

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

U.S.C.A.—7th Circuit
RECEIVED

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GINO J. AGNELLO
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Gauthier
Foble

No. 00-3787

DOROTHY GAUTREAUX, et al.	)	
	)	
Plaintiffs,	)	Appeal from the United
	)	States District Court for the
v.	)	Northern District of Illinois,
	)	Eastern Division
CHICAGO HOUSING AUTHORITY,	)	
a corporation, and TERRY PETERSON	)	No. 66 C 1459
Executive Director, in his official	)	
capacity.	)	Chief Judge Marvin E. Aspen
	)	
Defendants.	)	

APPELLEES' JOINT MOTION TO DISMISS APPEAL

Appellees, The Chicago Housing Authority ("CHA"), the Plaintiffs, the United States Department of Housing and Urban Development ("HUD"), and Daniel E. Levin and The Habitat Co., Inc., the Court-appointed Receiver for the Chicago Housing Authority in the District Court ("Receiver"), jointly move to dismiss this appeal for lack of jurisdiction. Dismissal is warranted under United States v. City of Milwaukee, 144 F.3d 524 (7th Cir. 1998).

Appellants, a group of public housing residents called "Concerned Residents of ABLA" and additional public housing residents (collectively "CRA" or "putative intervenors"), appeal from the denial "without prejudice" by the District Court of their motion to intervene under Fed. R. Civ. P. 24. "ABLA" is a public housing development on the near-west side of Chicago that is going to be replaced by a new development that mixes public housing units with market-rate and affordable units. The proposed intervention complaint challenged, *inter alia*, a tentative, conceptual plan for the redevelopment. No final plan has been developed or even drafted. The District Court held that "[b]ecause there is still no final development plan, the CRA's complaint, which alleges that the plan

is illegal, is not ripe for adjudication.” Minute Order of September 25, 2000 (Ex.A hereto). It therefore denied the motion to intervene “without prejudice to the CRA’s right to bring another motion to intervene in this court after the completion of the development plan.” Id. It also stated that “once a development plan is finalized, we expect to hold a hearing on the merits of the plan At that time, if the CRA believes the final plan is in violation of the law, it may renew its motion to intervene.” Id.

Under City of Milwaukee this is not a final and appealable order, since it is not “truly final with respect to the proposed intervenor,” that is, it does not, as it must, “rule definitively on the party’s participation in the litigation before the district court.” 144 F.3d at 528. This Court therefore lacks jurisdiction to hear this appeal, and it should be dismissed.

In further support of this motion, appellees advise the Court as follows:

Background

1. This case is a class action brought under 42 U.S.C. §§1981 & 1983 alleging that *de jure* housing segregation practiced by CHA violated the rights of CHA tenants 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 a permanent Injunction, 304 F. Supp. 736 (N.D. Ill. 1969), which, as subsequently amended, imposes locational restrictions on housing development activities of CHA. The District Court appointed the Receiver in 1987 to implement the Court’s desegregation remedies.

2. This Court has decided several appeals in this lawsuit, the most recent ones in May 1999, Gautreaux v. CHA, 178 F.3d 951 (7th Cir. 1999) (dismissing appeals for lack of jurisdiction) and September 1999, Gautreaux v. CHA, Nos. 99-2158 & 99-2918 (7th Cir. Sept. 1, 1999) (dismissing appeal of denial of intervention by tenant group for lack of jurisdiction).

3. Under the permanent Injunction in this case, CHA may not develop new public housing units in "Limited Areas" in Chicago (i.e., census tracts with greater than 30% African-American population) without developing at least an equal number of new public housing units in "General Areas" (i.e., census tracts with less than 30% African-American population).

4. However, in several circumstances the District Court has granted limited waivers of the injunction. In a series of so-called "revitalizing orders," the District Court has permitted development of new public housing units within Limited Areas, without corresponding development in General Areas, where a showing has been made that the area in which development is occurring is experiencing economic revitalization such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, can be made. See Gautreaux v. Pierce, 690 F.2d 616, 635-37 (7th Cir. 1982). For example, Revitalizing Orders have been entered in connection with redevelopment that is occurring at Cabrini-Green on the near north side of Chicago, and the Henry Horner Homes on the west side of Chicago.

5. On June 19, 1998 the District Court entered a Revitalizing Order, with the consent of the Plaintiffs, CHA and the Receiver, designating the "ABLA Revitalizing Area" in connection with an application to HUD then being prepared for a \$35 million grant of federal "HOPE VI" housing funds. See Exhibit B hereto. The Order authorized the Receiver "to develop such number of new public housing units within the Revitalizing Area as will result in public housing units comprising approximately 1,084 of a total of approximately 2,895 residential units within the Revitalizing Area, which is the approximate number of public housing and total residential units within the Revitalizing Area presently contemplated by such grant application." Id. The Order was "[s]ubject to such terms and conditions as are specified by further orders of the Court." Id.

The Separate ABLA Lawsuit Filed in 1999

6. In July 1999 the putative intervenors (who are certain CHA waiting list applicants and current and former residents of ABLA, but who are not the elected tenant leadership at ABLA) filed a separate lawsuit against CHA and HUD concerning the proposed redevelopment of the ABLA area. Concerned Residents of ABLA, et al. v. CHA, et al, No. 99 C 4959 (N.D. Ill. July 29, 1999) (“CRA Lawsuit”). The CRA Lawsuit was randomly assigned to Judge Gettleman. See Ex.D hereto at 1 (ABLA Plaintiffs’ Motion to Intervene, with supporting papers).

7. The thrust of the complaint in the CRA Lawsuit was to challenge an alleged “plan” to redevelop the ABLA area in a manner that would not sufficiently create desegregated housing. The complaint sought to enjoin the defendants from implementing or funding their alleged “plan.”

8. Most or all of the plaintiffs in the CRA Lawsuit were class members in this case. They were not joined in their Lawsuit by the class representatives in this case or by the ABLA Local Advisory Council (“ABLA LAC”), which is the duly elected body representing ABLA public housing residents. As discussed below, the ABLA LAC is part of a Working Group that is overseeing the redevelopment process at ABLA.

9. The subject matter of the remedial orders in this case, including the June 19, 1998 Revitalizing Order, concerns the ultimate creation of desegregated public housing to remedy *de jure* segregation.

10. In response to the CRA Lawsuit, the plaintiffs in Gautreaux and the Receiver filed a joint motion before Chief Judge Aspen, who presides over Gautreaux, to transfer the CRA Lawsuit to his docket as a related case, and to dismiss that lawsuit without prejudice to the right of the CRA plaintiffs to seek leave to intervene in Gautreaux. The gravamen of this motion was that the CRA

Lawsuit was in essence a collateral attack on the remedial orders in Gautreaux, brought by dissident members of the Gautreaux class and of the ABLA public housing community. In similar circumstances, courts have generally required such challenges to be brought via attempts to intervene. See, e.g., Hines v. Rapides Parish Sch. Bd., 479 F.2d 762, 765 (5th Cir. 1973); Tompkins v. Alabama State Univ., 15 F. Supp. 2d 1160, 1161-67 (N.D. Ala. 1998), aff'd, 174 F.3d 203 (11th Cir. 1999).

11. HUD and CHA separately moved to dismiss the CRA Lawsuit, arguing, *inter alia*, that because no redevelopment plan for ABLA had been created, the CRA plaintiffs lacked standing and their claims were unripe.

12. On November 4, 1999, Chief Judge Aspen followed Hines and granted the joint motion of the Gautreaux plaintiffs and the Receiver “by reassigning the ABLA case to this Court pursuant to Local Rule 40.4 and then dismissing it without prejudice to the ABLA plaintiffs’ right to seek intervention in Gautreaux.” November 4, 1999 Minute Order (Ex.C hereto).

The Motion to Intervene

13. On November 29, 1999, CRA recast their complaint in the CRA Lawsuit as a proposed intervention complaint and filed a Motion to Intervene. The proposed “Intervenors’ Complaint” named CHA, HUD and the Receiver as defendants. The claims raised were essentially the same as those raised in the CRA Lawsuit.

14. HUD, CHA, the Receiver and the Gautreaux plaintiffs each filed separate responses objecting to intervention at that time. See Exhibits E, F, G & H. Though these respondents (who are the appellees and signatories to this joint motion) raised separate points pertinent to their respective positions, each of the respondents raised a common factual ground: that no redevelopment

plan for ABLA had been created, and that the injuries alleged by the putative intervenors were unripe and speculative.

15. For example, the Statement of the Receiver in Response to Putative ABLA Plaintiffs' Motion to Intervene at 1 (Ex.E hereto) pointed out (*italics in original*):

[T]he putative intervenors' discrimination claims rest on an erroneous premise: that there is an existing ABLA redevelopment plan that discriminates against very low income public housing residents. In fact, no plan yet exists (let alone one that violates the law), and one will not be formulated for many months. Rather, the "Working Group" for ABLA, which consists of representatives of CHA, the City of Chicago, the Receiver, the Gautreaux Plaintiffs, and the duly elected ABLA tenant leadership (who are *not* the putative intervenors), have issued an RFP and are about to select a development manager for ABLA *whose job will be to develop a revitalization plan during 2000*. Until that plan is created, submitted to and approved by the Working Group and HUD, respectively, the discrimination claims are plainly unripe and non-justiciable.

16. The Receiver, joined by the Gautreaux plaintiffs and CHA, asked the District Court to continue the intervention motion until a development manager was hired and a development plan was created and approved. These parties also proposed to consult with the putative intervenors during the planning process. They suggested to the District Court that, after a plan was created and finalized, the Court could address the merits of the intervention motion if agreement had not been reached among the parties and the putative intervenors. Ex.E at 2, 13-15.^{1/}

17. The other respondents raised additional objections to the merits of the intervention motion, and argued that the District Court should deny intervention because the elements of Rule 24 had not been met. These objections included the following:

^{1/} Though this fact is not of record, we advise the Court that not until a few weeks ago did CHA and the Receiver finish negotiating and execute a contract with the development manager selected to prepare the redevelopment plan for ABLA. The development manager is only now just beginning the planning process. As of this writing, not even a first draft of a plan has been created by the development manager.

a. The Gautreaux plaintiffs and CHA stated that the putative intervenors were Gautreaux class members, that they were adequately represented and that they therefore did not meet the “inadequate representation” element of Rule 24(a).

b. CHA and HUD argued that the putative intervenors lacked standing to assert their claims.

c. HUD argued that it had taken no action respecting ABLA redevelopment criteria and therefore had not caused any injury to the putative intervenors.

18. The putative intervenors filed a 46-page reply with exhibits. See Exhibit I hereto.

The Order Denying Intervention Without Prejudice.

19. On September 25, 2000, Chief Judge Aspen entered an order “deny[ing] the motion to intervene without prejudice to the CRA’s right to refile the motion in the future, when the controversy is ripe.” Ex.A. The Court held that the complaint was unripe because the “plan” being challenged did not yet exist:

The process of creating a final development plan includes selecting a development manager, having the manager prepare tentative final plan documents, having a working group which includes the Receiver and the *Gautreaux* plaintiffs consider and approve the plan, and incorporating the plan into a final proposal submitted to HUD for approval.

Id.

20. Chief Judge Aspen noted that he contemplated holding further proceedings once a plan is created and finalized:

Finally, once a development plan is finalized, we expect to hold a hearing on the merits of the plan, which would involve receiving either oral or written submissions from all interested parties. *At that time, if the CRA believes the final plan is in violation of the law, it may renew its motion to intervene.*

This result comports with our order of November 4, 1999, which dismissed CRA’s complaint filed in front of Judge Gettleman without prejudice to their right

to intervene here. As we explained in that order, it would be much more expedient to address the concerns of the [CRA] in this forum instead of pursuing piecemeal litigation in a variety of courts. As we have explained above, the CRA's concerns are not yet ripe for review, and thus we currently have nothing to decide. *So we will dismiss the complaint without prejudice to the CRA's right to bring another motion to intervene in this court after the completion of the development plan.* It is so ordered.

Ex.A (italics added).

21. Chief Judge Aspen did not address or decide the merits of the intervention question, i.e., whether or not the intervention motion met the requirements of Rule 24.

22. The putative intervenors filed a notice of appeal on October 24, 2000.

This Court Lacks Jurisdiction and the Appeal Should Be Dismissed.

23. An order denying intervention, though not “conventionally final,” is normally appealable by the aggrieved intervenor since the order is “final” as to it. See, e.g., United States v. City of Milwaukee, 144 F.3d 524, 528 (7th Cir. 1998); Williams v. Katz, 23 F.3d 190, 191-92 (7th Cir. 1994). However, this Court lacks appellate jurisdiction under City of Milwaukee because the denial of intervention was “without prejudice” and the District Court has not “rule[d] definitively on [appellants’] participation in the litigation before the district court.” 144 F.3d at 528.

24. In City of Milwaukee the District Court had denied intervention “without prejudice” because it concluded that the intervention motion had not complied with the requirements of Rule 24(c) in that it was not accompanied by a pleading within the meaning of Rule 7(a). Believing that his pleading did comply with the Rules, the putative intervenor appealed. This Court dismissed the appeal for lack of jurisdiction, and in so doing enunciated the standard that requires dismissal in this case as well:

[I]n order to be immediately appealable, an order denying a motion to intervene must be *truly final* with respect to the proposed intervenor – that is, the order *must rule definitively* on the party’s participation in the litigation before the district court.

In this case, the district court's denial for failure to comply with the requirements of Rule 24 was, explicitly, without prejudice. The district court plainly expressed its intent not to reach the merits of the motion to intervene until it was properly presented. This decision by the district court *did not resolve definitively whether Mr. Culver ought to be allowed to intervene in this litigation and is therefore not a final decision* within the meaning of 28 U.S.C. §1291.

City of Milwaukee, 144 F.3d at 528-29 (italics added) (footnote omitted).

25. These principles require dismissal here. The September 25 Order was not “truly final,” as it did not, as it “must,” “rule definitively” on the CRA’s participation in the litigation. Indeed, the order was explicitly “without prejudice,” and Chief Judge Aspen never reached the merits of the intervention motion. Rather, he invited a refiling of the intervention motion upon finalization of the redevelopment plan and the corresponding ripening of the putative intervenors’ challenge to that plan. Accordingly, as in City of Milwaukee, the September 25 Order is “not a final decision within the meaning of 28 U.S.C. §1291.”

26. Although this Court does not accord “talismanic importance” to the fact that the motion was denied “without prejudice,” City of Milwaukee, 144 F.3d at 528 n.7; see also Furnace v. Board of Trustees, 218 F.3d 666, 669 (7th Cir. 2000), in this case, as in City of Milwaukee, the fact that the dismissal was explicitly “without prejudice” buttresses the conclusion that Chief Judge Aspen has not “resolved definitively” the intervention question.

27. This case is similar to those in which a complaint is dismissed without prejudice with leave to reinstate upon the fulfillment of a condition. For example, in Peters v. Welsh Development Agency, 920 F.2d 438 (7th Cir. 1990), this Court dismissed an appeal by a plaintiff whose complaint had been dismissed “without prejudice,” where the District Court had indicated that it would “consider a motion to vacate” the dismissal upon the fulfillment of two conditions: the resolution of criminal charges then pending against the plaintiff and a demonstration by the plaintiff that he

would diligently conduct and respond to discovery. This Court held that this dismissal without prejudice was not final and appealable because the district court contemplated further proceedings and because the open-ended conditions had not yet been met, even though it could have been months or years before the conditions were met. Peters, 920 F.2d at 439-40. The same ruling is warranted here.

28. Chief Judge Aspen's decision to, in effect, defer the intervention question on ripeness grounds was prudent. The case is in a post-judgment remedial phase. The ABLA redevelopment process is being overseen and coordinated by the responsible government bodies (CHA and HUD), the Court's Receiver, the plaintiffs in this case (a certified class of public housing residents), and the ABLA LAC (the duly-elected leadership of the public housing residents of ABLA). Putative intervenors are public housing residents who may disagree with decisions that may be made by their class representatives in this case and by their elected tenant representatives. But the precise contours of that disagreement (if any) will not be known until a redevelopment plan is drafted by the development manager, reviewed by the interested parties, discussed with the putative intervenors, and approved. At that point, there may not be any disagreement to litigate. But Chief Judge Aspen has stated, properly, that he will hold a hearing at that time on the plan, and entertain an intervention motion if a dispute exists at that time. Appellate jurisdiction is lacking unless and until a definitive ruling is made on the merits of the intervention motion.

29. For the foregoing reasons, appellees respectfully ask the Court to dismiss the appeal for lack of jurisdiction, and to grant such other relief as it deems just and proper.

Date: November 7, 2000

Respectfully submitted:

PLAINTIFFS,

THE CHICAGO HOUSING AUTHORITY

By: Alexander Polikoff (Ent)
Alexander Polikoff
Julie Brown
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UNITED STATES DEPARTMENT OF
HOUSING AND URBAN
DEVELOPMENT

DANIEL E. LEVIN and THE HABITAT
COMPANY, in their capacity as
RECEIVER

By: Linda Wawzenski (Ent)
Linda Wawzenski
Assistant U.S. Attorney
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Exhibit A

No. 00-3787

V.

Defendants.

Chief Judge Marvin E. Aspen

EXHIBITS IN SUPPORT OF APPELLEES' JOINT MOTION TO DISMISS APPEAL

Volume 1

- Exhibit A Minute Order of September 25, 2000
- Exhibit B June 19, 1998 Revitalizing Order
- Exhibit C November 4, 1999 Minute Order
- Exhibit D ABLA Plaintiffs' Motion to Intervene
- Exhibit E Statement of the Receiver in Response to Putative ABLA Plaintiffs' Motion to Intervene
- Exhibit F CHA's Memorandum in Opposition to the CRA Intervenors' Motion to Intervene

Volume 2

- Exhibit G HUD's Response to ABLA Plaintiffs' Motion to Intervene
- Exhibit H Memorandum of Gautreaux Plaintiffs In Response to ABLA Plaintiffs' Motion to Intervene
- Exhibit I The ABLA Plaintiffs Reply Memorandum In Support of Their Motion to Intervene

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on November 7, 2000 he served copies of the *Exhibits in Support of Appellees Joint Motion to Dismiss Appeal, Volume 1* on the parties listed below by causing true and correct copies of the same to be delivered by messenger delivered to the following parties:

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205 W. Monroe St.
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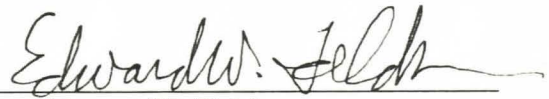
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Chicago, IL 60602

Dated: November 7, 2000



Edward W. Feldman

Exhibit A

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	9/25/2000
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] As stated on the reverse, the CRA's concerns are not yet ripe for review, and thus we currently have nothing to decide. So we dismiss the complaint without prejudice to the CRA's right to bring another motion intervene in this court after the completion of the development plan. Concerned Residents of ABLA's motion to intervene (0-1) is denied without prejudice.
(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 date docketed docketing deputy initials 9/25/2000 date mailed notice GL mailing deputy initials	Document Number
☐	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		

ORDER

Before us is the motion of the Concerned Residents of ABLA ("CRA"), a tenants' group made up of current, former, and potential residents of the ABLA public housing development, to intervene in the case of *Gautreaux v. Chicago Housing Authority*, 66c1459, for the purpose of challenging plans to redevelop the ABLA site into one of mixed-income housing. Opposing the motion are the Chicago Housing Authority ("CHA"), the *Gautreaux* plaintiff class, the Department of Housing and Urban Development ("HUD"), and the Receiver appointed by this Court. For the reasons stated herein, we deny the motion to intervene without prejudice to the CRA's right to refile the motion in the future, when the controversy is ripe.

The CRA's proposed complaint in this case alleges that there exists a plan to revitalize ABLA by utilizing funds granted from HUD to CHA through a federal program known as HOPE VI, and that this plan discriminates against the CRA individuals in violation of the Fair Housing Act, the Civil Rights Act of 1968, the Civil Rights Act of 1964, § 1983, the Uniform Relocation Act and the United States Housing Act. The CRA presumably bases its allegations on the tentative plan for revitalization that accompanied the CHA's 1998 application for HOPE VI funds. However, as the *Gautreaux* plaintiffs and other objecting parties point out in their briefs, the application explained that "[t]he scenario included in this application is a sample development plan to demonstrate the financial feasibility of CHA's redevelopment strategy, not the final development plan." The process of creating a final development plan includes selecting a development manager, having the manager prepare tentative final plan documents, having a working group which includes the Receiver and the *Gautreaux* plaintiffs consider and approve the plan, and incorporating the plan into a final proposal submitted to HUD for approval.

