housing.^{10/} Chief Judge Aspen asked the parties to meet to attempt to work out their differences and offered to resolve the matter if they could not. [RA.323 ¶¶26-28 (Vol.II); RA.349-50 ¶¶7-8 (Vol.II).]

The CHA initially refused even to discuss the HOPE VI issue, then engaged in negotiations, RA.324-25 ¶¶29-35 (Vol.II). In September 1997 CHA filed its motion for a determination that new housing development funded by HOPE VI was outside the scope of the Gautreaux Injunctive Order. That motion was denied by the District Court's ruling of February 23, 1998. [RA.20.] Before the motion was decided, the Receiver submitted a Statement to the District Court on December 19, 1997, in which it asserted its understanding that the Receiver Order granted it authority over non-elderly housing developed with HOPE VI funds.

^{10/} Because of this July conference and the Receiver's court filing of December 19, 1997, discussed in the text, CHA's statement in its brief that "[i]t was only after the District Court issued the February Order that the receiver asserted to the District Court that it had authority over HOPE VI," CHA Br. 37 n.21, is incorrect.

D. Efforts to Obtain Cooperation After
The District Court Entered Its February 23, 1998 Order.

1. The March 10 meeting.

After the February 23 Order was entered, the Receiver convened a meeting with HUD and the CHA to attempt to work out procedures for implementing the Order. The meeting, which took place on March 10, 1998, is described in detail in the Receiver's report to Chief Judge Aspen of March 13, 1998, a copy of which was attached by the plaintiffs to their motion of March 18, 1998 for further relief and is found at RA.307-18 (Vol.II). In that letter Mr. Levin (who, along with Valerie Jarrett, subsequently verified the letter by affidavit, RA.305-06 & 452 ¶4 (Vol.II)) summarized a number of statements made by Mr. Shuldiner, the CHA's Executive Director:

. . . Mr Shuldiner stated that he did not agree with your February 23 Order, that he opposed the Receivership, that he disagreed with the requirements of various Court Orders mandating housing to be located so as to further desegregation goals. He also stated that the CHA intended to proceed with its own programs for development of new housing without the Receiver, and invited us to "try to stop him." He made it clear that no cooperation would be forthcoming, and that if the Receiver opposed him, he would join tenants in pressing claims against us.

[RA.307 (Vol.II).] Mr. Levin also described these statements by the CHA's Executive Director:

Mr. Shuldiner also said that the CHA intended to proceed to build new family housing at the Darrow Homes (in a limited area surrounded by other public housing), and anywhere else the CHA felt was appropriate. . . . He said that the CHA should be able to house people wherever it can house them.

[RA.310 (Vol.II).] Mr. Shuldiner also threatened retaliatory action against the Receiver, RA.309-10 (vol. II), and after the meeting followed through by withholding a ministerial approval of the transfer of \$7 million in development funds to the Receiver. [RA.454-55 ¶¶9-13 & RA.463 (vol. II).]^{11/}

Mr. Levin also reported his own statements at the meeting, including the following:

I told Mr. Shuldiner that I was proposing to make a cooperative arrangement with the CHA, but the CHA must acknowledge that the Court's February 23 Order has some meaning, and that the CHA must acknowledge its obligation to plan and consult with the Receiver. I said at least five times that I was willing to try to work with him to solve problems. I emphasized that I was not seeking to sit in his chair, and was not trying to make all the decisions.

Near the end of the meeting, Mr. Shuldiner told me that he had offered to residents at Cabrini-Green a development partnership interest. He will build replacement housing with them, and without the Receiver. He made it clear that he is going to continue to make plans with the residents at Cabrini-Green, and that we could only "try to stop him."

[RA.311 (Vol.II).] Mr. Shuldiner and the CHA have not filed an affidavit or otherwise denied the accuracy of Mr. Levin's and Ms. Jarrett's report of the meeting.

2. Plaintiff's motion for further relief.

On March 18, 1998, in response to the problems described in the Receiver's March 13 letter, the plaintiffs filed their Motion for Further Relief, which is described above at 6. The Receiver submitted extensive affidavits and documentary evidence in support of the Motion. [RA.62-451 (Vol.I-II).] There was no evidence submitted by the CHA in rebuttal.

^{11/} The funds were ultimately released to the Receiver by HUD.

3. The Receiver's Emergency Motion.

While the plaintiffs' motion was pending, HUD announced the availability of up to \$35 million for Chicago public housing in its Notice of Funding Availability of March 31, 1998. After the CHA ignored several letters from the Receiver and his attorney seeking cooperation in applying for funds, see above at 7-8, on May 18 the Receiver filed its Emergency Motion seeking directions to the CHA to cooperate with the Receiver in preparation of the SuperNOFA application and to provide necessary information. See RA.484-86 ¶¶5-10 (Vol.II) and exhibits thereto.

E. The Court's May 19 Hearing and Order.

The Receiver's Emergency Motion was heard on May 19. At the hearing, Chief Judge Aspen commented about the events leading up to the motion:

I am concerned that Mr. Shuldiner feels that he can't go along with the Receiver. I find that disturbing and I find that surprising because everyone else involved in this litigation through the years, other than Mr. Shuldiner, has had no problem getting along with the Receiver.

But my focus is not on whether he can get along with the Receiver or not. My focus is whether or not everyone, including the CHA, complies with the orders of this Court I expect Mr. Shuldiner to comply with those orders, whether or not he feels that it's an impediment to follow my orders because he can't get along – or feels he can't get along with the Receiver. [RA.41-42.]

After counsel for the CHA said that Mr. Shuldiner's conflict with the Receiver was not personal, but based on his opinion that the February 23 Order did not give the Receiver authority over HOPE VI, Chief Judge Aspen said:

Well, if that belief conflicts with the orders of this Court, then Mr. Shuldiner will have to opt to follow the orders of this Court. You know, we're not in a lawless society where somebody has their own views as to the law or the construction of an agreement and can follow those if there is a Court order to the contrary. [RA.42.]

Counsel for the plaintiffs then objected to the CHA's claim that the HOPE VI program had been "turned over" to the Receiver, and Chief Judge Aspen agreed:

MR. POLIKOFF: The rhetoric of turning over this program to the Receiver that's been used in the briefs and responded to, is not an accurate characterization of what is involved

THE COURT: I agree with you, Mr. Polikoff, and I should have said something as well. [RA.44.]

The Court concluded that the Receiver had not sought to usurp the responsibilities of the CHA under the court's orders:

Mr. Levin [the Receiver] has never done anything in the past, nor have I found any of his actions in the recent brouhaha to indicate that he wants to usurp any of Mr. Shuldiner's [CHA's Executive Director] authorities.

On the contrary, I find that Mr. Shuldiner has thus far indicated that he would rather contest every aspect of the relationship between the Receiver rather than attempt to cooperate. And to the extent I can, I will straighten it out when I rule on the motions. [RA.45.]

Later that day, the court issued its May 19 Order. [RA.27-28.] Chief Judge Aspen observed that the motion was an outgrowth of the 1987 Receiver Order, the February 23 Order, and the denial of the CHA's motion to stay the latter order. Chief Judge Aspen rejected the CHA's arguments:

The CHA, in open court this morning, made clear that the basis for its objection to the Receiver's motion is its view that our February 23 order did not directly address the Receiver's status with regard to the HOPE VI program and that the Receiver's status is not obvious from our prior orders in this case. We disagree. HOPE VI is a "non-elderly public housing development program[] . . . authorized during the pendency" of the *Gautreaux* litigation, and it therefore fits entirely within the Receiver's jurisdiction. On February 23 we held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the *Gautreaux* judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver. Moreover, the Receiver has indicated its willingness to work with CHA to ensure that the 1998 HOPE VI proposal meets the requirements of both the HOPE VI program and the *Gautreaux* judgment order,

as well as to assist in making that proposal as competitive as possible. The Receiver even indicated its interest in the CHA's thoughts on decisions which are ultimately the Receiver's responsibility. We hope that this open-minded and enthusiastic offer of cooperation sets an example for everyone involved in this case.

* * * * *

Our order of August 14, 1987, appointing the Receiver, obligates the CHA to cooperate with the Receiver and to provide the Receiver with the information it needs. It is now clear, if it was not before, that this means that the CHA is to coordinate its 1998 HOPE VI application with the Receiver and to provide the Receiver with the information it has requested. [RA.28.]

F. Events Following the May 19 Order.

Because questions concerning appellate jurisdiction and the possible mootness of the May 19 Order exist, a brief summary of the events following entry of the May 19 Order is warranted.^{12/} Following the May 19 Order granting the Emergency Motion, the CHA refused to turn over to the plaintiffs and the Receiver its prior applications to HUD for HOPE VI funds, even though its Stay Motions already filed in this Court referred repeatedly to those applications. On May 20, the District Court granted the plaintiffs' emergency oral motion to compel CHA to produce the documents forthwith. [RA.30.] One of the applications (summarized below) relied heavily upon the Receiver's involvement and qualifications.^{13/}

^{12/} In order to determine its jurisdiction, this Court may consider events occurring after entry of the order appealed from below. See, e.g., Tiverton Bd. of License Comm'rs. v. Pastore, 469 U.S. 238, 240 (1985); Haley v. Pataki, 60 F.3d 137, 140 (2d Cir. 1995); Manges v. Seattle-First Nat'l Bank, 29 F.3d 1034, 1041 (5th Cir. 1994). In addition, the Court can take judicial notice of orders subsequently entered by the District Court. See, e.g., Opoka v. INS, 94 F.3d 392, 394 (7th Cir. 1996) (court has power to take judicial notice of relevant court decisions "whether made before or after the decision under review").

^{13/} In addition, on May 21 Chief Judge Aspen denied Plaintiff's Motion for Further Relief as "moot," since he concluded that his May 19 Order to CHA to cooperate with the HOPE VI
(continued...)

Two meetings were convened, on May 22 and 26, 1998, by Julia Stasch, the Commissioner of the City of Chicago's Department of Housing to discuss the joint preparation of a HOPE VI application. The meetings were convened after the Receiver informed Ms. Stasch of its desire to work collaboratively with the City and CHA to prepare an application. Representatives of CHA (including Mr. Shuldiner), the Receiver and the City attended both meetings. [RA.478-80 ¶¶22-26 (Vol.II).] Several other meetings were held. While the Receiver does not believe that CHA provided all the cooperation it should have, the CHA submitted an application to HUD by the June 29, 1998 deadline. In connection with that application, the CHA, the plaintiffs and the Receiver moved Chief Judge Aspen to enter an agreed order designating the ABLA Revitalizing Area, which will enable the development proposed in the application, if funded, to proceed in compliance with the requirements of the Gautreaux Court. Chief Judge Aspen entered the agreed order on June 19, 1998, and a copy is contained in plaintiffs' appendix.

SUMMARY OF ARGUMENT

Assuming there is jurisdiction over this appeal, this Court should affirm the May 19 Order. Chief Judge Aspen did not abuse his discretion in entering it, and it was clearly correct under any standard of review.

The May 19 Order is a straightforward application of the plain and unambiguous terms of the 1987 Receiver Order to housing development activities conducted under HOPE VI. The 1987

^{13/}(...continued)

application already resolved a substantial portion of the Plaintiffs' motion. [RA.32.] See above at 8-9.

Receiver Order granted the Receiver authority over “all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency” of this action. The Receiver’s authority expressly extended to the submission to HUD of funding applications and required the CHA to “provide full cooperation and assistance to” the Receiver “in the performance of the Receiver’s responsibilities hereunder.” [RA.12.] Chief Judge Aspen correctly held that since “HOPE VI is a ‘non-elderly public housing development program[] authorized during the pendency of the *Gautreaux* litigation,’” it “fits entirely within the Receiver’s jurisdiction.” [RA.28.] Accordingly, he also correctly ruled that the 1987 Order required the CHA to cooperate with the Receiver in the preparation and submission by June 29, 1998 of the HOPE VI funding application.

And that is all it orders: cooperation in the preparation of an application and the production of information. The CHA mischaracterizes the May 19 Order. Contrary to CHA Br. 35-37, the May 19 Order did not “impose” a receivership, “appoint” a receiver, or “transfer” powers to the Receiver. It did not expand the Receiver’s authority or change the already-existing obligations of the parties. All it did was, as Chief Judge Aspen stated in denying CHA a stay pending appeal, “reaffirm that the receivership order means what it already says.” [RA.34.] CHA does not and cannot offer any other plausible reading of the Receiver Order, and it has never moved to modify or dissolve that Order. Unless and until it succeeds in doing so, it must comply with that Order.

Finally, CHA ignores the factual context in which the May 19 Order was entered. While the plain language of the Receiver Order is controlling and dispositive of this appeal, the Receiver’s affidavits that were before Chief Judge Aspen when he entered the May 19 Order (reproduced in the Receiver’s Appendix) set forth an uncontradicted factual context. Those affidavits detail an

unfortunate course of conduct under which the CHA began acting as if the 1987 Receiver Order did not exist and ultimately dared the Receiver to “try to stop” it from taking action in violation of that Order and the 1969 Injunction.

Chief Judge Aspen has broad discretion to fashion discrimination remedies and to enforce compliance with his own orders. When he stated in Court on May 19 that “Mr. Shuldiner has thus far indicated that he would rather contest every aspect of the relationship between the Receiver rather than attempt to cooperate,” and that “I will straighten it out when I rule on the motions,” RA.45, Chief Judge Aspen was acting well within his discretion and reaffirming the rule of law. His Orders of May 19, 21 and 22 confirm in no uncertain terms the CHA’s duty to cooperate, imposed no new duties upon the CHA, and are appropriately limited in scope.

ARGUMENT

I.

THERE ARE SERIOUS JURISDICTIONAL QUESTIONS.

Whether this Court has jurisdiction is a question of law, which this Court has authority to decide. The parties’ briefs address the appellate jurisdiction issues. The Receiver discusses mootness in Section B below.

A. Receiver’s Statement Concerning Appellate Jurisdiction.

Legal questions aside, the Receiver would prefer for practical reasons that the Court reach the merits of the CHA’s appeals. Resolution by this Court of the merits would help bring closure to the parties’ dispute concerning the interplay between the Injunction, the Receiver Order and

HOPE VI. It would, the Receiver hopes, render future litigation and appeals by CHA of HOPE VI issues less likely and permit the Receiver to focus on developing housing in furtherance of the 1969 Injunction Order.

The Receiver notes, however, that the jurisdictional problems in the case result from the tactical decisions of the CHA. It has chosen not to seek modification or dissolution of either the 1969 Injunction or of the 1987 Receivership Order. The grant or denial of modification of the former order would be appealable under 28 U.S.C. §1292(a)(1). The grant or denial of modification of the latter order would not be appealable under 28 U.S.C. §1292(a)(2), see Illinois ex rel. Hartigan v. Peters, 861 F.2d 164, 165 (7th Cir. 1988), but would probably become appealable under 28 U.S.C. §1291 once a final order is entered terminating that phase of this case. Cf. ACORN v. Illinois State Bd. of Elections, 75 F.3d 304, 306 (7th Cir. 1996).

Instead, the CHA's strategy was merely to seek "clarification" of orders that required no clarification, and its tactic resulted in orders that were neither new injunctions nor alterations of the legal relationships of the parties. Moreover, the time for the filing of the HOPE VI application, June 29, 1998, has come and gone and an application has been filed. After seeking and obtaining from this Court an expedited ruling, albeit unfavorable to it, of its two stay motions, the CHA did not seek an expedited appeal of the merits May 19 Order addressing that application. Because of these litigation decisions, substantial questions are raised concerning both appellate jurisdiction and mootness.

B. The Appeal of the May 19 Order Is Probably Not Moot.

Because the May 19 Order simply confirms that the 1987 Receiver Order required the CHA to cooperate with the Receiver in preparing the HOPE VI application, and because the application was completed and filed on June 29, 1998, an obvious mootness question is raised. See Orion Sales, Inc. v. Emerson Radio Corp., ___ F.3d ___, No. 97-2812 (7th Cir. July 6, 1998) (preliminary injunction against termination of license agreement became moot after agreement's expiration date passed).

The Receiver suggests that the "capable of repetition, yet evading review" exception applies to this case. The circumstances leading up to the May 19 Order are certainly "capable of repetition." There is likely to be future activity (and CHA cooperation) required in connection with the HOPE VI application already filed, especially if the grant is awarded; and there may be future appropriations by Congress and Notices of Funding Availability by HUD and future applications by CHA and/or the Receiver. In either circumstance, the CHA may continue to contest its obligations under the 1987 Receiver Order to cooperate with Receiver in connection with HOPE VI. The May 19 Order would be the law of the case for Chief Judge Aspen, but this Court would not yet have passed on the issue.

Whether the circumstances also "evade review" is less clear, but on balance the Receiver believes the exception is satisfied. Review was "evaded" here only by the litigation choice of the CHA not to seek an expedited appeal of the May 19 Order. In future circumstances, there might not always be a need for expeditious review, or there might be, as there was in the case of the March 31 SuperNOFA setting a June 29 deadline, a three-month window in which to litigate the issue. This

Court often hears appeals on an expedited basis on shorter schedules, see, e.g., AOPA v. Hinson, 102 F.3d 1421 (7th Cir. 1996) (in case involving possible closure of Meigs Field, time period from filing of case to decision by Court of Appeals was about 2½ months), so review would be difficult but not precluded. However, this Court recently held that the “capable of repetition yet evading review” exception was met because a three-month period was found too short to litigate the matter. Stewart v. Taylor, 104 F.3d 965, 969 (7th Cir. 1997). Under Stewart it appears that the exception should be applied to this case.

II.

THERE HAS BEEN NO EXPANSION OF THE RECEIVER’S POWERS.
THIS COURT SHOULD ACCORD DEFERENCE TO
CHIEF JUDGE ASPEN’S INTERPRETATION AND IMPLEMENTATION
OF REMEDIAL ORDERS THAT HAVE NEVER BEEN APPEALED OR CHALLENGED

A. The May 19 Order Should Be Reviewed Under An Abuse-of-Discretion Standard.

1. The May 19 Order is entitled to deference because
Chief Judge Aspen was enforcing the Receivership Order that he entered.

The May 19 Order was based upon Chief Judge Aspen’s interpretation of his own 1987 Receiver Order, which he has monitored since. The May 19 Order was clearly correct and should be affirmed under any standard of review. However, Chief Judge Aspen’s interpretation is entitled to substantial deference and should not be disturbed absent an abuse of discretion.

That is true for two reasons. First, a “district court’s power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad”; similarly, “a district judge simply cannot effectively and successfully supervise

a receivership and protect the interest of its beneficiaries absent broad discretionary power.” SEC v. Hardy, 803 F.2d 1034, 1037-38 (9th Cir. 1986). Accord 13 Moore’s Federal Practice §§66.06[4][a], 67.07[3] (3d Ed. 1998). Second, Chief Judge Aspen was construing his own remedial order. See, e.g., Hastert v. Ill. State Bd. of Elec. Comm’rs, 28 F.3d 1430, 1438 (7th Cir. 1993) (“district court is in the best position to interpret its own orders, and we will not disturb such an interpretation absent a clear abuse of discretion”); In Re Chicago Rock Island & Pacific Rwy. Co., 860 F.2d 267, 272 (7th Cir. 1988) (same); Schering Corp. v. Ill. Antibiotics Co., 62 F.3d 903, 908 (7th Cir. 1995) (“particularly heavy weight” should be given to district court’s interpretation of its own injunction). This is especially so where the District Court has overseen the litigation generated by its remedial orders for many years. See Ferrell v. Pierce, 743 F.2d 454, 461 (7th Cir. 1984); South v. Rowe, 759 F.2d 610, 613 n.4 (7th Cir. 1985). See also Rufo v. Inmates of Suffolk Jail, 502 U.S. 367, 394 (1992) (O’Connor, J., concurring).^{14/}

2. Chief Judge Aspen’s Order reaffirming the CHA’s duty to cooperate with the Receiver is also entitled to deference because of his broad power in remedying a finding of intentional racial discrimination.

Chief Judge Aspen’s May 19 Order is also entitled to deference because of the remedial ends underlying the Order. The Receiver’s responsibility is to implement the Court’s remedy, which was based on an adjudication of *de jure* segregation and is in the form of an injunction that has never been challenged. Before the May 19 Order was entered, the Receiver had advised the Court of CHA actions that interfered with the Receiver’s efforts and that indicated CHA’s unwillingness to follow

^{14/} In light of these cases, CHA misstates the standard of review. It acknowledges that an “abuse of discretion” standard applies to the “decision to impose a receivership,” CHA Br. 35, but since the May 19 Order does not “impose a receivership,” the CHA’s statement is inapt. CHA’s additional statement that the standard of review of the district court’s interpretation of an injunction is “plenary,” is incorrect where, as here, the court is interpreting its own injunction.

the Court's orders. In this context, where a district judge is seeking to obtain compliance with prior, clear orders to remedy intentional segregation, deferential review is especially appropriate.

Chief Judge Aspen's modest Order of May 19, which simply reaffirms the already-existing duty of CHA to cooperate with the Receiver and orders cooperation in the preparation of a funding application, should be viewed in the following factual and legal context: The same large, concentrated, segregated public housing projects that were found unconstitutional in 1969 remain largely in place.^{15/} As a matter of law, where a state or local agency has maintained a *de jure* system of segregation, it must take necessary steps to eliminate "all vestiges of state imposed segregation," and if "the State has not discharged that duty, it remains in violation of the Fourteenth Amendment." Parents for Quality Education, 977 F.2d at 1210, quoting Milliken v. Bradley, 433 U.S. 267, 289-90 (1977), and United States v. Fordice, 505 U.S. 717, 727 (1992). HOPE VI funds can be used, as they were before, see below at 44-45, to further implement the Court's remedy, while achieving the ends of replacing dilapidated housing and revitalizing existing neighborhoods. Cooperation by the CHA would bring a speedier end to judicial involvement.

The CHA's recent actions are also part of the relevant background to the May 19 Order, and are relevant to considering the standard of review. The CHA has acted to avoid the court-imposed remedy. The statements of Mr. Shuldiner to the Receiver on March 10, see above at 17-18, evinced the CHA's intention to disregard the Court's orders and interfere with its Receiver. As the District Court found, "Mr. Shuldiner has thus far indicated that he would rather contest every aspect of the

^{15/} If the "road to a unitary [desegregated] school system is often a long one," Parents for Quality Education v. Indiana, 977 F.2d 1207, 1211 (7th Cir. 1992), such is the case with segregated housing as well.

relationship between the Receiver rather than attempt to cooperate.” [RA.45.] The CHA has stated both to the Receiver and in its two Stay Motions in this Court that it wants to use HOPE VI funds without regard to the desegregation objectives of Gautreaux. See RA.307-18 (Vol.II); Stay Motion I ¶15; Stay Motion II ¶¶56, 59. In addition to these declarations of CHA’s intention to frustrate the desegregation provisions of the 1969 Injunction and disregard the Receiver’s court-appointed role, the District Court had before it evidence that: (i) CHA has previously filed HOPE VI applications without telling the Receiver (Cabrini in 1993, Taylor in 1996, and ABLA in 1997), see RA.82, 93-94, 272-73 ¶¶18, 58, 104 (Vol.I); (ii) CHA has erroneously told the Receiver that an application (regarding Taylor) did not provide for replacement housing, and therefore did not concern the Receiver, see RA.93-95 ¶¶58-62 (Vol.I); and (iii) CHA had filed an applications in 1998 for zoning approval with the City of Chicago – without even informing the Receiver – to rebuild on-site approximately 105 units of the Darrow Homes development in one of the most concentrated public housing areas in the City – in violation of the Injunction Order. See above at 15.

Chief Judge Aspen’s recent orders, including the May 19 Order, sought to correct the cooperation problem and effectuate the remedy. As he said at the May 19 hearing, “[m]y focus is whether or not everyone, including the CHA, complies with the orders of this Court,” RA.41-42, and “to the extent I can, I will straighten it out when I rule on the motions.” [RA.45.] Since a district court has wide discretion to fashion remedies to correct unlawful intentional racial discrimination and inherent authority to enforce compliance with its own orders, see Milliken, 433 U.S. at 280-81 (1977); Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 15-16 (1971), it necessarily has the power to compel cooperation with its receiver appointed to implement the remedy. The Court’s orders – here the modest one of directing cooperation with the Receiver – should not be disturbed

absent an abuse of that discretion. See, e.g., Keyes v. Sch. Dist. No. 1, 895 F.2d 659, 665 (10th Cir. 1990). That is especially true here, where CHA has not challenged the underlying remedial orders themselves.

B. The CHA Mischaracterizes the May 19 Order.

The CHA's description of the May 19 Order bears little resemblance to the Order itself, and its arguments attack an order that was never entered. Contrary to the CHA's arguments:

(1) The May 19 Order did not "transfer[] 'all powers' of the CHA with regard to HOPE VI to a Receiver," CHA Br. 35 (argument heading IV), or "transfer[] the CHA's authority over HOPE VI-funded housing development to a receiver." Id.

(2) The May 19 Order was not a "decision to impose a receivership over" the CHA's "assets," CHA Br. 35. See also id. at 36 (May 19 Order "imposed the receivership on the CHA's HOPE VI programs").

(3) The May 19 Order was not "[t]he appointment of a receiver." CHA Br. 37. The Order itself says and does none of the things CHA reads into it.

The May 19 Order created no new receivership and imposed no new obligations on CHA. CHA's new non-elderly housing development programs have been subject to the Receiver Order since 1987 and the plain terms of that Order have covered all HUD funding programs for housing development, including HOPE VI applications filed during 1996. See below at 44-45. There is no "HOPE VI receivership." CHA Br. 35. That is CHA rhetoric. There is only the one 1987 Receivership, which the CHA has never sought to appeal, modify or vacate, as Chief Judge Aspen noted. [RA.34.] All Chief Judge Aspen did on May 19 was find that the plain and unequivocal

language of the 1987 Receiver Order applies to HOPE VI, just as it has to other HUD funding programs.

This appeal is, therefore, not about “expansions” of power or “transfers” of authority. Rather, this appeal is about an agency that has been acting recently to defy the Court’s long-standing orders without seeking to modify them, and that has been interfering with the efforts of the District Court’s Receiver to implement the Court’s orders. And because no new receivership was created, no new “finding of harm,” CHA Br. 37, was required. The findings of harm and resulting transfer of authority occurred eleven years ago, after seven years of litigation over whether a receiver should be appointed (a litigation history described in plaintiffs’ brief).

Chief Judge Aspen correctly criticized the CHA for mischaracterizing his May 19 Order. In his May 22 Order denying the CHA’s motion for a stay, Chief Judge Aspen wrote: “We do not believe that [the May 19] order may fairly be characterized as a new “mandatory injunction,” CHA’s Mot. ¶13, since it does nothing more than reaffirm that the receivership order means what it already says.” [RA.34.] He also chided the CHA for “untenable overreadings” of the Order. Id. Chief Judge Aspen’s interpretation of his own order three days after entering it is correct. The Order certainly is not an abuse of discretion.

C. The District Court’s Interpretation Of Its
 Unambiguous Receiver Order Was Correct

The Receiver Order can bear only the construction applied by Chief Judge Aspen, and the CHA suggests no alternative. It defines the “scattered site program” to include “all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the

pendency” of the action.” [RA.8.] The CHA does not and cannot deny, and Chief Judge Aspen held, that HOPE VI is literally such a program, and “it therefore fits entirely within the Receiver’s jurisdiction.” [RA.28.] As such, the 1987 Order gave the Receiver “all powers of CHA respecting” HOPE VI housing development, including “submission to HUD of applications for funding, development programs and other documents,” and the Order further required CHA to provide “full cooperation and assistance to” to the Receiver. [RA.8-9, 12.] Chief Judge Aspen’s holding that the Receiver Order “obligates the CHA to cooperate with the Receiver” and “to coordinate its 1998 HOPE VI application with the Receiver” [RA.28.] is not only reasonable, not only within his discretion, it is the only plausible interpretation of the Receiver Order.

Just as the plain and unambiguous terms of a contract govern, the plain terms of an injunction must be applied. Cf. Harris v. Rivera Cruz, 20 F.3d 507, 511 (1st Cir. 1994) (“[a] judgment unambiguous on its face is construed as a writing without resort to extrinsic evidence”). The CHA calls Chief Judge Aspen’s reading “rote,” CHA Br. 36, but pejorative is no substitute for interpretation or reason. No other reading of the Order is cogent and CHA suggests none. Chief Judge Aspen’s reading is not merely the best reading, it is the only reading.

D. The CHA's Arguments Are Irrelevant and Wrong.

CHA's arguments are irrelevant because they address matters other than the language of the Order itself, which must govern, and they are wrong for several other reasons as well.

1. The CHA's "points" are irrelevant because CHA ignores the plain language of the Receiver Order.

CHA criticizes Chief Judge Aspen for "ignoring" various points, such as the fact that the Receivership was entered by "agreement," that it was based on "uncontroverted findings" that have "nothing to do with HOPE VI," that there was "no basis to believe that the CHA would be unable to build replacement housing in accordance with its HOPE VI programs and applications," and the "cost or the need for the cost of imposing a receivership over a massive federally funded program." CHA Br. 36. But these "points" are irrelevant and Judge Aspen quite properly did not address them in his concise May 19 Order. As shown above, the plain language of the Receiver Order, and Judge Aspen's plain intent in entering that Order in 1987, was to cover "future" funding sources like HOPE VI. Judge Aspen's straightforward interpretation of his Receiver Order rendered the CHA's points irrelevant. In any event, the CHA's points are wholly meritless, as we now discuss.

2. The arguments the CHA makes are not proper since the CHA has not moved to terminate or modify the Receivership.

The CHA's arguments are, at best, premature. Some of its points might be relevant only if the CHA were to move to modify the Receiver Order, a motion the CHA has deliberately avoided making. If CHA thinks that applying the plain language of the Receiver Order to HOPE VI is a bad idea or that it has the demonstrable capacity to build the housing itself in compliance with HOPE

VI and the 1969 Injunction, it is free to file such a motion and make its case.^{16/} Until it does so, its arguments are both irrelevant and wholly unsupported factually. Until it does so, it must comply with the Order. See, e.g., GTE Sylvania, Inc. v. Consumers Union of the United States, Inc., 445 U.S. 375, 386 (1980) (“persons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed, even if they have proper grounds to object to the order”); Alexander v. Chicago Park District, 927 F.2d 1014, 1025 (7th Cir. 1991) (“[p]arties must obey court orders regardless of their validity, unless the orders are stayed pending appeal”).

3. The CHA’s arguments are wrong.

Third, if not premature, the CHA’s points that it claims Chief Judge Aspen “ignored” are wrong.

(a) The Receiver Order is no less binding on the CHA because the CHA agreed to it.

The fact that the Receivership was entered by “agreement” based on “uncontroverted findings,” CHA Br. 36, is both irrelevant and misleading. An agreed order is no less binding than one entered over objection. Whether by agreement or compulsion, the Order remains in effect and

^{16/} Were CHA to make a motion seeking relief from the Injunction, it would carry the burden of showing, among other things, that it “had complied in good faith with the desegregation decree since it was entered, and whether the vestiges of past discrimination had been eliminated to the extent practicable.” Bd. of Educ. of Okla. City v. Dowell, 498 U.S. 237, 249-50 (1991). See also Missouri v. Jenkins, 515 U.S. 70, 88-89 (1995) (setting forth remedial authority of court and standards for modification of remedial orders).

must be obeyed unless and until the CHA moves for and proves that it is entitled to relief from the Order.

Moreover, the “agreement” was reached in 1987 only after it was clear the CHA would lose an evidentiary hearing. Judge Crowley came within an inch of imposing the receivership in 1980 and Chief Judge Aspen actually ordered the receivership in 1984 before giving the CHA another last chance to put its house in order. See plaintiffs’ appendix for these rulings.

(b) The Receiver Order expressly covered “future” programs such as HOPE VI.

The argument that the 1987 Order has “nothing to do with HOPE VI,” which was enacted later, is wrong. As discussed above, the Order’s terms expressly cover HUD’s “future” funding programs and authorized the Receiver to apply for such funds. Moreover, CHA’s past conduct supports this reading: If the 1987 Order did not reach HOPE VI, the CHA’s Board Chairman would not have written the Receiver in 1995 that:

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. [Emphasis added]

[RA.159 (Vol.I).] Similarly, the CHA’s Executive Director, Mr. Shuldiner, wrote to HUD Secretary Cisneros on March 25, 1996, stating that “[a]s you know, whether as receiver for our scattered site units, or as development manager for the replacement units at Cabrini, Horner, and the Lakefront, the Habitat Company administers our new construction efforts.” [RA.172 (Vol.I).] And as discussed at pp. 44–45, the CHA has told HUD in past HOPE VI submissions that the Receiver

would be using the funds pursuant to the Receivership.^{17/} Again, if CHA feels an exception or modification to the 1987 Receiver Order should be made for HOPE VI, it should make the case to Chief Judge Aspen.

- (c) CHA has not introduced evidence that it is competent to build remedial replacement housing. The record is to the contrary, and also shows that the CHA is unwilling to comply with the *Gautreaux* decree.

The argument that there was “no basis to believe that the CHA would be unable to build replacement housing in accordance with its HOPE VI programs and applications,” CHA Br. 36, is backward and misleading. It assumes that building replacement housing -- as opposed to remedying prior discrimination -- is its only objective.^{18/} And it assumes that the receivership is not in place. But it is, because the District Court found that over an eighteen year period the CHA proved unable to build replacement housing to undo its unlawful discrimination. If circumstances have changed, it is up to CHA to file a motion, present evidence and actually prove that it can now “build replacement housing,” not merely “in accordance with HOPE VI,” but also in accordance with its duties to further the desegregation orders of the Gautreaux Court.

^{17/} Indeed, CHA’s general counsel also agreed, in a letter to Receiver’s counsel dated July 9, 1997, that if HOPE VI is subject to the 1969 Injunction, it is subject to the Receiver Order as well: “Is HOPE VI within the scope of the August 14, 1997 [sic] order? You correctly state the CHA’s position that HOPE VI is not within the scope of Gautreaux (and therefore outside the scope of the 1987 order) [T]he real issue will be the applicability of the Gautreaux orders to HOPE VI.” [RA.362.]

^{18/} The 1969 Injunction Order compels CHA to “affirmatively administer its public housing system in every respect (whether or not covered by specific provision of this Judgment Order) to the end of disestablishing the segregated public housing system which has resulted from CHA’s unconstitutional site selection and tenant assignment procedures.” [RA.4.]

Indeed, the Receiver suggested to the District Court, in its Statement concerning the CHA's motion to clarify the Injunction, that CHA propose a demonstration project with a portion of HOPE VI funds. See Receiver's Statement of 12/19/97 at 10-11. Unfortunately, after the February 23 Order, rather than take such a measured approach to the situation, the CHA made the March 10, 1998 statements, summarized above at 17-18, that it did not wish to build housing in compliance with the Injunction. A demonstration program for CHA construction of housing consistent with *Gautreaux* may not become appropriate until the CHA shows that it is willing to comply with Court orders.^{19/}

- (d) The CHA's suggestion that there is no need for the cost of imposing a receivership over a massive federally funded program is mistaken rhetoric.

Finally, the argument that there has been no showing of a need for the "cost or the need for the cost of imposing a receivership over a massive federally funded program," CHA Br. 36, is again backward and assumes that a new receivership is being "imposed" and that it covers all of HOPE VI. As Chief Judge Aspen explained, no new receivership has been imposed; the CHA has merely been required to comply with existing orders. See pp. 31-32 above.

Moreover, the CHA exaggerates. There is no receivership over a "federal program," massive or otherwise. HOPE VI is not under receivership and neither is HUD. CHA is, and the receivership is limited to the CHA's non-elderly housing development programs.^{20/}

^{19/} Moreover, the CHA's self-assessment of its development capabilities may be overly optimistic at this juncture. The CHA attempted a demonstration program to build replacement housing, but over a four-year period failed to do so, and the Receiver had to step in to salvage the programs. [RA.98-99 (Vol.I).] See above at 15.

^{20/} Contrary to CHA's implication that the receivership extends to all of CHA's HOPE VI
(continued...)

Equally untenable is the CHA's additional claim that the Receiver is trying to exceed its authority or that Chief Judge Aspen has turned over all of his own or CHA's powers to the Receiver. See CHA Br. 12. The District Court retains full supervisory authority and control over the Receiver. As for CHA's powers, the Receiver has always wanted to proceed jointly and cooperatively, as was done on prior successful HOPE VI applications. Chief Judge Aspen found:

Mr. Levin [the Receiver] has never done anything in the past, nor have I found any of his actions in the recent brouhaha to indicate that he wants to usurp any of Mr. Shuldiner's [CHA's Executive Director] authorities.

On the contrary, I find that Mr. Shuldiner has thus far indicated that he would rather contest every aspect of the relationship between the Receiver rather than attempt to cooperate. And to the extent I can, I will straighten it out when I rule on the motions.

[RA.45.] It is the CHA that is trying to exclude the Receiver, not the other way around.^{21/}

In any event, Chief Judge Aspen has made it clear that he does not want the Receiver to exclude the CHA, and the May 19 Order is actually deferential to the CHA. It emphasizes the Receiver's "open-minded and enthusiastic offer of cooperation." The May 21 Order concerning Plaintiffs' Motion for Further Relief confirms that:

We do not wish to be misunderstood; our [May 19] order neither gave sole authority over HOPE VI in Chicago to the Receiver nor gave the Receiver sole authority to

^{20/}(...continued)

activities, neither the receivership nor the May 19 Order reach housing rehabilitation or social programs, both of which can be funded under HOPE VI without Receiver involvement (assuming they are operated so as not to frustrate the Receiver's efforts or the Injunction).

^{21/} Contrary to the CHA's suggestions, the Receiver is not attempting and has no desire to usurp functions that go beyond its authority. In particular, it has never intended to apply for HOPE VI social service funds and it is not trying to do rehabilitation of existing structures. Rather, it requested that CHA coordinate a social service fund application with a joint application for HOPE VI housing development funds. See RA.490-01.

prepare Chicago's 1998 HOPE VI application, as a motion filed earlier today by the CHA states. [Cite to CHA Stay Motion omitted.]

[RA.32.]. Similarly, in his May 22 Order denying the CHA's motion to stay, Chief Judge Aspen stated [RA.34]:

[T]he CHA's motion [to stay] rests at least in part on untenable overreadings of our May 19 Order. That order did not 'turn over all of the CHA's powers and responsibility for the 1998 HOPE VI application to the Receiver.' CHA's Mot. ¶13; *see also id.* ¶14. It merely stated that the Receiver would have to be involved (i.e., that the Receiver and the CHA would have to cooperate) in preparing the application in light of the fact that the receivership order gave the Receiver 'all powers of CHA' with regard to the development and administration of 'all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency' of the *Gautreaux* litigation.

E. CHA Had No Right To An Evidentiary Hearing.

The CHA incorrectly creates the impression that Chief Judge Aspen burdened the CHA with a new receivership without giving it an opportunity for an evidentiary hearing. CHA Br. 12, 35. As shown above, no new receivership was imposed, so the premise of the argument evaporates. Moreover, CHA cites no law in support of the notion that an evidentiary hearing is required over whether the plain terms of the 1987 Receiver Order apply to HOPE VI, and the Receiver is aware of none. Indeed, there is no need to consider extrinsic evidence in light of the unambiguous language of the 1987 Order. *See Harris, supra*, 20 F.3d at 511.

In any event, CHA has never suggested what extrinsic evidence it could provide supporting its view that HOPE VI is not what the 1987 Order calls a "non-elderly public housing development program[]" which may in the future be authorized by HUD." It has never suggested what extrinsic evidence would be needed to assist Chief Judge Aspen in understanding the language of the Order he entered in 1987. As Chief Judge Aspen noted, CHA "has never offered any argument as to how

the plain language of the receivership order could be interpreted to give the Receiver no role in HOPE VI-funded development, and we are aware of none.” [RA.34.]

If the CHA believes that grounds exist for removing HOPE VI from the scope of the 1987 Receiver Order, it is incumbent upon it to file the appropriate motion and produce the evidence that would be required for it to prevail. But as Chief Judge Aspen correctly noted, no such motion has been filed and CHA has produced no evidence yet warranting such relief. Unless and until such a motion has been filed, no evidentiary hearing is necessary and the CHA must comply with the Order. [RA.34.]^{22/}

The CHA’s criticism of Chief Judge Aspen for allegedly not giving it an opportunity to respond to the Emergency Motion, CHA Br. 12, 35, is misleading. At the hearing on May 19, CHA claimed (correctly) that the issues raised by the Motion were already fully addressed in connection with the extensively briefed motion for further relief filed by the plaintiffs. [RA.40-41.] There, the Receiver had filed extensive evidence, see pp. 13-18 above, which the CHA never contradicted and never made a showing that a hearing was warranted.^{23/} The Receiver’s evidence therefore should

^{22/} He ruled [RA.34.]:

Also, the CHA’s position that we committed an error by not making factual findings, see CHA’s Mot. at pp. 5-7, has the situation in reverse: only if we modified or terminated the receivership order (and the CHA has repeatedly threatened to make a motion to that effect but has not yet made one) would factual findings be necessary.

^{23/} While CHA had asked for an evidentiary hearing in connection with plaintiffs’ Motion for Further Relief, see CHA’s Response of 3/23/98 at 8, its request was conditional and meritless. The CHA conditioned its request on the Court denying CHA’s motion to stay the February 23 Order and on the Court not denying the Motion for Further Relief summarily. If those events were to take place, CHA stated that it wanted to conduct discovery and supplement the record. But CHA was free to supplement the record at any time, and chose not to do so at its peril. Discovery was wholly (continued...)

be accepted as correct. See, e.g., Bell v. Little Axe Ind. Sch. Dist. No. 70, 766 F.2d 1391, 1403 n.8 (10th Cir. 1985) (no hearing on motion required when movant's evidence was not controverted). And that evidence supported the Relief sought in the May 19 Order.

F. The CHA Previously Agreed To Treat
HOPE VI As Subject To the Receivership.

The CHA's "HOPE VI-receivership" argument, i.e., that the May 19 Order "imposed" or created a new receivership with respect to HOPE VI construction, is belied by the CHA's conduct between 1993 and 1996, a history that the CHA ignores except for a vague footnote. See CHA Br. 10 n.12. Summarized at pages 13-15, that history demonstrates that the May 19 Order changed nothing.

In confirming that the Receiver Order covered CHA's HOPE VI housing development activities, Chief Judge Aspen was ratifying the parties' conduct with respect to prior HOPE VI applications. As he found in his May 22 Order denying a stay: "The Receiver and the plaintiffs . . . presented substantial, credible evidence that the CHA's prior HOPE VI applications acknowledged the role of the Receiver and of the *Gautreaux* requirements in proposed HOPE VI development projects." [RA.34.] The District Court was correct, and that evidence is summarized below.

^{23/}(...continued)

unnecessary, since the Receiver's Affidavits addressed CHA conduct and statements, and CHA could have responded if it had relevant evidence to provide. In any event, no extrinsic evidence of any kind was needed to interpret the plain terms of the Receiver Order, as discussed in the text.

1. The Receiver was involved in prior, successful HOPE VI applications.

As summarized above at 14, the CHA and Receiver both recognized that the Receiver had authority over HOPE VI. For HOPE VI matters between 1995 and 1996, the Receiver and the CHA agreed that the Receiver would act under the label “development manager.” The Receiver assisted in the preparation of some of the HOPE VI applications, and performed development tasks at Cabrini-Green and Horner. The CHA’s chair in November 1995 confirmed this arrangement in a letter, [RA.159 (Vol.I)], and its Executive Director confirmed to the Secretary of HUD in 1996 that the Receiver “administers our new construction efforts.” [RA.172 (Vol.I).]

The CHA chose unilaterally to change the arrangement. The CHA sought to end the Receiver’s work at Cabrini in late 1996 and thereafter has tried to exclude the Receiver from development work at Taylor, ABLA and Darrow. See pp. 14-15 above. However, the pertinent point is this: contrary to the implications of CHA, the Receiver was involved in prior HOPE VI application and development tasks with the full knowledge and consent of CHA and HUD. Indeed, as described below, CHA highlighted and relied upon the Receiver’s involvement in order to persuade HUD to grant further HOPE VI funding.

2. The CHA’s prior, successful applications emphasized the Receiver’s participation and praised the Receiver.

Several of the CHA’s successful HOPE VI applications were premised upon the fact that the Receiver was going to perform the development work. Indeed, CHA lauded the accomplishments

of the Receiver in order to strengthen its prior applications in HUD's eyes. For example, excerpts from the 1996 Horner application, which CHA had refused to produce without Court order,^{24/} stated:

From Page 47:

Habitat (as receiver)

Implementation of the program can begin quickly under the development management of The Habitat Company since they are fully operational as Receiver for CHA's Scattered Site Program.

From Page 48:

In 1987, The Habitat Company was appointed by the Federal Court as Receiver for CHA's Scattered Site (non-elderly) Housing Program. The last of the 1,608 units (approximately 250) are currently under construction. Based on Habitat's experience and success in completing these programs in a cost-effective and timely manner, the company is also under contract to CHA in joint venture with CMHDC, an affiliate of CHA, to develop 375 units under the "Demonstration Program." Habitat is responsible for the acquisition of land, planning, development, construction management and all related accounting functions.

From Page 68:

a. The CHA will contract with The Habitat Company as development manager for the implementation of the HOPE VI program (Horner and Brooks Extension). The Habitat Company is a full service real estate brokerage, management and development company. Habitat is the court appointed receiver for the development of The Chicago Housing Authority's Scattered Site (non-elderly) program. Under this program, Habitat has completed over 1,350 units and has additional 330 units under construction. Habitat will be responsible for implementing the plan contained in this application. The financial arrangement will be similar to that approved by HUD for development as the Receiver.

^{24/} After being served with the CHA's stay motions in this Court and the District Court on May 19 and 20, plaintiffs' counsel asked the CHA for copies of the prior HOPE VI applications, since the CHA's Stay Motions referred repeatedly to and characterized those applications. The CHA refused. Plaintiffs made an emergency oral motion to compel, which the District Court granted, ordering CHA to make the documents available for inspection "forthwith." [RA.59-60 (Vol.I).]

b. The contract with The Habitat Company as development manager will enhance the CHA ability to control costs and expand the supply of housing more quickly. Habitat is currently in the process of developing 466 Replacement Units at Horner and will provide continuity between the existing Replacement Program and the Gautreaux HOPE VI Program.

[RA.414, 416 (emphasis added).]

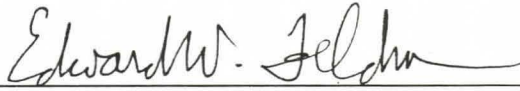
In light of the CHA's statements in its prior HOPE VI application and of the history set forth at page 16 above, it is incorrect for the CHA to state that "[i]t was only after the District Court issued the February Order that the receiver asserted to the District Court that it had authority over HOPE VI." CHA Br. 37 n.21. Since the CHA and the Receiver had agreed that the Receiver would fulfill its role on prior HOPE VI development grants, and since CHA was telling HUD that the Receiver would administer HOPE VI development funds pursuant to the Receivership, there was no need for the Receiver to present the issue to the District Court before the Receiver did so. And the Receiver did so not "after . . . the February Order," but during an in-chambers conference during July 1997 and in a brief in December 1997. See p. 16 above.

CONCLUSION

For the foregoing reasons, if the Court finds that it has jurisdiction, the May 19 Order should be affirmed. The Order did no more than reaffirm that the plain terms of the 1987 Receiver Order govern housing development activities under HOPE VI, and constituted a measured and judicious response to a party that had been failing to cooperate with the Court's officer.

Respectfully submitted;

Date: July 29, 1998



One of the Counsel for Daniel E. Levin and
The Habitat Company, as Receiver Pursuant
to the Court's Order of August 14, 1987

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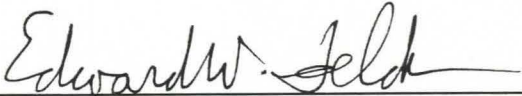
CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on July 29, 1998 he served two copies of the *Brief of the Receiver, Appellee in No. 98-2311* on the parties listed below by causing two true and correct copies to be delivered to them via messenger delivery at their respective addresses as indicated below:

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TABLE OF CONTENTS
TO RECEIVER'S SUPPLEMENTAL APPENDIX

Record Documents Bound to Receiver's Brief

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
1	Judgment Order of July 1, 1969	RA-1
2	Order of August 14, 1987	RA-7
3	Order of August 26, 1997	RA-15
4	Order of February 23, 1998	RA-20
5	Order of May 12, 1998	RA-25
6	Order of May 19, 1998 (1 of 2).....	RA-27
7	Order of May 19, 1998 (2 of 2)	RA-29
8	Order of May 20, 1998	RA-30
9	Order of May 21, 1998	RA-31
10	Order of May 22, 1998	RA-33
11	Transcript of May 19, 1998	RA-35

Record Documents Bound Separately

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
	<u>Volume I</u>	
A	Transcript of May 20, 1998	RA-47
B	Affidavit of Phillip Hickman dated 3/18/98 (With attached Exhibits).....	RA-62
C	Affidavit of Phillip Hickman dated 3/30/98 (With Exhibits 1-14, 16-24 and 26-29 attached Exhibits 15-25 omitted due to volume).....	RA-80

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
D	Affidavit of Phillip Hickman dated 4/7/98 (With attached Exhibits)	RA-262
E	Affidavit of Phillip Hickman dated 5/21/98 (With attached Exhibits)	RA-266
 <u>Volume II</u>		
F	Declaration of Daniel Levin dated 3/17/98 (With attached Exhibits)	RA-305
G	Affidavit of Daniel Levin dated 3/30/98 (With attached Exhibits)	RA-319
H	Affidavit of Barry Miller dated 3/31/98 (With attached Exhibits)	RA-348
I	Affidavit of Michael Shakman dated 4/15/98 (With attached Exhibits)	RA-382
J	63 Fed. Reg. Pp. 15577-15584	RA-389
K	Excerpts from prior HOPE VI Applications produced by CHA on 5/20/98	RA-397
L	Affidavit of Valerie Jarrett dated 3/31/98 (With attached Exhibits)	RA-451
M	Affidavit of Valerie Jarrett dated 5/27/98	RA-478
N	Receiver's Emergency Motion for Entry of Order Implementing CHA's Duty of Cooperation dated May 18, 1998	RA-481
O	Horner HOPE VI and ABLA/Brooks Extension HOPE VI Development Management Agreement (With April 30, 1997 cover letter)	RA-516

304 F. Supp. 736 printed in FULL format.

Dorothy GAUTREAUX, Odell Jones, Doreatha R. Crenchaw, Eva Rodgers, James Rodgers, Robert M. Fairfax and Jimmie Jones, Plaintiffs, v. The CHICAGO HOUSING AUTHORITY, a corporation, and C. E. Humphrey, Executive Director, Defendants

Civ. A. No. 66 C 1459

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

304 F. Supp. 736; 1969 U.S. Dist. LEXIS 10211

July 1, 1969

COUNSEL: [**1]

Alexander Polikoff, Charles R. Markels and Bernard Weisberg, Chicago, Illinois, for plaintiffs.

Kathryn M. Kula, John W. Hunt, and James T. Otis, Chicago, Illinois, for defendants.

JUDGES: Austin, District Judge.

OPINIONBY: AUSTIN

OPINION: [*737] JUDGMENT ORDER

AUSTIN, District Judge.

This matter coming on to be heard pursuant to this Court's *Memorandum Opinion of February 10, 1969, D.C., 296 F. Supp. 907*, and Orders entered on such date denying defendants' motions for summary judgment, denying plaintiffs' motion for summary judgment as to Count II of the Complaint, and granting plaintiffs' motion for summary judgment as to Count I of the Complaint, and

The Court having conferred with counsel for the parties and having determined that the several provisions of this judgment order are necessary to prohibit the future use and to remedy the past effects of the defendant Chicago Housing Authority's unconstitutional site selection and tenant assignment procedures, to the end that plaintiffs and the class of persons represented by them, Negro tenants of and applicants for public housing in Chicago, shall have the full equitable relief to which they are entitled,

It is hereby ordered:

I. [**2] For purposes of this judgment order,

A. "CHA" shall mean the defendant, Chicago Housing Authority.

B. "Dwelling Unit" shall mean an apartment or single family residence which is to be 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. "Dwelling Units" include "Leased Dwelling Units" as hereinafter defined.

C. "Leased Dwelling Unit" shall mean a Dwelling Unit in a structure leased or partially leased by CHA from any person, firm or corporation.

D. "Limited Public Housing Area" shall mean that part of the County of Cook in the State of Illinois which lies either within census tracts of the United States Bureau of the Census having 30% or more non-white population, or within a distance of one mile from any point on the outer perimeter of any such census tract. "General Public Housing Area" shall mean the remaining part of the County of Cook in the State of Illinois. The terms "non-white" and "white" [**3] shall have the meaning given to such terms by the United States Bureau of the Census.

For purposes of this subsection D, results of the 1970 and each subsequent census taken by the United States Bureau of the Census shall presumptively determine the non-white population of census tracts until results of a subsequent such census are officially published; provided, that any party may, on motion, offer evidence as to the non-white population of any census tract for the purpose of rebutting such presumption; and provided further, that Dwelling Units located or proposed to be located in any census tract subsequent to official publication of the results of the last previous such census shall be taken into account in determining the population of such census tract, and for such purpose it shall be assumed that such Dwelling Units will be occupied

by non-whites at the rate of two persons per bedroom.

For the period from the date hereof until the official publication of such 1970 census results, the census tracts in the City of Chicago listed on Exhibit [*738] A, attached hereto, shall be presumed to have 30% or more non-white population; and, subject to evidence offered on motion by [**4] either party, the non-white population of census tracts in the County of Cook outside of the City of Chicago shall be presumed to be as stated in the 1960 census of the United States Bureau of the Census.

E. "Public Housing Project" shall mean any thirteen or more Dwelling Units which are located (1) in the same structure, (2) on the same lot or parcel of real estate, or (3) on two or more lots or parcels of real estate which are contiguous to one another, or are separated only by streets, alleys, bodies of water, railroad tracks or the like.

II. Following the date of this judgment order CHA shall not authorize, approve or implement any plan for Dwelling Units, nor shall CHA seek any approval or request or accept any assistance from any government agency with respect thereto (including without limitation approval of the acquisition of any interest in real estate), unless such plan affirmatively requires that,

A. All Dwelling Units provided for in such plan shall be located in conformity with the provisions of Article III hereof, and

B. The activities to be performed in order to render such Dwelling Units available for occupancy (whether construction, purchase, [**5] rehabilitation, leasing or otherwise) shall take place at such times as will result in the location of such Dwelling Units in conformity with the provisions of Article III hereof.

III. Following the date of this judgment order CHA shall provide Dwelling Units as follows, and not otherwise:

A. The following Dwelling Units may be made available for occupancy without restriction imposed by this order:

(1) The 1458 Dwelling Units provided for by pending CHA projects III. 2-27, 2-28 (exclusive of Dwelling Units proposed to be located at 70th and Harper streets in the City of Chicago), 2-32, 2-33, 2-51, 2-64, 2-69 and 2-74.

(2) Leased Dwelling Units (but not more than two per structure) which have been occupied for at least six

months prior to CHA's leasing the same by tenants who continue in occupancy following CHA's leasing thereof.

B. CHA shall not commence or cause to be commenced the construction of any Dwelling Units, other than said 1458 Dwelling Units referred to in Subsection A of this Article III, until CHA shall have commenced or caused to be commenced, and shall be continuing or shall have completed, the construction of not less than 700 [**6] Dwelling Units located in the General Public Housing Area of the City of Chicago.

C. Subject to the provisions of Subshall not commence or cause to be commenced the construction of any Dwelling Units in any Limited Public Housing Area, other than said 1458 Dwelling Units referred to in Subsection A of this Article III, unless within three months following such commencement of construction at least 75% of the Dwelling Units on which CHA shall have commenced or caused to have commenced construction, and shall have continued or completed construction, since the commencement of construction of the last of the 700 Dwelling Units referred to in subsection B of this Article III shall have been located (at the time of commencement of construction thereof) in the General Public Housing Area of the City of Chicago.

D. Subject to the provisions of subsection E of this Article III, no Leased Dwelling Unit shall be made available for occupancy in the Limited Public Housing Area of the City of Chicago (in addition to Leased Dwelling Units in such Area which are already occupied) unless, immediately following such occupancy, at least 75% of the Leased Dwelling Units then occupied [*739] [**7] are located in the General Public Housing Area of the City of Chicago; provided, that such number of Leased Dwelling Units located in the General Public Housing Area of the City of Chicago may be less than such 75% to the extent Dwelling Units other than Leased Dwelling Units have been occupied, or are under construction which is continuing, in the General Public Housing Area of the City of Chicago in excess of the 75% minimum requirement of subsection C of Article III hereof.

E. Not more than 33 1/3% of the Dwelling Units required by subsection C of this Article III to be located in the General Public Housing Area of the City of Chicago, and not more than 33 1/3% of the Leased Dwelling Units required by subsection D of this Article III to be located in the General Public Housing Area of the City of Chicago, may at the option of CHA, be planned for and located in the General Public Housing Area of the County of Cook in the State of Illinois, outside of the City of Chicago, provided that (whether or not con-

structed by CHA) the same are made available for occupancy by CHA to, and are occupied by, residents of the City of Chicago who have applied for housing to CHA, and provided [**8] further that all such Dwelling Units comply with the provisions of Article IV of this order.

IV. Following the date of this judgment order CHA shall not concentrate large numbers of Dwelling Units in or near a single location. Without limiting the foregoing, unless part of a development specifically designed to assist in achieving the purposes hereof as to which the Court by order shall have given its approval,

A. No Public Housing Project shall contain Dwelling Units designed for occupancy by more than 120 persons, except that if it is impossible for CHA to provide within such limitation Dwelling Units which it is otherwise capable of providing, and if it will assist in achieving the purposes of this judgment order, a Public Housing Project may contain Dwelling Units designed for occupancy by not more than 240 persons.

B. No Dwelling Units shall be located in any census tract if, following such location, the aggregate number of apartments and single family residences theretofore made available to low-income, non-elderly families, directly or indirectly by or through CHA, in such census tract would constitute more than 15% of the total number of apartments [**9] and single family residences in such census tract; and

C. No Dwelling Units shall be provided above the third story in any structure except for families without children and except Leased Dwelling Units in a structure in which the number of Dwelling Units aggregates no more than 20% of the total number of apartments in such structure.

V. Within 30 days following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs evidence that CHA has modified its tenant assignment policy, adopted by CHA Board Resolution No. 68-CHA-232, a copy of which is attached hereto as Exhibit B, and its practices thereunder, to include all Leased Dwelling Units as a single "location" for the purposes thereof. Such policy and practices, as so modified, shall be applicable until the further order of this Court.

VI. Within 60 days following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs a tenant assignment plan. Such plan shall include, but need not be limited to, provisions having the following purpose and effect:

A. Such modifications, if any, shall be made in CHA's tenant [**10] assignment policy and practices as will assist in achieving the purposes of this judgment order.

[*740] B. New registrations on CHA's list of persons desiring housing (the "waiting list") shall be temporarily ended; a determination shall be made promptly as to which registrants remain eligible for and still desire public housing; intensive publicity shall then be employed in such manner as effectively to inform low-income families throughout the City of Chicago, including present CHA tenants, that substantial numbers of Dwelling Units will be made available in the General Public Housing Area of the City of Chicago pursuant to the provisions of this judgment order; and thereafter the "waiting list" shall be reopened to new registrants, including present CHA tenants who wish to apply for Dwelling Units in the General Public Housing Area.

C. Not more than 50% of the Dwelling Units in all Public Housing Projects shall be made available to eligible neighborhood residents, the remaining Dwelling Units to be made available for occupancy in accordance with subsection A of this Article VI.

D. Vancancies in CHA's Trumbull, Lathrop, Lawndale, and Bridgeport projects shall be [**11] filled in accordance with subsection A of this Article VI, except that such tenant assignment plan may contain provisions designed to assure that such projects do not become racially segregated.

E. Suitably detailed information shall be regularly filed with the Court and served upon counsel for the plaintiffs showing CHA's compliance with the provisions of this Article VI and such tenant assignment plan.

Following the filing and service of such tenant assignment plan the Court will enter such further order as it deems appropriate.

VII. Following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs, the Civil Rights Division of the United States Department of Justice, and the Regional Administrator of the Department of Housing and Urban Development, the following:

A. A statement of the following information respecting each location for one or more Dwelling Units, such statement to be filed and served not more than 10 days after any such location is approved by the Board of Commissioners of CHA (or by the appropriate CHA officer or employee with respect to any location not required to be approved by the Board of [**12] Commissioners) and prior to the formal submis-

EXHIBIT A.
CENSUS TRACT NUMBERS

114 through 116	460 through 467	664
120 through 137	468	666 through 667
280 through 282	469-Z	675 through 678
340 through 347	470	681-Z through 683-Z
348-Z	487	685 through 686
349-Z	519-Z	687-Z
350 through 352	520 through 521	688
353-Z	524	690 through 691
354 through 355	527-Z	695
357 through 362	532-Z	697
363-Z	534-Z	711
364 through 373	539-Z	717-Z
375-Z through 378-Z	541 through 553	719-Z
379 through 383	554-Z	720-Z
384-Z	556 through 562	723
389-Z	564-Z	803 through 805
390-Z	567-Z	852
391 through 392	569-Z	855
395	574 through 610	858 through 859
399-Z	613-Z	861 through 862
401-Z	614 through 619	867-Z
403	620-Z	868 through 895
410-Z	621-Z	897-Z
412 through 420	623 through 641	898 through 900
428 through 429	642-A	903
431-Z	642-B	905 through 911
432	643 through 650	912-A through 912-D
434-Z	652	922
440 through 441	653-Z	923-A
442-Z	655	923-B
444 through 449	656-Z	924 through 927
450-A	657	932
450-B	658-Z	934 through 935
451 through 457	659 through 662	

[**16]

EXHIBIT B.

TENANT SELECTION AND ASSIGNMENT PLAN

Each applicant shall be assigned his appropriate place on a community wide basis in sequence based upon date and time his application is received, suitable type or size of unit, and factors affecting preference or priority established by the Local Authority's regulations. At a given time, the applicant first on the waiting list shall be offered a dwelling unit in accordance with the following plan:

1. If at the time the applicant comes to the top of the waiting list there are suitable vacancies in three or more locations, the applicant shall be offered the unit at the location that contains the [*743] largest number of vacancies. If the applicant rejects the first vacancy offered he shall be offered a suitable unit at the location containing the next highest number of vacancies. If the applicant rejects the second vacancy offered he shall be offered a suitable unit at the location containing the next highest number of vacancies. If the applicant rejects the third vacancy offered he shall be moved to last place on the eligible applicant list. When an offer of a suitable

vacancy is made to an applicant, there [**17] must be a rejection of such offer before the applicant will be offered another location. Thus, the offering of a unit at the location with the second largest number of suitable vacancies will not be made until the applicant has first rejected the unit offered at the location with the largest number of vacancies. The offering of a unit at the location with the third largest number of suitable vacancies will not be made until the applicant has rejected the unit offered at the location with the second largest number of suitable vacancies.

2. If at the time the applicant comes to the top of the waiting list there are suitable vacancies in only two locations, the applicant shall be offered the unit at the location that contains the largest number of vacancies. If the applicant rejects the first vacancy offered he shall be offered a suitable unit at the second location. If the applicant rejects the second vacancy offered he shall be moved to last place on the eligible applicant list. When offers of suitable vacancies are made to applicants, there must be a rejection of the first offer before the applicant will be offered the second suitable vacancy.

3. If at the time the [**18] applicant comes to the top of the waiting list there is only one location at which a suitable vacancy exists, the applicant will be offered

a unit at that location. If the applicant rejects the unit offered, he shall remain at the top of the waiting list until a second offer of a suitable vacancy can be made. Should the applicant reject the second offer of a suitable vacancy he shall be moved to last place on the eligible applicant list.

In carrying out the above plan, should the applicant be willing to accept the unit offered but be unable to move at the time of the offer and presents clear evidence of his inability to move to the Local Authority's satisfaction, refusal of the offer shall not count as one of the number of allowable refusals permitted the applicant before placing his name at the bottom of the eligible applicant list.

In carrying out the above plan, should the applicant present to the satisfaction of the Local Authority clear evidence that acceptance of a given offer of a suitable vacancy will result in undue hardship or handicap not related to considerations of race, color, or national origin, such as inaccessibility to source of employment, children's [**19] day care and the like, refusal of such an offer shall not be counted as one of the number of allowable refusals permitted an applicant before placing his name at the bottom of the eligible list.

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Civil Action No. 66C1459
	)	66C1460
SAMUEL R. PIERCE, JR., Secretary	)	(Consolidated)
of the Department of Housing and	)	
Urban Development, and CHICAGO	)	
HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

O R D E R

This matter coming on to be heard pursuant to plaintiffs' motion dated May 8, 1987 for the appointment of a receiver for the scattered site program (defined below), due notice having been given and the Court having heard the presentations of the parties, the Court makes the following findings of fact and conclusions of law:

(A) The Chicago Housing Authority (the "CHA") has joined in plaintiffs' Motion for the appointment of a receiver for the reasons which CHA has heretofore stated in this cause.

