

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

RECEIVED

NOV 23 1993

Judge Marvin E. Aspen
U.S. District Court

DOROTHY GAUTREAUX, <i>et al.</i>	)	
	)	
Plaintiffs,	)	66 C 1459
	)	
v.	)	Hon. Marvin E. Aspen
	)	
	)	
CHICAGO HOUSING AUTHORITY and	)	
JOSEPH SHULDINER, Executive Director,	)	
	)	
Defendants.	)	

**INTERVENOR'S MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Intervenor Lakefront Community Organization ("LCO"), by and through its attorneys at the Legal Assistance Foundation of Chicago, moves this Court to issue a temporary restraining order and preliminary injunction to prevent the Chicago Housing Authority ("CHA") from demolishing the buildings standing at 4040 South Oakenwald, 1130 East 41st Street, 4155 South Lake Park, and 1133 East 42nd Street (hereinafter referred to as "the Lakefront Buildings") before the LCO can be heard on its complaint that the CHA has not fulfilled its contractual commitment to perform certain actions before any demolition can occur. In support of this motion, the LCO states the following:

1. The LCO incorporates herein the facts set forth in paragraphs 1-9 and 11-28 of Intervenor LCO's Complaint.
2. The LCO meets the four prerequisites for preliminary injunctive relief: (1) the LCO has a reasonable likelihood of success on the merits; (2) the LCO has no adequate remedy

at law and will be irreparably harmed if the injunction is not granted; (3) the threatened injury to the LCO outweighs the threatened harm to the CHA; and (4) the injunction will not disserve the public interest. Roland Machinery Co. v. Dresser Industries, Inc., 749 F.2d 380 (7th Cir. 1984). The greater the LCO's showing on some of these four factors, the less it needs to establish on others. *Id.*

Success On The Merits

3. For the reasons stated in the Intervenor's Complaint and the attached affidavit, there is a reasonable likelihood that the LCO's claims will succeed on the merits. See Affidavit of Izora Davis, attached hereto as Exhibit A. The LCO seeks to enforce an agreement that the CHA made in 1995, and presented to this Court (with Habitat's concurrence) as the basis for seeking a waiver of Gautreaux locational requirements in 1996.

4. The CHA is currently in the process of preparing the Lakefront Buildings for demolition on December 12, 1998. See pictures of Lakefront Buildings taken on November 19, 1998, attached hereto as Exhibit B.

5. CHA has failed to comply with the following requirements, which must be satisfied before CHA may demolish the Lakefront Buildings:

a. Concerning the binding funding commitments from HUD for construction of 80 to 100 units of public housing on the Lakefront properties and 200 scattered site public housing units in the City of Chicago but outside of the North Kenwood/Oakland neighborhood (see Complaint, ¶ 21a.), Habitat's own records indicate that, at minimum, 124 units still are unfunded. See Summary prepared by Habitat, attached hereto as Exhibit C.

b. Concerning the 141 units to be built in the North Kenwood/Oakland

neighborhood for which CHA must obtain site control (see Complaint, ¶ 21b), CHA and Habitat have only turned over documents proving site control of sufficient sites for approximately 80 units. See Land Inventory, attached hereto as Exhibit D. The LCO has not received documentary evidence of site control for the following sites listed in the Land Inventory: 4416 S. University, 900 E. 40th Street, 4516 S. Drexel, 826 E. 42nd Street, 4309 S. Berkeley, 4311 S. Ellis, 4140 S. Drexel, 4162 S. Drexel, 821 E. 42nd Place, 825 E. 42nd Place, 827 E. 42nd Place, 829 E. 42nd Place, 3991 S. Ellis, 810 E. 41st Street, 4019 S. Cottage Grove. Additionally, the LCO questions the sufficiency of the letter offered as evidence of site control for the site at 4630 S. Woodlawn.

c. Concerning the completion of 341 units of public housing to be built in the North Kenwood/Oakland neighborhood and in the City but outside of the North Kenwood/Oakland neighborhood (see Complaint, ¶ 21d), Habitat's own records indicate that only 111 units of public housing have been completed. See Exhibit E.

Inadequate Remedy At Law/Irreparable Harm

6. As a result of CHA's actions, LCO has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Specifically, LCO will lose the *quid pro quo* (the demolition of the Lakefront Buildings) on which the 1995 Agreement was predicated without having any assurance that the CHA, through the Habitat Company, will build the promised replacement housing. The timely construction of the replacement public housing is especially important because the LCO and the displaced families it represents have been waiting for more than 10 years for this housing.