Because there is still no final development plan, the CRA's complaint, which alleges that the plan is illegal, is not ripe for adjudication. See *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967). We cannot consider whether the sample plan violates the various laws cited by the CRA because it is not apparent whether any or all of the sample plan will actually be implemented. Further, although the CRA contends that it has been shut out of the planning process, the evidence submitted by the CHA belies this allegation. And with regard to future planning, the Receiver has represented that "[d]uring the process of plan development, the Receiver, CHA, the City and the *Gautreaux* plaintiffs will consult regularly with the representatives of the putative intervenors, informing them of pertinent developments and giving them an opportunity to present their views. . . ." Unless we are confronted with evidence that this is not occurring, we will assume that the CRA will have the opportunity to present its opinions on the progress of the planning and development.

Finally, once a development plan is finalized, we expect to hold a hearing on the merits of the plan, which would involve receiving either oral or written submissions from all interested parties. At that time, if the CRA believes the final plan is in violation of the law, it may renew its motion to intervene.

This result comports with our order of November 4, 1999, which dismissed the CRA's complaint filed in front of Judge Gettleman without prejudice to their right to intervene here. As we explained in that order, it would be much more expedient to address the concerns of the CHA in this forum instead of pursuing piecemeal litigation in a variety of courts. As we have explained above, the CRA's concerns are not yet ripe for review, and thus we currently have nothing to decide. So we will dismiss the complaint without prejudice to the CRA's right to bring another motion to intervene in this court after the completion of the development plan. It is so ordered.



Exhibit B

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

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

O R D E R

This matter coming on to be heard on the joint motion of the parties and the Receiver for an order designating an ABLA Revitalizing Area ("Revitalizing Area") and authorizing the development of non-elderly public housing units therein; and

The Court having heard the presentations of the parties and the Receiver respecting, and being advised that the City of Chicago supports entry of, the proposed order; and

The Court being further advised that the Receiver and the defendant, Chicago Housing Authority, in collaboration with the City of Chicago, are engaged in the preparation of an application for a FY1998 HOPE VI grant of \$35 million for the ABLA Revitalizing Area to be submitted by them to the United States Department of Housing and Urban Development (HUD) on or before June 29, 1998; and

The Court also being advised that by arrangement with the plaintiffs and HUD, CHA received a HOPE VI grant of \$24,483,250 in FY1996 for a portion of the Revitalizing Area, and that the

current HOPE VI application contemplates and proposes that this prior grant be utilized in conjunction with the grant currently being applied for; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been and is to provide plaintiff class families with desegregated housing opportunities; and

The Court also being cognizant that on occasion it has permitted public or assisted housing to be developed in census tracts not within the General Public Housing Area upon a sufficient showing of "revitalizing" circumstances such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made; and

The Court being of the view, based on the presentations of the parties and the Receiver, that subject to appropriate terms and conditions such a forecast can be made with respect to the Revitalizing Area should the Receiver and the defendant, Chicago Housing Authority (CHA), be awarded a FY1998 HOPE VI grant therefor pursuant to their proposed joint application;

IT IS HEREBY ORDERED:

1. Effective upon advice to the Court from the parties that a FY1998 HOPE VI grant has been made to the Receiver and CHA pursuant to a joint application to be submitted by them to HUD respecting the Revitalizing Area, the Court designates as the ABLA Revitalizing Area that portion of the City of Chicago that lies within the following boundaries: on the west, Ashland Avenue; on the south, the Burlington Northern Railway tracks

immediately south of 15th Street; on the east along Racine Avenue from such Burlington Northern Railway tracks to Blue Island Avenue, northeast along Blue Island Avenue to Roosevelt Road, west along Roosevelt Road to Racine Avenue, and north along Racine Avenue to Cabrini Street; and on the north, along Cabrini Street to Loomis Street, north along Loomis Street to Polk Street, and west along Polk Street to Ashland Avenue; and

2. Subject to such terms and conditions as are specified by further orders of the Court, the Receiver is authorized to develop such number of new public housing units within the Revitalizing Area as will result in public housing units comprising approximately 1,084 of a total of approximately 2,895 residential units within the Revitalizing Area, which is the approximate number of public housing and total residential units within the Revitalizing Area presently contemplated by such grant application, as part of an overall development including approximately 845 non-public housing units to be occupied by persons with incomes 36-120 percent of area median income, and 966 non-public housing units to be occupied by persons with incomes in excess of 120 percent of area median income.

ENTER:

Marion E. Copen

June 19, 1998

Exhibit C

Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	11/4/1999
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.)

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--

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(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] Before us is a joint motion of the Gautreaux plaintiffs and the Receiver for entry of an order whose effect would be to dismiss a complaint filed in front of Judge Gettleman by the Concerned Residents of ABLA (CRA) and certain individuals, without prejudice to their right to intervene in the Gautreaux case. We grant the motion by reassigning the ABLA case to this Court pursuant to Local Rule 40.4 and then dismissing it without prejudice to the ABLA plaintiffs' right to seek intervention in Gautreaux.
(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 notices	
			date docketed	
			docketing deputy initials	
			11/4/1999	
			date mailed notice	

EXHIBIT A

ORDER

Before us is a joint motion of the *Gautreaux* plaintiffs and the Receiver for entry of an order whose effect would be to dismiss a complaint filed in front of Judge Gettleman by the Concerned Residents of ABLA (CRA) and certain individuals, without prejudice to their right to intervene in the *Gautreaux* case. HUD and the CHA support the motion. For the following reasons, we will grant the motion by reassigning the ABLA case to this Court pursuant to Local Rule 40.4 [formerly Local General Rule 2.31] and then dismissing it without prejudice to the ABLA plaintiffs' right to seek intervention in *Gautreaux*.

In 1998, the CHA and HUD, along with the *Gautreaux* Receiver, the *Gautreaux* plaintiffs, and an ABLA tenants' group called the ABLA LAC developed a plan to build new and replacement housing at the ABLA public housing developments. On June 19, 1998, we entered an order designating an ABLA "revitalizing area" - a necessary step under the *Gautreaux* decree to allow new public housing to be constructed there - and authorized the Receiver to construct new public, low income, and market rate housing in the area. The ABLA plaintiffs want Judge Gettleman to declare that the ABLA plan violates various housing, relocation, and civil rights laws, and requests an injunction requiring, *inter alia*, the development of a modified plan for the area that addresses their concerns.

Because the ABLA complaint directly attacks the relief we ordered for the ABLA area pursuant to the *Gautreaux* decree, it is appropriate to reassign the case to this Court and then dismiss it without prejudice to the ABLA plaintiffs' right to intervene. See *Hines v. Rapides Parish School Board*, 479 F.2d 762 (5th Cir. 1973). This result will allow the ABLA plaintiffs to present their complaints about the revitalization plan without "fostering a multiplicity of new lawsuits over the same complicated and emotional issues which have already once been fought out in an all too lengthy court battle." *Id.* at 765.

The ABLA plaintiffs contend that *Hines* and its progeny are not applicable here because some of them are not members of the *Gautreaux* class and because the ABLA complaint encompasses issues not covered by the *Gautreaux* decree. We do not find these arguments persuasive - *Hines* itself involved a collateral attack on a desegregation consent decree by white parents who were not members of the original plaintiff class. And although the ABLA complaint alleges new statutory violations in addition to those covered by the *Gautreaux* decree, the entirety of the complaint attacks the revitalization plan created pursuant to this Court's June 19, 1998 order. See *Davis v. Board of School Commissioners of Mobile County*, 517 F.2d 1044, 1048 (5th Cir. 1975) (ordering plaintiff to seek intervention even though he added a Title VII claim to his attack on the consent decree).

Pursuant to Local Rule 2.31, we find it appropriate to deem the ABLA case related to the *Gautreaux* action and transfer it to this Court. Reassignment will promote judicial economy by avoiding the possibility that Judge Gettleman will order relief that is inconsistent with or otherwise violative of *Gautreaux*. See August 12, 1998 order (enjoining a Cabrini-Green redevelopment plan created without the required input of the Receiver).

Second, there is little chance that reassignment will delay the *Gautreaux* case because the ABLA piece is still in the development phase, unlikely to move forward until the CRA challenge is resolved. And finally, all of the ABLA plaintiffs' challenges to the ABLA revitalizing plan may be addressed in a single proceeding concerning the development of the area. Any plan for the area that involves the construction of public housing must be approved by a host of entities, all of whom are parties to the *Gautreaux* litigation. It would be much more expedient to address all of the challenges to the ABLA plan now, in one forum, instead of pursuing piecemeal litigation in different courts with the intention of later moving for waivers and approval pursuant to the *Gautreaux* decree. We therefore grant the joint motion, reassign the case to this Court, and dismiss it without prejudice to the ABLA plaintiffs' right to intervene in *Gautreaux*. It is so ordered.



Exhibit D

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

DOROTHY GAUTREAUX, et al.,)

Plaintiffs)

vs.)

CHICAGO HOUSING AUTHORITY,)

Defendant.)

No. 66 C 1459

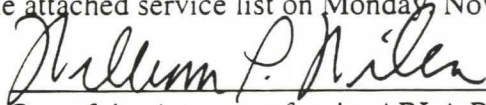
Hon. Marvin Aspen

NOTICE OF MOTION AND CERTIFICATE OF SERVICE

To: All counsel (see attached service list)

PLEASE TAKE NOTICE that on Friday, December 3, 1999 at 9:30 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Marvin E. Aspen, or any judge sitting in his stead, in Room 2541 of the U.S. District Court, 219 S. Dearborn St., Chicago, Illinois and present the **ABLA Plaintiffs' Motion To Intervene as well as an Intervenor's Complaint and the ABLA Plaintiffs' Memorandum In Support of Their Motion to Intervene**, copies of which are hereby served upon you.

This notice, motion, memorandum and intervenors' complaint were delivered by messenger to the counsel listed on the attached service list on Monday, November 29, 1999.



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

DOROTHY GAUTREAUX, et al.)

Plaintiffs,)

vs.)

CHICAGO HOUSING AUTHORITY,)

Defendant.)

No. 66 C 1459

Hon. Marvin Aspen

ABLA PLAINTIFFS' MOTION TO INTERVENE

Now come the plaintiffs in Concerned Residents of ABLA v. Chicago Housing Authority et al., No. 99 C 4959 (the "ABLA plaintiffs"), by and through their attorneys, the National Center on Poverty Law, the Chicago Lawyers Committee for Civil Rights Under Law, and Sonnenschein, Nath & Rosenthal, and, pursuant to this Court's Order of November 4, 1999 and Fed.R.Civ.P. 24, respectfully move that this Court allow them to intervene in this case.

In support of their motion, the ABLA plaintiffs state:

1. The ABLA plaintiffs are entitled to intervene as a matter of right in this action pursuant to this Court's Order of November 4, 1999.

2. The ABLA plaintiffs are entitled to intervene as a matter of right in this action pursuant to Fed.R.Civ.P. 24(a)(2), in that: (a) their motion is timely, (b) they possess an interest relating to the subject matter of this action, (c) their interest will be impaired as a practical matter by Gautreaux's disposition, and (d) they lack adequate representation of their interest by the existing Gautreaux parties.

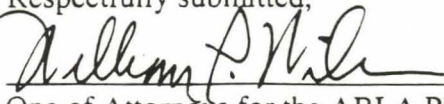
3. In the alternative to ¶ 1 and 2 above, the ABLA plaintiffs respectfully request that this Court exercise its discretion to allow permissive intervention pursuant to Fed.R.Civ.P. 24(b)(2),

in that: (a) they have claims that share a question of law or fact in common with this action, and
(b) permissive intervention would not unduly delay or prejudice the adjudication of the rights of
the existing Gautreaux parties.

4. In further support of this motion, the ABLA plaintiffs are simultaneously filing
herewith the ABLA Plaintiffs' Memorandum in Support of Their Motion To Intervene.

WHEREFORE, the ABLA plaintiffs respectfully request this Court to grant their motion
to intervene in this case.

Respectfully submitted,



One of Attorneys for the ABLA Plaintiffs

Dated: November 29, 1999

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Attorneys for ABLA Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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DOROTHY GAUTREAUX, et al.	)	
	)	
Plaintiffs,	)	
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	)	Hon. Marvin Aspen
	)	
CHICAGO HOUSING AUTHORITY,	)	
	)	
Defendant.	)	

ABLA PLAINTIFFS' MEMORANDUM IN
SUPPORT OF THEIR MOTION TO INTERVENE

I. INTRODUCTION

On July 29, 1999, a group of current, former, and potential ABLA residents ("ABLA plaintiffs") filed a lawsuit against the Chicago Housing Authority ("CHA") and the United States Department of Housing and Urban Development ("HUD"), challenging CHA's redevelopment plan for ABLA ("ABLA case"). The ABLA plaintiffs challenge the plan on three fronts: its design, its results, and its implementation. First, the ABLA plaintiffs allege that CHA unlawfully shut them out of the redevelopment planning process, in violation of the United States Housing Act of 1937 ("USHA"). Second, the ABLA plaintiffs allege that the resulting plan discriminates against protected classes and perpetuates racial segregation, in violation of both the Fair Housing Act ("FHA") and HUD's regulations implementing Title VI, because the plan severely reduces the number of very low-income units at ABLA and pushes ABLA residents either south of Roosevelt Road or out of ABLA altogether, into segregated neighborhoods. Third, in beginning to implement its plan, CHA has so far displaced over 1,000 families without respecting their rights to housing choice under the USHA, or their relocation rights under the Uniform Relocation Act ("URA") and the Housing and Community Development Act ("HCDA"). See Intervenor's Complaint.

As soon as the ABLA plaintiffs filed their lawsuit, which was assigned to Judge Gettleman, the Gautreaux plaintiffs and the Gautreaux court-appointed Receiver ("Habitat") filed a joint motion before this Court seeking dismissal of the ABLA case without prejudice of the ABLA plaintiffs' right to seek leave of court to intervene in Gautreaux. The Gautreaux plaintiffs and Receiver argued that the ABLA plaintiffs sought to bring the same types of civil rights claims litigated against the CHA in Gautreaux. They also argued that ABLA case constituted a "collateral attack" on Gautreaux, since the ABLA plaintiffs were challenging the number of very low income units to be built or rehabilitated under CHA's plan (1,084), a number tentatively approved by this Court in its order of June 19, 1998. CHA and HUD joined in the motion and advanced the same arguments.

This Court granted the joint motion on November 4, 1999, adopting the Gautreaux plaintiffs' and Receiver's core argument that "the entirety of the [ABLA] complaint attacks the revitalization plan created pursuant to this Court's June 19, 1998 order." Order of November 4, 1999. This Court reasoned that reassignment would promote judicial economy by allowing all claims related to ABLA to be litigated in one forum, with all the necessary parties present:

[T]here is little chance that reassignment will delay the Gautreaux case because the ABLA piece is still in the development phase, unlikely to move forward until the [ABLA plaintiffs'] challenge is resolved....[A]ll of the ABLA plaintiffs' challenges to the ABLA revitalizing plan may be addressed in a single proceeding concerning the development of the area. Any plan for the area that involves the construction of public housing must be approved by a host of entities, all of whom are parties to the Gautreaux litigation. It would be much more expedient to address all of the challenges to the ABLA plan now, in one forum, instead of pursuing piecemeal litigation in different courts with the intention of later moving for waivers and approval pursuant to the Gautreaux decree.

Id. The Court concluded, "We therefore grant the joint motion, reassign the case to this Court, and dismiss it without prejudice to the ABLA plaintiffs' right to intervene in Gautreaux." Order, November 4, 1999, emphasis added. The ABLA plaintiffs wish to avoid further procedural delays and get to the heart of their many serious concerns about the revitalization plan. Thus, the ABLA plaintiffs are not appealing this Court's order dismissing their lawsuit, but instead, are following this Court's direction and are seeking to intervene in Gautreaux.

Therefore, according to this Court's order of November 4, 1999, the ABLA plaintiffs may intervene in Gautreaux. Indeed, this Court has ruled that this is the only forum in which the ABLA plaintiffs may pursue their claims.

This is the same approach that this Court has recently taken with the case of Cabrini-Green LAC v. CHA et al., No. 96 C 6949 ("Cabrini-Green case"). This Court has indicated that it will allow the plaintiff in that case, the Cabrini-Green Local Advisory Council ("LAC"), to intervene in Gautreaux if the LAC feels that the redevelopment plan designed by the Cabrini-Green "Working Group" (led by Habitat) violates federal law: "If . . . the LAC feels the plan is violative of federal law or some other law or contract, we will allow it to intervene for the purpose of filing a motion to challenge the plan." Memorandum Opinion and Order, November 3, 1999, at 4 n. 3, emphasis added.

Now that the ABLA plaintiffs are pursuing their claims in this Court, they can also pursue claims against the Gautreaux Receiver. Intervenors' complaint therefore adds Daniel E. Levin and the Habitat Company, jointly, as a defendant on the appropriate (fair housing) counts. See Intervenors' Complaint at §§ V and X. Each of these claims relates to actions taken by Habitat to limit the number and siting of very low-income units to be built or rehabilitated at ABLA. Plaintiffs allege that such actions amount to violations of the FHA and HUD's regulations implementing Title VI. Id.

The ABLA plaintiffs believe that this Court's November 4 order is clear in granting plaintiffs the right to intervene in Gautreaux. However, despite their best efforts, the ABLA plaintiffs have been unable to obtain the consent of the Gautreaux parties to intervene herein. Therefore, the ABLA plaintiffs have set forth below a complete analysis under Fed.R.Civ.P. 24 as to why they have a right to intervene in this case.

II. THE ABLA PLAINTIFFS ARE ENTITLED TO INTERVENE AS OF RIGHT

In order to intervene as of right under Rule 24(a)(2), the ABLA plaintiffs (also referred to as "movants") must satisfy four requirements: (1) they must make a timely application (2) they

process, CHA stated that its policy is to negotiate major redevelopment and modernization activities only with the local LAC, in direct conflict with federal law, which requires the CHA to consult with all tenants and tenant organizations affected by HOPE VI-funded demolition and revitalization activities. 42 U.S.C. § 1437p(b)(1); 24 C.F.R. § 970.4(a); HUD FY 1998 HOPE VI Guidebook at 1. Unfortunately, the ABLA LAC does not represent the views of many ABLA residents, including CRA and its members, and has refused to present their views to CHA during its consultations.

On July 13, 1999, CHA and the Gautreaux Receiver caused to be issued a Request For Proposals (“RFP”) for a development manager to implement the ABLA revitalization plan. The RFP specified the precise numbers of very low-income units to be developed and asserted that this number was expected to decrease even further over time. At that point it became clear that nothing short of litigation would give CRA a voice in the process, and that the tentative redevelopment plan approved by this Court was moving to the implementation stage; thus, on July 29, 1999, ABLA plaintiffs filed suit against the CHA and HUD. On November 4, 1999, this Court issued its opinion dismissing the ABLA case. Memorandum Opinion and Order, November 4, 1999, at 1. The ABLA plaintiffs filed their motion to intervene as soon as possible thereafter. Thus, the motion is timely.

The second factor, prejudice to the original parties caused by the delay, weighs in ABLA plaintiffs’ favor. As this Court notes in its decision dismissing ABLA plaintiffs’ complaint, the “ABLA piece” of the Gautreaux case is “still in the development phase, unlikely to move forward until the CRA challenge is resolved.” Order at 1. This Court notes that it would actually be “much more expedient” for all concerned parties to address ABLA plaintiffs’ concerns “now, in one forum, instead of pursuing piecemeal litigation in different courts.” Id.; see also Jansen v. Cincinnati, 904 F.2d 336, 341 (6th Cir. 1990) (original parties in employment discrimination action were not prejudiced by intervention, as their interests were better served by having all relevant interests represented in one case to avoid “piecemeal” litigation).