(B) This Court has concluded that it has no reasonable alternative but to exercise its inherent power to effectuate its own orders and to so appoint said receiver for the scattered site program in accordance with the provisions of this order. It is the expectation of this Court that the appointment of a receiver will facilitate cooperation between the United States

Department of Housing and Urban Development ("HUD"), CHA and the receiver respecting the scattered site program.

(C) For purposes of this Order the "scattered site program" shall mean (i) the buildings and vacant sites listed in Exhibit A attached hereto (collectively, the "Uncompleted Units") and (ii) CHA Development Programs numbered I1 2-096, I1 2-098, I1 2-103 through I1 2-109, and I1 2-113 (excluding any completed buildings in such programs) and all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459.

WHEREFORE, IT IS HEREBY ORDERED:

1. The Court hereby appoints Daniel E. Levin and The Habitat Company jointly as receiver ("Receiver") to develop and administer the scattered site program as effectively and expeditiously as possible in compliance with the orders of this Court, such appointment to be effective as of the Effective Date (defined below). Until the Effective Date, CHA shall continue to be responsible for implementing the scattered site program in compliance with the prior orders of this Court. On the Effective Date CHA shall turn over to the Receiver possession and control of the Uncompleted Units, it being understood, however, that title to the Uncompleted Units shall remain in the name of CHA.

2. The Receiver shall have and exercise all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including:

(a) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (i) submission to HUD of applications for funding, development programs and other documents, (ii) site selection and acquisition (including policies respecting the location of sites and buildings to be acquired), (iii) the relocation of occupants, when necessary and (iv) construction and rehabilitation of dwelling units and the design and specifications therefor in compliance with applicable laws and ordinances; and

(b) Carrying out the determinations so made, including without limitation (i) negotiating and executing any contracts or other documents necessary or appropriate to implement the scattered site program, (ii) employing, transferring and discharging staff for the scattered site program, (iii) purchasing insurance insuring the Receiver, and the interest of CHA if feasible and available at no additional cost, against liability for such risks and in such amounts as the Receiver and HUD shall from time to time agree upon, (iv) managing and administering buildings included within the scattered site program prior to the turnover thereof to the CHA in accordance with Paragraph 5 below, and (v) doing such other acts and things, including site selection and acquisition in the name of CHA, construction and rehabilitation of dwelling units and retaining the services of such personnel, consultants, attorneys, accountants and other professionals, as are determined by the Receiver to be necessary and appropriate to implement the scattered site

for each building in the scattered site program (except buildings developed pursuant to a turnkey development) as reflected on the original development budget(s) therefor submitted by the Receiver and approved by HUD, the fee for such building being payable upon the completion thereof as determined in accordance with Paragraph 5 hereof. The Court will set a reasonable fee with respect to turnkey developments. The Court hereby determines that included in the category of expenditures for which the Receiver shall be entitled to reimbursement are all costs, expenses and liabilities (including reasonable attorneys' fees and court costs) reasonably incurred or sustained by the Receiver by reason of the performance by the Receiver of its duties pursuant to the provisions hereof to the extent said costs, expenses and liabilities are not covered by the insurance described in Paragraph 2(b)(iii) above.

9. Nothing in this Order shall (i) preclude or restrict the Receiver or any party hereto from asserting any claims against the Receiver or any other party hereto for any matter in connection with the scattered site program or otherwise; provided, however that the foregoing shall not constitute a waiver by the Receiver or any other party of any defense which it may have to such claim, including, but not limited to, a defense by the Receiver that it enjoys immunity from such claim, (ii) obligate HUD to furnish funds to the Receiver in addition to any funds which HUD would otherwise be obligated to provide

to CHA by virtue of any previous order of this Court or otherwise, or (iii) constitute a determination of the amount of funds which HUD is obligated to furnish by virtue of such previous orders or otherwise.

10. The Receiver is hereby excused from complying with Rule 9(b) of the Civil Rules of the United States District Court for the Northern District of Illinois.

11. The effective date of this Order (the "Effective Date") shall be the date upon which the Receiver has filed with this Court and served upon the parties hereto a notice signifying that the Receiver is satisfied that there is in force the insurance coverage referred to in Paragraph 2(b)(iii) above.

12. Except as and to the extent specifically provided in this Order, this Court's judgment orders previously entered herein, as previously modified, remain in full force and effect. The Court retains jurisdiction of this matter for all purposes, including enforcement and issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information or material changes in conditions existing at the time of this order or any other matter.

ENTER:


United States District Judge

August 14, 1987

program and to enable the Receiver to discharge its duties pursuant to the provisions hereof.

3. The Receiver shall have the right at any time, upon due notice to the parties hereto, to make application to the Court requesting that the Receiver be excused from complying with some or all of the provisions set forth in the Annual Contributions Contracts heretofore entered into between HUD and CHA (collectively, the "ACC"), the HUD Procurement Handbook for Public Housing Agencies No. 7460.8, the HUD Public Housing Development Handbook No. 7417.1, or other applicable rules and regulations, or applicable laws or ordinances, or that as to the Receiver, the requirements of such agreements, provisions, laws, ordinances, rules and regulations be modified, if the Receiver determines that compliance therewith would be costly, inefficient or otherwise impede or restrict its ability to carry out this Court's orders. Nothing contained herein shall be deemed to constitute a determination by the Court, or the consent or an acknowledgement by HUD or CHA, that the Court has the jurisdiction or authority to grant any of the foregoing relief.

4. The Receiver shall have no obligation to make any expenditure except from funds provided by HUD in accordance with procedures to be agreed upon between HUD and the Receiver. The Receiver shall keep separate accounts for costs incurred in connection with the scattered site program from and after the Effective Date. The Receiver shall not be responsible for (i) payment of any costs or performance of any obligations incurred

by CHA prior to the Effective Date, except obligations incurred pursuant to the ACC unless the Receiver is excused from complying with the terms thereof pursuant to Paragraph 3 above, or (ii) payment of any costs or performance of any obligations incurred by CHA thereafter, except as may be specifically authorized by the Receiver in writing. Notwithstanding the foregoing, the Receiver shall not be responsible for (iii) compliance with the provisions of any ACC with respect to buildings and sites previously acquired or completed by CHA except those described in Exhibit A, or (iv) any act or omission of CHA either before or after the Effective Date.

5. The Receiver shall promptly turn over to CHA, and CHA shall accept, any building within the scattered site program upon completion of construction or rehabilitation of each such building. For purposes hereof, subject to the reasonable approval of HUD, construction or rehabilitation of a building shall be deemed to be completed when the Receiver's project architect determines that such building is ready for occupancy, and, if required by applicable law or ordinance, a certificate of occupancy has been issued for such building.

6. The Receiver shall prepare reports respecting the status and implementation of the scattered site program as of the end of each month in the year 1987, commencing with the month of September, 1987, and thereafter quarterly as of March 31, June 30, September 30 and December 31 of each year. Copies of the same shall be filed with the Court and served on

the parties within 20 days following the end of the period covered by each such report.

7. CHA, its agents, servants and employees shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver's responsibilities hereunder, including without limitation providing full access to all information, records, documents, files relating to the scattered site program.

8. There shall be paid to the Receiver from funds provided by HUD pursuant to the ACC or Annual Contributions Contracts entered into between the Receiver and HUD, or by CHA if appropriate, (i) all direct costs and expenses reasonably incurred by the Receiver in connection with the performance by the Receiver of its duties pursuant hereto, (ii) to the extent not included in clause (i), a pro-rata share of all salary, compensation and other direct costs of those employees of The Habitat Company (other than Daniel E. Levin, James P. McHugh and Douglas R. Woodworth), James McHugh Construction Co. (other than James P. McHugh) or other entities which are affiliates of or controlled either directly or indirectly by the Receiver, who at the direction of the Receiver perform services on behalf of the scattered site program, for the actual time devoted by said employees to the performance of services for the scattered site program, and (iii) a fee in the amount of three percent (3%) of the aggregate development costs (excluding the costs described in clause (ii) above and any costs previously incurred by CHA)

1997 U.S. Dist. LEXIS 12924 printed in FULL format.

DOROTHY GAUTREAUX et al., Plaintiffs, v. CHICAGO HOUSING AUTHORITY et al., and
ANDREW CUOMO, Secretary of the Department of Housing and Urban Development, Defendants.

Case No. 66 C 1459 / 66 C 1460 (Consolidated)

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

981 F. Supp. 1091; 1997 U.S. Dist. LEXIS 12924

August 26, 1997, Decided

August 27, 1997, Docketed

DISPOSITION: [**1] Plaintiffs' motion to modify the judgment order against CHA denied; HUD's motion to terminate the consent decree while retaining jurisdiction over the plaintiffs' attorneys' fees petition granted; plaintiffs' motion to declare that HUD has a continued obligation for FY1997 denied; and the plaintiffs' motion to enforce P 5.8.1. denied.

CORE TERMS: housing, consent decree, public housing, decree, target, fiscal year, new construction, one-third, subsidy, site, motion to modify, terminate, tenant, rent, scattered-site, named, modification, certificates, approve, occupancy, segregation, resident, recipients, neighborhoods, tracts, physically, noncompliance, motion to enforce, substitution, purported

COUNSEL: For CHICAGO HOUSING AUTHORITY, defendant (66-CV-1459): Susan Getzendanner, Nancy S. Eisenhauer, Skadden, Arps, Slate, Meagher & Flom, Chicago, IL.

JUDGES: MARVIN E. ASPEN, Chief Judge.

OPINIONBY: MARVIN E. ASPEN

OPINION: [*1092] MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, Chief Judge:

This litigation dates back to 1966 when black residents of Chicago's public housing brought a class action n1 against the Chicago Housing Authority (CHA) and the Department of Housing and Urban Development (HUD), alleging that the defendants violated federal constitutional and statutory provisions by basing public housing policies and practices on race. Specifically,

CHA intentionally limited the number of black families living in white housing projects and deliberately targeted only predominantly black neighborhoods in which to build public housing, while HUD knowingly assisted [**2] CHA in carrying out this discrimination. *Gautreaux v. CHA*, 296 F. Supp. 907 (N.D. Ill. 1969) (liability against CHA); *Gautreaux v. Romney*, 448 F.2d 731 (7th Cir. 1971) (liability against HUD). In 1969, a judgment order was entered against CHA, *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969), and after years of litigation at all levels of the federal judiciary, a consent decree was entered into with HUD, *Gautreaux v. Landrieu*, 523 F. Supp. 665 (N.D. Ill. 1981), aff'd, 690 F.2d 616 (7th Cir. 1982). Numerous disputes since then have [*1093] generated several other orders dealing with the implementation of the CHA judgment and the HUD consent decree. E.g., *Gautreaux v. Chicago Housing Authority*, 1991 U.S. Dist. LEXIS 4123, 1991 WL 49568 (N.D. Ill. April 4, 1991).

n1 The class was defined as black tenants of and applicants for public housing in *Chicago*. 304 F. Supp. 736, 737 (N.D. Ill. 1969). Although we understand that the lead named plaintiff, Dorothy Gautreaux, has passed away, we presume that substitution of new class representatives has or will take place. See *Hassine v. Jeffes*, 846 F.2d 169, 176 n.3 (3d Cir. 1988) (if named plaintiff-inmate transferred from institution, current inmate may be substituted to represent class); *Van Horn v. Trickey*, 840 F.2d 604, 608 (8th Cir. 1988) (same); *Doe v. Reivitz*, 830 F.2d 1441, 1451 (7th Cir. 1987) ("Substitution of named parties might be necessary in the future to assure representativeness if additional proceedings take place in this case"); *Wilson v. Huntingdon*

Housing Authority, 770 F.2d 168, 1985 WL 13513, at *1 (6th Cir. 1985) ("If this case is to continue as a class action, some current resident of public housing administered by the Huntingdon Housing Authority should be substituted as a named plaintiff . . .").

[**3]

Presently before us are four motions: (1) the plaintiffs' motion to modify the judgment order against CHA; (2) HUD's motion to terminate the consent decree; (3) the plaintiffs' motion to enforce a provision of the consent decree prohibiting HUD from approving CHA's use of certain forms of § 8 housing assistance payments, 42 U.S.C. § 1437f, unless specific location requirements are met; and (4) the plaintiffs' motion to declare that HUD must set aside § 8 contract authority for fiscal year 1997. For the reasons discussed below, we deny the plaintiffs' motion to modify the judgment order, grant HUD's motion to terminate the consent decree, and deny the plaintiffs' two motions under the consent decree.

I. Modification of CHA Judgment Order

At the outset, we explain generally the 1969 judgment order to provide background for the plaintiffs' motion to modify it. The judgment order divided Cook County's census tracts into two categories: the Limited Public Housing Area and the General Public Housing Area. The Limited Area was essentially defined as those census tracts composed of 30% or more non-white population, while the remaining tracts constituted the General Area. Attempting [**4] to remedy the effects of past discriminatory site-selection and tenant assignment procedures, the judgment order in essence prohibited any development of public housing in the Limited Area without simultaneous development in the General Area. Judgment Art. II(C), 304 F. Supp. at 738. Because CHA proved inept at building public housing on scattered-sites, we appointed a Receiver for the program in 1987 and it was not until then that construction began in earnest.

Now, as the scattered-sites program continues under the Receiver, the plaintiffs contend that § 8 rent subsidies n2 have replaced new construction as the primary means for providing public housing. Pls.' Mot. P 4. According to the plaintiffs, this shift in federal housing policy justifies modifying n3 the judgment order in order to bring the CHA's use of § 8 certificates under the order's auspices. Furthermore, the plaintiffs point out, fewer than 3000 scattered-sites units have been built so far and approximately only 7000 more families have been assisted by the separate HUD § 8 program under the consent decree; meanwhile, the members of the class comprise 40,000 families.

n2 Section 8 of the United States Housing Act, 42 U.S.C. § 1437f (as amended), authorizes the Secretary of HUD to enter into "annual contributions contract[s]" with public housing agencies, § 1437f(b), (o), which in turn make assistance payments on behalf of recipients who hold the § 8(b) "certificates" or § 8(o) "vouchers," 24 C.F.R. § 982.1.

[**5]

n3 Although the plaintiffs belatedly attempt to characterize their request as one for "particularization, not expansion, of the judgment order," Pls.' Reply at 3, we agree with their earlier acknowledgment that "because the Section 8 rent subsidy program was not in existence when the judgment order was entered, CHA's Section 8 program was not part of the relief provided to the plaintiff class," Pls.' Mot. P 5. Indeed, it was the later HUD consent decree that purported to indirectly oversee CHA's use of § 8 rent subsidies by imposing limits on HUD's ability to approve CHA's contract authority. See Consent Decree P 5.8.1.

In order to prevail on a motion to modify the judgment order, the plaintiffs must show that the "principal objects" of the order have not been achieved. *United States v. United Shoe Machinery Corp.*, 391 U.S. 244, 20 L. Ed. 2d 562, 88 S. Ct. 1496 (1968); see *United States v. Local 560 (I.B.T.)*, 974 F.2d 315, 331-32 (3d Cir. 1992); *Gautreaux v. Weaver*, 535 F. Supp. 423, 426-27 (N.D. Ill. 1982). We examine the "specific facts and circumstances," *United Shoe Machinery*, [**6] 391 U.S. at 248, and weigh the equities at stake in determining the propriety of modification, *Weaver*, 535 F. Supp. at 426. Importantly, even if the "principal objects" of the original order have not yet been fully achieved, we must consider whether other reasons outside the control of the defendant have prevented success and whether adherence to, rather than modification of, the current injunction may be the most fair alternative. These latter considerations inform our inquiry because, as the school desegregation cases instruct us, federal court supervision of [*1094] local government operations should be a "temporary measure to remedy past discrimination" and is "not intended to operate in perpetuity." *Board of Educ. of Oklahoma City Pub. Schs. v. Dowell*, 498 U.S. 237, 247, 248, 112 L. Ed. 2d 715, 111 S. Ct. 630 (1991).

We start, then, with the judgment order's principal objects: "to prohibit the future use and to remedy the past effects of the defendant Chicago Housing Authority's unconstitutional site selection and tenant assignment pro-

cedures." 304 F. Supp. at 737. By 1968, CHA's site selection had placed 99.5% of 30,848 public housing units in mostly black neighborhoods and [**7] tenant assignment had reserved four projects to be populated almost entirely by whites. 296 F. Supp. at 909-10. n4 While it might be expedient to simply accept the plaintiffs' assertion that "the vast majority of CHA's family public housing still consists of the same segregated units, in the still segregated neighborhoods," Pls.' Reply at 5, as well as the plaintiffs' unstated assumption that the assertedly segregative situation is entirely a result of CHA's original discrimination, we must insist on specific facts supported by evidence. For example, relevant information to test the first assertion would include the number of public housing projects that remain predominantly white and the number of projects located in the Limited Area and the General Area. If the evidence shows that segregation in public housing still exists, then we must explore the link between the current segregation and CHA's original discrimination, past remedial efforts (or lack thereof), current remedial efforts, and future plans. For example, we would examine the quantity and location of affordable land in the General Area remaining for site selection, the effects of private decisionmaking on the current segregative [**8] state, and the effects of the shift in demographics over the years.

n4 The 99.5% figure did not include the four almost entirely white public housing projects. 296 F. Supp. at 910.

Without such evidence, we cannot grant the plaintiffs' motion to modify the judgment order. In the absence of a showing that the judgment order's objectives are not being accomplished and that the extent of the lack of progress is largely grounded in the original discrimination, it would be improper to add thousands of § 8 rent subsidy certificates and vouchers to the judgment order. The Receiver has, relatively speaking, only recently begun to implement the judgment order and we should allow time for the scattered-site program to work before turning to another form of relief, especially if CHA is now cooperating in implementing the order to the extent practicable. Indeed, the scattered-site program most directly deals with CHA's original violations--placement of public housing projects solely in black neighborhoods--while § 8 rent [**9] subsidies are already usable by the recipients throughout Illinois, see 42 U.S.C. § 1437f(r). Although it is likely that some § 8 recipients would rather live in the General Area but cannot find affordable rental units in the private market, the plaintiffs have not shown that the original site selection and tenant assignment proximately created this

situation. Cf. *Freeman v. Pitts*, 503 U.S. 467, 496, 118 L. Ed. 2d 108, 112 S. Ct. 1430 (1992). n5 Accordingly, we conclude that the record fails to support the plaintiffs' proposed modification.

n5 We acknowledge that the "vestiges of segregation . . . may be subtle and intangible," *Freeman*, 503 U.S. at 490, but even though the location of public housing sites is strongly linked to CHA's original site selection practices, the plaintiffs have thus far failed to proffer evidence that the private rental market is the product of the original discrimination.

II. Termination of HUD Consent Decree

Next, HUD moves to terminate the consent decree entered [**10] into in 1981. The consent decree divided not only Cook but its collar counties as well into Limited, General, and "Revitalizing" Areas. 523 F. Supp. at 668. "Recognizing that total relief to Gautreaux families outside the Limited Area could not be provided in the foreseeable future, the proposed decree introduced the concept of Revitalizing Areas, that is, areas which have substantial minority population and are undergoing sufficient redevelopment to justify the assumption that these areas will become more integrated in a relatively short time." *Id.* at 669. With this expanded metropolitan-wide relief, the primary goal [*1095] was to place 7100 public housing residents in the General and Revitalizing Areas:

5.1. Following the effective date, HUD will provide assisted housing to eligible persons as set forth in this Part 5 until the number of occupancies of assisted housing units in the General Area and/or in the Revitalizing Area, pursuant to the contracts referred to in paragraph 5.4, commenced by eligible persons equals 7,100.

Consent Decree P 5.1.

HUD now moves to terminate the consent decree because on October 2, 1996, the 7100 target was met, although HUD acknowledges [**11] that we should retain jurisdiction over the plaintiffs' attorneys' fees petition. The plaintiffs do not object to termination of the consent decree, but have moved for enforcement of specific provisions of the decree that would continue to place certain obligations upon HUD. We deal with those motions below, and thus grant HUD's motion to terminate the consent decree and retain jurisdiction over the plaintiffs' attorneys' fees petition. n6

n6 It appears that HUD has voluntarily agreed to

continue certain commitments to the Gautreaux programs, HUD's Resp. at 11, and we take this as a salutary sign. We hope HUD, having once assisted a local government violate the constitutional rights of thousands, will adhere to its declaration of policy: "to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs." 42 U.S.C. § 1437.

[**12]

III. HUD's Set Aside Obligation in Fiscal Year 1997

As indicated above, the plaintiffs acknowledge that the 7100 target was met October 2, 1996. Even though HUD has attained this target, however, the plaintiffs contend that HUD must still authorize § 8 New Construction/Substantial Rehabilitation units as provided for in PP 5.5.2 and 5.5.3 of the decree. n7 Those paragraphs provided:

5.5.2. HUD will set aside contract authority for 250 Section 8 New Construction and/or Substantial Rehabilitation units per year commencing at the beginning of Fiscal Year 1982 for use in multifamily projects to be located in the General Area or in the Revitalizing Area and that are insured under the National Housing Act. . . .

. . . .

5.5.3. HUD will set aside contract authority for 100 Section 8 New Construction and/or Substantial Rehabilitation units per year, commencing at the beginning of Fiscal Year 1982, for use in projects that will increase housing choice for large minority families living in the Limited Area of the City of Chicago by providing Section 8 New Construction and/or Substantial Rehabilitation assisted housing for such families at locations in the General Area [**13] or in the Revitalizing Area accessible to public transportation.

According to the plaintiffs, HUD's obligation to "set aside contract authority" for fiscal year (FY) 1997 arose on October 1, 1996, and was not extinguished by the attainment of the 7100 target one day later.

n7 Because the particular § 8 programs referred to in PP 5.5.2 and 5.5.3 were repealed in 1983, the plaintiffs actually seek comparable relief as provided

for in P 8.6 of the decree. See HUD's Resp at 3 n.3; 523 F. Supp. at 681-62.

It is true that HUD's obligation to "set aside" the § 8 units arose on the first day of FY1997. We earlier held that the appropriate reading of the consent decree required HUD to set aside the funds on that particular day, rather than permit HUD to set aside funds anytime during the fiscal year. *Gautreaux v. Pierce*, 548 F. Supp. 1298, 1300-01 (N.D. Ill. 1982). Setting a firm date for the set aside obligation comported best with the purpose of the decree: to provide a "continuous stream of relief" [**14] instead of "repeated gaps [in funding] of indeterminate length." *Id.* at 1300.

We did not, however, expressly or implicitly determine that HUD, having set aside the funds at the start of the fiscal year, would be required to continue to execute the § 8 contracts after reaching the 7100 target. We are instead persuaded that P 5.1 means exactly what it says when it directs HUD to provide assisted housing "until" the 7100 target is reached. Although HUD must "set aside" the § 8 units at the start of the fiscal year, the units are "for use" after that date, [*1096] PP 5.5.2, 5.5.3, and nothing in P 5.1 suggests that HUD must continue to provide the units after the 7100 goal is reached. Indeed, even "unused" units otherwise available "for use" in the next year expire when "HUD's obligations have terminated pursuant to paragraph 5.1, 5.2, 8.1 or 8.2." PP 5.5.2.c., 5.5.3.b. n8 Accordingly, we conclude that HUD's obligation to provide further assistance under PP 5.5.2 and 5.5.3 ended on October 2, 1996.

n8 We find unpersuasive the plaintiffs' reliance on a purported implication contained in an October 1992 agreement entered into with HUD. In that agreement, HUD received, in exchange for some other consideration, a 50 occupancy credit toward the 7100 target; the parties conditioned the agreement so that if the 7100 target would be reached at the end of the fiscal year because of the credit, then the credit would not be counted that year. Letter of October 28, 1992. However, the agreement can be read as simply ensuring that the set aside obligation would arise in those circumstances and the plaintiffs could take advantage of the funds in the next fiscal year until the 7100 target was reached without the 50 occupancy credit.

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IV. HUD's Approval of CHA § 8 Contract Authority

Finally, the plaintiffs move to enforce P 5.8.1 of the consent decree. Paragraph 5.8.1 generally prohibits HUD from approving certain § 8 assistance in Chicago unless at least one-third of the units are used in the General Area and no more than one-third of the units are used in the Limited Area:

5.8.1. In any fiscal year unless otherwise ordered by the Court under paragraph 8.4, HUD will not approve housing assistance plans or approve or set aside contract authority for Section 8 New Construction or Existing (other than Moderate Rehabilitation) housing in the City of Chicago unless (a) not less than one-third of the units of Section 8 New Construction housing and not less than one-third of the units of Section 8 Existing housing (other than Moderate Rehabilitation) within the City of Chicago are to be physically located within the General Area, and (b) not more than one-third of the units of Section 8 New Construction housing and not more than one-third of the units of Section 8 Existing housing (other than Moderate Rehabilitation) within the City of Chicago are to be physically located within the Limited Area.

[**16]

523 F. Supp. at 679-80. According to the plaintiffs, and not seriously disputed by HUD, over one-third of the § 8 assistance units have been used in the Limited Area since the entry of the consent decree in 1981. Apparently, the plaintiffs and HUD have been negotiating for several years to resolve the noncompliance without success. Now, the plaintiffs seek unspecified relief.

We deny the motion because of the impracticality of shaping appropriate relief for the noncompliance after the plaintiffs year-after-year failed to enforce the provision. The plaintiffs themselves admit that "the last thing plaintiffs would have desired was a cut-off of Section

8 funding for Chicago families," Pls.' Reply at 11, but that is precisely what the consequence of enforcing P 5.8.1 would have been. Moreover, the decree itself contains a mechanism under which HUD could have annually petitioned this court to waive the requirements of P 5.8.1 by reclassifying Limited Areas as Revitalizing or General Areas. See Decree P 8.4. After the plaintiffs' failures to move to enforce P 5.8.1, HUD each year lost a meaningful opportunity to petition for reclassification under P 8.4. Cf. *Zelazny v. Lyng*, [**17] 853 F.2d 540, 543 (7th Cir. 1988) (laches applied where plaintiff inexcusably delayed and defendant suffered prejudice). Furthermore, each year's approval of § 8 contract authority in Chicago resulted in the use of the subsidies; the plaintiffs provide no suggestion regarding how to undo or remedy those tenants' voluntary uses of the subsidies. Indeed, we cannot identify the contours of the harm inflicted by HUD's annual approval, and without ascertaining the scope of the harm, fashioning relief would be arbitrary. Finally, we point out that HUD's duties under paragraph 5 of the decree ended when the 7100 target was reached, see Decree P 5.1, including the limitations imposed by P 5.8.1.

V. Conclusion

For the reasons explained above, we deny the plaintiffs' motion to modify the judgment order against CHA; grant HUD's motion to terminate the consent decree while retaining jurisdiction over the plaintiffs' attorneys' fees petition; deny the plaintiffs' motion to declare that HUD has a continued obligation [*1097] for FY1997; and deny the plaintiffs' motion to enforce P 5.8.1. It is so ordered.

MARVIN E. ASPEN

United States District Judge

Dated 8/26/97

1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

No. 66 C 1459

MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, Chief Judge:

Nearly thirty years ago, United States District Judge Richard B. Austin entered a judgment order against the Chicago Housing Authority (the CHA) with the hopes of correcting the effects of that agency's unconstitutional public housing site selection and tenant assignment procedures. *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969). Blacks then made up 90% of the CHA's tenant base, but the CHA had deliberately restricted the number of blacks who could live in the four housing projects which were located in predominantly white areas, to the point where 93% to 99% of the tenants in those units were white. *Gautreaux v. CHA*, 296 F. Supp. 907, 909 (N.D. Ill. 1969). The other CHA units – the 99 1/2 % which were located in predominantly black areas – housed the rest of the CHA's tenants, 99% of whom were black. *See id.* at 910. This arrangement, ruled Judge Austin, violated the Fourteenth Amendment. *See id.* at 914. And in a comment worth recalling here for its relevance today, he wrote:

It is . . . undeniable that sites for the projects which have been constructed were chosen primarily to further the praiseworthy and urgent goals of low cost housing and *urban renewal*. Nevertheless, a deliberate policy to separate the races cannot be justified by the good intentions with which other laudable goals are pursued.

Id. (citing *Brown v. Board of Educ.*, 347 U.S. 483 (1954)) (emphasis added).

The building block of Judge Austin's remedial judgment order was the Dwelling Unit, "an apartment or single family residence which is to be 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." *Gautreaux*, 304 F. Supp. at 737. He barred the CHA from "authoriz[ing], approv[ing], or implement[ing] any plan for Dwelling Units" or from "seek[ing] any approval or request or accept[ing] any assistance from any government agency with respect thereto" unless the plan's Dwelling Units were located in conformity with the order's requirements. *Id.* at 738. The order mandated that the CHA erect three Dwelling Units in a General Area (i.e. areas in Cook County with a white population of 70% or more) for every one Dwelling Unit it erected in a Limited Area (i.e. areas with a minority population of 30% or more), *id.* at 738-39, though it did not *require* any new construction. This ratio was later changed from 3-to-1 to 1-to-1.

In 1993, the CHA applied for and received \$50 million from the Department of Housing and Urban Development (HUD) under the auspices of the HOPE VI program (an acronym for Homeownership and Opportunity for People Everywhere). Congress created the HOPE VI program in 1992 with the goal of "empower[ing the] residents of severely distressed and obsolete public housing." S. REP. 102-356, at 70 (1992). It intended to accomplish this via a three-part plan: (1) eliminating and (in some form) replacing dilapidated public housing structures, (2) providing residents of those structures with the skills necessary to achieve self-sufficiency, and (3) instilling a sense of community activism in residents of the blighted areas. *See id.* at 71.

It is the first part which is now at issue, as the CHA believes that it must spend its HOPE VI construction funds exclusively in the "3 separately defined areas containing the community's most severely distressed projects," to which the 1992 HOPE VI appropriation refers. *See* Pub. L. No. 102-389, 106 Stat. 1579 (codified as a Note to 42 U.S.C. § 1473). This would mean, of

requirement that all HOPE VI money must be spent physically within those distressed areas. One way to revitalize a distressed public housing neighborhood is to tear down some of the units there and rebuild them elsewhere, thereby lessening the concentration of public housing on the old site. See Pub. L. No. 104-134, 110 Stat. 1321 (the 1996 HOPE VI appropriation, providing funds for "replacement housing which will avoid or lessen concentration of very low-income families"); Pub. L. No. 104-204, 110 Stat. 2874 (the 1997 HOPE VI appropriation, providing for the same). HUD's HOPE VI Guidebook contemplates just such an approach, discussing "[p]ublic housing development (including on-site reconstruction *as well as construction of off-site housing*) funded by HOPE VI," Pls.' Br. Ex. D (Guidebook p. 1.D.1) (emphasis added), and the legislative history is in agreement, see S. REP. 102-356, at 73 ("The balance of the [demolished] units could be replaced through . . . traditional replacement means, including major reconstruction and *scattered-site development* [emphasis added]. . . ."). In a similar vein, the HOPE VI program also requires that some demolished public housing be replaced by Section 8 housing vouchers, see Pub. L. 103-124, which may be used without regard to the boundaries of the General or Limited Areas. See 42 U.S.C. § 1473f(r). We see no incompatibility between the HOPE VI program and the judgment order.

It is ironic that the CHA has chosen to argue that it must use the HOPE VI funds for urban renewal and to the exclusion of desegregation, for, as we observed earlier, in 1969 it attempted to characterize desegregation as a byproduct of urban renewal efforts. No matter: Congress and HUD, through HOPE VI, have afforded the CHA an opportunity both to revitalize distressed public housing neighborhoods and to desegregate public housing, and the CHA is duty-bound to vigorously pursue desegregation opportunities. See *Gautreaux*, 304 F. Supp. at 741 (judgment order Article VIII); see also *Gautreaux v. Landrieu*, 498 F. Supp. 1072, 1075 (N.D. Ill. 1980) ("Difficulty in attaining racially integrated public housing shall not be further condoned. . . . The CHA must have only one concern, housing in compliance with the repeated orders of this Court.").

We hold that the judgment order governs the CHA's use of HOPE VI funds. Accordingly, any construction of public housing in Cook County must conform to the judgment order's locational requirements. It is so ordered.



MARVIN E. ASPEN
United States District Judge

Dated 2/23/58

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/12/1998
CASE TITLE	Gautreaux,etal vs. CHA		

(In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.)

MOTION:

RECEIVED

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MAY 18 1998

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] CHA's motion to stay enforcement pending appeal of our order of 2/25/98, is denied.

SKADDEN, ARPS, SLATE
MEAGHER & FLOM

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐ No notices required, advised in open court. ☐ No notices required. ☒ Notices mailed by judge's staff. ☐ Notified counsel by telephone. ☐ Docketing to mail notices. ☐ Mail AO 458 form. ☐ Copy to judge/magistrate judge.	courtroom deputy's initials	Date/time received in central Clerk's Office	8 number of notices	Document Number
			date docketed	
			docketing deputy initials	
			5/12/1998 date mailed notice	
			CL mailing deputy initials	

ORDER

Now before us is defendant Chicago Housing Authority's motion to stay enforcement pending appeal of our order of February 25, 1998, which held that the judgment order entered in *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969), governed the CHA's use of HOPE VI funds.

Rule 62(a), the basis for this motion, provides our order "shall not be stayed . . . during the pendency of an appeal" unless we "otherwise order[.]" The parties agree that the usual four injunction factors govern our analysis here: to obtain a stay, the CHA must show "(1) some likelihood of winning its appeal, (2) some likelihood of irreparable injury absent a stay, (3) that the stay would not unduly harm plaintiffs, and (4) that the stay would be consistent with the public interest." *Thomas v. City of Evanston*, 636 F. Supp. 587, 590 (N.D. Ill. 1986) (Aspen, J.); see also 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 62.06(3) (3d ed. 1997).

First. We seriously doubt that the CHA will win its appeal. Beyond our usual confidence in our own decisions, see *Thomas*, 636 F. Supp. at 590, we observe that the plaintiffs have presented to the Seventh Circuit a substantial motion to dismiss for lack of jurisdiction. The CHA's original motion to us was to clarify the injunction, and it insisted that it was not asking for a modification thereof. In fact, at oral argument, the CHA's attorney stated that "We agree that the HOPE VI new construction . . . does fall within the definition of dwelling unit, no question about it." This was, of course, our eventual holding; an exemption for HOPE VI would have required a modification of the judgment order. We therefore doubt that the Seventh Circuit's jurisdiction may be predicated on 28 U.S.C. § 1292(a)(1). See *ACORN v. Illinois State Bd. of Elections*, 75 F.3d 304, 306 (7th Cir. 1996) ("[I]nterpretations of injunctions as distinct from modifications of them are not appealable. . . , [and this] injunction has not been changed."). We also doubt that 28 U.S.C. § 1291 will suffice for appellate jurisdiction, as we think it is a stretch to say, as the CHA does (in its Seventh Circuit docketing statement with a citation to *ACORN*, *supra*), that our order "sets forth the steps that the CHA must take to comply with the Injunction." (We note as an aside that the Seventh Circuit will, of course, decide its jurisdiction for itself.)

Second. We question whether the CHA will suffer any irreparable injury. The only claimed injury which does not spring from wholesale speculation is that the CHA will have to devote time and resources to bringing itself into compliance with our order, but the CHA's Executive Director has stated that "All Judge Aspen said is that locational restrictions apply as we have assumed that they do throughout. We asked that they did not, and he said no, they do. Judge Aspen did not break new ground, he maintained the status quo." Pls.' Resp. Ex. A (emphasis added). It seems that the CHA has been planning its HOPE VI expenditures on this basis all along.

Third. The requested stay would harm the plaintiffs. As they argue, they have waited decades for the desegregation of public housing, and we see no reason to extend that period any longer than necessary.

Fourth. A stay would not be consistent with the public interest. The public's interest here is in the desegregation and modernization of its public housing, and nothing in the CHA's submission has convinced us that our order is inconsistent with those goals.

For the foregoing reasons, we deny the CHA's motion to stay. It is so ordered.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/19/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Receiver's emergency motion for entry of order implementing CHA's duty of cooperation.

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Motion is granted.

(11) ☒ [For further detail see order on the reverse side of the original minute order.]

No notices required, advised in open court.		number of notices	Document Number
No notices required.			
Notices mailed by judge's staff.			
☒ Notified counsel by telephone.		date docketed	
Docketing to mail notices.		docketing deputy initials	
Mail AO 450 form.		date mailed notice	
Copy to judge/magistrate judge.		mailing deputy initials	
GL	courtroom deputy's initials	Date/time received in central Clerk's Office	

ORDER

Now before us is the "Receiver's Emergency Motion for Entry of Order Implementing CHA's Duty of Cooperation." In it the Receiver asks that we order the CHA to cooperate with the Receiver and other parties in preparing and filing a 1998 HOPE VI application with HUD and to provide the Receiver with the information it needs to proceed with this project.

This motion is the outgrowth of three of our earlier decisions. In the first, issued August 14, 1987, we appointed the Receiver on the joint motion of the plaintiffs and the CHA. We gave the Receiver "all powers of CHA" with regard to the development and administration of the *Gautreaux* scattered site program, which included "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency" of the *Gautreaux* litigation. In the second, issued February 23, 1998, we held that the *Gautreaux* "judgment order governs the CHA's use of HOPE VI funds" distributed by HUD. Our conclusion was compelled by the clear language of the judgment order and our view that there was no conflict between its requirements (as later amended) and those of the HOPE VI program. The CHA appealed this order. In the third, issued May 12, 1998, we denied the CHA's motion to stay our February 23 order pending appeal. The CHA filed today a motion to stay with the Seventh Circuit.

The CHA, in open court this morning, made clear that the basis for its objection to the Receiver's motion is its view that our February 23 order did not directly address the Receiver's status with regard to the HOPE VI program and that the Receiver's status is not obvious from our prior orders in this case. We disagree. HOPE VI is a "non-elderly public housing development program[] . . . authorized during the pendency" of the *Gautreaux* litigation, and it therefore fits entirely within the Receiver's jurisdiction. On February 23 we held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the *Gautreaux* judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver. Moreover, the Receiver has indicated its willingness to work with CHA to ensure that the 1998 HOPE VI proposal meets the requirements of both the HOPE VI program and the *Gautreaux* judgment order, as well as to assist in making that proposal as competitive as possible. The Receiver even indicated its interest in the CHA's thoughts on decisions which are ultimately the Receiver's responsibility. We hope that this open-minded and enthusiastic offer of cooperation sets an example for everyone involved in this case.

We denied the CHA's motion for stay pending appeal, and unless and until the Seventh Circuit issues its own stay or reverses our underlying order, the parties must comply with our orders. Our order of August 14, 1987, appointing the Receiver, obligates the CHA to cooperate with the Receiver and to provide the Receiver with the information it needs. It is now clear, if it was not before, that this means that the CHA is to coordinate its 1998 HOPE VI application with the Receiver and to provide the Receiver with the information it has requested.

It is so ordered.

A handwritten signature in black ink, appearing to be 'M. G. L.', is written over the text 'It is so ordered.'

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/19/1998
CASE TITLE	Gautreaux vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Receiver's oral motion for permission to participate in pending or future appeals concerning the relationship between the Hope VI Program and this court's orders is granted.
- (11) ☐ [For further detail see order (on reverse side of/attached to) the original minute order.]

☐ No notices required, advised in open court.		3	Document Number
☐ No notices required.		number of notices	
☒ Notices mailed by judge's staff.		date docketed	
☐ Notified counsel by telephone.		docketing deputy initials	
☐ Docketing to mail notices.		5/20/1998	
☐ Mail AO 450 form.		date mailed notice	
☐ Copy to judge/magistrate judge.		GL	
GL	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
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- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Plaintiff's oral motion that the court order the defendant, CHA to produce documents is granted. The defendant, CHA, is ordered to allow Mr. Alexander Polikoff and Barry Miller to inspect Hope VI Applications forthwith. Defendant's oral motion to stay this order is denied.
- (11) ☐ [For further detail see order (on reverse side of/attached to) the original minute order.]

No notices required, advised in open court.		3	Document Number
No notices required.		number of notices	
☒ Notices mailed by judge's staff.		date docketed	
Notified counsel by telephone.		docketing deputy initials	
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GL	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/21/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Plaintiffs' motion for further relief is denied as moot.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐	No notices required, advised in open court.		4	Document Number	
☐	No notices required.		number of notices		
☒	Notices mailed by judge's staff.		date docketed		
☐	Notified counsel by telephone.		docketing deputy initials		
☐	Docketing to mail notices.		5/21/1998		
☐	Mail AO 450 form.		date mailed notice		
☐	Copy to judge/magistrate judge.		GL		
GL		courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

ORDER

Now before us is the plaintiffs' "Motion for Further Relief." In it they register their concerns with the CHA's conduct vis-à-vis the Receiver and ask that we enter a detailed order directing the CHA to take certain steps to rectify the situation.

We do not believe that such an order will be necessary. In an order issued on May 19, in response to an emergency motion from the Receiver, we wrote that "we [have previously] held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the Gautreaux judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver." Accordingly, we held that the parts of the HOPE VI program discussed in our opinion of February 23 "fit[] entirely within the Receiver's jurisdiction." (We do not wish to be misunderstood; our order neither gave sole authority over HOPE VI in Chicago to the Receiver nor gave the Receiver sole authority to prepare Chicago's 1998 HOPE VI application, as a motion filed earlier today by the CHA states. See CHA's Emergency Mot. to Stay Order Pending Appeal at ¶¶ 13, 14, 27.) Many of the problems detailed in the plaintiffs' motion concern the CHA's HOPE VI-related activity, and those problems were addressed by our prior order.

To the extent that the plaintiffs' motion raises issues unrelated to the Receiver's role in the HOPE VI program, we think it best that the Receiver bring those issues to this Court's attention if it so chooses.

It is so ordered.

A handwritten signature in black ink, appearing to be "JMS", is written in the center of the page.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/22/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] CHA's emergency motion to stay order of May 19, 1998, pending appeal is denied.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐ No notices required, advised in open court. ☐ No notices required. ☐ Notices mailed by judge's staff. ☒ Notified counsel by telephone. ☐ Docketing to mail notices. ☐ Mail AO 450 form. ☐ Copy to judge/magistrate judge.	courtroom deputy's initials	Date/time received in central Clerk's Office	number of motions	Document Number
			date docketed	
			docketing deputy initials	
			date mailed motion	
			mailing deputy initials	

ORDER

Now before us is the CHA's "Emergency Motion to Stay Order of May 19, 1998, Pending Appeal." In that order we held that the terms of the receivership order in this case clearly encompassed construction paid for by HOPE VI dollars and that the CHA was duty-bound to cooperate with the Receiver on HOPE VI matters, specifically the CHA's 1998 HOPE VI application, insofar as those matters fell within the Receiver's delegated duties.

We first observe that the CHA's motion rests at least in part on untenable overreadings of our May 19 order. That order did not "turn over all of the CHA's powers and responsibility for the 1998 HOPE VI application to the Receiver." CHA's Mot. ¶ 13; *see also id.* ¶ 14. It merely stated that the Receiver would have to be involved (i.e. that the Receiver and the CHA would have to cooperate) in preparing the application in light of the fact that the receivership order gave the Receiver "all powers of CHA" with regard to the development and administration of "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency" of the *Gautreaux* litigation. (Of course, if the 1998 HOPE VI application will not request funds for the development of new housing, the Receiver would not need to be involved with it.) We do not believe that this order may fairly be characterized as a new "mandatory injunction," CHA's Mot. ¶ 13, since it does nothing more than reaffirm that the receivership order means what it already says. Also, the CHA's position that we committed an error by not making factual findings, *see* CHA's Mot. at pp. 5-7, has the situation in reverse: only if we modified or terminated the receivership order (and the CHA has repeatedly threatened to make a motion to that effect but has not yet made one) would factual findings be necessary.

We do not believe that the traditional four "stay" factors favor the CHA. *See Thomas v. City of Evanston*, 636 F. Supp. 587, 590 (N.D. Ill. 1986) (Aspen, J.). First, we doubt that the CHA will win its appeal. It has never offered any argument as to how the plain language of the receivership order could be interpreted to give the Receiver no role in HOPE VI-funded development, and we are aware of none. The CHA's only hope of achieving that outcome is to move for a modification (or termination) of the receivership order, but it has not made such a motion, it has not presented any evidence justifying such a motion, and a modification of the receivership order is not before the appellate court. Second, we doubt that the CHA will suffer irreparable injury if we do not issue a stay. The Receiver and the plaintiffs, responding to the CHA's motion, presented substantial, credible evidence that the CHA's prior HOPE VI applications acknowledged the role of the Receiver and of the *Gautreaux* requirements in proposed HOPE VI development projects. Also, the HUD representative present at the February oral argument stated that from HUD's perspective compliance with the *Gautreaux* requirements was a "non-issue," so we do not credit the CHA's claim that it will not be able to prepare a competitive HOPE VI application if the Receiver is involved. Third, a stay may harm the plaintiffs, for if the CHA is permitted to submit a HOPE VI application without the Receiver's input, that application may violate the *Gautreaux* requirements and cause further unnecessary delay in the desegregation of Chicago public housing. Fourth, a stay would not be consistent with the public interest. We know of no possible justification for the presumption offered by the CHA on this issue -- that since it is a public agency, its interests are the public's interests, for under this logic the original segregation of Chicago public housing **was** in the public interest. The public's interest is in the speedy desegregation and modernization of **its** public housing, and nothing in the CHA's motion convinces us that our order is inconsistent with **these** goals.

Accordingly, the CHA's motion for a stay pending appeal is denied. It is so ordered.

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

DOROTHY GAUTREUX, et al.,) Docket No. 66 C 1459
) No. 66 C 1460
Plaintiffs,)
)
vs.) Chicago, Illinois
) May 19, 1998
SAMUEL R. PIERCE, et al.,) 9:30 o'clock a.m.
)
Defendants.)

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HON. MARVIN E. ASPEN

APPEARANCES:

For the Plaintiffs:

MILLER, SHAKMAN, HAMILTON,
KURTZON & SCHLIFKE
BY: MR. MICHAEL L. SHAKMAN
MR. EDWARD FELDMAN
(208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604

and

MR. ALEXANDER POLIKOFF
Business and Professional
People for the Public Interest
(17 East Monroe Street
Chicago, Illinois 60603)

For Defendant CHA:

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
BY: MS. NANCY EISENHAUER
(333 West Wacker Drive
Chicago, Illinois 60606)

MS. MARY M. GALLAGHER
Official Court Reporter
219 South Dearborn Street
Room No. 2524A
Chicago, Illinois 60604
(312) 663-0049

1 THE CLERK: 66 C 1459, Gautreaux et al., versus CHA.

2 MS. EISENHAUER: Good morning, your Honor. Nancy
3 Eisenhower for CHA and Joseph Shuldiner.

4 THE COURT: Good morning.

5 MR. SHAKMAN: Good morning, Judge. Mike Shakman and
6 Eddie Feldman for the Receiver.

7 THE COURT: Good morning.

8 MR. POLIKOFF: Good morning, your Honor.

9 THE COURT: Mr. Polikoff.

10 MR. SHAKMAN: Judge, this is the motion by the
11 Receiver for emergency relief in connection with the HOPE VI
12 application which we hope to file in cooperation with the CHA,
13 if possible, by June 29, which is the deadline established by
14 HUD for submission of applications.

15 We view it as an emergency because we have been unable
16 to obtain a response from the CHA to our request for
17 cooperation and information needed to move forward with the
18 application.

19 The City of Chicago has indicated that it supports the
20 principle of a joint application, will work with us on it.
21 There is up to \$35 million in funding for housing and for other
22 services that's potentially available.

23 Mr. Levin and his colleagues, Valerie Jarrett, who's
24 in court today, and the others of the Receiver's staff are most
25 concerned that the opportunity to obtain this kind of funding

1 for the city not be lost because of lack of cooperation, and
2 for that reason we have filed the motion.

3 I could go into greater detail but I know you read
4 these things.

5 THE COURT: Any response?

6 MS. EISENHAUER: First two factual matters -- or one
7 factual matter.

8 We're not aware of a response from the City of Chicago
9 to this. I'm not saying it hasn't happened; I just want you to
10 know the CHA has not been informed of that.

11 More importantly, we filed a motion to stay in the
12 Seventh Circuit this morning. I --

13 THE COURT: Has it been granted?

14 MS. EISENHAUER: We filed it this morning. We --

15 THE COURT: All right. Well, the case is still here,
16 so I'm not really concerned about that.

17 MS. EISENHAUER: I'm just informing you we did. And
18 in connection with that motion to stay we filed an affidavit of
19 Joe Shuldiner in which he states the CHA will not be able to
20 prepare a timely or competitive application before the June
21 28th deadline if it is forced to work with the Receiver, and
22 because of that the CHA and the City of Chicago may lose up to
23 \$35 million worth of funding.

24 Second of all, the issues raised by the Receiver here
25 are the same issues raised by the plaintiffs in the motion for

1 further relief, which we believe requires briefing on the scope
2 of the receivership order and also hearing from Mr. Shuldiner
3 to present his views on the topic and his description of his
4 actions.

5 And third, in the response to the motion to clarify
6 that the plaintiffs filed with this Court, they wrote that the
7 applicability of the judgment order cannot be determined
8 definitely at the HOPE VI application stage; that is at page 8
9 of their response. Because of that statement and for other
10 reasons, we would argue that this injunction is too vague to be
11 enforced against the CHA in this context.

12 MR. SHAKMAN: I would like to briefly respond, unless
13 Mr. Polikoff wants to say something?

14 MR. POLIKOFF: No.

15 MR. SHAKMAN: First of all, I want to note that we
16 have not received a response to Dan Levin's letter to the
17 Receiver that he wrote on May 5th or to my letter to
18 Mr. Butler, general counsel of the CHA, that I wrote last
19 Friday. The only response is the filing of a motion for a
20 stay, which indicates that the CHA, as counsel has said, has
21 concluded that it can't work with the Receiver. I don't
22 understand why that couldn't have been communicated by a phone
23 call to Mr. Levin or a letter to me or a phone call to me.

24 So I want to raise a question because it seems to me
25 that the fact that that conclusion had been reached but not

1 communicated to us illustrates in part some of the problems we
2 are having in our relationship with the CHA. We were entitled
3 to be told that and we shouldn't have had to file a motion with
4 this Court to receive that information.

5 In terms of the connection between the motion for
6 further relief and this motion, all I can say is Mr. Polikoff,
7 representing the plaintiffs, does what he deems appropriate
8 representing his clients.

9 Mr. Levin operates as the Court's agent. He has
10 duties the Court has entrusted to him and he is attempting to
11 carry those out. Mr. Levin, as I am sure the Court knows, is
12 not by nature a litigious man or a confrontational man. His
13 staff shares his views. We are here only because nothing else
14 seems to hold promise for moving this process forward.

15 In terms of the application of the judgment order for
16 HOPE VI, we are here seeking to enforce the 1987 order
17 appointing the Receiver and the cooperation requires that that
18 order imposes upon the CHA.

19 Whether or not the HOPE VI order is stayed, no effort
20 has been made to stay the 1987 order appointing the Receiver,
21 no effort is being made to stay the obligations of the CHA to
22 cooperate with the Receiver as specified in that order.

23 So for those reasons, I would suggest that Ms.
24 Eisenhower's comments really aren't addressed in the merits of
25 this motion.

1 MS. EISENHAUER: May I respond to that?

2 THE COURT: Sure.

3 MS. EISENHAUER: First, on the point of has the CHA
4 advised the Receiver that they can't work with them on these
5 applications, the CHA believes it has been advising the
6 Receiver of that for several months now.

7 Part of the reason the CHA believes that it will not
8 be able to file a timely application, that was not simply
9 because it cannot work with the Receiver but because of the
10 information that would need to be compiled and the fact that it
11 appears that the Receiver and the CHA have different views on
12 what HOPE VI requires and what the Gautreaux injunction
13 requires. And for that reason any negotiation would not come
14 to anything except for the same disputes that have been going
15 on in this Court repeatedly.

16 Second, I understand it's the Receiver's motion. My
17 only point with regard to the motion for further relief is that
18 it raises the same underlying issues, and one of those issues
19 is whether the 1987 order applies to HOPE VI, whether this
20 Court's February 25th order envisions that the 1987 order
21 necessarily applies.

22 As you know, the CHA has argued from the beginning
23 that the conclusion that you reached on February 25th does not
24 necessarily lead to the conclusion that the Receiver is drawing
25 today here with regard to the 1987 order. And again, we've

1 raised that issue repeatedly in the past month, at least.

2 MR. SHAKMAN: One comment, if the Court -- if counsel
3 is done?

4 MS. EISENHAUER: Yes.

5 MR. SHAKMAN: If the CHA believes that the August 14,
6 1987 order appointing the Receiver should be modified, the CHA
7 has been free to make that motion for these many months that
8 this issue has been percolating in this Court and it's elected
9 not to make that motion. Therefore, the Court has not had an
10 opportunity to address such a motion.

11 So we, as the Receiver, are operating under the duties
12 imposed upon us by the Court and we willingly accept it in
13 trying to carry out those duties.

14 THE COURT: Okay. Mr. Polikoff, do you have anything
15 you want to say?

16 MR. POLIKOFF: No, your Honor.

17 THE COURT: Well, I am concerned that Mr. Shuldiner
18 feels that he can't go along with the Receiver. I find that
19 disturbing and I find that surprising because everyone else
20 involved in this litigation through the years, other than
21 Mr. Shuldiner, has had no problem getting along with the
22 Receiver.

23 But my focus is not on whether he can get along with
24 the Receiver or not. My focus is whether or not everyone,
25 including the CHA, complies with the orders of this Court, the

1 Mr. Shuldiner is not reluctant to appeal my orders and
2 I hold no animosity toward anyone who appeals one of my orders.
3 But until and unless an order of the Court has been overturned
4 by a reviewing court, I expect that order to be followed,
5 regardless of Mr. Shuldiner's personal views as to how he
6 thinks the law ought to operate. And please convey that to
7 him.

8 Thank you.

9 MR. SHAKMAN: Your Honor, I have one other request, if
10 I may.

11 It's fairly apparent that the proceedings are under
12 way, that additional appeals may be taken to the Seventh
13 Circuit. There is law in the Seventh Circuit that the Receiver
14 needs the approval of the appointing court to participate in
15 the appellate process. We would, therefore, ask permission to
16 participate in any pending or future appeals from this
17 collection of issues.

18 THE COURT: All right. I will enter an order to that
19 effect.

20 MR. SHAKMAN: Thank you, Judge.

21 MS. EISENHAUER: Your Honor, can I make one more
22 comment?

23 I would just like to say that Joseph Shuldiner
24 certainly intends to comply with this Court's orders. He does
25 have obligations under state statutes and under -- that he's

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true,
correct and complete transcript of the proceedings had at the
hearing of the aforementioned cause on the day and date hereof.



Official Court Reporter
U.S. District Court
Northern District of Illinois
Eastern Division

5/20/98
Date

RA-46

TABLE OF CONTENTS
TO RECEIVER'S SUPPLEMENTAL APPENDIX

Record Documents Bound to Receiver's Brief

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
1	Judgment Order of July 1, 1969	RA-1
2	Order of August 14, 1987	RA-7
3	Order of August 26, 1997	RA-15
4	Order of February 23, 1998	RA-20
5	Order of May 12, 1998	RA-25
6	Order of May 19, 1998 (1 of 2).....	RA-27
7	Order of May 19, 1998 (2 of 2)	RA-29
8	Order of May 20, 1998	RA-30
9	Order of May 21, 1998	RA-31
10	Order of May 22, 1998	RA-33
11	Transcript of May 19, 1998	RA-35

Record Documents Bound Separately

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
	<u>Volume I</u>	
A	Transcript of May 20, 1998	RA-47
B	Affidavit of Phillip Hickman dated 3/18/98 (With attached Exhibits).....	RA-62
C	Affidavit of Phillip Hickman dated 3/30/98 (With Exhibits 1-14, 16-24 and 26-29 attached Exhibits 15-25 omitted due to volume).....	RA-80

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
D	Affidavit of Phillip Hickman dated 4/7/98 (With attached Exhibits)	RA-262
E	Affidavit of Phillip Hickman dated 5/21/98 (With attached Exhibits)	RA-266
 <u>Volume II</u>		
F	Declaration of Daniel Levin dated 3/17/98 (With attached Exhibits)	RA-305
G	Affidavit of Daniel Levin dated 3/30/98 (With attached Exhibits)	RA-319
H	Affidavit of Barry Miller dated 3/31/98 (With attached Exhibits)	RA-348
I	Affidavit of Michael Shakman dated 4/15/98 (With attached Exhibits)	RA-382
J	63 Fed. Reg. Pp. 15577-15584	RA-389
K	Excerpts from prior HOPE VI Applications produced by CHA on 5/20/98	RA-397
L	Affidavit of Valerie Jarrett dated 3/31/98 (With attached Exhibits)	RA-451
M	Affidavit of Valerie Jarrett dated 5/27/98	RA-478
N	Receiver's Emergency Motion for Entry of Order Implementing CHA's Duty of Cooperation dated May 18, 1998	RA-481
O	Horner HOPE VI and ABLA/Brooks Extension HOPE VI Development Management Agreement (With April 30, 1997 cover letter)	RA-516

304 F. Supp. 736 printed in FULL format.

Dorothy GAUTREAUX, Odell Jones, Doreatha R. Crenshaw, Eva Rodgers, James Rodgers, Robert M. Fairfax and Jimmie Jones, Plaintiffs, v. The CHICAGO HOUSING AUTHORITY, a corporation, and C. E. Humphrey, Executive Director, Defendants

Civ. A. No. 66 C 1459

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

304 F. Supp. 736; 1969 U.S. Dist. LEXIS 10211

July 1, 1969

COUNSEL: [**1]

Alexander Polikoff, Charles R. Markels and Bernard Weisberg, Chicago, Illinois, for plaintiffs.

Kathryn M. Kula, John W. Hunt, and James T. Otis, Chicago, Illinois, for defendants.

JUDGES: Austin, District Judge.

OPINIONBY: AUSTIN

OPINION: [*737] JUDGMENT ORDER

AUSTIN, District Judge.

This matter coming on to be heard pursuant to this Court's *Memorandum Opinion of February 10, 1969, D.C., 296 F. Supp. 907*, and Orders entered on such date denying defendants' motions for summary judgment, denying plaintiffs' motion for summary judgment as to Count II of the Complaint, and granting plaintiffs' motion for summary judgment as to Count I of the Complaint, and

The Court having conferred with counsel for the parties and having determined that the several provisions of this judgment order are necessary to prohibit the future use and to remedy the past effects of the defendant Chicago Housing Authority's unconstitutional site selection and tenant assignment procedures, to the end that plaintiffs and the class of persons represented by them, Negro tenants of and applicants for public housing in Chicago, shall have the full equitable relief to which they are entitled,

It is hereby ordered:

I. [**2] For purposes of this judgment order,

A. "CHA" shall mean the defendant, Chicago Housing Authority.

B. "Dwelling Unit" shall mean an apartment or single family residence which is to be 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. "Dwelling Units" include "Leased Dwelling Units" as hereinafter defined.

C. "Leased Dwelling Unit" shall mean a Dwelling Unit in a structure leased or partially leased by CHA from any person, firm or corporation.

D. "Limited Public Housing Area" shall mean that part of the County of Cook in the State of Illinois which lies either within census tracts of the United States Bureau of the Census having 30% or more non-white population, or within a distance of one mile from any point on the outer perimeter of any such census tract. "General Public Housing Area" shall mean the remaining part of the County of Cook in the State of Illinois. The terms "non-white" and "white" [**3] shall have the meaning given to such terms by the United States Bureau of the Census.

For purposes of this subsection D, results of the 1970 and each subsequent census taken by the United States Bureau of the Census shall presumptively determine the non-white population of census tracts until results of a subsequent such census are officially published; provided, that any party may, on motion, offer evidence as to the non-white population of any census tract for the purpose of rebutting such presumption; and provided further, that Dwelling Units located or proposed to be located in any census tract subsequent to official publication of the results of the last previous such census shall be taken into account in determining the population of such census tract, and for such purpose it shall be assumed that such Dwelling Units will be occupied

by non-whites at the rate of two persons per bedroom.

For the period from the date hereof until the official publication of such 1970 census results, the census tracts in the City of Chicago listed on Exhibit [*738] A, attached hereto, shall be presumed to have 30% or more non-white population; and, subject to evidence offered on motion by [**4] either party, the non-white population of census tracts in the County of Cook outside of the City of Chicago shall be presumed to be as stated in the 1960 census of the United States Bureau of the Census.

E. "Public Housing Project" shall mean any thirteen or more Dwelling Units which are located (1) in the same structure, (2) on the same lot or parcel of real estate, or (3) on two or more lots or parcels of real estate which are contiguous to one another, or are separated only by streets, alleys, bodies of water, railroad tracks or the like.

II. Following the date of this judgment order CHA shall not authorize, approve or implement any plan for Dwelling Units, nor shall CHA seek any approval or request or accept any assistance from any government agency with respect thereto (including without limitation approval of the acquisition of any interest in real estate), unless such plan affirmatively requires that,

A. All Dwelling Units provided for in such plan shall be located in conformity with the provisions of Article III hereof, and

B. The activities to be performed in order to render such Dwelling Units available for occupancy (whether construction, purchase, [**5] rehabilitation, leasing or otherwise) shall take place at such times as will result in the location of such Dwelling Units in conformity with the provisions of Article III hereof.

III. Following the date of this judgment order CHA shall provide Dwelling Units as follows, and not otherwise:

A. The following Dwelling Units may be made available for occupancy without restriction imposed by this order:

(1) The 1458 Dwelling Units provided for by pending CHA projects III. 2-27, 2-28 (exclusive of Dwelling Units proposed to be located at 70th and Harper streets in the City of Chicago), 2-32, 2-33, 2-51, 2-64, 2-69 and 2-74.

(2) Leased Dwelling Units (but not more than two per structure) which have been occupied for at least six

months prior to CHA's leasing the same by tenants who continue in occupancy following CHA's leasing thereof.

B. CHA shall not commence or cause to be commenced the construction of any Dwelling Units, other than said 1458 Dwelling Units referred to in Subsection A of this Article III, until CHA shall have commenced or caused to be commenced, and shall be continuing or shall have completed, the construction of not less than 700 [**6] Dwelling Units located in the General Public Housing Area of the City of Chicago.

C. Subject to the provisions of Subshall not commence or cause to be commenced the construction of any Dwelling Units in any Limited Public Housing Area, other than said 1458 Dwelling Units referred to in Subsection A of this Article III, unless within three months following such commencement of construction at least 75% of the Dwelling Units on which CHA shall have commenced or caused to have commenced construction, and shall have continued or completed construction, since the commencement of construction of the last of the 700 Dwelling Units referred to in subsection B of this Article III shall have been located (at the time of commencement of construction thereof) in the General Public Housing Area of the City of Chicago.

D. Subject to the provisions of subsection E of this Article III, no Leased Dwelling Unit shall be made available for occupancy in the Limited Public Housing Area of the City of Chicago (in addition to Leased Dwelling Units in such Area which are already occupied) unless, immediately following such occupancy, at least 75% of the Leased Dwelling Units then occupied [*739] [**7] are located in the General Public Housing Area of the City of Chicago; provided, that such number of Leased Dwelling Units located in the General Public Housing Area of the City of Chicago may be less than such 75% to the extent Dwelling Units other than Leased Dwelling Units have been occupied, or are under construction which is continuing, in the General Public Housing Area of the City of Chicago in excess of the 75% minimum requirement of subsection C of Article III hereof.

E. Not more than 33 1/3% of the Dwelling Units required by subsection C of this Article III to be located in the General Public Housing Area of the City of Chicago, and not more than 33 1/3% of the Leased Dwelling Units required by subsection D of this Article III to be located in the General Public Housing Area of the City of Chicago, may at the option of CHA, be planned for and located in the General Public Housing Area of the County of Cook in the State of Illinois, outside of the City of Chicago, provided that (whether or not con-

structed by CHA) the same are made available for occupancy by CHA to, and are occupied by, residents of the City of Chicago who have applied for housing to CHA, and provided [**8] further that all such Dwelling Units comply with the provisions of Article IV of this order.

IV. Following the date of this judgment order CHA shall not concentrate large numbers of Dwelling Units in or near a single location. Without limiting the foregoing, unless part of a development specifically designed to assist in achieving the purposes hereof as to which the Court by order shall have given its approval,

A. No Public Housing Project shall contain Dwelling Units designed for occupancy by more than 120 persons, except that if it is impossible for CHA to provide within such limitation Dwelling Units which it is otherwise capable of providing, and if it will assist in achieving the purposes of this judgment order, a Public Housing Project may contain Dwelling Units designed for occupancy by not more than 240 persons.

B. No Dwelling Units shall be located in any census tract if, following such location, the aggregate number of apartments and single family residences theretofore made available to low-income, non-elderly families, directly or indirectly by or through CHA, in such census tract would constitute more than 15% of the total number of apartments [**9] and single family residences in such census tract; and

C. No Dwelling Units shall be provided above the third story in any structure except for families without children and except Leased Dwelling Units in a structure in which the number of Dwelling Units aggregates no more than 20% of the total number of apartments in such structure.

V. Within 30 days following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs evidence that CHA has modified its tenant assignment policy, adopted by CHA Board Resolution No. 68-CHA-232, a copy of which is attached hereto as Exhibit B, and its practices thereunder, to include all Leased Dwelling Units as a single "location" for the purposes thereof. Such policy and practices, as so modified, shall be applicable until the further order of this Court.

VI. Within 60 days following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs a tenant assignment plan. Such plan shall include, but need not be limited to, provisions having the following purpose and effect:

A. Such modifications, if any, shall be made in CHA's tenant [**10] assignment policy and practices as will assist in achieving the purposes of this judgment order.