Balance Of Harms

7. If this Court does not enter a temporary restraining order and preliminary injunction enjoining the CHA from demolishing the subject buildings, the LCO will lose the *quid pro quo* provided in the agreement, assuring it of replacement housing. The loss of this *quid pro quo* will result in additional, substantial delay in the construction of the replacement housing. If the Court grants the TRO/injunction, the CHA will have to let the Lakefront Buildings, which it has allowed to stand vacant for 12 years, stand vacant a short time longer.

Injunction Will Not Disserve The Public Interest

8. The injunction will not disserve the public interest because the Lakefront Buildings are not a threat to public safety. Most of the Lakefront Buildings have been vacant for 12 years. Requiring the buildings to remain standing an additional short period of time does not significantly impact the public interest. However, the public interest will be served if the CHA makes good on its commitment to build much needed, and long promised, replacement housing.

Waiving Bond

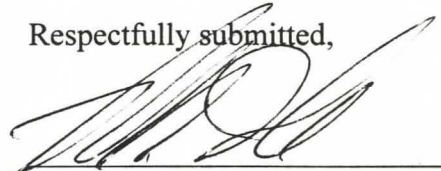
9. Intervenor is a non-profit corporation charged with representing low income former tenants of the Lakefront Buildings, and cannot afford to post bond as security for the issuance of the temporary restraining order and preliminary injunction. This is an appropriate circumstance for this Court not to require the posting of security under Fed. R. Civ. P. 65(c) if the Court enters a preliminary injunction. C. Wright, A. Miller, and M.K. Kane, Federal Practice and Procedure, § 2954, at pp. 298-300 (1995); Wayne Chemical, Inc. v. Columbus Agency Service Corp., 567 F.2d 692, 701 (7th Cir. 1977) (poverty is a special circumstance to excuse security). See also Walker v. Pierce, 665 F. Supp. 831, 843-844 (N.D.Cal. 1987) (security

waived where injunction sought by indigent class representatives on behalf of mostly indigent tenants).

WHEREFORE, the LCO prays that the Court grant the following temporary restraining order and preliminary injunctive relief:

1. Enter a temporary restraining order and preliminary injunction enjoining CHA from taking any further acts to demolish the Lakefront Buildings, until such time as the LCO can be heard on its complaint that the CHA has not fulfilled its contractual commitment to perform certain actions before any demolition can occur ;
2. Waive the posting of bond as security for the issuance of this order;
3. Order CHA to make the Lakefront Buildings immediately available for on-site inspection by LCO's experts to determine the current structural integrity of these buildings; and
4. Grant such other relief as may be proper and just.

Respectfully submitted,


One of the Attorneys for the LCO

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AFFIDAVIT OF IZORA DAVIS

I, Izora Davis, first being duly sworn on oath, depose and state that if I were sworn as a witness I could competently testify to the following:

1. I am the executive director of the Lakefront Community Organization, which organization is the Plaintiff in this lawsuit.

2. On information and belief, the Lakefront Community Organization was first incorporated on October 16, 1985.

3. The Lakefront Community Organization is the representative non-profit corporation for former tenants of 3939 South Lake Park Avenue, 3983 South Lake Park Avenue, 4040 South Oakenwald, 1130 East 41st Street, 4155 South Lake Park, 1132 East 42nd Street (hereinafter "Lakefront properties").

4. As the sole representative of these displaced tenants, the Lakefront Community Organization has negotiated with the Chicago Housing Authority and reached agreements resulting in the May 27, 1986 Memorandum of Accord Regarding Relocation of Residents from the Lakefront Properties Pursuant to the CIAP Rehabilitation Project, which provided for the rehabilitation of the buildings on the Lakefront properties, and the September 22, 1995 Revised Agreement Regarding Former Residents of the Lakefront Properties and the Future Use of Those Properties, which agreement is the subject of this lawsuit.

5. On May 27, 1986, the Chicago Housing Authority entered into a Memorandum of Accord Regarding Relocation of Residents from the Lakefront Properties Pursuant to the CIAP Rehabilitation

Project with the Lakefront Community Organization and other parties.

6. The 1986 Memorandum established a procedure for the emptying and rehabilitating of the Lakefront properties high-rises.