CHA itself acknowledges that ABLA plaintiffs should be granted leave to in noting that the “ABLA phase of Gautreaux is just beginning,” and that “ABLA and G could be resolved in a single proceeding.” CHA’s Memorandum In Support Of Joint Motion Of Receiver And Gautreaux Plaintiffs, at 3. Indeed, CHA, HUD, the Receiver, and Gautreaux plaintiffs—all of whom argued strenuously that intervention was ABLA plaintiffs’ only remedy—cannot legitimately argue now that intervention should be denied. See City of Chicago, 870 F.2d at 1260 (observing that it was “disingenuous” of City to argue intervenors did not meet criteria for intervention in employment discrimination litigation, while at same time arguing that intervenors’ separate lawsuit could not proceed because it was a collateral attack). Thus, as this Court has already observed, existing parties would not be prejudiced by granting intervention to ABLA plaintiffs.¹

The third factor, prejudice to movants if the motion is denied, weighs heavily in favor of intervention. The ABLA plaintiffs will suffer extreme prejudice if their motion to intervene is denied. As this Court has already dismissed their independent lawsuit, denying intervention would effectively leave the ABLA plaintiffs without any forum to raise their substantial concerns over the plan. See Edwards v. City of Houston, 78 F.3d 983, 1003 (5th Cir. 1996) (finding that white, female, and Asian-American police officers were entitled to intervene in employment discrimination suit brought by African-American and Hispanic police officers, since proposed intervenors could not bring separate lawsuit and, thus, denying intervention would mean court’s decrees were “unassailable” by persons who clearly had substantial interest in litigation).

At least one court in this jurisdiction has held that claims similar to those raised by ABLA plaintiffs stated legitimate claims upon which relief could be granted. See Cabrini-Green LAC v. CHA, 1997 U.S. Dist. LEXIS 625 (N.D. Ill. 1997) (denying motion to dismiss). Denying ABLA plaintiffs any forum to raise their legitimate claims would be contrary to our “deep-rooted historic tradition that everyone should have his own day in court.” Martin v. Wilks, 490 U.S.

¹ Although HUD is no longer a party in Gautreaux, it is noteworthy that HUD has also recommended that “the ABLA case should be handled by the Gautreaux court,” thereby causing HUD to again become a party in Gautreaux. HUD’s Response In Support Of Joint Motion, at 3.

755, 762 (1981); cf. Bowen v. Michigan Academy of Family Physicians, 476 U.S. 667, 670 (1986) (“judicial review of agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress”); Marbury v. Madison, 1 Cranch 137, 163 (1803) (“[the] very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws”). Thus, this factor weighs in favor of granting intervention.

Lastly, the fourth factor, which requires the court to consider any unusual circumstances, militates toward allowing intervention. The recent “convergence” of the ABLA case and the Gautreaux litigation is certainly unusual. Based on the manner in which similar cases at the Henry Horner and Cabrini-Green developments had proceeded, the ABLA plaintiffs believed the appropriate method for raising their concerns was through a separate lawsuit, not intervention in Gautreaux. In the Horner and Cabrini cases, the Receiver and Gautreaux plaintiffs made no motion to require the residents to intervene in Gautreaux, nor did this Court act sua sponte to order such relief. Indeed, in Cabrini, Judge Coar expressly rejected the argument by CHA that the case, which presented strikingly similar race discrimination claims as those raised in ABLA, was a collateral attack on Gautreaux. See Cabrini-Green LAC v. CHA, 1997 U.S. Dist. LEXIS 625 (N.D. Ill. 1997) (holding that residents could proceed with separate litigation, but that any relief granted must necessarily comply with Gautreaux orders). In Horner, this Court has retained jurisdiction only on the core Gautreaux issues in the case, see Orders of March 9, 1995; August 14, 1995; April 15, 1996 and October 22, 1998 (relating to the number and location of public housing units within the Horner Revitalization Area), but has deferred to Judge Zagel on issues relating to the Horner consent decree, notwithstanding implications to Gautreaux, see Order of June 10, 1997 (denying Receiver’s Motion for Instructions relating to Horner filed with this Court, noting that the Receiver’s concerns related “essentially to the Horner decree,” holding that, “notwithstanding the implications to Gautreaux, the proper venue to resolve the Receiver’s concerns is Horner,” and deferring “to Judge Zagel to resolve these disputes in the Horner case”). When this Court made clear by its November 4, 1999 decision that intervention in

Gautreaux was ABLA plaintiffs' only remedy, they filed this motion as soon as possible thereafter. Given the unusual facts of this case, the motion to intervene should be considered timely and intervention should be granted.

B. The ABLA Plaintiffs Have A Substantial Interest In The Subject Matter Of The Gautreaux Litigation.

To satisfy this requirement, the ABLA plaintiffs do not have to establish a "vested" or "property" right. City of Chicago, 870 F.2d at 1260. Rather, the "interest" test is primarily a practical guide for involving as many apparently concerned persons as is compatible with efficiency and due process. Cook v. Boorstin, 763 F.2d 1462, 1466 (D.C. Cir. 1985). Here, the ABLA plaintiffs, as current residents, persons illegally displaced from ABLA who wish to return, and persons on the waiting list for public housing, have a strong interest in the redevelopment of ABLA. The contours of the redevelopment plan, particularly the number, location, and type of public housing replacement units, will ultimately determine whether they will live in a revitalized community with close proximity to downtown Chicago, or whether they will be required to live in highly segregated areas of the city, away from their neighborhood's new amenities, away from decent, safe, sanitary housing, away from integrated schools, away from job opportunities, and away from places that have been their homes for decades.

The ABLA plaintiffs believe that the current plan not only fails to remedy past discrimination in Chicago public housing, but actually discriminates against protected groups and perpetuates segregation. Persons have a "significantly protectible interest" in being free from race discrimination sufficient to warrant intervention. Cook, 763 F.2d at 1466 (allowing employees to intervene in employment discrimination case, where they alleged discriminatory treatment); Bradley v. Pinellas Co. Sch. Bd., 961 F.2d 1554, 1557 (11th Cir. 1992) (allowing parents to intervene in school desegregation case, where they alleged that various school board policies used to implement court-ordered maximum and minimum black student ratios had caused burden of busing to fall on black students rather than whites). Courts have also recognized the strong interest of subsidized tenants to intervene in cases where the future of their

homes is at stake. United States v. Dixwell Hous. Dev. Corp., 71 F.R.D. 558, 560 (D. Ct. 1976) (allowing tenants to intervene in foreclosure of HUD- subsidized multi-family building, given their leasehold interest and interest as beneficiaries of the assisted housing program); United States v. Germantown Settlement Homes, 1985 U.S. Dist. LEXIS 18193, *7-8 (E.D. Pa. 1985) (same). Here, then, the ABLA plaintiffs have a significant interest in the outcome of the Gautreaux litigation.

C. The ABLA Plaintiffs' Interest Will Be Impaired By The Disposition of Gautreaux.

The ABLA plaintiffs' interest in remaining in the revitalized ABLA community has been, and will continue to be, impaired by decisions made in Gautreaux. The current plan, tentatively approved by this Court, will not provide sufficient units for the 1,500 current residents of ABLA and the 1,000 persons illegally displaced from ABLA who may wish to return. Intervenor's Complaint at ¶ 3. The "revitalized" ABLA neighborhood will contain only 1,084 housing units for very low-income families, 478 of which (or 45%) will be renovated barracks-type housing south of Roosevelt Road. Intervenor's Complaint at ¶ 81. Thus, more than 400 families—roughly 30% of current ABLA residents—will be forced to leave their homes and move out of the ABLA neighborhood altogether. Many of those who are allowed to remain will be squeezed into census tracts south of Roosevelt Road with predominately minority populations.

These families will lose out an opportunity to live in a revitalized, integrated ABLA neighborhood. The plan will most severely impact residents of the Jane Addams Homes, a historically significant, low-rise public housing development located north of Roosevelt Road. In the census tract in which Jane Addams is situated, 87% of residents are African American. Intervenor's Complaint at ¶66. By contrast, four out of the five adjoining census tracts are predominately white. Under the plan, all of the 987 units at Addams will be demolished, and 700 units will be built in their place. Eighty percent of these replacement units will be sold at market rate prices, making them well out of reach of Addams residents, who are overwhelming very low income (between 0-50% of the Area Median Income or "AMI"). Intervenor's

Complaint at ¶ 67. The remaining 20% will be “public housing eligible” units for families earning up to 80% of AMI. Id. It is unclear how many, if any, of the Addams replacement units ultimately will be provided to very poor ABLA families. Id.

The use of Section 8 certificates for displaced ABLA families will not mitigate the disparate impact of the plan. The Section 8 program, as currently administered, perpetuates segregated living patterns in Chicago. There is no requirement that Section 8 certificates be used in integrated areas of the city. See Gautreaux v. CHA et al., Nos. 66-1459/60 (slip op. Aug. 26, 1997) (declining to bring the Section 8 program within the ambit of Gautreaux). In fact, the bulk of Section 8 recipients are located in neighborhoods that are highly racially segregated. Between 1995 and 1998, 80% of CHA families relocated through the Section 8 program moved to census tracts that were at least 90% African American. Intervenor’s Complaint at ¶ 73. Clearly, the plan, ostensibly meant to increase integration, will have a devastating discriminatory effect on those least able to shoulder the burden—poor, African American female-headed households.

The Seventh Circuit has recognized that persons whose interests are harmed by a decree entered in a race discrimination case have a right to be heard through intervention, particularly where they themselves are members of a protected class. A group of white female police sergeants had a right to intervene in a lawsuit brought by black male sergeants alleging that the examination used by the City to determine eligibility for promotion from sergeant to lieutenant had a disparate impact on blacks. United States v. City of Chicago, 870 F.2d 1256, 1258 (7th Cir. 1989). After the district judge ordered immediate promotions of non-white sergeants, the parties agreed to “adjust” the test results by raising the mean scores of non-white sergeants who had taken the test. Id. The white female sergeants filed a motion to intervene, claiming they were denied promotions due to the post-exam “leg-up” given to non-white sergeants. Id. The district court denied the motion to intervene, but the Seventh Circuit reversed. Id.

The court noted that although the white female sergeants did not have a “vested” or “property” right to be promoted, they had a “confident expectation” of being promoted based on their performance on the exam, which was a sufficient interest to satisfy Rule 24(a)(2). Id. at

1260. This interest was at risk of impairment, as the “leg-up” given minority sergeants could permanently impair the intervenors’ chances for promotion within the ranks of the Chicago Police Department. Id. at 1262. The court noted that “[e]quitable decrees are not to be made without consideration of the interests of third parties who may be affected by the decrees... These would-be intervenors are third parties who may be vitally, adversely, and irreparably affected by the Bigby decree.” Id. Thus, they were allowed to intervene for the purpose of challenging the court’s order approving promotions on the basis of racially altered test results. Id. at 1263-64.² Although the district judge may have been “tired of this endless... litigation,” he was required to give the female sergeants an opportunity to be heard:

[W]hen a federal judicial decree unexpectedly impairs settled expectations, and does so on what might appear to be arbitrary and discriminatory grounds, the judge is obliged to listen to the victims of the decree when they make a prompt application to intervene; and perhaps especially when the victims are themselves a protected group.... Decrees requiring discrimination in the name of ending discrimination should be administered with due regard for the interests of those upon whom the decrees bear hardest.

Id. at 1263 (emphasis added).

Here, where members of protected groups—African-Americans, female-headed households, and children—have made legitimate, substantial claims that a plan tentatively approved by this Court will discriminate against them and perpetuate segregation, this Court should give them an opportunity to be heard. Notably, in the context of the Cabrini-Green case, this Court indicated that it would allow the Cabrini LAC to intervene in Gautreaux if the LAC felt the plan ultimately developed by the “Working Group,” of which the Cabrini LAC was to be a part, violated federal law. Memorandum Opinion and Order, November 3, 1999, at 4 n.3. Here, the ABLA plaintiffs do not even have the limited avenue of participating in the ABLA

² The Seventh Circuit observed that if alteration of the test results was actionable discrimination, the City could not shield itself from liability by invoking the district judge’s approval of promotions based on the altered results, since all the judge cared about was the “bottom line” of increased minority lieutenants. Id. at 1261. Here, then, if the ABLA plan is discriminatory, Gautreaux defendants cannot shield themselves from liability by invoking the fact that this Court gave tentative approval of the plan.

“Working Group.” Indeed, a significant portion of ABLA plaintiffs’ complaint involved claims that they have been systematically shut out of the planning process. The fact that CHA argued vigorously in its Motion to Dismiss the ABLA case that it has no duty to consult with CRA suggests that CRA will continue to be excluded from the planning process. Thus, intervention becomes all the more imperative in this case.

D. The ABLA Plaintiffs Are Not Adequately Represented By The Existing Parties.

This requirement is satisfied “if the applicant shows that representation of his interest ‘may be’ inadequate; the burden of making that showing should be treated as minimal.” Trbovich v. United Mine Workers, 404 U.S. 528, 538 n.10 (1972); Gautreaux v. Pierce, 548 F. Supp. 1284, 1289 (N.D. Ill. 1982). Any doubt about the adequacy of representation should be resolved in favor of the proposed intervenors. Moore’s Federal Practice, § 24.03(4)(a).

This Court itself previously allowed developers and community members to intervene in Gautreaux when it was clear their interests were not adequately represented by existing parties. Gautreaux v. Pierce, 548 F. Supp. 1284, 1287 (N.D. Ill. 1982). Community members and developers disagreed over whether HUD had violated the Gautreaux decree by reserving Section 8 contract authority for a building on the Near West Side. Community members argued that HUD’s action would push the number of assisted housing units in their census tract to more than 15%, the limit set by the decree. Id. at 1286. It was apparent to this Court that their interests were not adequately represented by existing parties, since HUD did not seek to clarify its obligations under the decree until after the intervention motions were filed, and more importantly, the Gautreaux plaintiffs opposed the relief sought by some of the intervenors. Id. at n.3

Here, existing parties do not adequately represent the interests of the ABLA plaintiffs. The CHA certainly cannot be said to represent their interests, as it has played a key role in developing the plan that ABLA plaintiffs believe is discriminatory. It is the CHA that caused the unlawful dislocation of at least 1,000 ABLA families since 1995, a number that continues to

grow by the day. And it is the CHA that purposely allowed ABLA buildings to deteriorate beyond repair in an effort to vacate, consolidate, and demolish them. Far from representing ABLA plaintiffs' interests, then, CHA is at the root of the problem.

Nor do the Gautreaux plaintiffs or Receiver represent the interests of the ABLA plaintiffs. The organizational plaintiff CRA and persons displaced from ABLA are not members of the Gautreaux class and, thus, have no current representation in this litigation at all. Further, the ABLA plaintiffs have raised numerous concerns with the plan that do not relate to Gautreaux or race discrimination, such as failure to consult with all affected residents in accordance with Section 18 of the United States Housing Act, failure to provide relocation rights under the Uniform Relocation Act, and failure to comply with the Housing and Community Development Act. Since these concerns do not relate to race discrimination, they have not and will not be raised as a part of the Gautreaux case.³

Lastly, ABLA plaintiffs who are also members of the Gautreaux class (individual current residents and individuals on the waiting list) believe their interests are not adequately represented by the Gautreaux plaintiffs' counsel and the Receiver with respect to their race discrimination claims. Both parties signed off on the ABLA redevelopment plan without any apparent concern for its devastating discriminatory affect. Certainly no such concerns were raised in any public hearing before this Court; indeed, no hearing of any kind even took place at the time this Court entered its June 19, 1998 order tentatively approving the plan. Moreover, the Gautreaux plaintiffs and Receiver oppose the relief sought by ABLA plaintiffs, namely, requiring consultation with all affected residents and resident organizations to create a new plan that will provide the maximum amount of integrated housing for very low income families. See Joint

³ Hines and its progeny indicate that intervention does not result in the loss of any substantive rights and that, if granted intervention, ABLA plaintiffs can raise all claims raised in their complaint, even though these issues were not raised by the original Gautreaux parties. See Davis v. Board of Sch. Comm. Of Mobile County, 517 F.2d 1044, 1049 (5th Cir. 1975) (dismissing suit brought by school employee based on Hines Doctrine and directing him to intervene in school desegregation case, even though he raised claims under Title VII which were not raised by the plaintiffs in the desegregation case; district court would consider Title VII claims, as well as any rights he had under statutes relied on by original plaintiffs and consent decree), later proceeding at 600 F.2d 470 (5th Cir. 1979) (litigating claims brought by employee-intervenor).

Motion at 5; see also Edwards v. City of Houston, 78 F.3d 983, 1004 (5th Cir. 1996) (no adequacy of representation where there was “sharp disalignment” between positions of original plaintiffs and proposed intervenors). Thus, it is clear that ABLA plaintiffs meet the “minimal” standard of showing that their interests are not adequately represented by current parties to Gautreaux.

III. THE ABLA PLAINTIFFS SHOULD BE GRANTED PERMISSIVE INTERVENTION

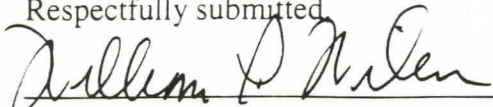
Even if this Court had not already ruled that the ABLA plaintiffs have the right to intervene and even if the requirements for intervention of right were not met here, this Court should grant them permissive leave to intervene under 24(b)(2) to give them a forum to pursue their claims. Rule 24(b)(2) provides that, upon timely application, anyone with a claim or defense that has a question of law or fact in common with the main action may be permitted to intervene. See e.g., Romasanta v. United Airlines, 537 F.2d 915, 920 (7th Cir. 1976)(granting permissive intervention in employment discrimination case where proposed intervenor’s claim and main action had questions of law in common, namely, the appropriate remedy for the employer’s illegal no-marriage policy); Miller v. Silberman, 832 F. Supp. 663, 674 (S.D.N.Y. 1993) (allowing permissive intervention by tenants in suit brought by landlords challenging procedures of housing court, where positions were divergent but claims all related to constitutionality of procedures); McNeill v. New York City Housing Authority, 719 F. Supp. 233, 250 (S.D.N.Y. 1989) (despite factual differences between plaintiffs and intervenors, claims all involved constitutionality of New York City Housing Authority’s implementation of Section 8 program). Here, this Court believed the claims raised in ABLA were so similar with those being litigated in Gautreaux that the two cases were properly classified as “related” under Local Rule 2.31. Thus, the requirements for permissive intervention are met here.⁴

⁴ For the reasons discussed in Sections II.A. and II.D. above, the motion for permissive intervention also meets the timeliness and inadequacy of representation requirements.

IV. CONCLUSION

For the above reasons, the ABLA plaintiffs respectfully request that this Court grant them leave to intervene in this case.

Respectfully submitted,


One of Attorneys for the ABLA Plaintiffs

Dated: November 29, 1999

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

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

vs.

CHICAGO HOUSING AUTHORITY,

Defendant.

CONCERNED RESIDENTS OF ABLA,
FERRELL FREEMAN, CAROLYN NANCE, WANDRA
STIMAGE, VIOLA SINGLETON, VERA SMITH,
LATONYA MAXWELL, LATONYA WILLETT, and
LORREE BROWN on behalf of themselves, and
AFRICA SIMPSON, KIZZIE JOHNSON and NONA
YOUNG, on behalf of themselves and all others similarly
situated,

Intervenor-Plaintiffs,

vs.

THE CHICAGO HOUSING AUTHORITY ("CHA"),
an Illinois Municipal Corporation; PHILLIP JACKSON,
In His Official Capacity as Chief Executive Officer of the
CHA; THE UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT ("HUD"); and
ANDREW CUOMO, In His Official Capacity as Secretary
of HUD; DANIEL E. LEVIN and THE HABITAT
COMPANY, jointly, as Gautreaux Receiver,

Intervenor-Defendants.

No. 66 C 1459

Hon. Marvin Aspen

INTERVENORS' COMPLAINT

I. PRELIMINARY STATEMENT

1. This class action lawsuit is brought to redress the harm to current, former and potential residents of the Addams, Brooks, Loomis, and Abbott ("ABLA") public housing development located directly southwest of the Loop on Chicago's Near West Side. ABLA is located amid and directly south of the recently gentrified University Village Community. The Illinois Medical District is located directly to the west of ABLA and the University of Illinois at Chicago (UIC) campus lies directly to the east. As the neighborhood has become more desirable, the ABLA projects, blighted by years of neglect, stand in the way of "progress."

2. The Chicago Housing Authority ("CHA"), using \$59.5 million of HUD money, developed a plan with the Gautreaux Receiver to tear down most of ABLA, destroying 3,000 housing units needed by very low income, African American, female-headed households with children who live or recently lived in ABLA, or who have applied for public housing in Chicago and are waiting for an available unit.