[*740] B. New registrations on CHA's list of persons desiring housing (the "waiting list") shall be temporarily ended; a determination shall be made promptly as to which registrants remain eligible for and still desire public housing; intensive publicity shall then be employed in such manner as effectively to inform low-income families throughout the City of Chicago, including present CHA tenants, that substantial numbers of Dwelling Units will be made available in the General Public Housing Area of the City of Chicago pursuant to the provisions of this judgment order; and thereafter the "waiting list" shall be reopened to new registrants, including present CHA tenants who wish to apply for Dwelling Units in the General Public Housing Area.

C. Not more than 50% of the Dwelling Units in all Public Housing Projects shall be made available to eligible neighborhood residents, the remaining Dwelling Units to be made available for occupancy in accordance with subsection A of this Article VI.

D. Vacancies in CHA's Trumbull, Lathrop, Lawndale, and Bridgeport projects shall be [**11] filled in accordance with subsection A of this Article VI, except that such tenant assignment plan may contain provisions designed to assure that such projects do not become racially segregated.

E. Suitably detailed information shall be regularly filed with the Court and served upon counsel for the plaintiffs showing CHA's compliance with the provisions of this Article VI and such tenant assignment plan.

Following the filing and service of such tenant assignment plan the Court will enter such further order as it deems appropriate.

VII. Following the date of this judgment order CHA shall file with the Court and serve upon counsel for the plaintiffs, the Civil Rights Division of the United States Department of Justice, and the Regional Administrator of the Department of Housing and Urban Development, the following:

A. A statement of the following information respecting each location for one or more Dwelling Units, such statement to be filed and served not more than 10 days after any such location is approved by the Board of Commissioners of CHA (or by the appropriate CHA officer or employee with respect to any location not required to be approved by the Board of [**12] Commissioners) and prior to the formal submis-

sion thereof to any other government agency or official for consideration or action:

- (1) a map showing boundaries, placement in relation to adjacent streets and, where available street address;
- (2) the area location (whether within the Limited or General Public Housing Area);
- (3) the census tract number;
- (4) the white and non-white population of such census tract;
- (5) the aggregate number of apartments and single family residences theretofore made available to lowincome, non-elderly families, directly or indirectly by or through CHA in such census tract;
- (6) the aggregate number of apartments and single family residences in such census tract as reflected by the most recent census taken by the United States Bureau of the Census, supplemented by such information with respect thereto as is available to CHA from any other government agency or official (but the statement need not include such number if the number supplied with respect to the preceding paragraph (5) is zero);
- (7) the total number of Dwelling Units proposed to be provided at such location;

[*741] (8) the number of structures, and the number of Dwelling [*13] Units in each, in which such Dwelling Units are proposed to be provided; and

(9) such additional data as will show that such proposed Dwelling Units will be made available for occupancy in conformity with the provisions of Articles III and IV hereof, including without limitation, in the event such proposed Dwelling Units would result in a Public Housing Project designed for occupancy by more than 120 persons, information showing that the provisions of subsection A of Article IV hereof have been met with respect to such Public Housing Project.

B. Statements setting forth any change in the information included under paragraphs (1), (2), (3), (5), (7), (8) or (9) in a statement filed and served pursuant to subsection A of this Article VII, and covering the period up to initial occupancy of all Dwelling Units at any location, such statements to be filed and served not more than 10 days after any such change occurs.

C. Statements covering the periods from the date hereof until December 31, 1969, and from the date hereof until the end of each calendar semiannual period thereafter, containing such data as will show that (1) all plans

for Dwelling Units during the period covered [*14] by such statements have been in conformity with the provisions of Article II hereof, and (2) all Dwelling Units provided during the period covered by such statements have been in conformity with the provisions of Article III and IV hereof, such statements to be filed and served not more than twenty days after the end of each calendar semi-annual period beginning with such period ended December 31, 1969.

VIII. CHA shall affirmatively administer its public housing system in every respect (whether or not covered by specific provision of this judgment order) to the end of disestablishing the segregated public housing system which has resulted from CHA's unconstitutional site selection and tenant assignment procedures. Without limiting the foregoing,

A. CHA shall use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of this judgment order and shall take all steps necessary to that end, including making applications for allocations of federal funds and carrying out all necessary planning and development; and

B. CHA is hereby permanently enjoined from invidious discrimination on the basis of race in [*15] the conduct or operation of its public housing system, including without limitation the "preclearance procedure" described in the Court's Memorandum Opinion of February 10, 1969.

IX. This order shall be binding upon CHA, its officers, agents, servants, employees, attorneys, and their successors, and upon those persons, including the members of the City Council of the City of Chicago, in active concert or participation with them who receive actual notice of this order by personal service or otherwise.

X. This Court retains jurisdiction of this matter for all purposes, including enforcement and the issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information with respect to proposed developments designed by CHA alone or in combination with other private or public agencies to achieve results consistent with this order, material changes in conditions existing at the time of this order or any other matter.

XI. The costs of this action shall be taxed against CHA, subject to the further order of this Court. [*742]

EXHIBIT A.
CENSUS TRACT NUMBERS

114 through 116	460 through 467	664
120 through 137	468	666 through 667
280 through 282	469-Z	675 through 678
340 through 347	470	681-Z through 683-Z
348-Z	487	685 through 686
349-Z	519-Z	687-Z
350 through 352	520 through 521	688
353-Z	524	690 through 691
354 through 355	527-Z	695
357 through 362	532-Z	697
363-Z	534-Z	711
364 through 373	539-Z	717-Z
375-Z through 378-Z	541 through 553	719-Z
379 through 383	554-Z	720-Z
384-Z	556 through 562	723
389-Z	564-Z	803 through 805
390-Z	567-Z	852
391 through 392	569-Z	855
395	574 through 610	858 through 859
399-Z	613-Z	861 through 862
401-Z	614 through 619	867-Z
403	620-Z	868 through 895
410-Z	621-Z	897-Z
412 through 420	623 through 641	898 through 900
428 through 429	642-A	903
431-Z	642-B	905 through 911
432	643 through 650	912-A through 912-D
434-Z	652	922
440 through 441	653-Z	923-A
442-Z	655	923-B
444 through 449	656-Z	924 through 927
450-A	657	932
450-B	658-Z	934 through 935
451 through 457	659 through 662	

[**16]

EXHIBIT B.

TENANT SELECTION AND ASSIGNMENT PLAN

Each applicant shall be assigned his appropriate place on a community wide basis in sequence based upon date and time his application is received, suitable type or size of unit, and factors affecting preference or priority established by the Local Authority's regulations. At a given time, the applicant first on the waiting list shall be offered a dwelling unit in accordance with the following plan:

1. If at the time the applicant comes to the top of the waiting list there are suitable vacancies in three or more locations, the applicant shall be offered the unit at the location that contains the [*743] largest number of vacancies. If the applicant rejects the first vacancy offered he shall be offered a suitable unit at the location containing the next highest number of vacancies. If the applicant rejects the second vacancy offered he shall be offered a suitable unit at the location containing the next highest number of vacancies. If the applicant rejects the third vacancy offered he shall be moved to last place on the eligible applicant list. When an offer of a suitable

vacancy is made to an applicant, there [**17] must be a rejection of such offer before the applicant will be offered another location. Thus, the offering of a unit at the location with the second largest number of suitable vacancies will not be made until the applicant has first rejected the unit offered at the location with the largest number of vacancies. The offering of a unit at the location with the third largest number of suitable vacancies will not be made until the applicant has rejected the unit offered at the location with the second largest number of suitable vacancies.

2. If at the time the applicant comes to the top of the waiting list there are suitable vacancies in only two locations, the applicant shall be offered the unit at the location that contains the largest number of vacancies. If the applicant rejects the first vacancy offered he shall be offered a suitable unit at the second location. If the applicant rejects the second vacancy offered he shall be moved to last place on the eligible applicant list. When offers of suitable vacancies are made to applicants, there must be a rejection of the first offer before the applicant will be offered the second suitable vacancy.

3. If at the time the [**18] applicant comes to the top of the waiting list there is only one location at which a suitable vacancy exists, the applicant will be offered

a unit at that location. If the applicant rejects the unit offered, he shall remain at the top of the waiting list until a second offer of a suitable vacancy can be made. Should the applicant reject the second offer of a suitable vacancy he shall be moved to last place on the eligible applicant list.

In carrying out the above plan, should the applicant be willing to accept the unit offered but be unable to move at the time of the offer and presents clear evidence of his inability to move to the Local Authority's satisfaction, refusal of the offer shall not count as one of the number of allowable refusals permitted the applicant before placing his name at the bottom of the eligible applicant list.

In carrying out the above plan, should the applicant present to the satisfaction of the Local Authority clear evidence that acceptance of a given offer of a suitable vacancy will result in undue hardship or handicap not related to considerations of race, color, or national origin, such as inaccessibility to source of employment, children's [**19] day care and the like, refusal of such an offer shall not be counted as one of the number of allowable refusals permitted an applicant before placing his name at the bottom of the eligible list.

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Civil Action No. 65C1459
	)	65C1460
SAMUEL R. PIERCE, JR., Secretary	)	(Consolidated)
of the Department of Housing and	)	
Urban Development, and CHICAGO	)	
HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

O R D E R

This matter coming on to be heard pursuant to plaintiffs' motion dated May 8, 1987 for the appointment of a receiver for the scattered site program (defined below), due notice having been given and the Court having heard the presentations of the parties, the Court makes the following findings of fact and conclusions of law:

(A) The Chicago Housing Authority (the "CHA") has joined in plaintiffs' Motion for the appointment of a receiver for the reasons which CHA has heretofore stated in this cause.

(B) This Court has concluded that it has no reasonable alternative but to exercise its inherent power to effectuate its own orders and to so appoint said receiver for the scattered site program in accordance with the provisions of this order. It is the expectation of this Court that the appointment of a receiver will facilitate cooperation between the United States

Department of Housing and Urban Development ("HUD"), CHA and the receiver respecting the scattered site program.

(C) For purposes of this Order the "scattered site program" shall mean (i) the buildings and vacant sites listed in Exhibit A attached hereto (collectively, the "Uncompleted Units") and (ii) CHA Development Programs numbered IL 2-096, IL 2-098, IL 2-103 through IL 2-109, and IL 2-113 (excluding any completed buildings in such programs) and all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459.

WHEREFORE, IT IS HEREBY ORDERED:

1. The Court hereby appoints Daniel E. Levin and The Habitat Company jointly as receiver ("Receiver") to develop and administer the scattered site program as effectively and expeditiously as possible in compliance with the orders of this Court, such appointment to be effective as of the Effective Date (defined below). Until the Effective Date, CHA shall continue to be responsible for implementing the scattered site program in compliance with the prior orders of this Court. On the Effective Date CHA shall turn over to the Receiver possession and control of the Uncompleted Units, it being understood, however, that title to the Uncompleted Units shall remain in the name of CHA.

2. The Receiver shall have and exercise all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including:

(a) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (i) submission to HUD of applications for funding, development programs and other documents, (ii) site selection and acquisition (including policies respecting the location of sites and buildings to be acquired), (iii) the relocation of occupants, when necessary and (iv) construction and rehabilitation of dwelling units and the design and specifications therefor in compliance with applicable laws and ordinances; and

(b) Carrying out the determinations so made, including without limitation (i) negotiating and executing any contracts or other documents necessary or appropriate to implement the scattered site program, (ii) employing, transferring and discharging staff for the scattered site program, (iii) purchasing insurance insuring the Receiver, and the interest of CHA if feasible and available at no additional cost, against liability for such risks and in such amounts as the Receiver and HUD shall from time to time agree upon, (iv) managing and administering buildings included within the scattered site program prior to the turnover thereof to the CHA in accordance with Paragraph 5 below, and (v) doing such other acts and things, including site selection and acquisition in the name of CHA, construction and rehabilitation of dwelling units and retaining the services of such personnel, consultants, attorneys, accountants and other professionals, as are determined by the Receiver to be necessary and appropriate to implement the scattered site

program and to enable the Receiver to discharge its duties pursuant to the provisions hereof.

3. The Receiver shall have the right at any time, upon due notice to the parties hereto, to make application to the Court requesting that the Receiver be excused from complying with some or all of the provisions set forth in the Annual Contributions Contracts heretofore entered into between HUD and CHA (collectively, the "ACC"), the HUD Procurement Handbook for Public Housing Agencies No. 7460.8, the HUD Public Housing Development Handbook No. 7417.1, or other applicable rules and regulations, or applicable laws or ordinances, or that as to the Receiver, the requirements of such agreements, provisions, laws, ordinances, rules and regulations be modified, if the Receiver determines that compliance therewith would be costly, inefficient or otherwise impede or restrict its ability to carry out this Court's orders. Nothing contained herein shall be deemed to constitute a determination by the Court, or the consent or an acknowledgement by HUD or CHA, that the Court has the jurisdiction or authority to grant any of the foregoing relief.

4. The Receiver shall have no obligation to make any expenditure except from funds provided by HUD in accordance with procedures to be agreed upon between HUD and the Receiver. The Receiver shall keep separate accounts for costs incurred in connection with the scattered site program from and after the Effective Date. The Receiver shall not be responsible for (i) payment of any costs or performance of any obligations incurred

by CHA prior to the Effective Date, except obligations incurred pursuant to the ACC unless the Receiver is excused from complying with the terms thereof pursuant to Paragraph 3 above, or (ii) payment of any costs or performance of any obligations incurred by CHA thereafter, except as may be specifically authorized by the Receiver in writing. Notwithstanding the foregoing, the Receiver shall not be responsible for (iii) compliance with the provisions of any ACC with respect to buildings and sites previously acquired or completed by CHA except those described in Exhibit A, or (iv) any act or omission of CHA either before or after the Effective Date.

5. The Receiver shall promptly turn over to CHA, and CHA shall accept, any building within the scattered site program upon completion of construction or rehabilitation of each such building. For purposes hereof, subject to the reasonable approval of HUD, construction or rehabilitation of a building shall be deemed to be completed when the Receiver's project architect determines that such building is ready for occupancy, and, if required by applicable law or ordinance, a certificate of occupancy has been issued for such building.

6. The Receiver shall prepare reports respecting the status and implementation of the scattered site program as of the end of each month in the year 1987, commencing with the month of September, 1987, and thereafter quarterly as of March 31, June 30, September 30 and December 31 of each year. Copies of the same shall be filed with the Court and served on

the parties within 20 days following the end of the period covered by each such report.

7. CHA, its agents, servants and employees shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver's responsibilities hereunder, including without limitation providing full access to all information, records, documents, files relating to the scattered site program.

8. There shall be paid to the Receiver from funds provided by HUD pursuant to the ACC or Annual Contributions Contracts entered into between the Receiver and HUD, or by CHA if appropriate, (i) all direct costs and expenses reasonably incurred by the Receiver in connection with the performance by the Receiver of its duties pursuant hereto, (ii) to the extent not included in clause (i), a pro-rata share of all salary, compensation and other direct costs of those employees of The Habitat Company (other than Daniel E. Levin, James P. McHugh and Douglas R. Woodworth), James McHugh Construction Co. (other than James P. McHugh) or other entities which are affiliates of or controlled either directly or indirectly by the Receiver, who at the direction of the Receiver perform services on behalf of the scattered site program, for the actual time devoted by said employees to the performance of services for the scattered site program, and (iii) a fee in the amount of three percent (3%) of the aggregate development costs (excluding the costs described in clause (ii) above and any costs previously incurred by CHA)

for each building in the scattered site program (except buildings developed pursuant to a turnkey development) as reflected on the original development budget(s) therefor submitted by the Receiver and approved by HUD, the fee for such building being payable upon the completion thereof as determined in accordance with Paragraph 5 hereof. The Court will set a reasonable fee with respect to turnkey developments. The Court hereby determines that included in the category of expenditures for which the Receiver shall be entitled to reimbursement are all costs, expenses and liabilities (including reasonable attorneys' fees and court costs) reasonably incurred or sustained by the Receiver by reason of the performance by the Receiver of its duties pursuant to the provisions hereof to the extent said costs, expenses and liabilities are not covered by the insurance described in Paragraph 2(b)(iii) above.

9. Nothing in this Order shall (i) preclude or restrict the Receiver or any party hereto from asserting any claims against the Receiver or any other party hereto for any matter in connection with the scattered site program or otherwise; provided, however that the foregoing shall not constitute a waiver by the Receiver or any other party of any defense which it may have to such claim, including, but not limited to, a defense by the Receiver that it enjoys immunity from such claim, (ii) obligate HUD to furnish funds to the Receiver in addition to any funds which HUD would otherwise be obligated to provide

to CHA by virtue of any previous order of this Court or otherwise, or (iii) constitute a determination of the amount of funds which HUD is obligated to furnish by virtue of such previous orders or otherwise.

10. The Receiver is hereby excused from complying with Rule 9(b) of the Civil Rules of the United States District Court for the Northern District of Illinois.

11. The effective date of this Order (the "Effective Date") shall be the date upon which the Receiver has filed with this Court and served upon the parties hereto a notice signifying that the Receiver is satisfied that there is in force the insurance coverage referred to in Paragraph 2(b)(iii) above.

12. Except as and to the extent specifically provided in this Order, this Court's judgment orders previously entered herein, as previously modified, remain in full force and effect. The Court retains jurisdiction of this matter for all purposes, including enforcement and issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information or material changes in conditions existing at the time of this order or any other matter.

ENTER:


United States District Judge

August 14, 1987

1997 U.S. Dist. LEXIS 12924 printed in FULL format.

DOROTHY GAUTREAUX et al., Plaintiffs, v. CHICAGO HOUSING AUTHORITY et al., and
ANDREW CUOMO, Secretary of the Department of Housing and Urban Development, Defendants.

Case No. 66 C 1459 / 66 C 1460 (Consolidated)

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

981 F. Supp. 1091; 1997 U.S. Dist. LEXIS 12924

August 26, 1997, Decided

August 27, 1997, Docketed

DISPOSITION: **[**1]** Plaintiffs' motion to modify the judgment order against CHA denied; HUD's motion to terminate the consent decree while retaining jurisdiction over the plaintiffs' attorneys' fees petition granted; plaintiffs' motion to declare that HUD has a continued obligation for FY1997 denied; and the plaintiffs' motion to enforce P 5.8.1. denied.

CORE TERMS: housing, consent decree, public housing, decree, target, fiscal year, new construction, one-third, subsidy, site, motion to modify, terminate, tenant, rent, scattered-site, named, modification, certificates, approve, occupancy, segregation, resident, recipients, neighborhoods, tracts, physically, noncompliance, motion to enforce, substitution, purported

COUNSEL: For CHICAGO HOUSING AUTHORITY, defendant (66-CV-1459): Susan Getzendanner, Nancy S. Eisenhauer, Skadden, Arps, Slate, Meagher & Flom, Chicago, IL.

JUDGES: MARVIN E. ASPEN, Chief Judge.

OPINIONBY: MARVIN E. ASPEN

OPINION: **[*1092]** MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, Chief Judge:

This litigation dates back to 1966 when black residents of Chicago's public housing brought a class action n1 against the Chicago Housing Authority (CHA) and the Department of Housing and Urban Development (HUD), alleging that the defendants violated federal constitutional and statutory provisions by basing public housing policies and practices on race. Specifically,

CHA intentionally limited the number of black families living in white housing projects and deliberately targeted only predominantly black neighborhoods in which to build public housing, while HUD knowingly assisted **[**2]** CHA in carrying out this discrimination. *Gautreaux v. CHA*, 296 F. Supp. 907 (N.D. Ill. 1969) (liability against CHA); *Gautreaux v. Romney*, 448 F.2d 731 (7th Cir. 1971) (liability against HUD). In 1969, a judgment order was entered against CHA, *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969), and after years of litigation at all levels of the federal judiciary, a consent decree was entered into with HUD, *Gautreaux v. Landrieu*, 523 F. Supp. 665 (N.D. Ill. 1981), aff'd, 690 F.2d 616 (7th Cir. 1982). Numerous disputes since then have **[*1093]** generated several other orders dealing with the implementation of the CHA judgment and the HUD consent decree. E.g., *Gautreaux v. Chicago Housing Authority*, 1991 U.S. Dist. LEXIS 4123, 1991 WL 49568 (N.D. Ill. April 4, 1991).

n1 The class was defined as black tenants of and applicants for public housing in *Chicago*. 304 F. Supp. 736, 737 (N.D. Ill. 1969). Although we understand that the lead named plaintiff, Dorothy Gautreaux, has passed away, we presume that substitution of new class representatives has or will take place. See *Hassine v. Jeffes*, 846 F.2d 169, 176 n.3 (3d Cir. 1988) (if named plaintiff-inmate transferred from institution, current inmate may be substituted to represent class); *Van Horn v. Trickey*, 840 F.2d 604, 608 (8th Cir. 1988) (same); *Doe v. Reivitz*, 830 F.2d 1441, 1451 (7th Cir. 1987) ("Substitution of named parties might be necessary in the future to assure representativeness if additional proceedings take place in this case"); *Wilson v. Huntingdon*

Housing Authority, 770 F.2d 168, 1985 WL 13513, at *1 (6th Cir. 1985) ("If this case is to continue as a class action, some current resident of public housing administered by the Huntingdon Housing Authority should be substituted as a named plaintiff . . .").

[**3]

Presently before us are four motions: (1) the plaintiffs' motion to modify the judgment order against CHA; (2) HUD's motion to terminate the consent decree; (3) the plaintiffs' motion to enforce a provision of the consent decree prohibiting HUD from approving CHA's use of certain forms of § 8 housing assistance payments, 42 U.S.C. § 1437f, unless specific location requirements are met; and (4) the plaintiffs' motion to declare that HUD must set aside § 8 contract authority for fiscal year 1997. For the reasons discussed below, we deny the plaintiffs' motion to modify the judgment order, grant HUD's motion to terminate the consent decree, and deny the plaintiffs' two motions under the consent decree.

I. Modification of CHA Judgment Order

At the outset, we explain generally the 1969 judgment order to provide background for the plaintiffs' motion to modify it. The judgment order divided Cook County's census tracts into two categories: the Limited Public Housing Area and the General Public Housing Area. The Limited Area was essentially defined as those census tracts composed of 30% or more non-white population, while the remaining tracts constituted the General Area. Attempting [**4] to remedy the effects of past discriminatory site-selection and tenant assignment procedures, the judgment order in essence prohibited any development of public housing in the Limited Area without simultaneous development in the General Area. Judgment Art. II(C), 304 F. Supp. at 738. Because CHA proved inept at building public housing on scattered-sites, we appointed a Receiver for the program in 1987 and it was not until then that construction began in earnest.

Now, as the scattered-sites program continues under the Receiver, the plaintiffs contend that § 8 rent subsidies n2 have replaced new construction as the primary means for providing public housing. Pls.' Mot. P 4. According to the plaintiffs, this shift in federal housing policy justifies modifying n3 the judgment order in order to bring the CHA's use of § 8 certificates under the order's auspices. Furthermore, the plaintiffs point out, fewer than 3000 scattered-sites units have been built so far and approximately only 7000 more families have been assisted by the separate HUD § 8 program under the consent decree; meanwhile, the members of the class comprise 40,000 families.

n2 Section 8 of the United States Housing Act, 42 U.S.C. § 1437f (as amended), authorizes the Secretary of HUD to enter into "annual contributions contract[s]" with public housing agencies, § 1437f(b), (o), which in turn make assistance payments on behalf of recipients who hold the § 8(b) "certificates" or § 8(o) "vouchers," 24 C.F.R. § 982.1.

[**5]

n3 Although the plaintiffs belatedly attempt to characterize their request as one for "particularization, not expansion, of the judgment order," Pls.' Reply at 3, we agree with their earlier acknowledgment that "because the Section 8 rent subsidy program was not in existence when the judgment order was entered, CHA's Section 8 program was not part of the relief provided to the plaintiff class," Pls.' Mot. P 5. Indeed, it was the later HUD consent decree that purported to indirectly oversee CHA's use of § 8 rent subsidies by imposing limits on HUD's ability to approve CHA's contract authority. See Consent Decree P 5.8.1.

In order to prevail on a motion to modify the judgment order, the plaintiffs must show that the "principal objects" of the order have not been achieved. *United States v. United Shoe Machinery Corp.*, 391 U.S. 244, 20 L. Ed. 2d 562, 88 S. Ct. 1496 (1968); see *United States v. Local 560 (I.B.T.)*, 974 F.2d 315, 331-32 (3d Cir. 1992); *Gautreaux v. Weaver*, 535 F. Supp. 423, 426-27 (N.D. Ill. 1982). We examine the "specific facts and circumstances," *United Shoe Machinery*, [**6] 391 U.S. at 248, and weigh the equities at stake in determining the propriety of modification, *Weaver*, 535 F. Supp. at 426. Importantly, even if the "principal objects" of the original order have not yet been fully achieved, we must consider whether other reasons outside the control of the defendant have prevented success and whether adherence to, rather than modification of, the current injunction may be the most fair alternative. These latter considerations inform our inquiry because, as the school desegregation cases instruct us, federal court supervision of [*1094] local government operations should be a "temporary measure to remedy past discrimination" and is "not intended to operate in perpetuity." *Board of Educ. of Oklahoma City Pub. Schs. v. Dowell*, 498 U.S. 237, 247, 248, 112 L. Ed. 2d 715, 111 S. Ct. 630 (1991).

We start, then, with the judgment order's principal objects: "to prohibit the future use and to remedy the past effects of the defendant Chicago Housing Authority's unconstitutional site selection and tenant assignment pro-

cedures." 304 F. Supp. at 737. By 1968, CHA's site selection had placed 99.5% of 30,848 public housing units in mostly black neighborhoods and [**7] tenant assignment had reserved four projects to be populated almost entirely by whites. 296 F. Supp. at 909-10. n4 While it might be expedient to simply accept the plaintiffs' assertion that "the vast majority of CHA's family public housing still consists of the same segregated units, in the still segregated neighborhoods," Pls.' Reply at 5, as well as the plaintiffs' unstated assumption that the assertedly segregative situation is entirely a result of CHA's original discrimination, we must insist on specific facts supported by evidence. For example, relevant information to test the first assertion would include the number of public housing projects that remain predominantly white and the number of projects located in the Limited Area and the General Area. If the evidence shows that segregation in public housing still exists, then we must explore the link between the current segregation and CHA's original discrimination, past remedial efforts (or lack thereof), current remedial efforts, and future plans. For example, we would examine the quantity and location of affordable land in the General Area remaining for site selection, the effects of private decisionmaking on the current segregative [**8] state, and the effects of the shift in demographics over the years.

n4 The 99.5% figure did not include the four almost entirely white public housing projects. 296 F. Supp. at 910.

Without such evidence, we cannot grant the plaintiffs' motion to modify the judgment order. In the absence of a showing that the judgment order's objectives are not being accomplished and that the extent of the lack of progress is largely grounded in the original discrimination, it would be improper to add thousands of § 8 rent subsidy certificates and vouchers to the judgment order. The Receiver has, relatively speaking, only recently begun to implement the judgment order and we should allow time for the scattered-site program to work before turning to another form of relief, especially if CHA is now cooperating in implementing the order to the extent practicable. Indeed, the scattered-site program most directly deals with CHA's original violations--placement of public housing projects solely in black neighborhoods--while § 8 rent [**9] subsidies are already usable by the recipients throughout Illinois, see 42 U.S.C. § 1437f(r). Although it is likely that some § 8 recipients would rather live in the General Area but cannot find affordable rental units in the private market, the plaintiffs have not shown that the original site selection and tenant assignment proximately created this

situation. Cf. *Freeman v. Pitts*, 503 U.S. 467, 496, 118 L. Ed. 2d 108, 112 S. Ct. 1430 (1992). n5 Accordingly, we conclude that the record fails to support the plaintiffs' proposed modification.

n5 We acknowledge that the "vestiges of segregation . . . may be subtle and intangible," *Freeman*, 503 U.S. at 490, but even though the location of public housing sites is strongly linked to CHA's original site selection practices, the plaintiffs have thus far failed to proffer evidence that the private rental market is the product of the original discrimination.

II. Termination of HUD Consent Decree

Next, HUD moves to terminate the consent decree entered [**10] into in 1981. The consent decree divided not only Cook but its collar counties as well into Limited, General, and "Revitalizing" Areas. 523 F. Supp. at 668. "Recognizing that total relief to Gautreaux families outside the Limited Area could not be provided in the foreseeable future, the proposed decree introduced the concept of Revitalizing Areas, that is, areas which have substantial minority population and are undergoing sufficient redevelopment to justify the assumption that these areas will become more integrated in a relatively short time." *Id.* at 669. With this expanded metropolitan-wide relief, the primary goal [*1095] was to place 7100 public housing residents in the General and Revitalizing Areas:

5.1. Following the effective date, HUD will provide assisted housing to eligible persons as set forth in this Part 5 until the number of occupancies of assisted housing units in the General Area and/or in the Revitalizing Area, pursuant to the contracts referred to in paragraph 5.4, commenced by eligible persons equals 7,100.

Consent Decree P 5.1.

HUD now moves to terminate the consent decree because on October 2, 1996, the 7100 target was met, although HUD acknowledges [**11] that we should retain jurisdiction over the plaintiffs' attorneys' fees petition. The plaintiffs do not object to termination of the consent decree, but have moved for enforcement of specific provisions of the decree that would continue to place certain obligations upon HUD. We deal with those motions below, and thus grant HUD's motion to terminate the consent decree and retain jurisdiction over the plaintiffs' attorneys' fees petition. n6

n6 It appears that HUD has voluntarily agreed to

continue certain commitments to the Gautreaux programs, HUD's Resp. at 11, and we take this as a salutary sign. We hope HUD, having once assisted a local government violate the constitutional rights of thousands, will adhere to its declaration of policy: "to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs." 42 U.S.C. § 1437.

[**12]

III. HUD's Set Aside Obligation in Fiscal Year 1997

As indicated above, the plaintiffs acknowledge that the 7100 target was met October 2, 1996. Even though HUD has attained this target, however, the plaintiffs contend that HUD must still authorize § 8 New Construction/Substantial Rehabilitation units as provided for in PP 5.5.2 and 5.5.3 of the decree. n7 Those paragraphs provided:

5.5.2. HUD will set aside contract authority for 250 Section 8 New Construction and/or Substantial Rehabilitation units per year commencing at the beginning of Fiscal Year 1982 for use in multifamily projects to be located in the General Area or in the Revitalizing Area and that are insured under the National Housing Act. . . .

. . . .

5.5.3. HUD will set aside contract authority for 100 Section 8 New Construction and/or Substantial Rehabilitation units per year, commencing at the beginning of Fiscal Year 1982, for use in projects that will increase housing choice for large minority families living in the Limited Area of the City of Chicago by providing Section 8 New Construction and/or Substantial Rehabilitation assisted housing for such families at locations in the General Area [**13] or in the Revitalizing Area accessible to public transportation.

According to the plaintiffs, HUD's obligation to "set aside contract authority" for fiscal year (FY) 1997 arose on October 1, 1996, and was not extinguished by the attainment of the 7100 target one day later.

n7 Because the particular § 8 programs referred to in PP 5.5.2 and 5.5.3 were repealed in 1983, the plaintiffs actually seek comparable relief as provided

for in P 8.6 of the decree. See HUD's Resp at 3 n.3; 523 F. Supp. at 681-62.

It is true that HUD's obligation to "set aside" the § 8 units arose on the first day of FY1997. We earlier held that the appropriate reading of the consent decree required HUD to set aside the funds on that particular day, rather than permit HUD to set aside funds anytime during the fiscal year. *Gautreaux v. Pierce*, 548 F. Supp. 1298, 1300-01 (N.D. Ill. 1982). Setting a firm date for the set aside obligation comported best with the purpose of the decree: to provide a "continuous stream of relief" [**14] instead of "repeated gaps [in funding] of indeterminate length." *Id.* at 1300.

We did not, however, expressly or implicitly determine that HUD, having set aside the funds at the start of the fiscal year, would be required to continue to execute the § 8 contracts after reaching the 7100 target. We are instead persuaded that P 5.1 means exactly what it says when it directs HUD to provide assisted housing "until" the 7100 target is reached. Although HUD must "set aside" the § 8 units at the start of the fiscal year, the units are "for use" after that date, [**1096] PP 5.5.2, 5.5.3, and nothing in P 5.1 suggests that HUD must continue to provide the units after the 7100 goal is reached. Indeed, even "unused" units otherwise available "for use" in the next year expire when "HUD's obligations have terminated pursuant to paragraph 5.1, 5.2, 8.1 or 8.2." PP 5.5.2.c., 5.5.3.b. n8 Accordingly, we conclude that HUD's obligation to provide further assistance under PP 5.5.2 and 5.5.3 ended on October 2, 1996.

n8 We find unpersuasive the plaintiffs' reliance on a purported implication contained in an October 1992 agreement entered into with HUD. In that agreement, HUD received, in exchange for some other consideration, a 50 occupancy credit toward the 7100 target; the parties conditioned the agreement so that if the 7100 target would be reached at the end of the fiscal year because of the credit, then the credit would not be counted that year. Letter of October 28, 1992. However, the agreement can be read as simply ensuring that the set aside obligation would arise in those circumstances and the plaintiffs could take advantage of the funds in the next fiscal year until the 7100 target was reached without the 50 occupancy credit.

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IV. HUD's Approval of CHA § 8 Contract Authority

Finally, the plaintiffs move to enforce P 5.8.1 of the consent decree. Paragraph 5.8.1 generally prohibits HUD from approving certain § 8 assistance in Chicago unless at least one-third of the units are used in the General Area and no more than one-third of the units are used in the Limited Area:

5.8.1. In any fiscal year unless otherwise ordered by the Court under paragraph 8.4, HUD will not approve housing assistance plans or approve or set aside contract authority for Section 8 New Construction or Existing (other than Moderate Rehabilitation) housing in the City of Chicago unless (a) not less than one-third of the units of Section 8 New Construction housing and not less than one-third of the units of Section 8 Existing housing (other than Moderate Rehabilitation) within the City of Chicago are to be physically located within the General Area, and (b) not more than one-third of the units of Section 8 New Construction housing and not more than one-third of the units of Section 8 Existing housing (other than Moderate Rehabilitation) within the City of Chicago are to be physically located within the Limited Area.

[**16]

523 F. Supp. at 679-80. According to the plaintiffs, and not seriously disputed by HUD, over one-third of the § 8 assistance units have been used in the Limited Area since the entry of the consent decree in 1981. Apparently, the plaintiffs and HUD have been negotiating for several years to resolve the noncompliance without success. Now, the plaintiffs seek unspecified relief.

We deny the motion because of the impracticality of shaping appropriate relief for the noncompliance after the plaintiffs year-after-year failed to enforce the provision. The plaintiffs themselves admit that "the last thing plaintiffs would have desired was a cut-off of Section

8 funding for Chicago families," Pls.' Reply at 11, but that is precisely what the consequence of enforcing P 5.8.1 would have been. Moreover, the decree itself contains a mechanism under which HUD could have annually petitioned this court to waive the requirements of P 5.8.1 by reclassifying Limited Areas as Revitalizing or General Areas. See Decree P 8.4. After the plaintiffs' failures to move to enforce P 5.8.1, HUD each year lost a meaningful opportunity to petition for reclassification under P 8.4. Cf. *Zelazny v. Lyng*, [**17] 853 F.2d 540, 543 (7th Cir. 1988) (laches applied where plaintiff inexcusably delayed and defendant suffered prejudice). Furthermore, each year's approval of § 8 contract authority in Chicago resulted in the use of the subsidies; the plaintiffs provide no suggestion regarding how to undo or remedy those tenants' voluntary uses of the subsidies. Indeed, we cannot identify the contours of the harm inflicted by HUD's annual approval, and without ascertaining the scope of the harm, fashioning relief would be arbitrary. Finally, we point out that HUD's duties under paragraph 5 of the decree ended when the 7100 target was reached, see Decree P 5.1, including the limitations imposed by P 5.8.1.

V. Conclusion

For the reasons explained above, we deny the plaintiffs' motion to modify the judgment order against CHA; grant HUD's motion to terminate the consent decree while retaining jurisdiction over the plaintiffs' attorneys' fees petition; deny the plaintiffs' motion to declare that HUD has a continued obligation [*1097] for FY1997; and deny the plaintiffs' motion to enforce P 5.8.1. It is so ordered.

MARVIN E. ASPEN

United States District Judge

Dated 8/26/97

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

No. 66 C 1459

MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, Chief Judge:

Nearly thirty years ago, United States District Judge Richard B. Austin entered a judgment order against the Chicago Housing Authority (the CHA) with the hopes of correcting the effects of that agency's unconstitutional public housing site selection and tenant assignment procedures. *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969). Blacks then made up 90% of the CHA's tenant base, but the CHA had deliberately restricted the number of blacks who could live in the four housing projects which were located in predominantly white areas, to the point where 93% to 99% of the tenants in those units were white. *Gautreaux v. CHA*, 296 F. Supp. 907, 909 (N.D. Ill. 1969). The other CHA units – the 99 1/2 % which were located in predominantly black areas – housed the rest of the CHA's tenants, 99% of whom were black. *See id.* at 910. This arrangement, ruled Judge Austin, violated the Fourteenth Amendment. *See id.* at 914. And in a comment worth recalling here for its relevance today, he wrote:

It is . . . undeniable that sites for the projects which have been constructed were chosen primarily to further the praiseworthy and urgent goals of low cost housing and urban renewal. Nevertheless, a deliberate policy to separate the races cannot be justified by the good intentions with which other laudable goals are pursued.

Id. (citing *Brown v. Board of Educ.*, 347 U.S. 483 (1954)) (emphasis added).

The building block of Judge Austin's remedial judgment order was the Dwelling Unit, "an apartment or single family residence which is to be 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." *Gautreaux*, 304 F. Supp. at 737. He barred the CHA from "authoriz[ing], approv[ing], or implement[ing] any plan for Dwelling Units" or from "seek[ing] any approval or request or accept[ing] any assistance from any government agency with respect thereto" unless the plan's Dwelling Units were located in conformity with the order's requirements. *Id.* at 738. The order mandated that the CHA erect three Dwelling Units in a General Area (i.e. areas in Cook County with a white population of 70% or more) for every one Dwelling Unit it erected in a Limited Area (i.e. areas with a minority population of 30% or more), *id.* at 738-39, though it did not *require* any new construction. This ratio was later changed from 3-to-1 to 1-to-1.

In 1993, the CHA applied for and received \$50 million from the Department of Housing and Urban Development (HUD) under the auspices of the HOPE VI program (an acronym for Homeownership and Opportunity for People Everywhere). Congress created the HOPE VI program in 1992 with the goal of "empower[ing the] residents of severely distressed and obsolete public housing." S. REP. 102-356, at 70 (1992). It intended to accomplish this via a three-part plan: (1) eliminating and (in some form) replacing dilapidated public housing structures, (2) providing residents of those structures with the skills necessary to achieve self-sufficiency, and (3) instilling a sense of community activism in residents of the blighted areas. *See id.* at 71.

It is the first part which is now at issue, as the CHA believes that it must spend its HOPE VI construction funds exclusively in the "3 separately defined areas containing the community's most severely distressed projects," to which the 1992 HOPE VI appropriation refers. *See* Pub. L. No. 102-389, 106 Stat. 1579 (codified as a Note to 42 U.S.C. § 1473). This would mean, of

course, that any construction of new public housing units¹ would take place in the distressed areas, which, by unfortunate circumstance, are also Limited Areas as defined by the judgment order. Recognizing that the judgment order requires equal construction in the General and Limited Areas, the CHA has asked that we "clarify" the judgment order and read it as not governing any use of HOPE VI funds.

The plaintiffs take issue with this request. They have previously pointed out to this Court that the construction of new public housing units is no longer in vogue, *see Gautreaux v. CHA*, 981 F. Supp. 1091, 1093 (N.D. Ill. 1997), and the HOPE VI money may be one of the few remaining funding sources for the construction of desegregated housing. Of course, if construction funds permanently dry up (and if the plaintiffs do not succeed in convincing us to modify the judgment order, *see, e.g., id.* at 1093-94), then this particular effort to desegregate public housing in Chicago will come to an end. We need not contemplate this possibility today, however, for the dilemma posed by the CHA – that the HOPE VI program compels spending only in Limited Areas while the judgment order compels equal spending in General Areas – rests on an illusion.

The 1992 HOPE VI authorization contemplates an "urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects," which is to be focused on "up to 3 separately defined areas containing the community's most severely distressed projects." Pub. L. No. 102-389. This does not, however, amount to a

¹ The CHA attempts to draw a distinction between replacement construction – construction which does not add to the agency's aggregate housing stock – and wholly new construction; the CHA argues that the injunction only governs the latter. This distinction may, as the CHA claims, have great significance to other housing decisions, but the judgment order does not differentiate between reconstruction and new construction: it speaks simply of Dwelling Units "initially make available to and occupied by a low-income, non-elderly family, subsequent to the date hereof." *Gautreaux*, 304 F. Supp. at 737. Housing units constructed with HOPE VI funds obviously qualify, and the use of such funds for the ends of desegregation is in keeping with the sweeping nature of the judgment order, the terms of which are as broad as the violation which it was designed to correct.

requirement that all HOPE VI money must be spent physically within those distressed areas. One way to revitalize a distressed public housing neighborhood is to tear down some of the units there and rebuild them elsewhere, thereby lessening the concentration of public housing on the old site. See Pub. L. No. 104-134, 110 Stat. 1321 (the 1996 HOPE VI appropriation, providing funds for "replacement housing which will avoid or lessen concentration of very low-income families"); Pub. L. No. 104-204, 110 Stat. 2874 (the 1997 HOPE VI appropriation, providing for the same). HUD's HOPE VI Guidebook contemplates just such an approach, discussing "[p]ublic housing development (including on-site reconstruction *as well as construction of off-site housing*) funded by HOPE VI," Pls.' Br. Ex. D (Guidebook p. 1.D.1) (emphasis added), and the legislative history is in agreement, see S. REP. 102-356, at 73 ("The balance of the [demolished] units could be replaced through . . . traditional replacement means, including major reconstruction and *scattered-site development* [emphasis added]. . . ."). In a similar vein, the HOPE VI program also requires that some demolished public housing be replaced by Section 8 housing vouchers, see Pub. L. 103-124, which may be used without regard to the boundaries of the General or Limited Areas. See 42 U.S.C. § 1473f(r). We see no incompatibility between the HOPE VI program and the judgment order.

It is ironic that the CHA has chosen to argue that it must use the HOPE VI funds for urban renewal and to the exclusion of desegregation, for, as we observed earlier, in 1969 it attempted to characterize desegregation as a byproduct of urban renewal efforts. No matter: Congress and HUD, through HOPE VI, have afforded the CHA an opportunity both to revitalize distressed public housing neighborhoods and to desegregate public housing, and the CHA is duty-bound to vigorously pursue desegregation opportunities. See *Gautreaux*, 304 F. Supp. at 741 (judgment order Article VIII); see also *Gautreaux v. Landrieu*, 498 F. Supp. 1072, 1075 (N.D. Ill. 1980) ("Difficulty in attaining racially integrated public housing shall not be further condoned. . . . The CHA must have only one concern, housing in compliance with the repeated orders of this Court.").

We hold that the judgment order governs the CHA's use of HOPE VI funds. Accordingly, any construction of public housing in Cook County must conform to the judgment order's locational requirements. It is so ordered.



MARVIN E. ASPEN
United States District Judge

Dated 2/23/58

ORDER

Now before us is defendant Chicago Housing Authority's motion to stay enforcement pending appeal of our order of February 25, 1998, which held that the judgment order entered in *Gautreaux v. CHA*, 304 F. Supp. 736 (N.D. Ill. 1969), governed the CHA's use of HOPE VI funds.

Rule 62(a), the basis for this motion, provides our order "shall not be stayed . . . during the pendency of an appeal" unless we "otherwise order[]." The parties agree that the usual four injunction factors govern our analysis here: to obtain a stay, the CHA must show "(1) some likelihood of winning its appeal, (2) some likelihood of irreparable injury absent a stay, (3) that the stay would not unduly harm plaintiffs, and (4) that the stay would be consistent with the public interest." *Thomas v. City of Evanston*, 636 F. Supp. 587, 590 (N.D. Ill. 1986) (Aspen, J.); see also 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 62.06(3) (3d ed. 1997).

First. We seriously doubt that the CHA will win its appeal. Beyond our usual confidence in our own decisions, see *Thomas*, 636 F. Supp. at 590, we observe that the plaintiffs have presented to the Seventh Circuit a substantial motion to dismiss for lack of jurisdiction. The CHA's original motion to us was to clarify the injunction, and it insisted that it was not asking for a modification thereof. In fact, at oral argument, the CHA's attorney stated that "We agree that the HOPE VI new construction . . . does fall within the definition of dwelling unit, no question about it." This was, of course, our eventual holding; an exemption for HOPE VI would have required a modification of the judgment order. We therefore doubt that the Seventh Circuit's jurisdiction may be predicated on 28 U.S.C. § 1292(a)(1). See *ACORN v. Illinois State Bd. of Elections*, 75 F.3d 304, 306 (7th Cir. 1996) ("[I]nterpretations of injunctions as distinct from modifications of them are not appealable. . . , [and this] injunction has not been changed."). We also doubt that 28 U.S.C. § 1291 will suffice for appellate jurisdiction, as we think it is a stretch to say, as the CHA does (in its Seventh Circuit docketing statement with a citation to *ACORN*, *supra*), that our order "sets forth the steps that the CHA must take to comply with the injunction." (We note as an aside that the Seventh Circuit will, of course, decide its jurisdiction for itself.)

Second. We question whether the CHA will suffer any irreparable injury. The only claimed injury which does not spring from wholesale speculation is that the CHA will have to devote time and resources to bringing itself into compliance with our order, but the CHA's Executive Director has stated that "All Judge Aspen said is that locational restrictions apply *as we have assumed that they do throughout*. We asked that they did not, and he said no, they do. Judge Aspen did not break new ground, he maintained the status quo." Pls.' Resp. Ex. A (emphasis added). It seems that the CHA has been planning its HOPE VI expenditures on this basis all along.

Third. The requested stay would harm the plaintiffs. As they argue, they have waited decades for the desegregation of public housing, and we see no reason to extend that period any longer than necessary.

Fourth. A stay would not be consistent with the public interest. The public's interest here is in the desegregation and modernization of its public housing, and nothing in the CHA's submission has convinced us that our order is inconsistent with those goals.

For the foregoing reasons, we deny the CHA's motion to stay. It is so ordered.



United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/19/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Receiver's emergency motion for entry of order implementing CHA's duty of cooperation.

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on ____ set for ____ at ____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on ____ set for ____ at ____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on ____ set for ____ at ____.
- (7) ☐ Trial[set for/re-set for] on ____ at ____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to ____ at ____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Motion is granted.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐	No notices required, advised in open court.			Document Number
☐	No notices required.		number of notices	
☐	Notices mailed by judge's staff.		date docketed	
☒	Notified counsel by telephone.		docketing deputy initials	
☐	Docketing to mail notices.		date mailed notice	
☐	Mail AO 450 form.		mailing deputy initials	
☐	Copy to judge/magistrate judge.			
GL courtroom deputy's initials		Date/time received in central Clerk's Office		

ORDER

Now before us is the "Receiver's Emergency Motion for Entry of Order Implementing CHA's Duty of Cooperation." In it the Receiver asks that we order the CHA to cooperate with the Receiver and other parties in preparing and filing a 1998 HOPE VI application with HUD and to provide the Receiver with the information it needs to proceed with this project.

This motion is the outgrowth of three of our earlier decisions. In the first, issued August 14, 1987, we appointed the Receiver on the joint motion of the plaintiffs and the CHA. We gave the Receiver "all powers of CHA" with regard to the development and administration of the *Gautreaux* scattered site program, which included "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency" of the *Gautreaux* litigation. In the second, issued February 23, 1998, we held that the *Gautreaux* "judgment order governs the CHA's use of HOPE VI funds" distributed by HUD. Our conclusion was compelled by the clear language of the judgment order and our view that there was no conflict between its requirements (as later amended) and those of the HOPE VI program. The CHA appealed this order. In the third, issued May 12, 1998, we denied the CHA's motion to stay our February 23 order pending appeal. The CHA filed today a motion to stay with the Seventh Circuit.

The CHA, in open court this morning, made clear that the basis for its objection to the Receiver's motion is its view that our February 23 order did not directly address the Receiver's status with regard to the HOPE VI program and that the Receiver's status is not obvious from our prior orders in this case. We disagree. HOPE VI is a "non-elderly public housing development program[]" . . . authorized during the pendency" of the *Gautreaux* litigation, and it therefore fits entirely within the Receiver's jurisdiction. On February 23 we held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the *Gautreaux* judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver. Moreover, the Receiver has indicated its willingness to work with CHA to ensure that the 1998 HOPE VI proposal meets the requirements of both the HOPE VI program and the *Gautreaux* judgment order, as well as to assist in making that proposal as competitive as possible. The Receiver even indicated its interest in the CHA's thoughts on decisions which are ultimately the Receiver's responsibility. We hope that this open-minded and enthusiastic offer of cooperation sets an example for everyone involved in this case.

We denied the CHA's motion for stay pending appeal, and unless and until the Seventh Circuit issues its own stay or reverses our underlying order, the parties must comply with our orders. Our order of August 14, 1987, appointing the Receiver, obligates the CHA to cooperate with the Receiver and to provide the Receiver with the information it needs. It is now clear, if it was not before, that this means that the CHA is to coordinate its 1998 HOPE VI application with the Receiver and to provide the Receiver with the information it has requested.

It is so ordered.



United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/19/1998
CASE TITLE	Gautreaux vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Receiver's oral motion for permission to participate in pending or future appeals concerning the relationship between the Hope VI Program and this court's orders is granted.
- (11) ☐ [For further detail see order (on reverse side of/attached to) the original minute order.]

☐ No notices required, advised in open court. ☐ No notices required. ☒ Notices mailed by judge's staff. ☐ Notified counsel by telephone. ☐ Docketing to mail notices. ☐ Mail AO 450 form. ☐ Copy to judge/magistrate judge.	courtroom deputy's initials Date/time received in central Clerk's Office	3	Document Number
		number of notices	
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		docketing deputy initials	
		5/20/1998	
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		mailing deputy initials	

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/20/1998
CASE TITLE	Gautreaux vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	☐	Filed motion of [use listing in "Motion" box above.]
(2)	☐	Brief in support of motion due _____.
(3)	☐	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	☐	Ruling/Hearing on _____ set for _____ at _____.
(5)	☐	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	☐	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	☐	Trial[set for/re-set for] on _____ at _____.
(8)	☐	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	☐	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] ☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
(10)	☒	[Other docket entry] Plaintiff's oral motion that the court order the defendant, CHA to produce documents is granted. The defendant, CHA, is ordered to allow Mr. Alexander Polikoff and Barry Miller to inspect Hope VI Applications forthwith. Defendant's oral motion to stay this order is denied.
(11)	☐	[For further detail see order (on reverse side of/attached to) the original minute order.]

☐	No notices required, advised in open court.		3	Document Number
☐	No notices required.		number of notices	
☒	Notices mailed by judge's staff.		date docketed	
☐	Notified counsel by telephone.		docketing deputy initials	
☐	Docketing to mail notices.		5/20/1998	
☐	Mail AO 450 form.		date mailed notice	
☐	Copy to judge/magistrate judge.		GL	
GL	courtroom deputy's initials	Date/time received in central Clerk's Office	mailing deputy initials	

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/21/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

(1) ☐ Filed motion of [use listing in "Motion" box above.]

(2) ☐ Brief in support of motion due _____.

(3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.

(4) ☐ Ruling/Hearing on _____ set for _____ at _____.

(5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(7) ☐ Trial[set for/re-set for] on _____ at _____.

(8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.

(9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).

(10) ☒ [Other docket entry] Plaintiffs' motion for further relief is denied as moot.

(11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐ No notices required, advised in open court. ☐ No notices required. ☒ Notices mailed by judge's staff. ☐ Notified counsel by telephone. ☐ Docketing to mail notices. ☐ Mail AO 450 form. ☐ Copy to judge/magistrate judge.	courtroom deputy's initials Date/time received in central Clerk's Office	4	Document Number
		number of notices	
		date docketed	
		docketing deputy initials	
		5/21/1998	
		GL	
		GL	
		mailing deputy initials	

ORDER

Now before us is the plaintiffs' "Motion for Further Relief." In it they register their concerns with the CHA's conduct vis-à-vis the Receiver and ask that we enter a detailed order directing the CHA to take certain steps to rectify the situation.

We do not believe that such an order will be necessary. In an order issued on May 19, in response to an emergency motion from the Receiver, we wrote that "we [have previously] held that there was no reason to treat HOPE VI funds differently than any other funds for purposes of the Gautreaux judgment order, and we similarly see no reason to treat those funds differently for purposes of the order appointing the Receiver." Accordingly, we held that the parts of the HOPE VI program discussed in our opinion of February 23 "fit[] entirely within the Receiver's jurisdiction." (We do not wish to be misunderstood; our order neither gave sole authority over HOPE VI in Chicago to the Receiver nor gave the Receiver sole authority to prepare Chicago's 1998 HOPE VI application, as a motion filed earlier today by the CHA states. See CHA's Emergency Mot. to Stay Order Pending Appeal at ¶¶ 13, 14, 27.) Many of the problems detailed in the plaintiffs' motion concern the CHA's HOPE VI-related activity, and those problems were addressed by our prior order.

To the extent that the plaintiffs' motion raises issues unrelated to the Receiver's role in the HOPE VI program, we think it best that the Receiver bring those issues to this Court's attention if it so chooses.

It is so ordered.

A handwritten signature in black ink, appearing to be "JMS", is written in the center of the page.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	5/22/1998
CASE TITLE	Gautreaux,etal vs. CHA		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
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- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] CHA's emergency motion to stay order of May 19, 1998, pending appeal is denied.

(11) ☒ [For further detail see order on the reverse side of the original minute order.]

☐ No notices required, advised in open court. ☐ No notices required. ☐ Notices mailed by judge's staff. ☒ Notified counsel by telephone. ☐ Docketing to mail notices. ☐ Mail AO 450 form. ☐ Copy to judge/magistrate judge.	GL courtroom deputy's initials	Date/time received in central Clerk's Office	number of notices	Document Number
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			docketing deputy initials	
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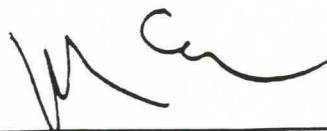
ORDER

Now before us is the CHA's "Emergency Motion to Stay Order of May 19, 1998, Pending Appeal." In that order we held that the terms of the receivership order in this case clearly encompassed construction paid for by HOPE VI dollars and that the CHA was duty-bound to cooperate with the Receiver on HOPE VI matters, specifically the CHA's 1998 HOPE VI application, insofar as those matters fell within the Receiver's delegated duties.

We first observe that the CHA's motion rests at least in part on untenable overreadings of our May 19 order. That order did not "turn over all of the CHA's powers and responsibility for the 1998 HOPE VI application to the Receiver." CHA's Mot. ¶ 13; *see also id.* ¶ 14. It merely stated that the Receiver would have to be involved (i.e. that the Receiver and the CHA would have to cooperate) in preparing the application in light of the fact that the receivership order gave the Receiver "all powers of CHA" with regard to the development and administration of "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency" of the *Gautreaux* litigation. (Of course, if the 1998 HOPE VI application will not request funds for the development of new housing, the Receiver would not need to be involved with it.) We do not believe that this order may fairly be characterized as a new "mandatory injunction," CHA's Mot. ¶ 13, since it does nothing more than reaffirm that the receivership order means what it already says. Also, the CHA's position that we committed an error by not making factual findings, *see* CHA's Mot. at pp. 5-7, has the situation in reverse: only if we modified or terminated the receivership order (and the CHA has repeatedly threatened to make a motion to that effect but has not yet made one) would factual findings be necessary.

We do not believe that the traditional four "stay" factors favor the CHA. *See Thomas v. City of Evanston*, 636 F. Supp. 587, 590 (N.D. Ill. 1986) (Aspen, J.). First, we doubt that the CHA will win its appeal. It has never offered any argument as to how the plain language of the receivership order could be interpreted to give the Receiver no role in HOPE VI-funded development, and we are aware of none. The CHA's only hope of achieving that outcome is to move for a modification (or termination) of the receivership order, but it has not made such a motion, it has not presented any evidence justifying such a motion, and a modification of the receivership order is not before the appellate court. Second, we doubt that the CHA will suffer irreparable injury if we do not issue a stay. The Receiver and the plaintiffs, responding to the CHA's motion, presented substantial, credible evidence that the CHA's prior HOPE VI applications acknowledged the role of the Receiver and of the *Gautreaux* requirements in proposed HOPE VI development projects. Also, the HUD representative present at the February oral argument stated that from HUD's perspective compliance with the *Gautreaux* requirements was a "non-issue," so we do not credit the CHA's claim that it will not be able to prepare a competitive HOPE VI application if the Receiver is involved. Third, a stay may harm the plaintiffs, for if the CHA is permitted to submit a HOPE VI application without the Receiver's input, that application may violate the *Gautreaux* requirements and cause further unnecessary delay in the desegregation of Chicago public housing. Fourth, a stay would not be consistent with the public interest. We know of no possible justification for the presumption offered by the CHA on this issue -- that since it is a public agency, its interests are the public's interests, for under this logic the original segregation of Chicago public housing was in the public interest. The public's interest is in the speedy desegregation and modernization of its public housing, and nothing in the CHA's motion convinces us that our order is inconsistent with these goals.

Accordingly, the CHA's motion for a stay pending appeal is denied. It is so ordered.



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

DOROTHY GAUTREAUX, et al.,) Docket No. 66 C 1459
) No. 66 C 1460
Plaintiffs,)
)
vs.) Chicago, Illinois
) May 19, 1998
SAMUEL R. PIERCE, et al.,) 9:30 o'clock a.m.
)
Defendants.)

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HON. MARVIN E. ASPEN

APPEARANCES:

For the Plaintiffs:

MILLER, SHAKMAN, HAMILTON,
KURTZON & SCHLIFKE
BY: MR. MICHAEL L. SHAKMAN
MR. EDWARD FELDMAN
(208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604

and

MR. ALEXANDER POLIKOFF
Business and Professional
People for the Public Interest
(17 East Monroe Street
Chicago, Illinois 60603)

For Defendant CHA:

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
BY: MS. NANCY EISENHAUER
(333 West Wacker Drive
Chicago, Illinois 60606)

MS. MARY M. GALLAGHER
Official Court Reporter
219 South Dearborn Street
Room No. 2524A
Chicago, Illinois 60604
(312) 663-0049

1 THE CLERK: 66 C 1459, Gautreaux et al., versus CHA.

2 MS. EISENHAUER: Good morning, your Honor. Nancy
3 Eisenhower for CHA and Joseph Shuldiner.

4 THE COURT: Good morning.

5 MR. SHAKMAN: Good morning, Judge. Mike Shakman and
6 Eddie Feldman for the Receiver.

7 THE COURT: Good morning.

8 MR. POLIKOFF: Good morning, your Honor.

9 THE COURT: Mr. Polikoff.

10 MR. SHAKMAN: Judge, this is the motion by the
11 Receiver for emergency relief in connection with the HOPE VI
12 application which we hope to file in cooperation with the CHA,
13 if possible, by June 29, which is the deadline established by
14 HUD for submission of applications.

15 We view it as an emergency because we have been unable
16 to obtain a response from the CHA to our request for
17 cooperation and information needed to move forward with the
18 application.

19 The City of Chicago has indicated that it supports the
20 principle of a joint application, will work with us on it.
21 There is up to \$35 million in funding for housing and for other
22 services that's potentially available.

23 Mr. Levin and his colleagues, Valerie Jarrett, who's
24 in court today, and the others of the Receiver's staff are most
25 concerned that the opportunity to obtain this kind of funding

1 for the city not be lost because of lack of cooperation, and
2 for that reason we have filed the motion.

3 I could go into greater detail but I know you read
4 these things.

5 THE COURT: Any response?

6 MS. EISENHAUER: First two factual matters -- or one
7 factual matter.

8 We're not aware of a response from the City of Chicago
9 to this. I'm not saying it hasn't happened; I just want you to
10 know the CHA has not been informed of that.

11 More importantly, we filed a motion to stay in the
12 Seventh Circuit this morning. I --

13 THE COURT: Has it been granted?

14 MS. EISENHAUER: We filed it this morning. We --

15 THE COURT: All right. Well, the case is still here,
16 so I'm not really concerned about that.

17 MS. EISENHAUER: I'm just informing you we did. And
18 in connection with that motion to stay we filed an affidavit of
19 Joe Shuldiner in which he states the CHA will not be able to
20 prepare a timely or competitive application before the June
21 28th deadline if it is forced to work with the Receiver, and
22 because of that the CHA and the City of Chicago may lose up to
23 \$35 million worth of funding.

24 Second of all, the issues raised by the Receiver here
25 are the same issues raised by the plaintiffs in the motion for

1 further relief, which we believe requires briefing on the scope
2 of the receivership order and also hearing from Mr. Shuldiner
3 to present his views on the topic and his description of his
4 actions.

5 And third, in the response to the motion to clarify
6 that the plaintiffs filed with this Court, they wrote that the
7 applicability of the judgment order cannot be determined
8 definitely at the HOPE VI application stage; that is at page 8
9 of their response. Because of that statement and for other
10 reasons, we would argue that this injunction is too vague to be
11 enforced against the CHA in this context.

12 MR. SHAKMAN: I would like to briefly respond, unless
13 Mr. Polikoff wants to say something?

14 MR. POLIKOFF: No.

15 MR. SHAKMAN: First of all, I want to note that we
16 have not received a response to Dan Levin's letter to the
17 Receiver that he wrote on May 5th or to my letter to
18 Mr. Butler, general counsel of the CHA, that I wrote last
19 Friday. The only response is the filing of a motion for a
20 stay, which indicates that the CHA, as counsel has said, has
21 concluded that it can't work with the Receiver. I don't
22 understand why that couldn't have been communicated by a phone
23 call to Mr. Levin or a letter to me or a phone call to me.

24 So I want to raise a question because it seems to me
25 that the fact that that conclusion had been reached but not

1 communicated to us illustrates in part some of the problems we
2 are having in our relationship with the CHA. We were entitled
3 to be told that and we shouldn't have had to file a motion with
4 this Court to receive that information.

5 In terms of the connection between the motion for
6 further relief and this motion, all I can say is Mr. Polikoff,
7 representing the plaintiffs, does what he deems appropriate
8 representing his clients.

9 Mr. Levin operates as the Court's agent. He has
10 duties the Court has entrusted to him and he is attempting to
11 carry those out. Mr. Levin, as I am sure the Court knows, is
12 not by nature a litigious man or a confrontational man. His
13 staff shares his views. We are here only because nothing else
14 seems to hold promise for moving this process forward.

15 In terms of the application of the judgment order for
16 HOPE VI, we are here seeking to enforce the 1987 order
17 appointing the Receiver and the cooperation requires that that
18 order imposes upon the CHA.

19 Whether or not the HOPE VI order is stayed, no effort
20 has been made to stay the 1987 order appointing the Receiver,
21 no effort is being made to stay the obligations of the CHA to
22 cooperate with the Receiver as specified in that order.

23 So for those reasons, I would suggest that Ms.
24 Eisenhower's comments really aren't addressed in the merits of
25 this motion.

1 MS. EISENHAUER: May I respond to that?

2 THE COURT: Sure.

3 MS. EISENHAUER: First, on the point of has the CHA
4 advised the Receiver that they can't work with them on these
5 applications, the CHA believes it has been advising the
6 Receiver of that for several months now.

7 Part of the reason the CHA believes that it will not
8 be able to file a timely application, that was not simply
9 because it cannot work with the Receiver but because of the
10 information that would need to be compiled and the fact that it
11 appears that the Receiver and the CHA have different views on
12 what HOPE VI requires and what the Gautreaux injunction
13 requires. And for that reason any negotiation would not come
14 to anything except for the same disputes that have been going
15 on in this Court repeatedly.

16 Second, I understand it's the Receiver's motion. My
17 only point with regard to the motion for further relief is that
18 it raises the same underlying issues, and one of those issues
19 is whether the 1987 order applies to HOPE VI, whether this
20 Court's February 25th order envisions that the 1987 order
21 necessarily applies.

22 As you know, the CHA has argued from the beginning
23 that the conclusion that you reached on February 25th does not
24 necessarily lead to the conclusion that the Receiver is drawing
25 today here with regard to the 1987 order. And again, we've

1 raised that issue repeatedly in the past month, at least.

2 MR. SHAKMAN: One comment, if the Court -- if counsel
3 is done?

4 MS. EISENHAUER: Yes.

5 MR. SHAKMAN: If the CHA believes that the August 14,
6 1987 order appointing the Receiver should be modified, the CHA
7 has been free to make that motion for these many months that
8 this issue has been percolating in this Court and it's elected
9 not to make that motion. Therefore, the Court has not had an
10 opportunity to address such a motion.

11 So we, as the Receiver, are operating under the duties
12 imposed upon us by the Court and we willingly accept it in
13 trying to carry out those duties.