7. The Chicago Housing Authority renovated two of the six Lakefront properties high-rises. Specifically, the Chicago Housing Authority renovated the building at 3939 South Lake Park, Chicago, Illinois, and the building at 3983 South Lake Park, Chicago, Illinois. These buildings were sufficiently renovated to accommodate tenants in 1991.

8. The Chicago Housing Authority removed the tenants from the other four Lakefront properties high-rises. Specifically, the tenants were removed from 1130 East 41st Street, 4155 South Lake Park and 1132 East 42nd Street in 1986, and, as a separate action, tenants were removed from 4040 South Oakenwald on or about November 1991.

9. The Chicago Housing Authority did not renovate these four buildings. Instead, the buildings have been vacant since the residents were removed, and many of the former residents remain displaced.

10. Sometime between the end of 1993 and the beginning of 1994 the Chicago Housing Authority approached the Lakefront Community Organization to negotiate a revision of the 1986 Memorandum.

11. On September 22, 1995, the Chicago Housing Authority and the Lakefront Community Organization entered into a Revised

Agreement Regarding Former Residents of the Lakefront Properties and the Future Use of Those Properties.

12. The Chicago Housing Authority has not demonstrated to me, the executive director of the Lakefront Community Organization, that it has satisfied the requirements precedent to the demolition of the four vacant Lakefront high-rises.

13. Specifically, the Chicago Housing Authority has not demonstrated to me that it has obtained binding funding commitments from HUD for the construction of 80 to 100 units of public housing on the Lakefront properties and for the construction of 200 scattered site public housing units in the City of Chicago in neighborhoods other than the North Kenwood/Oakland neighborhood as required by ¶¶3(a), 4, and 5 of the Revised Agreement.

14. The Chicago Housing Authority has not demonstrated to me that they have obtained site control of sufficient property to construct 141 units of replacement public housing in the North Kenwood/Oakland neighborhood as required by ¶¶3(b) and 6 of the Revised Agreement.

15. The Chicago Housing Authority has obtained the Lakefront Community Organization's approval for not more than 20 sites in the North Kenwood/Oakland neighborhood. The Revised Agreement requires that CHA seek and obtain approval for all of the sites for the 141 units to be located in the North Kenwood/Oakland neighborhood as required by ¶¶3(b) and 6.

16. The Chicago Housing Authority has not commenced construction on (1) all 141 units of replacement public housing in

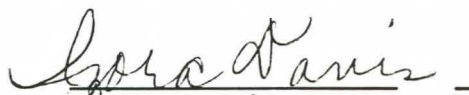
the North Kenwood/Oakland neighborhood, and (2) all 200 scattered site public housing units in the City of Chicago outside of the North Kenwood/Oakland neighborhood.

17. The Chicago Housing Authority has not completed construction on (1) all 141 units of replacement public housing in the North Kenwood/Oakland neighborhood, and (2) all 200 scattered site public housing units in the City of Chicago outside of the North Kenwood/Oakland neighborhood, as required by ¶¶ 3 and 15 of the Revised Agreement.

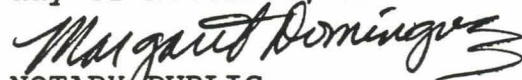
18. At a meeting on November 10, 1998, Karen Newton, Acting Chairman of the CHA, stated that demolition of the four vacant Lakefront properties high-rises is set for December 12, 1998.

19. As of the filing of this complaint, work on the demolition of the Lakefront properties high-rises has already begun. This work includes the removal of some of the outer walls and some of the floors from all of the vacant Lakefront high-rises.