3. In August 1995 there were approximately 2,500 families residing at ABLA. The CHA has already displaced over 1,000 of these families, and hundreds more will be relocated to "revitalize their neighborhood."

4. Ninety-nine percent of the residents of ABLA are African American. They have lived for decades both to the north and south of Roosevelt Road. The defendants' "revitalization" plans would change that. Where today there are very low income African American residents in ABLA on both sides of Roosevelt Road, "revitalization" will concentrate those who remain almost exclusively south of Roosevelt Road -- away from the gentrifying and predominately white areas of Little Italy and University Village that are north of Roosevelt Road, and away from the new market rate construction which is the centerpiece of CHA's "revitalization" plan.

from participating or consulting in the formulation of plans for ABLA despite explicit statutory mandate to include them. (See § IV.B., infra.) Unfortunately, the people already displaced were not informed of their rights and instead of being offered the opportunity to remain in a revitalized ABLA, were relocated to segregated areas of Chicago, either by intent or culpable inaction, once again in violation of their statutory rights. Shamefully, these public agencies mandated to use public money to reduce racial segregation have conceived a plan that fails to alleviate the blight of segregation for these very poor, African American, female-headed households. The ABLA intervenors are seeking to have the Court protect them by forcing these public agencies to do what the law requires – fully inform the present and former ABLA residents of their rights, and consult with the residents to create a plan that provides the maximum amount of integrated housing for very low income families. (See § IV., infra) Despite statutes and regulations requiring such conduct, defendants have to date failed to do this and have taken numerous actions in direct violation of federal housing and civil rights laws.

9. The ABLA plaintiffs' complaint was originally filed on July 29, 1999 and was assigned to Judge Robert W. Gettleman. On August 18, 1999 the plaintiffs in Gautreaux v. CHA, No. 66 C 1459, and the Gautreaux Receiver filed a joint motion in this court to dismiss the ABLA plaintiffs' complaint without prejudice to the ABLA plaintiffs' right to seek intervention in the Gautreaux case. On November 4, 1999, this Court granted the joint motion and dismissed the ABLA plaintiffs' complaint but without prejudice to their right to intervene in Gautreaux. See Order of November 4, 1999, attached hereto as Exhibit A. The ABLA plaintiffs, pursuant to this Court's order of November 4, 1999 and Fed.R.Civ.P. 24, are now filing their motion to intervene in Gautreaux and are simultaneously filing this Intervenor's Complaint as their pleading that sets forth their claims for which intervention is sought.

II. JURISDICTION AND VENUE

10. This court has jurisdiction over intervenor-plaintiffs' claims under 28 U.S.C. §§ 1331 (federal question) and 1343 (civil rights), and 42 U.S.C. § 3613 (fair housing). Venue is proper in this judicial district under 28 U.S.C. § 1391(b).

III. PARTIES

The Intervenor-Plaintiffs

The Concerned Residents of ABLA

11. The Concerned Residents of ABLA ("CRA") is an association of tenants living in the ABLA public housing development. CRA is incorporated as an Illinois non-profit organization. CRA's mission is to act as an advocate for ABLA residents in the residents' efforts to protect their rights as tenants of the CHA, to stimulate self-determination for the residents, and to encourage all ABLA residents to become responsible citizens of the community. CRA also seeks to represent the best interests of all ABLA tenants. All ABLA tenants are eligible to join CRA and to participate in CRA activities.

12. ABLA residents formed CRA in the fall of 1996 when it became clear to them that CHA had plans to tear down much of ABLA and to relocate many ABLA families. CRA was concerned that tenants' rights would not be upheld in this process, specifically, that tenants would be forcibly relocated and would not be able to live in the new replacement housing being built at ABLA.

13. Under federal housing statutes and HUD HOPE VI requirements discussed below, tenant organizations such as CRA are to be afforded a meaningful opportunity to participate in planning, development, implementation and monitoring of local urban revitalization programs; instead defendants have shut CRA out.

Individual Residents of ABLA

14. Ferrell Freeman is an African American female. For over 40 years, Ms. Freeman lived in the Jane Addams portion of ABLA. Prior to her relocation south of Roosevelt Road in June 1997, Ms. Freeman lived for 25 years in a low-rise three-story walk-up apartment building located at 1328 W. Taylor Street. In October 1996, CHA informed Ms. Freeman that the municipal building court had issued a vacate order for her building, which order had been agreed to by CHA, and that she had six (6) days to move or face being set out of her unit. After she contested the unlawfully short notice, CHA eventually relocated Ms. Freeman to 1433 W. 13th Street, a 15-story high-rise in Grace Abbott Homes, an ABLA sub-development located south of Roosevelt Road. Ms. Freeman wants to return to the revitalized Jane Addams community, although CHA has not provided her any guarantee that she will be able to do so. Ms. Freeman is President of CRA.

15. Carolyn Nance is an African American female who lives at 916 S. Ada, in Jane Addams, with her daughter. She has lived in Jane Addams for almost 10 years. CHA has never personally interviewed Ms. Nance as to her housing needs or preferences, nor has it provided her with any notices regarding its plans to redevelop Jane Addams or ABLA. The only alternative housing which CHA has mentioned as being available to Ms. Nance is ABLA housing south of Roosevelt Road. Ms. Nance wants to stay in the revitalized Jane Addams community, but CHA has given her no guarantee that she will be able to do so. Ms. Nance is a member of CRA.

16. Wandra Stimage is an African American female who lived from the early 1990's until January 1997 in a 16-story high-rise building at 1239 S. Racine with her children. In January 1997, her apartment became uninhabitable due to lack of heat, burst pipes, and flooding. CHA subsequently moved Ms. Stimage's family into an adjacent 16-story high-rise building at 1111 W. Roosevelt. CHA has never personally interviewed Ms. Stimage as to her housing needs

or choices and has never provided her with personal notices about CHA's redevelopment or relocation plans for ABLA or Brooks Extension, as required by the federal Uniform Relocation Act ("URA"). See § IV.D, infra. CHA refused to allow Ms. Stimage's attorney to accompany her to a meeting where the CHA was discussing plans for Brooks Extension. She wants to remain and live at the new housing in Brooks Extension but CHA has not provided her any assurance that she will be able to do so. Ms. Stimage is a member of CRA.

17. Viola Singleton is an African American female who has lived at 1111 W. Roosevelt for 37 years. CHA has never personally interviewed Ms. Singleton as to her housing needs or choices and has never provided Ms. Singleton with personal notices about CHA's redevelopment or relocation plans for ABLA or Brooks Extension, as required by the URA. CHA refused to allow Ms. Singleton's attorney to accompany her to a meeting where the CHA was discussing plans for Brooks Extension. She wants to stay and live at the new housing in Brooks Extension but CHA has not provided her any guarantee that she will be able to do so. Ms. Singleton is a member of CRA.

18. Vera Smith is an African American female who has lived in ABLA for almost 20 years, most recently with her grandchildren at 1209 S. Racine. CHA has never personally interviewed Ms. Smith as to her housing needs or choices and has never provided Ms. Smith with personal notices about CHA's redevelopment or relocation plans for ABLA or Brooks Extension, as required by the URA. She wants to stay and live at the new housing in Brooks Extension but CHA has not provided her any guarantee that she will be able to do so. Ms. Smith is a member of CRA.

Individual Residents Displaced from ABLA

19. Africa Simpson is an African American female who grew up in ABLA and lived with her children in 1239 S. Racine until January 1997, when burst pipes caused flooding in her apartment. Ms. Simpson made repeated calls for service, but to no avail. Instead CHA offered to move Ms. Simpson into a 15-story Abbott high-rise. Ms. Simpson, concerned about her and her children's safety, refused, and CHA then encouraged her to accept a Section 8 certificate, which she did. A Section 8 certificate is a federal rental subsidy which authorizes a local Section 8 administrator to pay rent to private landlords for privately owned apartments. Ms. Simpson lived with friends until she found a private landlord willing to accept her Section 8 certificate. However, Ms. Simpson's landlord failed to properly maintain the apartment. When the apartment subsequently failed its federally-required annual Housing Quality Standards ("HQS") inspection, Ms. Simpson was forced to vacate the apartment and remained homeless for several months. She has now found another apartment but wants to move back to ABLA to be close to her job and her children's school. Both apartments in which Ms. Simpson has lived since leaving ABLA have been located in highly segregated, African-American neighborhoods. Ms. Simpson was never offered relocation assistance, nor did CHA inform her about the new units to be built at Brooks Extension. If CHA had informed her about the new units, she would have stayed at ABLA in order to obtain one of them.

20. Kizzie Johnson is an African American female who grew up in ABLA and lived with her children in 1239 S. Racine until late in 1996. At that time 1239 S. Racine was deteriorating to the point of uninhabitability, and CHA was vacating the building, so CHA moved Ms. Johnson to 1111 W. Roosevelt. CHA subsequently offered Ms. Johnson a Section 8 certificate, which she accepted because she did not want to stay in 1111 W. Roosevelt and see it suffer the

same fate as 1239 S. Racine. Ms. Johnson rented a private apartment with her Section 8 certificate, but was subsequently forced to move when it failed an HQS inspection. Ms. Johnson subsequently found another apartment but wants to move back to ABLA to be close to her job and her children's school and day care. Both apartments in which Ms. Johnson has lived since leaving ABLA have been located in highly segregated, African-American neighborhoods. Ms. Johnson was never offered relocation assistance, nor did CHA inform her about the new units to be built at Brooks Extension. If CHA had informed her about the new units, she would have stayed at ABLA in order to obtain one of them.

21. Nona Young is an African American female who lived at 840 S. Lytle, in Jane Addams. For years Ms. Young had complained to CHA about the severe damage caused to her apartment by chronic water leakage through the roof. CHA never made anything other than cosmetic repairs. Rather CHA insisted that, due to deteriorating conditions, Ms. Young's building must be vacated and that she must move. CHA encouraged Ms. Young to move to Altgeld Gardens, a racially segregated development on the far South Side of Chicago. Eventually, Ms. Young, due to the deteriorating condition of her ABLA apartment, was forced to relocate into other housing on the Near West Side, but was not provided assistance by CHA in doing so. CHA has not offered any guarantee to Ms. Young that she can return to the revitalized Jane Addams community, although she would like to do so. While living at ABLA, Ms. Young was a member of CRA.

CHA Waiting List Plaintiffs

22. Latonya Maxwell is an African American female with four minor children. She first applied for CHA housing approximately four years ago, and she recently renewed her application for CHA housing. For approximately the past year, Ms. Maxwell has been homeless and has either resided in a temporary shelter or has doubled up with relatives. Ms. Maxwell has no

foreseeable prospect of permanent housing and would like to live in a new or rehabilitated unit at ABLA.

23. Latonya Willett is an African American female who lives with her husband and two minor children. She applied for CHA housing approximately three years ago. Since that time Ms. Willett's family has lived in two different apartments, and in each case has had difficulty paying the private market rents which are a high percentage of her family's income. Ms. Willett has no foreseeable prospect of affordable housing and would like to live in a new or rehabilitated unit at ABLA.

24. Lorree Brown is an African American female with four minor children. She applied for CHA housing approximately ten years ago. Since that time Ms. Willett's family has lived in numerous apartments, and in each case has had difficulty paying the private market rents which are a high percentage of her income. Ms. Willett has no foreseeable prospect of affordable housing and would like to live in a new or rehabilitated unit at ABLA.

Class Action Allegations and Class Definition

25. Intervenor-plaintiffs Africa Simpson, Kizzie Johnson and Nona Young bring this action on behalf of themselves and, pursuant to Fed. R. Civ. P. 23(a) and (b)(2), on behalf of all persons similarly situated. The plaintiff class is defined as: all persons who, on or after August 1, 1995, legally resided in and subsequently moved out of the ABLA development. The class is so numerous that joinder of all members is impractical, consisting of at least 1,000 former ABLA families. There are questions of law and fact common to the class as a whole. The claims of representative parties are typical of the claims of the class, and the representative parties will fairly and adequately protect the interests of the class. The defendants have acted and refused to

act on grounds generally applicable to the plaintiff class, thus making appropriate final injunctive and declaratory relief with respect to the class as a whole.

The Defendants

The CHA Defendants

26. Defendant CHA is an Illinois municipal corporation, created and existing under the Illinois Housing Authorities Act, 310 ILCS 10/1 et seq. The CHA is a Public Housing Agency within the meaning of 42 U.S.C. § 1437 and administers federally subsidized and assisted low-rent housing as authorized by the United States Housing Act ("USHA"). See § IV.A., infra.

27. Defendant Phillip Jackson is the Chief Executive Officer of the CHA. He is charged with establishing and administering the policies of the CHA, including those related to the daily operation, administration, and maintenance of all public housing in the City of Chicago.

28. The ABLA public housing development is owned and managed by the CHA defendants.

The Federal Defendants

29. Defendant HUD is the federal agency charged with administration and enforcement of the United States Housing Act and of federal laws and contracts relating to the operation, administration, maintenance, rehabilitation and demolition of public housing projects.

30. Defendant Andrew Cuomo is the Secretary of HUD, and, as such, is charged with the administration and enforcement of all functions, powers and duties of HUD, including those relating to the public housing programs.

The Receiver Defendant

31. Defendants Daniel E. Levin and the Habitat Company were appointed jointly by this Court in 1987 as Receiver for CHA with the responsibility "to develop and administer the

scattered site program as effectively and efficiently as possible." Order, August 14, 1987, at ¶ 1, a copy of which is attached hereto as Exhibit B. The Receiver was authorized to exercise "all powers of CHA respecting the scattered site program," including, but not limited to, construction of dwelling units "in compliance with applicable laws and ordinances." Id. at ¶ 2.

32. This Court's order appointing the Receiver did not preclude any party "from asserting any claims against the Receiver or any other party hereto for any matter in connection with the scattered site program or otherwise," although the order did not constitute a waiver of any defense which the Receiver may have to any such claim. Id. at ¶ 9. However, the defense of judicial immunity is not available to the Receiver here, as the Receiver acted outside of the scope of his official duties in recommending and approving a "revitalization plan" that violates the federal fair housing laws. See §§ IV., V., and X., infra.

IV. STATUTORY AND REGULATORY SCHEME

A. The United States Housing Act

33. Over sixty years ago Congress passed the United States Housing Act of 1937 ("USHA"), declaring that it is "the policy of the United States to promote the general welfare of the Nation by employing its funds and credit . . . to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe and sanitary dwellings for families of lower income" 42 U.S.C. § 1437.

34. The national housing goal as stated in the USHA is the realization as soon as feasible of "a decent home and suitable living environment for every American family." 42 U.S.C. §§ 1441 and 1441a; 12 U.S.C. § 1701t.

B. Defendants' Duty to Consult with Plaintiffs as to Future Plans

35. Section 18 of the USHA, 42 U.S.C. § 1437p, governs demolition of public housing developments. Sections 18(b)(1) and 18(b)(2) require that public housing agencies: (1) consult with affected tenants and tenant organizations regarding demolition and redevelopment plans, and (2) relocate tenants displaced by demolition to replacement housing of their choice, to the maximum extent practicable.

36. Section 18(b)(1) provides that all applications for demolition submitted to HUD must have been "developed [by a public housing agency] in consultation with tenants and tenant councils, if any, who will be affected by the demolition . . ." 42 U.S.C. § 1437p(b)(1).

37. HUD has promulgated federal regulations implementing Section 18(b)(1). These regulations provide that public housing agencies must consult "with tenants of the project involved, any tenant organizations for the project, and any PHA-wide tenant organizations that will be affected by the demolition or disposition." 24 C.F.R. § 970.4(a).

38. HUD is suppose to require public housing agencies receiving HOPE VI funds to involve all affected tenants in the redevelopment process:

Residents are to be included in all phases of the application preparation, planning, implementation and operation of the HOPE VI development ... [Public Housing Authorities or "PHAs"] are responsible for communicating and disseminating information to all affected residents and ensuring that all affected residents have opportunities to participate Resident involvement often starts with the duly elected resident council [in this case, the ABLA Local Advisory Council or "LAC"], but the PHA must make sure that the resident council is truly representative. PHAs must give all affected residents reasonable notice of meetings about HOPE VI planning and implementation, and provide them with opportunities to provide input. Such meetings should be open to all affected residents and their representatives.

HUD's FY 1998 HOPE VI Guidebook at 1 (emphasis added).

C. **Defendants' Duty to Assist in Relocation, Alleviate Segregation, and Provide Residents Their Choice of Replacement Housing**

39. The ABLA "revitalization" is being funded with \$59.5 million of HOPE VI funds appropriated in 1996 and 1998.

40. Section 18(b)(2) provides that "all tenants to be displaced as a result of the demolition or disposition will be given assistance by the public housing agency and are [to be] relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under Section 1437f [the Section 8 housing program] of this title . . ." 42 U.S.C. § 1437p(b)(2).

41. HUD's applicable regulations regarding Section 18(b)(2) provide:

Relocation of displaced tenants on a nondiscriminatory basis. Tenants who are to be displaced as a result of demolition and or disposition must be offered opportunities to relocate to other comparable/suitable . . . decent, safe, sanitary and affordable housing (at rents no higher than permitted under the Act) which is, to the maximum extent practicable, housing of their choice, on a nondiscriminatory basis, without regard to race, color, religion (creed), national origin, handicap, age, familial status, or sex, in compliance with applicable Federal and State laws. 24 C.F.R. § 970.5(a).

42. In October 1998, Congress amended Sections 18(b)(1) and 18(b)(2) of USHA. See Quality Housing and Work Responsibility Act of 1998 ("QHWRA"), Pub. L. 105-276, 112 Stat. 2461 (Oct. 21, 1998). HUD subsequently determined that all demolition applications received by HUD on or before the effective date of QHWRA, October 21, 1998, are to be processed pursuant to the provisions of Section 18(b)(1), Section 18(b)(2) and 24 C.F.R. Part 970 that were in effect prior to October 21, 1998. 64 Fed. Reg. 8203 (Feb. 18, 1999).

D. **Defendants' Duty to Help Relocate and Not Resegregate**

43. Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act (the "Uniform Relocation Act" or "URA"), 42 U.S.C. § 4601 et seq., in order to

before October 21, 1998, and (c) any person displaced as a result of a demolition that is part of a HOPE VI project. 64 Fed. Reg. 8203-8204 (Feb. 18, 1999).

E. Defendants' Duty to Maintain Neighborhoods

46. The Community Development Block Grant ("CDBG") Program was created pursuant to Title I of the Housing and Community Development Act ("HCDA"), as amended, codified at 42 U.S.C. § 5301 et seq. The primary objective of the HCDA is "the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." 42 U.S.C. § 5301(a). For purposes of the HCDA, "low income" is defined as 0% to 50% of area median income, and "moderate income" is defined as 50% to 80% of area median income. 24 C.F.R. § 570.3.

47. In any development project assisted under the CDBG Program, there must be a residential anti-displacement and ~~relocation assistance~~ plan in place that provides, among other things, that:

a. governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 1437f of this title. 42 U.S.C. § 5304(d)(2)(A)(i).

b. such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy. 42 U.S.C. § 5304(d)(2)(A)(ii).

c. in the case of displaced persons of low and moderate income, provide . . . compensation sufficient to insure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent. 42 U.S.C. § 5304(d)(2)(A)(iii)(I).

d. Persons displaced shall be relocated into comparable replacement housing that is –

- (I) decent, safe and sanitary;
- (II) adequate in size to accommodate the occupants;
- (III) functionally equivalent;
- (IV) in an area not subject to unreasonably adverse environmental conditions.

42 U.S.C. § 5304(d)(2)(A)(iv).

F. Defendants' Duty Not to Segregate

48. The Fair Housing Act provides that "it shall be unlawful":

a. "To . . . make unavailable or deny[] a dwelling to any person because of race, color, . . . sex, [or] familial status. . ." (42 U.S.C. § 3604(a)); or

b. "To discriminate against any person in the terms, conditions, or privileges of . . . rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex [or] familial status. . ." 42 U.S.C. § 3604(b).

49. The Fair Housing Act provides further that HUD shall administer its programs and activities relating to housing and urban development in a manner affirmatively to further fair housing. 42 U.S.C. § 3608(e)(5).

50. Title VI of the Civil Rights Act of 1964 provides that "[n]o person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

51. HUD has promulgated federal regulations implementing Title VI which provide, in pertinent part, that:

[a] recipient, in determining the types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of persons to whom, or the situations in which, such housing, accommodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of

person to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin.