14 THE COURT: Okay. Mr. Polikoff, do you have anything
15 you want to say?

16 MR. POLIKOFF: No, your Honor.

17 THE COURT: Well, I am concerned that Mr. Shuldiner
18 feels that he can't go along with the Receiver. I find that
19 disturbing and I find that surprising because everyone else
20 involved in this litigation through the years, other than
21 Mr. Shuldiner, has had no problem getting along with the
22 Receiver.

23 But my focus is not on whether he can get along with
24 the Receiver or not. My focus is whether or not everyone,
25 including the CHA, complies with the orders of this Court, the

1 orders that I have issued thus far and the orders that I will
2 issue in the future. I expect Mr. Shuldiner to comply with
3 those orders, whether or not he feels that it's an impediment
4 to follow my orders because he can't get along -- or feels he
5 can't get along with the Receiver.

6 I will issue an order, and as long as the Seventh
7 Circuit has not changed my order it's a viable order and I
8 expect Mr. Shuldiner to comply with it. If he does not comply
9 with it, I will do what I have to do to make him comply with
10 it. I hope you will give him that message.

11 Thank you.

12 MS. EISENHAUER: Your Honor, could I ask a question?

13 I just want to clarify that it is not that
14 Mr. Shuldiner has some problem with the Receiver, refuses to
15 work with him on a personal level. It is that he believes and
16 the CHA believes that the 1997 order does not -- and the
17 February 25th order does not necessarily lead to the conclusion
18 that the CHA must turn over authority for this program to the
19 Receiver, and that's the basis for the objection.

20 THE COURT: Well, if that belief conflicts with the
21 orders of this Court, then Mr. Shuldiner will have to opt to
22 follow the orders of this Court. You know, we're not in a
23 lawless society where somebody has their own views as to the
24 law or the construction of an agreement and can follow those if
25 there is a Court order to the contrary.

1 the language he uses.

2 Go ahead. I didn't mean to interrupt.

3 MR. POLIKOFF: No. That's all I wanted to say.

4 MR. SHAKMAN: Your Honor, I will second that.

5 The whole thrust of Mr. Levin's approach to this issue
6 and Mr. Shuldiner has been that this should be done on a
7 cooperative, joint basis, not that Mr. Levin should scoop up
8 all the responsibility and run away from it and not permit the
9 CHA to participate.

10 THE COURT: Mr. Levin has never done anything in the
11 past, nor have I found any of his actions in the recent
12 brouhaha to indicate that he wants to usurp any of
13 Mr. Shuldiner's authorities.

14 On the contrary, I find that Mr. Shuldiner has thus
15 far indicated that he would rather contest every aspect of the
16 relationship between the Receiver rather than attempt to
17 cooperate. And to the extent that I can, I will straighten it
18 out when I rule on the motions.

19 MR. SHAKMAN: Thank you.

20 THE COURT: Thank you.

21 (Which were all the proceedings had at the hearing of
22 the within cause on the day and date hereof.)

23

24

25

In The
United States Court of Appeals
for the Seventh Circuit

Nos. 98-1807 & 98-2311 (Consolidated)

U.S.C.A.—7th Circuit
RECEIVED
JUL 29 1998 BL
GINO J. AGNELLO
CLERK

DOROTHY GAUTREAUX, et al.

Plaintiffs-Appellees,

v.

**CHICAGO HOUSING AUTHORITY, a
corporation, and JOSEPH SHULDINER,
Executive Director, in his official capacity,**

Defendants-Appellants.

Appeal from the United
States District Court for the
Northern District of Illinois
Eastern Division

No. 66 C 1459

**Honorable
Marvin E. Aspen
Judge Presiding**

RECEIVER'S SUPPLEMENTAL APPENDIX

VOLUME I

U.S.C.A.—7th Circuit
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GINO J. AGNELLO
CLERK

Michael L. Shakman
Barry A. Miller
Edward W. Feldman

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Habitat Company, Court-Appointed
Receiver*

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TABLE OF CONTENTS
TO RECEIVER'S SUPPLEMENTAL APPENDIX

Record Documents Bound to Receiver's Brief

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
1	Judgment Order of July 1, 1969	RA-1
2	Order of August 14, 1987	RA-7
3	Order of August 26, 1997	RA-15
4	Order of February 23, 1998	RA-20
5	Order of May 12, 1998	RA-25
6	Order of May 19, 1998 (1 of 2).....	RA-27
7	Order of May 19, 1998 (2 of 2)	RA-29
8	Order of May 20, 1998	RA-30
9	Order of May 21, 1998	RA-31
10	Order of May 22, 1998	RA-33
11	Transcript of May 19, 1998	RA-35

Record Documents Bound Separately

<u>TAB</u>	<u>EXHIBIT</u>	<u>PAGE NO.</u>
	<u>Volume I</u>	
A	Transcript of May 20, 1998	RA-47
B	Affidavit of Phillip Hickman dated 3/18/98 (With attached Exhibits).....	RA-62
C	Affidavit of Phillip Hickman dated 3/30/98 (With Exhibits 1-14, 16-24 and 26-29 attached Exhibits 15-25 omitted due to volume).....	RA-80

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on July 29, 1998 he served a copy of the *Receiver's Supplemental Appendix – Volume I* on the parties listed below by causing a true and correct copy to be delivered to them via messenger delivery at their respective addresses as indicated below:

Susan Getzendanner, Esq.
Nancy Eisenhower, Esq.
Skadden, Arps, Slate,
Meagher & Flom (Illinois)
333 West Wacker Drive
Suite 2100
Chicago, IL 60606

Alexander Polikoff, Esq.
Business and Professional
People for the Public Interest
17 E. Monroe Street
Suite 212
Chicago, IL 60603

Dated: July 29, 1998



Edward W. Feldman

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

3	DOROTHY GAUTREAUX, et al.,	)	Docket No. 66 C 1459
		)	No. 66 C 1460
4	Plaintiffs,	)	
		)	
5	vs.	)	Chicago, Illinois
		)	May 20, 1998
6	SAMUEL R. PIERCE, et al.,	)	2:00 o'clock p.m.
		)	
7	Defendants.	)	

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HON. MARVIN E. ASPEN

APPEARANCES:

For the Plaintiffs:

MILLER, SHAKMAN, HAMILTON,
KURTZON & SCHLIFKE
BY: MR. BARRY A. MILLER
MR. EDWARD FELDMAN
(208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604

and

MR. ALEXANDER POLIKOFF
Business and Professional
People for the Public Interest
(17 East Monroe Street
Chicago, Illinois 60603)

For Defendant CHA:

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
BY: MS. SUSAN GETZENDANNER
MS. NANCY EISENHAUER
(333 West Wacker Drive
Chicago, Illinois 60606)

ALSO PRESENT:

MS. VALERIE JARRETT

MS. MARY M. GALLAGHER
Official Court Reporter
219 South Dearborn Street
Room No. 2524A
Chicago, Illinois 60604
(312) 663-0049

MARY M. GALLAGHER, CSR

1 THE CLERK: 66 C 1459, Gautreaux versus CHA.

2 MS. GETZENDANNER: Good afternoon, Judge.

3 THE COURT: Good afternoon.

4 MS. GETZENDANNER: Susan Getzendanner and Nancy
5 Eisenhower for the movants, and Mr. Butler is here from the
6 CHA.

7 If you have read the papers, Judge, we will rely on
8 our papers.

9 MR. POLIKOFF: Alex Polikoff for the plaintiffs.

10 MR. MILLER: Barry Miller and Edward Feldman for the
11 Receiver. Ms. Jarrett is here on behalf of the Receiver.

12 THE COURT: Proceed. It's your motion.

13 MS. GETZENDANNER: Judge, I said, if you have read the
14 papers, we will rely on them.

15 THE COURT: I'm sorry. I didn't hear you.

16 Any response?

17 MR. POLIKOFF: Yes, your Honor.

18 Maybe we will defer to the Receiver for starters but
19 reserve the opportunity.

20 THE COURT: All right.

21 MR. MILLER: Your Honor, we would like an opportunity
22 to respond in writing by either first thing Friday or the end
23 of the day tomorrow. The reason for that is there are factual
24 errors in the CHA's filing that, in our view, cry out for
25 correction, and we would like to put that in the record here

MARY M. GALLAGHER, CSR

1 before it goes up to the Seventh Circuit. It may help the
2 Court of Appeals if your Honor has made factual findings on
3 some of these issues and that might help in their understanding
4 of this matter.

5 Your Honor ought to know that they have filed this
6 afternoon an expedited motion in the Seventh Circuit for
7 expedited consideration of their motion for a stay before you
8 have ruled on this motion for a stay.

9 MS. GETZENDANNER: No, no.

10 MS. EISENHAUER: We did not.

11 MR. MILLER: You just served it?

12 MS. GETZENDANNER: We just gave it to you as a
13 courtesy.

14 MR. MILLER: Okay. Thank you. I apologise.

15 Some of the points we would like to make go to the
16 ability of the Receiver to cooperate and accomplish the matters
17 that have to be accomplished. And if Ms. Jarrett could address
18 you for a minute to inform the Court of some of the points we
19 would like to put in more detail in writing, we thought that
20 would be useful.

21 MS. GETZENDANNER: Judge, we did file notice of
22 appeal, so the order is on appeal and we view it as final.

23 THE COURT: My order of yesterday is on appeal?

24 MS. GETZENDANNER: Yes.

25 THE COURT: Ms. Jarrett?

MARY M. GALLAGHER, CSR

1 MS. JARRETT: Thank you, your Honor. Good afternoon.

2 Four quick points, your Honor. First I wanted to
3 inform you that last Friday the Habitat Company
4 representatives, Alex Polikoff and representatives from the
5 City of Chicago, had a meeting that I would describe as very
6 constructive, focusing on this HOPE VI application and looking
7 at the ABLA area, one where the city is currently engaged in a
8 very expansive redevelopment program, as an area that we should
9 examine for potential for the HOPE VI application. So on a
10 positive note, that was a very constructive meeting.

11 Second point, at that meeting representatives from
12 Habitat were informed that a meeting was scheduled for
13 yesterday between the city and CHA, a meeting that Habitat was
14 specifically not invited to attend, again to focus on the HOPE
15 VI application for ABLA.

16 We understand that at the meeting yesterday, when your
17 order was received by Joe Shuldiner, he terminated the meeting
18 and broke off discussions with the city on the ABLA
19 application.

20 And the final point I would make this afternoon -- or
21 this morning, rather, I had a phone call from Commissioner
22 Stash (phonetic), the Commissioner of Housing, inviting Mr.
23 Levin and I to attend a meeting this Friday, one to which he
24 was also inviting Joe Shuldiner, to see if there was a way that
25 the city, Habitat and the CHA could work together to prepare

MARY M. GALLAGHER, CSR

1 this application.

2 On behalf of Habitat, we certainly are very interested
3 -- we are completely confident that we can prepare a
4 competitive application with the city's involvement and also
5 with the involvement of the CHA. So we would obviously like to
6 work collaboratively with both the city and the CHA.

7 MR. MILLER: Thank you, your Honor.

8 THE COURT: Mr. Polikoff?

9 MR. POLIKOFF: Yes, your Honor.

10 I want to agree with the Receiver's request now on
11 behalf of the plaintiff. Although this is primarily the
12 Receiver's motion for cooperation, it's obvious that positions
13 that the plaintiffs have taken and continue to take, both
14 before your Honor and before the Seventh Circuit, are
15 implicated.

16 We view -- I say this with some regret. We view the
17 presentations, the multiple presentations that the defendants
18 have now made, both before your Honor and the Seventh Circuit,
19 as factually, substantially off base. Things are said
20 repetitively of a factual nature, not of a legal, interpretive
21 nature, that are simply wrong, both about the history of the
22 case and about the current situation.

23 We would request formally, if desirable, for those
24 errors, those misstatements, to be pointed out and to have them
25 pointed out in the record before your Honor.

MARY M. GALLAGHER, CSR

1 It's clear to everybody that the whole ball of wax is
2 going on up to the Seventh Circuit. We now have notices of
3 appeal with respect to two orders that are on file, and your
4 Honor has pending the plaintiffs' motion for further relief.

5 CHA takes the position that sub silentio a portion of
6 that motion was granted by your order yesterday. Unlike some
7 other CHA positions, this one may be accurate. It might well
8 be that that further relief motion ought to be disposed of as
9 promptly as your Honor is able so we avoid the possibility of
10 successive appeals and get it all up there together. But
11 that's, of course, for you to consider and decide.

12 Regardless of that, the desirability of getting in
13 the record before your Honor at least our view of what the
14 factual misstatements are, something you can have before you
15 when you make your ruling on the pending motion and before it
16 gets upstairs, seems to me to be pretty clear.

17 We are not talking delay. As Mr. Miller has indicated
18 -- and we would agree with the same time schedule -- if you
19 gave us until, say, Friday morning -- this is Wednesday
20 afternoon, so we're talking about less than 48 hours. We're
21 certainly not trying to delay the CHA. And I think it would be
22 beneficial to everybody if that opportunity to correct the
23 record, so to speak, were afforded to us and make a
24 presentation before you prior to the next ruling.

25 THE COURT: Well, I have no problem with that. I do

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1 want to tell you some of my time constraints. I am leaving the
2 country on Saturday but, strangely enough, am coming back on
3 Wednesday. I've just got to go to London for a couple of days,
4 but I'll be back, probably jetlagged, Wednesday afternoon in my
5 chambers. That doesn't give us a lot of time.

6 Would you want to respond to whatever they're filing?

7 MS. GETZENDANNER: Judge, we would view the order as
8 you entered it yesterday as final. We filed a notice of
9 appeal. We think a hearing on factual errors in presentations
10 is not necessary.

11 THE COURT: What they want to do is respond --

12 MS. GETZENDANNER: They want to reopen the record.

13 THE COURT: -- to your motion of today. Do you want
14 to reply to their response?

15 MS. GETZENDANNER: Well, Judge, if they are permitted
16 to file a response, I don't think that would prevent us from
17 going upstairs and seeking a stay today. But, yes, if they are
18 permitted to file a response, we would want to reply to it.

19 THE COURT: All right.

20 MR. POLIKOFF: To make it clear, the response that we
21 would like time to file is to your pending motion for a stay
22 before Judge Aspen.

23 MS. GETZENDANNER: Judge, we were not given an
24 opportunity to respond to the Receiver's emergency motion
25 yesterday. We terminated a meeting immediately upon receipt of

MARY M. GALLAGHER, CSR

1 pleadings that are pending there now that there are factual
2 errors in our presentation and that's briefed upstairs.

3 I don't know what kind of factual errors --

4 THE COURT: I don't either. But, you know, I
5 certainly am not going to stop them from filing what they want
6 to file in response to a written motion before me.

7 Okay. We'll keep that briefing schedule and --

8 MS. GETZENDANNER: You will rule by --

9 THE COURT: -- you will hear from me by the end of the
10 business day on Friday.

11 MS. GETZENDANNER: Very good. Thank you.

12 MR. POLIKOFF: Thank you, your Honor.

13 THE COURT: Thank you.

14 (After a brief recess, the following further proceedings
15 were had herein:)

16 THE CLERK: 66 C 1459, Gautreaux versus CHA.

17 MR. POLIKOFF: Alex Polikoff, your Honor.

18 MS. EISENHAUER: Nancy Eisenhower.

19 MR. POLIKOFF: I appreciate your coming back, and I
20 guess I will go first. In a sense, this is my motion.

21 Last night I called Nancy Eisenhower, one of the
22 attorneys for CHA, and said that I would like to look at copies
23 of the CHA applications for the HUD NOFA grants which are
24 referred to time and time again in the papers and which I
25 believe I have seen in the distant past but in the context of

MARY M. GALLAGHER, CSR

1 the current papers needed to examine again. She said, to the
2 best of my recollection, that she would arrange for that but
3 that she had to talk to Jerome Butler, the general counsel of
4 CHA, because the documents were in his possession, not hers.

5 I spoke to her again this morning about that, among
6 other things, and received the same answer. It was a cordial
7 and responsive answer. It was a question, as I understood it,
8 of time and making the arrangements and not a question of
9 refusal to allow me to either have copies or look at the
10 documents. And I offered, if necessary, given the exigency of
11 the time, to go over to Mr. Butler's office and look at the
12 documents, and Ms. Eisenhower responded she hoped that that
13 wouldn't be necessary.

14 In the course of this afternoon's proceedings, I again
15 renewed the request in the presence of Mr. Butler, and he, too,
16 indicated responsiveness but said that he had to call the CHA
17 employee and, indeed, as I understood it, tried to on the
18 telephone get in touch with the CHA employee who would be the
19 one to make the documents available to me.

20 We all went up together just a few minutes ago to the
21 Seventh Circuit at the request -- or invitation of the CHA
22 attorneys. They wished to present to either the clerk or the
23 Judge, if the Judge would hear them, a motion for a stay.

24 The papers were filed up there, as I understand it.
25 In the course of our conversations in the Seventh Circuit

MARY M. GALLAGHER, CSR

1 clerk's anteroom Ms. Getzendanner said, we are not going to
2 give you the documents, or words to that effect.

3 She gave an explanation that I didn't fully
4 understand, but it had something to do with our not treating
5 this as an emergency since we wanted time, as your Honor has
6 given us until tomorrow evening, to respond and, therefore, the
7 documents would not be provided to us. At least that's my
8 understanding of what she said.

9 We said that we, under those circumstances, would have
10 to ask your Honor to intervene because we do want and feel we
11 need to look at these documents before tomorrow evening. And
12 we came down here, asked your Honor if you would hear us and
13 your secretary said you would. And the CHA attorneys who at
14 first, we understood, had left the building and would not be
15 here, reversed course or changed their mind and Ms. Eisenhower
16 is indeed here.

17 Under those circumstances, I would move orally that
18 your Honor first invite, if you will, and, if necessary, order
19 the CHA attorneys to either produce or allow us to inspect no
20 later than 10:00 o'clock tomorrow morning the applications for
21 the HOPE VI -- responsive to the HOPE VI NOFAs that are
22 referred to in the CHA documents that have been filed with your
23 Honor.

24 MS. EISENHAUER: Your Honor, just a few facts.

25 We didn't leave the building. They asked us to come

MARY M. GALLAGHER, CSR

1 THE COURT: Do you have any problem with that, Mr.
2 Polikoff?

3 MR. POLIKOFF: No. In fact, as I said -- I think I
4 said I offered to do that.

5 THE COURT: All right. Why don't --

6 MS. EISENHAUER: We are not prepared at this time to
7 have the plaintiffs come in to the offices and supervise them
8 right now.

9 THE COURT: Why do you have to supervise them?

10 MS. EISENHAUER: That's what we have been telling them
11 for the past few days.

12 THE COURT: Why do you have to supervise them?

13 MS. EISENHAUER: I think that's pretty obvious.

14 THE COURT: Are you concerned they're going to steal
15 the documents?

16 MS. EISENHAUER: No, but we want to be there.

17 THE COURT: I take it you need the documents to
18 respond to the motion?

19 MR. POLIKOFF: Correct, your Honor.

20 THE COURT: All right. I am going to order that you
21 allow Mr. Polikoff to inspect the documents forthwith. He will
22 go over to your offices right now and you have them available.

23 MS. EISENHAUER: Okay. Then I would like to ask you
24 to stay this order.

25 THE COURT: Pardon?

MARY M. GALLAGHER, CSR

1 MS. EISENHAUER: I'm asking you to stay that order.

2 THE COURT: I will deny your motion to stay.

3 MR. MILLER: Your Honor, if I could just note for the
4 record, Ms. Jarrett informs me we requested copies of some, if
5 not all, of those documents previously, almost two years ago;
6 they were never provided.

7 THE COURT: All right. Do you want to go along with
8 Mr. Polikoff?

9 MR. MILLER: One of us from our office would, your
10 Honor.

11 THE COURT: All right. That will be part of the order
12 as well.

13 MS. EISENHAUER: And the motion to stay will be denied
14 as well?

15 THE COURT: Yes. And forthwith means right now.

16 MS. EISENHAUER: I understand.

17 MR. POLIKOFF: Thank you, your Honor.

18 MR. MILLER: Thank you, your Honor.

19 (Which were all the proceedings had at the hearing of
20 the within cause on the day and date hereof.)

21

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23

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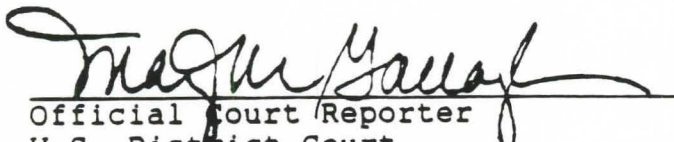
MARY M. GALLAGHER, CSR

RA-60

CERTIFICATE

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I HEREBY CERTIFY that the foregoing is a true,
correct and complete transcript of the proceedings had at the
hearing of the aforementioned cause on the day and date hereof.


Official Court Reporter
U.S. District Court
Northern District of Illinois
Eastern Division

5/21/58
Date

MARY M. GALLAGHER, CSR

RA-61

representatives of CHA tenants organizations, elect officials, neighborhood residents and others concerning the housing development activities of the Receiver under the Receivership Order and concerning the activities of the CHA.

3. I am aware from my own personal knowledge of a pattern of activity by the CHA whereby it has failed to cooperate with the Receiver, and has sought to assume and carry out Housing Development Activities that are the responsibility of the Receiver under the Receivership Order. Several examples are described in this affidavit.

4. The CHA has failed to provide approvals to the United States Department of Housing and Urban Development ("HUD") needed to cause HUD to release funds to the Receiver for the construction of housing. As a result, more than \$7.6 million in funds needed by the Receiver for Development Activities have been withheld. On March 13, 1998 I wrote a letter to Deborah Torres of HUD describing the CHA's actions, the funds being held up as a result and requesting that HUD release the funds as required by the Receivership Order. A copy of that letter is attached hereto as Exhibit A.

5. The CHA has initiated and pursued Housing Development Activities that are the responsibility of the Receiver, including initiating development plans for replacement housing for the Cabrini-Green housing development, for the Darrow Homes development, and for the Robert Taylor Homes development. The CHA has

undertaken such activities without prior consultation with and/or approval by the Receiver.

6. In the case of the Cabrini-Green housing development the CHA initially indicated that it would work with the Receiver in the capacity of a development manager. Thereafter, the CHA reversed its position and excluded the Receiver from its planning and development activities, which it has pursued directly with the City of Chicago and the tenants over the past one and one-half years.

7. In the case of the Darrow Homes development, the CHA's independent planning of new housing construction and commitments to tenants are described in a February 11, 1998 Chicago Plan Commission document attached hereto as Exhibit B. That document describes the CHA's proposal to the Chicago Plan Commission, seeking approval of a planned unit development for the construction of 105 units of housing at the Darrow development. That proposal was submitted without prior consultation with or approval by the Receiver.

8. In the case of the Robert Taylor Homes development, my information is based upon Mr. Levin's letter to Judge Aspen of March 13, 1998 and upon a conversation I had with a property owner in the limited area who had been approached by the CHA to provide replacement housing for residents of Robert Taylor homes using HOPE VI development funds. I subsequently confirmed these plans with a representative of the CHA.

9. The CHA has informed us that it has plans to rebuild substantial portions of the ABLA development, and has solicited the City's participation in planning efforts related to such development. In 1997 CHA submitted a HOPE VI application to HUD that HUD did not fund. CHA has not invited the Receiver to participate, or kept the Receiver advised of its plans. Indeed, the CHA specifically advised the Receiver that it did not want the Receiver to work on any portion of ABLA other than the Brooks extension, where the Receiver was already acting as development manager.

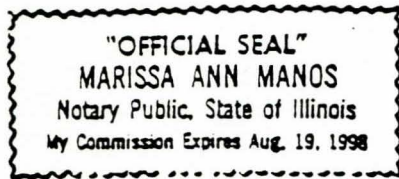
10. As a result of the activities of the CHA as summarized above, the Receiver's ability to carry out the Housing Development Activities assigned to the Receiver has been impaired. When the CHA initiates its own development activities it generates confusion among public agencies, CHA residents, developers, lenders, elected officials, community-based organizations, and neighborhood residents concerning the development of new housing that is the responsibility of the Receiver, and makes the Receivers' work much more difficult.

11. The foregoing matters are based upon my own personal knowledge except where another source is noted above, and in those instances I believe the information to be true and correct. I would so testify if called as a witness.

Philip A. Hickman
Philip A. Hickman

Subscribed and sworn to
before me this 19th day of
March, 1998.

Marissa Ann Manos
Notary Public





THE HABITAT COMPANY

March 13, 1998

Ms. Deborah Torres
Director, Public Housing
U.S. Department of Housing and
Urban Development
77 West Jackson Blvd.
Chicago, Illinois 60604

Re: Funding
CHA Receiver's Development Programs
Chicago, Illinois

Dear Ms. Torres:

At our quarterly HUD/Habitat staff meeting on March 4, 1998, we discussed the fact that CHA has refused to sign the ACC amendments as approved by HUD. At the meeting, Jan Elson reported that ACC's amendments have not been signed beginning some time in early December. There are currently seven ACC amendments which have not been funded due to the refusal by CHA to sign them. The total amount is \$7,690,593.

Since the Receivership started in 1987, there have been numerous ACC amendments approved by HUD and routinely forwarded to CHA for signature. This practice had been in place until December 1, 1997 at which time Edwin Eisendrath resigned as the Secretary's Representative.

The lack of timely and adequate funding by HUD impacts our ability to implement the federal Court Order of August 14, 1987. A copy of the Court Order is attached for your information.

Paragraph 7 of the August 14, 1987 Court Order states that:

"CHA, its agents, servants and employees shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver's responsibilities here under..."

It is HUD's responsibility to fund the program and HUD has approved of the transfer of these funds. As a result, we respectfully request that HUD proceed to transfer the approved funds from Program 117 into the appropriate programs with or without CHA concurrence.

RA-67

EXHIBIT A

We look forward to a prompt and timely response to this request. Meanwhile, if you have any questions, please do not hesitate to contact me.

Sincerely,

THE HABITAT COMPANY



Philip A. Hickman
Senior Vice President

PAH/nlw

cc: Daniel Levin
Douglas R. Woodworth
Valerie Jarrett
Alexander Polikoff, Esq.
Michael Shakman, Esq.
Barry Miller, Esq.
Louis Berra
Jan Elson, Esq.
Joseph Shuldiner

PHILIP A. HICKMAN, SENIOR VICE PRESIDENT

RA-68

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Civil Action No. 66C1459
	)	66C1460
SAMUEL R. PIERCE, JR., Secretary	)	(Consolidated)
of the Department of Housing and	)	
Urban Development, and CHICAGO	)	
HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

O R D E R

This matter coming on to be heard pursuant to plaintiffs' motion dated May 8, 1987 for the appointment of a receiver for the scattered site program (defined below), due notice having been given and the Court having heard the presentations of the parties, the Court makes the following findings of fact and conclusions of law:

(A) The Chicago Housing Authority (the "CHA") has joined in plaintiffs' motion for the appointment of a receiver for the reasons which CHA has heretofore stated in this cause.

(B) This Court has concluded that it has no reasonable alternative but to exercise its inherent power to effectuate its own orders and to so appoint said receiver for the scattered site program in accordance with the provisions of this order. It is the expectation of this Court that the appointment of a receiver will facilitate cooperation between the United States

Department of Housing and Urban Development ("HUD"), CHA and the receiver respecting the scattered site program.

(C) For purposes of this Order the "scattered site program" shall mean (i) the buildings and vacant sites listed in Exhibit A attached hereto (collectively, the "Uncompleted Units") and (ii) CHA Development Programs numbered Il 2-096, Il 2-098, Il 2-103 through Il 2-109, and Il 2-113 (excluding any completed buildings in such programs) and all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459.

WHEREFORE, IT IS HEREBY ORDERED:

1. The Court hereby appoints Daniel E. Levin and The Habitat Company jointly as receiver ("Receiver") to develop and administer the scattered site program as effectively and expeditiously as possible in compliance with the orders of this Court, such appointment to be effective as of the Effective Date (defined below). Until the Effective Date, CHA shall continue to be responsible for implementing the scattered site program in compliance with the prior orders of this Court. On the Effective Date CHA shall turn over to the Receiver possession and control of the Uncompleted Units, it being understood, however, that title to the Uncompleted Units shall remain in the name of CHA.

2. The Receiver shall have and exercise all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including:

(a) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (i) submission to HUD of applications for funding, development programs and other documents, (ii) site selection and acquisition (including policies respecting the location of sites and buildings to be acquired), (iii) the relocation of occupants, when necessary and (iv) construction and rehabilitation of dwelling units and the design and specifications therefor in compliance with applicable laws and ordinances; and

(b) Carrying out the determinations so made, including without limitation (i) negotiating and executing any contracts or other documents necessary or appropriate to implement the scattered site program, (ii) employing, transferring and discharging staff for the scattered site program, (iii) purchasing insurance insuring the Receiver, and the interest of CHA if feasible and available at no additional cost, against liability for such risks and in such amounts as the Receiver and HUD shall from time to time agree upon, (iv) managing and administering buildings included within the scattered site program prior to the turnover thereof to the CHA in accordance with Paragraph 5 below, and (v) doing such other acts and things, including site selection and acquisition in the name of CHA, construction and rehabilitation of dwelling units and retaining the services of such personnel, consultants, attorneys, accountants and other professionals, as are determined by the Receiver to be necessary and appropriate to implement the scattered site

program and to enable the Receiver to discharge its duties pursuant to the provisions hereof.

3. The Receiver shall have the right at any time, upon due notice to the parties hereto, to make application to the Court requesting that the Receiver be excused from complying with some or all of the provisions set forth in the Annual Contributions Contracts heretofore entered into between HUD and CHA (collectively, the "ACC"), the HUD Procurement Handbook for Public Housing Agencies No. 7460.8, the HUD Public Housing Development Handbook No. 7417.1, or other applicable rules and regulations, or applicable laws or ordinances, or that as to the Receiver, the requirements of such agreements, provisions, laws, ordinances, rules and regulations be modified, if the Receiver determines that compliance therewith would be costly, inefficient or otherwise impede or restrict its ability to carry out this Court's orders. Nothing contained herein shall be deemed to constitute a determination by the Court, or the consent or an acknowledgement by HUD or CHA, that the Court has the jurisdiction or authority to grant any of the foregoing relief.

4. The Receiver shall have no obligation to make any expenditure except from funds provided by HUD in accordance with procedures to be agreed upon between HUD and the Receiver. The Receiver shall keep separate accounts for costs incurred in connection with the scattered site program from and after the Effective Date. The Receiver shall not be responsible for (i) payment of any costs or performance of any obligations incurred

by CHA prior to the Effective Date, except obligations incurred pursuant to the ACC unless the Receiver is excused from complying with the terms thereof pursuant to Paragraph 3 above, or (ii) payment of any costs or performance of any obligations incurred by CHA thereafter, except as may be specifically authorized by the Receiver in writing. Notwithstanding the foregoing, the Receiver shall not be responsible for (iii) compliance with the provisions of any ACC with respect to buildings and sites previously acquired or completed by CHA except those described in Exhibit A, or (iv) any act or omission of CHA either before or after the Effective Date.

5. The Receiver shall promptly turn over to CHA, and CHA shall accept, any building within the scattered site program upon completion of construction or rehabilitation of each such building. For purposes hereof, subject to the reasonable approval of HUD, construction or rehabilitation of a building shall be deemed to be completed when the Receiver's project architect determines that such building is ready for occupancy, and, if required by applicable law or ordinance, a certificate of occupancy has been issued for such building.

6. The Receiver shall prepare reports respecting the status and implementation of the scattered site program as of the end of each month in the year 1987, commencing with the month of September, 1987, and thereafter quarterly as of March 31, June 30, September 30 and December 31 of each year. Copies of the same shall be filed with the Court and served on

the parties within 20 days following the end of the period covered by each such report.

7. CHA, its agents, servants and employees shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver's responsibilities hereunder, including without limitation providing full access to all information, records, documents, files relating to the scattered site program.

8. There shall be paid to the Receiver from funds provided by HUD pursuant to the ACC or Annual Contributions Contracts entered into between the Receiver and HUD, or by CHA if appropriate, (i) all direct costs and expenses reasonably incurred by the Receiver in connection with the performance by the Receiver of its duties pursuant hereto, (ii) to the extent not included in clause (i), a pro-rata share of all salary, compensation and other direct costs of those employees of The Habitat Company (other than Daniel E. Levin, James P. McHugh and Douglas R. Woodworth), James McHugh Construction Co. (other than James P. McHugh) or other entities which are affiliates of or controlled either directly or indirectly by the Receiver, who at the direction of the Receiver perform services on behalf of the scattered site program, for the actual time devoted by said employees to the performance of services for the scattered site program, and (iii) a fee in the amount of three percent (3%) of the aggregate development costs (excluding the costs described in clause (ii) above and any costs previously incurred by CHA)

for each building in the scattered site program (except buildings developed pursuant to a turnkey development) as reflected on the original development budget(s) therefor submitted by the Receiver and approved by HUD, the fee for such building being payable upon the completion thereof as determined in accordance with Paragraph 5 hereof. The Court will set a reasonable fee with respect to turnkey developments. The Court hereby determines that included in the category of expenditures for which the Receiver shall be entitled to reimbursement are all costs, expenses and liabilities (including reasonable attorneys' fees and court costs) reasonably incurred or sustained by the Receiver by reason of the performance by the Receiver of its duties pursuant to the provisions hereof to the extent said costs, expenses and liabilities are not covered by the insurance described in Paragraph 2(b)(iii) above.

9. Nothing in this Order shall (i) preclude or restrict the Receiver or any party hereto from asserting any claims against the Receiver or any other party hereto for any matter in connection with the scattered site program or otherwise; provided, however that the foregoing shall not constitute a waiver by the Receiver or any other party of any defense which it may have to such claim, including, but not limited to, a defense by the Receiver that it enjoys immunity from such claim, (ii) obligate HUD to furnish funds to the Receiver in addition to any funds which HUD would otherwise be obligated to provide

to CHA by virtue of any previous order of this Court or otherwise, or (iii) constitute a determination of the amount of funds which HUD is obligated to furnish by virtue of such previous orders or otherwise.

10. The Receiver is hereby excused from complying with Rule 9(b) of the Civil Rules of the United States District Court for the Northern District of Illinois.

11. The effective date of this Order (the "Effective Date") shall be the date upon which the Receiver has filed with this Court and served upon the parties hereto a notice signifying that the Receiver is satisfied that there is in force the insurance coverage referred to in Paragraph 2(b)(iii) above.

12. Except as and to the extent specifically provided in this Order, this Court's judgment orders previously entered herein, as previously modified, remain in full force and effect. The Court retains jurisdiction of this matter for all purposes, including enforcement and issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information or material changes in conditions existing at the time of this order or any other matter.

ENTER:


United States District Judge

August 14, 1987

FINAL

REPORT
to the
CHICAGO PLAN COMMISSION
PETER C.B. SYNOE, CHAIRMAN
from
CHRISTOPHER R. HILL, COMMISSIONER
DEPARTMENT OF PLANNING AND DEVELOPMENT

February 11, 1998

AGENDA ITEM NO.: 26

FOR APPROVAL: PROPOSED RESIDENTIAL PLANNED DEVELOPMENT

APPLICANT: CHICAGO HOUSING AUTHORITY

LOCATION: EAST PERSHING ROAD AND SOUTH LANGLEY AVENUE
(CLARENCE DARROW HOMES)

Pursuant to the provisions of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, the Department of Planning and Development hereby submits this report and recommendation on a proposed Residential Planned Development for your review and recommendation to the Chicago City Council.

The application for this amendment to the Chicago Zoning Ordinance was introduced into the Chicago City Council on October 1, 1997 and notice of this public hearing was published in the Chicago Sun-Times on October 29, 1997. The Applicant was separately notified of this hearing.

The Applicant, the Chicago Housing Authority, proposes to demolish two remaining 14-story high rise buildings in the Clarence Darrow Homes complex in the Douglas community area on the south side of the City and construct 105 new mixed-income housing units. (Two of the four original 1961 high-rise structures have already been demolished.) The approximately 4.7 acre (204,250 square foot) site is currently zoned R5 General Residence District (2.2 FAR). This project is being processed as a required Planned Development due to the size of the site.

The proposed new residential development would replace obsolete high-rise structures that originally contained a total of 480 units with low-density housing that is more appropriate for families with children. The new construction would blend in with the

scale of the nearby Ida B. Wells and Wells Extension housing developments. The proposed development is in an area that is experiencing significant levels of new residential construction and rehabilitation of existing buildings, particularly in the historic "Gap" neighborhood to the north and in the Oakland community area to the south. An elementary school and community center bound the project to the east, and a park is proposed for the vacant land across Pershing Road to the south of the property.

The redevelopment of the site (rather than the rehabilitation of the original four high-rises) came at the instigation of the Resident Management Corporation (RMC) for the Darrow Homes, when it became apparent that the funds available for renovation would not be sufficient to meet the remodeling needs. Residents were given several options for relocation, with 57 families choosing to relocate in the new housing upon completion. The new development would consist of a mix of two-story townhomes and three-story flats, with yards, generous and well-defined common open space areas and pathways, and on-street parking spaces along a series of internal streets. Sidewalks would be curb-attached with landscaped setback areas and decorative metal fencing along 38th Street, Langley Avenue, and Pershing Road. In addition, a management office with meeting rooms and a ten space parking lot would be located off of Pershing Road at the southeast corner of the site.

The Applicant has met on several occasions with Department staff as well as with Alderman Preckwinkle and community residents. These meetings have resulted in modifications to the original proposal which include reconfiguration of the site plan and modifications to the facades of the structures. These revisions and other minor modifications have been incorporated into the revised Planned Development marked "Revised: February 11, 1998."

After review of the proposal, the Department has concluded that the proposed Residential Planned Development would be compatible with the surrounding low-density neighborhood and would be an enormous improvement in current site conditions. The proposed number of units and maximum Floor Area Ratio of .71 would be consistent with low density R3 zoning. Parking would be provided at a rate of 1:1, which should be sufficient given that only 45% of the families who would be relocated to the new units own cars. The materials, setbacks, siting and scale of the townhouses and flats would be compatible with the character of the existing neighborhood. The rear yards, common open spaces and indoor meeting rooms would provide a variety of opportunities for children to play and for adults to socialize. Security would be provided by patrols from the nearby CHA police station, by a tenant patrol organization, and by the design of the housing, which promotes "eyes on the street" and resident control over private and common open spaces. The development would be managed by a private management firm.

The Department of Planning and Development has forwarded copies of this application

to other City agencies (including the Chicago Department of Transportation and the Fire Department) for their review and to date no objections have been received. Alderman Preckwinkle and the Darrow Homes RMC have expressed their support for this project.

RECOMMENDATION

Based on the foregoing, it is the Department's recommendation that the application for this proposed Residential Planned Development be approved and that the recommendation of the Chicago Plan Commission to the City Council Committee on Zoning be: "As Revised, Passage Recommended."

Christopher R. Hill
Commissioner

RA-79

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

RECEIVED

MAR 31 1998

MICHAEL W. DUBBINS
CLERK, U.S. DISTRICT COURT

DOROTHY GAUTREAUX, at al.,

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY,

Defendant.

66 C 1459

AFFIDAVIT OF PHILIP A. HICKMAN

Philip A. Hickman, having first been sworn upon oath states:

12. I previously submitted an affidavit on March 18, 1998, in connection with the Gautreaux plaintiffs' motion for further relief. To avoid confusion, the paragraphs of this affidavit are numbered consecutively with my prior affidavit. This Affidavit is filed in connection with both the Gautreaux plaintiffs' motion for further relief and the CHA's motion for stay pending appeal.

13. I am the Senior Vice President of The Habitat Company. Since December 1987 I have had primary day-to-day responsibility for the scattered site development program conducted by Daniel E. Levin and The Habitat Company, as receiver for the Chicago Housing Authority ("Receiver"), under the Court's Order of August 14, 1987 in this lawsuit (the "Receivership Order").

RA-80

14. Prior to working for Habitat, I was the Executive Director of the Oak Park Housing Authority from 1975 to 1980. From 1980 to 1983 I developed low and moderate-income housing as Vice President and Director of Development for the Burnham Development Co., in Chicago. I later worked for Harris Webber Ltd. as Senior Vice President/Development, developing low, moderate, and market rate housing. I joined The Habitat Company in December 1987 as director of the Scattered Site Program.

15. I have a B.A. in Economics from Denison University, an M.S. from the University of Wisconsin in Curriculum and Instruction, and an M.A. in Urban Economics from Northern Illinois University.

16. I am a Certified Property Manager, a certification by the Institute of Real Estate Management, a national trade group. I am also a Certified Public Housing Manager, a certification by the National Association of Housing and Redevelopment Officials, and a Counselor of Real Estate, a certification from an affiliate of the National Association of Realtors.

* * * * *

17. The Receiver has participated in HOPE VI application and development activity, as follows:

A. Cabrini-Green.

18. In 1993, the CHA applied for a HOPE VI grant for Cabrini-Green. A grant was awarded in November 1993 for \$50 million, approximately \$40 million for replacement housing and \$10 million for "soft services." The Receiver was not invited to participate in the grant, and was unaware of the application at the time it was submitted.

19. Once we learned of the grant, Mr. Levin and I discussed it with Vincent Lane, CHA's then Executive Director. We told Mr. Lane that it was the responsibility of the Receiver to develop any new non-elderly housing that might be funded with the Cabrini HOPE VI funds.

20. During 1993, 1994, and 1995, the CHA wrote to HUD that replacement housing developed with HOPE VI funds at Cabrini would be located in accordance with Gautreaux court orders. Copies of letters that so state are attached as Exhibits to the Plaintiffs' Response to CHA Motion to Stay.

21. After HUD took over the CHA in May, 1995, I raised the HOPE VI question with Robert Prescott, one of the HUD officials who had become involved with oversight responsible for the CHA. HUD reexamined the CHA's obligations to cooperate with the Receiver and I was informed by Mr. Prescott that HUD had determined that it would coordinate housing development with the Receiver.

22. Attached as Exhibit 1 is a copy of a July 3, 1995 memorandum from Robert Prescott of the HUD-CHA management to me, with copies to Mr. Polikoff and other HUD and CHA employees. It confirms a June 29, 1995 meeting at which I had explained to Mr. Prescott that under the Receivership Order the Court had assigned to Habitat responsibility to develop all new non-elderly housing for CHA, including non-elderly housing development for Cabrini under the HOPE VI program.

23. Attached as Exhibit 2 is a copy of a June 30, 1995 letter from Kevin Emanuel Marchman, a HUD official and Interim Executive Director of the CHA, to Deborah Moore, Executive Director of CMHDC (a CHA affiliate). The letter directs CHA to coordinate with the Receiver.^{1/}

24. At about that time, I attended several meetings at which Alexander Polikoff, counsel for the Gautreaux plaintiff class, told the new HUD administrators of the CHA that all HOPE VI new housing development at Cabrini was the responsibility of the Receiver, under this Court's Orders.

25. Attached as Exhibit 3 hereto is a copy of a July 12, 1995 Memorandum from Kevin E. Marchman, then Interim CHA Executive Director, to Joseph Shuldiner, then Assistant Secretary of HUD. Mr. Marchman reported that Mr. Polikoff had

^{1/} After giving up his role as Interim CHA Executive Director, Mr. Marchman became HUD's Assistant Secretary for Public Housing, a position in which he remained through March 13, 1998.

focused on the role of the Receiver in HOPE VI new housing development to HUD/CHA:

8. There have been several meetings with Mr. Alexander Polikoff, Executive Director of Business and Professional People for the Public Interest, concerning placement of HOPE VI replacement housing into so-called "impacted" areas, including the Cabrini Extension site itself, and also about the role of the Court-appointed Receiver, i.e., The Habitat Company, in the planning and development of the replacement housing. It should be noted that 190 units of the total 660 replacement units were funded from non-HOPE VI allocations, and Habitat has the responsibility under their Court Order for planning and providing these dwellings. The questions raised by staff deal with the remaining 303 hard replacement units to be built with HOPE VI funds.

26. The July 12, 1995 memo also lists actions planned before the next CHA Board Meeting, including:

4. Determine the role of the Court-appointed Receiver, if any, in the planning and development of the 303 hard replacement HOPE VI units.
5. Designate or initiate the process for selection of a Development Manger, and reach agreement on the process to be followed in assembling a development team.

27. As set forth in the separate Affidavit of Daniel Levin, Habitat agreed to be called "development manager" to perform its work as Receiver on new family housing developed with HOPE VI funds at Cabrini.

28. Beginning in June 1995, Habitat proceeded to work with the HUD-controlled CHA on the Cabrini-Green development. Habitat's work included land use planning, preparation of and issuance of a Request for Proposals, working with architects and planners, conducting meetings with prospective developers and

consultants, and coordinating meetings with City of Chicago officials and staff, residents, resident consultants, and community groups.

29. In 1995 and 1996, I and other Habitat personnel attended many meetings with CHA and HUD officials concerning the Cabrini-Green redevelopment.

30. During August and September 1995, we exchanged a number of drafts of the initial Request for Proposal ("RFP") with CHA officials, including Mr. Eisendrath and Robert Prescott. A copy of a Qualification Request for the RFP, published in the *Wall Street Journal* on September 8, 1995, is attached as Exhibit 4 hereto. The Qualification Request says that responses will be opened at Habitat's offices by "The Habitat Company, as Development Manager for the Chicago Housing Authority's Cabrini HOPE VI/Urban Revitalization Demonstration Program."

31. A copy of the Request for Proposals, issued as Step One and Step Two by Habitat as Development Manager, is attached as Exhibit 5 hereto.

32. Attached as Exhibit 6 is a copy of a September 12, 1995 memo from HUD/CHA. My recollection is that I received a copy from Mr. Prescott, who was the Cabrini project manager, on temporary assignment by HUD Washington to CHA. The memo identifies the following issues concerning the RFP at Cabrini:

Division of Responsibilities:

Currently the formal role of the Habitat Company (THC) has yet to be clearly defined, although on the request of HUD we were informed to include THC as the development manager for the Cabrini HOPE VI Urban Revitalization Demonstration Program.

33. Habitat thereafter requested and received a letter dated November 14, 1995, from Edwin Eisendrath, then HUD's Secretary's Representative in Chicago and Chair of the CHA, confirming the Receiver's authority to proceed to work on the Cabrini-Green HOPE VI development, as Development Manager. A copy of that letter is attached as Exhibit 7 hereto. The Eisendrath letter states:

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.

34. Habitat solicited and evaluated responses to the RFP. An example of Habitat's work on this matter is the attached list of issues for discussion with Mr. Shuldiner for October 18, 1995. A copy is attached as Exhibit 8.

35. Habitat and the new CHA staff worked together throughout late 1995 and the first half of 1996 on Cabrini planning. A November 30, 1995 memo from Eileen Rhodes of CHA to the Receiver, Mr. Eisendrath, Andrew Rodriguez of the CHA, and the lawyer for a Cabrini tenant group is attached as Exhibit 9. It shows the detailed nature of the CHA-Habitat cooperation, and CHA's working recognition of Habitat as development manager/Receiver for Cabrini.

36. Other examples of the CHA's recognition of Habitat's role are from press releases of December 21, 1995 and January 26, 1996, copies of which are attached as Exhibits 10 and 11. The latter discusses a joint press conference of the Receiver

and CHA Executive Director Joseph Shuldiner, concerning the Cabrini redevelopment. Habitat is identified in the press statements as "the development manager for CHA."

37. In a March 25, 1996 letter from Mr. Shuldiner to HUD Secretary Henry G. Cisneros, Mr. Shuldiner, CHA acknowledged Habitat's role for development at Cabrini -- and all new CHA housing development. A copy is attached as Exhibit 12.

The letter stated:

[W]e . . . look upon the new construction replacement and scattered site units as our best opportunity to increase this stock [of handicapped accessible housing].

Further be assured that I have mentioned this need to the Habitat Company in the past. As you know, whether as receiver for our scattered site units, or as development manager for the replacement units at Cabrini, Horner, and the Lakefront, the Habitat Company administers our new construction efforts.

I will share with them your letter and your concern, and continue to work with them to maximize the percentage of the units built which can be both lived in and visited by persons with mobility impairments. [Emphasis added.]

38. Other examples of Habitat's work on the Cabrini redevelopment effort are a planning study dated June 7, 1996, and a marketing study by Tracy Cross & Assoc. A copy of the planning study is attached as Exhibit 13. This study was discussed at a June 11, 1996 meeting with the planning group, including HUD, the City, the Park District, the Board of Education, and the CHA, where Habitat acted as "Planning Group Coordinator." Following the meeting, on June 18, 1996, Valerie Jarrett sent a memo to the group enclosing a draft of important issues. A copy is attached as Exhibit 14 hereto. A copy of the marketing study is attached as Exhibit 15.

39. Habitat continued to work actively on the Cabrini redevelopment (including the HOPE VI portion) through the summer of 1996. This work included Matthew Nielson of our staff attending weekly meetings of a working group.

40. While Habitat was working on the HOPE VI Cabrini-Green development, we negotiated a Development Manager agreement with the CHA. A number of drafts of the development management agreement were exchanged. Copies of two of the drafts are attached as Exhibits 16 and 17 hereto.

41. No Development Manager agreement was executed, however. Alexander Polikoff, counsel for the Gautreaux plaintiffs, commented that The Habitat Company ought to expressly retain its authority as Receiver. Habitat agreed with his position, and before and after those comments, Habitat included such language in several drafts of the Development Management Agreement. The CHA's drafts removed the language.

42. A copy of a June 14, 1996 letter from Mr. Polikoff to Mr. Levin, with a copy to Mr. Shuldiner, emphasized the Receiver's authority over new replacement housing development with HOPE VI funds pursuant to the Receivership Order. A copy is attached as Exhibit 18 hereto. The letter commented on a CHA-provided draft Development Manager Agreement. After discussing the background, Mr. Polikoff wrote:

In light of our view that the Court-appointed Receiver is lodged with full and exclusive authority to develop public housing with HUD funds that are allocable to CHA, you can see why we have some trouble

with the draft Development Agreement. The draft proceeds from the assumption that CHA, not the Court, is conferring authority upon Habitat to develop public housing, and many of its provisions derive logically from this starting point. For example, the draft says Habitat shall develop the contemplated housing subject to CHA approval, that Habitat is engaged as an independent contractor, that Habitat may be terminated by CHA, etc. The agreement even suggests that the Receiver subject itself to the jurisdiction of another court. I do not criticize these provisions as inappropriate in a normal contract situation. It is just that they don't fit into this situation at all.

43. On August 30, 1996 I sent a letter to Richard Monocchio, Special Assistant to the Executive Director of the CHA, requesting payment for \$149,881 for our HOPE VI work at Cabrini. Attached to the letter were documents itemizing how the costs were incurred. On December 27, 1996, the CHA issued a check for the full \$149,881 previously requested by Habitat. The check says that it was "FEES FOR WORK ON THE: CABRINI-GREEN REDEVEL." (Copies of the relevant documents are attached as Exhibits 19 and 20 hereto).

44. On September 18, 1996, Mr. Shuldiner wrote Valerie Jarrett and asked Habitat to stop work on Cabrini-Green redevelopment, except for any work specifically agreed upon. A copy is attached as Exhibit 21. It states, in part:

It is becoming more evident that the City has assumed responsibility for coordinating the public and private sector partners and implementing this plan. As a result, the CHA's role at this point is limited. This gives us the opportunity to minimize our administrative expenses and conserve HOPE VI funds for the development of housing units. As of September 20, 1996, the CHA will not pay any outside planning fees unless authorized by the CHA in advance.

45. On October 2, 1996, I wrote back to Richard Monocchio of the CHA, and discussed a meeting we had had on the subject. A copy is attached as Exhibit 22. I wrote Mr. Monocchio that we intended to continue to work on the Cabrini HOPE VI matter, and invoice the CHA for our time, in accord with past practices. I also wrote: "As discussed, we plan to pursue clarification with the City with respect to our role in coordinating all the housing to be developed in the Cabrini revitalization area."

46. On October 24, 1996, Mr. Shuldiner wrote Ms. Jarrett. A copy is attached as Exhibit 23. Mr. Shuldiner wrote that a group (chaired by the City) was conducting a planning process, and that it will complete its process by the end of the year. He concluded:

During this time, it will not be necessary for representatives of the Habitat Company to attend meetings or otherwise represent the CHA in the near North Redevelopment planning process. I think it would be appropriate to revisit this issue once . . . [this process] is completed.

47. On October 23, 1996, the Cabrini-Green Local Advisory Council sued the CHA concerning the Cabrini-Green Redevelopment plan. Cabrini-Green v. CHA, No. 96 C 6949. That lawsuit essentially froze planning work on Cabrini redevelopment. For that reason, immediate resolution of the dispute between the CHA and the Receiver concerning the role of the Receiver for HOPE VI work at Cabrini was not required.^{2/} (The Receiver has followed a policy of attempting to negotiate disputes with the CHA in the first instance, and only applying to the Court where assistance was

^{2/} The CHA's motion to dismiss the lawsuit was denied by Judge Coar on January 21, 1997.

necessary.) Instead, as discussed in the Affidavits of Mr. Levin, Ms. Jarrett, and Barry Miller submitted herewith, the Receiver had a series of discussions on this matter with the CHA through 1997, and raised the matter with the Court in July 1997.

48. In late 1996 or early 1997 I learned from CHA staff that CHA was planning to use HOPE VI replacement housing funds as equity to purchase a 40-year lease on 44 new dwelling units planned for construction at "Mohawk-North" and "Old Town Square," two properties being privately developed in the Cabrini area.

49. I knew from my experience with HUD procedures and my knowledge of the HOPE VI program that before HUD would approve such an expenditure, HUD would require the CHA to have a "Revitalization Plan" for the Cabrini-Green HOPE VI approved by HUD's Washington, D.C. HOPE VI office and that it would be a difficult and time-consuming process for CHA to obtain HUD approval. As of this writing, over one year later, CHA has still not, to my knowledge, obtained the required approval from HUD of a "Revitalization Plan."

50. Richard Monocchio of the CHA approached me in early 1997 about the possibility of Habitat using its Cabrini-Green development funds to lease 44 units at Mohawk-North and Old Town Square for CHA residents. Mr. Monocchio said that he contacted Habitat because of CHA's lack of a HUD-approved "Revitalization Plan" for Cabrini-Green, and because he anticipated that CHA would be unable to obtain approval within the time frame desired by the owner of the property.

51. At that time, the Receiver had funding for 190 units (under Programs 182 and 192) from HUD for use in the Cabrini-Green area. CHA requested that we use funding for 44 of those units for the "equity purchase" of forty-year leases at Mohawk North and Old Town Square. (HUD permits the use of housing development funds for an equity payment under a lease arrangement if certain conditions are met, notably, if (i) the lease is for 40 years, (ii) the property is not subject to real estate taxes, and (iii) the monthly maintenance payment to the private owner is not in excess of the amount permitted to the housing authority under the performance funding system.)

52. On May 13, 1997, Mr. Shuldiner wrote Valerie Jarrett and me, requesting that Habitat use Gautreaux funds to finance the equity purchase of the long-term lease on the 44 units. A copy of that letter is attached as Exhibit 24 hereto.

53. I told the CHA that we were willing to cooperate, and we have engaged in lengthy negotiations with the CHA and with HUD to complete this transaction, which is now close to completed. As Receiver, we submitted a Development Plan to HUD for the 44 units. A copy of the Plan is attached as Exhibit 25 hereto. We have agreed with CHA on a total receiver fee of \$35,000 for this work.

B. Horner II/ABLA.

54. In 1996, the CHA submitted a second HOPE VI application for housing development funding. This application was for a second phase of housing at the Henry Horner Homes and also replacement housing at the ABLA developments.

(ABLA is the amalgamation of 4 large developments with over 3500 apartments in the area near the University of Illinois-Chicago along Taylor St. and Roosevelt Road.) The Receiver's staff assisted with the preparation of this HOPE VI application.

55. In connection with that application, the Receiver executed a formal Development Manager Agreement with CHA. A copy of the Agreement and an April 30, 1997 transmittal letter from Mr. Shuldiner to Mr. Levin, is attached as Exhibit 26 hereto.

56. This Agreement permitted the Receiver, as Receiver, to act as development manager for these projects, and expressly reserved all of the Receiver's authority. In the Receiver's opinion, this permitted the Receiver to discharge satisfactorily its Receivership duties under the Court's Orders with respect to this project.

57. Since that time, the Receiver has continued to perform its duties in connection with replacement housing development at Horner and ABLA pursuant to the Development Manager Agreement.

C. Robert Taylor Homes ("Taylor").

58. We were not included in the CHA's 1996 application for HOPE VI funds at Taylor. We were not involved in the preparation, nor told in advance that the CHA would file an application. Indeed, we were unaware that the CHA had applied, and

I learned from a housing trade publication that the CHA received \$25 million in HOPE VI funds for Taylor.

59. Shortly after I saw the story, I spoke with Richard Monocchio of the CHA. When I asked him about the exclusion of the Receiver from the Taylor HOPE VI application, he told me that it was not necessary for the Receiver to be involved since the CHA was not planning to develop any replacement housing at Taylor. (HOPE VI funds can also be used for housing rehabilitation, social services, and purposes other than new housing development.)

60. Sometime during the fall of 1997, I received a telephone call from a property owner I know in the Washington Park area of Chicago (located not far from the Taylor development). The Washington Park area, like the Taylor area itself, is a limited area under this Court's Gautreaux judgment. My acquaintance told me that the CHA had approached him about "purchasing" a forty-year "equity lease" on twenty apartments in a building he owns. At the time, he did not know the source of the funds. He indicated he learned of the CHA's interest in such a leasing program at a meeting he was invited to by CMHDC with other owners of apartment buildings.

61. After I had spoken with the property owner, I spoke with someone at the CHA, I believe Rafael Leon at CMHDC, who told me the CHA was planning to use HOPE VI money from Taylor to do long-term leases with the owner of the property.

62. After I informed Mr. Polikoff about the above, he told me that he had raised the CHA's unilateral pursuit of HOPE VI new housing development funds for Taylor with the CHA during discussions in 1997. The use of HOPE VI funds for new non-elderly housing development, including the use at Taylor, was one of the items the CHA refused to discuss with us in June and July, 1997.

D. The CHA's Claims of Irreparable Injury.

63. Despite having spent virtually all of my time during the last ten years developing HUD-financed public housing, I know of no specific HUD rules or practices that supports CHA's concerns about injury to it should the Court's February 23 HOPE VI Order not be stayed. Rather, I am aware of facts to the contrary.

64. I deal with HUD virtually on a daily basis. Several HUD employees have repeatedly told me that only the Receiver, and not the CHA, is authorized to spend HOPE VI funds on new housing. For example, Janet Elson, a HUD attorney in Chicago, has told me that HUD would not disburse any funds to the CHA for HOPE VI new housing development, because the August 14, 1987 Order appointing the Receiver required The Habitat Company to develop all non-elderly public housing as Receiver for CHA's development program. That statement is consistent with a July 29, 1997 memo from Lewis Nixon on the subject, attached as Exhibit 27 hereto, in which Mr. Nixon stated "We also believe that any funds under HOPE VI which go to replacement housing are currently a Receiver responsibility."

65. I am aware of no reasons why the CHA could not turn over to the Receiver responsibility for replacement housing development at Cabrini and Taylor, just as had been done at the ABLA/Horner II HOPE VI development. (It would, of course, be possible that CHA's plans might have to be changed if they are not in compliance with this Court's orders, which Habitat, as Receiver, is charged to carry out -- but that would be true no matter who is responsible for developing the housing.)

66. The CHA's Motion at 6 suggests that the Receiver wishes to be "the sole source developer for more than \$300 million worth of construction . . . without giving the CHA the opportunity to obtain competitive proposals." This statement is grossly inaccurate, for several reasons.

67. First, Habitat has no idea where the \$300 million figure comes from. We have requested information from the CHA about its plans, but it has not been provided.

68. Second, Habitat has never developed Gautreaux housing construction as "the sole source developer . . . without . . . competitive proposals." We have employed multiple contractors and used competitive bidding in accordance with HUD regulations. Habitat has managed the development process for the construction of new CHA housing. The actual construction process has been performed by private general contractors and turnkey developers, after a competitive bid and Request for Proposal process. All of the procurement process for this construction work has been reviewed, monitored, and approved by HUD.

69. For example, in Horner replacement housing work, Habitat has retained private contractors and turnkey developers, including MCL Companies, New England Builders, Cyrus Development Co., and Enterprise Development Co., who work under Habitat's supervision, as provided in the contract documents. In each case, the private developers are working in a partnership with a not-for-profit entities, including Near West Development Corp., Horner Association of Men, and Hull House. Those not-for-profit entities were selected by the CHA, without competitive bid, and identified as joint venture builders pursuant to the consent decree Horner entered in the Henry Horner Mothers Guild v. CHA case pending before Judge Zagel, No. 91 C 3316. Again, HUD has approved the process and contracts for all this work.

70. Third, Habitat was selected as Receiver by the Court after a review process conducted by a screening committee appointed by the Court, and following interviews with a number of applicants.

71. During the period from 1987 through the end of 1997, The Habitat Company has completed or has under construction 2205 scattered site and other public housing units (including replacement housing) at a cost through that date of \$205,031,902.

72. The Receiver's work was summarized in the Report we submitted to the Court on January 28, 1998. A copy is attached as Exhibit 28.

E. The CHA's Efforts at Darrow Homes.

73. The CHA's Clarence Darrow Homes project was made up of four high-rise buildings containing approximately 480 units. Darrow is located next to other distressed CHA public housing, including the Ida B. Wells development, which has over 2,000 family public housing units, and Madden Park, which contain 485 family public housing units.

74. I have been informed by the CHA staff that the CHA decided to allocate approximately \$8.5 million of HUD Comprehensive Grant funds to rehabilitate one of the Darrow high-rise buildings.

75. The CHA then changed its plans, and considered building new housing on the site. As set forth in the separate affidavit of Valerie Jarrett, the CHA, the Receiver, and counsel for the plaintiffs entered into negotiations for the CHA to construct 38 townhouse units, on a demonstration basis, at or near Darrow. Those negotiations never reached a final agreement.

F. The CHA's Lack of a Successful Development Record.

76. During the past six to seven years, the CHA has attempted to perform development of new housing. The authorized units have not been built. The details are described below.

77. In 1990, the CHA, under Mr. Lane requested and received court approval to undertake a demonstration program by constructing 350 units of scattered site

housing. The Receiver and the Gautreaux plaintiffs agreed to this proposal, and cooperated with it, to see if the CHA had the capacity to build housing. The Court formally approved the proposal.

78. The demonstration program was originally scheduled to last for two years. After no housing was built, it was voluntarily extended by the parties for an additional two years.

79. As the second two-year period ended, and the CHA had not produced any units, Mr. Lane approached the Receiver and suggested entering into a joint venture with Chicago Metropolitan Housing Development Corp. ("CMHDC"), a development entity created by the CHA, to build these units and to assist the CHA in obtaining development expertise. A court Order was entered on December 3, 1993 approving the joint venture. A copy of the Order is attached as Exhibit 29.

80. Under the joint venture, Habitat is the managing venture partner. During most of the existence of the joint venture, CMHDC has had provided little or no participation in the joint venture, having failed to assign any employees to it for substantial periods of time.

81. The foregoing matters are based upon my own personal knowledge except where another source is noted above or a matter is stated on information and belief, and in those instances I believe the information to be true and correct. I would so testify if called as a witness.

Philip A. Hickman
Philip A. Hickman

Subscribed and sworn to
before me this 30th day of
March, 1998.

Dorthie Anderson
Notary Public



RA-100

July 3, 1995

MEMO TO: Philip Hickman, Senior Vice President, HABITAT
FROM : Bob Prescott, Acting HOPE VI Program Manager, CHA 
SUBJECT: Our meeting on July 5

Thank you for a very informative and helpful meeting last Thursday. I am looking forward to our continued dialogue on July 5. Edwin Eisendrath and Chris Horning, Acting Deputy Assistant Secretary, will be joining us for the meeting.

I am not sure what all you want to cover in the July 5 meeting, but I hope we can at least address some of the following concerns:

1. Why should CHA use HABITAT for the Cabrini HOPE VI development?
 - a. Does your Court Order provide an exclusive right?
 - b. Can you respond to a RFP in a competitive process?
 - c. Does CHA need a Court ruling if we do not issue an RFP?
2. Is your Court Order limited to "scattered site" PH development?
 - a. If so, isn't the replacement housing at Cabrini Extension excluded from your Order?
 - b. What if the Cabrini Extension site is expanded through acquisition of adjacent private and public properties?
 - c. What about replacement housing placed on other existing PH sites, such as Damon & Schiller?
3. Under the Court Order, what is HABITAT's role in preparation and/or submission to HUD of demolition applications and applications for replacement housing funding, i.e., the current NOFA for PH development?
4. If HABITAT were to be assigned the task of design and development of the Cabrini HOPE VI replacement housing (303 hard units) on a non-competitive basis,
 - a. How would you select and assemble your team?
 - b. On what time frames?
 - c. How would we determine your costs?
5. What would be CHA and/or CMHDC's role in the process?
6. Can any of the work or ideas set forth in the Revised Revitalization Plan of March 15, 1995 be used, especially bond financing of market rate units? (HOPE VI funds can not be used to develop market rate units)

7. Are HOPE VI units the appropriate opportunity to demonstrate "sustainable development"? The HUD Illinois Office believes this can be done for no more than \$2,000 per unit.
8. How would you deal with the following issues which are either expectations of HUD, the residents, or commitments made by the former Chairman of CHA:
 - a. Exemplary design that can serve as a model for the nation, and insure that the units could be rented without subsidy, if necessary.
 - b. Accelerated development schedule that can have construction under way at Cabrini Extension by next summer.
 - c. Inclusion of Orchard Park as a mixed-income development with at least 30% of units for PH-eligible families.
 - d. Maximize the number of replacement units in the HOPE VI planning area; the residents want all 303 hard units within these boundaries.
 - e. Some replacement units, perhaps as many as 75, will be needed to relocate current residents of 1150-60 N. Sedgwick before the building can be demolished.
 - f. Creation of mixed-income communities, with opportunity for purchase as well as rental. Ownership opportunities need to be available and feasible for all incomes.
 - g. At least 25% of the units at each cluster site need to be available for very low income families; another 25% should be available for working families in the 50-80% of median income range.
 - h. Proximity of the new housing to existing Cabrini-Green hi-rise and mid-rise buildings, including 1158 N. Cleveland.
 - i. Need for formal resident consultation and input to the design and development process.
 - j. Demands of the residents and their legal counsel. (see letter of 6-23-95, attached)
 - k. An early precedent of success and resident acceptance of the process and product.
 - (1) Orchard Park?
 - (2) Scattered site units already under development?
 - (3) Purchase of units in an existing private development, either with or without rehabilitation?