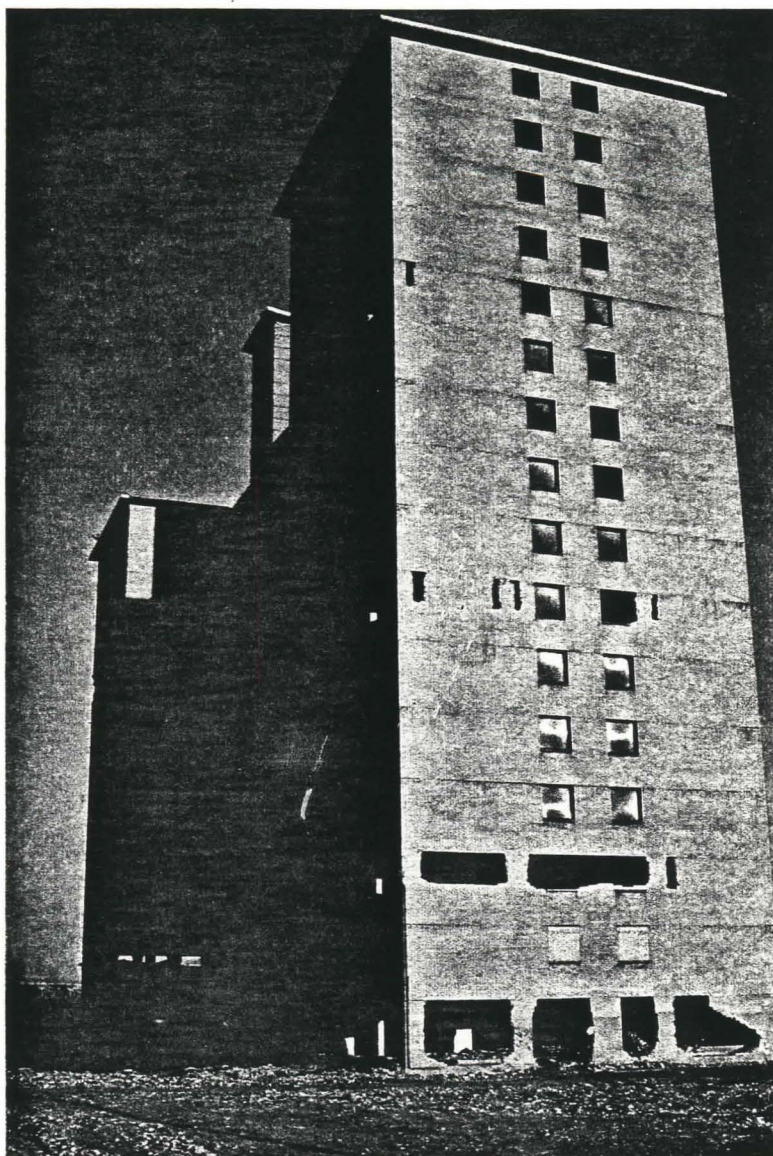
FURTHER AFFIANT SAYETH NAUGHT.


Izora Davis

Sworn to and signed
before me this 23rd
day of November, 1998.


NOTARY PUBLIC





**The Building at 1132 East 42nd Street – West Elevation
(North Elevation in shadow)**



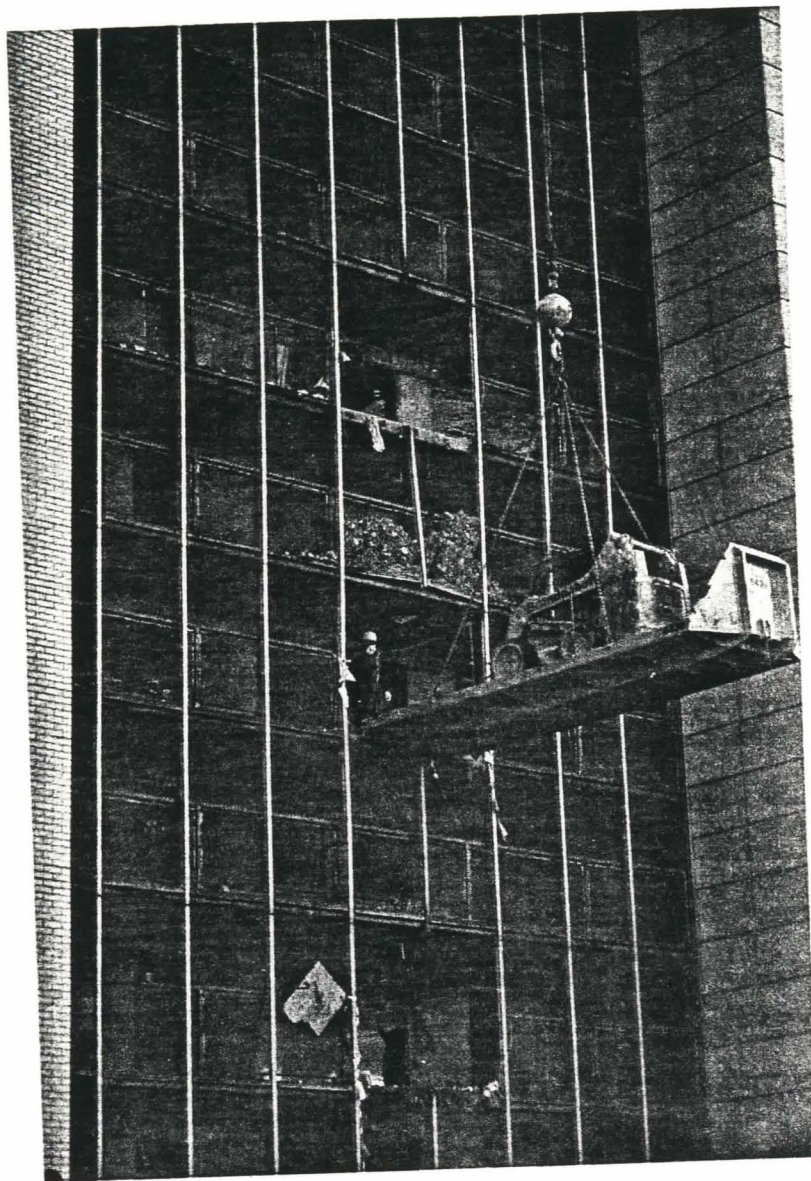
**The building at 1130 East 41st Street – North Elevation
(In the background is the building at 4155 South Lake Park Street – North Elevation)**