24 C.F.R. §§ 1.4(b)(2)& (3).

V. STATEMENT OF FACTS

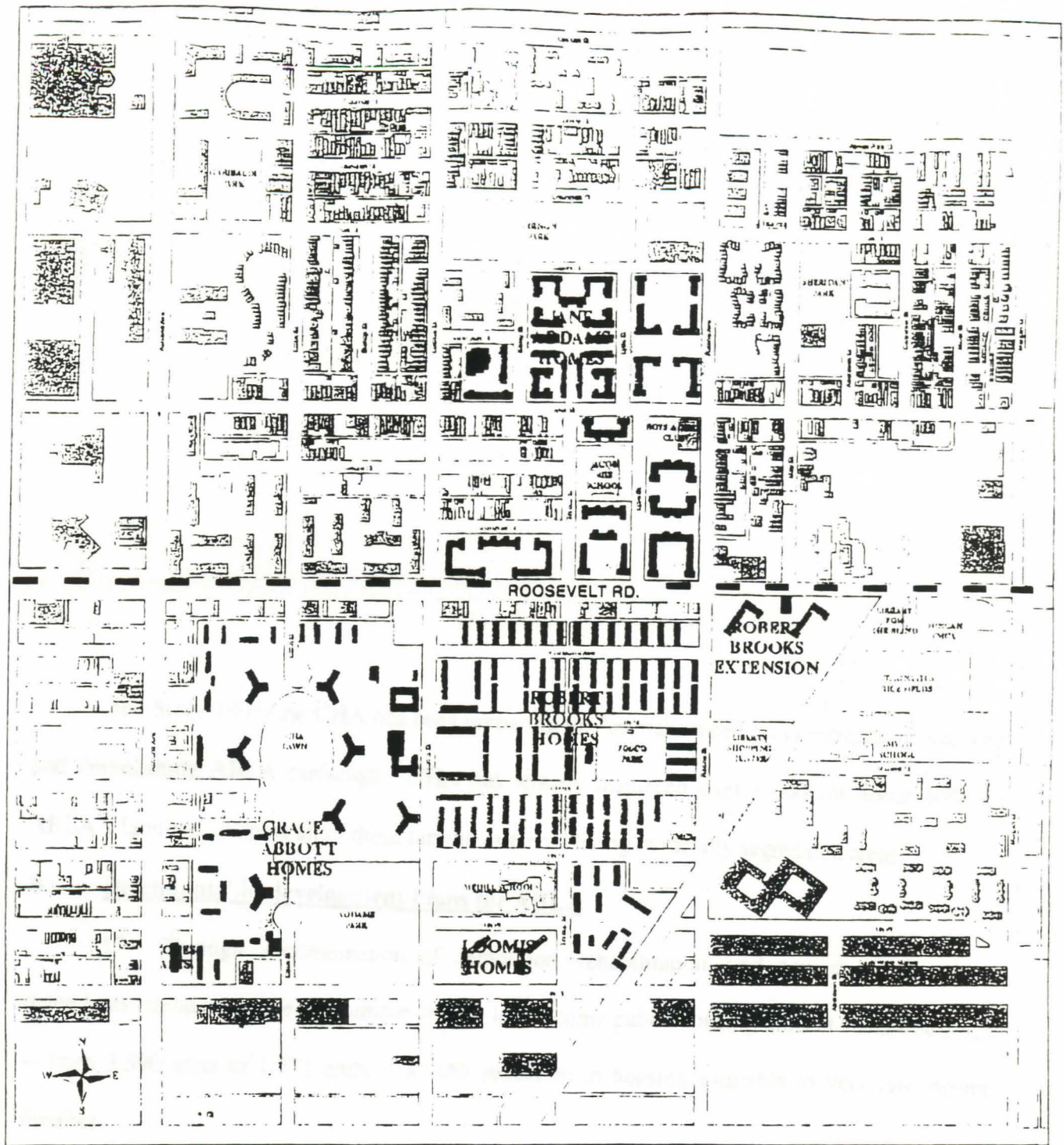
A. The ABLA Development

52. ABLA is a family public housing development located on 100.5 acres of land on both the north and south sides of Roosevelt Road, between Blue Island Avenue on the east and Ashland Avenue on the west, in the Near West Side of Chicago. It consists of four different sub-developments: Jane Addams Homes, Robert Brooks Homes and Brooks Extension, Loomis Courts, and Grace Abbott Homes. See ABLA Site Plan on the following page 18A.

53. Approximately 99% of the residents at ABLA are African American. Approximately 82% of the residents at ABLA are female, and 48% of the residents are under 18 years of age.

54. The average ABLA household size is 2.7 persons. The average annual family income at ABLA is \$5,883. For 1999, the area median income ("AMI") in Chicago for a comparable family (i.e., three persons) is \$53,750.

55. To determine eligibility for public housing, HUD has created two categories of public housing based on income limits: "low income" and "very low income" housing. For 1999, the income limit in Chicago for eligibility for "low income" housing is \$43,000 for a family of three. For "very low income" housing, the ceiling is \$28,700 for a family of three. Virtually all of the families who reside in ABLA qualify as "very low income" households under HUD's guidelines, and most of the housing in ABLA is categorized as "very low income" housing.



ABLA BEFORE REDEVELOPMENT

Existing Conditions
June 1998

- Existing CHA Housing
- CHA Property

56. Since 1995, the CHA has been preparing for "revitalization" by consolidating, vacating and demolishing ABLA buildings. CHA has already displaced over 1,000 (or about 40%) of ABLA's families. Almost all of these families are now living in racially segregated areas.

B. Defendants' Redevelopment Plans for ABLA

57. Through a combination of demolition, rehabilitation, and new construction, the defendants intend to reduce the number of very low income public housing units at ABLA by 2,525 -- from 3,596 units to 1,071 units -- a 70% reduction in housing available to very low income families.

58. Under defendants' "revitalization" plans, almost 3,000 public housing units at ABLA will be demolished:

ABLA SUB-DEVELOPMENT	TOTAL UNITS: PRE-REVITALIZATION	UNITS TO BE DEMOLISHED
Jane Addams Homes	987	987
Robert Brooks Homes	835	375
Brooks Extension	450	450
Loomis Courts	126	0
Grace Abbott Homes	1,198	1,180
TOTAL	3,596	2,992

See ABLA Demolition Plan, below at page 19A. (Buildings shown in red are to be demolished.)

59. This massive elimination of public housing units will be undertaken by the defendants as an "urban revitalization demonstration program" under the HOPE VI program. The CHA defendants have detailed their plans to "revitalize" ABLA in three separate HOPE VI applications (i.e. 1996, 1997 and 1998), as a result of which they have received HUD approvals for \$59.5 million

in federal funds. The CHA intends to combine these federal funds with an additional \$345.5 million of funds from the city and private developers.

60. However, in June 1998, CHA had not yet submitted its 1998 HOPE VI application to HUD. Defendant CHA, the Receiver Defendant and counsel for plaintiffs in Gautreaux drafted a "revitalization order" for ABLA limiting the number of very-low income units (both new and rehabilitated) to 1,084. On June 18, 1998, they presented the revitalizing order to this Court in a joint motion, in part as an inducement to HUD to obtain an additional funding for ABLA under the HOPE VI program. See Joint Motion, attached hereto as Exhibit C. This Court entered the proposed order sua sponte, as is, on the agreement of the parties, the next day. See Order of June 19, 1998, attached hereto as Exhibit D. No hearing was held and no evidence was presented to the court on the legality of the proposed order, or whether the proposed order complied with the various statutes cited in § IV, supra. However, the order was tentative in the sense that it was contingent upon HUD's approval of CHA's 1998 HOPE VI application, and was also "subject to such terms and conditions as are specified by further orders of the Court." Id. at 3. HUD subsequently approved and funded defendants' 1998 HOPE VI application.

61. Under the defendants' plans, 2,417 units of housing will be constructed on CHA-owned land at ABLA, of which:

- a. 40% (966) will be market rate units sold to families with incomes exceeding 120% of the AMI (over \$68,880 for a family of three);
- b. 33% (795) will be low and moderate income units sold or rented to families with incomes between 51% and 120% of AMI (between \$28,700 and \$68,880 for a family of three); and
- c. Only 27% (656) will be very low income units rented to families with incomes at or below 50% of AMI (under \$28,700).

62. Upon information and belief, the federal defendants have provided the City of Chicago with Community Development Block Grant ("CDBG") funds pursuant to 42 U.S.C. § 5301 et seq., and the CHA defendants will in part fund the implementation of the ABLA "revitalization" plan with monies received through the CDBG program.

63. At least 2,995 occupied and vacant occupiable very low income units will be or already have been demolished as part of the defendants' plans. See ABLA Demolition Plan at 19A, supra.

64. CHA submitted demolition applications for ABLA to HUD pursuant to Section 18 of the USHA prior to October 21, 1998.

C. The Jane Addams Homes

65. Defendants' plans will most severely impact the Jane Addams Homes, which is located north of Roosevelt Road. Addams is surrounded by areas commonly known as Little Italy and University Village. The Illinois Medical District lies immediately to its west, and the UIC campus immediately to its east. These are all gentrified or rapidly gentrifying areas.

66. In the census tract in which Jane Addams is situated, 87.1% of the residents are African American. By contrast, all but one of the five adjoining census tracts is majority white -- the sole exception being tract #2831, which has slightly more African Americans than whites.

Census Tract	% African American	% White
#2832 (Jane Addams)	87.1%	11.9%
#2833 (E. of Jane Addams)	7.9%	51.4%
#2822 (N.E. of Jane Addams)	8.0%	62.4%
#2823 (N. of Jane Addams)	0.0%	93.4%
#2824 (N.W. of Jane Addams)	13.5%	66.7%
#2831 (W. of Jane Addams)	41.7%	37.5%

67. There are currently 26 walk-up (low-rise) apartment buildings at Jane Addams, providing 859 units of "very low income" housing. This housing is occupied exclusively by families earning between 0% and 50% of the AMI. Under defendants' HOPE VI plans, all of these very low income units will be demolished. In their place, private developers will build 700 or more new units, with 80% of these expected to be sold at market-rate prices. None of the contemplated new units have been identified as replacement units for very low income residents.

68. If HOPE VI "revitalization" goes forward unchanged, virtually all Jane Addams residents will be moved south of Roosevelt Road. In a 1997 HOPE VI filing with HUD, the CHA explicitly stated that federal funds were being sought to demolish Jane Addams and to concentrate replacement housing for Addams residents, to the extent it was being provided, south of Roosevelt Road (around Addams Park which is located at 14th and Loomis Streets); in fact, the CHA has already relocated many Addams residents south of Roosevelt Road.

69. Since 1995, the CHA has engaged in a conscious policy of displacing Addams residents by allowing their units to deteriorate to the point of near or actual uninhabitability. The CHA has allowed and encouraged uninhabitable conditions and then used these same poor building

conditions as a reason to vacate and/or demolish Addams units. In April 1997, 567 families lived at Jane Addams; by April 1998, approximately 430 families lived there; by December 1998, only 353 families were left. These actions constitute de facto relocation and demolition, an emptying out of Addams without complying with the requirements of the USHA, the URA and the CDBG Program.

70. To further advance its program of demolition and displacement, CHA has aggressively marketed its Section 8 program to ABLA residents in general and to Addams residents in particular, encouraging as many families as possible to move out. Between 1995 and 1998 more families were relocated from ABLA with Section 8 certificates and vouchers than from any other CHA development. About 25% of all Section 8 certificates or vouchers went to ABLA families, who make up only 8% of the total CHA resident population. The targeting of ABLA residents increased in 1998. Beginning in March 1998 about 40% of all Section 8 certificates or vouchers went to ABLA families. The actual numbers of ABLA residents displaced under the Section 8 program from March 1, 1998 to September 30, 1998 compared to other CHA developments are as follows:

CHA Development	Number of Families Displaced By CHA Under the Section 8 Program March-September 1998
ABLA	104
Lakefront	34
Robert Taylor Homes	33
Cabrini Green	22
Washington Park	21
Rockwell Gardens	12

71. The defendants have failed to provide Jane Addams residents with their choice of replacement housing, as required by Section 18 of the USHA, failed to provide them personal notices or other benefits as required by the URA, and failed to provide sufficient replacement units as required by the CDBG Program. Nor have defendants conducted the area housing availability survey or comprehensive individual tenant assessments and interviews as required by the URA. CHA has also sought to expedite the emptying of Jane Addams buildings by, in some cases, providing tenants with unlawfully short notices to vacate.

72. Almost all of the families leaving Addams have been relocated into racially segregated areas. CHA's intra-development relocation of Jane Addams residents has led to the perpetuation and exacerbation of residential racial segregation as Addams tenants have been, and continue to be, relocated to predominantly African American communities south of Roosevelt Road.

73. In addition, of those ABLA families who have been displaced out of ABLA altogether through the Section 8 program, the majority have relocated to racially segregated areas. Between 1995 and 1998 about 80% of CHA families relocated through the Section 8 program moved to Chicago census tracts that were at least 90% African American. In addition, of the thirty Chicago census tracts receiving the most CHA families, all but two are at least 97% African American.

D. The Robert Brooks Extension

74. Brooks Extension lies in a triangular area south of Roosevelt Road and between Blue Island Avenue and Racine Avenue. See ABLA Site Plan, supra, at 18A. Until last year, the Brooks Extension consisted of three high-rise buildings, each containing 150 units. In 1998, the CHA defendants vacated and demolished one of them (1239 S. Racine) and have expressed their intent to demolish the remaining two buildings, for a total loss of 450 units.

75. The defendants' 1998 HOPE VI plans call for the construction of 108 replacement units, although in 1996, CHA secured approval from HUD to construct 250 replacement units. As a result, where there were once 450 units, the defendants' "revitalization" plans will result in 108 units. This will be insufficient to house even the current Brooks Extension residents. As of December 1998, and despite steady deterioration of their living conditions, sometimes to the point of near or actual uninhabitability, 200 families remain living at Brooks Extension. Obviously one-hundred eight new units will not accommodate these families -- even if every new unit were reserved for very low income families.

76. The defendants' HOPE VI revitalization plans do not specifically reserve these 108 new units for very low income families. Under the plan, as few as half of the new units (54) might be reserved for very low income families. As a result, there will be insufficient units for residents who want to stay at Brooks Extension or for those who left Brooks Extension without being provided full and complete information about their replacement housing choices and who, therefore, may want to return.

77. The defendants have failed to provide Brooks Extension residents with their choice of replacement housing as required by Section 18 of the USHA, failed to provide them with personal notices or other benefits as required by the URA, and failed to provide sufficient replacement housing units as required by the CDBG Program. Nor have defendants conducted the area housing availability survey or comprehensive individual tenant interviews that are required by the URA.

78. As in the case of Jane Addams, CHA's current and planned relocation of Brooks Extension residents has led and will lead to the perpetuation and exacerbation of residential racial segregation as tenants have been and will continue to be relocated to predominantly African American communities.

E. The Grace Abbott Homes

79. Abbott presently provides 1,198 units of housing in 166 row houses and seven 15-story high-rises. These buildings are located south of Roosevelt Road, in an area bounded by Loomis Street on the east and Ashland Avenue on the west. The area is severely racially segregated: according to the 1990 census, approximately 99% of the residents of the census tract where Abbott buildings are located are African American.

80. The defendants' HOPE VI revitalization plans call for demolishing all seven Abbott high-rises, including a newly rehabilitated building at 1440 West 13th Street. At least 1,180 units of housing will therefore be lost, and only 100 to 300 units of very low income housing will be constructed in their place. Under the defendants' plans, the new units will be built on what is now Addams Park or on Abbott land, all of which is south of Roosevelt Road.

F. Brooks Homes and Loomis Courts.

81. The defendants intend to demolish approximately 58% of the units in Brooks Homes (483 of 835) and to rehabilitate the remaining 352 units (132 Brooks Homes units have thus far been rehabilitated). All 126 units at Loomis Courts are also to be rehabilitated. Defendants intend to house only very low income families at Brooks Homes and Loomis Courts, all of which housing is located south of Roosevelt Road.

G. Intervenor-Plaintiffs' Attempts to Consult with CHA

82. The CHA defendants know about the rights of ABLA residents and former residents under the USHA, the URA, and Titles VI and VIII of the Civil Rights Acts, and of the obligations these laws impose on them when implementing consolidation, demolition and HOPE VI programs for ABLA. Nonetheless, the CHA has encouraged (and in some cases forced) ABLA tenants to move out without providing them proper notice of or full information about redevelopment plans for

ABLA, without offering them the choice to live in the new housing, and without providing them the full range of federally-mandated relocation benefits, such as advisory services, a choice among three comparable replacement units, and relocation expenses.

83. The CHA defendants have also long been on notice that conditions at the Robert Brooks Extension violate even the minimal health and safety requirements of the Chicago Building Code. These unsafe and unsanitary conditions have been documented by plaintiffs, with the help of a structural engineering firm, Crest Consulting Engineers, P.C.

84. Intervenor-plaintiffs have attempted to work with the CHA defendants. The CHA defendants, however, have refused to include intervenor-plaintiffs in the process of formulating and implementing plans for the ABLA community, stating that it is CHA's policy to negotiate all major redevelopment and modernization activities only with the local LAC.

85. CHA and the LAC, however, have refused to admit Ms. Freeman, other CRA members, and their counsel to CHA and LAC meetings concerning the revitalization of ABLA, and have excluded them from participating in the preparation of HOPE VI applications to HUD.

86. For example, on February 20, 1998, CHA and the LAC forcibly prevented Ms. Freeman, other CRA members, and CRA's legal counsel from attending a meeting to discuss the CHA's plans for replacement housing for ABLA residents. CHA Police Department and Redevelopment personnel were called in to physically block CRA members and their attorneys from entering the meeting. Even after ABLA residents at the meeting informed the LAC's President, Deverra Beverly, and CHA's Redevelopment Director, Andrew Rodriguez, that they wished to be represented at the meeting by CRA members and the CRA's legal counsel, CRA and legal counsel were still barred from entering.

87. The LAC does not represent intervenor-plaintiffs' views and has refused to present the ABLA plaintiffs' views to the CHA in its consultations with the CHA. The LAC fails to represent the views of many ABLA residents.

VI. INJURY TO THE NAMED PLAINTIFFS AND THE PLAINTIFF CLASS

88. According to the 1990 United States census, 39% of the families living in the City of Chicago are African American. African American families, however, constitute 63% of the households living below the poverty line.

89. According to the 1990 United States census, 31% of the families living in Chicago are female-headed families. Female-headed families, however, constitute 66% of the families living below the poverty line.

90. According to the 1990 United States census, 26% of the families living in Chicago had related children under the age of 18. Families with children, however, constitute 40% of the families living below the poverty level.

91. The defendants' plans for ABLA, as described above, reduce the number of housing units available both to current and to recently displaced ABLA residents. These plans have an adverse discriminatory impact on African Americans, females, and children because these groups are disproportionately eligible for public housing as compared to their representation in the general population, and they are disproportionately represented among ABLA residents.

92. The defendants' plans for ABLA and the relocation activities already undertaken by the CHA defendants, as described above, also exacerbate and perpetuate racial residential segregation, and they deny current and recently displaced ABLA residents the opportunity to reside in integrated neighborhoods.

93. These actions will cause and have caused irreparable injury to the named plaintiffs and to members of the plaintiff class. As a result of the defendants' actions, the plaintiffs and members of the plaintiffs class have lost or will lose their homes, have suffered or will suffer displacement, and will be denied the opportunity to reside in the replacement housing currently proposed by the defendants. The defendants are in the midst of destroying the community in which the plaintiffs have lived and established personal ties.

94. The defendants' plans and actions as described above have caused and will cause irreparable injury to plaintiff Concerned Residents of ABLA, in that:

a. CRA represents the interests of its members, each of whom has been or will be harmed by defendants' proposed redevelopment plans;

b. The above-described activities of defendants have frustrated CRA's mission to promote tenant involvement in the redevelopment process and to facilitate a redevelopment plan that furthers the interests of all ABLA residents;

c. CRA has lost actual and potential members due to CHA's ongoing pattern of encouraging and/or forcing ABLA tenants to move out of the development by, inter alia, allowing units to deteriorate, relocating tenants with Section 8 certificates and vouchers, and transferring tenants to other public housing developments.

95. All of defendants' actions described herein constitute a pattern, practice and policy of housing discrimination and discrimination in general on the basis of race, gender and familial status.