CHICAGO METROPOLITAN HOUSING
DEVELOPMENT CORPORATION
(CMHDC)

(312) 441-4480

626 West Jackson Blvd., 8th Floor
Chicago, Illinois 60661

FAX: (312) 441-0317

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Fax No.: 527 5863 Contact No.: _____

FAX FROM: Name: _____
Contact No.: _____ Ext.: _____

COMMENTS: _____

Please call originator at the number listed above if you have any questions, or if you received an incomplete fax. Thank you!

RA-104



The Chicago Housing Authority

June 30, 1995

Ms. Deborah H. Moore
Executive Director
Chicago Metropolitan Housing
Development Corporation
626 West Jackson Blvd., 8th Floor
Chicago, IL 60661

Dear Ms. Moore:

SUBJECT: CHA/CMHDC Liaison

In order to facilitate and expedite communications between our respective offices, I have asked Mr. Robert L. Prescott to serve as Liaison between the CHA Executive Office and CMHDC. This assignment is in addition to Mr. Prescott's primary role as Acting HOPE VI Program Manager. Effective immediately, I ask that copies of all correspondence and written communications between our two offices be provided to Mr. Prescott.

As you may be aware, we are reviewing all CHA financial commitments and expenditures so as to bring them in line with available resources and good management practices. I have been informed that CHA is paying for the majority of CMHDC's staff and operating expense. Accordingly, I have asked Mr. Prescott to review with you the activities and services which CMHDC is performing on behalf of CHA to justify this expenditure. His report is due to me by July 7.

Pursuant to our meeting on June 29, I have also asked Mr. Prescott to coordinate the preparation of all new demolition applications, and applications for replacement housing funding in response to the NOFA for Public Housing Development issued by HUD on June 16, 1995. Applications for new public housing are due at HUD by July 31, 1995, and demolition applications must be at HUD and have been preliminarily reviewed prior to that date.

Mr. Prescott will coordinate the participation of appropriate offices at CHA as well as with CMHDC and the Court Appointed Receiver in the timely preparation of these submissions. It is very likely that this will be the last funding available for new public housing for years to come, and we want to make the most of it for Chicago and its lower income residents. Even though we are in a summer vacation period and there are many other important activities underway, meeting these deadlines must be a top priority, and I ask for wholehearted support and participation from all those involved.

Mr. Prescott will communicate directly with all those copied on this letter. Do not hesitate to call him if program or policy decisions are needed as you prepare the indicated applications. His phone number is (312) 441-4480, ext 224. Mr. Prescott will be providing me with a daily status report and can present any matters that need my attention.

Sincerely,



Kevin Emanuel Marchman
Interim Executive Director

cc: Joseph Shuldiner, Assistant Secretary for Public and Indian Housing
Marilyn Johnson, General Counsel, CHA
Andrew Rodriguez, Director, Construction Management, CHA
Alexander Polikoff, BPI
Dan Levin, The Habitat Company
Edwin Eisendrath, Secretary's Representative, HUD Illinois State Office
Harold Saether, Acting Director of Public Housing, HUD Illinois State Office
Christopher W. Hornig, Acting Deputy Assistant Secretary, Office of Distressed and
Troubled Housing Recovery

RA-106

MEMORANDUM

TO: Joseph Shuldiner, Assistant Secretary, PIH

FROM: Kevin E. Marchman, Interim Executive Director, CHA 

SUBJECT: Current Status of the Cabrini Extension HOPE VI Program

DATE: July 12, 1995

Background:

The HOPE VI plan for Cabrini Extension has the following major objectives:

1. Provide a safer, more family-friendly community by replacing hi-rises with townhomes to reduce density and provide more space and amenities.
2. Change the present concentration of low-income households by creating mixed-income communities that recognize and reward working families.
3. Give residents opportunities for choice, upward mobility, homeownership and self-improvement.
4. Provide a better quality of life through community service, social support programs, jobs, and job training.
5. Create a model of new public housing for the 21st century.

CHA applied for the HOPE VI grant in May, 1993. HUD announced CHA's selection for an award of \$50 million in December 1993, and after extended negotiations an Implementation Grant Agreement was executed a year later in December, 1994. The residents of Cabrini-Green, their advisors, and CHA staff have been meeting and planning the HOPE VI Revitalization for more than 30 months, primarily through four separate committees.

On March 15, 1995, the CHA submitted its Revised Revitalization Plan to HUD, and made an on-site presentation in Washington a week later. HUD acknowledged that CHA's Plan was very innovative, especially in its proposal for mixed-income homeownership and tax exempt bond financing. On May 15, 1995, HUD responded to CHA's proposal with numerous questions about

the financing and other aspects. Staff prepared a thorough response to HUD's questions and suggestions which offered several changes and options to the March 15 submission but, before this response had been considered by all parties involved in the local planning process, the CHA Board of Directors resigned and HUD assumed control of the CHA on May 30, 1995.

Actions since May 30:

In the past six weeks, the following significant actions have taken place on the Cabrini HOPE VI program:

1. CHA terminated its contract with CMHDC for the administration of the HOPE VI Program. The program is now being administered from the Executive Office. CMHDC staff do continue to assist, however, with relocation, site acquisition, and administrative support to CHA's HOPE VI staff.
2. The Cabrini-Green LAC approved the recommendations of the Human Capital Planning Committee and CHA submitted a new set of community service and social support programs to HUD for approval and funding. Today we received a letter with HUD's approval of the programs and \$5,290,000 of HOPE VI funding over a three year period. The first year's funding of \$2,695,000 is immediately available to initiate resident programs this summer. The Corporation for National Service (CNS) has approved the community service plan.
3. In two separate actions, HUD has approved the demolition of three hi-rise buildings totalling 660 apartments, and funding for all 660 replacement units. Of these, 167 will be Section 8 certificates as per CHA's request. The demolition for the first building, 1117/1119 Cleveland, has been competitively awarded to National Wrecking Co., and they are expected to begin removing asbestos within the next week. The actual taking down of the building will probably begin in late September. A Request for Proposals (RFP) to demolish the second building, 1157/1159 N. Cleveland, will be published this month. Both buildings should be down before the end of the year.
4. A CHA delegation of residents and staff attended a HOPE VI working conference in San Francisco on programs and funding resources for community service. The conference was organized and conducted by the Corporation for National Service. The technical information obtained will substantially strengthen the programs to be carried out at Cabrini-Green.
5. Bob Prescott, the Deputy Director of HUD's Office of Urban Revitalization, was added to the HUD team at CHA to serve as the Acting HOPE VI Program Manager. He reports to the Interim Executive Director, and is also serving as the Director's Liaison with CMHDC.
6. Communications with the LAC and residents of Cabrini-Green have been renewed, including:

- * a meeting of the HOPE VI Advisory Council on June 14;
 - * a meeting with the LAC on June 24;
 - * a memorandum from the Assistant Secretary for Public and Indian Housing to all 230 residents of 1150/1160 and 1158 N. Cleveland on June 26;
 - * a meeting with the Human Capital Planning Committee and the LAC on July 6;
7. About two-thirds of the 230 residents at 1150/160 and 1158 N. Cleveland have responded to a Resident Relocation Choice letter. A relocation assistance office was opened to assist those residents who want to voluntarily move to other housing at this time. The American Marketing Service has been retained to provide individualized assistance to each family. Residents can choose among a Section 8 certificate, a scattered site unit, another apartment within Cabrini-Green, or another apartment elsewhere in CHA's developments. Seven families have moved so far. Since demolition has been approved for 1150/1160 N. Cleveland, and all three buildings must come down before any new housing can be built on the site, we want to give as many families as possible the opportunity to relocate and get settled before schools open this Fall.
 8. There have been several meetings with Mr. Alexander Polikoff, Executive Director of Business and Professional People for the Public Interest, concerning placement of HOPE VI replacement housing into so-called "impacted" areas, including the Cabrini Extension site itself, and also about the role of the Court-appointed Receiver, i.e., The Habitat Company, in the planning and development of the replacement housing. It should be noted that 190 units of the total 660 replacement units were funded from non-HOPE VI allocations, and Habitat has the responsibility under their Court Order for planning and providing these dwellings. The questions raised by staff deal with the remaining 303 hard replacement units to be built with HOPE VI funds.

Actions planned before the next CHA Board Meeting:

1. Finalize the Plan for Resident Consultation and submit it to HUD for approval.
2. Finalize an Agreement between the CHA and the Cabrini-Green LAC on the use of the resident advocacy and technical assistance funds that are provided for in the HOPE VI budget.
3. **Meet with all four HOPE VI Planning Committees** to review their work products and **identify their assignments** in finalizing an acceptable Revised Revitalization Plan for submission to HUD. Schedule regular meetings.
4. Determine the role of the Court-appointed Receiver, if any, in the planning and development of the 303 hard replacement HOPE VI units.
5. Designate or initiate the process for selection of a Development Manager, and reach

agreement on the process to be followed in assembling a development team.

6. Finalize the list of service providers who will become Sub-Grantees in administering the community and social support programs just funded by HUD. This list and the individual Sub-Grantee Agreements must be submitted to HUD for approval.
7. Review the role and composition of the HOPE VI Advisory Council which is provided for in the Plan for Resident Consultation. Determine frequency of meetings.
8. Develop a master schedule of key actions and dates leading to resubmission of the HOPE VI Replacement Housing Plan, and for implementation of the many facets of the HOPE VI Revitalization Program.

Conclusion:

In response to the uncertainty and loss of momentum caused by HUD's May 15 letter, staff has regrouped and begun taking the steps necessary to simultaneously initiate portions of the HOPE VI Plan as they are approved by HUD, and complete the planning necessary to finalize the HOPE VI Revised Revitalization Plan. The past six weeks have been busy and fruitful. The next month will be crucial in bringing together all of the partners and pieces needed to carry the program forward on an accelerated schedule.

REQUEST FOR PROPOSALS - STEP ONE

REQUEST FOR QUALIFICATIONS AND INTEREST

for

THE PLANNING, DESIGN & DEVELOPMENT
OF
MIXED INCOME HOUSING

FOR

THE CABRINI HOPE VI URBAN REVITALIZATION
DEMONSTRATION PROGRAM

CHICAGO, ILLINOIS

Issued by:

THE HABITAT COMPANY,
as Development Manager for

THE CHICAGO HOUSING AUTHORITY'S
URBAN REVITALIZATION DEMONSTRATION PROGRAM

350 West Hubbard Street
Chicago, Illinois 60610
(312) 527-5400
(312) 527-5863 fax

REQUEST FOR PROPOSALS - STEP ONE
REQUEST FOR QUALIFICATIONS

The Habitat Company (THC), as Development Manager for The Chicago Housing Authority's (CHA) Cabrini-Green HOPE VI/Urban Revitalization Demonstration Program (HOPE VI Program), will receive sealed qualifications for:

The Planning, Design & Development of
Mixed Income Housing for
The Cabrini-Green HOPE VI Urban Revitalization
Demonstration Program in
Chicago, Illinois

Sealed qualifications will be received until:

TIME: 1:00 P.M.

DATE: Monday, September 25, 1995

WHERE: The Habitat Company
350 West Hubbard Street (312) 527-5400
Fifth Floor (312) 527-5863 fax
Chicago, Illinois 60610

ATTN: Lee Reid

Qualifications received after the stated date and time will not be considered.

NOTE #1: THIS REQUEST FOR QUALIFICATIONS (RFQ) IS THE FIRST STEP IN A TWO-STEP REQUEST FOR PROPOSALS (RFP) PROCESS INTENDED TO RESULT IN THE AWARD OF DEVELOPMENT AND CONSTRUCTION CONTRACTS, AND IN THE LEASE AND/OR PURCHASE OF SUITABLE PROPERTIES BY THE CHA. ALL FIRMS INTERESTED IN COMPETING FOR THESE CONTRACTS IN THE SECOND STEP MUST SUBMIT THEIR QUALIFICATIONS IN THIS FIRST STEP.

STEP ONE of the process is intended to solicit and identify respondents that are seriously interested in and capable of participating in the revitalization of Cabrini-Green and its surrounding community. CHA recognizes that Developers responding to STEP TWO of the RFP will be investing significant effort and funds to prepare, submit and explain their proposals. The screening, selection and negotiation process of STEP TWO may take up to 60 days and will involve consideration by other groups such as: CHA, Cabrini residents, HUD, The City of Chicago, the Gautreaux Court, and other interested parties. Participation in STEP TWO of the process will be limited to those respondents that successfully respond to STEP ONE.

NOTE #2: CHA'S DESIRE TO PROVIDE SOME OR ALL OF THE HOPE VI REPLACEMENT HOUSING BACK ON THE CABRINI-GREEN EXTENSION SITE AND IN THE SURROUNDING HOPE VI PLANNING AREA WILL REQUIRE AN ORDER FROM THE GAUTREAU COURT. THE CABRINI-GREEN PUBLIC HOUSING DEVELOPMENT IS SITUATED IN A LIMITED PUBLIC HOUSING AREA. A REQUEST FOR GAUTREAU COURT APPROVAL WILL BE SUBMITTED ONCE A HOPE VI REVITALIZATION PLAN HAS BEEN FINALIZED UTILIZING RESULTS FROM STEP TWO.

Questions or comments related to qualification requirements should be directed in writing to Lee Reid, Development Manager for The Habitat Company, or by fax at (312) 527-5863.

The Public Housing units are to be funded by the U.S. Department of Housing and Urban Development (HUD), and contract(s) administered for the CHA by THC as development manager. Respondents to STEP ONE may be invited to submit subsequent proposals for the development of new housing, rehabilitation of existing dwellings, and sale to the CHA of new or existing properties suitable to provide up to 493 (303 units funded by the HOPE VI Program and 190 units funded by HUD public housing development funds) replacement public housing units on the Cabrini Extension HOPE VI site, within the HOPE VI Planning Area, or outside the HOPE VI Planning Area, if they are all located in census tracts acceptable to the Gautreaux Court.

BACKGROUND

1. THE CHICAGO HOUSING AUTHORITY

The CHA is a municipal corporation established pursuant to the State of Illinois Housing Authorities Act, 310 ILLS 10/1 et seq., and administers Federal Housing programs for lower income families. The CHA receives certain funding from the United States Department of Housing and Urban Development ("HUD") and is entitled to apply for funding to acquire, construct, modernize, maintain, and operate housing developments.

The CHA was created in 1937 and is the second largest public housing agency in the United States. The CHA's mission, as set forth in the 1937 charter, is to provide decent, safe and sanitary housing for the lower-income community. The CHA owns about 40,000 lower-income public housing units located throughout the City of Chicago, with more than 90,000 residents.

2. THE CABRINI HOMES EXTENSION (see Exhibits A and B)

The Cabrini Homes Extension (IL 2-20) is the largest of the three Cabrini-Green developments, which together total about 3600 apartments. The Extension is 37 years old, has 1921 apartments, and consists of 15 high-rise buildings situated on 36.4 acres. It is bounded by Sedgwick Avenue on the east, Larrabee Street on the west, Division Street on the north, and Chicago Avenue on the south. The 15 buildings include three-19 story buildings, five-10 story buildings, and seven-7 story buildings.

3. THE HOPE VI/URBAN REVITALIZATION DEMONSTRATION PROGRAM

For Federal Fiscal Years 1993, 1994 and 1995, Congress provided a total of almost \$1.6 billion for a demonstration program to test the theory that large severely distressed public housing developments could be transformed into models of successful affordable housing if HUD and the local Public Housing Agencies (PHAs) were given sufficient freedom, flexibility and funding. PHAs were encouraged to go beyond the constraints of all prior modernization funding, which had required rehabilitation in place, and consider partial or total demolition, density reduction, mixed-income occupancy, public-private development partnerships, homeownership opportunities for residents, and other innovative and comprehensive approaches to creating viable communities.

The maximum grant for any one development is \$50 million. At least 80% of the grant must be used for capital improvements and related costs; up to 20% of the grant can be used for management improvements and services for residents intended to foster economic advancement and self-improvement. Each HOPE VI program must also have a community service component designed to foster civic involvement by residents and acceptance of personal responsibility for community improvement and security.

4. THE CABRINI EXTENSION HOPE VI PROGRAM

The CHA applied for and received approval of a \$50 million grant for the revitalization of a portion of Cabrini Homes Extension. The Revitalization Plan provides for demolition of three high-rise buildings totaling 660 apartments (1117-1119 and 1157-1159 N. Cleveland, and 1150-1160 N. Sedgwick), major rehabilitation of a 7-story mid-rise with 65 apartments (1158 N. Cleveland), and repair and/or expansion of the Lower North Community Center at 1000 N. Sedgwick. The Plan also funds 16 distinct community service, job training, micro-enterprise, social support, and security programs for Cabrini residents.

HUD is expected to provide replacement housing funding, through HOPE VI and other grants in the following configuration:

303 Hope VI Program hard replacement units
190 Public Housing Development Funds hard replacement units

493 Total Hard Replacement Units

167 Section 8 units (Rental certificates)

660 Total Replacement Units
(one-for-one replacement)

The HOPE VI Plan envisions creating a mixed-income community where at least 50-60% of the new housing is occupied by unsubsidized (market rate) households, and the balance of the units (40%-50%) would be occupied by public housing eligible families.

The CHA is open to proposals that would change or enlarge the configuration of the HOPE VI site in order to improve marketability or for other reasons; make available for public housing use through sale or long-term lease dwellings constructed with private or other financing outside of Cabrini; exchange of land in order to provide fee-simple title for sale of units; and otherwise modify the Cabrini HOPE VI plan to enhance the prospects for creating well-working, mixed-income communities. CHA-owned property can only be made available for private use under a 99 year land lease, renewable for a like term.

INTENT AND SCOPE OF SERVICES

1. REQUEST FOR PROPOSALS

STEP ONE will be followed by a STEP TWO RFP and be limited to those respondents who submitted satisfactory qualifications to STEP ONE. The TWO-STEP process is intended to achieve specific HOPE VI objectives, or provide convincing evidence that they can not be achieved in the HOPE VI Planning Area.

STEP TWO will solicit development proposals for part or all of the HOPE VI site including the construction of new housing units, sale to the CHA of suitable new or existing housing, and other development options intended to provide up to 493 replacement units in the HOPE VI Planning Area. STEP TWO will set forth several different site configurations, as well as the possibility of substantial rehabilitation of one or more mid-rise buildings. STEP TWO will provide incentives for proposals that create mixed-income communities in which public housing units are blended into market-rate sale and/or rental housing. To the extent that respondents believe that all 493 replacement units can not be accommodated within the HOPE VI Planning Area consistent with the mixed-income community objective, CHA is willing to consider replacement housing proposals outside the Planning Area if they are located in census tracts acceptable to the Gautreaux Court.

The CHA is prepared to use its financial and legal resources, including bond financing through Chicago Metropolitan Housing Development Corporation (CMHDC) and its relationship with the City of Chicago, to maximize the potential for achieving these objectives.

2. STEP TWO CONSIDERATIONS

The following issues should be considered by the respondents in STEP TWO:

- A. Market and financing feasibility of mixed-income development, including unsubsidized housing.
- B. Homeownership opportunities for public housing eligible households and other first-time home buyers.
- C. The appropriate mix of sale and rental housing, and the appropriate mix of different income groups.
- D. Architectural reconfiguration of public housing, to create smaller-scale, more secure homes that are integrated into a community in a way that will provide opportunity and challenge to lower-income households.

- E. The optimal size and configuration of the Cabrini HOPE VI site so as to maximize the revitalization of Cabrini-Green and the Near North community, taking into account other private and public investments also taking place in the HOPE VI Planning Area.
- F. Determine the extent to which new housing can be built on the Cabrini HOPE VI site prior to the removal of the 19-story high-rise at 1150-1160 N. Sedgwick. This building currently has about 60% occupancy.
- G. Encourage maximum private sector participation in the revitalization of Cabrini Homes Extension and surrounding areas by offering the resources available to CHA for joint ventures and development partnerships, including land exchanges, equity partnerships, and bond financing, as appropriate. CHA seeks to use it's own resources, as well as, leverage private sector financing and access to private housing developments that might not otherwise be available for the provision of replacement public housing dwellings.
- H. Collaborate with the CHA in the design of a demonstration program to create opportunities for educational advancement in public housing, such as through a campus community, including wiring selected public housing facilities with computer connections and a computer learning center that allows for self-paced learning and educational advancement. (More information will be provided in STEP-TWO)

GENERAL REQUIREMENTS

The Habitat Company will receive sealed qualifications for:

The Planning, Design & Development of
Mixed Income Housing for
The Cabrini-Green HOPE VI Urban Revitalization
Demonstration Program in
Chicago, Illinois

1. TIME FOR RECEIVING QUALIFICATIONS

Responses to STEP ONE received prior to the time of the opening will be securely kept, unopened. THC will open the responses on Monday, September 25, 1995 at 1:00 P.M., at which time all responses will be opened but not publicly read, and no responses received thereafter will be considered.

2. CONFIDENTIAL MATERIAL

Any material submitted by a respondent that is to be considered as confidential must be clearly marked as such.

3. EVALUATION OF QUALIFICATIONS

Within five (5) days after receipt of qualifications, a selection committee will evaluate all responses as described in the Qualification Requirements contained herein. Qualified respondents will be selected to participate in STEP TWO of the RFP to be issued on or about October 4, 1995.

4. CONTRACT AWARD

No contract will be awarded as a result of STEP ONE. The purpose of STEP ONE is to identify qualified respondents interested in submitting proposals for the HOPE VI Program in response to STEP TWO. STEP TWO is intended to result in the award of one or more contracts for the development of, new housing and required infrastructure, sale to the CHA of suitable new or existing housing, and other development options intended to provide up to 493 replacement dwellings in the HOPE VI Planning Area. CHA is prohibited from making any awards to respondents (including subcontractors) or any individuals which are on the lists of companies of individuals ineligible to receive awards from the United States Government, as furnished by HUD.

5. NOTIFICATION AND PARTICIPATION IN STEP TWO

All respondents will be notified of the selection committee's evaluation no later than October 4, 1995. The selected respondents will be invited to participate in STEP TWO for the planning and design of affordable and public housing schemes in relation to the HOPE VI Program for the Cabrini Extension Public Housing Development in Chicago, Illinois.

6. PROVISION OF EXECUTED DOCUMENTS BY SELECTED FIRMS

All selected respondents will be required to provide the following information in their response to STEP TWO. These documents are not required in STEP ONE.

A. AFFIRMATIVE ACTION AGREEMENT

Respondent shall execute an Affirmative Action Agreement certifying that it will comply with all provisions identified in the Instructions Regarding Affirmative Action Under Executive Orders 11246 and 11914.

B. EQUAL OPPORTUNITY EMPLOYMENT

Respondent must agree that there will be no discrimination based on race, sex, religion, color, disability, age, creed, or national origin or familial status in regard to obligations, work, and services performed under the terms of any contract ensuing from the RFP.

C. NON-COLLUSIVE AGREEMENT

Respondent shall execute an affidavit that it has not colluded with any other person, firm or corporation in regard to any qualification submitted.

D. CERTIFICATION OF ELIGIBILITY

Respondent must provide a certified statement that it or any of its principles is not debarred, suspended or otherwise prohibited from professional practice by any Federal, State or local agency.

E. PREVIOUS PARTICIPATION CERTIFICATION

Respondent will be required to complete and submit a Form HUD-2530, Previous Participation Certification.

F. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer or employee of THC, CHA, or CMHDC or former member, officer or employee of THC, CHA, or CMHDC who ceased to be a member, officer or employee within one (1) year shall voluntarily acquire any interest, direct or indirect, in any property included or planned to be included in the project, or in this contract or any subcontracts relating to the project. If the respondent involuntarily acquires any such interest prior to appointment or employment as such member, officer or employee, then the respondents shall immediately disclose any such interest in writing to THC. Upon any such disclosure, a member, officer or employee shall not participate in any action by THC, CHA or CMHDC relating to the property or contract in which he may have any such interest.

G. INTEREST OF MEMBER OF CONGRESS OR RESIDENT COMMISSIONER

No member of or delegate of the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

H. MBE/WBE PARTICIPATION

The CHA's goal is to have minority and women participation on all of its contracts. Therefore respondents will be required to participate in the CHA's MBE/WBE Program.

I. PROVIDE SECTION 3 OPPORTUNITIES

Section 3 is a provision of the Housing and Urban Development Act of 1968 which requires that programs of direct financial assistance administered by the U.S. Department of Housing and Urban Development (HUD) provide, to the greatest extent feasible, opportunities for job training and employment to lower income residents in connection with projects in their neighborhoods. Further, to the greatest extent feasible, contracts in connection with these projects are to be awarded to local businesses. Section 3 is a tool for fostering local economic development, neighborhood economic improvement and individual self-sufficiency.

Respondents will be required to submit a plan to provide for training and employment opportunities for resident of Cabrini-Green and other lower-income residents of the project area, and contracts for work in connection with the development to be awarded to Cabrini resident enterprises and business concerns which are located in, or owned in substantial part by persons residing in the area of the development.

J. FINANCIAL STATEMENTS

Respondents must provide recent financial statements, letters of credit, evidence of credit enhancement, and other applicable financial and financing disclosures sufficient to demonstrate that the respondent has access to financial resources sufficient to carry out its proposed HOPE VI development activities.

K. FHA ACT OF 1988, SECTION 504, ADA

Evidence of past compliance with the Fair Housing Amendments Act of 1988, Section 504 of the Rehabilitation Act of 1973 and, the American with Disabilities Act of 1990 (ADA).

L. REGISTRATION AND LICENSING

Evidence that respondent and any proposed subcontractors or consultants are registered and licensed to perform the required planning, development and construction services in the State of Illinois.

QUALIFICATION REQUIREMENTS

All qualifications must be submitted in the form prescribed by THC in this STEP ONE Request for Qualifications. One (1) original and seven (7) copies must be submitted. Qualifications forms must be signed by a contracting officer or senior official of the respondents organization. Failure to include any of the following information could result in the rejection of qualifications submitted by the respondent. The qualification package must consist of:

1. A statement of the respondent's experience in planning, development and construction of multifamily housing, townhome housing, single family developments, housing for seniors, federally assisted housing, public housing and other real estate developments.
2. Graphic and descriptive examples of developments where the respondent's planning, development and construction activities were similar or comparable to the work anticipated for the HOPE VI Program. Provide names, addresses and phone numbers of at least three (3) references who are familiar with each of the projects listed.
3. A statement of the respondent's experience and programs for MBE/WBE participation, and for training and employment of lower-income persons, including accomplishment of Section 3 numeric goals in other publicly-funded contracts.
4. If the respondent is only interested in a portion of the development work, provide a summary description of one or more of the following development responses which the Developer is interested in providing to the CHA under STEP TWO:
 - A. Designing and constructing new housing on CHA's Cabrini Extension HOPE VI site under a Planned Unit Development;
 - B. Planning and rehabilitating existing mid-rise structures for family or senior occupancy.
 - C. Developing new housing on behalf of or, for sale to CHA within the HOPE VI Planning Area on land which the Respondent controls;
 - D. Selling or leasing on a long term lease to CHA new and or existing dwellings within the HOPE VI Planning Area; and
 - E. Other development activities which will provide CHA with suitable replacement public housing, both within and outside of the HOPE VI Planning Area.

EVALUATION CRITERIA

Responses to STEP ONE will be evaluated on the criteria set forth in the Qualification Requirements herein and evaluated by a selection committee to determine which qualifications best satisfy the needs of the CHA and its revitalization objectives.

The selection committee will review all responses to STEP ONE to determine if the qualifications demonstrate sufficient experience and resources to effectively participate in STEP TWO.

Responses to STEP ONE will be included in the evaluation and ranking of STEP TWO respondents.

Qualifications will be considered to meet the threshold criteria if they substantially respond to the Qualification Requirements, and evidence capacity and experience suited to the needs of the HOPE VI revitalization objectives.

CHA reserves the right to reject any or all responses, to advertise for new qualifications or proceed to accomplish this work by any other means determined to be in and for the best interest of the CHA.

EXHIBIT A

RA-125

CITY OF CHICAGO

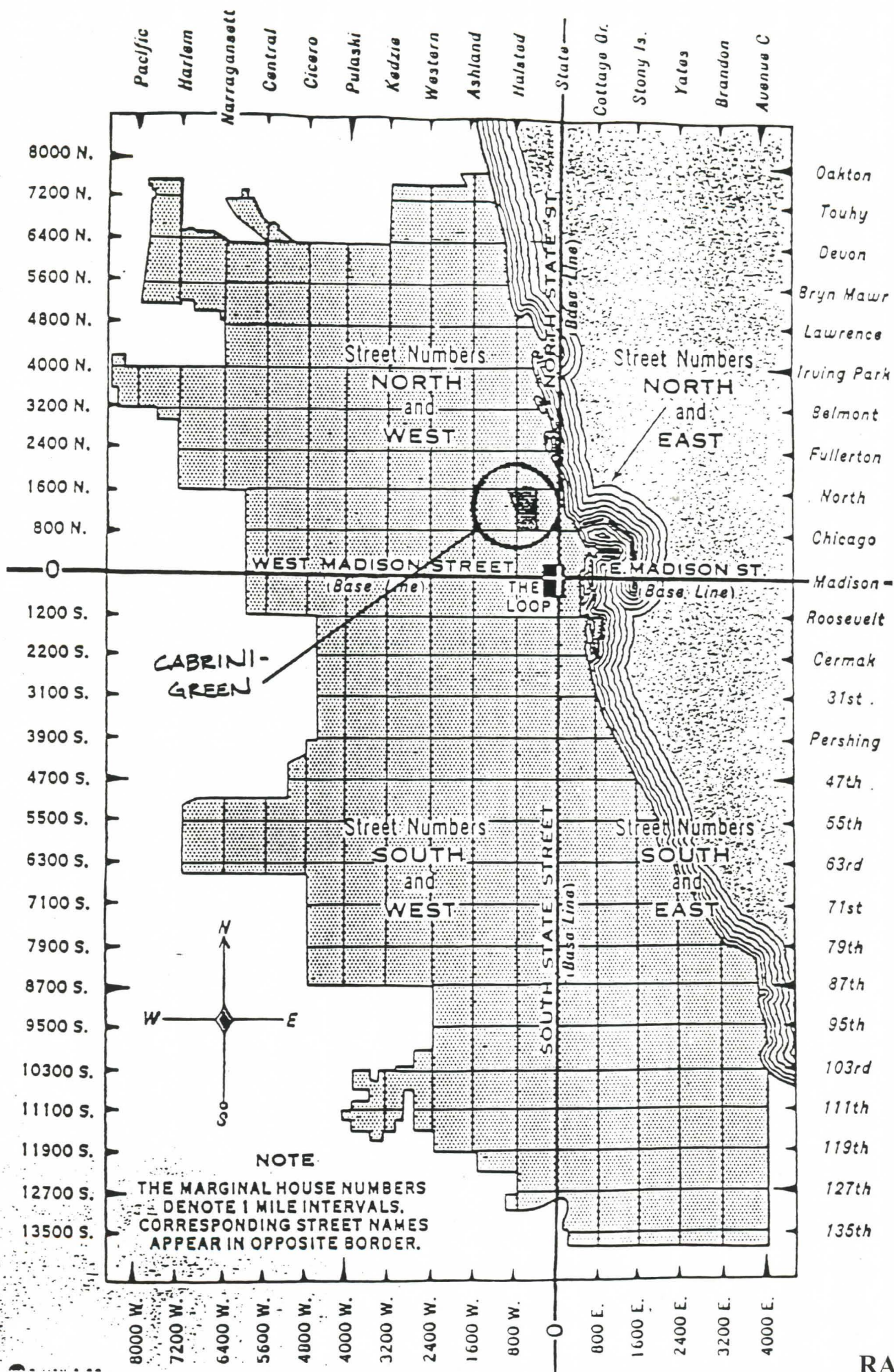
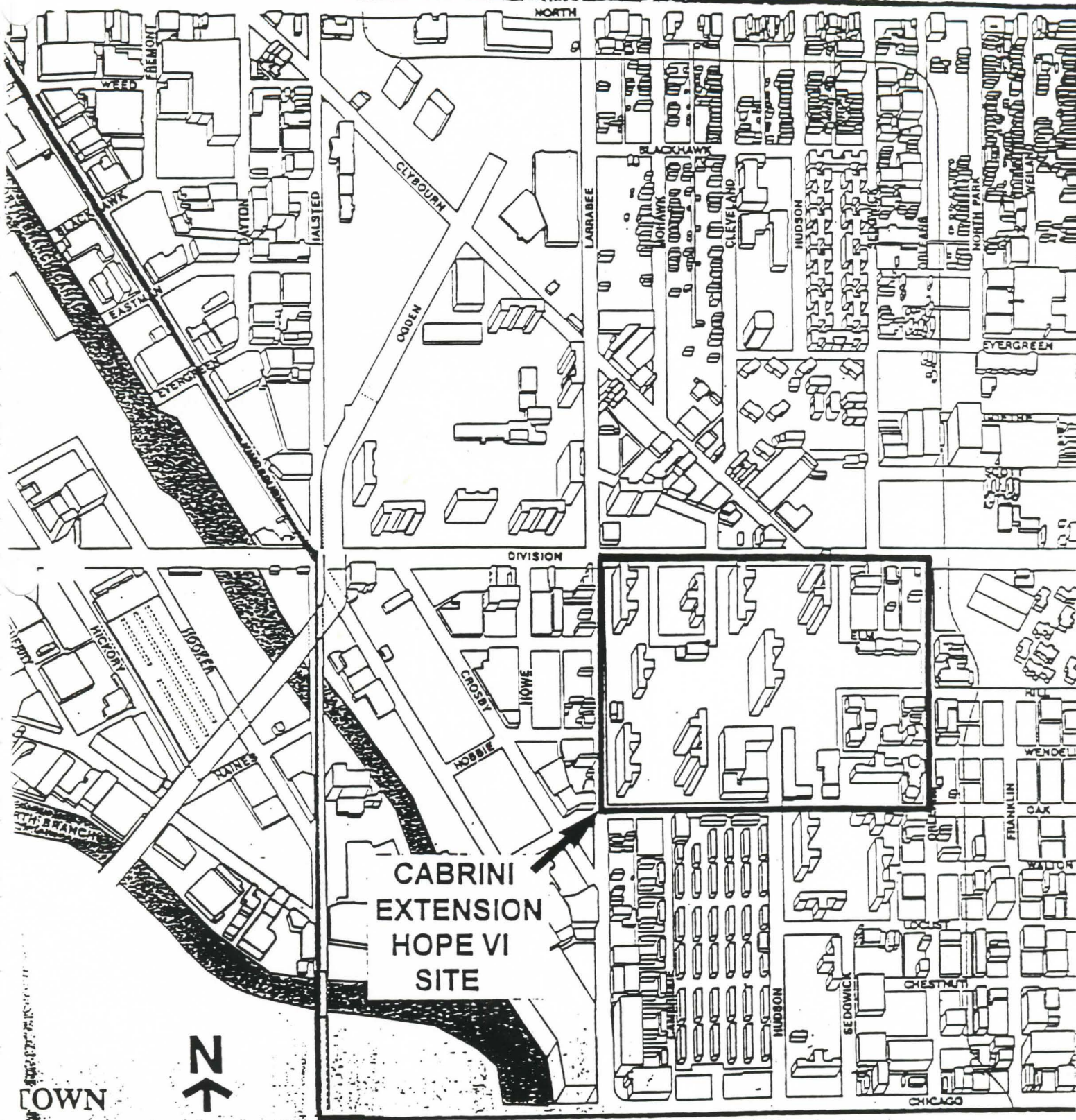


EXHIBIT B

RA-127



CABRINI HOPE VI PLANNING AREA

REQUEST FOR PROPOSALS - STEP TWO

AND

DEVELOPER'S PACKET

FOR

THE PLANNING, DESIGN & DEVELOPMENT

OF

MIXED INCOME HOUSING

FOR

**THE CABRINI HOPE VI URBAN REVITALIZATION
DEMONSTRATION PROGRAM**

IN

CHICAGO, ILLINOIS

Issued by:

The Habitat Company, as

Development Manager for the Chicago Housing Authority's
Cabrini HOPE VI Urban Revitalization Demonstration Program

350 West Hubbard Street

Chicago, Illinois 60610

(312) 527-5400

(312) 527-5863 fax

RA-129

TURNKEY HOUSING DEVELOPMENT

TABLE OF CONTENTS

SECTION NO.	DESCRIPTION	PAGE NO.
1	INVITATION FOR PROPOSAL	
2	HOPE VI PROGRAM OVERVIEW GENERAL INFORMATION ON PROPOSAL	
3	FORMAT FOR SUBMISSION OF PROPOSAL	
	EXHIBIT I - Previous Participation Certification (HUD Form 5030) with Instructions	
	EXHIBIT II - Contractors Qualification Statement (AIA Form A305)	
	EXHIBIT III - Statement of Developers Experience	
	EXHIBIT IV - Personal Financial and Credit Statement (HUD Form 92417)	
	EXHIBIT V - Credit Report Authorization	
	EXHIBIT VI - Certification of Compliance with the Clean Air Act and Federal Water Pollution Control Act	
	EXHIBIT VII - Developer Certification of Non-Discrimination, Prevailing Wages and Contract Knowledge	
	EXHIBIT VIII - Outline Specifications (HUD Form 5087 and Section 6 and 8 of the RFP)	
	EXHIBIT IX - Life Cycle Cost Analysis of Utility Combinations (HUD Form 51994) with Instructions	
	EXHIBIT X - Drawings (Provided by Respondent)	
4	DRAWING REQUIREMENTS	
5	INSURANCE REQUIREMENTS	
6	COST CONTAINMENT	
7	STANDARD FORM TURNKEY CONTRACT OF SALE	
	EXHIBIT F - Architect's Certificate	
	EXHIBIT G - Warranty Acknowledgment	
	EXHIBIT I - Rider "A" - Environmental Liability	
8	SPECIAL PLANNING AND DESIGN CRITERIA FOR PUBLIC HOUSING PROJECTS	
9	REFERENCE DOCUMENTS	

INVITATION FOR PROPOSAL

SECTION 1

You are invited to participate in the Turnkey method of development of Mixed -Income Housing units for Daniel Levin and The Habitat Company, as Development Manager for the Chicago Housing Authority's (CHA) Cabrini HOPE VI Urban Revitalization Demonstration Program, (hereinafter, "Habitat" or "Development Manager").

Proposals for the HOPE VI program are being considered for planning, design and development of up to 303 housing units designed for public housing plus additional market rate units.

The units are to be constructed on CHA property located at the Cabrini Extension development in the City of Chicago or (1) in a mixed income basis (2) within the HOPE VI Planning Area or (3) throughout the City of Chicago. As a part of the Turnkey Contract of Sale, the Turnkey Developer (hereinafter, "Developer") shall obtain control of CHA property prior to the commencement of construction and deliver the improved property or other privately owned property as per the Turnkey Contract of Sale, to the Development Manager at a fixed price.

The specific requirements for the submission of a proposal and a Developer's Packet for The Cabrini HOPE VI Program IL06-P802-143/160 containing full project information may be ordered in advance and picked up beginning at 12:00 a.m., October 9, 1995, during the hours of 8:30 a.m. to 4:30 p.m. from The Alfred Mossner Company, 137 North Wabash Avenue, Chicago, Illinois 60602, attention Jack Lee 312/372-8600. Fax orders to 312/372-2809. The non-refundable fee for the developer's packet is \$25.00, plus postage or delivery if necessary. Make checks payable to: The Alfred Mossner Company. Cash will be accepted by Mossner, as the fee.

Each proposal shall be evaluated on its individual merits. Habitat as Development Manager reserves the right to reject, accept, or request modification of any proposals submitted in response to this invitation.

A pre-proposal conference to review the information in the Developer's Packet shall be held:

Date: Wednesday, October 25, 1995

Time: 9:00 a.m.

Place: Presidential Towers

555 West Madison Avenue, The Madison Room

Chicago, IL 60661

Four individually sealed copies of the proposal shall be received at The Habitat Company, 350 West Hubbard, Suite 500, Chicago, Illinois, 60610, Attention: Lee Reid Jr., (312) 527-5400, on or before December 11, 1995, at 2:00 p.m. and will be opened at this time. No proposals will be accepted after that time.

HOPE VI PROGRAM OVERVIEW

Cabrini Urban Revitalization Demonstration Program Overview

The Chicago Housing Authority (CHA) is a municipal corporation established pursuant to the State of Illinois Housing Authorities Act, 310 ILCS 10/1 et seq., and administers Federal Housing programs for lower income families. CHA receives certain funding from the United States Department of Housing and Urban Development (HUD) and is entitled to apply for funding to acquire, construct, modernize, maintain, and operate housing developments.

CHA was created in 1937 and is the second largest public housing agency in the United States. CHA's mission, as set forth in the 1937 charter, is to provide decent, safe and sanitary housing for the lower-income community. CHA owns about 40,000 lower-income public housing units located throughout the City of Chicago, with more than 90,000 residents.

CHA applied for and received approval of a \$50 million grant under the HOPE VI Urban Revitalization Demonstration Program for the revitalization of a portion of Cabrini Homes Extension. The Revitalization Plan provides for demolition of three high-rise buildings totaling 660 apartments:

1117-1119 N. Cleveland 262 units

1157-1159 N. Cleveland 136 units

1150-1160 N. Sedgwick 262 units

The HOPE VI Urban Revitalization Demonstration Program, funds large severely distressed public housing developments to test the theory of transforming Public Housing into models of successful affordable housing if HUD and the local Public Housing Agency were given sufficient freedom, flexibility and the funding. Public Housing Agencies have been encouraged to go beyond the normal constraints of all prior modernization funding, which had required rehabilitation in place, and consider partial or total demolition, density reduction, mixed-income occupancy, public-private development partnerships, homeownership opportunities for residents, and other innovative and comprehensive approaches to creating viable communities.

The maximum grant for the replacement housing cost of development under the HOPE VI program is \$40 million. Each HOPE VI program must also have a community service component designed to foster civic involvement by residents and acceptance of personal responsibility for community improvement and security, which will be administered by others and for which other funds are available.

The Habitat Company, the court appointed Receiver for all new CHA family development, is the Development Manager for the Cabrini HOPE VI Program.

HOPE VI Planning Area:

The Cabrini HOPE VI Planning Area is located on the Near North side of Chicago in an area commonly known as North Town. This square mile area bounded by North Avenue to the north, Wells Street to the east, Chicago Avenue to the south and The North Branch of the Chicago River to the west is almost entirely surrounded by affluent neighborhoods, and is approximately a mile from both the Loop and North Michigan Avenue. The population is approximately 13,429 of which 77.4% are African American. Many North Town residents live in subsidized housing, the majority living in the Chicago Housing Authority's Cabrini-Green Development. There are five (5) different neighborhoods that comprise the HOPE VI Planning Area. These neighborhoods include:

- The Wells Street and North Avenue Area (Northeast Quadrant): This area contains houses, two-flats and multi-family housing along with some commercial enterprises.
- River North Area (Southeast Quadrant): Renovated lofts provide space for businesses and retail uses in this district.
- Chicago Housing Authority's Cabrini-Green Development: The property covers about 70 acres and over 3500 dwelling units.
- Halsted/Kingsbury (Northwest Quadrant): This triangle area contains light industry, commercial enterprises, and renovated loft office space.
- Goose Island (West Quadrant): This island is occupied by heavy industry

HOPE VI PROGRAM OVERVIEW

HOPE VI Funding Area:

The HOPE VI Funding Area includes the following CHA buildings planned for demolition:

1117-1119 North Cleveland

1157-1159 North Cleveland

1150-1160 North Sedgwick

This 7.5 acre tract is bounded by Division Street to the north, Sedgwick Street to the east, Edward Jenner Public School to the south, and Cleveland Avenue to the west. These buildings are in the center of the Cabrini Extension Development and are surrounded by other Cabrini mid-rises/high-rises, Chicago Park District Property and two Chicago Public Schools.

Cabrini HOPE VI Program Objectives:

The HOPE VI Program envisions the creation of a mixed-income community where at least 50-60% of the new housing is occupied by unsubsidized (market rate) households, and the balance of the units (40-50%) are occupied by public housing eligible families.

In addition to responses to the redevelopment of the 7.5 acre funding area, Habitat is open to proposals that would change or enlarge the configuration of the HOPE VI Funding Area in order to improve marketability or for other reasons make available for public housing use, through the sale or long-term lease, or long term (40 year) lease dwellings constructed with private or other financing outside of Cabrini; exchange of land in order to provide fee-simple title for sale of units; and otherwise modify the Cabrini HOPE VI plan to enhance the prospects for creating viable, mixed-income communities. CHA-owned property can only be made available for private use under a 99 year land lease, renewable for a like term. The following is a list of specific objectives established for the Cabrini HOPE VI Program:

- **Land Ownership:**

CHA owns the 7.5 Acres designated as the HOPE VI Funding Area (see maps in Appendix). This property is not for sale. It is being offered under the terms of a 99 year lease with an option to renew for an additional 99 years.

- **Mixed-Income Development:**

The primary objective is to develop the HOPE VI Funding area and or other property for mixed-income, low-density housing . It may be all rental housing, or for sale housing as single family condominium, cooperatives, a combination of these, or other legal means of ownership. All new units funded under this program are to be privately owned and privately managed by the Developer or the Developer's management entity.

A minimum/maximum ranging from 40% to 50% of the total housing units must be leased long-term by the CHA for public housing eligible families. It is anticipated that 50% of the public housing units will be occupied by families with incomes ranging from 50-80% of the area median income (AMI). The remaining 50% of the public housing units will be occupied by families with incomes under 50% of AMI.

Public housing units must average approximately three-bedrooms, providing for units with one to four bedrooms in a mix approximating the proportion of various size units currently in the subject area (see #18 General Information). All public housing units must have a private entry and not be more than three-stories high. No elevators are permitted.

The public housing units must be integrated into the development and be indistinguishable from the market rate units from the exterior. Satisfactory evidence must be provided that the public housing and market rate units will be constructed simultaneously.

Development in the HOPE VI Funding Area should consist of an attractive land-use plan that physically blends into the residential fabric of the North Town Community, including sufficient green space, tot lots, and an effective traffic pattern.

HOPE VI PROGRAM OVERVIEW

- **Financing:**

The market rate units shall be financed privately by the turnkey developer.

The public housing units will be purchased by CHA with HUD funds or leased for a minimum of 40 years by CHA for public housing eligible families. A one time front end payment not to exceed the "unit price" in #18 below will be made to the owner plus monthly operating expenses. These units must be exempt from real estate taxes. Other financial structures utilizing the HOPE VI funds up to the stated "unit price" will be considered.

- **OFF-Site Housing Units:**

The total 303 units can not be replaced in a mixed-income environment within the HOPE VI Funded area. Therefore turnkey developers may propose other locations with public housing units as part of mixed income housing as replacements for units developed at the Cabrini Extension. These units may be in the Cabrini redevelopment area or other areas of the City of Chicago.

- **Private Management:**

The Turnkey Developer shall provide for quality professional management of the development after completion of construction and or marketing /sales. Experience in managing mixed income and /or low-income family housing shall be required.

GENERAL INFORMATION ON PROPOSALS

SECTION 2

1. Pursuant to Sections 4 & 5 of the United States Housing Act of 1937, the Department of Housing & Urban Development is providing financial assistance to CHA for the purpose of developing low-income housing units, under The HOPE VI Urban Revitalization Demonstration Program.
2. Proposals are requested for up to 303 units of new construction, on CHA's Cabrini Extension site identified herein including structure type and bedroom distribution, or for the purchase of existing or new units in or outside of the HOPE VI Planning area.
3. Units are to be developed under the HUD approved Turnkey Development Method. Developers will submit proposals in response to the Request for Proposal (hereinafter "RFP") attached herein and any addenda issued prior to the date proposals are due.
4. The Turnkey Development Method (hereinafter "Turnkey") presumes the following:
 - a. Developer will minimally build on land owned by CHA and controlled by Developer. The subject site is listed in the RFP. The Developer will also, if proposed, furnish existing and or newly constructed units in or outside the HOPE VI Planning Area on Developer acquired public or private property.
 - b. Developer's Architect will design the buildings, site layout, recreational areas, parking, off-street improvements, and similar requirements for a total project in cooperation with Habitat and HUD which shall include all design, construction criteria and requirements of this RFP.
 - c. It is the Developer's responsibility to provide all labor and materials, necessary and incidental, to obtain, secure, procure and pay for (or cause to be obtained, secured, procured and paid for) all local licenses and building permits as required, unless a waiver is obtained by Habitat. If a waiver is obtained by Habitat or the Developer, the amount of the waiver

shall be a credit to the Total Development Price (hereinafter, "Price").

Developer will pay for all connection and cut-off fees to utilities and other fees as required by the City, Building Department or Public Utilities. If a waiver of any fees is obtained by Habitat or the Developer, the amount of the waiver shall be a credit to the Price.

- d. Developer will coordinate and make all connections to public utility systems and will be responsible for the design, layout, fees, and construction of new infrastructure related to this program.
 - e. Developer will carry Builder's Risk, liability, fire and extended coverage and other bonds as shown on the minimum insurance schedule attached in Section 5.
 - f. Developer's proposal is presumed to include all requirements of the RFP,. Unless the Developer specifically excludes any requirements, or any part of this RFP, it is presumed that Developer has included all requirements.
 - g. Developer should refer to the Illinois Department of Revenue letter included in Section 2 regarding the exempt status of this project.
5. When completed, in strict accordance with the Contract for Long Term Lease, and ready for occupancy with proper occupancy permits, the units completed for public housing use will be transferred for use by eligible families.
 6. Developer must comply with all state and local laws and ordinances in relation to the development of the project. This includes State and local requirements relating to employment, obtaining bonds and licenses and code compliance.
 7. Development related contracts must provide for the payment of prevailing wages as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.
 8. HUD requires that if the successful Developer's preliminary design documents are reviewed and approved by the HUD Field Office, and the successful Developer, and Architect certify that any changes noted by HUD Field Office and the Development

GENERAL INFORMATION ON PROPOSALS

SECTION 2

Manager are incorporated into the construction documents, and the Development Manager in turn certifies same to HUD; the review of the preliminary design documents, the Developer Certification, and the Development Manager Certification shall be deemed sufficient to meet the requirement for construction document review. The requirement for preliminary design documents are part of Section 4 of the RFP, Drawing Requirements. More specifically, page 64 of the original RFP, HUD's Section 2, Article 9-13, Preliminary Drawings.

9. For general reference regarding program requirements, interested persons should consult the HUD Handbook for Public Housing, 7417.1 Rev. 1, published 5/88 (HANDBOOK).

A copy of the HANDBOOK will be on file for review by the public, by appointment only, at the offices of The Habitat Company, located at the address referenced below from the hours of 9 a.m. - 4 p.m., Monday - Friday.

10. Only written inquiries concerning the proposed project will be accepted and should be addressed to: The Habitat Company, Attention: Lee Reid Jr., 350 West Hubbard Street, Suite 500, Chicago, IL 60610.
11. Developer's Proposal (hereinafter, "Proposal") must contain all of the information requested in the Packet including acknowledgment of receipt and inclusion of all addenda issued prior to date Proposals are due. Habitat will determine a Proposal to be non-responsive if critical information is missing. No further consideration will be given to non-responsive Proposals.
12. In the event of minor omissions, as determined by Habitat, additional time may be granted beyond the deadline for Proposal submission. Developers who submit Proposals with minor omissions will be notified in writing and given five (5) business days to correct all the omissions. Due to the preliminary nature of Exhibit _____ and Exhibit _____ and unless specifically enumerated and identified in Proposal to the contrary, it is presumed that Developer has included all requirements of Section 8 of this RFP.
13. Developer's submission shall contain six (6) full copies of Proposal. The recommended Developer will immediately provide

six (6) additional full copies of Proposal for submission to HUD for review and approval. All documents which require signatures shall have original signatures on all of the first six (6) full Proposals. The recommended Developer will provide original signatures on all Previous Participation Certificates, (Exhibit "I" of the RFP (HUD form 5030)) in the six (6) additional full Proposals which will be submitted to HUD for review and approval.

13a. The following presentation material shall be mounted on three separate 20"x30" stiff board, with a white color and divided as follows:

20"

30"

Three boards of 20"x 30" shall be used for presentation purposes. The Developer shall mount three different drawings related to the proposal in the following manner:

- * The first board should be a site plan of the proposed development scheme with north at the top of the board. The scheme also includes streets, sidewalks, green space, playgrounds and other uses.
- * The second board should be the proposed floor plan of a typical unit assemblage and a floor plan of a typical apartment or dwelling unit.
- * The third board should contain the elevations of the proposed structures.
- * The name of the turnkey development team should only appear in the bottom right hand corner and be no larger than 6 x 8".

GENERAL INFORMATION ON PROPOSALS

SECTION 2

14. The screening and selection process will be completed by Habitat and will involve consideration by other groups such as: CHA, Cabrini residents, the City of Chicago, the Gautreaux Court, and other interested parties. HUD must approve of any selection.
15. Proposals must be received at the date, place and before the time specified in the Invitation for Proposals. If received after the time indicated, the Proposal will be rejected and returned with postage due and unopened. Proposals will be opened immediately after the time that they are due.
16. Equal Opportunity requirements, including Executive Order 11246, and HUD regulations issued pursuant to Section 3 of the HUD Act of 1960 (24 CFR Part 135) are applicable to this project. Copies of these documents will be available for review, by appointment only, at the offices of The Habitat Company, 350 West Hubbard Street, Suite 500, Chicago, IL, between the hours of 9:00 a.m. to 4:00 p.m., Monday thru Friday.
 - a. The City of Chicago goals of 25% MBE and 5% WBE participation should be a minimum goal of the Developer. Developer proposals are encouraged to provide a plan in their RFP responses in excess of the minimum.
 - b. The Developer must comply with the Gautreaux Decision a class action suit filed against CHA and HUD. The federal court order directed the following standards for all new development of public housing in Chicago.
 - *New public housing could not comprise more than 15% of the total housing units in an area,
 - *Housing must be built in census tracts with less than 30% African-American population , and
 - *No more than 30 units per site could be built.

In an exceptional economically integrated development a waiver to the Gautreaux Decision is possible. These standards impact the location of any units outside the HOPE VI Planning Area. Habitat intends to apply for court approval of any mixed income development within the HOPE VI Planning Area.

17. **Selection Criteria:** Habitat will use a selection criteria based on a 162 point rating system. The maximum number of points per category is shown in brackets.

- A. **Site Plan & Layout (6 Points):** The extent that the site plan provides landscaping, open spaces, and outdoor recreation areas, and promotes economical project construction and maintenance.
- B-1. **Overall Project Design Objectives (4 Points):** The extent that the proposed housing meets the special planning requirements and design criteria and the functional objectives indicated in the Packet.
- B-2. **Architectural Treatment (4 Points):** The degree to which the aesthetic design and placement of buildings complements adjacent development, and the building and unit and layouts provide functional housing arrangements.
- B-3. **Special Design Features (4 Points):** The degree to which the design incorporates features that provide for efficient project operations, lower maintenance costs, and the safety and security of the occupants.
- B-4. **Quality of Construction and Materials (4 Points):** The extent that durable, low maintenance construction material and equipment will be used.
- B-5. **Energy Savings Features (4 Points):** The extent that the design provides for long-term energy savings by incorporating the use of energy efficient materials, such as insulation, windows, efficient gas furnaces, and similar equipment.
- C. **Developer's Qualifications (20 Points):** Habitat will evaluate the previous experience of each developer and contractor in housing construction and their capability to complete the project. The Developer's commitment to Affirmative Action, as requested in Exhibit VII, will be evaluated under this selection criteria item.

- D. **Developers Price (30 Points):** A Proposal will be considered as average, if Price excluding financing (interest costs) is between 90% and 100% of the median Price for all responsive turnkey proposals; poor, if the Price is more than 110%; and superior if the Price is less than 90%.
- E. **Bonus Factors (66 Points):** For the non-public housing units or off-site public housing units, the following factors will be considered:
1. **Economic Feasibility and marketability of the proposal (30 Points):** Evidence of financing and market acceptance of the product and price should be provided.
 2. **Price (10 Points):** Price offered for the leased land and proposed monthly operations fee for the public housing units will be considered (10 Points).
 3. **Additional public housing units off-site development (26 Points):** This Factor will be judged by the same criteria of the overall project. Items A and B-1 through B-5 above. Depending on the number of units provided, the total points for this section will be proportioned based on a ratio of the new off site units to the total.
- F. **Bonus Factors (20 Points: Qualifications of the private management entity** - The experience and capacity of private property managers will be evaluated. The level of demonstrated professionalism, quality of maintenance of property currently managed, depth of staff, and experience with low income/mixed income multi-family management will be evaluated in this category.

18. **Building Types and Budget**

Town/Rowhouse

273

Detached/Semi-detached 30

TOTAL 303

Recommended Public Housing Unit Distribution

1 bedroom	2 bedroom	3 bedroom	4 bedroom	Total
30	62	181	30	303
10%	20%	60%	10%	100%

Maximum Price Per Unit:

Unit Type	Maximum Price
1 Bedroom Rowhouse	\$71,000
1 Bedroom Semi-detached	\$79,000
2 Bedroom Rowhouse	\$88,000
2 Bedroom Semi-detached	\$99,000
3 Bedroom Rowhouse	\$107,000
3 Bedroom Semi-detached	\$120,000
4 Bedroom Rowhouse	\$130,000
4 Bedroom Semi-detached	\$145,000

GENERAL INFORMATION ON PROPOSALS

SECTION 2

- * Of the 303 total public housing dwelling units, HUD requirements stipulate that 20% units must be accessible per the Uniform Federal Accessibility Standards (UFAS) to the physically handicapped, and 2% additional units must be equipped with devices for the visually and hearing impaired. It is the responsibility of Developer to comply with all other handicapped accessibility and adaptability requirements (including visually handicapped and hearing impaired) as mandated by applicable codes.

- * Public housing units must average approximately three-bedrooms, providing for units with 1, 2, 3 and 4 bedroom units and some four-bedroom units. The proposal ratio must be similar to the recommended unit mix above. All public housing units must not be more than three-stories high, have a private entry and be integrated into the development and indistinguishable from the market rate units from the exterior.
- * The market rate units shall be financed privately by the Developer.

The maximum price per unit above is based upon currently approved Federal funding for these programs.

For the purpose of this RFP, the following definitions will apply to each building type:

- | | | |
|---------------|---|--|
| Town/Rowhouse | - | Three or more units with each unit having two separate entrances to the exterior. No common hallways will be permitted. |
| Semi-Detached | - | Two units either one or two story side-by-side or a two story one over one with each unit having two separate entrances to the exterior. No common hallways. |
| Detached | - | Single Family Residence of one or two stories having two separate entrances to the exterior. |
| Walk-up | - | A multi-level structure containing two or more living units, each separated by vertical walls, and generally having individual entrances and interior stairs. These are permissible only in buildings proposed for off site use. |

FORMAT FOR SUBMISSION OF PROPOSALS

Date:

To: The Habitat Company

350 West Hubbard, Suite 500

Chicago, Illinois 60610

Attn: Cabrini HOPE VI Program

Re: The Planning, Design, and Development of Mixed Income Housing
for the Cabrini HOPE VI Urban Revitalization Demonstration Program
Turnkey Development Proposal

In response to your Invitation for Proposals including addenda # ____, # ____ and # ____, to develop mixed-income housing under the turnkey method, we are pleased to submit the following proposal(s):

1a. HOPE VI Site (New Construction): We will furnish ____ units in Detached/Semi-detached and or Town/Rowhouse buildings, on land currently owned by the Chicago Housing Authority at the addresses indicated by Habitat herein, on the following properties:

ADDRESS	DIMENSIONS	APPROX. ACREAGE
1117-1119 N. Cleveland	388' x 554'	2.5

ADDRESS	DIMENSIONS	APPROX. ACREAGE
*1157-1159 N. Cleveland	463' x 239'	5.0
*1150-1160 N. Sedgwick		
Totals	325,609 S.F.	7.5

*Contiguous Property

- 1b. Existing Units: We will furnish _____ units in an existing development currently owned and financed by a private entity to be leased at the addresses indicated below:
- 1c. OFF-Site (New Construction): We will furnish _____ units within a mixed income development within the HOPE VI Planning Area and or outside of the HOPE VI Planning Area to be acquired or leased, on the following properties:
- 1d. Planned Residential Development: We will provide the necessary information for the Planned Residential Application for the HOPE VI funding area and take the responsibility for submitting and obtaining approval from the City at an OFF-Site development if applicable.
2. Site Data: Soil borings and a survey are not available at this time, but we have assumed within a proposal cost the removal of products of demolition and existing foundations to at least 4' below grade.

The utility improvements will be in accordance with the fuel and energy systems specified in the Developer's Packet. If an alternative to the systems specified in the Developer's Packet is proposed, a full explanation is attached as Exhibit "II" (if required), a completed HUD form 51994 is also attached, and a statement indicating that if the alternative system is not accepted, whether the Developer will proceed with the systems specified in the Developer's Packet.

FORMAT FOR SUBMISSION OF PROPOSALS

The energy improvements will be in compliance with the Council of American Builders Officials Model Energy Code, 1989/1992, (CABO Model Energy Code). We have reviewed the "Applications Worksheet", "Interpretive Requirements" form, "Trade-Off Worksheet" and "Equations and Specific Requirements" form. If selected as the successful Developer, the Worksheets will be completed and submitted with the working drawings as evidence of our compliance with the CABO Model Energy Code.

We have reviewed the entire Packet for a description of the proposed housing, drawing requirements, design criteria and special planning requirements and Section 4 of the Packet for Drawing Requirements. The attached Exhibit ____: Preliminary Drawings; and Exhibit ____: Outline Specifications (HUD Form 5087 and Section 6 and 8 of the RFP) which is incorporated as a part of Exhibit ____; reflect our compliance with these requirements unless specifically identified and noted otherwise. At a minimum this includes the following:

- a. A practical and architecturally sound site layout drawn to scale based on the topographical information available from existing records.
- b. Typical unit plans for each building type drawn to scale.
- c. Description of foundation type.
- d. Typical wall section and description of construction.
- e. Description of proposed landscaping, fencing, and site improvements.
- f. **Building and Unit Data** including building footprint, gross and net square footage (excluding the second level of stairways and **tenant and management bulk storage**) for each unit type, building program and entire project.
- g. Indication of facade variation proposed for adjacent sites.

We are responsible for delivery of the improvements in good and tenantable condition and in full and strict compliance with all applicable codes, laws, ordinances and regulations and any Habitat and/or HUD requirements contained herein.

3. Architectural and Engineering Services associated with the development of this project, including but not limited to the preparation of all drawings and specifications, consulting, technical supervision, and all other planning and design requirements will be provided by this Developer. It is fully realized and understood that any Habitat or HUD approval does not and will not impose any liability therefore or constitute an assumption of responsibility by such party for design compliance, attest to the accuracy of details or dimensions, nor shall such review or approval relieve the Architect, Engineer or Developer of responsibility therefore. Plat of survey and soil test information shall be provided by Habitat; responsibility for designs rest with the Developer with no increase in Price.

4. Financing, Taxes, Closing Costs. This Developer will provide for interim financing, applicable closing costs, (if any) and all other expenses necessary to complete the development and sale of the improvements to CHA.

The Developer shall provide Habitat with copies of interim financing draw submittal to lender, so that Habitat can track completion percentages and subcontractor requests.

5. The Total Development Price for ____ units is \$_____, and is itemized as follows:

Program Cabrini HOPE VI Urban Revitalization Demonstration Program

- | | |
|-------------------------------------|---------|
| 1. Site Improvements | \$_____ |
| 2. Dwelling Construction | \$_____ |
| 3. Dwelling Equipment | \$_____ |
| 4. Non-Dwelling Construction | \$_____ |
| (Storage Sheds Only; when separate) | |
| 5. Non-Dwelling Equipment | \$_____ |
| 6. Architectural & Engineering | \$_____ |
| 7. Cost of providing Section 3 | \$_____ |
| and Employment Opportunities | |
| 8. Financing Fee | \$_____ |
| 9. Interest Cost* | \$_____ |
| 10. Title & Recording Fees | \$_____ |

- | | |
|---|----------|
| 11. Legal | \$ _____ |
| 12. Local Real Estate Taxes* | \$ _____ |
| 13. Building permit and utility
hook-up fees | \$ _____ |
| 14. Developer's Fee | \$ _____ |
| 15. Land Value (Off site only) | \$ _____ |
| 16. <u>TOTAL:</u> | \$ _____ |

* From time of closing on the sale of property to Developer until final settlement for property.