**In the foreground is the building at 1130 East 41st Street – North Elevation
In the center (and the rear) is the building at 1132 East 42nd Street – North Elevation
On the far right is the building at 4155 South Lake Park Street – North Elevation**



The building at 4040 South Oakenwald – East Elevation
(South Elevation in sunlight)



**The building at 4040 South Oakenwald – East Elevation
(Bulldozer is being lifted by a crane to the 6th floor of the building)**

**WASHINGTON PARK REPLACEMENT HOUSING PROGRAM - 187 UNITS and
LAKE FRONT PROPERTIES REPLACEMENT HOUSING PROGRAM - 130 UNITS**

STATUS SUMMARY FOR KENWOOD/OAKLAND UNITS	
Transferred and Completed	62 units
Under Construction	9 units
Bid-Process	44 units
Design Phase	0 units
Pre-Bid	148 units
Site Acquisition	54 units
TOTALS	317 units

Activity from July 1, 1998 through September 30, 1998 - Areas within Kenwood-Oakland: CHA has informed the leadership of the LCO that the site control requirements have been met and the City of Chicago has agreed to fund the demolition of the four (4) high-rises. The Receiver, together with the leadership of the LCO, CCC, City of Chicago, Alderman Preckwinkle and CHA are participating in the planning process for redevelopment of the Lakefront properties.

Construction continues for Program 184 with 26 units completed and transferred and seven (7) units under construction. Of the seven (7) units currently under construction, 4 are expected to be completed and transferred in October of 1998 and the remaining three (3) units (1 building) will be completed by December 30, 1998.

The design phase is complete in Program 206 with 21 units, but preliminary costing for the negotiated contract is over the allowable HUD TDC. Efforts by Habitat and the contractor are underway to reduce the unit costs to meet published TDC.

Effective September 30, 1998, 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	24 Transferred/Completed 9 Under Construction
IL06-P002-206	25	Bid Process
IL06-P802-193 Drexel	40	Pre-Bid
IL06-P802-193 Lakefront	88	Pre-Bid
IL06-P002-205	3	Bid Process
IL06-P002-180(P)	16	Pre-Bid
IL06-P002-207	20	Pre-Bid
TOTAL UNITS	241	

Activity from July 1, 1998 through September 30, 1998 - General Areas Outside of Kenwood-Oakland:
As of March 31, 1998, all 38 units have been transferred.

Activity from July 1, 1998 through September 30, 1998 - Limited Areas Outside of Kenwood-Oakland:
The Woodlawn area continues to be reviewed for appropriateness for replacement housing required outside the Kenwood-Oakland area. Habitat and Gautreaux counsel have been analyzing the area for a revitalization waiver. Community leaders and Aldermen have been contacted about replacement units in Woodlawn. Purchase contracts have been prepared for twenty-three (23) parcels of vacant land parcels in Woodlawn at this time. Seventeen (17) parcels have been closed.