96. Intervenor-plaintiffs have no adequate remedy at law.

VII. CLAIMS FOR RELIEF AGAINST ALL DEFENDANTS

Claims Under Title VIII of the Civil Rights Act of 1968

COUNT I – Against All Defendants

97. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

98. The defendants' actions as described above will have an adverse discriminatory effect upon African Americans and therefore constitute a violation of the Fair Housing Act, 42 U.S.C. § 3604(a), which provides that "it shall be unlawful . . . [t]o make unavailable or deny . . . a dwelling to any person because of race"

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COUNT II – Against All Defendants

99. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

100. Defendants' actions as described above will have an adverse discriminatory effect upon female-headed households and therefore constitute a violation of the Fair Housing Act, 42 U.S.C. § 3604(a), which provides that "it shall be unlawful . . . [t]o make unavailable or deny . . . a dwelling to any person because of . . . sex"

COUNT III – Against All Defendants

101. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

102. Defendants' actions as described above will have an adverse discriminatory effect upon families with children and therefore constitute a violation of the Fair Housing Act, 42 U.S.C. § 3604(a), which provides that "it shall be unlawful . . . [t]o make unavailable or deny . . . a dwelling to any person because of . . . familial status"

COUNT IV – Against All Defendants

103. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

104. The defendants' plans for Jane Addams as described above will deny current and displaced ABLA residents and future public housing residents the opportunity to reside in a racially integrated neighborhood, in violation of the Fair Housing Act, 42 U.S.C. § 3604.

COUNT V – Against All Defendants

105. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

106. The defendants' actions as described above have and will exacerbate and perpetuate residential housing segregation and therefore constitute a violation of 42 U.S.C. § 3604.

Claims Under Title VI of the Civil Rights Act of 1964

COUNT VI – Against All Defendants

107. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

108. The defendants' plans as described above will have an adverse discriminatory effect upon African Americans, and therefore violate plaintiffs' rights secured by Title VI, which provides that "[n]o person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance," 24 C.F.R. §§ 1.4(b)(2) and (3) (regulations implementing 42 U.S.C. § 2000d).

COUNT VII – Against All Defendants

109. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

110. The defendants' actions as described above have and will exacerbate and perpetuate residential racial segregation and therefore constitute a violation of 24 C.F.R. §§ 1.4(b)(2) and (3) (regulations implementing 42 U.S.C. § 2000d).

VIII. CLAIMS FOR RELIEF AGAINST THE CHA DEFENDANTS

Claims Under Section 1983 and Section 18 of the USHA

COUNT VIII – CHA Defendants Only

111. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

112. The CHA defendants are each "persons" within the meaning of 42 U.S.C. § 1983, and their actions described herein were taken under color of state law.

113. The CHA defendants failed to meaningfully consult with plaintiffs CRA and individual ABLA residents who will be affected by the proposed demolition plans for ABLA and therefore violated Section 18(b)(1) of the USHA. 42 U.S.C. § 1437p(b)(1)

COUNT IX – CHA Defendants Only

114. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

115. The CHA defendants are "persons" within the meaning of 42 U.S.C. § 1983, and their actions described herein were taken under color of state law.

116. In implementing their plans to redevelop ABLA, the CHA defendants have failed to relocate displaced ABLA tenants to decent, safe, sanitary, and affordable housing which is, to

the maximum extent practicable, housing of their choice. Defendants have thereby violated plaintiffs' rights under Section 18(b)(2) of the USHA, 42 U.S.C. § 1437(b)(2).

Claim Under Section 1983 and the Uniform Relocation Act

COUNT X – CHA Defendants Only

117. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

118. The CHA defendants are "persons" within the meaning of 42 U.S.C. § 1983, and their actions described herein were taken under color of state law.

119. The CHA defendants' relocation of families residing in Jane Addams and Brooks Extension has violated the Uniform Relocation Act and regulations promulgated thereunder because CHA has:

(a) Failed to adequately assess the needs and preferences of the displaced families pursuant to 42 U.S.C. § 4625(c)(1) and 49 C.F.R. § 24.205(c)(2)(1);

(b) Failed to give displaced families reasonable opportunities to relocate to decent, safe and sanitary replacement dwellings within their financial means that are not located in areas of African American concentration pursuant to 49 C.F.R. § 24.205(c)(2)(C);

(c) Failed to provide the displaced families comparable replacement housing, including housing that is decent, safe and sanitary pursuant to 42 U.S.C. §§ 4625(c)(3), 4630(3) and 49 C.F.R. § 24.2(d)and(f).

(d) Failed to provide the displaced families up to 42 months of relocation assistance payments in the amounts that the families' rent increased as a result of the relocation, up to a maximum total disbursement of \$5,250, pursuant to 49 C.F.R. § 24.402.

IX. CLAIMS FOR RELIEF AGAINST THE FEDERAL DEFENDANTS

Claim Under the Fair Housing Act

COUNT XI - Federal Defendants Only

120. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

121. In approving the CHA defendants' plans for ABLA, the federal defendants violated their duty under 42 U.S.C. § 3608(e)(5) affirmatively to further fair housing.

Claims Under the Housing and Community Development Act

COUNT XII – Federal Defendants Only

122. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

False
123. Defendants' plans provide for only 1,249 very low and low income replacement housing units. The plans therefore fail to provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the 2,992 occupied and vacant occupiable very low and low income dwelling units demolished, in violation of 42 U.S.C. § 5304(d)(2)(A)(i).

COUNT XIII – Federal Defendants Only

124. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

125. Defendants' plan fails to guarantee that 2,992 comparable replacement dwellings in the community remain affordable to persons of low and moderate income for 10 years from the date of initial occupancy and fails to provide compensation sufficient to insure that, for a five-

year period, the displaced families will not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent, in violation of 42 U.S.C. § 5304(d)(2)(A)(ii) and (iii).

Claim Under the Administrative Procedures Act

COUNT XIV - Federal Defendants Only

126. Intervenor-plaintiffs re-allege paragraphs 1 to 96 of this Complaint and incorporate them herein.

127. Defendant HUD is an agency within the meaning of 5 U.S.C. § 701(b)(1) of the Administrative Procedure Act ("APA").

128. In approving the CHA defendants' plans for ABLA despite the violations alleged above, the federal defendants took actions that were arbitrary, capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and without observance of procedures required by law, within the meaning of 5 U.S.C. § 706(2)(A)(C) and (D).

X. RELIEF REQUESTED

WHEREFORE, intervenor-plaintiffs respectfully request that this Court:

A. Declare that the actions and omissions of the defendants, as set forth above, violate Title VIII, Title VI, Section 18 of the United States Housing Act, the Uniform Relocation Act and the Housing and Community Development Act.

B. Enter a preliminary and permanent injunction:

(1) Enjoining defendants from implementing the defendants' present ABLA redevelopment plans, including any efforts to relocate the residents of ABLA in violation of the United States Housing Act, the Uniform Relocation Act and the Housing and Community Development Act;

(2) Enjoining the awarding, transfer, or expenditure of any ABLA-related HOPE VI or CDBG funds until a new revitalization plan for the ABLA development is developed by CHA and the Gautreaux Receiver after full consultation with CRA and all other ABLA residents; and

(3) Enjoining defendants from failing to reprocess applications for replacement housing of all families relocated from ABLA since August 1995, to offer these families the right to return to a new or rehabilitated unit at ABLA, and, to otherwise insure that each family's relocation comports with the United States Housing Act, the Uniform Relocation Act and the Housing and Community Development Act.

(4) Enjoining defendants from failing to maintain the ABLA development in substantial compliance with the health and safety provisions of the Chicago Municipal Code until a new revitalization plan for the ABLA development can be implemented;

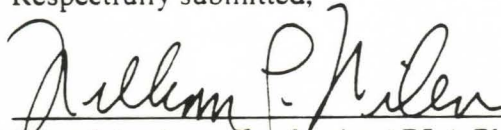
C. Enter an order requiring defendants to pay intervenor-plaintiffs' reasonable costs and attorneys' fees for the prosecution of this action.

D. Enter an order that the intervenor-plaintiffs shall not be required to post bond as security for the issuance of a temporary restraining order or preliminary injunction; and

E. Grant intervenor-plaintiffs such further relief as this Court deems just and proper.

Dated: November 29, 1999

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William P. Miller". The signature is written in dark ink and is positioned above a horizontal line.

One of the Attorneys for the ABLA Plaintiffs

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Name of Assigned Judge or Magistrate Judge	Marvin Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	66 C 1459	DATE	11/4/1999
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] Before us is a joint motion of the Gautreaux plaintiffs and the Receiver for entry of an order whose effect would be to dismiss a complaint filed in front of Judge Gettleman by the Concerned Residents of ABLA (CRA) and certain individuals, without prejudice to their right to intervene in the Gautreaux case. We grant the motion by reassigning the ABLA case to this Court pursuant to Local Rule 40.4 and then dismissing it without prejudice to the ABLA plaintiffs' right to seek intervention in Gautreaux.
- (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 date docketed docketing deputy initials 11/4/1999 date mailed notice	
☐ 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	

EXHIBIT A

ORDER

Before us is a joint motion of the *Gautreaux* plaintiffs and the Receiver for entry of an order whose effect would be to dismiss a complaint filed in front of Judge Gettleman by the Concerned Residents of ABLA (CRA) and certain individuals, without prejudice to their right to intervene in the *Gautreaux* case. HUD and the CHA support the motion. For the following reasons, we will grant the motion by reassigning the ABLA case to this Court pursuant to Local Rule 40.4 [formerly Local General Rule 2.31] and then dismissing it without prejudice to the ABLA plaintiffs' right to seek intervention in *Gautreaux*.

In 1998, the CHA and HUD, along with the *Gautreaux* Receiver, the *Gautreaux* plaintiffs, and an ABLA tenants' group called the ABLA LAC developed a plan to build new and replacement housing at the ABLA public housing developments. On June 19, 1998, we entered an order designating an ABLA "revitalizing area" - a necessary step under the *Gautreaux* decree to allow new public housing to be constructed there - and authorized the Receiver to construct new public, low income, and market rate housing in the area. The ABLA plaintiffs want Judge Gettleman to declare that the ABLA plan violates various housing, relocation, and civil rights laws, and requests an injunction requiring, *inter alia*, the development of a modified plan for the area that addresses their concerns.

Because the ABLA complaint directly attacks the relief we ordered for the ABLA area pursuant to the *Gautreaux* decree, it is appropriate to reassign the case to this Court and then dismiss it without prejudice to the ABLA plaintiffs' right to intervene. See *Hines v. Rapides Parish School Board*, 479 F.2d 762 (5th Cir. 1973). This result will allow the ABLA plaintiffs to present their complaints about the revitalization plan without "fostering a multiplicity of new lawsuits over the same complicated and emotional issues which have already once been fought out in an all too lengthy court battle." *Id.* at 765.

The ABLA plaintiffs contend that *Hines* and its progeny are not applicable here because some of them are not members of the *Gautreaux* class and because the ABLA complaint encompasses issues not covered by the *Gautreaux* decree. We do not find these arguments persuasive - *Hines* itself involved a collateral attack on a desegregation consent decree by white parents who were not members of the original plaintiff class. And although the ABLA complaint alleges new statutory violations in addition to those covered by the *Gautreaux* decree, the entirety of the complaint attacks the revitalization plan created pursuant to this Court's June 19, 1998 order. See *Davis v. Board of School Commissioners of Mobile County*, 517 F.2d 1044, 1048 (5th Cir. 1975) (ordering plaintiff to seek intervention even though he added a Title VII claim to his attack on the consent decree).

Pursuant to Local Rule 2.31, we find it appropriate to deem the ABLA case related to the *Gautreaux* action and transfer it to this Court. Reassignment will promote judicial economy by avoiding the possibility that Judge Gettleman will order relief that is inconsistent with or otherwise violative of *Gautreaux*. See August 12, 1998 order (enjoining a Cabrini-Green redevelopment plan created without the required input of the Receiver).

Second, there is little chance that reassignment will delay the *Gautreaux* case because the ABLA piece is still in the development phase, unlikely to move forward until the CRA challenge is resolved. And finally, all of the ABLA plaintiffs' challenges to the ABLA revitalizing plan may be addressed in a single proceeding concerning the development of the area. Any plan for the area that involves the construction of public housing must be approved by a host of entities, all of whom are parties to the *Gautreaux* litigation. It would be much more expedient to address all of the challenges to the ABLA plan now, in one forum, instead of pursuing piecemeal litigation in different courts with the intention of later moving for waivers and approval pursuant to the *Gautreaux* decree. We therefore grant the joint motion, reassign the case to this Court, and dismiss it without prejudice to the ABLA plaintiffs' right to intervene in *Gautreaux*. It is so ordered.



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

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

vs.

SAMUEL R. PIERCE, JR., Secretary
of the Department of Housing and
Urban Development, and CHICAGO
HOUSING AUTHORITY, et al.,

Defendants.

Civil Action No. 66C1459
66C1460
(Consolidated)

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

EXHIBIT B

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 (1) 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. CRA, 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 CRA 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 CRA)

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

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

FILE COPY

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

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

90 JUN 18 10 15 AM '81

JOINT MOTION OF DEFENDANT CHICAGO HOUSING AUTHORITY,
THE RECEIVER, AND THE PLAINTIFFS
FOR AN AGREED ORDER DESIGNATING ABLA REVITALIZING AREA AND
AUTHORIZING DEVELOPMENT OF PUBLIC HOUSING UNITS THEREIN

Defendant Chicago Housing Authority ("CHA"), Daniel E. Levin
and The Habitat Company (the "Receiver"), and the plaintiffs
respectfully move the Court as follows:

A. To designate as the ABLA Revitalizing Area
("Revitalizing Area") that portion of the City of Chicago that
lies within the following boundaries: on the west, Ashland
Avenue; on the south, the Burlington Northern Railway tracks
immediately south of 15th Street; on the east along Racine Avenue
from such Burlington Northern Railway tracks to Blue Island
Avenue, northeast along Blue Island Avenue to Roosevelt Road,
west along Roosevelt Road to Racine Avenue, and north along
Racine Avenue to Cabrini Street; and on the north, along Cabrini
Street to Loomis Street, north along Loomis Street to Polk
Street, and west along Polk Street to Ashland Avenue.

B. To authorize the development of such number of new non-
elderly public housing units within the Revitalizing Area subject

EXHIBIT C

to such conditions as are specified by further orders of the Court.

In support hereof, the parties state as follows:

1. In collaboration with the City of Chicago, CHA and the Receiver have been preparing an application to be submitted to the United States Department of Housing and Urban Development ("HUD") for a grant of \$35 million for the proposed ABLA Revitalizing Area pursuant to HUD's Notice of Funding Availability under the HOPE VI program published in 63 Federal Register 15577-84, March 31, 1998. The application is the first step in a competitive process by which HUD may award up to \$35 million for HOPE VI authorized activities to each successful applicant.

2. The application will propose to redevelop CHA's ABLA housing development by adding substantial components of market-rate housing and "affordable" housing to the Revitalizing Area to be marketed to persons with incomes above 120 percent and from 80 to 120 percent of area median income, respectively, and by demolition and rehabilitation of existing, and development of new, public housing within the Revitalizing Area, such that upon completion of the proposed redevelopment activity public housing units will comprise no more than approximately 37.5 percent of a total of approximately 2,895 residential units within the Revitalizing Area and will be dispersed geographically throughout the Revitalizing Area, thereby creating opportunities for economically integrated, and over the longer term the possibility of racially integrated, housing for plaintiff class families.

Specifically the application will propose that of a total of approximately 2,895 residential units within the Revitalizing Area, 1,084 units would be public housing units initially occupied by persons with incomes 0-35 percent of area median income, 845 non-public housing units would be occupied by persons with incomes 36-120 percent of area median income, and 966 non-public housing units would be occupied by persons with incomes in excess of 120 percent of area median income.

3. By arrangement with the plaintiffs and HUD, CHA received a HOPE VI grant of \$24,483,250 in FY1996 for a portion of the Revitalizing Area. The current HOPE VI application contemplates and proposes that this prior grant would be utilized in conjunction with the grant currently being applied for.

4. As specified in the proposed HOPE VI application, the City of Chicago will commit substantial resources to the proposed redevelopment of the Revitalizing Area, including but not limited to tax credits under the City's low-income housing tax credit program and financing under the City's multi-family rehabilitation and new construction programs for the development of new housing. The City has also agreed to consider the use of community development block grant funds, the development of a tax increment financing district, and the sale of tax-exempt bonds, all for the further support of redevelopment in the Revitalizing Area.

5. The Revitalizing Area lies within a section of the City of Chicago that is undergoing substantial institutional and market-driven development activity. A short distance to the west

lies the Illinois Medical Center District. A short distance to the east lies the University of Illinois, Chicago. Both institutions have already carried out substantial development activity and have plans for further such activity. Surrounding and nearby neighborhoods already evidence strong commercial and market-rate housing activity.

6. Based on the foregoing movants believe that should the Receiver and CHA receive a FY1998 HOPE VI grant for the Revitalizing Area, a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made for the Area.

7. For the foregoing reasons, movants respectfully request entry of an order designating an ABLA Revitalizing Area and authorizing the development of public housing units therein. A proposed form of order is attached hereto.

Respectfully submitted,

Jerome M. Butler
One of the Attorneys for CHA

Barbara Miller
One of the Attorneys for the Receiver

Mark J. Papp
One of the Attorneys for Plaintiffs

June 18, 1998

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

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

O R D E R

This matter coming on to be heard on the joint motion of the parties and the Receiver for an order designating an ABLA Revitalizing Area ("Revitalizing Area") and authorizing the development of non-elderly public housing units therein; and

The Court having heard the presentations of the parties and the Receiver respecting, and being advised that the City of Chicago supports entry of, the proposed order; and

The Court being further advised that the Receiver and the defendant, Chicago Housing Authority, in collaboration with the City of Chicago, are engaged in the preparation of an application for a FY1998 HOPE VI grant of \$35 million for the ABLA Revitalizing Area to be submitted by them to the United States Department of Housing and Urban Development (HUD) on or before June 29, 1998; and

The Court also being advised that by arrangement with the plaintiffs and HUD, CHA received a HOPE VI grant of \$24,483,250 in FY1996 for a portion of the Revitalizing Area, and that the

current HOPE VI application contemplates and proposes that this prior grant be utilized in conjunction with the grant currently being applied for; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been and is to provide plaintiff class families with desegregated housing opportunities; and

The Court also being cognizant that on occasion it has permitted public or assisted housing to be developed in census tracts not within the General Public Housing Area upon a sufficient showing of "revitalizing" circumstances such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made; and

The Court being of the view, based on the presentations of the parties and the Receiver, that subject to appropriate terms and conditions such a forecast can be made with respect to the Revitalizing Area should the Receiver and the defendant, Chicago Housing Authority (CHA), be awarded a FY1998 HOPE VI grant therefor pursuant to their proposed joint application;

IT IS HEREBY ORDERED:

1. Effective upon advice to the Court from the parties that a FY1998 HOPE VI grant has been made to the Receiver and CHA pursuant to a joint application to be submitted by them to HUD respecting the Revitalizing Area, the Court designates as the ABLA Revitalizing Area that portion of the City of Chicago that lies within the following boundaries: on the west, Ashland Avenue; on the south, the Burlington Northern Railway tracks

immediately south of 15th Street; on the east along Racine Avenue from such Burlington Northern Railway tracks to Blue Island Avenue, northeast along Blue Island Avenue to Roosevelt Road, west along Roosevelt Road to Racine Avenue, and north along Racine Avenue to Cabrini Street; and on the north, along Cabrini Street to Loomis Street, north along Loomis Street to Polk Street, and west along Polk Street to Ashland Avenue; and

2. Subject to such terms and conditions as are specified by further orders of the Court, the Receiver is authorized to develop such number of new public housing units within the Revitalizing Area as will result in public housing units comprising approximately 1,084 of a total of approximately 2,895 residential units within the Revitalizing Area, which is the approximate number of public housing and total residential units within the Revitalizing Area presently contemplated by such grant application, as part of an overall development including approximately 845 non-public housing units to be occupied by persons with incomes 36-120 percent of area median income, and 966 non-public housing units to be occupied by persons with incomes in excess of 120 percent of area median income.