The Total Development Price is our maximum price and the prices and terms will be held as firm and fixed for a period of 270 days (or after August 9, 1996, whichever is later) from the closing date for receipt of proposals.

If the Contract for Long Term Lease is not signed by August 9, 1996, the price will increase no more than the Cost of Living Index for Chicago Urban Consumers, adjusted monthly, for an additional six (6) months.

We understand that the Total Development Price is subject to the following modifications:

- a. At the time of Contract of Long Term Lease, the maximum price that can be approved is the lower of:
 1. Revised price as submitted by the Developer,
 - 2.* Original proposal price as updated by HUD,
 - 3.* The project Replacement Cost identified by HUD.
 - * HUD has indicated that they no longer use items #2 and #3.
- b. The price stated in the Turnkey Contract for Long Term Lease shall be adjusted downward to reflect our actual interest cost.
- c. In the event that estimated building permit fees in Item 13 above are exempt or abated after the execution of Turnkey Contract of Sale, the amount applicable shall be subtracted from the total purchase price at settlement.

- | | |
|---|----------|
| 11. Legal | \$ _____ |
| 12. Local Real Estate Taxes* | \$ _____ |
| 13. Building permit and utility
hook-up fees | \$ _____ |
| 14. Developer's Fee | \$ _____ |
| 15. Land Value (Off site only) | \$ _____ |
| 16. <u>TOTAL:</u> | \$ _____ |

* From time of closing on the sale of property to Developer until final settlement for property.

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 - 2.* Original proposal price as updated by HUD,
 - 3.* The project Replacement Cost identified by HUD.

* HUD has indicated that they no longer use items #2 and #3.
- b. The price **stated in the Turnkey Contract for Long Term Lease** shall be adjusted downward to reflect our actual interest cost.
- c. In the event that estimated building permit fees in Item 13 above are exempt or abated after the execution of Turnkey Contract of Sale, the amount applicable shall be subtracted from the total purchase price at settlement.

d. Cost Breakdown by Building Type and Unit Size:

Bedroom Size and Type	# of Units	Cost Per Unit	Total Cost Per Building Type
1 Bedroom Rowhouse		\$	\$
1 Bedroom Semi-detached		\$	\$
2 Bedroom Rowhouse		\$	\$
2 Bedroom Semi-detached		\$	\$
3 Bedroom Rowhouse		\$	\$
3 Bedroom Semi-detached		\$	\$
4 Bedroom Rowhouse		\$	\$
4 Bedroom Semi-detached		\$	\$
TOTALS		\$	\$

6. Development Schedule in calendar days is as follows:

From **notification** of successful Developer to completion of Construction Documents: 56 days (8 weeks).

From **notification** of HUD's acceptance of Construction Documents to Contract Award Documents:
_____ days

From Property Sale to Developer to Completion and Transfer of the Project: _____ days.

There are provisions for staged delivery of units and staged settlement under this program. All punch list items, except for seasonal opportunity items, need to be completed before any stage settlement.

7. We shall start construction within 30 days after written notice to proceed with construction and within ten (10) days of issuance of a building permit, whichever is sooner, but not more than forty-five (45) days after signing of the Turnkey Contract for Sale. We expect to complete the total project within _____ days after the start of construction.
8. Regarding this Project, we agree to comply with HUD equal opportunity and labor requirements, including Executive Order 11246 and Section 3 of the HUD Act of 1986, to the greatest extent feasible, we will:
- a. Give opportunities for training and employment to lower income persons residing in Chicago, and;
 - b. Award contracts to business concerns which are located in or owned in substantial part by persons residing in Chicago, and;
 - c. Pay any and all employees associated with this project, prevailing wages as provided for in the U.S. Department of Labor General Wage Decision No. IL950009, Modification No.1, Publication Date 3/17/95, attached herein. (Note: The actual General Wage Decision incorporated into the signed Turnkey Contract of Sale must be dated no earlier than six months prior to execution of Turnkey Contract.)
9. We understand upon completion of the project we will manage or provide a management entity for the mixed income development. Please find attached our (or the management entity) qualifications for the management of the development after completion.
10. We have attached the following Exhibits to this Proposal:
- EXHIBIT - Previous Participation Certification (HUD Form 5030) (ORIGINAL SIGNATURES ONLY)
 - EXHIBIT - Contractors Qualification Statement (AIA Form A305)
 - EXHIBIT - Statement of Developers Experience
 - EXHIBIT - ~~Personal~~ Financial and Credit Statement (HUD Form 92417)
 - EXHIBIT - Credit Report Authorization
 - EXHIBIT - Certification of Compliance with the Clean Air Act and Federal Water Pollution Control Act
 - EXHIBIT - Developer Certification of Non-Discrimination, Prevailing wages and Contract Knowledge
 - EXHIBIT - Outline Specifications (HUD Form 5087) and Section 6 and 8 of the RFP
 - EXHIBIT - Life Cycle Cost Analysis of Utility Combinations (HUD Form 51994)
 - EXHIBIT - Drawings

11. The entire project as proposed will be completed in conformance with the terms of the Standard Form Turnkey Contract of Sale - HUD Form 53015 adapted for a Long Term Lease.

Sincerely yours,

By:

Name

Title

Company

Address

East, Division Avenue to the North, Oak Street to the South and Hobbie Street to the West.

Additional demolition?

Should we use Scenario 2, the issue of additional demolition of buildings that have not been publicly discussed in prior plans may pose a problem.

Division of Responsibilities:

Currently the formal role of the Habitat Company (THC) has yet to be clearly defined, although on the request of HUD we were informed to include THC as the development manager for the Cabrini HOPE VI Urban Revitalization Demonstration Program. To date CHA/HUD/CMHDC have been negotiating with the City of Chicago, the Park District, and private developers concerning additional vacant land and housing units.

The following questions need to be addressed before STEP-TWO of the RFP is issued:

- What is the Habitat Company's formal role as the Development Manager for HOPE VI?
- What entity will negotiate for vacant land and units?
- Who will convey instructions to the developer?
- Who will convey development information to the residents, and what will be the extent of participation the residents have in the development process?
- Who will manage the planning process?

HUD Section 3 Requirements:

It appears HUD/CHA would like to go beyond the general requirements of section 3, which we adhere to in our previous RFP's. Goals, percentages and the correct language for additional requirements need to be established.

Social Service Activities:

Will the developer have the responsibility for financing and constructing a community center, and collaborating with the CHA in the design of a demonstration program to create opportunities for educational advancement in public housing, such as through a campus community, including wiring selected public housing facilities with computer connections and a computer learning center.

- What are the parameters of the Homeownership program and will the developer be involved?

- Will the Habitat Co. be involved?

Land-Use and Units:

It has been mentioned that we produce three or more schemes on the HOPE VI site, showing possible unit counts. To maximize creativity from the plans of the developers, why would we do this?

Do we want to create park space or should the developer be responsible?

Should the developer be responsible for infrastructure construction?

HUD/CHA has continued to negotiate with the City, the Park District and MCL for available land and units. Bob Prescott and HUD negotiated 13-18 units from MCL at the Mohawk north site. They will negotiate for more units at the Oscar Meyer site. Are these units included in the 303 hard units.

The Orchard Park units?

PUD area?

Development of land west of Larrabee?

Publicly Cisneros stated "No public housing land will be sold". But Schulinder says not to rule out selling land. To sell or not to sell?

What type of housing mixture is HUD/CHA looking for ?

What is the minimum percentage of public housing unit on a site?

C 152
Hope 6

ISSUES CONCERNING STEP TWO OF THE REQUEST FOR PROPOSAL

THE CABRINI HOPE VI URBAN REVITALIZATION DEMONSTRATION PROGRAM

The following is a list of issues that need to be addressed, before STEP-TWO of the aforementioned RFP is completed:

Request for Proposal concept:

Will the RFP be turnkey or conventional?

Although all of the current land is controlled by CHA, will we acquire land for a modified turnkey type development (Orleans and Division site). We are also relying on the developer to provide property and other existing units.

What happened to the Development Competition?

Finance:

The hard units will be financed by federal funds from the HOPE VI Grant and Gautreaux funds.

What financial mechanisms will there be to construct the market rate units to create a mixed-income environment.

- Will CMHDC issue bonds?
- Will the developer have sole responsibility for devising a financial scheme to create the market rate units?
- Infra-structure costs. Who pays?

Site Development:

On several occasions we have discussed a broader plan than what is detailed in the original HOPE VI application. The original HOPE VI site only includes the land area of the affected buildings. The area we have been using for planning purposes goes beyond the affected buildings encompassing privately owned property, Chicago School district property, and Chicago Park district property. This area to my knowledge has not been discussed with the residents of the affected area. In STEP-TWO of the RFP do we want the developers to plan specifically for the affected site or the broader site we have discussed.

Example:

- Scenario 1
Planning, Design and Development of the buildings and area for
1117-19 N. Cleveland, 1150-60 N. Sedgwick, 1158 N. Cleveland, 1157-59 N. Cleveland
- Scenario 2
Planning, Design and Development of the building and area bounded by Orleans St. to the

RECEIVED
MID NOV 17 1995
CHAIRMAN'S
OFFICE

and
Secretary's Representative

November 14, 1995

Distribution: 11/17/95 has
Executive Office

J. Sheldner

A. Vargas

J. Nelson

E. Mann

Dr. C. Adams

H. Feltus

M. Johnson

R. Monahan

D. Moore

S. Orinick
Pattil/Cowan
B. Present
A. Rodriguez
A. Ruyon
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

Edwin Eisendrath
Secretary's Representative

~~Copy for [illegible]~~

RA-159

October 18, 1995

CABRINI HOPE VI RFP

ISSUES FOR DISCUSSION WITH JOE SHULDINER

1. Expand to include area west of Seward Park? (and/or other contiguous vacant CHA land)?
2. Does the 40-50% P.H. ratio apply to off-site developments?
3. Who owns the new units on CHA land?
4. 493 vs. 303 units - 303 Hope VI units + 190 Scattered Site units = 493 total units?
5. Are other Cabrini buildings available for purchase/lease or demolition?
6. Should all replacement housing units be put into the Hope VI planning area?
7. Should developers be permitted to "enlarge the configuration of the Hope VI Funding Area?"
8. Should the RFQ allow elevator buildings as permitted in The Public Housing Handbook?
9. Private Management vs. Resident Management?
10. The Habitat Company - responsibility and authority regarding the Hope VI Program?
11. Preference for developers to include as many of the 303 replacement units in the Hope VI Funding Area (selection criteria)?

CHICAGO HOUSING AUTHORITY
HOPE VI/CABRINI GREEN
MEMORANDUM

TO: Edwin Eisendrath, HUD
Valerie Jarrett, Habitat
Phil Hickman, Habitat
Richard Wheelock, LAF
Andrew Rodriguez

FROM: Eileen Rhodes, Program Coordinator 

DATE: November 30, 1995

SUBJECT: Development Team RFP Review
Resident Consultation Process

As you know, the CHA has made a commitment to the Cabrini Green residents that they will have a significant role to play in selecting the development team(s) and proposals for the HOPE VI replacement housing. In that regard, we have committed to assisting the residents to assemble a team of technical advisors and to give them several seats on the Development Team Screening Committee.

Regarding the residents' RTA team, I am very pleased to report that we have been working closely with the LAC and the planning committees to identify the architect/engineer and real estate developer members of their RTA team. To date, the LAC has identified their legal counsel and their A/E advisor. We are now working with the residents to identify their real estate developer advisor. On December 15, the CHA Executive Committee will authorize the CHA/HOPE VI staff to negotiate contracts with the RTA team. When the RTA team is in place, they will work with the LAC to establish the best strategy for reviewing the RFPs and developing their recommendations/counter proposals.

I would appreciate your comments on the following review process timeline. This is taken for the most part from the timeline originally proposed by Habitat and the modifications suggested by Mr. Shuldiner. Please note, this timeline with a rather protracted initial review period, assumes the receipt of several proposals. Should we receive only 3-4 proposals, Mr. Shuldiner has requested that we accelerate the timeline by one-two weeks.

DEVELOPMENT TEAM/PROPOSAL REVIEW TIME LINE:

December 12: Recommendation to Executive Director by LAC of Resident Technical Advisor Team and budget. Contracts to be negotiated and approved by CHA legal department on accelerated schedule.

December 15: Ratification of RTA contracts by Executive Advisory Committee.

December 20: RFP responses submitted to Development Manager.
One copy of each proposal forwarded to the HOPE VI office
One copy of each proposal forwarded to the LAC

January 12: Development Manager requests minor omissions from developers

January 19: Minor omissions submitted

February 9: Development Manager evaluates and ranks proposals

From the point at which the proposals are submitted to the LAC, their RTA team will be meeting with the residents on a regular basis to review the proposals and to develop their questions and recommendations. Any questions from the residents and their team will be directed to and answered by the HOPE VI staff.

February 12: First meeting of the Development Team Screening Committee:

--Development Manager will present their evaluations and preliminary ranking to the committee for their review.

--The members of the Committee are still to be determined. Mr. Shuldiner recommends the following members:

- * Mayor's Office: Rosanna Marquez
- * CHA: Andrew Rodriguez
- * HOPE VI: Program Manager
- * 2 Community Representative--TBD
- * Cabrini Residents

--The residents' advisory team will be present at all meetings of the committee to raise questions and concerns. They will not have a vote on the committee.

Feb 19-23: Development Team Screening Committee holds several sessions to review evaluations and rankings and to develop the preliminary redevelopment plan drawing on the various proposals. By the end of these sessions, finalists will be identified and interviews will be scheduled.

Feb 26-27: Finalists will meet with Screening Committee. The purpose of these meetings will not be to negotiate the specifics of each proposal but to work out ways to coordinate proposals and develop the overall plan.

Feb 27-Mar 1: Committee comes to consensus (majority vote) on the recommendation to be prepared by the Development Manager for review by the CHA Executive Director.

Mar 5-8: Development Manager prepares and submits their recommendation to CHA Executive Director.

If the LAC objects to the committee's recommendation, they will prepare their own recommendation for submittal to the Executive Director.

Mar 8-16:

The CHA Executive Director will review the Committee's recommendation and any objections/modifications proposed by the LAC.

This may be the point at which a Town hall Meeting is held to review the recommendation so that the Executive Director can incorporate the views of the community into the final plan.

Mar 18-29:

Following the direction of the Executive Director, the Development Manager and HOPE VI staff will complete the Revised Revitalization Plan for submission to HUD.

Mr. Wheelock of LAF has made a strong request that the LAC be represented at any meetings held between the CHA and the Development Manager/RFP respondents which may significantly impact the outcome of the review process. Only in this way does he believe that we can avoid the situation that occurred when the last RRP was presented to the residents as a fait accompli. I believe that, given the caliber of the team being assembled to advise the residents, their contribution will be of great use in assessing and combining the proposals. I am also confident that the resident consultation process will not jeopardize our ability to meet the proposed time line.

CONTACT: Jeanne Crowley, HUD
353-1134

Wynona Redmond, CHA
791-8513

**THE CHICAGO HOUSING AUTHORITY AND THE HABITAT COMPANY
RECEIVE PROPOSALS TO REDEVELOP CABRINI-GREEN**

FOR IMMEDIATE RELEASE
December 21, 1995

Ten proposals to redevelop part of the Cabrini-Green community were submitted yesterday to the Chicago Housing Authority (CHA) and its Development Manager, The Habitat Company, in response to the Department of Housing and Urban Development's \$50 million HOPE VI revitalization program for Cabrini-Green.

In October of this year, CHA's new management team invited qualified groups to develop plans to revitalize the Cabrini-Green community after HUD earlier this year rejected an incomplete HOPE VI proposal by CHA's previous administration to transform part of the Cabrini-Green community.

The 10 proposals will be reviewed by the Development Manager and a Screening Committee made up of Cabrini-Green residents, and representatives from the Cabrini-Green community, the City of Chicago, the CHA and the HOPE VI program office. Among other things, each proposal will be ranked according to how it meets specific criteria, including the planning, design, construction and development of up to 493 family units of public housing mixed with market rate private housing.

The Development Manager will forward its recommendation on a redevelopment plan to Joe Shuldiner, executive director of the CHA, in late March, 1996, following the comprehensive review period. The CHA and the Development Manager will then complete a final HOPE VI proposal for Cabrini-Green, called a Revised Revitalization Plan, for submission to HUD in April, 1996.

"We're pleased to have received so many proposals and look forward to working with the Development Manager and the Screening Committee to carefully review all of the proposals," said Shuldiner. "It would be premature to comment on any proposal until we've had a chance to review and evaluate all of them."

MORE

The list of the 10 teams that submitted proposals is attached.

The following outlines the process by which the proposals will be reviewed and a HOPE VI Revised Revitalization Plan will be prepared for HUD. The target date for completion of these activities is April 1.

- Cabrini-Green revitalization proposals submitted to the Development Manager on December 20.
- The Development Manager will present its evaluations and preliminary ranking to the Screening Committee for review.
 - Screening Committee members include:
 - CHA Development: Andrew Rodriguez
 - HOPE VI Program: Eileen Rhodes
 - Mayor's Office: Rosanna Marquez
 - Community Representatives (2)
 - Cabrini Residents (4) (The residents' Technical Advisor will also be present)
 - City Department Representatives
- The Development Manager will lead the Screening Committee through several sessions to review evaluations and rankings and to develop the preliminary redevelopment plan, drawing on various proposals, as needed.
- During the review period, a HOPE VI Town Hall meeting will be held to present an overview of the proposals to the community.
- Following the Screening Committee meetings and the Town Hall meeting, the Development Manager will prepare its recommendations for submittal to the CHA executive director.
- Any Screening Committee member may also prepare his or her own recommendations for submittal to the executive director. All Screening Committee members must submit their recommendation by a firm deadline.
- The CHA executive director will review the Development Manager's recommendation, as well as recommendations by other Committee members.
- Under direction of the CHA executive director, the Development Manager and the HOPE VI staff will complete the Revised Revitalization Plan for submission to HUD.

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NEWS FROM THE HABITAT COMPANY

For Immediate Release:

December 21, 1995

Contact: Marilyn Katz
312/822-0505

FINAL PROPOSALS IN ON CABRINI REDEVELOPMENT

CHICAGO (December 21, 1995) – The second and final phase of bidding on the opportunity to rebuild and restore one of the nation's most notorious public housing projects was completed today when 10 developers submitted proposals detailing their plans for the redevelopment of Cabrini Green.

The Developers who submitted bids are:

Enterprise Development Company – a joint venture of Bauhs Dring Main, Ltd., Matrix Engineering, Inc. and UBM Engineering;

Tyree and Company – a joint venture of ALB Construction Co. and Vernon Williams Architects;

New England Builders, Inc. – a joint venture of Solomon Cordwell Buenz & Associates and Urban Works, Ltd.;

Landon Architects, Ltd. – a joint venture of The Thrush Companies and Neighborhood Housing Services of Chicago;

North Town Community Partnership – a joint venture of DePaul University, MCL/ASD L.L.C.,

New City YMCA and the North Town Community Congress;

Gelick Associates, Inc.;

Triad Consortium, Ltd – a joint venture of Property Management One, Ltd., E.C. Purdy & Associates, and Vee Enterprise;

Clybourn Park Associates – a joint venture of The Shaw Co., Metroplex Inc., Nagle, Hartray, Danker, Kagan, McKay, Johnson and Lee, Ltd., The Lakota Group, Inc., Peter Lindsay Schaudt Landscape Architecture, Ltd, and Metro Transportation Group, Inc.;

Urban Equities, Inc/City Lands Corp. – a joint venture of Lisec and Blederman, Ltd., Linn-Mathes, Inc., and Best American Builders;

Whitman Architecture and Construction with Nathan Kipnis Architects.

"We are extremely pleased with the number and apparent quality of the bids" said Valerie Jarrett, Executive Vice President of The Habitat Company. "We are looking forward to reviewing them and moving forward with the process. The whole country is watching to see what happens at Cabrini Green and we are very excited by the challenge."

###

the remaining 40 percent to 50 percent occupied by public housing-eligible families. The Funding Area development will feature:

- ▶ single-family homes, townhomes and multi-family buildings no more than three-stories high;
- ▶ one-, two-, three- and four-bedroom units;
- ▶ rental or for-sale housing;
- ▶ public housing and market-rate units designed to be indistinguishable from each other and completed simultaneously;
- ▶ market-rate units developed without CHA or HUD subsidy;
- ▶ 50 percent of the public housing-eligible units affordable to working families earning between 50 percent and 80 percent of the Chicago median income, and the remaining units affordable to families earning less than 50 percent of the median income;
- ▶ **Off-Site Housing:** All 493 of the public housing-eligible units cannot be developed as part of a mixed-income development in the 9.3-acre Funding Area, and must be part of mixed-income developments located elsewhere in the HOPE VI Planning Area or the Chicago metropolitan area as approved by the Gautreaux Court;
- ▶ **Private Management:** The redeveloped housing will be privately managed by a firm or firms experienced in managing low-income and mixed-income properties;
- ▶ **Public/Private Partnerships:** CHA will offer its resources for joint ventures and development partnerships to encourage private sector participation in the HOPE VI Demonstration Program and the revitalization of surrounding areas.

Development Proposals:

Six development proposals received by the December 20 deadline have been deemed responsive to the Request for Proposals and are being reviewed by The Habitat Company and other stakeholders in the community, including: CHA residents; representatives of the North Town community, civic and business organizations; City, State and HUD officials; and citywide civic leadership groups. A final recommendation is expected this Spring, which will then have to be approved by the Gautreaux Court. The six development teams with proposals are:

- ▶ **Enterprise Development Company** -- a joint venture of Bauhs Dring Main, Ltd., Matrix Engineering, Inc., and UBM Engineering;
- ▶ **Landon Architects, Ltd.** -- a joint venture of The Thrush Companies and Neighborhood Housing Services of Chicago;
- ▶ **North Town Community Partnership** -- a joint venture of DePaul University, MCL/ASD L.L.C., New City YMCA and the North Town Community Congress;
- ▶ **Triad Consortium, Ltd.** -- a joint venture of Property Management One, Ltd., E.C. Purdy & Associates and Vee Enterprise;
- ▶ **Urban Equities, Inc./City Lands Corp.** -- a joint venture of Lisec and Blederman, Ltd., Linn-Mathes, Inc., and Best American Builders; and
- ▶ **Whitman Architecture and Construction** with Nathan Kipnis Architects.

- ### -



THE HABITAT COMPANY

For Immediate Release:

January 26, 1996

CONTACT: Marilyn Katz
312/822-0505

**CHA, HABITAT ANNOUNCE NEXT PHASE IN CABRINI
REDEVELOPMENT PROCESS**

CHICAGO (January 26, 1996) – When the Cabrini Green Public Housing Development was erected 40 years ago it was a symbol of the hope that urban poverty could be eradicated easily; in the 1980s the development became the symbol of despair and isolation. Today, however, plans to redevelop part of Cabrini Green in a manner that allows it to realize the original intention of better housing and a better life for its residents, are moving forward.

At a morning press briefing held by the Chicago Housing Authority and The Habitat Company, the development manager for CHA, CHA Executive Director Joseph Shuldiner and Habitat Company Executive Vice President Valerie Jarrett announced that The Habitat Company has finished its preliminary receipt and review of all proposals submitted for redevelopment of part of the Cabrini Green site under the HOPE VI initiative and is ready to proceed to the next stage in the planning, which entails public discussion and technical review of the qualifying proposals.

"It is crucial to keep the public informed and involved," said Shuldiner. "We will continue to seek maximum input from the community to get the best plan, a plan that meets the goals that Hope VI was created to achieve." Shuldiner also said that the first of a series of meetings was held today with the Screening Committee. The Screening Committee is composed of Cabrini Green residents, CHA, City of Chicago and HUD officials and two appointed community representatives.

At the same time during the next weeks The Habitat Company will meet with a variety of stakeholders in the community who will have the opportunity to review the proposals and from whom they hope to gain insight, opinions and ideas. These groups will include CHA residents, numerous community, civic and business organizations in the North Town area, officials of the City, State and HUD and city-wide civic leadership groups. In March a Town Hall meeting will also be held.

Ms. Jarrett explained that during the public outreach process, The Habitat Company will be engaged in an extensive evaluation of each of the qualifying proposals ascertaining their financial, technical, physical, social and aesthetic merits.

-more-

RA-169

MEDIA ADVISORY

WHAT: Cabrini Green Redevelopment
Progress Report
WHEN: January 26, 1996 10:30 a.m.
WHERE: The Habitat Company
350 West Hubbard, 5th floor

For Information Contact:
Jeff Muchnick/Marilyn Katz
312/822-0505

CHA, HABITAT TO ANNOUNCE PROGRESS ON CABRINI GREEN PLAN

CHICAGO (January 25, 1996) - With all development proposals for the redevelopment of the Cabrini Green Homes catalogued and the "responses to omissions" received the CHA and The Habitat Company, the development manager for Cabrini, will host a press briefing to provide an update to the public on the progress being made thus far and to outline the public outreach process which will follow.

The briefing, to be held at The Habitat Company, at 10:30 a.m. on Friday, January 26th will center on the status of the ten redevelopment proposals received in December and the public planning process that is imminent. The briefing will be lead by The Habitat Company Chairman Daniel Levin, Executive Vice President Valerie Jarrett and Joseph Shuldiner, Executive Director of the CHA.

The Habitat Company is located at 350 West Hubbard on the fifth floor. Graphic boards and the written proposals will be on hand for press viewing, however, copies of any individual proposal must be obtained from the proposing teams.

###

Fee



The Chicago Housing Authority

March 25, 1996

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

John Nelson
Deputy Executive
Director for Operations

Antonio Vargas
Executive
Director for Finance and
Administration

Hon. Henry G. Cisneros, Secretary
Dept. Of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410

Dear Secretary Cisneros,

Thank you for your letter to me dated March 15, 1996 in regard to the need to provide viable housing options for low income persons whose mobility impairments or health conditions prevent the use of stairs. Please be assured that we, at the Chicago Housing Authority, are very aware of the need to maximize the availability of such units. Further, because so much of our existing stock is not handicapped accessible, and cannot easily be made so, we, too, look upon the new construction replacement and scattered site units as our best opportunity to increase this stock.

Further be assured that I have mentioned this need to the Habitat Company in the past. As you know, whether as receiver for our scattered site units, or as development manager for the replacement units at Cabrini, Horner, and the Lakefront, the Habitat Company administers our new construction efforts.

I will share with them your letter and your concern, and continue to work with them to maximize the percentage of the units built which can be both lived in and visited by persons with mobility impairments.

Thank you again for your letter and support.

Sincerely,

A handwritten signature of Joseph Shuldiner, written in dark ink, with a stylized, flowing script.

Joseph Shuldiner

cc: Edwin Eisendrath
Dan Levin
Valerie Jarrett ✓
John Nelson
Andy Rodriguez

RA-172

DRAFT

Block	Description	Acreage	Total Dwelling Units	Market Rate Units	Public Housing Units	Property Ownership & Description
Phase 1 1 - 3 Years						
Stage 1						
C	1150-60 N. Sedgwick	1.94	58	41	17	CHA
E	1159 N. Cleveland	1.67	50	35	15	CHA
H	N. Cleveland (Parking)	2.15	65	45	20	CHA
I1	Oscar Meyer (MCL)	2.8	84	68	16	MCL
N	Mohawk North	3.26	98	82	16	MCL
L	"North Green"	3.89	117	82	35	Wrightwood Dev., City of Chicago and the Chicago Park Dist.
L1	"North Green"	1	30	8	24	Wrightwood Dev. (Multi-family building)
K	"The Hill" (South Half)	1.25	38	27	11	The City of Chicago
M	Orchard Park	3	90	29	11	CHA
F	1117-19 N. Cleveland	1.82	0	0	0	CHA (New school site, Byrd and Jenner combined)
B	Seward Pk./Byrd Sch.	4.02	0	0	0	Chicago Park Distr., Various private owners (Park Space)
D	CHA Park Area	2.09	0	0	0	CHA (Park Space)
Subtotal		28.89	629	414	165	
Stage 2						
G	1158 N. Cleveland	1.61	48	34	14	CHA
J	Division St. (Police)	3.1	0	0	0	City of Chicago (CFD) and various private owners
I2	Oscar Meyer (MCL)	1.1	30	24	6	MCL
Y1	Y - North	7.3	219	154	65	CHA, Chicago School Board, Public Building Commission
Y2	Y - Clybourn	1	80	56	24	Chicago School Board (Multi-family building)
Subtotal		14.11	377	268	109	
Stage 3						
Z	New High School Site	8.4	0	0	0	City of Chicago and various private owners
Y3	Y - High School Area	4.7	141	99	42	Chicago School Board, CMHDC, Private Owners (southern end)
A	Division & Orleans	1.92	58	41	17	Various private owners and The City of Chicago
Subtotal		15.02	199	139.6	59	
Total Phase 1		58.02	1205	822	333	
Phase 2 3 - 6 Years						
Stage 1						
C	Oak & Wells	3.61	108	78	32	City of Chicago
J	Oscar Meyer (MCL)	2.4	36	29	7	MCL
D	1121 N. Larrabee	2.13	64	45	19	CHA (Rehab existing building to house elderly)
Subtotal		8.14	208	150	58	
Stage 2						
O	1161 N. Larrabee	1.43	43	30	13	CHA
Q	1015 N. Larrabee	3.92	118	83	35	CHA
S	Jenner School Site	1.63	49	34	15	Chicago School Board
Subtotal		6.98	209	146.4	63	
Total Phase 2		15.12	418	297	121	
Subtotal Phases 1 & 2		73.14	1622	1118	454	
Phase 3 6 + Years						
Stage 1						
V	1150 Block N. Larrabee	1.19	36	25	11	Various private owners
W	1120 Block N. Larrabee	2.17	65	45	20	Various private owners
X	1000 Block N. Larrabee	2.5	75	52	23	Various private owners
Subtotal		5.86	176	122	54	
Stage 2						
T	Division (Institutional)	2.3	0	0	0	MCL and various private owners
AA	Larrabee & Clybourn	3.83	115	80	35	Various private owners
BB	Halsted & Division	0.97	29	20	9	City of Chicago and CHA
DD	Maint. and Heating Bldg.	1.91	57	40	17	CHA
R	SE Larrabee & Oak	1.58	47	33	14	Various Private Owners
U	Spanjer Site	3.07	92	92		MCL
Subtotal		13.64	340	265	75	
Total Phase 3		19.5	516	387	129	
Grand Total All Phases 1,2 & 3		92.64	2138	1505	583	
**Grand Total (New Units Only)		70.91	2138	1505	583	

Notes:

** The Grand Total for new units excludes non-residential areas.
All sites are 30 units per acre, except areas I3 (15u), L1 (80u), and Y2 (80u).
Total public housing units per each site equals 30% of the Total Dwelling Units, excluding areas I1,I2,I3 (20%), N (17%), and M (25%).
The maintenance and heating facility, located at Wendell & Hudson, could be relocated to Area T.
Portions of Area Y & L will be utilized for park space.

Structure Types:

Three Flats
Two Flats
Row Houses

Multi-Family building (80 units) (AREAS L1 AND Y2 ONLY)

Six stories, 180' x 60'
This structure will include duplex units on the first two floors with smaller units occupying floors three through six.

Elderly building (80 units) (OPTIONAL)

Six stories, 180' x 60'
This structure will include community space on the first floor with 80 one bedroom units occupying floors two through six.

RA-173



THE HABITAT COMPANY

MEMORANDUM

TO: Cabrini Hope-VI Planning Group

FROM: Valerie B. Jarrett
Valerie B. Jarrett
Executive Vice President

RE: Cabrini HOPE VI Planning Issues

DATE: June 18, 1996

Pursuant to the June 11, 1996, meeting regarding the Cabrini - HOPE VI Planning Study, enclosed please find a first draft of the issues we have identified as integral to the implementation of the redevelopment of the Cabrini-Green area.

Please review and provide us with your comments, changes, and additions as soon as possible. You may fax them to Matt Nielson at (312) 527-5863, or contact him directly at (312) 595-3259. We will revise the list to reflect your changes and circulate it prior to our meeting again. To facilitate arranging the next meeting, please also let us know who the key person(s) will be from your organization that will be a part of the working group studying these issues.

For your information, we have attached a revised "number" sheets and a roster of the Cabrini-HOPE VI Planning Group representatives.

c: Daniel E. Levin
Philip A. Hickman
Lee Reid
Matt Nielson
Charlton Hamer

VBJ/MJN/mn

I:/draft/admin/cabrini/outline.cvr
4192.

RA-174

CABRINI - HOPE VI ISSUES

Planning Group

City of Chicago (*City*)

Chicago Housing Authority (*CHA*)

Chicago Park District (*CPD*)

Chicago Board of Education (*BdEd*)

U. S. Department of Housing and Urban Development (*HUD*)

The Habitat Company - *Planning Group Coordinator (THC)*

I. Time line

(Planning Group)

II. Financing

A. Tax Increment Finance District Designation

(City)

1. Designation Process
2. Increment Generation
3. Eligible Expenditures
 - a. Infrastructure
 - b. Demolition
 - c. Environmental Remediation
 - d. Acquisition
 - (1) Demolition
 - (2) Relocation

B. National/State/Local Assistance Programs

1. City of Chicago, Department of Housing ("DOH") (City)
 - a. New Homes for Chicago
 - b. Low-Income Tax Credits
 - c. HOME loan funds
 - d. CDBG (Community Development Block Grant) Funds
 - e. Tax-exempt bonds
 - f. Process for developer access to DOH funding/programming
 - (1) Timing
2. City of Chicago, Department of Planning and Development (City)
3. Mayor's Office of Employment and Training ("MET")
4. Illinois Housing Development Authority (City, THC)
 - a. Low-Income Tax Credits
 - b. HOME loan funds
 - c. Trust Fund
 - d. Tax-exempt bonds
5. Federal Home Loan Bank (THC)
6. Local Initiatives Support Corporation ("LISC") (THC, City)
7. CMHDC (THC, CHA)

III. Schools

(BdEd)

- A. School Facility Closures
 - 1. Near North Magnet HS
 - 2. Jenner and Byrd Consolidation
 - 3. Effect on Other Schools - Schiller, Franklin (fine arts academy), Manierre, Sojourner Truth
 - a. Possible expansion of other schools
 - (1) Franklin
 - 4. Relocation of Ferguson Child-Parent Center
 - a. potential location adjacent to Manierre
 - 5. Community Support
 - a. Local School Councils ("LSC's")
 - b. Principals
 - c. Students/Teachers/Parents
- B. New Schools
 - 1. New Math/Science Academy or other High School
 - a. Land Acquisition
 - b. Community Process
 - 2. Jenner/Byrd Replacement
 - a. Timing
- C. Funding Sources
 - 1. Capital Improvement Programming
- D. Timing
 - 1. Construction
 - 2. Funding

IV. Parks

(City, CPD)

- A. Seward Park Expansion
- B. Stanton Park
- C. New Block "Y1" Park
- D. Playlots
 - 1. CitySpace/NeighborSpace program
- E. Advisory Councils/Input
- F. Funding for Improvements
- G. Programming
- H. Community Process Needed
- I. Timing

V. Public and Non-Public Housing Options

(City, HUD, CHA, THC)

- A. Home Ownership
- B. Rental Housing

- C. Block by block issues
 - 1. Mixed-Income Models for rental units
 - 2. Unit Density and Building Type
 - 3. Economic mix
 - 4. Absorption/Marketing Issues
 - 5. Senior and Family Units
- D. MCL sites (mixed-income development or all market rate)
 - 1. Spanjer
 - 2. Oscar Meyer
 - 3. Mohawk North

VI. Infrastructure

- A. Type of Infrastructure
 - 1. Streets and Medians (City)
 - 2. Water, Sewer and Street Electricity (City)
 - 3. New Heating Plant (CHA)
 - 4. Potential to relocate Commonwealth Edison overhead facilities along Kingsbury underground. (City)

VII. Transportation Issues

- A. Public Transit (CTA)
 - 1. Potential long-term CTA improvements
- B. Traffic/Street Design Issues (City)
 - 1. Return to Orthogonal Grid System
 - a. Vacation of Ogden/other streets and alleys
 - b. Opening of new streets and alleys
 - c. Use of cul-de-sacs, traffic circles
 - 2. Improvements for Division/Orleans/Clybourn intersections (City)
 - a. How to alleviate increased traffic congestion

VIII. Land Acquisition

(City,THC)

- A. Identification of Property to be Acquired
- B. Relocation Obligations
- C. Timing
- D. Oak/Wells Lis Pendens
- E. YMCA Site
 - 1. Environmental Remediation on the Hill

IX. HOPE VI

(CHA,HUD,THC)

- A. Preparation of the Revised Revitalization Plan
- B. Revitalization Plan submittal and approval by HUD and Gautreaux Court

- X. Decision on RFP's** (THC,CHA,HUD,City)
- A. Choosing a developer/developers from the six remaining proposals for HOPE VI
 - B. Issuing new RFP's
 - C. Negotiating with developers
- XI. Resident Issues** (City, CHA)
- A. Two Surveys for the determination of replacement units
 - 1. A survey to get an accurate count for how many residents want to move into new units, from the 660 units being demolished under the HOPE VI Program.
 - 2. A survey for the additional buildings proposed for demolition.
 - B. Surveys to determine preferences:
 - 1. Section 8
 - 2. Scattered Site
 - 3. Replacement
 - C. Input from Local Resident Council and other community organizations
- XII. New Commercial Development** (City)
- A. Oscar Mayer Site
 - B. Division Street "T" site
- XIII. New/Existing City Services Facilities** (City)
- A. New Police Station on Block "J"
 - B. Fire Stations on Blocks "B" and "J"
 - C. Library
 - D. Medical facilities (clinics)
 - E. Sanitation
- XIV. Green Homes (Long Term)** (City, CHA, THC)
- A. Potential Rehabilitation (modernization funds)
 - B. Potential Replacement
- XV. Community Facilities** (City,CHA)
- A. Management Maintenance Facility
 - B. Day Care Centers
 - C. Community Centers

PROJECT DIRECTORY - CA. NI HOPE VI REDEVELOPMENT

NAME	COMPANY/ADDRESS	TELEPHONE #	FAX #
Warren Matha	Board of Trustees Chicago Board of Education 1819 W. Pershing Road - 61EN Chicago, IL 60609	535-5866 535-3700	535-3720 535-8758
Ed Uhlir	Chicago Park District Director of Architecture, Engineering & Planning 425 E. McFetridge - Suite 3C Chicago, IL 60605	747-0696	747-6046
Jeff Boyle Marcel Acosta Margie Muchin-Goldblatt	City of Chicago Department of Planning & Development 121 N. LaSalle Street Chicago, IL 60602	JB - Room 1000 - 744-9476 MA - Room 1003 - 744-4142 MMG - Room 1107 - 744-4456	744-2271 744-6550 744-7996
Rosanna Marquez Jean Franczyk	City of Chicago Mayor's Office 121 N. LaSalle Chicago, IL 60602	RM - Room 507 - 744-6655 JF - Room 406 - 744-2265	744-2324 744-2727
Julia Harris Rick Rice	City of Chicago Office of Budget Management 121 N. LaSalle - Room 604 Chicago, IL 60602	JH - 744-9153 RR - 744-9568	744-3618
Marina Carrott Sonya Malunda	City of Chicago Department of Housing 318 S. Michigan - 7th Floor Chicago, IL 60604	MC - 747-1655 SM - 747-8529	744-1670 744-1670
Edwin Eisendrath Jeanne Crowley	U. S. Department of Housing and Urban Development 77 W. Jackson Blvd. - 26th Floor Chicago, IL 60604	EE - 353-5680 JC - 353-5680	886-2729
Joseph Shuldiner Rich Monocchio Andy Rodriguez Eileen Rhodes	Chicago Housing Authority 626 W. Jackson Blvd. - 7th Floor Chicago, IL 60661	JS - 791-8500 RM - 791-8988 AR - 791-8500 x. 4500 ER - 791-8500 x. 4508	791-4601 791-4601 791-4601 791-4601
Chris Lee	Johnson & Lee, Ltd. 828 S. Wabash Avenue Suite 210 Chicago, IL 60605	663-0225 x.14	663-4491
Daniel E. Levin Valerie B. Jarrett Phil Hickman Matt Nielson Charlton Hamer	The Habitat Company 350 W. Hubbard Street Suite 500 Chicago, IL 60610	DL - 527-6046 (Joyce) VBJ - 527-7471 (Kathy) PH - 527-7492 (Karen) MN - 595-3259 (Pat) CH - 595-3245 (Pat)	527-6439 527-7440 527-5863 527-5863 527-5863

RA-179

cabmnrcl

June 17, 1996

DRAFT

Description		Acres	Total Dwelling Units	Market Rate Units	Public Housing Units	Property Ownership & Description
Phase 1						
Stage 1						
Y1	Y - North	7.3	219	154	65	CHA, Chicago School Board, Public Building Commission
Y2	Y - Clybourn	1	80	56	24	Chicago School Board (Multi-family building)
I1	Oscar Meyer (MCL)	2.8	83	67	16	MCL
C	1150-60 N. Sedgwick	1.94	58	41	17	CHA
E	1159 N. Cleveland	1.67	50	35	15	CHA
G	1158 N. Cleveland	1.61	48	34	14	CHA
N	Mohawk North	3.26	92	76	16	MCL
L	"North Green"	3.89	117	82	35	Wrightwood Dev., City of Chicago and the Chicago Park Dist.
L1	"North Green"	1	80	56	24	Wrightwood Dev. (Multi-family building)
K	"The Hill" (South Half)	1.25	38	27	11	The City of Chicago
M	Orchard Park	3	45	34	11	CHA
F	1117-19 N. Cleveland	1.82	0	0	0	CHA (New school site, Byrd and Jenner combined)
B	Seward Pk./Byrd Sch.	4.02	0	0	0	Chicago Park Distr., Various private owners (Park Space)
D	CHA Park Area	2.09	0	0	0	CHA (Park Space)
Subtotal		36.65	910	662	248	
Stage 2						
J	Division St. (Police)	3.1	0	0	0	City of Chicago (CFD) and various private owners
I2	Oscar Meyer (MCL)	1.1	30	24	6	MCL
Subtotal		4.2	30	24	6	
Stage 3						
Z	New High School Site	8.4	0	0	0	City of Chicago and various private owners
H	N. Cleveland (Parking)	2.15	65	45	20	CHA
Y3	Y - High School Area	4.7	141	99	42	Chicago School Board, CMHDC, Private Owners (southern end)
A	Division & Orleans	1.92	58	41	17	Various private owners and The City of Chicago
Subtotal		17.17	263	184	79	
Total Phase 1		58.02	1203	870	333	
Phase 2						
CC	1000 S. Wells	3.61	108	76	32	City of Chicago
I3	Oscar Meyer (MCL)	2.4	36	29	7	MCL
	N. Larrabee	2.13	64	45	19	CHA
	N. Larrabee	1.43	43	30	13	CHA
Q	N. Larrabee/500-10 W. Oak	3.92	118	83	35	CHA
S	Jenner School Site	1.63	49	34	15	Chicago School Board
Total Phase 2		15.12	418	297	121	
Subtotal Phases 1 & 2		73.14	1621	1167	454	
Phase 3						
V	1150 Block N. Larrabee	1.19	36	25	11	Various private owners
W	1120 Block N. Larrabee	2.17	65	45	20	Various private owners
X	1000 Block N. Larrabee	2.5	75	52	23	Various private owners
T	Division (Institutional)	2.3	0	0	0	MCL and various private owners
AA	Larrabee & Clybourn	3.83	115	80	35	Various private owners
BB	Halsted & Division	0.97	29	20	9	City of Chicago and CHA
DD	Maint. and Heating Bldg.	1.91	57	40	17	CHA
R	SE Larrabee & Oak	1.56	47	33	14	Various Private Owners
U	Spanjer Site	3.07	92	92	0	MCL
Total Phase 3		19.5	516	387	129	
Grand Total All Phases 1, 2 & 3		92.64	2137	1554	583	
Grand Total (New Units Only)		70.91	2137	1554	583	

RA-180

Notes:

- All information included in this study is subject to change for planning purposes.
- The Grand Total for new units excludes non-residential areas.
- All sites are 30 units per acre, except areas I3 (15u), L1 (80u), Y2 (80u), N (28u) and M (15u).
- Total public housing units per each site equals 30% of the Total Dwelling Units, excluding areas I1, I2, I3 (20%), N (17%), and M (25%).
- The main entrance and heating facility, located at Wendell & Hudson, could be relocated to Area T.
- Parking area Y & L will be utilized for park space.
- Forfeitable housing units equal 20% of the total market rate units.

Structure Types:

- Three Flats
- Two Flats
- Row Houses

Multi-Family building (80 units) (AREAS L1 AND Y2 ONLY)

Six stories, 180' x 60'
This structure could include duplex units on the first two floors with smaller units occupying floors three through six.

Elderly building (80 units) (OPTIONAL)

Six stories, 180' x 60'
This structure could include community space on the first floor with 80 one bedroom units occupying floors two through six.

DRAFT

FIRST PAGE ONLY ENCLOSED

FULL COPY OF EXHIBIT FILED WITH COURT

RA-181

DRAFT

(FOR REVIEW AND COMMENT)

*An Analysis of the Potential
for Market Rate Residential Development
Cabrini-Hope VI Urban Revitalization
Demonstration Program
Chicago, Illinois*

Prepared on behalf of:

THE HABITAT COMPANY
as Receiver for

**THE CHICAGO HOUSING AUTHORITY'S
SCATTERED SITE PROGRAM**

February 1997

RA-182



The Chicago Housing Authority

Office of the General Counsel

win Eisendrath
Chairman

Joseph Shuldiner
Executive Director

Executive Committee
Rosanna Marquez
Linda Randolph
Monty W. Wright III
Dr. Mildred Harris

Samuel Moses
Deputy Executive
Director for Community
Relations & Involvement

John Nelson
Deputy Executive
Director for Operations

James S.
Director for Finance and
Administration

Norman M. Buder
General Counsel

May 3, 1996

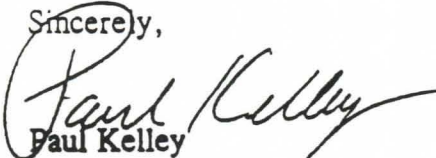
Phil Hickman
Scattered Site Program
The Habitat Company
350 West Hubbard Street
Chicago, Illinois 60610

Re: HOPE VI Development Management Agreement

Dear Mr. Hickman:

Enclosed herewith please find a draft HOPE VI Development Management Agreement for your review. Please contact me with your comments at your earliest convenience.

Sincerely,


Paul Kelley
Associate General Counsel

RA-183

HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

This AGREEMENT ("Agreement") is made and entered into as of _____ 1996 between the Chicago Housing Authority, 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.
- B. The Authority submitted an application to the Secretary of the United States Housing and Urban Development ("HUD") for funding of a Hope VI-Urban Revitalization Demonstration Program pursuant to which the Authority would develop 493 units of housing to replace units scheduled for demolition in the public housing development community known as Cabrini-Green, 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 entered into an Implementation Grant Agreement (Form HUD-1044) effective November 14, 1994, for the total amount of fifty million dollars (\$50,000,000).
- D. The Authority desires to contract with Habitat to be development manager for 303 units of the housing contemplated under the Hope VI-Urban Revitalization Demonstration Program (the "Program") and Habitat desires to accept such contract, all on the terms and conditions set forth below.

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

- 1. Obligations of Habitat. Habitat shall, subject to any approvals of the Authority which may be required hereunder, coordinate and manage the planning and the implementation phases of the housing development contemplated under the Program in accordance with the provisions of the Annual Contribution Contract No. IL06URD0021194 (the "ACC"), as the same may be amended from time to time, and 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.
- a. Planning Phase. The Authority and Habitat have prepared the two-part Request for Proposals (RFP), which included qualifications in Part 1 and the physical and financial plan in Part 2. The responses to Part 2 were for development, utilizing the turnkey development method on CHA property, or on property supplied by the developer. Habitat has evaluated the responses to the RFP and shall solicit comment from the City agencies, elected officials, community and business organizations, and residents of Cabrini-Green. Habitat shall analyze the proposals in light of the comments received. Upon completion of this analysis, Habitat shall make a presentation and recommendation to the Authority regarding the responses to the RFP and the implementation of the Program. Habitat shall assist as requested, and cooperate with the Authority with regard to the preparation of a revised HOPE VI application for submission to HUD.

- b. Implementation Phase. Habitat shall be responsible for the implementation of following areas relative to the Program:

- 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 professionals;
- 6) Adjustment, settlement or compromise of any claim, obligation, debt, demand or suit relating to the 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;

Habitat shall obtain the Authority's prior approval for any contract or agreement Habitat seeks to enter for the purposes of carrying out the foregoing. 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 cooperate 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 acknowledges that the Authority is entering into this Agreement in reliance upon Habitat's knowledge and experience, and agrees to use its best skill and judgment in the performance of its obligations hereunder and to cooperate with with Authority staff or agents in promoting the interests of the Authority. Habitat agrees to provide timely administration and advice, and to provide professional superintendence and administration of the work related to the Program. 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, joint venturers, and have no employer/employee relationship. It is further explicitly acknowledged that Habitat is acting exclusively in its corporate capacity, and not as the court-appointed receiver in the Gautreaux case (66 C 1459).

2. Compensation. Habitat shall be paid a development manager fee ("Fee") based on 3% of the Total Development Cost (TDC). Additionally, Habitat shall be reimbursed for all costs directly associated with site acquisition and other directly related construction and equipment costs ("Costs") listed on Exhibit B attached hereto. The sum of such Fees and Costs payable by the Authority (collectively, "Developers Fees") shall not exceed 7.5% of the TDC. Said Developers Fees shall be paid upon completion and transfer of each unit. The parties acknowledge and understand that Exhibit "B" may be revised and amended from time to time upon agreement of the parties. It is expressly agreed to and acknowledged, however, that Exhibit B shall not include, and that the Authority shall not be responsible for, the payment of salaries or other employee compensation, administrative costs, or any federal, state or local taxes relative to Habitat's business.

The parties expressly acknowledge that the 3% fee customarily received by Habitat for its services and performance as Receiver under the court orders in the Gautreaux case is not applicable to the services to be performed hereunder.

The Authority acknowledges that the HOPE VI Program contemplates the development of market rate housing and public housing in a mixed-income setting. To the extent that Habitat receives any development management fees in connection with their role in the development of market rate housing related to the HOPE VI Program, such fees shall be divided equally between the

3. Authority's Obligations. The Authority shall coordinate with and be the principal communication link to the Cabrini residents, their official representatives and their consultants.
4. Cooperation of the Parties The the Authority and Habitat agree to fully cooperate with one another to carry out the planning and implementation of the 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 Program. If the Parties agree that 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 performance of its 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. Similarly, 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 the performance of its obligations under this Agreement, except any resulting from the gross negligence of Authority or its willful breach of its obligations under this Agreement
5. Term and Termination. The term of this Agreement shall commence on the date hereof and shall expire upon completion of the Program. In the event that the Program is terminated or otherwise limited or forestalled for reasons beyond the Authority's control, the Authority may terminate this Agreement at its option. Additionally, in the event that Habitat fails to perform any of the obligations hereunder, or breaches any of its duties, the Authority shall have the option to terminate this Agreement upon thirty days written notice to Habitat. Upon termination of this Agreement for any reason, Habitat shall immediately refrain from entering into any contracts or agreements with respect to implementation of the Program. Habitat shall also transfer to the Authority, at the time and in the manner directed by the Authority, all of its rights, 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.
6. Miscellaneous.
 - 6.1 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 and as are not inconsistent with the terms hereof.
 - 6.2 Reporting. Each month, during the term of this Agreement, Habitat shall prepare a written report to the Authority describing the status of the Program. Specifically, the report shall include an accounting of all expenditures made or incurred in connection with the Program, and summaries of actions taken pursuant to Paragraph 1(b) hereof. Said report shall be delivered to the Executive Director of the Authority not later than the 10th day of each month.
 - 6.3 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.

- 6.4 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.
- 6.5 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.
- 6.6 Entire Agreement: Amendment. This Agreement incorporates 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.
- 6.7 Resolution of Disputes. The parties shall make a good faith effort to resolve and dispute that may arise between them.
- 6.8. Confidentiality. Each party, for itself and its agents and employees, agrees that the documents and information made 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.

[other required CHA contract language]

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

THE CHICAGO HOUSING AUTHORITY

THE HABITAT COMPANY

By: _____
Chairman

By: _____
President

EXHIBIT B

Allowable costs

RA-188

HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

This AGREEMENT ("Agreement") is made and entered into as of _____ 1996 between the Chicago Housing Authority, organized and existing under the laws of the State of Illinois (the "Authority"), and Daniel Levin and The Habitat Company, not personally but jointly as Receiver for the Chicago Housing Authority Scattered Site Housing Program (collectively "Habitat").

RECITALS:

- A. The Authority is a public housing agency authorized to operate public housing in the City of Chicago.
- B. Pursuant to a Court Order dated August 14, 1987, entered in *Gautreaux v. Pierce*, United States District Court, Northern District of Illinois, Case Nos. 66 C 1459 and 66 C 1460 (consolidated) (the "Gautreaux Litigation"), Habitat was appointed and continues as the Receiver for the development of the Authority Scattered Site Housing Program, then being operated by the Authority, and for the new family development activity sponsored by the Authority.
- C. The Authority submitted an application to the Secretary of Housing and Urban Development ("HUD") for funding of a Hope VI-Urban Revitalization Demonstration Program (the "Program") pursuant to which the Authority would develop 303 units of housing to replace units scheduled for demolition in the public housing development community known as Cabrini-Green, all as described in the application.
- D. HUD approved funding for the Program and pursuant thereto HUD and the Authority entered into an Implementation Grant Agreement (Form HUD-1044) effective November 14, 1994, for the total amount of fifty million dollars (\$50,000,000).
- E. The Authority desires to contract with Habitat to be development manager of the housing contemplated under the Program and Habitat desires to accept such contract, all on the terms and conditions set forth below.

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

- 1. Authority of Habitat. Habitat, with the required approvals of the Authority, shall oversee, coordinate, manage and control (1) the planning and (2) the implementation phases of the housing contemplated under the Program in accordance with the provisions of the Annual Contribution Contract No. IL06URD002I194 (the "ACC"), as amended from time to

time.

- a. Planning Phase. Habitat has prepared the two-part Request for Proposals (RFP), which included qualifications in Part 1 and the physical and financial plan in Part 2. The responses to Part 2 were for development, utilizing the turnkey development method on CHA property, or on property supplied by the developer. Habitat has evaluated the responses to the RFP and will solicit comment from the City agencies, elected officials, community and business organizations, and residents of Cabrini-Green. Upon completion of the analysis of the proposals and full discussion with the interested parties, Habitat shall make a recommendation to the Authority on the most appropriate course of action for the implementation of the Program, and revise the HOPE VI application for submission to HUD based upon direction from the Authority.
- b. Implementation Phase. Habitat shall undertake responsibility for the implementation of following areas relative to the Program:
 - 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 professionals;
 - 6) Community relation programs;
 - 7) Intergovernmental relations;
 - 8) Adjustment, settlement or compromise of any claim, obligation, debt, demand or suit relating to the Program; and
 - 9) Supervision of the construction during the construction phase and coordination with the Authority and HUD during the warranty and post-construction phases;
 - 10) Any and all other matters relating to the development, completion, operation and control of the Program.

2. Compensation. Habitat shall be paid a development manager fee based on 3% of the sum of the turnkey developers price, plus costs associated with site acquisition, planning and other construction and equipment costs as shown in the categories for such items on Exhibit "A" attached hereto, such fee to be calculated in the same manner as under prior scattered site housing programs. Said fee shall be paid upon completion and transfer of each unit and shall be included in the cost of each unit. The parties acknowledge and understand that said Exhibit "A" may be revised and amended from time to time.

In addition, Habitat shall be reimbursed for all administration costs in connection with performing the services described herein in general conformance with the categories listed under "Administration" on Exhibit "A" attached hereto. The Authority shall make payment to Habitat within ten (10) days of receipt of invoices for administrative costs.

Since the HOPE VI housing program contemplate market rate and public housing in a

mixed income setting, the development manager will incur administrative and planning time and expense related to the market rate housing. Over the course of time the development manager will need to monitor the private construction, coordinate with City departments and assist in the implementation of the redevelopment area and the market rate units in the mixed income plan.

As a result, if non-public housing units are included as part of the Program, Habitat shall be entitled to receive a development manager fee of 2% of the construction cost for each of the for sale units and the 2% total development cost for each of the rental units. Any contract with any developer of such non-public housing units shall specifically provide for such payment.

3. Cooperation of Authority. The Authority will fully cooperate with Habitat in the planning for and implementation of the Program, including, without limitation, executing and delivering of all documents reasonably requested by Habitat or required by any governmental authority relative to the Program. The Authority will cooperate with Habitat to seek from HUD modifications of the ACC to the extent that Habitat deems such modifications reasonably necessary to appropriately implement and develop the Program. The Authority shall coordinate with and be the principal communication link with the Cabrini residents, their official representatives and their consultants.
4. 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 performance of its obligations under this Agreement, except any resulting from the gross negligence of Habitat or its willful breach of its obligations under this Agreement.
5. Term. The term of this Agreement shall commence on the date hereof and shall expire upon completion of the Program or by mutual agreement of the parties.
6. Miscellaneous.
 - 6.1 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 and as are not inconsistent with the terms hereof.
 - 6.2 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.
 - 6.3 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.
 - 6.4 Governing Law. This Agreement shall be governed and construed in accordance

with the laws of the State of Illinois.

- 6.5 Entire Agreement: Amendment. This Agreement incorporates 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.
- 6.6 Resolution of Disputes. The parties shall make a good faith effort to resolve any dispute that may arise between them. In the event they are unable to do so, either party may apply to the then presiding judge in the Gautreaux Litigation for a judicially determined resolution, which shall be binding on the parties.
- 6.7 Compliance with Laws: HUD Regulations. 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 and the Authority agrees to cooperate in such effort.
- 6.8 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.

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

THE CHICAGO HOUSING AUTHORITY

DANIEL LEVIN and THE HABITAT
COMPANY, as Receiver as aforesaid

THE HABITAT COMPANY

By: _____
Chairman

By: _____
President

DANIEL LEVIN

HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

This AGREEMENT ("Agreement") is made and entered into as of _____, 1996 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 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 493 units of housing to replace units scheduled for demolition in the public housing development community known as Cabrini-Green, 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 entered into an Implementation Grant Agreement (Form HUD- 1 044) effective November 14, 1994, for the total amount of fifty million dollars (\$50,000,000). As Receiver, Habitat is responsible for developing replacement public housing pursuant to such Program and HUD has approved the Receiver to develop 193 units. HUD has entered into two (2) ACC's with the Receiver to develop 193 units funded under programs IL06-P802-182 (107 units) and IL06-P802-192 (83 units) for a total of \$18,993,750.
- 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 plans.
- E. The Authority desires to contract with Habitat to coordinate the development of replacement housing under the HOPE VI Program (for which Habitat is responsible) with all other aspects of the Program (for which the Authority is responsible), including without limitation housing units other than public housing and non-housing buildings, all to assure the coordinated and comprehensive planning that is essential to effective implementation of the Program.
- F. Notwithstanding this contract, the terms of the court order dated August 14, 1987, appointing Daniel Levin and The Habitat Company as Receiver for the development of all non-elderly CHA public housing (Receiver) are intact and in full force.

NOW, THEREFORE, in consideration in 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. IL06URD0021194 (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. Habitat has prepared a two-part Request for Proposals (RFP), which included qualifications in Part I and the physical and financial plan in Part 2. The responses to Part 2 were for development, utilizing the turnkey development method on CHA property, or on property supplied by the developer, or a combination of both. Habitat has evaluated the responses to the RFP and shall solicit comment from the City of Chicago agencies, elected officials, community and business organizations, and residents of Cabrini-Green. Habitat may retain design professionals and other consultants deemed necessary by Habitat to assist in the physical and financial planning and coordination of the mixed income development contemplated.

Habitat shall analyze the proposals in light of the comments received. Upon completion of this analysis, Habitat shall make a presentation and recommendation to the Authority regarding the responses to the RFP and the implementation of the Program. Habitat shall assist, as requested, and cooperate with the Authority with regard to the preparation of a revised HOPE VI application for submission to HUD and shall prepare a request to the U.S. District Court for permission to build replacement public housing in the Cabrini area by declaring it a "Revitalizing Area."
- B. Implementation Phase. Upon the Authority's and HUD's approval of an acceptable mixed-income 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.

Should the Authority deem it appropriate for Authority personnel to become involved in the aforesaid activities, Habitat shall fully cooperate 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 acknowledges that the Authority is entering into this Agreement in reliance upon Habitat's knowledge and experience. 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") based on 3% of the Total Development Cost ("TDC") for each completed unit of public housing under the Approved Program. Additionally, Habitat shall be reimbursed for all costs directly associated with site acquisition, administration and planning ("Costs") listed in the Project Budget. Notwithstanding the foregoing, the sum of all Developer Fees and Costs payable by the Authority shall not exceed 7.5% of the TDC, or such amount which may be approved by the Gautreaux Court. The portion of the Developer's **Fee attributable** to each completed unit shall be earned and paid upon completion 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.

The Program contemplates the development of market rate housing and public 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. Authority's Obligations. The Authority shall coordinate with, and be the principal communication link to the Cabrini residents, their official representatives and their consultants and the principal public spokesperson with respect to the Approved Program. 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 and shall cooperate with Habitat to coordinate such with the mixed income housing development which is the responsibility of Habitat.

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 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. Upon termination of this Agreement for any reason, Habitat shall immediately refrain from entering into any contracts or agreements with respect to the implementation of the Approved Program subject however to its obligations as Receiver. Habitat shall also transfer to the Authority, at the time and in the manner 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.

7. Remedies. 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, subject to the approval of the Gautreaux Court:
- (a) The right to terminate this Agreement as to any or all of the Approved Program activities yet to be performed effective at a time specified by the Authority;
 - (b) The right to withhold all or any part of Habitat's compensation hereunder; and
 - (c) 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 B.
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 shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. CHA and Habitat hereby submit to the jurisdiction of the Gautreaux court with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement provided, the parties agree that before any such controversy is submitted to the Court they will in good faith endeavor to resolve the same by employing the good offices of a person mutually selected by the Authority and Habitat, or if the parties cannot agree upon such a person within ten (10) days of written request from one party to the other so to do, then the chairman of the Civic Committee of the Commercial Club of Chicago shall be automatically designated as such "good offices" person. Habitat and the Authority agree to comply with the reasonable requests of such selected or designated person respecting information and procedure, and to give good faith consideration to such person's recommendations. In any event, however, either party shall be free to submit any such controversy to the Court if recommendations are not received from the "good offices" person within forty-five (45) days of his or her selection or designation as above provided. Habitat agrees that service of process on Habitat may be made, at its option of the Authority, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Habitat, or by personal delivery on any officer, director, or managing or general agent of the Habitat.
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

THE HABITAT COMPANY

By: _____
Executive Director

By: _____
Chairman

Project Budget

Exhibit B



Business and Professional People
for the Public Interest

Valerie

June 14, 1996

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

Dear Dan:

You have asked me to comment on a draft of "HOPE VI Development Management Agreement" sent to Habitat by Paul Kelley (letter dated 5/31/96), Associate General Counsel of CHA. I am pleased to comply.

By a Gautreaux order dated 8/14/87, Habitat was appointed Receiver for the development of scattered site public housing. Among other things the order says the Receiver "shall have and exercise all powers of CHA respecting the scattered site program . . . [lots of specific illustrations omitted]." The "scattered site program" is defined to include "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66C1459."

We believe the effect of the 8/14/87 order is to place with Habitat, subject to the Court's supervision and in compliance with HUD regulations, all CHA authority to develop public housing. In our view this authority is not qualified or limited by the source of funds for the development of the housing. Nothing in the order makes Habitat the Receiver to develop public housing funded only by "conventional" public housing development funds, while leaving CHA free to build public housing funded by other funds from HUD, for example, HOPE VI.