UNITS OUTSIDE KENWOOD-OAKLAND REVITALIZING AREA		
PROGRAM	NUMBER OF UNITS	STATUS
IL06-P002-180	38	Site Acquisition
IL06-P002-194	38	Transferred/Completed
	124	Unfunded Units
TOTAL	200	

North Kenwood / Oakland Revitalization Program - Land Inventory

Program 184	UNITS	ADDRESS	NOTES
	3	827 E. Bowen	Construction Complete
	6	4246 S. Drexel	Construction Complete
	5	4630 S. Drexel	Under Construction (Jan 99*)
	2	4546 S. Oakenwald	Construction Complete
	3	4416 S. University	Construction Complete
	1	4448 S. University	Construction Complete
	3	802 E. 41st Street	Construction Complete
	3	824 E. 42nd Street	Construction Complete
	3	1216 E. 46th Street	Construction Complete
	1	1218 E. 46th Street	Construction Complete
	3	900 E. 40th Street	Construction Complete
Units	33		

Program 206	UNITS	ADDRESS	NOTES
	0	4516 S. Drexel	To be included in Drexel RFP (market rate unit)
	3	4413 S. Oakenwald	December 1998 construction start
	3	4338 S. Greenwood	December 1998 construction start
	6	927-35 E. 45th	December 1998 construction start
	6	819-23 E. 45th	December 1998 construction start
	3	826 E. 42nd Street	December 1998 construction start / demolish exist. bldg.
Units	21		

Program 160* 4300 Block RFP	UNITS	ADDRESS	NOTES
	3	4309 S. Berkeley	Spring 1999 construction start
	3	4311 S. Ellis	Spring 1999 construction start
	3	4331 S. Ellis	Spring 1999 construction start
	6	4328-32 S. Greenwood	Spring 1999 construction start
Units	15		

Drexel RFP*	UNITS	ADDRESS	NOTES
	20	CHA Washington Park Site	Prepare development plan and RFP
	6	4140 S. Drexel	Prepare development plan and RFP
	6	4162 S. Drexel	Prepare development plan and RFP
	2	821 E. 42nd Place	Prepare development plan and RFP
	2	823 E. 42nd Place	Prepare development plan and RFP
	1	825 E. 42nd Place	Prepare development plan and RFP
	2	827 E. 42nd Place	Prepare development plan and RFP
	2	829 E. 42nd Place	Prepare development plan and RFP
	2	3975 S. Ellis	Prepare development plan and RFP
	2	3991 S. Ellis	Prepare development plan and RFP
	2	804 E. 41st Street	Demolish existing building - new construction
	2	806 E. 41st Street	Demolish existing building - new construction
	2	808 E. 41st Street	Demolish existing building - new construction
	1	810 E. 41st Street	Rehab only - due to duplex unit type
	0	4019 S. Cottage Grove	Vacant land-Closing shortly
Units	52		Final unit count must be verified

Misc. Properties	UNITS	ADDRESS	NOTES
	0	4027 S. Lake Park	This site is a contiguous part of the "Lakefront" site
Units	0		(existing building to be demolished)

46th Woodlawn Thrush	UNITS	ADDRESS	NOTES
	12	4558 S. Woodlawn	Purchase in Proposed Development
Units	12		

Pope Place	UNITS	ADDRESS	NOTES
	2	4356 S. Drexel	Purchase in Proposed Development
Units	2		Note: One footprint for one or two units

Shakespeare School New Kenwood LLC	UNITS	ADDRESS	NOTES
	5	4630 S. Woodlawn	Purchase in Proposed Development
Units	5		Note: Five footprints for five or ten units

Flips	UNITS	ADDRESS	NOTES
	2	4365 S. Greenwood	Construction complete
Units	2		

Program 205	UNITS	ADDRESS	NOTES
	0	1211 E. 44th Place	Existing structure should be auctioned - difficult rehab
Units	0		

Total 142 Units

* Actual Units per Site may vary.

** Recently proposed development

W:\PROJ\KENWOOD\OAKLAND\LAND\INVENTORY

Kenwood-Oakland Revitalization Program Program Status

Units Within North Kenwood / Oakland Communities

	<u>Units</u>	<u>Timetable</u>
• Total units with demonstrated site control.	142	NA
• Units completed as of 11/9/98.	30	3/97 - 11/98
• Units currently under construction.	5	10/98 - 1/99
• Units expected to be under construction within the next 60 days.*	36	1/99 - 4/00
• Units by private developer commitment.	19	unknown***
• Public housing units currently proposed for the "Drexel" site.**	52	unknown***

Units Outside of North Kenwood / Oakland Communities

• 25 Sites are under contract in the Woodlawn Community.	43±	NA
• Units rehabilitated in General Areas (Rogers Park, etc.)	38	12/96 - 3/98

* Permits applied for.

**In design/development process.

*** Subject to determination of actual start date and absorption rate of market product.