ENTER:

Marion E. Cohen

June 19, 1998

RECEIVED

JAN 10 2000

MICHAEL J. WOODS
CLERK, U. S. DISTRICT COURT

No. 66 C 1459

Chief Judge Aspen

)

**STATEMENT OF THE RECEIVER IN RESPONSE
TO PUTATIVE ABLA PLAINTIFFS' MOTION TO INTERVENE**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL BACKGROUND	2
	A. Site Overview	3
	B. HOPE VI Applications and Awards	3
	C. Outline of the ABLA Redevelopment	5
	D. The June 19, 1998 Revitalization Order	6
	E. The Working Group and Resident Participation	7
	F. The Development Manager RFP	7
	G. Principal Discrimination Allegations of the Putative Complaint	8
III.	THE DISCRIMINATION CLAIMS ARE NOT JUSTICIABLE	10
	A. The Discrimination Claims are Unripe	10
	B. Putative Intervenor Lack Standing to Bring the Discrimination Claims	11
IV.	SUGGESTED PROCEDURES	13
V.	CONCLUSION	15

I. Introduction

Daniel E. Levin and The Habitat Company, as Receiver, file this Statement in response to the putative ABLA Plaintiffs' Motion to Intervene ("Intervention Motion") and their proposed Complaint.^{1/}

1. As discussed in Parts II and III below, the putative intervenors' discrimination claims rest on an erroneous premise: that there is an existing ABLA redevelopment plan that discriminates against very low income public housing residents. In fact, no plan yet exists (let alone one that violates the law), and one will not be formulated for many months. Rather, the "Working Group" for ABLA, which consists of representatives of CHA, the City of Chicago, the Receiver, the Gautreaux Plaintiffs, and the duly elected ABLA tenant leadership (who are *not* the putative intervenors), have issued an RFP and are about to select a development manager for ABLA *whose job will be to develop a revitalization plan during 2000*. Until that plan is created, submitted to and approved by the Working Group and HUD, respectively, the discrimination claims are plainly unripe and non-justiciable.

2. When a development plan is drafted and approved, if the proposed intervenors still have objections, a course other than intervention should be followed. The Court should afford them an opportunity to present their objections at a hearing on whether to approve the plan. But the possibility that they may object to the actual plan when it is prepared does not warrant intervention and the resulting disruption and expense of full-blown litigation at this time.

3. As discussed in Part IV below and in the Gautreaux plaintiffs' brief, the putative intervenors are members of the Gautreaux class and are represented by the Gautreaux plaintiffs'

^{1/} The Intervention Motion and proposed Complaint make three broad allegations: (1) that the putative plaintiffs have not been consulted by CHA in connection with proposed demolition plans for ABLA (Complaint, Count VIII); (2) that defendants, including the Receiver, have created a "plan" that will re-establish segregated housing at ABLA and will force other plaintiffs to live in other segregated neighborhoods, in violation of a host of anti-discrimination statutes (Complaint, Counts I-VII); and (3) that CHA has violated federal standards for relocation of tenants (Complaint, Counts IX-X). The Receiver's comments below will focus on the second issue, since the discrimination claims are the only ones naming the Receiver as a defendant, and the claims involve development matters at the core of the Receiver's jurisdiction.

attorneys. At most, their proposed Complaint reflects disagreement with class counsel over how ABLA should be redeveloped. Such disagreement does not warrant separate litigation. If that disagreement remains once an actual plan is proposed, it should be resolved through the hearing on whether to approve the plan.

4. Therefore, the Receiver suggests, as discussed in Part IV below, that the Court enter and continue the Intervention Motion until a specific plan has been formulated and the proposed intervenors have discussed it with Gautreaux class counsel. If they have objections to that plan, they should be afforded the opportunity to present them to the Court at the hearing on whether to approve the plan. In the meantime the Receiver, the Gautreaux plaintiffs' counsel and the CHA have met and will continue to meet with Intervenor's counsel to attempt to address and resolve their concerns.

5. The putative intervenors allege that the Receiver, in league with the *Gautreaux* plaintiffs, the elected ABLA tenant leaders, the CHA and the City, formulated a "plan" to rebuild segregated housing south of Roosevelt Road; to cede the choicest land north of Roosevelt to developers for private market development; and to cast numerous ABLA tenants into exile in the form of Section 8 housing in segregated areas, all in supposed violation of discrimination statutes. The Receiver denies these allegations – which accuse the Gautreaux plaintiffs and the Receiver of violating the discrimination laws in their efforts to provide a remedy in this case. Nevertheless, the nature of the allegations is such that they may warrant consideration by the Court – despite their lack of merit. The question for the Court is how and when to consider them. Based on case law developed in similar situations, the Receiver believes that the procedure suggested in Part IV, rather than intervention at this time, is the proper procedure for hearing these allegations if and when they ripen.

II. Factual Background

The facts set forth below relate principally to the putative discrimination claims, which are the only ones purportedly naming the Receiver as a defendant. Because the ripeness and standing issues discussed below go to the Court's subject matter jurisdiction, the relevant facts are not limited to those alleged in the proposed Complaint. The Court may consider affidavits and other evidence

to decide questions of justiciability. See, e.g., Taylor Investment, Ltd. v. Upper Darby Twp., 983 F.2d 1285, 1290 n.7 (3d Cir. 1993); St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir. 1989).

A. Site Overview.

ABLA Homes is comprised of six contiguous developments on the Near West Side that straddle Roosevelt Road. See 1998 HOPE VI Application ("1998 App.") at 1.^{2/} Originally consisting of 3,500 public housing units, as of June 1998 it was occupied by approximately 1,500 very low-income families. Id.

ABLA is a classic example of the failed social policy that gave rise to this lawsuit and that the Court's remedies are designed to address. The development is a racially and economically segregated enclave isolated from the broader community. The buildings are dilapidated. The residents are virtually all very poor (most earning much less than 50% of area median income) and African-American. Crime is high. Details are set forth in the attached excerpts from the 1998 App.

B. HOPE VI Applications and Awards.

In 1996 HUD awarded CHA a \$24 million HOPE VI grant to develop new housing on the Brooks Extension Site.

In 1997 CHA's prior administration applied for a HOPE VI grant for development of new public housing at ABLA. The Receiver was not included in that process. HUD denied the grant request.

In 1998 CHA began preparing a new HOPE VI application for \$35 million for development of new public housing at ABLA. After CHA initially excluded the Receiver from that process, this Court, through its order of May 19, 1998, directed CHA to cooperate with the Receiver in preparing the application. The application was submitted at the end of the June. Though the Receiver was able to submit comments on the draft and signed the application, it had less input and control over the application than would have been the case had it been involved from the outset. HUD approved the

^{2/} Excerpts from the 1998 HOPE VI application are attached as Exhibit A. The full application is voluminous, so it is not included. If the Court wishes to review the full application, a copy will be provided.

grant a few months later, and permitted the 1998 grant to be merged with the 1996 grant for preparation of a comprehensive plan..

Because it bears directly on the ripeness issue, it is important for the Court to understand that a HOPE VI application in general, and the 1998 application in particular, is a tentative, conceptual document, not a development plan. As the process has developed, HOPE VI development dollars cannot flow at ABLA and the development cannot proceed until (i) a development manager is selected and a contract is negotiated; (ii) the development manager prepares a master development plan for the project; (iii) that plan is considered and approved by the "Working Group," including the Receiver and the Gautreaux plaintiffs; (iv) the plan is incorporated into a HOPE VI Revitalization Plan submitted to HUD for its approval; and (v) a Mixed-Finance Proposal for each phase of the development is submitted to HUD. See Ex.F hereto (excerpts from HUD's HOPE VI Guidebook). None of these events has occurred yet. See Declaration of Jeffrey D. Head, Ex.B ¶4.

The Declaration of Elinor Bacon, HUD's Deputy Assistant Secretary for the Office of Public Housing Investments, which is attached to HUD's Response to ABLA Plaintiffs' Motion to Intervene, explains the critical role of the Revitalization Plan in the process:

A Revitalization Plan creates a master plan for the project describing, among other things, the proposed design of the development, the proposed total number of units and the breakdown of public housing, tax credit, or market-rate units, the targeted income groups, the unit type, their location, density, whether they will be rental or homeownership, the number of units to be developed in each phase, the proposed development schedule for each phase, the proposed sources and uses for the entire project, and how HOPE IV [sic] funds will be used for the development of public housing units. Bedroom distribution among the public housing units will take into account the family size of residents actually choosing to remain at the redeveloped ABLA community.

Bacon Aff. ¶8. This Plan is not likely to be submitted and approved for many months. Head Dec., Ex.B ¶4.

Even the approval by HUD of the Revitalization Plan does not get the project off the ground, as Ms. Bacon explains:

Pursuant to the completion of a Revitalization Plan, CHA and the Receiver will then be required to submit a detailed Mixed-Finance Proposal for each phase of

the ABLA project. The Proposal provides, among other things, a final financing plan and budget for that phase, the final number of public housing, tax credit and market units to be developed in that phase and the respective responsibilities of CHA, the Receiver, the project's developer and other parties. Construction on that phase only may begin only after, evidentiary documents, which memorialize all agreements and responsibilities between the parties and commit funding to the project, are submitted and approved by HUD.

Bacon Aff. ¶9.

C. Outline of the ABLA Redevelopment.

The 1998 HOPE VI application made the following proposal to HUD: The \$35 million 1998 grant would be combined with the \$24 million 1996 grant to leverage over \$84 million in City funding and over \$287 million in private funding for a total of \$430 million for redevelopment. Ex.A at 1. The application proposed demolishing 2,756 dwelling units. It also proposed a "scenario" for the mix of replacement housing units. It said: "The scenario included in this application is a sample development plan to demonstrate the financial feasibility of CHA's redevelopment strategy, *not the final development plan*. Developer solicitation will begin immediately following approval of the Tax Increment Financing District in late fall 1998. . . . *This scenario is subject to change based on the proposal of the selected developer(s).*" Id. at 21-22 (underscoring and italics in original).

The sample plan proposed "a true income mix," resulting in 2,895 on-site units and 383 scattered units. The latter would be all very low income public housing units sited in accordance with Gautreaux locational restrictions. The on-site units would consist of 1,084 units available to tenants earning 0-35% of area median income ("a.m.i.");^{2/} 845 "affordable" units (consisting of 391 rental units for tenants earning 36-60% of a.m.i., 202 rental units for tenants earning above 60% of

^{2/} These units would consist of 352 units completely rehabilitated at the Brooks Homes and 732 new or rehabilitated public housing units. The rehabilitation of the Brooks Homes was funded from CHA's comprehensive grant program, and has had no involvement of the Receiver. CHA has informed the Receiver that 132 units are completed and 220 units are under construction.

a.m.i., and 252 for-sale units for tenants earning 81-120% of a.m.i.); and 966 "market" for-sale units for families earning in excess of 120% of a.m.i. Id. at 1, 20-22.⁴

The goal of the proposed income targets was to "ensure[] deconcentration of low-income families while also recognizing the need to maintain affordable housing in the neighborhood. The proposed income mix provides not only a healthy mix for a sustainable community but also aims to provide opportunities for public housing residents. The concentration of low income housing will be lessened in two significant ways: one, by integrating the proposed site into the revitalizing activities of the surrounding neighborhood, and, two by increasing employment opportunities for the existing resident population and increasing existing incomes." Id. at 25-26.

The 1998 Application was supported by a June 25, 1998 letter from Deverra Beverly, an ABLA resident who serves as the elected President of the ABLA Local Advisory Council. She wrote: "On behalf of the residents of ABLA including the ABLA LAC we extend our support to the 1998 Hope VI application." See Ex.A-1 hereto. This support was "conditioned upon the LAC's ongoing participation in all redevelopment activities." Id. This ongoing participation has occurred via the ABLA Working Group, as discussed below.

D. The June 19, 1998 Revitalization Order.

In connection with the submission of the 1998 Application, CHA, the Receiver and the plaintiffs filed a Joint Motion for an Agreed Order Designating ABLA Revitalizing Area and Authorizing Development of Public Housing Units Therein. See Complaint Ex.C. The Joint Motion sought the revitalization designation based upon the income mix proposed in the 1998 Application, including the proposal that "public housing units will comprise no more than approximately 37.5

^{4/} Although this scenario draws a line between the "public housing" and "affordable" units at an income level of 35% of a.m.i., the total number of units available to persons eligible for public housing is substantially higher than the 1,084 projected for the 0-35% group. Under HUD regulations, tenants are eligible for public housing if they earn less than 80% of a.m.i. These are broken into two groups, "very low income," defined as those earning less than 50% of a.m.i., and "low income," defined as those earning 50-80% of a.m.i. See Complaint ¶55. The scenario described in the 1998 Application contemplates the development of several hundred "affordable" units available to public housing eligible families earning more than 35% and less than 80% of a.m.i.

percent of a total of approximately 2,895 residential units within the Revitalizing Area and will be dispersed geographically throughout the Revitalizing Area, thereby creating opportunities for economically integrated, and over the longer term the possibility of racially integrated, housing for plaintiff class families.” Id. ¶2. The Joint Motion summarized the proposed financing for the new housing and the development activities in the surrounding area, id. ¶¶4-5, and represented to the Court that “a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made for the area.” Id. ¶6.

On June 19, 1998, the Court granted the Joint Motion, entering an Order designating the ABLA Revitalizing Area. The June 19, 1998 Order authorized the Receiver, “[s]ubject to such terms and conditions as are specified by further orders of the Court,” to develop “approximately 1,084” public housing units out of a total of 2,895 residential units within the Area, “which is the approximate number of public housing and total residential units . . . presently contemplated by such grant application.” Ex.C ¶2.

E. The Working Group and Resident Participation.

On May 21, 1999 a Working Group was formalized pursuant to a signed Memorandum of Understanding. See Ex.D. (The Group had been meeting informally for several months.) Members of the Working Group include representatives of CHA, the City of Chicago’s Department of Planning, the City’s Department of Housing, the Receiver, the Gautreaux plaintiffs, and the ABLA LAC. This Working Group was formed “to meet on a regular basis in order to collectively make decisions regarding the [ABLA redevelopment] Project.” Pursuant to this Memorandum, the ABLA tenants, through their elected leadership “will participate in the decision-making process as fully as possible.” The Memorandum noted that the parties intended to issue an RFP for selecting a Development Manager, who will “develop a Master Plan” for the Project. Id.

F. The Development Manager RFP.

On July 13, 1999, with the concurrence and input of the Working Group (including the ABLA LAC), the City issued a Request for Proposal (RFP) for a development manager for the ABLA HOPE VI redevelopment. See Ex.E hereto (the RFP had a separate volume of exhibits that

is not attached). The successful respondent first “will produce a master plan for the redeveloped neighborhood that includes land use and development planning for the area described in . . . this RFP.” Id. at 2. The master plan “will include a site plan,” which, for each parcel within the area, “will include a proposal for the number and type of buildings, unit mix, home ownership and/or rental status, income targeting and bedroom counts among units.” Id. at 8. The development manager must also prepare a “financial plan” to “demonstrate the overall feasibility of the master plan,” and should obtain supporting market studies. Id. at 9. These plans “will form the basis from which more detailed design, financing and development plans will be created.” Id. at 10. The selected development manager will work with HUD “to gain approval of the master plan and financial plan.” Id.

With respect to location of the public housing units, the RFP mandates that “new public housing units are to be dispersed to the maximum extent throughout the redeveloped neighborhood, and in the full range of housing types and unit sizes developed.” Id. at 18; see also id. at 3. The income tiering is the same as the scenario contemplated in the 1998 Application. Id. at 3. It also requires that the selected development manager “[e]nsure that housing units targeted for public housing families are indistinguishable in quality and visual appearance from those targeted for other levels of income.” Id.

The Working Group is close to selecting a development manager pursuant to this RFP. A final selection decision is expected during January 2000. At that point a contract will need to be negotiated with the selected party. Only then will the actual preparation of a proposed master plan begin. Ex.B (Head Dec.) ¶4.

G. Principal Discrimination Allegations of the Putative Complaint.

The proposed Complaint alleges that defendants, including the Receiver, have formulated “plans” to “concentrate” low income ABLA residents who remain at the site “almost exclusively south of Roosevelt Road – away from the gentrifying and predominately white areas of Little Italy and University Village that are north of Roosevelt Road, and away from the new market rate construction which is the centerpiece of CHA’s ‘revitalization’ plan.” Complaint ¶4. The Complaint

alleges that with respect to the Jane Addams development north of Roosevelt Road 700 or more replacement units would be developed "with 80% of these expected to be sold at market-rate prices." Id. ¶67.

The Complaint does not attach, quote or cite anything in support of this assertion. Because the existence (or lack thereof) of a "plan" goes to the Court's jurisdiction, the Court need not accept the bald allegation as true. See above at 2-3. In fact it is mistaken in at least two respects. First, as shown above, the 1998 Application and the RFP (which are mentioned in the Complaint but not attached) are preliminary documents, and no plan will be created for many months. Second, and more importantly, both of those preliminary documents contemplate that when a plan is ultimately created, new public housing units are to be dispersed throughout the redeveloped area "to the maximum extent." Neither document suggests or requires the unit mix north of Roosevelt Road alleged in the Complaint.^{5/} Thus, if the unit mix set forth in those documents becomes incorporated in the ultimate plan approved by HUD, the new construction both north and south of Roosevelt Road would be approximately uniform with respect to unit mix and distribution. The Working Group has not proposed, and the RFP does not authorize, limiting any area, including that north of Roosevelt, to 20% public housing or having 80% of the units sold at market rates. See Ex.B (Head Dec.) ¶5.^{6/}

^{5/} Perhaps plaintiffs are relying upon the 1997 HOPE VI application, which, upon information and belief, contained an exhibit with a statement that for the Addams site "20% of all units built will be reserved for public housing residents." If so, the reliance is mistaken. The 1997 application was denied by HUD, and any proposals therein are superseded by the 1998 application. Moreover, the 1997 application was submitted by CHA without input of the Receiver, and CHA's actions respecting development were *ultra vires* and void, as this Court has held in other contexts. Finally, the superseded and unauthorized 20% figure appeared to be a floor, not a cap. The same document was included in an exhibit in the 1998 application to evidence CHA's continuing consultation with tenants, but the unit mix contained therein was not part of CHA and the Receiver's 1998 proposal to HUD, and it is not part of the RFP or any contemplated plan.

^{6/} Although it is unnecessary to do so in light of the justiciability problems, the Receiver denies the allegations that it has participated in unlawful discrimination. Two of the premises of the discrimination theory are incorrect, as discussed in the text: the allegations that an 80% market/20% public housing scenario is contemplated north of Roosevelt and that the income mix for newly constructed units will differ depending on whether it is north or south of Roosevelt.

(continued...)

III. THE DISCRIMINATION CLAIMS ARE NOT JUSTICIABLE.

The factual account above demonstrates that the discrimination claims raised by the putative intervenors are unripe and they lack standing to bring them. They attack a "plan" that does not yet exist. A non-existent plan cannot discriminate. Until a plan is formulated and adopted by the Working Group, there is no concrete set of facts upon which a court can evaluate the lawfulness of the plan and its propriety as a *Gautreaux* remedy, and there is no injury to the putative intervenors.²

A. The Discrimination Claims are Unripe.

The familiar definitions of ripeness apply. This Court may only decide "cases" or "controversies," U.S. Const. art. III, §2; *Hinrichs v. Whitburn*, 975 F.2d 1329, 1333 (7th Cir. 1992). Actions that are unripe do not meet this fundamental prerequisite to jurisdiction. *See, e.g., Smith v. Wisconsin Dept. of Agriculture*, 23 F.3d 1134, 1142 (7th Cir. 1994). "The basic rationale of the ripeness doctrine is to prevent courts from entangling themselves in abstract disagreements and to protect government from 'judicial interference until a . . . decision has been formulated and its effects felt in a concrete way by the challenging parties.'" *Oriental Health Spa v. City of Fort Wayne*, 864 F.2d 486, 489 (7th Cir. 1988), *quoting Abbott Laboratories v. Gardner*, 387 U.S. 136, 148 (1967). The Court "cannot entertain a claim which is based upon contingent future events that

^{6/}(...continued)

The putative intervenors may also be dissatisfied with the 1997 decision by CHA's prior administration to rehabilitate rather than demolish 352 units at the Brooks site. (It is unclear whether they are claiming that decision was unlawful independent of their false factual assumptions regarding Addams described above.) The Receiver believes that it would have been better to demolish the site and develop new housing on it, as it would create a more uniform development and would make it easier to integrate the surrounding parcels. That decision was made by CHA prior to the 1998 application process, and rehabilitation was already substantially underway when the 1998 application was submitted. Upon information and belief, CHA made the rehabilitation decision in 1997 with the agreement and support of the ABLA resident leaders. The Receiver plans on discussing this issue in the consultation process proposed in Part IV below. Should that process not produce agreement, the putative intervenors would be free to present their views on the Brooks site at the hearing proposed in Part IV.