Nor in our view is the Receiver's authority limited by the word "scattered" in the appointing order. Nothing could have been further from the Judge's mind than that CHA should be left free to build "concentrated" housing -- the very practice Gautreaux orders preclude without specific "waiver" exceptions -- while Habitat was to build only "scattered" public housing. In our view, no public housing can be developed by or for CHA other than the "scattered" housing the Receiver is authorized to develop unless specifically authorized by Gautreaux order. For example, by its order of

RA-204

Directors
Jerry K. Saltzman
President
Jerry B. Goudman
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
Chris Bouliware
Barbara T. Bowman
Douglas W. Cassel, Jr.
Diane W. Dahl
Susan Davis
Leon M. Despres
Edward F. Dobbins, Jr.
Levin Donnellon
Gary Edidin
Harriet Wilson Ellis
William Farley
William Geller
Eric Gershenson
Graham Grady
Francis R. Grossman
Marc Hilton
Donald J. Jackson
Stephen Johnson
Joseph Kellman
Steve Kersten
Ira Krieg
Susan Larson
Paul Lehman
Thomas J. Lenz
Paul Levy
Robert B. Linton
P. M.
Rick McLennan
E. Hoy McConnell, II
Elena B. Mulcahy
Thomas J. Murphy
Alexander Polikoff
Hipolito Roldan
Jeremy Warburg Russo
Lowell Sachnoff
Alan Saks
Dianne Sautter
Daniel Scheinfeld
Mary Skipton
Ada Skyles
Diann DeWeese Smith
Michael Spuck
Leslie A. Striberg
Sanjay Tailor
Judy Wise
Advisory Board
Donald Dann
Ronald Grzywinski
Elliot Lehman
John McKnight
Dora Williams
Timothy W. Wright, III
Past Presidents
Gordon B. Sherman
Elliot Lehman
Robert B. Linton
James W. Ashley
Alan Saks
E. Hoy McConnell, II
Attorneys
Alexander Polikoff
Executive Director
Julie Elena Brown
Adam Gross
Mary Galloway James
Robert L. Jones, Jr.
Jeanne L. Nowaczewski
Staff Counsel
Staff
Administrative Director
Eva Dziukowski
Systems Manager
Paula Kruger
Mary Rice
Administrative Staff

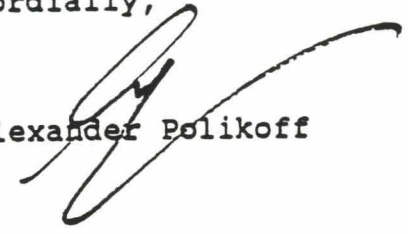
May 1990 the Court, with plaintiffs' agreement, authorized the CHA Demonstration Program. In Horner, some of the housing is to be physically scattered, some to be concentrated; both configurations will be developed by Habitat pursuant to the Court's "waiver" order applicable to Horner.

(Of course, calling the housing "replacement" public housing makes no difference. In fact, the FY1995 Gautreaux set-aside, specifically approved by HUD, was explicitly for "replacement" housing.)

In light of our view that the Court-appointed Receiver is lodged with full and exclusive authority to develop public housing with HUD funds that are allocable to CHA, you can see why we have some trouble with the draft Development Management Agreement. The draft proceeds from the assumption that CHA, not the Court, is conferring authority upon Habitat to develop public housing, and many of its provisions derive logically from this starting point. For example, the draft says Habitat shall develop the contemplated housing subject to CHA approval, that Habitat is engaged as an independent contractor, that Habitat may be terminated by CHA, etc. The agreement even suggests that the Receiver subject itself to the jurisdiction of another court. I do not criticize these provisions as inappropriate in a normal contract situation. It is just that they don't fit this situation at all.

I recognize that there are aspects of the Cabrini project that do not fall under Habitat's mandate, e.g., demolition and social services, and that there must be coordination between these non-Habitat facets of the project and what Habitat must do -- i.e., develop the replacement housing. What seems to me to be called for, therefore, is a different type of agreement -- one in which CHA and Habitat, recognizing the necessity of working together cooperatively in the Cabrini context, spell out the collaborative arrangements between a court-appointed Receiver and CHA that seem to the parties to be needed.

Cordially,


Alexander Polikoff

ALP:mm

cc: Joseph Shuldiner
Edwin Eisendrath



THE HABITAT COMPANY

August 30, 1996

Mr. Richard Monocchio
Special Assistant to the Executive Director
Chicago Housing Authority
626 West Jackson Street, 7th Floor
Chicago, Illinois 60661

Via Facsimile: 312/627-0346

Re: **Cabrini-Green**

Dear Rich:

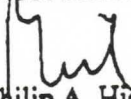
As you know, the Cabrini HOPE VI Revitalization Program includes funding for 303 units which has been funded directly to CHA, plus 190 replacement units funded directly to The Habitat Company as Receiver for the CHA Scattered Site/Replacement Program. Since the takeover of the CHA by HUD in 1995, we have worked actively as Development Manager for the construction of all 493 replacement units.

We have tabulated the exclusive costs attributed to date to the Cabrini HOPE VI, through June 30, 1996, and prorated the administrative and overhead costs attributable to the 190 units and the 303 unit HOPE VI, respectively. In the case where there are direct costs that can be attributable to the HOPE VI program only, such as the issuance of the RFP, then they were assigned as 100% to HOPE VI. An itemization of our cost is enclosed and the total amount attributable to the HOPE VI is \$149,881. We would appreciate your arranging for CHA to remit a check payable to The Habitat Company for this amount.

Although there is apparently a new issue regarding the role of The Habitat Company as Development Manager because of the expanded geographic areas beyond the original 9.3 acres, we continue to actively staff and coordinate the planning process. We look forward to quickly resolving any open matters and proceed to execute the Development Manager Agreement we have discussed over the past several months.

As always, we are available to discuss any aspects of the enclosed if you have any questions.

Sincerely,
SCATTERED SITE PROGRAM


Philip A. Hickman
Director

PAH/ksc

RA-206

cc: Daniel Levin
Douglas R. Woodworth
Valerie B. Jarrett
Edwin Eisendrath
Alexander Polikoff, Esq.

RA-207

The Habitat Company
 Cabrini HOPE VI Urban Revitalization Program
 Costs to date as of June 30, 1996

	Pgm. 182 (107 Units) 21.70%	Pgm. 192 (83 Units) 18.84%	HOPE VI (303 Units) 81.48%	TOTAL (493 Units) 100%
Administration - (Prorata)	\$43,321	\$33,804	\$122,876	(b) \$199,802
Planning - (100% HOPE VI)	0	0	28,784	(a) 28,784
Non-dwelling equipment - (Prorata)	158	121	441	717
	<u>43,477</u>	<u>33,725</u>	<u>149,881</u>	<u>227,083</u>

Note: Administration and Non-dwelling equipment expenses were prorated using the percentage of units in each program.

(a) Actual HOPE VI costs Included in Planning	
(1) Johnson & Lee	\$14,088
(2) Best Photo	419
(3) Messner	1,493
(4) Chicago Motor Coach	462
(5) Terra Testing	10,304
TOTAL	\$28,784

(b) Actual HOPE VI costs Included in Administration	
Nontechnical Salaries	\$18
Technical Salaries	77,749
Legal Expenses	3,251
Employee Benefits	12,790
Travel	3,580
Publications	222
Membership dues	461
Telephone	2,341
Sundry (c)	22,262
TOTAL	\$122,875

Vendor/description	Check Number	Amount	Date Paid
--------------------	-----------------	--------	--------------

(1) Johnson & Lee			
Architect	1936	\$4,350	31-Mar-95
	1988	9,738	30-Apr-95
TOTAL		\$14,088	

(2) Best Photo			
Cabrini Maps	1573	419	17-Nov-95
TOTAL		\$419	

(3) Messner			
Cabrini Map	1275	\$28	14-Aug-95
Proposal copies	1275	48	14-Aug-95
Atlas Map	1293	30	22-Aug-95
Map Reproduction	1293	13	22-Aug-95
RFP	1557	229	13-Nov-95
RFP	1557	820	13-Nov-95
Handbook copies	1557	70	13-Nov-95
Map prints	1817	7	Dec-95
Planning Area Maps	1780	21	16-Feb-96
Soil Bor-Hope VI-addendum	1790	171	16-Feb-96
Copies	9598	58	21-Sep-95
Copies	8403	1	24-Jul-95
TOTAL		\$1,493	

(c) Actual costs included in Sundry	
Rent	\$977
Audit	2,369
Temporary Labor	11
R. M. Equipment	428
Office Supplies	805
Advertising	3,403
Meetings	5
Delivery/Messenger	193
Postage	72
Insurance	123
Equipment Leasing	2,284
Printing	822
Other	5,790
TOTAL	\$22,262

(4) Terra Testing			
Soil borings	1654	\$10,304	19-Dec-95
TOTAL		\$10,304	

(5) Chicago Motor Coach			
Cabrini bus tour	1434	\$331	19-Oct-95
Cabrini bus tour	1435	\$331	19-Oct-95
Cabrini bus tour	Receipt	(\$200)	07-Nov-95
TOTAL		\$462	

TOTAL PLANNING COSTS \$28,784

DEPOSIT TO
FOR CLEAR COPY, PRESS F1

American National Bank
and Trust Company of Chicago • Chicago, Illinois 60600

DATE 1/2/97

CURRENCY	COIN	UNIT	CHECK	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

2-7/79

TOTAL ITEMS 149,881

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

PLEASE ENTER NUMBER

TOTAL DEPOSIT 149,881

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CMHDC/THE HABITAT COMPANY
JOINT VENTURE

Pgm 182
Reimbursement for Ex
thru 6/30/96

⑆071000770⑆ 04294831⑆

CHECKS AND OTHER ITEMS ARE RECEIVED FOR DEPOSIT SUBJECT TO THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE OR ANY APPLICABLE COLLECTION AGREEMENT

THIS MULTICOLORED AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT WITH DARKER AREAS AT THE TOP AND LIGHTER AREAS AT THE BOTTOM

PAY LOC.	CHECK DATE	THE AMOUNT OF	CHECK NO.
	12/27/96	149,881.00	003394

ONE HUNDRED FORTY NINE THOUSAND EIGHT HUNDRED EIGHTY ONE DOLLARS AND 00 CENTS

➡➡➡➡➡ PAY ONLY **149881.00**

PAY TO THE ORDER OF
THE HABITAT COMPANY
350 W. HUBBARD
CHICAGO IL 60611

John Shields

VOID OVER \$149,881.00

⑆003394⑆ ⑆071923226⑆ 94 19829⑆

Customer Receipt

This transaction is subject to the rules of the Bank and to the agreements governing your account. Deposits and payments are subject to verification by the Bank.

Thank you for doing business with American National Bank.

[Signature]

149,881.00 DDA DEP 6994 003-051
JAN08-97 13:49:08 4294831

American National Bank
and Trust Company of Chicago

F77 1119 000 R.S.81

RA-209

THE HABITAT COMPANY
350 W. HUBBARD
CHICAGO IL 60611

THE CHICAGO HOUSING AUTHORITY

NAME			VENDOR NO.		CHECK NO.	
THE HABITAT COMPANY			904302		003394	
INVOICE DATE	INVOICE NO.	INVOICE DESCRIPTION	GROSS AMOUNT	DISC.	NET AMOUNT	
10/10/96	THC149	FEEs FOR WORK ON THE: CABRINI-GREEN REDEVEL.	149,881.00	0.00	149,881.00	
					0.00	
					149,881.00	
TOTAL NET AMOUNT					149,881.00	

RA-210



The Chicago Housing Authority

John Eisendrath
Chairman

Philip Shuldiner
Executive Director

Executive Committee

Laura Marquez

Patricia Randolph

Anthony W. Wright III

Mildred Harris

James Butler
General Counsel

James Moses
Deputy Executive
Director for Community
Relations & Involvement

John Nelson
Deputy Executive
Director for Operations

James Vargas
Deputy Executive
Director for Finance and
Administration

September 18, 1996

Ms. Valerie Jarrett
Vice President
The Habitat Company
350 W. Hubbard
Chicago, IL 60610

Dear Valerie:

This is a follow up to the meeting between The Habitat Company and the Chicago Housing Authority regarding the roles of the respective organizations in the City of Chicago's Near North Redevelopment plan.

It is becoming more evident that the City has assumed responsibility for coordinating the public and private sector partners and implementing this plan. As a result, the CHA's role at this point is limited. This gives us the opportunity to minimize our administrative expenses and conserve HOPE VI funds for the development of housing units. As of September 20, 1996, the CHA will not pay any outside planning fees unless authorized by the CHA in advance. Realizing, however, that there is still work to be done, the CHA would like to retain the services of The Habitat Company on an as-needed basis at a mutually agreed upon hourly rate.

On August 30, 1996, the CHA received an itemized bill for work done in connection with the Cabrini-Green redevelopment project during the past year. Total charges amount to \$227,083, with \$149,881 attributed to the HOPE VI budget. We intend to pay The Habitat Company in full, but in general we object to certain charges, such as \$5,997 for rent and salaries and benefits for 11 Habitat employees, plus \$27,000 for outside contractors.

In order to pay this amount, please understand that special approval must be **granted by HUD** in order to draw down these funds before submission of an amended revitalization plan. We will make this request to HUD headquarters as quickly as possible.

RA-211

September 18, 1996
Page Two
Ms. Valerie Jarrett

I appreciate the effort you have made on our behalf, and look forward to working with you in the future.

Sincerely,


Joseph Shuldiner
Executive Director

cc: Edwin Eisendrath
Andrew Rodriguez
Rafael Leon

RA-212



THE HABITAT COMPANY

October 2, 1996

Mr. Richard Monocchio
Special Assistant to the Executive Director
Chicago Housing Authority
626 West Jackson Boulevard
Chicago, Illinois 60661

Re: Cabrini-Green/Development Manager

Dear Rich:

The purpose of this letter is to confirm our understanding regarding several topics raised in Joe's letter of September 18, 1996 and discussed during our meeting last week with you and Joe. These matters are summarized below:

1. In our role as Development Manager for the development of replacement housing at Cabrini-Green, we will continue to keep track of our staff hours spent on the Cabrini-Green Replacement Housing Program and invoice CHA monthly for the actual personnel costs, plus the related administrative and overhead costs. The administrative and overhead costs will be prorated based on the actual personnel time expended for Cabrini, as a percentage of the total actual personnel costs with a pro rata allocation to HOPE VI (303 units) and the 190 units funded directly to Habitat. This pro rata allocation method is the system of allocation of these costs which we have utilized for over seven (7) years and approved by HUD.
2. Since planning progress on Cabrini is dependent on a mixed income development, in accordance with our discussion and your concurrence, we plan to engage Tracy Cross and Associates for a market study. This will estimate market value and absorption times for the market rate units, and consequently, the expected time schedule for construction of the replacement units. The study will serve as the basis to estimate the value of the CHA property utilized for the market rate and the "affordable" units.
3. In an effort to advance the site planning, we will continue to have Chris Lee, of Johnson & Lee Architects & Planners, work on the alternative density studies for use at the policy committee meeting on October 17, 1996.

I:\phil\ssp\cabrini\monocchio.ltr

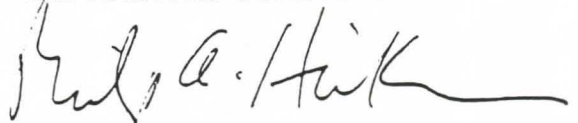
RA-213

Mr. Richard Monocchio
Special Asst. To Executive Director
October 2, 1996
Page -2-

As discussed, we plan to pursue clarification with the City with respect to our role in coordinating all the housing to be developed in the Cabrini revitalization area.

If you have any questions regarding any of the above, please contact me.

Sincerely,
THE HABITAT COMPANY



Philip A. Hickman
Senior Vice President

PAH/ksc

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



The Chicago Housing Authority

Carroll
Hope 6
fel

Lawin Eisendrath
Chairman

Joseph Shuldiner
Executive Director

Executive Committee
Rosanna Marquez
Artensa Randolph

Timothy W. Wright III
Dr. Mildred Harris

Jerome Butler
General Counsel

Ed Moses
Deputy Executive
Director for Community
Relations & Involvement

John Nelson
Deputy Executive
Director for Operations

Paul L. Vargas
Deputy Executive
Director for Finance and
Administration

October 24, 1996

Ms. Valerie Jarrett
Vice President
The Habitat company
350 W. Hubbard
Chicago, IL 60610

The purpose of this letter is to further clarify discussions we have had on the role of The Habitat Company relative to the Chicago Housing Authority in the Near North Redevelopment Plan.

As you know, the policy group has decided to engage local and outside planning firms in a charrette process which will produce a more defined plan. It is anticipated that this process will be completed before the end of the year, and that RFPs will then be issued. Until then, various committees are meeting to discuss issues such as outreach and intergovernmental agreements.

During this time, it will not be necessary for representatives of the Habitat Company to attend meetings or otherwise represent the CHA in the Near North Redevelopment planning process. I think it would be appropriate to revisit this issue once the charrette and community outreach is completed.

Sincerely,

Joseph Shuldiner
Executive Director

RA-215



Lawrence Eisendrath
Chairman

Joseph Shuldiner
Executive Director

Executive Committee

Isabella Marquez

Debra Randolph

Anthony W. Wright III

Dr. Mildred Harris

James Moses

Deputy Executive Director
Community Relations
Involvement

Anna L. Vargas

Deputy Executive Director
Finance and
Administration

Thomas A. Butler
General Counsel

The Chicago Housing Authority

May 13, 1997

Valerie Jarrett
Phil Hickman
The Habitat Company
350 W. Hubbard
Chicago, IL 60610

Dear Valerie and Phil:

As you discussed with staff recently, the CHA is nearing closure on negotiations for the acquisition of public housing replacement units at the Mohawk North and Old Town Square developments. The CHA has been fortunate to have the full cooperation of the Mayor's office and the Department of Housing in this effort. As you were informed, the CHA intends to use those 1994 and 1995 development dollars which were allocated to the receiver on behalf of Cabrini Green to finance these and additional Cabrini replacement units. The purpose of this letter is to formally request that the process to allocate the money for this purpose be expedited.

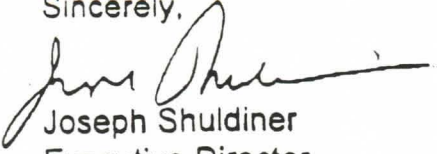
Under the terms of the current deal, Davis/McLean have stated that they do not wish to sell the units but will enter into a forty year master lease for 44 two bedroom units—16 at Mohawk North and 28 at Old Town Square. The units are 1100 square feet and after reviewing the developers' pro formas the CHA and the City's Department of Housing have determined that \$125,000 is an appropriate purchase price for these units. As you are well aware, this is substantially below the market rate for the new units being built in the Near North community. The TDC for these "row dwellings" units is approximately \$96,250 (which can be increased \$101,063 (105%) without a waiver from HUD).

Although we have attempted to utilize numerous creative mechanisms to finance these units, HUD's program purpose restrictions as well as IRS regulations have constrained our options. We therefore intend to pay for the units using 105% of TDC and to finance the balance from other resources available to the CHA.

As noted above, the CHA wishes to use the 1994 development dollars allocated to the Receiver for replacement units at Cabrini. At present we are working to finalize the development agreement with McL/ASD and to

identify residents for the units. As we finalize this transaction, it is imperative that we reach an agreement on the utilization of the development dollars. We would, therefore, like the opportunity to discuss this at length during the meeting with Lou Berra, which is scheduled for Friday, May 15. We would hope to resolve the issue at that meeting. As always, we appreciate your assistance.

Sincerely,



Joseph Shuldiner
Executive Director

Cc: Lou Berra
Jerome Butler
Edwin Eisendrath
Christopher Hornig
Rafael Leon
Richard Monocchio
Alex Polikoff
Eileen Rhodes
Andrew Rodriguez
David Sowell
Dave Tkac

FIRST PAGE ONLY ENCLOSED
FULL COPY OF EXHIBIT FILED WITH COURT

RA-218

**THE HABITAT COMPANY
AS RECEIVER FOR
THE CHICAGO HOUSING AUTHORITY
SCATTERED SITES PROGRAM**

**PHA DEVELOPMENT PROPOSAL
CABRINI EXTENSION (IL2-20) REPLACEMENT UNITS**

44 UNITS

**CABRINI EXTENSION
IL06-P002-182
CHICAGO, ILLINOIS**

Volume 1 of 2

**THE HABITAT COMPANY
AS RECEIVER FOR
THE CHICAGO HOUSING AUTHORITY
SCATTERED SITES PROGRAM**

**PHA DEVELOPMENT PROPOSAL
CABRINI EXTENSION (IL2-20) REPLACEMENT UNITS**

44 UNITS

**CABRINI EXTENSION
IL06-P002-182
CHICAGO, ILLINOIS**

Volume 2 of 2

RA-220



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

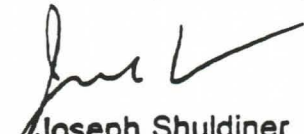
Dear Mr. Levin:

**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 replacements 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

C O P Y

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-102 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

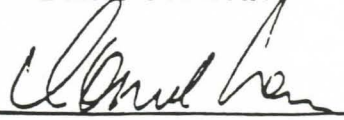
or to such other address(es) or addressee(s) as any party entitled to receive notices hereunder shall designate to others in the manner provided herein for the service of notices.

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

Development Budget

Exhibit A

ACCOUNT CLASSIFICATION	Breakdown of Administrative Expenses		
	Budget	The Habitat Company	CMHOC/CHA
TOTAL DEVELOPER'S PRICE:			
1440 Site	0		
1450 Site Improvements	1,000,000		
1460 Dwelling Construction	14,417,293		
1465 Dwelling Equipment	150,000		
1470 Nondwelling Construction	0		
1475 Nondwelling Equipment	0		
1430.1 Architect	450,000		
Other	0		
TOTAL DEVELOPER'S PRICE	16,017,293		
Per Unit	106,782		
ADMINISTRATION:			
1410.1 Nontechnical Salaries	4,800	2,743	2,057
1410.2 Technical Salaries	987,853	553,031	414,822
1410.4 Legal Expense	30,000	17,142	12,858
1410.9 Employee Benefit Contributions	203,249	116,137	87,113
1410.10 Travel	12,000	8,857	5,143
1410.12 Publications	1,200	686	514
1410.14 Membership Dues and Fees	1,200	686	514
1410.16 Telephone and Telegraph	15,120	8,640	6,480
1410.18 Nondwelling Equipment	0	0	0
1410.19 Sundry Admin.	55,049	31,492	23,557
TOTAL ADMINISTRATION - 7%	1,290,471	737,412	553,059
1415. LIQUIDATED DAMAGES			
INTEREST:			
1420.1 Interest to HUD	0		
1420.2 Interest on Notes - Non-HUD	0		
1420.7 Interest - Income from Investments	0		
TOTAL INTEREST	0		
1425. INITIAL OPERATING DEFICIT	75,000		
PLANNING:			
1430.1 Architect & Engin. Fees	0		
1430.2 Consult. Fees	0		
1430.6 Permit Fees	0		
1430.7 Inspection Costs	0		
1430.9 Housing Surveys	0		
1430.19 Sundry Planning Costs	628,059	553,059	0
TOTAL PLANNING	628,059	553,059	0
SITE ACQUISITION:			
1440.1 Property Purchases	0		
1440.2 Condemnation Deposits	0		
1440.3 Excess Property	0		
1440.4 Surveys and Maps	8,000		
1440.5 Appraisals	0		
1440.6 Title Information	0		
1440.8 Legal Cost - Site	25,000		
1440.12 Tax Settlements	0		
1440.10 Option Negotiations	0		
1440.19 Sundry Site Costs	30,000		
1440.20 Site Net Income	0		
TOTAL SITE ACQUISITION	63,000		
CONSTRUCTION & EQUIPMENT:			
1450. Site Improvement	0		
1450. Dwelling Construction	0		
1455. Dwelling Equipment	0		
1470. Nondwelling Structures	0		
1475. Nondwelling Equipment	0		
1480. Contract Work-in-Process	0		
1490. Receiver Fee	0		
TOTAL CONSTRUCTION & EQUIP.	0		
1495. RELOCATION COSTS	0		
TOTAL BEFORE CONTINGENCY	18,073,823	1,290,471	553,059
CONTINGENCY	361,476		
TOTAL	18,435,300	1,290,471	553,059

COUNT CLASSIFICATION	Budget	Breakdown of Administrative Expenses	
		The Habitat Company	CMHOC/CHA
TOTAL DEVELOPER'S PRICE:			
1440 Site	0		
1450 Site Improvements	1,900,000		
1460 Dwelling Construction	17,017,634		
1455 Dwelling Equipment	200,000		
1470 Nondwelling Construction	0		
1475 Nondwelling Equipment	0		
1430.1 Architect	0		
Other	0		
TOTAL DEVELOPER'S PRICE Per Unit	19,117,634		
ADMINISTRATION:	95,588		
1410.1 Nontechnical Salaries	6,400	3,657	2,743
1410.2 Technical Salaries	1,285,371	734,461	550,910
1410.4 Legal Expense	40,000	22,856	17,144
1410.9 Employee Benefit Contributions	269,928	154,237	115,691
1410.10 Travel	16,000	9,142	6,858
1410.12 Publications	1,600	914	686
1410.14 Membership Dues and Fees	1,600	914	686
1410.16 Telephone and Telegraph	20,160	11,519	8,641
1410.18 Nondwelling Equipment	0	0	0
1410.19 Sundry Admin.	72,770	41,629	31,140
TOTAL ADMINISTRATION - 7%	1,713,828	979,330	734,498
1415. LIQUIDATED DAMAGES INTEREST:			
1420.1 Interest to HUD	0		
1420.2 Interest on Notes - Non-HUD	0		
1420.7 Interest - Income from Investments	0		
TOTAL INTEREST	1		
1425. INITIAL OPERATING DEFICIT	100,000		
PLANNING:			
1430.1 Architect. & Engin. Fees	0		
1430.2 Consult. Fees	0		
1430.6 Permit Fees	0		
1430.7 Inspection Costs	0		
1430.9 Housing Surveys	0		
1430.19 Sundry Planning Costs	834,498	734,498	0
TOTAL PLANNING	834,498	734,498	0
SITE ACQUISITION:			
1440.1 Property Purchases	2,000,000		
1440.2 Condemnation Deposits	0		
1440.3 Excess Property	0		
1440.4 Surveys and Maps	52,500		
1440.5 Appraisals	6,850		
1440.6 Title Information	19,175		
1440.8 Legal Cost - Site	87,700		
1440.12 Tax Settlements	49,000		
1440.10 Option Negotiations	0		
1440.19 Sundry Site Costs	40,000		
1440.20 Site Net Income	0		
TOTAL SITE ACQUISITION	2,237,225		
CONSTRUCTION & EQUIPMENT:			
1450. Site Improvement	0		
1450. Dwelling Construction	0		
1455. Dwelling Equipment	0		
1470. Nondwelling Structures	0		
1475. Nondwelling Equipment	0		
1480. Contract Work-in-Process	0		
1490. Receiver Fee	0		
TOTAL CONSTRUCTION & EQUIP.	0		
1495. RELOCATION COSTS	0		
TOTAL BEFORE CONTINGENCY	24,003,185	1,713,828	734,498
CONTINGENCY	480,064		
TOTAL	24,483,250	1,713,828	734,498

Chicago Housing Authority MBE & WBE Schedules
and 24 C.F.R. Part 135 Participation Plans

Exhibit B



U.S. Department of Housing & Urban Development
Office of the Assistant General Counsel - Midwest
77 West Jackson Boulevard, Room 2525
Chicago, IL 60604-3807

July 29, 1997

MEMORANDUM FOR: Richard Kruschke, Public Housing Director,
Office of Public Housing, Illinois State
Office, SAPH

ATTENTION: Louis Berra, Director, Distressed and Troubled
Housing Recovery, SAPH

FROM: *Kathleen Abraham*
Lewis M. Nixon, Assistant General Counsel for the Midwest,
SAC

SUBJECT: Development Authority Under Gautreaux

At the oral request of Richard Kruschke and Louis Berra on July 29, 1997, we are responding to the question of whether the Chicago Housing Authority or the court appointed Receiver has the general responsibility for development of non-elderly public housing serving as replacement units at Cabrini-Green.

The August 14, 1987 Gautreaux order appointed Daniel E. Levin and the Habitat Company jointly as receiver to develop the scattered site program. The 'scattered site program' was defined to include all CHA non-elderly public housing development programs which might in the future be authorized by HUD. The December 3, 1993 order, the nunc pro tunc order as we typically refer to it, specifically gave development authority for 177 additional scattered site units to serve as replacement housing for Washington Park and Cabrini Green to the Joint Venture comprised of the Receiver and the Chicago Metropolitan Housing Development Corporation ('CMHDC'). In the same order, the Joint Venture was given authority for the eighteen unit Lawndale replacement units, the 150 unit demonstration program and the 25 Family Self Sufficiency Program.

In the August 15, 1993 Joint Venture Agreement, CMHDC is described as an affiliate of the CHA. Provision 9.1 of the Agreement states that overall management and control of the business of the Joint Venture shall be vested in Habitat provided that Habitat would consult with CMHDC on Major Decisions.

Based on the referenced materials, it is the belief of this office that either the Receiver, for general purposes, or the Joint Venture, under the nunc pro tunc order for specific projects, has development authority. In regard to the 177

RA-237

replacement units for Cabrini and Washington Park approved for funding by HUD in September 1993 and 1994, the Joint Venture has clearly been authorized by Judge Aspen. We also believe that any funds under HOPE VI which go to replacement housing are currently a Receiver responsibility. We do not believe the CMA currently has any development authority for non-elderly units.

We have reviewed David Sowell's letter of July 14, 1997 to Rich Menecchio concerning a draft proposal for 44 units of replacement units for Cabrini Green and note that Mr. Sowell says CMHDC would have to separate from CMA and have its own identity. If that is true, then the Joint Venture Agreement and the draft proposal are inconsistent because as stated above, under the Joint Venture Agreement CMHDC is described as an affiliate of CMA. It is our understanding the reason behind the Joint Venture was for CMHDC to develop expertise under the wing of the Receiver, so it could become the development arm of the CMA.

Depending on the nature of Judge Aspen's expected August 15, 1997 ruling it may be time for the parties to consider dissolving the Joint Venture and for filing a motion before Judge Aspen based on such a discussion. It may also be appropriate to ask the court for clarification concerning development authority under HOPE VI.

If you have further questions please send a memorandum to the attention of Jan Elson.



THE HABITAT COMPANY

MEMORANDUM

TO: Chief Judge Marvin E. Aspen

FROM: Daniel Levin and
The Habitat Company *Daniel Levin*

DATE: January 28, 1998

SUBJECT: CHA SCATTERED SITE HOUSING PROGRAM
Quarterly Report: Fourth Quarter 1997

SCATTERED SITE PROGRAM - 1,602 UNITS

Background Original funding for the Gautreaux Scattered Site Program was estimated to produce 1,608 units. Due to the downzoning of property suitable for six (6) units, the total unit count has been reduced to 1,602. The funds for the six units will be transferred to Program 117 where other program savings are currently held by HUD. At the completion of the Scattered Site Program, when all costs are known, HUD has agreed to review cost savings and reformulate Program 117 funds for additional public housing developments. Presently the estimated savings exceeds the amount necessary to complete the six units.

Current Status: Effective December 31, 1997, the development pipeline is summarized below for the Scattered Site Program.

UNITS	STATUS
1,550	Completed and Transferred
52	Under Construction*
1,602 Subtotal	Completed/Under Construction
0	To be Acquired
1,602	TOTAL

*Refer to Scattered Site Program 152 background and current status.

Design and Construction Activity: Construction activity continues on a total of one (1) Turnkey program. Completion status at the end of the quarter is as follows:

<u>Program #</u>	<u>% Completed</u>	<u>Program #</u>	<u>% Completed</u>
152	20%	161	19%

Scattered Site Program IL06-P802-152 and IL06-P802-175

Background: Program 152 and 175 a total of 59 units, were under a Turnkey Contract of Sale with Tyree/ALB Construction Joint Venture. After several delays the Developer was able to complete Program 175 and only four (4) of the 25 units in Program 152. The Developer is unable to extend its loan agreement with their bank and therefore, is unable to complete the remaining 21 units.

Current Status: Due to the default of the Developer, the Receiver has prepared termination and settlement documents in order to move forward with a conventional program approach with the selected contractor, Cyrus Development Group, Ltd..

Construction is currently scheduled to start in March pending final settlement with the original Developer.

Management/Maintenance Buildings: Three management/maintenance buildings are being developed for use by CHA's private managers of scattered sites. Funding for these units is available from savings realized on previously completed development programs. The developers for Program 154 and 161 are developing these buildings, using these funds. The building locations and status are as follows:

<u>Address</u>	<u>Private Manager</u>	<u>Prog. #</u>	<u>Construction Started</u>	<u>Est. Completion</u>
1400 N. Kedzie Ave.	Hispanic Housing Devel.	154	February 1997	January 28, 1998
4421 N. Clifton Ave.	Housing Resource Center	161	April 1997	February 21, 1998
2608 W. North Ave.	Lutheran Social Services	161	May 1997	March 20 1998

Summary of Completed and Transferred Units: Since the inception of the Receiver's program, completed and transferred units are shown below:

Year	# of Units Completed & Transferred
1997 - 4th QTR.	0
1997- 3rd QTR.	15
1997- 2nd QTR.	38
1997 - 1st QTR.	44
1996	308
1995	203
1994	147
1993	340
1992	214
1991	107
1990	127
1989	7
Total:	1,550

RA-240

Financial Activity: for each of the funded programs for the period ending December 31, 1997 is below:

PROGRAM	APPROVED BUDGET	COST (INCOME) TO DATE
115	\$ 8,885,442	\$ 8,885,442
116	7,448,320	7,448,320
117 (a)	(28,813)	(28,113)
118	8,978,987	8,978,987
119	2,485,483	2,485,483
120	6,956,047	6,956,047
121	2,265,118	2,265,118
122	4,825,930	4,209,166
123	7,827,851	7,065,028
124	8,286,784	8,135,811
125	2,039,484	2,039,484
126TK	2,062,780	2,062,780
127	2,386,667	2,386,667
128TK	2,989,732	2,980,721
129TK	2,271,403	2,271,403
130TK	2,894,112	2,901,334
131TK	2,556,421	2,490,867
132	2,530,000	2,506,079
133	2,075,167	2,075,167
134	2,055,883	2,055,051
135TK	2,661,470	2,565,215
136	2,336,466	2,336,466
137TK	2,719,177	2,500,560
138TK	2,614,379	2,480,528
139TK	2,446,921	2,459,552
140	3,877,443	2,258,500
141TK	2,700,924	2,545,180
142TK	2,411,349	2,235,986
143TK	3,303,012	3,169,568
147TK	2,676,540	2,645,626

PROGRAM	APPROVED BUDGET	COST (INCOME) TO DATE
149TK	2,709,352	2,641,453
150TK	2,522,813	2,333,425
151TK	2,747,255	2,696,107
152TK	2,410,726	640,766
153	2,549,740	2,546,470
154TK	3,988,830	3,448,068
155TK	2,627,030	2,469,295
156TK	2,679,344	2,611,175
157TK	2,723,598	2,656,660
158TK	3,149,769	2,946,303
159TK	2,634,087	2,590,885
160TK	2,909,461	2,743,993
161TK	4,143,819	647,850
175TK	3,369,490	3,185,847
176TK	3,688,870	3,377,309
TOTAL	\$154,394,663	\$142,903,629

- (a) The purpose of Program 117 is to hold miscellaneous properties until demolished, sold or used for new construction. The \$28,113 represents income to the Program, the proceeds resulting from the sale of buildings and vacant lots. Other surplus development funds of approximately \$16.7 million have been transferred to this Program and HUD has allowed this Program to fund subsequent Programs in their initial stages.

Conclusion: Active construction continues on 31 units in 1 program. It is anticipated that most of the units will be complete by mid-1998. Program 152's remaining 21 units should start construction in March 1998. For the quarter the total funds expended was \$2,047,000. Since the Program's inception, \$142,903,713 has been spent.

DEMONSTRATION PROGRAM - 238 UNITS
FAMILY SELF-SUFFICIENCY PROGRAM - 16 UNITS

CMHDC/Habitat Joint Venture

Background: In 1990, the Chicago Housing Authority (CHA), was granted permission by the Court to begin development of 350 family public housing units known as the "Demonstration Program." In the third quarter of 1993, upon CHA's request and the Court's permission, The Habitat Company (THC) and The Chicago Metropolitan Housing Development Corporation (CMHDC), an instrumentality of CHA, entered into a joint venture agreement to complete the development of these units. THC is the managing partner of the Joint Venture. The Agreement included the 350-unit Demonstration Program plus a 25 unit program called "Family Self-Sufficiency Program" (FSS).

THC and CMHDC analyzed the estimated cost to complete 375 units and found that funds allocated for the units in 1990 were not sufficient to complete the number of planned units and that additional funds were needed. Additional funds were requested of HUD. HUD/Washington indicated that no additional funds were available and authorized the Joint Venture to construct the maximum number of units possible under the original funding. Based on the current acquisition status, the estimate for the total units which can be completed with the available funding is as follows:

<u>Program</u>	<u>Program Approved</u>	<u>Original Unit Count</u>	<u>Original Funding</u>	<u>Revised Unit Count</u>	<u>Revised Funding</u>
Demonstration	03/09/90*	350	\$35,466,000	238	No Change
FSS	09/30/92*	<u>25</u>	<u>\$ 2,223,356</u>	<u>16</u>	<u>No Change</u>
	Totals:	375	\$37,689,356	254	No Change

* A joint venture between the Receiver and CMHDC was executed in the third quarter of 1993. Prior to that time, no progress had been made by CHA to develop any units.

Current Status: Effective December 31, 1997, the development pipeline is summarized below for the Demonstration/Family Self-Sufficiency Program.

<u>NO. of UNITS</u>	<u>STATUS</u>
80	Completed & Transferred to CHA
58	Under Construction
58	Design Phase/Bid Phase
42	Closed (Preconstruction)
238	SUBTOTAL (Closed Properties)
16	In Acquisition Process
254	TOTAL

Identification and acquisition continues of property located on the north and south sides of the City. Newer buildings (post 1978, when the use of lead based paint was banned) remain the primary focus for acquisitions. Since many of these areas have seen little new construction since the 1970s and have little market activity, the acquisition continues at a steady pace, although slower than originally anticipated.

Financial Activity: for each of the funded programs for the period ending December 31, 1997 is below:

<u>PROGRAM</u>	<u>APPROVED BUDGET</u>	<u>COST TO DATE</u>
145	3,457,281	3,357,650
146	2,289,199	2,240,122
162	3,521,980	3,800,716
164	4,320,001	3,371,238
165	3,012,835	2,215,152

PROGRAM	APPROVED BUDGET	COST TO DATE
166	3,462,074	2,550,045
167	1,960,003	1,440,286
168	1,680,003	1,059,912
169	1,680,003	188,713
170	1,820,003	933,232
171	1,820,003	910,361
172	2,300,000	515,229
173	4,198,153	3,790,745
177 (Family Self-Suff)	2,223,356	46,735
TOTAL	\$37,744,894	\$26,420,136

RA-244

PROGRAM	NAME	# Of Units	STATUS
	Horner - 466 Units		
IL06P802-188	30 Units	30	Transferred/Completed
IL06-P802-195	45 Units	39 6	Transferred/Completed Under Construction
IL06-P802-196	38 Units	38	Permit Review
IL06-P802-197	44 Units	44	Design Phase
IL06-P802-198	56 Units	56	Transferred/Completed
IL06-P802-199	39 Units	39	Under Construction
IL06-P802-200	30 Units	30	Under Construction
IL06-P802-191	51 Units	3 48	Transferred/Completed Under Construction
IL06-P802-201	43 Units	43	In Design/Site Acquisition
IL06-P802-202	43 Units	43	Under Construction
IL06-P802-203	32 Units	32	Under Construction
IL06-P802-204	15 Units	5 10	Transferred/Completed Funding review pending by HUD-Washington
	TOTAL HORNER UNITS	466	
	<u>Cabrini - 190 Units</u>		
IL06-P002-182	107 Units	63 28 16	Joint planning w/City & CHA Negotiations underway Acquisition pending
IL06-P002-192	83 Units	83	Joint planning with City/CHA
N/A	Cabrini-HOPE VI-303 Units	303	Joint planning with City/CHA
	TOTAL CABRINI UNITS	493	
	GRAND TOTAL REPLACEMENT UNITS	1294	

LAWNDALE REPLACEMENT HOUSING PROGRAM - 18 UNITS

Background: The new construction of 18 housing units in Lawndale with duplex townhomes on scattered sites is the first new replacement housing for obsolete CHA buildings. In consultation with members of the St. Agatha/West Side Resident Organization, The Chicago Housing Authority applied for and received approval from the U.S. Department of Housing and Urban Development (HUD) to demolish two of its vacant and dilapidated buildings located at 1403 S. Spaulding and 3659 W. Douglas. Demolition was completed in the summer of 1995.

Current Status Due to a default by the turnkey developer, the Receiver terminated the Turnkey Contract on November 21, 1996. With HUD's approval, Habitat negotiated a guaranteed maximum price (GMP) contract with a new general contractor and a conventional GMP contract was signed on March 10, 1997. As you are aware, at the end of June 1997, Father Mike Ivers raised issues regarding the delays, as well as the selected general contractor, design and location of the units.

The Receiver is in the process of negotiating a resolution on these issues. Specifically, this involves the upgrading of the exteriors of the eight (8) units being built at 3653- 3657 W. Douglas Boulevard and 1403-07 S. Spaulding (the former CHA building sites), and relocating the remaining ten (10) units to other sites in the North Lawndale area being provided by the City of Chicago. We have been given approval by Alderman Michael Chandler and Father Mike Ivers to purchase sufficient City lots throughout North Lawndale to complete the program. It is anticipated that site control will be obtained by the spring of 1998.

The current general contractor will complete the eight (8) units at 3653-3657 W. Douglas and 1403-07 S. Spaulding by the end of February 1998. To address the community's concerns with this general contractor, THC has selected New England Builders to complete the remaining ten (10) units on those sites being acquired from the City. The new contractor has met with Father Ivers and Alderman Chandler, and we do not anticipate any problems moving forward. It is anticipated that these units will be completed by the end of 1998.

WASHINGTON PARK REPLACEMENT HOUSING PROGRAM - 187 UNITS and LAKE FRONT PROPERTIES REPLACEMENT HOUSING PROGRAM - 130 UNITS

Background: The Washington Park Replacement Housing Program is the combination of three programs. The Lake Front Replacement Housing Program is a single program. The funding of these Replacement Housing Programs has been targeted for the units required by the CHA agreement with the Lakefront Community Organization (LCO), which requires 221 to 241 units within Kenwood-Oakland, and 200 units outside that area for a total of 421 to 441 units.

Funding allocated to date for these Programs is for only 317 of the 421 to 441 units required by the CHA/LCO Agreement. Funding for the remaining 104 to 124 units must be made available from other sources in order to comply with the CHA/LCO Agreement.

Current Status - Areas within Kenwood-Oakland: Habitat is continuing its acquisition efforts within the Kenwood-Oakland area where possible. A total of five (5) newly rehabilitated units were put under contract, two (2) of which have closed.

A construction contract for 33 units was signed on March 31, 1997, with Lighthouse L.L.C. Construction. Seventeen units are under construction. As of December 31, 1997, sixteen (16) units had transferred to private management. The construction documents for seven (7) units to be rehabilitated under a separate conventional contract with Lighthouse L.L.C. have been priced and a budget has been sent to HUD asking for an increase in the budget. The construction documents for an additional 22 units are being completed. Construction will start in March, pending final pricing and weather conditions.

The City Council has approved the transfer of seven (7) City-owned properties, previously requested from the City, suitable for 22 units of public housing. Title has transferred on five (5) parcels with the remaining to be closed shortly. Four (4) more parcels have been identified by the City and have received community approval on June 19, 1997. Final City Council approval is pending on the four (4) lots, which is scheduled for February 4, 1998. Closings on these lots are anticipated by the end of March 1998.

A third Request for Proposal was issued on October 27, 1997, for 15 units as a mixed finance development. Land and program funds will be provided to developers who are expected to submit proposals containing additional land and money to create a "mixed income" development. Two (2) responses were received and minor omissions are being prepared. A recommendation to HUD will occur after consultation with all interested neighborhood parties and City planning departments.

The development of up to 241 units of replacement public housing in the Kenwood/Oakland Revitalizing Area is to be sequenced in two phases. First, the CHA/LCO agreement specifies that site control for the development of 141 units on infill sites and the former Washington Park Homes site on the west side of the 4100 block of South Drexel Boulevard must be obtained prior to the demolition of the four (4) vacant high-rises comprising the "Lakefront" site located along the east side of South Lake Park Avenue, between E. 40th Street on the north, and E. 42nd Place on the south. The Lakefront site is to contain the remaining 80-100 replacement public housing units in a mixed income development, along with 200 plus market rate units.

Habitat has been contacted by several active developers who are in the process of developing market rate housing who want to include a number of replacement public housing units in their development. Thus, "site control" for the remaining number of infill units to be developed is being obtained through the purchase of additional private and City properties and through the location of replacement public housing units in private developments throughout the Kenwood-Oakland Revitalizing Area. At present there is "site control" for 142 units as follows.

Request for Proposals	Total # of Units	Units w/ Site Control	Status
Program 184A & 194A	33	33	16 complete, 17 in construction
Program 206	22	22	All 22 units in design
Program 180T-4300 RFP	15	15	Bid process
Program 193-Drexel RFP	40	40	Pre-bid
Program 205	7	7	All 7 units in design
Program 180P, 207	25	25	Pre-bid, 17 units to be acquired
TOTALS	142	142	

Effective December 31, 1997, the development pipeline is summarized below for the Lake Front Properties and Washington Park Replacement Programs:

UNITS WITHIN KENWOOD-OAKLAND REVITALIZING AREA		
PROGRAM	NUMBER OF UNITS	STATUS
IL06-P002-180T	15	Bid Process
IL06-P002-184	33	16 Transferred/Completed 17 Under Construction
IL06-P002-206	22	Design Phase

**CABRINI: HOPE VI URBAN REVITALIZATION DEMONSTRATION
and CABRINI REPLACEMENT HOUSING PROGRAM:**

303 Units
190 Units

Background: On June 27, 1996, the City of Chicago announced its own Near North Redevelopment Plan (the "Plan") which incorporates the original HOPE VI development area. The Plan envisions a broad, mixed income community with new schools, new and expanded parks, larger community facilities, a library, street, alley and infrastructure improvements, a new public transit facility, and new commercial development.

In October 1996, the City of Chicago coordinated a team of local and national experts in community design, finance and development to formalize the Plan for creating a mixed income community. The firms selected were, Johnson, Johnson & Roy, Inc. and Goody, Clancy and Associates, who have developed a Plan with the input of representatives from the City of Chicago, the Board of Education, the Chicago Park District, The Chicago Transit Authority, The Habitat Company, HUD, CHA, Cabrini Residents and the Near North Community. The City is now in the process of issuing "Request for Proposals" for two (2) sites in the Plan area.

Current Status: Other than those efforts previously mentioned, the future role of The Habitat Company with regard to Cabrini has not yet been determined, and we have therefore not been able to direct or anticipate its process. We are, however, assisting the CHA and CMHDC in the funding of 44 replacement units being developed in two (2) market rate developments within the Plan area. The first 16 replacement units are scheduled to be acquired by January 31, 1998, and be ready for occupancy in the spring of 1998.

The following is a unit and funding breakdown concerning the Cabrini HOPE VI Urban Revitalization Demonstration Program which was funded to CHA and the Replacement units funded to the Habitat Company.

FUNDING SOURCE	AMOUNT	UNITS
HOPE VI Program	\$40,000,000*	303 (New Construction)
HOPE VI Program	-----	167 - Section 8 Certificates
Replacement Housing Programs IL06-P002-182	\$ 9,856,000	63 (New Construction)
IL06-P802-192	\$ 9,137,750	44 (Units to be Acquired)
		83 (New Construction)
TOTALS	\$58,993,750	660

*This Program is funded directly to CHA.

RA-250

HENRY HORNER REVITALIZATION PROGRAM - PHASE I - 466 UNITS

Background: The agreement for the redevelopment of the Henry Horner extension area between the CHA, HUD and the Horner Resident Council was approved by Judge James Zagel in August, 1995. Under the plan, The Habitat Company, in its capacity as Receiver for the Chicago Housing Authority Replacement Housing Program, is the Development Manager in a joint venture partnership with Chicago Metropolitan Housing Development Corporation an instrumentality of the CHA (CMHDC). The Horner Revitalization Program boundaries are defined by Ashland on the east, Kedzie on the west, Lake Street on the north and Madison on the South.

Phase I of the six year, five-phase program initially involved the demolition of two high-rise and three mid-rise buildings (completed) and the replacement of 466 units to accommodate both displaced and relocated residents. Planned replacement housing units will be new town homes or two and three flat buildings both on the present site and in the Horner Revitalization Area. The majority of units (373) will be located east of Western Avenue, with the remaining 93 units to be placed west of Western Avenue. All replacement housing will be low density and low rise with private entrances in keeping with the contextual style of the surrounding community.

Current Status: As of December 31, 1997, 133 units have been completed and transferred to CHA. A total of 198 units are under construction. The Program's land acquisition efforts are in its final stages and all 466 replacement units are currently under construction (198), completed (133), or in design and/or permit application review (135, including the 43 units South of Madison). All programs now in design are expected to begin construction in the Spring of 1998. All programs are also bound by the "Multi-Project Labor Agreement" entered into in August 1996, which provides Henry Horner and other Public Housing residents opportunities for apprenticeships and employment in connection with local labor unions and the constructing of replacement public housing.

In December 1996, the Horner Residents Committee (HRC) submitted a request that revised the original bedroom counts to accommodate a larger number of families needing larger bedroom units (typically four or five bedroom units). Habitat held several meetings with the HRC, CHA, Pinnacle, Gautreaux counsel and residents of the West Haven community. The objective was, to the extent possible, to accommodate the Horner residents' relocation choices. In early February, an agreement was reached regarding the distribution of the large bedroom units and the reissued plan met the choices of the Horner residents. This effort delayed the finalization of design for some of the Programs.

In early March 1997, the Gautreaux counsel raised new concerns about the concentration of large bedroom units in five (5) locations throughout the Revitalization Areas, shown on the previously agreed, revised plan. The Receiver was asked to again review the distribution of the large bedroom units. As a result, additional changes were again made to the geographic distribution of these units which were found to be acceptable to Gautreaux counsel. This accommodation has resulted in additional delays for the completion of design work for the affected Programs. A schedule for completion of the Programs is set forth on pages 15.

Please note that the Horner Replacement Housing was being funded by two separate ACC's: Program IL06-P802-188 with 286 units and IL06-P802-191 with 180 units. In an effort to move forward quickly, we have been proceeding with Requests for Proposals and construction contracts by dividing these two large programs into smaller more expeditious packages. The intent was to distribute the workload to different developers/contractors which allows some packages to be completed sooner than others. We have reconfigured these programs, making each package a new program. This reconfiguration allows the smaller programs to reach Date of Full Availability (DOFA) and End of Initial Operating Period (EIOP) sooner than the two larger program configurations. This will permit the units to receive the management operating

subsidy sooner and minimize the payment of initial operating deficit. Following is a list of program numbers, selected developer/contractor, joint venture non-profit partner and architects, also identifying contract type, and anticipated design completion and construction start dates:

Program#	# Units	Contract Type	Developer/ Contractor	Non-profit Partner	Architect	Design Completion Date*	Construction Start
188	30	Turnkey	MCL	Near West	Smith & Smith	Complete	11/18/96 Completed
195	45	Turnkey	Enterprise	Hull House	Bauhs Dring & Main	Complete	11/18/96
197	44	Turnkey	Cyrus	Renaissance	Thomas & Thomas	Complete	4/7/97**
196	38	Conventional	Homer New Horizons	Near West	Landon Architects	Complete	3/1/98
198	56	Turnkey	Homer New Horizons	HAM	SCB	Complete	7/3/96 Completed
202/200	73	Conventional	Enterprise	Hull House	Johnson Lee/HBB	7/1/97	10/27/97
199/ 203	71	Conventional	Homer New Horizons	HAM	SCB	6/20/97	8/1/97
191	51	Conventional	Homer New Horizons	Near West	Bauhs Dring & Main/Landon	5/9/97	6/2/97**
201	43	Conventional	Homer New Horizons	Near West	Bauhs Dring & Main	5/9/97	6/2/97**
204	15	Conventional	Genesis/Coates	Near West	Farr & Assoc. w/E.C. Purdy	Complete	11/30/97***

* Design date includes period from architectural design to construction contract.

** Units in these programs which are to be constructed in the Homer Revitalizing Area of Western Avenue and have been delayed as a result of community issues regarding location, density and context.

***Pending HUD-Washington, D.C. budget approval.

West of Western Background: In the Fall of 1996, the Receiver began meeting with the "West of Western" community to review development plans for the area. Conversations occurred continuously and community meetings were held throughout the spring and summer, with the Court-appointed special master, Ed Marciniak in attendance at several of these meetings. The key issues are design and neighborhood context, inclusion of single family homes (in a multi-level style), dispersement and reduction of the number of units and resident participation in the management of these buildings. All land has been acquired to accommodate the request to have greater dispersal of the units. In response to the design issues, the contracted architectural firm has included design changes that incorporate as many of the residents' requests as possible. THC assured the residents that construction will not begin until every effort is made to resolve these issues. This is a reduction from the 93 units originally proposed. THC also committed to assist the community by arranging meetings with private developers who are interested in developing market-rate, single-family homes in their area.

To help make up the deficit of units, THC, at the request of the local Alderman, began the process of acquiring City owned property within the area between Madison and Eisenhower Expressway, and between Talman and Kedzie ("South of Madison" area). At a community meeting held on September 3, 1997, in this South of Madison area, preliminary plans for the development of the 43 remaining units were presented. Unlike previous meetings, the proposal received a favorable response. This meeting was attended by Special Master, Ed Marciniak as well.

The Receiver met with Judge Zagel, on September 16, 1997, regarding our proposal for these 43 units, at which time he directed us to proceed with the land acquisition and the preparation of a "Waiver" request for the South of Madison area to be presented to you. We are now in the process of preparing to come before you for a waiver request. We have also been working with HUD to obtain permission to acquire the subject properties. The approval of the sale of these properties is pending with the Chicago City Council. A "Schedule" summarizing each program status per the Order of Judge Zagel, dated December 20, 1996, which approved the Receiver's Early Start "Schedule" of December 4, 1996, is set forth below as well as a summary of the status of each Program, as of December 31, 1997:

<u>Status/Programs</u>	<u>Units</u>	<u>"Schedule" % 'tage</u>	<u>Revised Comp. Est</u>	<u>Comp Est.</u>
Units completed, on or ahead of Schedule Programs 188, pt. 191, 195, 198, 199/203 and pt. 204.	<u>210</u>	45.1%	188-10/97 195-11/97 198-5/97 199/203-4/98	Completed 1/98 Completed 4/98
Units less than three months behind Schedule Programs pt. 191, 200/202 - Superblock "A", and pt. 204	<u>131</u>	28.1%	191-5/98 200/202-7/98 204-6/98	8/98 8/98 8/98
Units up to eight months Behind Schedule Programs 196, 197 and 201	<u>125</u>	26.8%	196-4/98 197-4/98 201-4/98	10/98 10/98 12/98
TOTAL UNITS -	466	100%		

1 The fifty-one (51) units in Program 191 located East of Western Avenue have commenced construction, with the first three (3) units already transferred. Contract negotiations, pricing and design issues have contributed to the delay with Program 200/202 (Superblock A). The issues were resolved and a construction contract executed. A request for additional funding for Program 204 is necessary. We requested approval by HUD-Washington on October 10, 1997, and are still waiting for their response.

2 Program 196 is delayed because it was necessary to terminate negotiations with the initial contractor and to readvertise the Program because of the contractor's inability to meet the budget constraints. A new contractor has been selected and has commenced the building permit review process with the City of Chicago.

The units in Programs 197 and 201 that are more than three months behind Schedule, are delayed due to community issues, as set forth in our letter to the residents of the "West of Western" community, dated August 14, 1997.

The status of property in the development pipeline effective December 31, 1997, for the 466 units is summarized below:

HORNER REVITALIZING AREA	
NO. of UNITS	STATUS
133	Completed & Transferred to CHA
198	Under Construction
38	Permit Review
10	Funding Review with HUD

HORNER REVITALIZING AREA	
NO. of UNITS	STATUS
44	Design Phase
43	Pending Site Acquisition
466	TOTAL

**HENRY HORNER REVITALIZATION HOPE VI PROGRAM - PHASE II - 150 UNITS and
ABLA REVITALIZATION HOPE VI PROGRAM - PHASE I - 200 UNITS**

Background: In October 1997, CHA and the Receiver responded to the Notice of Funding Availability (NOFA) for Public Housing Demolition, Site Revitalization and Replacement Housing Grants (HOPE VI) for Fiscal Year 1996. The total amount funded is \$42,918,550 for a total of 350 replacement units, allocated as follows:

Horner: 150 Units	\$18,435,300
ABLA: 200 Units	<u>\$24,483,250</u>
TOTAL	\$42,918,550

The application provided for The Habitat Company to be the development manager. Funds will be provided by HUD directly to CHA. A Development Management Agreement was reached during the first quarter of 1997 between Habitat and CHA for the planning and development of these replacement units. A final written agreement was executed on April 21, 1997, which requires the Receiver and CHA to submit a Revitalization Plan containing detailed development plans within 90 days of receipt of the grant agreement letter, which confirms the awarding of funding. This letter was received on October 20, 1997.

Current Status: The planning and resident input/participation process has begun for the formulation of Revitalization Plans for both Programs. CHA and Habitat have been working with both LAC's in preparing the Revitalization Plans which are due into HUD-Washington on January 20, 1998.

FINANCIAL ACTIVITY - REPLACEMENT HOUSING PROGRAM - 1,644 UNITS

A status of the financial activity for each of the funded programs for the period ending is shown below:

PROGRAM	NO. of UNITS	APPROVED BUDGET	COST TO DATE
178 (Lawndale)	18	2,121,713	1,318,790
180 (Washington Park)	59	7,094,308	899,527
182 (Cabrini)	107	9,856,000	441,968
184 (Washington Park)	33	4,130,506	2,579,434
188 (Horner)	30	3,615,234	3,608,799
191 (Horner)	51	5,985,830	1,785,392
195 (Horner)	45	4,878,068	4,687,484
196 (Horner)	38	4,356,503	389,287
197 (Horner)	44	6,373,343	390,946

PROGRAM	NO. of UNITS	APPROVED BUDGET	COST TO DATE
198 (Horner)	56	5,533,015	5,469,914
199 (Horner)	39	4,234,703	1,009,645
200 (Horner)	30	2,839,515	715,634
201 (Horner)	43	5,239,868	219,967
202 (Horner)	43	5,330,430	302,356
203 (Horner)	32	4,208,033	3,860,845
204 (Horner)	15	2,195,693	1,170,702
192 (Cabrini)	83	9,137,750	182,835
193 (Lake Front)	130	16,216,250	564,005
194 (Washington Park)	38	5,913,691	5,741,607
205 (Washington Park)	8	858,123	369,000
206 (Washington Park)	27	3,255,568	0
207 (Washington Park)	22	2,652,702	0
Cabrini HOPE VI	303	40,000,000	0
Horner 1996 HOPE VI - Phase II	150	18,435,300	0
ABLA 1996 HOPE VI - Phase I	200	24,483,250	0
TOTALS	1,644	\$198,945,396	\$35,708,137

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RA-255

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

RECEIVED
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DOROTHY GAUTREUX, et al.

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY and HENRY
CISNEROS, Secretary of Department of
Housing and Urban Development -

Defendants.

Judge Marvin E. Aspen
U.S. District Court

66 C 1459

66 C 1460

(Consolidated)

AGREED ORDER

WHEREAS, on August 14, 1987 the Court entered an Order
appointing the Habitat Company as Receiver and giving the
Receiver

all powers of CHA respecting the scattered site program
necessary and incident to the development and administration
of such program, including: (1) Making all determinations
governing the scattered site program in compliance with
prior and future orders of this Court, including without
limitation (1) submission to HUD of applications for
funding, development programs and other documents
(Order, pp. 2-3);

WHEREAS, on March 9, 1990, the Court entered an Agreed Order
recognizing that the August 14, 1987 Order had given the Receiver
the authority to develop and administer the scattered site
program "on an exclusive basis" (Order, p. 1), but nonetheless
granting CHA the authority to develop up to 350 units of
scattered site housing as a demonstration program (the
"Demonstration Program");

WHEREAS, on August 3, 1993 in a status conference with the parties conducted by telephone, the Court approved a Joint Venture Agreement between the Receiver and the Chicago Metropolitan Housing Development Corporation, an affiliate of CHA, for the development of the 350 Demonstration Program units, which agreement contemplated the possibility that the Joint Venture would seek authority to develop 18 units of scattered site housing in the North Lawndale area (as replacement for 18 public housing units proposed to be demolished in that area) and 25 units of scattered site housing under the Family Self-Sufficiency Program (Agreement, p. 5);

WHEREAS, CHA has submitted applications to HUD for funding to develop such 18 scattered site units and such 25 scattered site units, as well as for 377 units of additional scattered site units (Projects IL06-P002-180 and P002-182) to replace certain other public housing units proposed to be demolished;

WHEREAS, the 18 scattered site units proposed to be constructed in the North Lawndale area are in the Limited Public Housing Area as defined by previous Court orders; and

WHEREAS, believing that it is in the best interests of the Gautreaux plaintiff class that the Joint Venture be authorized to develop the scattered site units referred to above, the parties are in agreement that the aforementioned Court orders should be modified as set forth below;

THEREFORE, IT IS HEREBY ORDERED THAT:

1. CHA shall be deemed, nunc pro tunc, to have had the authority to apply for funding for the development of 18 units of

scattered site housing in the North Lawndale area as replacement for 18 units of public housing proposed to be demolished in that area, 25 units of scattered site housing under the Family Self-Sufficiency Program, and 377 additional scattered site units (Projects IL06-P002-180 and P002-182) to replace certain other public housing proposed to be demolished, provided, however, that unless otherwise ordered by this Court all future funding applications for scattered site development shall be submitted by the Receiver in accordance with the August 14, 1987 Order of this Court;

2. The Joint Venture is hereby authorized to develop such 18 units of scattered site housing in the North Lawndale area of Chicago, a Limited Public Housing Area, in addition to the 350 Demonstration Program units previously authorized;

3. The Joint Venture is hereby authorized to develop such 25 units of scattered site housing under the Family Self-Sufficiency program, in addition to the 350 Demonstration Program units previously authorized, subject to further orders of this Court, if necessary, respecting the location of such units;

4. The Joint Venture is hereby authorized to develop such numbers of units of scattered site housing as HUD may authorize pursuant to such CHA applications for funding for 377 additional scattered site units to replace certain other public housing units proposed to be demolished, subject to further orders of this Court, if necessary, respecting the location of such units; and

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED:

December __, 1993

United States District Judge

AGREED TO ON BEHALF OF:


Plaintiffs

 12/1/93
Chicago Housing Authority

U. S. Department of Housing
and Urban Development

Receiver

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED:

December __, 1993

Walter E. Cohen
United States District Judge

AGREED TO ON BEHALF OF:

[Signature]
Plaintiffs

[Signature] 12/1/93
Chicago Housing Authority

[Signature]
U.S. Department of Housing
and Urban Development

Receiver

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED: .

December __, 1993

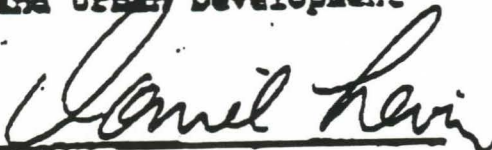
United States District Judge

AGREED TO ON BEHALF OF:

Plaintiffs

Chicago Housing Authority

U. S. Department of Housing
and Urban Development


Receiver

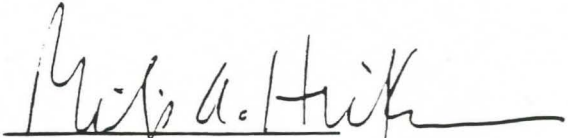
DANIEL LEVIN
THE HABITAT COMPANY

RA-261

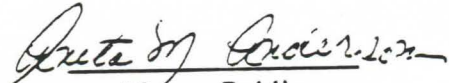
66 C 1459

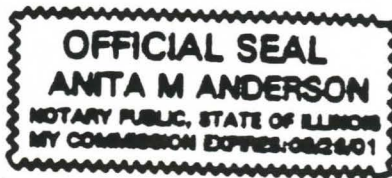
4. I have received copies of other e-mail messages from Mr. Shuldiner in the past. I recognize his e-mail address in the message.

5. The foregoing matters are based upon my own personal knowledge. I would so testify if called as a witness.


Philip A. Hickman

Subscribed and sworn to
before me this 7th day of
April, 1998.


Notary Public



> From: Shuldiner, Joseph[SMTP:JShuldin@thecha.org]
> Sent: Friday, February 27, 1998 12:17 PM
> To: 'louis_berra@hud.gov'; 'robert_l._prescott@hud.gov'
> Cc: 'vjarrett@habitat.com'; 'phickman@habitat.com';
> 'debra_a._torres@hud.gov'; 'milan_m._ozdinec@hud.gov';
> 'david_sowell@hud.gov'; 'elinor_r._bacon@hud.gov';
> 'john_a._jensen@hud.gov'; 'mrcardon@hud.gov';
> 'karen_a._newton@hud.gov'; Butler, Jerome; Monocchio, Rich
> Subject: RE: HOPE VI - CHA
>
> Lou,
>
> I wish that you would speak with your attorneys before creating
> problems. All Judge Aspen said is that locational restrictions apply
> as we have assumed that they do throughout. We asked that they not, and
> he said no, they do. Judge Aspen did not break new ground, he maintained
> the status quo.
>
> I also find it very offensive that you would write this email and copy
> everybody. I suppose that it makes it clear what your views are, but
> you do not speak for HUD. I am meeting with the General Counsel in
> Washington on Tuesday where we will discuss among other things whether
> to appeal this ruling. Lest you forget, HUD supported our motion.
>
> Joe
>
> >-----Original Message-----
> > From: louis_berra@hud.gov [SMTP:louis_berra@hud.gov]
> > Sent: Thursday, February 26, 1998 3:07 PM
> > To: robert_l._prescott@hud.gov
> > Cc: Shuldiner, Joseph; vjarrett@habitat.com; phickman@habitat.com;
> > debra_a._torres@hud.gov; milan_m._ozdinec@hud.gov;
> > david_sowell@hud.gov;
> > elinor_r._bacon@hud.gov; john_a._jensen@hud.gov; mrcardon@hud.gov;
> > karen_a._newton@hud.gov
> > Subject: HOPE VI - CHA
> >
> >
> > Bob
> >
> > I received a copy of Judge Marvin E. Aspen's Memorandum
> > Opinion and Order dated 2/23/98, copy faxed to you.
> >
> > This Order responds to CHA's request for clarification on
> > whether or not the Gautreaux judgement order governs the
> > CHA's use of HOPE VI funds.

