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AUG 27 1999

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

V.

CHICAGO HOUSING AUTHORITY, et al.,

Defendants.

66 C 1459

Hon. Marvin E. Aspen

The current lawsuit against Defendants by the ABLA Plaintiffs should be reassigned from Judge Gettleman to this Court. The Concerned Residents of ABLA, et al., v. The Chicago Housing Authority, et al., 99 C 4959, (“ABLA”) complaint amounts to a collateral attack on this Court’s holdings in Gautreaux, an ongoing desegregation program. Allowing ABLA to be heard outside the framework of Gautreaux could result in a multiplicity of new lawsuits stemming from the same complicated issues. Hines v. Rapides Parish Sch. Bd., 479 F.2d 762, 765 (5th Cir. 1973). The potential effects would be significant. First, the Gautreaux program could be altered by a different ruling in ABLA, causing confusion and unevenness of application. Second, the

resources of the federal courts would be burdened. Other judges would be forced to hear issues that are currently under the firm control of one judicial officer. New lawsuits would cause increased efforts by different judges to “catch up” on issues stemming from over thirty (30) years of litigation. Finally, Defendants’ resources would be taxed if forced to deal with new litigation that is based on similar Gautreaux matters. Desegregation efforts by Defendants are currently focused on this Court’s direction and guidance. If ABLA is permitted to stand, Defendants would have to redirect their focus and attention to matters already covered by Gautreaux. This policy would be an inefficient use of time, energy, and increasingly scarce resources. In order to rectify this situation, the ABLA case should be reassigned to this Court due to the close relationship of issues underlying Gautreaux.

II. The ABLA Plaintiffs Should Be Enjoined From Interfering with the Receiver.

In the alternative, this Court should enjoin the ABLA Plaintiffs in order to prevent interference with the Receiver. A receiver cannot be sued without leave of the court that appointed such receiver. See Barton v. Barbour, 104 U.S. 126 (1881); see also In re Linton, 136 F.3d 544 (7th Cir. 1998). While ABLA does not name the Receiver as a party to that lawsuit, the complaint in effect attempts to interfere with the functions and responsibilities of the Receiver. See Gautreaux v. Chicago Housing Authority, 178 F.3d 951 (7th Cir. 1999). The Receiver’s powers include the development and administration of scattered sites programs and compliance with orders of this Court. Id. These powers clearly would be affected, and most likely compromised, by permitting ABLA to continue in its current form. This interference with receivership entities is subject to an injunction by this Court.

III. Conclusion.

Accordingly, Defendants, CHA and Jackson, support the position taken by the Gautreaux Plaintiffs and the Receiver. Defendants believe that ABLA should be reassigned to this Court,

that the ABLA complaint should be dismissed without prejudice, and the ABLA Plaintiffs should be granted leave to intervene in Gautreaux. This prayer is based on similarities between ABLA and Gautreaux under Local General Rule 2.31A and 2.31B. First, both cases are pending in the Northern District of Illinois. Second, this Court's handling of ABLA within the Gautreaux framework would likely result in greater judicial economy, not to mention the saving of CHA's resources. Third, the ABLA phase of Gautreaux is just beginning. Finally, ABLA and Gautreaux could be resolved in a single proceeding.

Alternatively, this Court should enjoin the ABLA complaint and direct ABLA to file a motion before Judge Gettleman to dismiss the complaint without prejudice and to seek leave to intervene in Gautreaux. This prayer is based on the Barton Doctrine, which prevents interference with the Receiver and the Receiver's powers and obligations, including those with respect to scattered sites programs. supra.

WHEREFORE, Defendants CHICAGO HOUSING AUTHORITY and PHILLIP JACKSON respectfully request that this Court grant the above-mentioned relief in order to effectuate the dismissal of the ABLA complaint without prejudice to the right of the ABLA Plaintiffs to seek leave to intervene in this case.

Respectfully submitted,



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

cc
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Bubbe
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DOROTHY GAUTREAUX, et al.,

Plaintiff,

vs.

CHICAGO HOUSING AUTHORITY et al.,

Defendants.

Case No. 66 C 1459,

Re: Hon. Marvin E. Aspen

TO: ALL COUNSEL (See Attached Service List)

NOTICE OF FILING

KNOW that on August 27, 1999, the Defendants, Chicago Housing Authority, filed in the Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, and present ***Defendants' Chicago Housing Authority and Phillip Jackson Memorandum in Support of Joint Motion of Gautreaux Plaintiffs and Daniel E. Levin and the Habitat Company, Gautreaux Receiver, for Orders Whose Effect Would be to Dismiss the ABLA Complaint Without Prejudice to the Right of the ABLA Plaintiffs to Seek Leave to Intervene in This Case.***

Yolande M. Bourgeois
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Acting General Counsel

CERTIFICATE OF SERVICE

I, Yvette Hill, a non-attorney certify under penalties as provided by law, that I served the foregoing by mailing copies to the above addressee(s) at the above address(s) and depositing the same in the U.S. Mail at 200 W. Adams, Chicago, Illinois, 60606 at 5:00 p.m. August 27, 1999, with proper postage prepaid.

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