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

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

AFFIDAVIT OF PHILIP A. HICKMAN

Philip A. Hickman, having first been sworn upon oath, states:

82. I have previously submitted affidavits on March 18, March 30, and April 7, 1998. In order to avoid confusion with the Affidavits of March 18 and March 30, this Affidavit is numbered consecutively to them.

83. On March 31, 1998 HUD published in the Federal Register (and thereafter the Receiver learned) that a new HOPE VI notice of fund availability, or "SuperNOFA," would be made available for HOPE VI, with applications due to HUD on June 29, 1998.

84. Representatives of the Receiver contacted officials of the CHA, the City of Chicago and HUD to implement a joint planning process.

85. On Friday, May 15, 1998 Karen Cady of Habitat and I met at the request of representatives of the City of Chicago to review and discuss the City's

suggestions for the revitalization of ABLA Homes in anticipation of the submission to HUD of HOPE VI applications pursuant to the SuperNOFA. The City officials present were Shannon DeWith of the City's Department of Planning and Development and Thom Finerty, a consultant to the Department for the ABLA redevelopment. Alexander Polikoff was also present.

86. The meeting lasted about two hours. The City described its conceptual plans for the redevelopment of ABLA as a viable and long-term sustainable mixed income community. The City's representatives requested the participation of The Habitat Company, as Receiver in the Gautreaux litigation, in the preparation of a HOPE VI application for SuperNOFA funds that would embody that plan.

87. On behalf of Habitat, we informed Ms. DeWith and Mr. Finerty that we supported the City's general approach to the redevelopment of the ABLA site, that we would participate in planning activities with the City, and we hoped cooperatively with the CHA, in preparing such an application. We stated that we looked forward to submission of a strong HOPE VI application that would involve input from all of the stakeholders (i.e., the City, CHA, residents, Gautreaux plaintiffs, community groups, and institutions) and provide funding for key elements of the proposed redevelopment.

88. Both the City's representatives and we agreed that it would be feasible to prepare such an application by the submission date of June 29, 1998.

89. On that and other occasions, City officials have expressed to me and other representatives of the Receiver that they want to work with the Receiver and the CHA to prepare a joint HOPE VI application. Based on statements made by Ms. DeWith and others, I believe that a good working relationship exists between the Receiver and the City and that a strong and competitive HOPE VI application can be submitted by the June 29, 1998 deadline, should the CHA cooperate.

90. Both the Receiver and the City have sought the CHA's full participation and cooperation in the application process. Ms. DeWith told me on May 15 that the City would like to work cooperatively with the Receiver and CHA to produce a strong HOPE VI Application. I told her that the Receiver has the same objective. She repeated that objective to me again on May 20 in a telephone conversation and informed me that Julia Stasch, Commissioner of the City of Chicago Department of Housing, has scheduled a meeting for Friday, May 22, 1998 to be attended by representatives of the Receiver, CHA and the City.

91. The strongest HOPE VI application would also be in compliance with the requirements of the remedial orders entered in this case. This Court ruled on February 23, HOPE VI does not require that all replacement housing be built in the same neighborhood. In addition, if appropriate, a "revitalizing area" designation

would allow some or perhaps all of the new housing to be built in or near the same neighborhood as housing it replaces, in compliance with Gautreaux.

92. The City has informed us that the CHA believes that ABLA is the best choice for the SuperNOFA HOPE VI application. We have told the City representatives that we agree.

93. As currently envisioned, the proposed ABLA redevelopment plan would include seeking Court approval for a designation of a portion of the ABLA areas as a "Revitalizing Area." The Court's approval would be sought before submission of the HOPE VI application to HUD. Counsel for the plaintiff class were present at the May 15 meeting, and indicated their support for this concept with respect to ABLA.

94. As the Court will recall, the Revitalizing Area designation has been approved by the Court three times in the past for other areas (at Henry Horner Homes, North Kenwood-Oakland, and Cabrini-Green). Designating an areas as a "Revitalizing Area" under the decree -- as was done in Horner Phase I and North Kenwood -- allows housing to be built in a Limited Public Housing Area instead of requiring that additional housing in the General Area be built in a one-for-one ratio, as mandated by the Gautreaux decree, as amended.

95. The Affidavit of Joseph Shuldiner ¶15 incorrectly suggests that this Court's Orders would "restrict tenant choice" by requiring one-half of the replace-

ment units to be in the General Area. That statement is factually in error for several reasons. First, if a portion of the ABLA area is designated a "Revitalizing Area," replacement housing would be built there, and not in the General Area. Second, in past developments, such as Horner, about half of the tenants have accepted Section 8 certificates or other placement outside of their old neighborhood. Thus, even if ABLA were not designated a Revitalizing Area, it is likely that tenant choice would not be restricted. Third, not all of the housing need be built at ABLA under the HOPE VI program (although the application may provide for that); if some is built elsewhere, tenants would be given a range of choices not currently available.

96. Thus, the statements in the Shuldiner Affidavit at ¶¶13-14 that a competitive HOPE VI application cannot be made consistent with the Gautreaux decree's requirements are, based on the facts set forth above, incorrect.

97. The CHA's suggestion, Motion ¶32, that the Receiver has not participated in the preparation of prior HOPE VI applications is also incorrect. The history of our work on the HOPE VI process is told in my prior Affidavits at ¶¶17-72. The Receiver approved and participated in the CHA's preparation of applications for HOPE VI funds at Horner and ABLA/I in 1995-96. That was the last peaceable *status quo*, as discussed in the Affidavits previously filed with the Court.

98. It is possible, however, that the CHA's Taylor application did not comply with orders entered in this case. That is the application that the CHA

inaccurately told us would not include a request for housing development funds. See Hickman Aff't ¶¶58-62. It is also possible that last year's ABLA application, which HUD rejected after the CHA refused to allow the Receiver to participate, also may not have complied with orders entered in this case. (CHA has not given the Receiver a copy of the ABLA application, although one of our lawyers had brief access to it yesterday.)

99. The Shuldiner Affidavit ¶15 implies that the Receiver's plans would somehow inhibit tenant choice or participation. The Receiver fully intends, in cooperation with the City and the CHA, to solicit the participation and input of ABLA residents as required by the HOPE VI program. Mr. Shuldiner's implication that the Receiver is seeking to constrict tenant choice or involvement is untrue.

100. The CHA's Motion to Stay at ¶¶18-20 questions the qualifications of the Receiver to apply for HOPE VI funding with the CHA. Since the inception of the Receivership, the Receiver has developed approximately 2,200 housing units, which are now either completed or under construction.

101. Since inception of the Receivership, the Receiver has prepared over 80 housing development proposals that HUD has approved. As CHA acknowledges, the Receiver worked cooperatively with CHA in the preparation of the successful HOPE VI applications for Horner and ABLA in 1996. The Receiver is fully capable of working with the City and the CHA on the forthcoming application. The HOPE VI process is similar to other public housing neighborhood revitalization develop-

ment in which the Receiver has been engaged, such as at Henry Horner and Kenwood-Oakland. The portion of the HOPE VI Program in which the Receiver has been involved is essentially an additional HUD program for funding non-elderly public housing, and the development of such housing is precisely what the Receiver has done since 1987.

102. In contrast, the CHA has submitted two HOPE VI funding requests where it was awarded funding, in one case (Cabrini-Green) without the knowledge of the Receiver, Hickman Aff't ¶¶18-20, and in one (Taylor) without the Receiver's participation, after misinforming the Receiver concerning the nature of the request, Hickman Aff't ¶¶58-62. As told in Affidavits filed with this Court, the CHA initially agreed for the Receiver to act under the label of "development manager" of the housing at Cabrini-Green, then changed its mind and began to exclude the Receiver. See Hickman Aff't ¶¶21-46.

103. Contrary to the implications in Shuldiner Aff't ¶8, to date, the CHA has not built one unit of housing with the HOPE VI funds for Cabrini-Green and Taylor. Success in building HOPE VI housing with prior grants is a criteria for obtaining additional HOPE VI money from HUD.

104. CHA submitted a HOPE VI application for funding for ABLA in 1997 without the cooperation or assistance of the Receiver. As discussed in the Valerie Jarrett Aff't ¶¶14-18, the CHA rejected the Receiver's request to participate in the application. The CHA plan contained in the application did not have prior approval

of the Gautreaux Court or the Gautreaux plaintiffs. The application was not funded by HUD.

105. The 1998 HOPE VI process gives emphasis to and awards points for applications that have the strong cooperation and financial support of the City, and all other stakeholders. We are confident that with all the stakeholders' support, the 1998 application will receive a higher ranking than the rejected 1997 application submitted by CHA, and hence have a higher probability of being funded.

106. In January 1998, HUD Secretary Cuomo conferred the Secretary's Platinum Award on the Horner Homes Redevelopment Program. The Receiver is the developer for this \$50 million program. A copy of the announcement of the Platinum Award is attached hereto. Last month, the Receiver received the "Good Neighbor Award" from the Chicago Association of Realtors ("CAR") in its "New Construction of Rental and Affordable Housing" category. When the award was announced, the president of CAR, James Ascot, said that "The Henry Horner Replacement Program's indistinguishable housing from market rate units will stand as a model of urban restoration in which future public housing replacements will be measured." Also, the Receiver's scattered site program received the Urban Land Institute's Award of Excellence in 1996. A copy of the ULI announcement is also attached, along with pictures of the Horner replacement townhomes.

107. HUD's stated position in the SuperNOFA is that its decisions concerning funding applications are influenced by its view of the capabilities of the

recipient. In prior HOPE VI awards, HUD was informed that the Receiver would be functioning as development manager. In the one that was rejected last year, CHA attempted to obtain the funds to the exclusion of the Receiver -- and failed to receive funding.

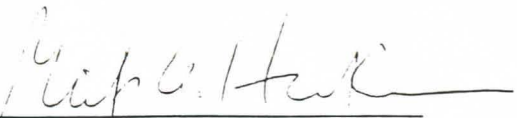
108. Paragraph 21 of the Shuldiner Affidavit states that "the receiver has told the CHA that it is not feasible to build additional public housing units in the General Area." That is untrue. To my knowledge, the Receiver has not made such a statement. In fact, the Receiver has acquired units within the last 90 days in the General Area and has other units currently in the pipeline.

109. As Valerie Jarrett of the Receiver's staff told the Court yesterday, officials at the City have told us that they have met with the CHA to discuss the pending HOPE VI application, but that the CHA instructed the City that the Receiver could not be invited to attend such a meeting.

110. A meeting with the City and the CHA has been scheduled for tomorrow, May 22. We intend to attend, and trust the CHA will also attend to work on this application in a cooperative manner.

111. As part of our work on scattered site housing and the Horner replacement program, we have worked with CHA tenant groups and neighborhood residents on many occasions. We have had dozens, if not hundreds of meetings with representatives of residents at Horner alone. Cooperation from the CHA would substantially facilitate such work.

112. The foregoing matters are based upon my own personal knowledge. I would so testify if called as a witness.


Philip A. Hickman

Subscribed and sworn to
before me this 21st day of
May, 1998.






THE HABITAT COMPANY

“Management Makes the Difference”

The Habitat Company was founded in 1971 by Daniel Levin to create a company that would develop and manage real estate designed and built to meet the diverse urban living needs of Chicago.

The company has met that goal. Today, The Habitat Company is one of the nation's premiere developers and managers of residential apartments, having developed more than 15,000 rental housing units, and managing more than 14,000, primarily in metropolitan Chicago and Detroit. Additionally, The Habitat Company provides residential and commercial brokerage services, telecommunications and corporate relocation services.

The company's properties reflect a wide range of urban needs including:

- Cityfront Place -- luxury rental residences at the confluence of the Chicago River and Lake Michigan;
- The Buckingham -- luxury condominium residences on Chicago's lakefront;
- The Pines of Edgewater, Kenmore Plaza and West Point Plaza -- subsidized moderate and low-income housing and senior developments.

The Habitat Company has been a pioneer in concepts of housing and other unique developments, bringing creative ideas and quality management to the challenges of creating urban communities. Among the company's most notable innovations are:

South Commons (1969 - 1973) -- One of the nation's first mixed income housing developments consisting of more than 1,500 units on 30 acres where residents in highrises, midrises and townhomes with diverse incomes and ethnic backgrounds share common facilities and experience.

Presidential Towers (1985) -- Developed in a multi-block area that had been vacant since the mid 1960s, the 2,346-unit, four-tower development anchored the revitalization of Chicago's Near West Side.

Cityfront Place (1991) -- Built with a magnificent view of the Chicago River as it flows into Lake Michigan, the two mid-rise buildings surrounding one high rise tower house 904 of the most luxurious apartments in the city. Cityfront Place is the first phase of a planned 60-acre redevelopment at Cityfront Center.

Receiver/Development Manager for CHA (since 1987) -- Appointed by the Federal Courts to be the receiver for the Chicago Housing Authority in the development of housing for very low income tenants. In 10 years The Habitat Company has completed the development of more than 1,600 units of housing throughout the city of Chicago. The firm has been appointed the development manager for the deconstruction and redevelopment of three of the nation's largest public housing projects as mixed-income communities that will act as a revitalizing force for both residents and for the communities in which the buildings stand.

Joint Venture Developer -- with community organizations, Horner Association of Men/Chinese American Development Corporation (HAM/CADC), for low- and moderate-income housing on West and Near South side of Chicago.

RA-277

The East Bank Club (1980) -- This 400,000-square-foot facility with four swimming pools, tennis courts, full workout facilities, health maintenance services, restaurants, spas and meeting rooms changed the industry's thinking about the potential and scope of urban recreational facilities.

THE HABITAT COMPANY

Development, Asset Management, Residential and Commercial Property Management.

The Habitat Company Brokerage Division -- residential and commercial sales and leasing.

Habitat Corporate Suites Network -- corporate relocation and furnished rental apartments.

AFFILIATED FIRMS

Wedgewood Communications -- Telephone and Cable TV Systems

PRINCIPALS:

Daniel Levin, Chairman

Douglas R. Woodworth, President

Valerie B. Jarrett, Executive Vice President

Philip A. Hickman, Senior Vice President

PROPERTIES DEVELOPED AND MANAGED

Asbury Plaza 384 Units 1981 (MR)

City Front Place 904 Units 1991 (MR)

Columbus Plaza 532 Units 1980 (MR)

East Bank Club - the most successful in-city health and fitness facility in the country

Elm Street Plaza 396 Units 1976 (MR)

Heritage House 144 Units (TC)

Huron Plaza 460 Units (MR)

711 Gordon Terrace 90 Units (MR)

Kenmore Plaza 324 Units 1974 (E)

Lafayette Towers 584 Units (MX)

540 Lake Shore Drive 150 Lofts 1983 (CC)

Lincoln Park Terrace 433 Units 1973 (CC)

Lincoln Park Terrace 343 Units 1968 (CC)

Long Grove House 448 Units 1969 (SH)

Newberry Plaza 624 Units 1973 (MR) (C)

Oak Park Club 30 Condominiums Oak Park, IL (CC)

Pavillion Apartments 340 Units 1957 Detroit, MI (MR)

Pines of Edgewater I 279 Units 1980 (SH)

Pines of Edgewater II 217 Units 1983 (SH)

Presidential Towers 2,346 Units 1985 (MR)

Quadrangle House 261 Units 1969 (MR)

South Commons 1,529 Units 1964-1972 (MX)

Paul G. Stewart Apts. 170 Units 1976 (E)

West Point Plaza 200 Units 1978 (E)

Wheaton Center 760 Units (MR)

OTHER MANAGED PROPERTIES

Bethel New Life, 1420 North Lake Shore Drive

Gold Coast Galleria, 111 West Maple

The New York, 3660 North Lake Shore Drive

MR: Market Rate Rental Building

E: Elderly Housing

CC: Condominium Conversion

SH: Subsidized Family Housing

C: Commercial

MX: Mixed Market Family, Subsidized Elderly, Townhouse

SRO: Single Room Occupancy

TC: Section 42 Tax Credit



THE HABITAT COMPANY

SCATTERED SITE HOUSING PROGRAM

Chicago, Illinois
Fact Sheet

WHAT ARE THE SCATTERED SITE HOMES?

In 43 community areas across the City of Chicago, a private developer, The Habitat Company, is building townhomes and acquiring for rehabilitation walk-up two- and three-flat apartments, designed by award-winning architects, for occupancy by low-income families. In South Shore and West Town, Habitat has also developed senior buildings with 51 units each as part of a senior-family cluster.

The small scale properties are scattered from 7400 north on the far north side to 111th Street on the far south side. To date, more than 2200 units have been completed and transferred and under construction.

Designed to blend in with each individual block and neighborhood, the more than 30 different Scattered Site exteriors and floor plans provide high quality and efficiently designed living spaces for residents. Habitat selected 20 architectural firms known for their luxury apartment and townhome design throughout Chicago. The design firms are:

- | | |
|--|---|
| ☐ Nagle, Hartray & Associates | ☐ Gelick Foran Ltd. |
| ☐ Harry Weese & Associates | ☐ Triad Consortium, Ltd. |
| ☐ Bauhs & Dring, Ltd. | ☐ Johnson & Lee, Ltd. |
| ☐ Papageorge Haymes | ☐ Roy H. Kruse & Associates |
| ☐ Solomon, Cordwell, Buenz & Associates, Inc. | ☐ Mayer, Jeffers, Gillespie Architects |
| ☐ Elizabeth Purdy & Associates | ☐ Dearborn Associates |
| ☐ Urban Works, Ltd. | ☐ Phillip Kupritz & Associates |
| ☐ Nathan Kipnis Architects | ☐ Mann, Gin, Ebel & Frazier |
| ☐ Thomas & Thomas | ☐ Smith & Smith |
| ☐ Landon Architects | ☐ Metropolis |

Scattered Site Homes are built by bonded contractors operating under the Davis-Bacon Act, who bid on the work in an open and public bidding process. Neither The Habitat Company nor the CHA does the construction work, although Habitat is responsible for overall management of the development process. Plans and specifications are approved by HUD and the Chicago Building Department.

PRIVATE MANAGERS

All of the Scattered Site Homes are managed by private management companies with extensive experience in apartment management. Four are nonprofit management organizations and two are for-profit companies. All have professional staff and management offices in their respective neighborhoods.

- ☐ Housing Resource Center, a division of Hull House (nonprofit)
- ☐ Hispanic Housing Development Corporation (nonprofit)
- ☐ Lutheran Social Services of Illinois (nonprofit)
- ☐ The Woodlawn Community Development Corporation (nonprofit)
- ☐ William Moorehead & Associates (for profit)
- ☐ Pinnacle Realty (for profit)

RESIDENT SELECTION

Residents of the Scattered Site Homes are families who make less than 80 percent of the median family income in Chicago. A family of four making less than approximately \$40,000 currently meet the income guidelines. **Fifty percent of the units go to community residents. The remaining 50% are chosen from the CHA waiting list and the CHA transfer list.**

UNIQUE ASPECTS OF THE SCATTERED SITE PROGRAM

Stemming from the 25-year-old "Gautreaux" court order and a more recent decision by a U.S. District Court Judge, The Habitat Company, one of the largest private developers and managers of residential housing in Chicago, was appointed Receiver for the development of the Chicago Housing Authority's Scattered Site Program.

As a result, the program is unique because the entire process has been privatized. That is, a private company, Habitat, manages the entire development process and property management of the buildings is contracted by private firms. While the legal owner of the buildings is the CHA, accountability is built into the system with the strict supervision of private firms involved in design, construction, and the property management.

ABOUT HABITAT

Since the 1960s Habitat has developed over 14,000 apartments and condominiums in Chicago, including 4,100 units of low-income housing.

The Habitat Company has demonstrated its expertise in rehabilitation of historic properties with such Scattered Site rehabs as the building at 4655 N. Malden and 4526 N. Magnolia, in the Sheridan Park Historic District in Uptown. With its renovated stone facade, the Magnolia building offers apartments for six families, while an adjacent six-flat of comparable value was recently converted to luxury condominiums.

The Habitat Company manages more than 15,000 residential units at over 30 locations throughout metropolitan Chicago and more than 800,000 square feet of commercial, retail and office space.

Welcome To BALA

Winning entries in the 14th Annual Best In American Living Award program provide lessons on how to better design and build housing for today's demanding marketplace.

The Best In American Living Award program is a design competition sponsored by *Professional Builder* and the Design Committee of the National Association of Home Builders.

This year, the 14th annual BALA program received 507 entries in 19 categories. Judges scored the entries on exterior design and curb appeal; interior architecture and design; sales success; construction quality and cost efficiency; and site planning. Then, they selected 74 homes and new communities for design recognition.

Here, and on the 67 following pages, we celebrate those winning entries.

Included in this extensive report are special sections on the Home of the Year; Regional design winners; and Platinum, Gold and Silver Award winners; as well as a tribute to the Friends of BALA (p. 180). New this year is the HUD Secretary's Award for Excellence to recognize design excellence produced through cooperative public/private efforts that expand homeownership opportunities for underserved American families.

There is much to be learned from these award winning-designs. And, on the next few pages, we offer "7 Lessons From BALA"—lessons on how to better design and build housing for today's demanding marketplace.



Regional winners
84

Friends of BALA
180



BEST IN AMERICAN LIVING
A·W·A·R·D

Professional Builder

NAHB

Builder/Architect/Developer:
New England Builders

Land Planner:
Solomon, Cordwell, Buenz & Assoc.



PLATINUM AWARD

HUD Secretary's Award For Excellence

Professional Builder.

Residents Help Rebuild Chicago Neighborhood



As part of the privatization of public housing, New England Builders built 56 new townhomes in the Henry Horner Revitalization Program on the west side of Chicago.

In collaboration with the Receiver for the Chicago Housing Authority's Scattered Site, Demonstration and Replacement Programs, New England Builders wanted to provide both the city and local residents with housing similar to market-rate.

The average price of the units is \$88,500, with sizes ranging from 740 to 1480 square feet. Hard cost are \$78 per square foot.

Through input from The Horner Association of Men, a nonprofit community development corporation in the area, local residents were identified to qualify for full-time job opportunities.

With the help of various trade unions working on the program, New England Builders offered preapprenticeship Step Up training programs for Section 3 residents. The residents did not need experience in construction, but rather they received training with various trades for up to a year.

Also, workers were



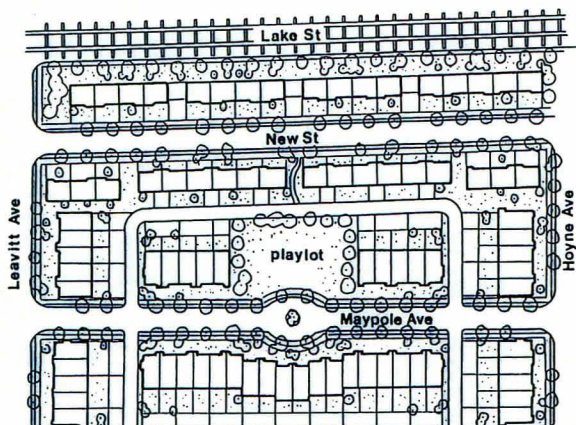
Exterior of the 56-unit Henry Horner Revitalization townhome project looks like market-rate housing rather than public housing. Local residents, trained in various trades, helped to build the project.

PHOTOGRAPHY BY HEDRICH BLESSING PHOTOGRAPHERS

required to remain drug-free and pursue their high-school diplomas. After completing a one-year preapprenticeship, the unions agree to accept them into an apprenticeship program.

About 80% of New England Builders' construction crews have been hired from the inner-city project areas. Local businesses offered materials and services as well.

"We helped fuel economic growth in depressed areas of the city by providing meaningful and substantial employment, thus regenerating raw funding back into the community," the company says. "We weren't looking for solutions from the outside, we were finding solutions from within." □

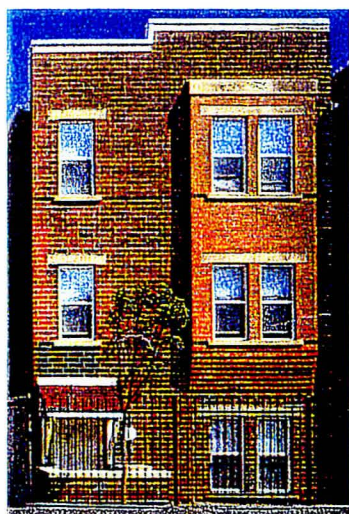




Project Data

Location: Chicago, Illinois
Developer: The Habitat Company for the U.S. Department of Housing and Urban Development
Size: Scattered sites within Chicago's city limits
Residential Units: 1,350 completed; 350 under construction; 1,950 at completion
Completed: 87 percent complete in mid-1996

RA-283



Special Award

Chicago Scattered-Site Program

Because of its successful track record and philosophy that housing for the poor need not be poor housing, the Habitat Company was appointed receiver of the Chicago Housing Authority's (CHA's) scattered-site housing program by the federal court in Chicago in 1987. The program had been mandated by the Gautreaux decision, which required that Chicago's public housing be more dispersed, but had floundered for 14 years.

Habitat was not interested in developing standard CHA housing in different neighborhoods. Instead, the company wanted to site, design, and build attractive housing within budget for CHA-eligible families. By means of a detailed land survey, the company found sites (mostly abandoned buildings or vacant land) in 22 racially mixed and stable neighborhoods with populations that met the court-ordered standard of less than 30 percent African American (by U.S. census tract).

Habitat used 15 experienced residential architectural firms from Chicago and focused on residential character and low life-cycle costs for interior and exterior materials and finishes. Private property management companies with a strong base in the local community manage all the units.

The average density of the new housing is less than four units per site. In most neighborhoods, the public housing units make up only a fraction of 1 percent of the total housing stock, and neighbors tend to rate the overall appearance of the new units as "good" or "excellent." Costs per dwelling unit currently average \$110,000 (including land, soft costs, and construction), which is under allowable budgets. Turnkey construction whereby Habitat sells land to a builder who sells the development back to CHA, the owner of record, consistently comes in 5 to 10 percent under HUD budgets.

Official Statement of Award

"In its program to develop and manage decent and neighborly housing for very low-income families, the Habitat Company has become, in essence, a privatized public housing authority, and it is doing an outstanding job. Market-rate housing is going up next door to many of its scattered-site projects."

From a scattered-site housing program for families with very low incomes in Chicago to an upscale residential community in suburban Washington, D.C., from a revitalized public park in New York City to an entertainment retail center in Las Vegas, eight award-winning projects exemplify superior development practices.

THE 1996 ULI Awards FOR Excellence

1996 ULI Awards for Excellence Jury

Ronald C. Nahas

Jury Chair

Partner

R.T. Nahas Company

Orinda, California

Charles R. Kendrick, Jr.

Jury Assistant Chair

Managing Director

Calrion Ventures, LLC.

Boston, Massachusetts

James M. DeFrancia

Chairman

Lowe Enterprises Mid-Atlantic, Inc.

Sterling, Virginia

W. Joseph Duckworth

Chief Executive Officer

Realen Homes

Ambler, Pennsylvania

John L. Field

Principal Architect

Field Paoli Architects

San Francisco, California

Charles E. Fraser

President

Charles E. Fraser Company, LLC.

Hilton Head, South Carolina

Walter A. Koebel

Chairman of the Board

Koebel and Company

Denver, Colorado

A. Eugene Kohn

President

Kohn Pedersen Fox

Associates, P.C.

New York, New York

Todd W. Mansfield

Executive Vice President/

General Manager

Walt Disney Imagineering

Celebration, Florida

Carol D. Nichols

Vice President and

Managing Director

Teachers Insurance & Annuity

Association of America

New York, New York

Donald R. Riehl

President

D.R. Riehl, Inc.

Pacific Grove, California

Guyia Sineni

Executive Vice President

United Commercial Realty

San Antonio, Texas

Jon L. Wellhoefer

Executive Vice President

Milwaukee Redevelopment

Corporation

Milwaukee, Wisconsin

Each year, the Urban Land Institute presents the ULI Awards for Excellence to honor development projects that represent superior land planning and development, resourceful use of land relevance to contemporary issues, and sensitivity to the environment. Only projects that are substantially complete and financially viable and that demonstrate relevance to the current and future needs of their community are eligible. The winners of the 1996 ULI Awards for Excellence demonstrate these qualities, setting standards of development for others to emulate.

Established in 1979, ULI's Awards for Excellence program recognizes the most outstanding projects in the United States and Canada. In 1994, projects in Spain, England, Mexico, the Netherlands, and Australia became eligible for a new International Award.

All projects submitted for consideration are evaluated carefully by a jury of 13 ULI members. The members of this year's jury are listed below.

Eight projects won awards this year. Together, they cover a wide range, from a golf-oriented primary home community to affordable single-family housing at a density of more than 13 units per acre, from the restoration of a public park in a high-rise office district to the construction of an upscale mixed-use building overlooking another public park. A shopping center, a resort, an office building, and scattered-site housing for families with very low incomes also won awards. Each project represented an excellent example of its type of land use and an innovative and successful development response to its site.

This year's 112 entries fell into 12 award categories: office, residential, recreational, mixed use, business park, commercial/hotel, new community, rehabilitation, public, international, special, and heritage. In a single year, the jury may grant as many as six domestic project awards, up to two special awards, up to two international awards, and one heritage award. It may give only two awards per award category—one for a large-scale project and one for a small-scale project. No more than three domestic awards may be presented to large-scale projects. The special award was established in 1986 to recognize projects that might not meet all the eligibility requirements but that are otherwise models of successful development.

The 1996 ULI Awards for Excellence winners were announced at a ceremony at ULI's fall meeting in November in San Francisco. The 1997 "Call for Entries" will be bound into the February issue of *Urban Land*.

The summary descriptions of the award-winning projects on the following pages were written by Libby Howland, former editor of Urban Land and a Takoma Park, Maryland-based writer and editor.



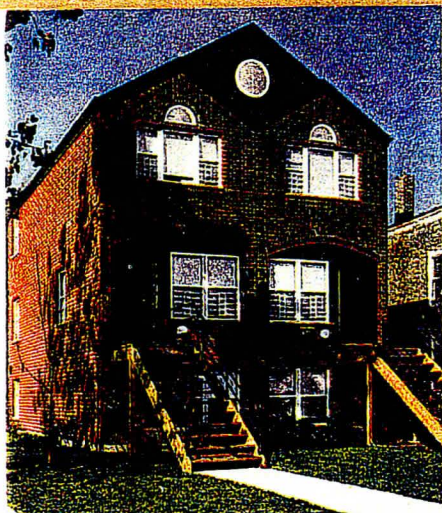
National Housing Conference

NHC NEWS

A Look
Celebrat
begins on p

Volume 5, No. 1

Spring 1997



Four 4-bedroom, two-story units designed by Bauls, Dring & Main. In-fill townhouses compatible with existing architecture.

ULI Special Award Just The Habitat Co

***"People buy a neighborhood, and people re
Hickman, Senior Vice President, The H
Scattered Site Program. "Our scattered si
environment that permits low income fam***

successful execution won the privately owned Habitat Company a 1996 Urban Land Institute Award for Excellence for its Scattered Site Program in Chicago. The judges said that the company "has become, in essence, a privatized public housing authority, and is doing an outstanding job. Market-rate housing is going up next door to many of its scattered site projects."

The Habitat Company (THC), which has just celebrated its 25th anniversary, was appointed the receiver of the Chicago Housing Authority's (CHA) scattered site housing program in 1987. The dispersed housing program had been mandated by the 1966 Gautreaux decision. Under CHA it had a 14 year record of failure.

Led by its chairman, Daniel Levin, THC's goal has been to redefine the city into thriving communities. THC has developed affordable housing, luxury high-rises and today, its portfolio includes over 35 properties in the metropolitan area of Chicago. It houses 14,000 families and includes more than 800,000 square feet of commercial, retail and office space.

An excellent track record as well as its philosophy that housing for the poor need not be poor housing brought THC to the attention of the federal courts. The courts were then looking for someone to take over the CHA task of creating 1,600 public housing units with funding from the Department of Housing and Urban Development (HUD).

This philosophy and its

The company surveyed the city, finding sites in 22 racially mixed and stable neighborhoods. Most were abandoned buildings or empty lots. THC retained 15 leading architectural firms who were charged with creating attractive units using low cost interior and exterior materials and finishes that would last. The average density is less than four units per site, and the average cost was \$110,000 per unit including land, soft costs and construction.

The company used turnkey construction, selling land to a builder who sells the development back to CHA, consistently coming in five to ten percent under HUD budget. All are managed by private property management companies.

Bringing public housing into communities often meets with resistance. The Habitat Company overcame this by building attractive housing that blends seamlessly into the neighborhoods. Units usually make up only a small fraction of the total housing in the area.

Habitat Now Expanding Programs

The initial plan for 1,400 units mushroomed into 3,277. One part of the scattered site program is the "Demonstration Program," which is primarily for non-traditional public housing locations and includes 375 units with a \$36 million price tag. The criteria call for low density housing consisting of single family houses, town homes, two or three multi-unit buildings, with a maximum of two or three buildings per census tract.

This will be about fifty-fifty new construction and rehabilitation. The rehab of existing buildings tends to make the move into neighborhoods less controversial,

Neo-Traditional Issues: n & its counterparts

6

FHLBanks Role in Affordable Housing begins on page 12

Chicago:
Rebuilding
the Inner City

Beginning for Chicago's Company

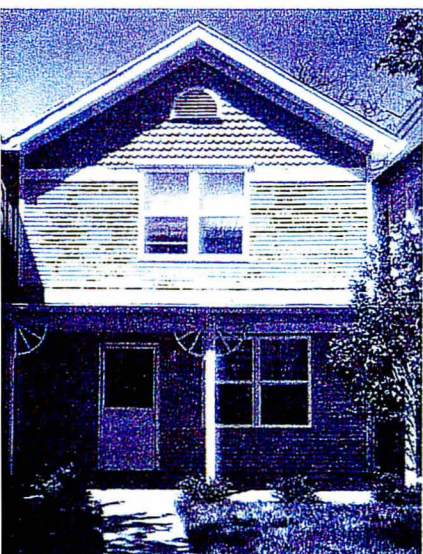
*on the same principle," says Philip
itat Company and director of its
program creates a whole different
es to live in a decent atmosphere."*

HC finds. Fifty percent of the units are slated for local
sidents with the others coming from CHA's general or
ansfer waiting list.

Habitat also is working on the "Replacement Housing"
ogram which calls for 1,294 units with a budget of
50 million. Among the public housing projects
cheduled for replacement is the notorious Henry
orner Extension area. THC and five nonprofit
mmunity development corporations (CDCs) are joint
nturing with a private construction company.

The six year, five phase venture is a collaborative
ocess. THC is working with the City of Chicago on

land
acquisition
and
infrastructure;
CHA on
planning,
demolition
and tenant
relocation;
residents on
community
development,
design, job
opportunities
and relocation;
and with the
CDCs and
HUD on
financing.



ce bedroom detached single family house designed by
mon, Cordwell, Buenz and Associates. This and
lar houses use modular design and utilize efficient
niques such as prefabricated wooden stud panels.

Photo by Hedrich-Blessing



The first ten
families moved
into their units
in January.

Occupancy of

the remaining 46 of the first 56 units is scheduled to
occur this spring. The replacement housing will be low
density: new town homes or two to three unit buildings
with private entrances, off-street parking, fenced yards,
and some garages. The city is reestablishing the
traditional street grid as part of the design scheme. So
far, five high-rises have been torn down and there are
six more to go. New units will be built on site and on
130 lots throughout the decimated neighborhood.
Altogether, the project will cover about 40 blocks.

Hickman says that drugs and crime led to disinvestment
in the neighborhood. The development plan includes
open spaces that allow children to play outside.

"Diffusing the criminals and holding people
accountable for their behavior...one strike and you're
out...will make the difference," Hickman believes, in
creating a new environment.

Half of the residents will be current Horner tenants
with very low incomes. The remaining will be working
families with incomes from fifty to eighty percent of
area median. Employment of residents under HUD's
Section 3 program stems from a model agreement with
the Chicago Building Construction and Trades Council
for the provision of job training and employment of
residents during construction. 🏠

Two cluster housing projects each contain a senior
housing 50-apartment building and 50 townhouses located
within eight blocks of the senior building. The
management and maintenance offices in the apartment
house serve all units. Designed by Nagle, Hartray,
Danker, Kagan, McKay,

RA-285

Cover Photo: First 10 units of Henry Horner Revitalization Program

REDEVELOPMENT

PROGRAMS

The Replacement Housing Program provides for the development of new housing: single family homes, duplex and town homes in low density in-fill neighborhoods and on larger sites formerly occupied by large high rise buildings.

The objective of this Program is to offer low-income families housing options in mixed-income communities by revitalizing neighborhoods or recreating the neighborhood. This Program is a collaborative effort involving the City of Chicago, HUD, CHA, public housing residents, community groups, CDCs and The Habitat Company. The public/private/non-profit sector approach is required to transform large distressed public housing developments into models of successful affordable housing and demonstrates the possibilities when given sufficient freedom, flexibility and funding.

The Federal Court approved the redevelopment plan for the former Horner Homes and the Lakefront properties in Kenwood/Oakland. The Cabrini Hope VI program is in the planning stage. In all cases, the large high rise "superblock" sites will be eliminated and the traditional street grid restored with two and three story dwellings, each with their own private entrance.



THE HABITAT COMPANY

HENRY HORNER HOMES *Redevelopment Fact Sheet*

The agreement for the redevelopment of the Henry Homer Extension area among the CHA, HUD and the Homer Resident Council was approved by Judge James Zagel in August, 1995. Under the plan The Habitat Company, in its capacity as Receiver for the Chicago Housing Authority Replacement Housing Program, is the Development Manager in a joint venture partnership with Chicago Metropolitan Housing Development Corporation. The Homer Revitalization Program boundaries are defined by Ashland Avenue on the east, Kedzie Avenue on the west, Lake Street on the north and Van Buren Street on the south. Following is a summation of the plan:

Scope:

A six-year, five-phase program initially involved the demolition of 466 units in two high-rise and three mid-rise buildings (completed) and the replacement of these 466 units. Homer residents will be provided with a choice of returning to replacement or rehabbed housing in the area, scattered site housing throughout the city, or the use of Section 8 Certificates. Phase II has been funded under the 1996 HOPE VI program. Demolition of six high-rise buildings is planned and 150 new units will be constructed on the site of the former high-rises.

*Replacement
Housing:*

Planned replacement housing units will be new town homes or two- or three-flat buildings both on the present site and in the Homer Revitalization area. The vast majority of units (373) will be located east of Western Avenue, with the remaining 93 units to be placed west of Western Avenue. All replacement housing will be low density and low rise with private entrances in keeping with the style of the surrounding community.

Half of the occupants will be current Homer tenants with very low incomes. The remaining 50 percent will be working families whose incomes range from 50 percent to 80 percent of the area median income (for a family of four, the range in income is approximately \$25,000 to \$40,000 per year).

Developers:

All housing will be constructed and managed by the private sector. Five joint ventures involving community development corporations and for-profit contractors have been selected for the redevelopment. The five teams selected are: Homer Association of Men/New England Builders; Near West Side CDC/MCL/ASD L.L.C.; Acom Housing/Thrush Development; Renaissance Development/Cyrus Development Group; and Hull House Association/Enterprise Development. Each partnership involves a community developer named in Judge Zagel's order.

Architects

Among the architects designing the new buildings are the award-winning firms of Solomon Cordwell Buenz & Associates, Johnson & Lee Ltd., and Hammond Beeby & Babka Inc.

Planning:

Under Judge Zagel's order, tenant representatives, area residents and institutions, City officials and representatives of CHA and HUD are participating with Habitat in all phases of the planning.

Timeframe:

The new construction of the replacement units will be phased. As of March 1998, 149 units have been completed. Another 182 units are under construction. The remaining 135 units in Phase I are in design. Phase II (150 units) is in the planning phase.

RA-287

Chicago Tribune

Tuesday, March 31, 1998

Out of housing, into homes

'Architecture
of normalcy'
appears to succeed
at weaving
Henry Horner
residents into
fabric of the city



Photo for the Tribune by Geoff Da

By Blair Kamin

TRIBUNE ARCHITECTURE CRITIC

Chonta White moved with her daughters Marquita (left) and Rayshawnda into a new rowhouse on Maypole Avenue.

What does your home mean to you?
To 26-year-old Chonta White, it means lots of little things, like letting her two girls ride their bicycles on the sidewalk without worrying about them getting shot. It also means controlling the heat in her apartment so the temperature will be at the right level for 6-year-old Rayshawnda, who has asthma. That way, Rayshawnda won't have to go to the hospital emergency room, as she once did when the family lived in a Chicago Housing Authority high-rise, where someone at a central heating plant determined how hot or cold it would be.

Last August, White moved from a 14-story high-rise at 2245 W. Lake St., part of the Henry Horner Homes just north of the United Center, to a brown brick rowhouse with white trim in the 2100 block of West Maypole Avenue. Her new place also is public housing, but to hear her talk about it, it's a whole new world. Instead of hearing gunfire at night, she says, it's quiet.

"like you're up in a suburb." When she comes home in the evening from her job as a Target cashier, she no longer must walk up a dark flight of stairs where a mugger might be lurking. She enters through her own front door.

A front door, a thermostat, a sidewalk lined with black wrought-iron fences, concrete stoops

SEE HORNER, PAGE 7

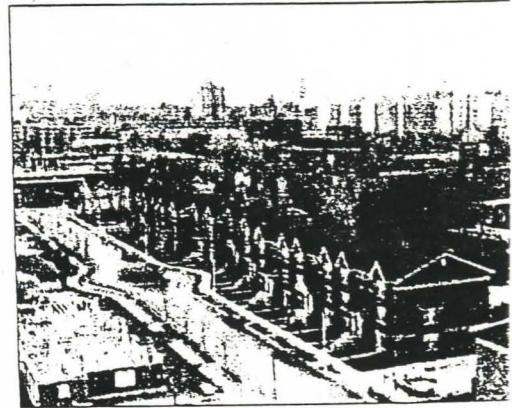


Photo by Steve

Construction of the United Center spurred renewed interest in the surrounding West Side neighborhood.

Horner

CONTINUED FROM PAGE 1

where people can sit on a warm spring day - it all sounds pretty unspectacular, right? But that's precisely the point. Things like these, so commonplace, so easy to take for granted, were missing from public housing. Combined with decades of neglect by local housing officials and federal policies that packed the projects with the poorest of the poor, their absence created a huge stigma, making public housing the kind of place people would go miles out of their way to avoid.

Now, these small touches are being put back, part of a national effort to draw working families to public housing and to break up the deep concentration of poverty that is the root cause of the projects' litany of pathologies. Call it the architecture of normalcy. While it has yet to work a miraculous transformation at Henry Horner, which is the first large-scale redevelopment of public housing in Chicago, it nonetheless has made major strides toward turning around the lives of people like White. In the process, it is sending a powerful message about the essential role that design has to play in creating thriving communities.

That message is timely because other attempts to remake notorious housing projects here are gathering steam. By Tuesday, for example, real estate developers were to submit plans for the first stage of transforming Cabrini-Green into a racially diverse neighborhood with a mix of income groups that includes the very poor. While the circumstances vary from project to project, the mandate basically is the same: Break down the barriers between public housing and the rest of America.

The subtitle of Alex Kotlowitz's 1991 book about Henry Horner, "There Are No Children Here," went to the heart of this division: "The Story of Two Boys Growing Up in the Other America." The warped expectations formed by this "other America" were encapsulated in the words of the two boys, young brothers named Lafayette and Pharoah Rivers. They would start conversations about the future by saying, "If I grow up," rather than "When I grow up."

Since 1991, things have taken a turn for the better at Henry Horner, and there are many reasons why: the 1994 opening of the United Center, which caused real estate investors to look at the neighborhood anew; a city push to improve streets and other infrastructure on the Near West Side, which culminated with the 1996 Democratic National Convention

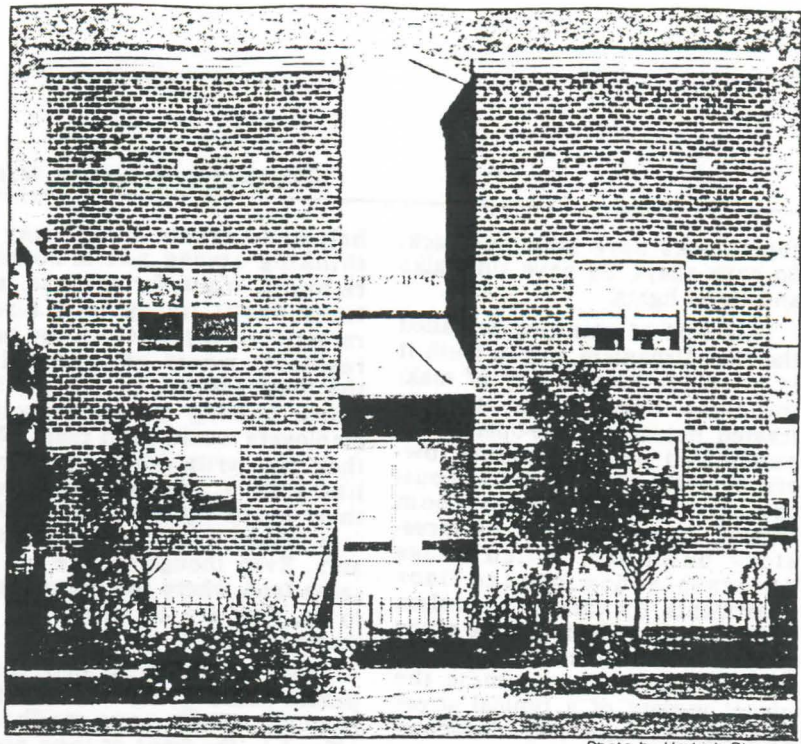


Photo by Hedrich Blessing

Townhouses are replacing tower-in-the-park style public housing.

at the United Center; and the 1995 settlement of a lawsuit filed against the CHA by Horner tenants, which cleared the way for the current reconstruction and renovation.

In brief, this is what is happening as part of a redevelopment program that will cost more than \$125 million. Two high-rises and three mid-rises, which once loomed like giants above the Lake Street elevated train tracks, have been demolished and are being replaced with brown-brick rowhouses, like White's, and townhouses along the L. Outside Henry Horner's borders, vacant lots that once resembled gaps in a row of teeth are being filled in with brick-faced apartment houses. A total of 466 new units are to be built, matching the number lost to demolition. The units are being split evenly between Horner tenants with very low incomes and working families whose incomes range from 50 percent to 80 percent of the median Chicago-area income (about \$25,000 to \$40,000 a year for a family of four). These units are being built by the Habitat Co., the court-appointed receiver for the CHA's scattered-site housing program.

At the same time, in the shadow of the United Center, the three-building Henry Horner Annex, which former CHA chairman Vincent Lane once vowed to tear down, is being renovated by the Walsh Construction Co. While the Annex's two low-rises remain untouched, the transformation of its seven-story midrise is almost complete, the old red-brick facade repainted beige, gray and white, a palette comparable to that of the

United Center.

That, really, is what distinguishes the new public housing on Chicago's West Side: It strives to be indistinguishable from its surroundings.

Public housing once tried to stand apart. Its architects' motives were pure, even if racist politics confined their towers to urban ghettos. Move the towers back from filthy, packed slums, the architects said. Let them stand in the middle of oversized blocks, or "superblocks," made by closing off streets of the traditional city grid. Give everybody plenty of space, as well as access to light and air. Line the faces of the towers with breezeways, "streets in the sky," where mothers could rock their baby carriages.

The collapse of this tower-in-the-park utopia and the nightmarish conditions that put public housing on the national political agenda are well known even if the root causes aren't. The deterioration resulted as much from federal policies that restricted public housing to the poorest of the poor and a lack of maintenance by local officials as ill-conceived design. But architecture certainly exacerbated the basic problem: the social isolation of the very poor.

That's why the redevelopment plan for the new townhouses and rowhouses, drafted by San Francisco architect Peter Calthorpe and modified by the Chicago architectural firms of Solomon Cordwell Buenz & Associates and Johnson & Lee, is working: It physically reconnects public housing with the area around it. Streets, like Maypole, that were taken out to make way for the

HENRY HORNER HOMES
ORIGINAL SITE PLAN (Super Blocks)

superblocks have been put back. So have alleys. So have sidewalks and street lights.

This sort of planning is called the New Urbanism, but in truth it is the old-fashioned way of making cities. Here, public space is treated not as a wide-open plain punctuated by freestanding towers, as in the original public housing, but as an outdoor room framed by the walls of its three-story buildings, which house duplexes above ground-floor apartments. By varying the colors of the bricks and the profile of the gables over each main entrance, the architects approximate the visual variety of a typical street and suggest the way detached single-family homes express the identity of their occupants.

Say goodbye, in short, to the faceless monotony of public housing.

The design serves practical purposes, too, like encouraging informal surveillance of the street by neighbors looking through windows or people sitting on stoops. Those are the "eyes on the street" absent from the old high-rises, as the urbanologist Jane Jacobs famously observed. Seemingly an ornamental touch, the wrought-iron fences demarcate where the sidewalk's public space ends and the home's private zone starts. They say, in effect: "Don't come in here unless you belong."

Not surprisingly, reported crimes at the Horner complex, which is roughly six blocks long and two blocks wide, dropped by 17 percent from 1996 to 1997, according to the CHA's Henry Horner redevelopment manager, John Tuhey, who also attributes the decline to more evictions, rigorous screening and the presence of additional CHA police and security personnel.

The new construction also

helped to create a new way of thinking among public-housing residents. White, for example, now talks about living in a house rather than a project. In the past, residents would be ashamed to list their address on job applications, fearing that prospective employers would shun them. Now they can write down an address like 2213 W. Maypole and "hold their heads up high," says William Wilen, a lawyer for the tenants. Even though they're on the same land where the towers used to be, they are, in effect, "off the reservation."

There are still signs that this is public housing, like the fact that residents don't have mailboxes affixed to the front of their apartments; instead, they must walk to post-office boxes perched on pedestals at intervals along the street. In addition, there isn't a decent large grocery store for blocks. In short, though the area is moving toward a mix of income groups it still lacks the mix of uses that makes city neighborhoods lively and convenient.

Even so, much of the shame attached to living in public housing here has vanished; the waiting list for the rowhouses and townhouses is in the hundreds. Their design attracts the working families who shunned public housing in the past. Similarly, smartly designed detached apartment houses in the area south of Horner are proving a strong draw and are stimulating private investment, such as the rehab of a row of private Victorian homes along West Jackson Street.

The walls between the projects and the city also are coming down with the rehabilitation of the seven-story Horner Annex, although it may not seem that way at first glance. Instead of weaving new housing into the fab-

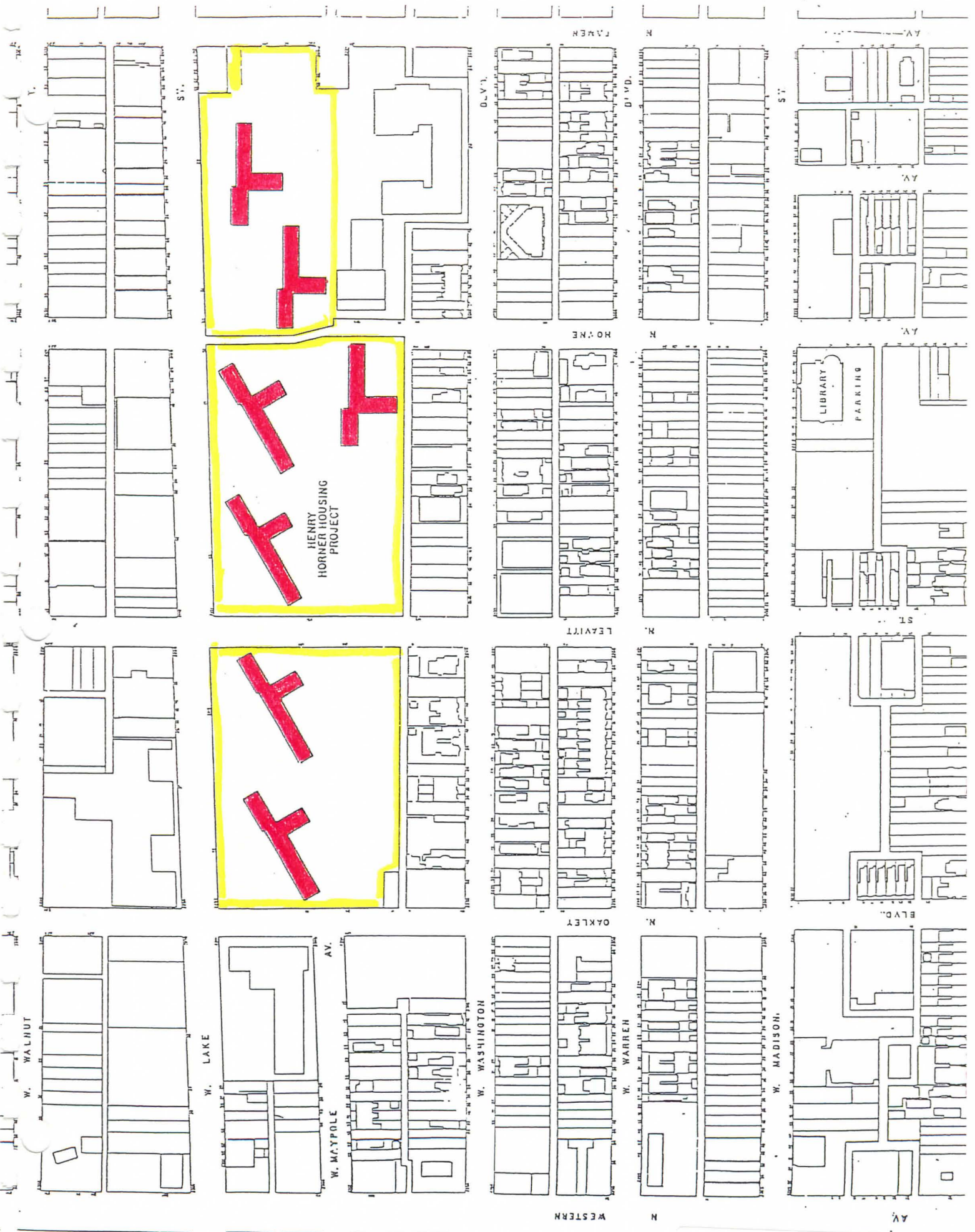
ric of the city, as the rowhouses aim to do, the renovation creates a fenced and gated complex.

Does that strategy repeat the mistake of the early public housing? Not necessarily, when you realize this is the way scores of condominium complexes around Chicago and the nation are arranged today. This is middle-class high-rise living — which is what residents are saying when they crow that the Annex "looks like condos."

A key aspect of the renovation is that the architects, the Chicago firm of VOA, designed with their ears as well as their eyes. Residents were consulted on almost every aspect of the redesign. For example, indoor hallways with tile floors replaced breezeways paved in concrete, making the corridors more like a hotel than a housing project. Apartment sizes were expanded, and kitchens got amenities like wood cabinets. "We wanted to give it a look that made it our house," says the building's president, 39-year-old Annette Hunt.

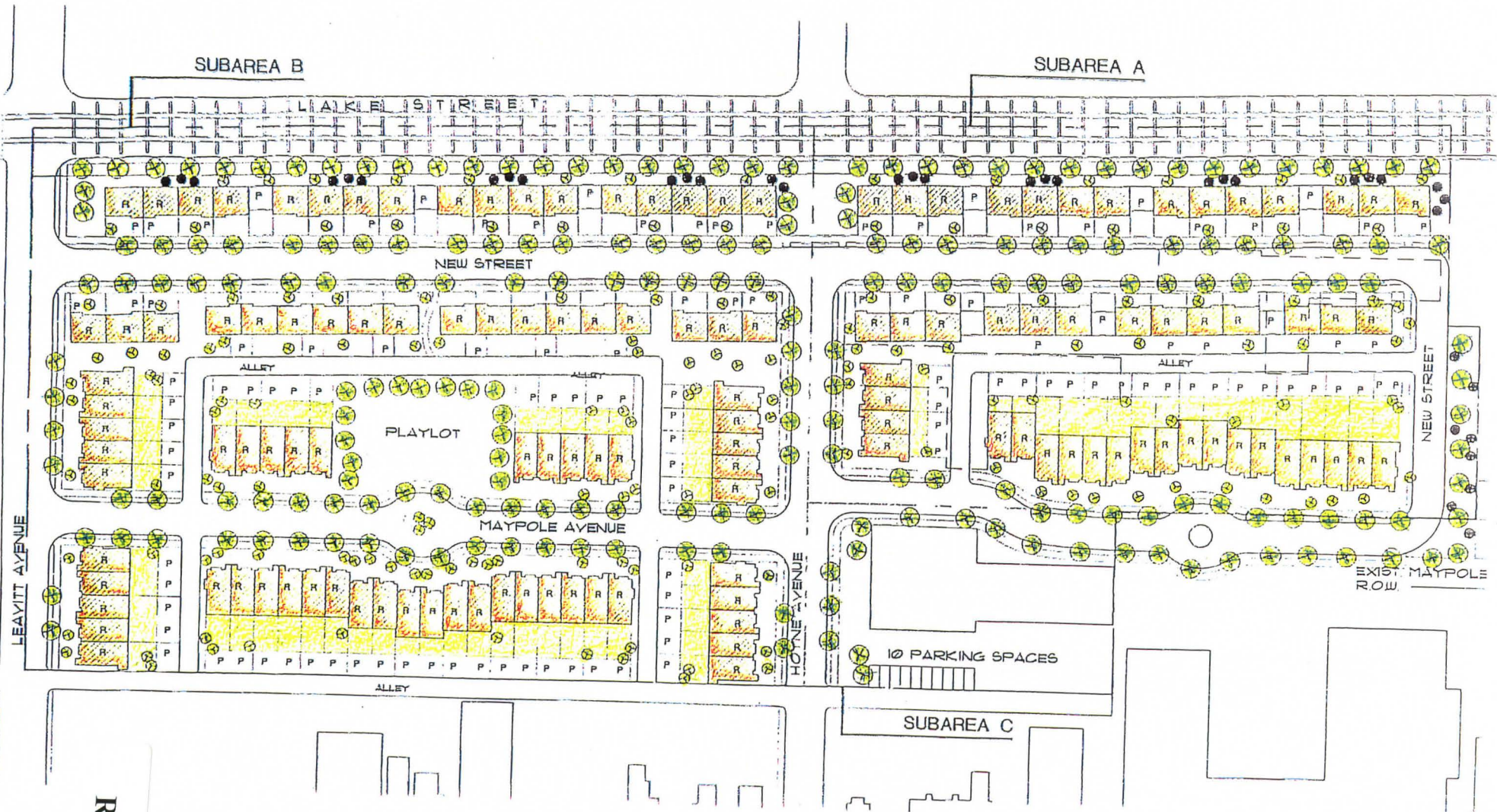
Much is still to be done at Horner, like ensuring that all of the units get built on time and on budget; already there have been delays. Disputes continue over the quality of construction as well as the screening of tenants; if these details are not attended to, Chicago will simply have replaced a high-rise ghetto with a low-rise ghetto. Even so, public officials, architects and Horner residents are taking the right first steps to erase the stigma that defined the "other America." It's all about bringing back the little things that turn "housing" into "home."

HENRY HORNER HOMES
ORIGINAL SITE PLAN (Super Blocks)



HENRY HORNER HOMES

PROPOSED SITE PLAN



RA-294

REVISED SITE PLAN
HENRY HORNER HOMES

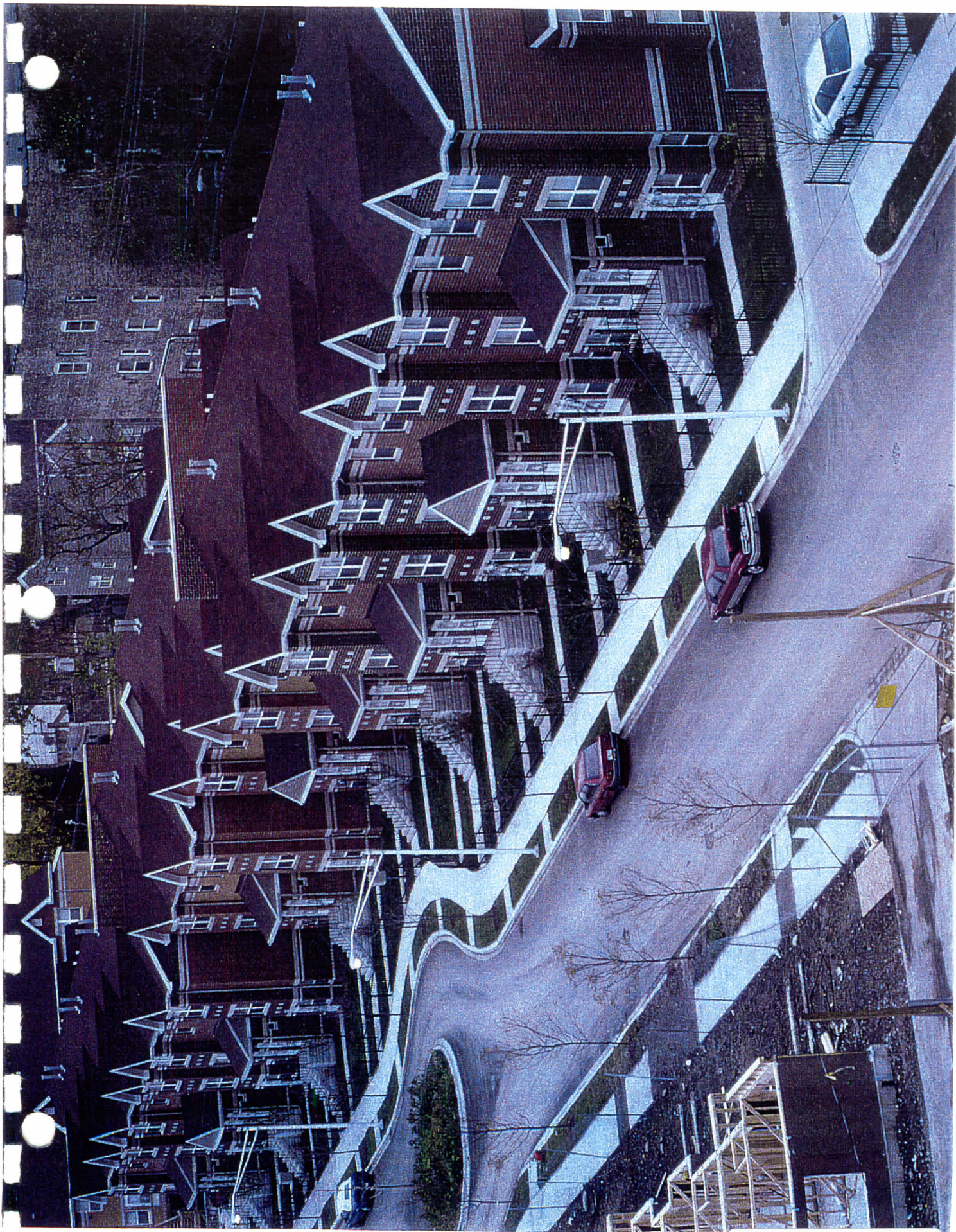
HENRY HORNER HOMES

NEW TOWN HOMES



56 Townhouse Units (to the south) Completed Jan.-Aug. 1997
71 Townhouse Units Under Construction

Overview of Horner Super Block B - November 1997
Photographed from Top of High Rise on Leavitt Looking East



Close Up of First 56 Horner (Super Block B) Townhouse Units Completed Aug. 1997
Photographed in Nov. 1997 from Top of High Rise on Leavitt Looking East

71 Townhouse Units (to the north) Under Construction



2113-2147 W. Maypole
Eighteen 3-Bedrooms, Eighteen 2-Bedrooms
Horner Super Block B (198)

Horner New Horizons (New England Builders/HAM)
Solomon Cordwell Buenz & Associates
Completed 1997

Horner New Horizons (New England Builders/HAM)
Solomon Cordwell Buenz & Associates
Completed 1997

114 -122 N. Hoyne
Five 3-Bedrooms, Five 2-Bedrooms
Horner Super Block B (198)



RA-300



19 S. Hoyne
Four 3-Bedrooms
Horner Infill (188)

Near Westside Showcase, J.V. (MCL/Near Westside)
Smith and Smith
Completed 1997

RA-301



2106 W. Washington
Three 3-Bedrooms
Horner Infill (195)

Starr/Enterprise L.L.C (Enterprise Development/Hull House)
Bauhs Dring & Main
Completed 1997



45 N.Oakley
Two 3-Bedrooms
Horner Infill (188)

Near Westside Showcase, J.V. (MCL/Near Westside)
Smith and Smith
Completed 1997

RA-304