^{2/} Defects in the proposed complaint may be considered in deciding an intervention motion. *See, e.g., 7C Wright, Miller & Kane, Federal Practice & Procedure* §1914 (2d Ed. 1986) at 416; *Keith v. Daley*, 764 F.2d 1265, 1268 (7th Cir. 1985); *SEC v. American Bd. of Trade*, 830 F.2d 431, 443 (2d Cir. 1987).

may not occur as anticipated, or indeed may not occur at all.” Oriental Health, 864 F.2d at 489 (internal quotations omitted).

A two-part test is usually applied. The Court must weigh the “fitness of the issues for judicial decision” against “the hardship to the parties of withholding court consideration.” Hinrichs, 975 F.2d at 1333. Both factors militate against ripeness. The issues raised by the discrimination claims are not yet “fit” for judicial resolution. Until a plan is formalized we will not know the precise unit type, mix, location or distribution. We also do not yet know whether any of the named putative intervenors will or will not be offered housing of her choice and in an integrated area (if that is her choice). Thus, there is no concrete plan to review and no plaintiff yet affected. Indeed, that is also why delaying adjudication until the facts develop will work no hardship on the plaintiffs. They cannot suffer any discrimination injury until a plan is developed and their own preferences are determined. Uncertainty is not enough. Andrade v. Lauer, 729 F.2d 1475, 1483 (D.C. Cir. 1984).

In analogous contexts, including desegregation and discrimination claims, Courts have found claims based upon inchoate plans unripe. See Keyes v. School Dist. No. 1, 119 F.3d 1437, 1444-45 (10th Cir. 1997) (“[t]his court cannot speculate whether any school will propose an integration plan, what the plan might be, and thus whether such a plan is prohibited by Colorado’s Busing Clause”); Andrade v. Lauer, 729 F.2d at 1480-81 (claim unripe because it challenged “the precise way in which future RIFs [reductions in force] are implemented”); Naylor v. Lee’s Summit Reorganized Sch. Dist., 703 F. Supp. 803, 817 (W.D. Mo. 1989) (“[b]ecause the NKCS D plan is merely in its planning stages, this court cannot speculate as to whether the conditions listed in the proposal discriminate against black students from the KCMSD”) (emphasis added), rev’d on other grounds Jenkins v. Missouri, 904 F.2d 415 (8th Cir. 1990). For similar reasons, putative intervenors’ challenges to the yet-to-be-formulated plans for ABLA are unripe.

B. Putative Intervenors Lack Standing to Bring the Discrimination Claims.

For similar reasons the putative intervenors lack standing to bring their discrimination claims. In many cases, such as this one, “the concepts of standing and ripeness merge.” Commonwealth Edison Co. v. Train, 649 F.2d 481, 483 (7th Cir. 1980); Smith v. Wisconsin Dept. of Agriculture,

23 F.3d at 1141 (two doctrines can “overlap entirely”). “It is sometimes argued that standing is about *who* can sue while ripeness is about *when* they can sue, though it is of course true that if no injury has occurred, the plaintiff can be told either that *she* cannot sue, or that she cannot sue *yet*.” Smith, 23 F.3d at 1141 (italics in original).

That is precisely the situation here. Until a plan is formulated, and implementation has begun or is imminent, not only is any claim unripe, but putative intervenors also lack standing because they have not been discriminated against and have not been injured. To have standing they must have suffered an “injury-in-fact,” which requires that they demonstrate “an invasion of a legally protected interest, which is (a) concrete and particularized, . . . and (b) actual or imminent, not conjectural or hypothetical.” Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992). Putative intervenors cannot satisfy these standards for several reasons. First, in the absence of a plan, or discriminatory action affecting them, they have not suffered any concrete, particularized, actual or imminent invasion of any legally protected interest. Second, as noted above, it is unknown (in the language of Lujan, “conjectural” or “hypothetical”) whether any of the named plaintiffs will ever be injured by any allegedly discriminatory action. They might receive housing of their choice, at ABLA, in a desegregated neighborhood. Unless and until there is a reasonable and imminent likelihood that they might not receive such housing (assuming they have such a right, which we discuss in Section VI below), they lack standing to bring discrimination claims.

In short, with respect to the discrimination counts in the proposed Complaint it is equally valid to conclude that putative intervenors cannot sue because they have not been injured (standing) or because the form and nature of any future injury is contingent and speculative (ripeness). For this Court, the result is the same. Intervention is inappropriate at this juncture to prosecute the proposed Complaint. Indeed, because the nature and extent of any injury is speculative at this point, putative intervenors have not met the “impairment” requirement for intervention of right under Rule 24(a)(2). See authorities cited in HUD’s brief.

IV. SUGGESTED PROCEDURES.

While non-justiciability suffices to defeat intervention, there are other reasons not to permit intervention at this time. As explained in greater detail in the brief of the *Gautreaux* plaintiffs, the putative ABLA Plaintiffs are *Gautreaux* class members. They are now or may be (when a plan is created) in dissent from the views of class counsel (and those of the elected ABLA leadership, the members of which are also *Gautreaux* class members). There is no reason not to handle that dispute, if and when it arises, like many others in which there is dissent within a large class: in such cases courts employ a variety of procedures to ensure that the views of the dissidents receive a hearing. Among these are permitting active participation as an *amicus* and holding a hearing (like the one suggested in the next section) at which the dissidents can present their views. See, e.g., Jenkins v. State of Missouri, 78 F.3d 1270, 1275 (8th Cir. 1996) (group of class members were properly denied intervention; district court made other avenues available, through class counsel, the filing of *amicus* briefs, and by requesting permission to testify at hearings); Twelve John Does v. District of Columbia, 117 F.3d 571, 575-76 (D.C. Cir. 1997) (group of class members properly denied intervention, having set up procedure for such members to communicate regularly with class counsel). See also Gautreaux v. Pierce, 690 F.2d 616, 635 (7th Cir. 1982) (district court properly denied intervention to community group, particularly where it was permitted to present evidence at fairness hearing).

The Receiver respectfully suggests the following procedures to solve the ripeness problem and grant the dissenting class members due process:

A. Even though there are sufficient grounds to deny it outright, the Intervention Motion should be entered and continued generally until a plan is developed or the factual context otherwise ripens;

B. During the process of plan development, the Receiver, CHA, the City and the *Gautreaux* plaintiffs will consult regularly with the representatives of the putative intervenors, informing them of pertinent developments and giving them an opportunity to present their views, both to their class counsel and to the Working

Group.^{8/} It is possible that this process will produce consensus that will moot the Intervention Motion.

C. After a more concrete plan is developed, a hearing would be held at which putative intervenors or other class members could present comments or objections.^{9/} (The Court has permitted such comments at other revitalization order contexts, e.g., the West-of-Western proceedings with respect to Horner.) After the hearing, the Court could decide the Intervention Motion if it is not moot at that time.

The above procedure will advance the development process without unleashing time-consuming, expensive and adversarial litigation; it will properly allocate responsibilities within the *Gautreaux* class; and it will afford any dissenting class members a chance to express their views to the Court and seek modifications before the development plans are approved. It will also provide an adequate “forum to raise their legitimate claims” and would be consistent with our “tradition that everyone should have his own day in court.” Intervention Mem. at 6.^{10/}

Besides permitting the development process to move forward while preserving due process for affected residents, the suggested procedures would resolve the justiciability problems. After all, “ripeness is peculiarly a question of timing.” In Re Chicago, Milw., St. Paul & Pac. Rwy. Co., 701 F.2d 604, 609 (7th Cir. 1983). The doctrine “seeks to avoid the premature adjudication of cases when the issues posed are not fully formed.” Triple G Landfills, Inc. v. Bd. of Comm’rs., 977 F.2d 287, 288-89 (7th Cir. 1992). Our suggested procedures will permit the adjudication to proceed, if necessary, when the timing is right and the issues fully formed. More optimistically, it would allow several months of dialogue – which would include an opportunity for the putative intervenors to

^{8/} The Receiver disagrees with putative intervenors’ expansive interpretation of the resident consultation obligations under HOPE VI, and believes that the defendants have more than adequately satisfied any obligations that exist. This point is discussed in CHA’s brief. The procedures suggested herein render the issue irrelevant, since we propose consultation beyond that required under any view of the law.

^{9/} Presumably, the principal legal issue at any such hearing would be whether any modifications to the June 19, 1998 order would be warranted in light of the plan.

^{10/} Putative intervenors incorrectly assume that the right to be heard is a right to be heard *via intervention*. When the issues ripen, it is proper for class members to be heard under the auspices of a hearing of the sort suggested herein.

review and comment upon the development plan – that could well result in an agreement that would not only moot the ripeness problem, but the entire putative case. The cases cited above at 13, which support outright denial of the Intervention Motion in favor of other procedural alternatives, certainly support the less drastic result proposed above, of simply continuing the motion.

V. Conclusion

For the foregoing reasons, the Receiver respectfully suggests that the Court enter and continue the Intervention Motion and implement the procedure outlined in Part V above.

Respectfully submitted,
Daniel E. Levin and
The Habitat Company

DATE: January 10, 2000

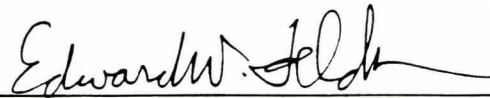
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on December 10, 1999 he served copies of the attached *Statement of the Receiver in Response to Putative ABLA Plaintiffs' Motion to Intervene* on the parties attached Service List by causing true and correct copies thereof to be delivered to them via messenger delivery at their respective addresses.

Dated: January 10, 2000



Edward W. Feldman

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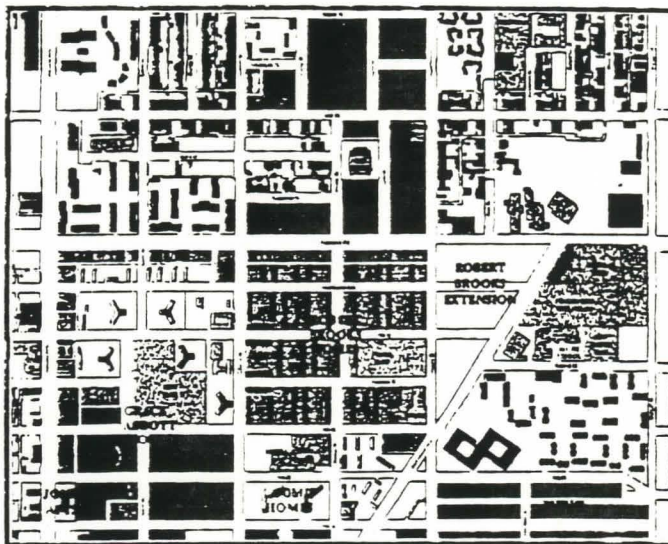
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EXHIBIT A

Executive Summary



1998 Hope VI Revitalization Application - ABLA
Chicago Housing Authority
June 26, 1998

4. EXECUTIVE SUMMARY

Through collaborative leadership, the ABLA Local Advisory Council (LAC), ABLA residents, the Chicago Housing Authority (CHA), the Receiver*, the Gautreaux Plaintiff's counsel and the City of Chicago have initiated an ambitious effort to completely revitalize and transform one of the largest and most distressed developments in CHA's inventory: ABLA Homes. The goal is to develop a desirable, diverse mixed-income community that can be replicated in Chicago and throughout the entire nation. The CHA requests \$35 million in HOPE VI funds to leverage a \$430 million development plan and to complete the revitalization of a 100-acre severely distressed public housing development.

ABLA Homes is comprised of six contiguous developments consisting of over 3,500 original units and occupied by over 1,500 very low-income families who are concentrated in a racially and economically segregated enclave within an otherwise revitalizing community. The severity of distress at the site is reflected in a vacancy rate of 52%, in thousands of ongoing fines and vacate orders by the local Housing Court, in the presence of asbestos and lead-based paint throughout, in the high crime rate, and in engineering reports recommending demolition of more than 2,700 units.

CHA proposes to combine its \$24 million 1996 ABLA HOPE VI grant and \$35 million from this 1998 HOPE VI application to leverage over \$84 million in City funding and over \$287 million in private funds to create a \$430 million redeveloped community. The City will combine use of incremental taxes from a Tax Increment Finance District, Low Income Housing Tax Credits (LIHTC), tax exempt bonds, and direct capital investments to match CHA funds and encourage private investors to invest in the area. Over 8 years, there will be 1,467 public housing units (1,084 on-site and 383 off-site), 845 affordable units, and 966 market rate units. The public housing units will be distributed throughout the 100 acre site and will be indistinguishable from private housing in the neighborhood.

CHA's 1998 HOPE VI application is a public/private partnership created to develop a holistic, self-sufficient and sustainable mixed income community. ABLA Homes is located in a dynamic market area adjacent to three communities experiencing major redevelopment. Capitalizing on strong market conditions, HOPE VI public housing units can be completed within seven to ten years following grant award and will generate a model of public housing transformation.

* Pursuant to a 1987 order of the Federal District Court in Gautreaux v. CHA et al, a Receiver, Daniel E. Levin and The Habitat Company, has and exercises all powers of CHA respecting the development of CHA non-elderly public housing.

EXHIBIT A ATTACHMENTS

- *Application Data Cover Sheet*
- *Mayor Richard Daley, City of Chicago, Support Letter*
- *Ms. Deverra Beverly, ABLA Local Advisory Council President, Support Letter*
- *Mr. Alexander Polikoff, Business and Professional People for the Public Interest, Support Letter*

Application Data Cover Sheet

Development Name: ABLA HOMES

Date Submitted: June 26, 1998

Grant Information

PHA Name: Chicago Housing Authority

PHA Street Address: 626 West Jackson Blvd.

City, State, Zip: Chicago, Illinois 60661

Main Telephone #: (312) 791-8500

Existing Development Name: ABLA HOMES

DOFA Date:

Street Address, Zip:

Existing Project Number(s): IL2-23, IL2-17, IL2-3, IL2-31

Neighborhood name/Area of town: Near West Side

New Development Name: To be determined.

Congressional District: 7th

New Project Number(s): To be determined

In Federal EZ/EC?: No

Grant Amount:

Date of Grant Announcement:

Date of Grant Agreement Execution:

HOPE VI Grant #:

Expected Date of Completion:

Unit Cost

TDC:

TDC Cap:

% of TDC:

Mixed Income Proposed?: Yes

Mixed Finance Proposed?: Yes

PHA Executive Director: Joseph Shuldiner

Telephone: (312) 791-8500 x4630 Fax: (312) 791-4601

HOPE VI Coordinator: Jane Hornstein

Telephone: (312) 791-8500 x4508 Fax: (312) 207-0249

E-mail Address: jhornste@thecha.org

HOPE VI Developer, (if any)

Telephone:

Fax:

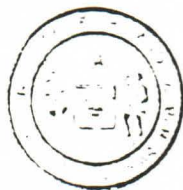
Program Manager, (if any)

Telephone:

Fax:

Data summary

	Existing	Post-Development
Number of Public Housing units (on and off site, including homeownership)	2,776	1,467
Number of Non-Public Housing units (on and off site, including homeownership)		1,811
Total Number of units	2,776	3,278
Number of units to be rehabilitated/reconfigured (excluding all acquisition with rehab):	0	478
Number of newly constructed on-site units:		2,417
Number of newly constructed/acquisition off-site units (including all acquisition with rehab):		383
Of the above, number of ACC homeownership units:	0	0
Of the above, number of Non-ACC homeownership units:	0	1,218
Of the above, total homeownership units:	0	1,218
Number of Occupied Units:	1,506	3,278



OFFICE OF THE MAYOR

CITY OF CHICAGO

RICHARD M DALEY
MAYOR

June 26, 1998

The Honorable Andrew Cuomo
Secretary
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Dear Secretary Cuomo:

I, Richard M. Daley, Mayor and Chief Executive for the City of Chicago, have reviewed the HOPE IV Revitalization application submitted by the Chicago Housing Authority and have no objections to the application.

I support this application because it embodies a comprehensive, holistic approach to helping public housing families achieve a better life, with the enhanced dignity and self-esteem that comes with being self-sufficient. Moreover, the approach proposed here reflects the fundamental reality that government alone does not have adequate resources to properly address the social and financial needs of severely distressed public housing communities in Chicago and across the nation. Only through collaborative public-private partnerships which creatively leverage critical contributions from the broader community can we achieve success.

For this reason, I especially welcome the extent to which CHA and the City have acknowledged the importance of attracting such contributions to ABLA's revitalization plan by forming a new public-private committee to oversee and track relocation and self-sufficiency services. This committee will include residents and representatives from civic, academic and philanthropic benefactors.

The goal of this HOPE VI application is to revitalize and transform ABLA Homes into a desirable, diverse mixed-income community. The citizens of Chicago are committing more than \$100 million in direct and indirect funding to help make this vision a reality. When combined with CHA's funds, this will leverage more than \$260 million in private investments required to create a \$406 million redeveloped community.

Upon approval of CHA's 1998 HOPE VI application, the people of Chicago will take another major step forward in this ambitious effort to develop an innovative model for revitalization of public housing communities worthy of replication here in Chicago and across America.

Sincerely,
A handwritten signature of Richard M. Daley in black ink.
Mayor

ABLA
ADDAMS/BROOKS/LOOMIS/ABBOTT
LOCAL ADVISORY COUNCIL

1254 South Loomis Street
Chicago, IL 60608
Telephone: (312) 791-8756 or 791-8851
Facsimile (312) 455-1871

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Gloria Mollison, Chairperson
Health & Education

Margie Taylor, Chairperson
Welfare

June 25, 1998

Joseph Schuldiner, Executive Director
Chicago Housing Authority
626 West Jackson Blvd.
Chicago, Illinois 60661

Dear Mr. Schuldiner:

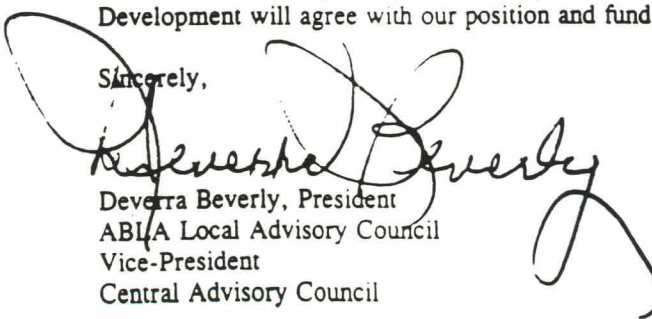
The continuous efforts of the residents of ABLA to revitalize our community, as evident in the completion of Phase I Robert Brooks Homes Modernization, has led to the development of a comprehensive HOPE VI Application submission. It is the ABLA Local Advisory Council's belief that the role of the residents in the planning process and in the implementation process at all levels is critical to a successful revitalization of the greater ABLA community. In support of this belief, the ABLA LAC accepts the responsibilities of providing the resident participation and is pleased the CHA agrees the LAC will fill that role.

On behalf of the residents of ABLA including the ABLA LAC we extend our support to the 1998 Hope VI Application. The LAC support for the 1998 Hope VI Application is conditioned upon the LAC's ongoing participation in all redevelopment activities. It is further conditioned on the LAC's role being significant with real representation on any decision making body that is created in the revitalization process, examples being the existing Memorandum of Agreement Committee and the proposed five member ABLA Self-Sufficiency Leverage Council with two seats held by members of the ABLA LAC.

We are very excited about the innovative programs the ABLA LAC helped to create within this plan including the "residents helping residents" approach. Our residents were successful in receiving jobs on the modernization of Robert Brooks Homes Phase I and look forward to continuous job development in construction and other redevelopment programs.

Finally, the residents are ambitious and look forward to working on the positive creation of this overall redevelopment plan. We hope the U.S. Department of Housing and Urban Development will agree with our position and fund the \$35 million being requested.

Sincerely,


Deverra Beverly, President
ABLA Local Advisory Council
Vice-President
Central Advisory Council



Business and Professional People
for the Public Interest

June 25, 1998

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Joseph Kellman

Steve Kersten
Iris Klieg
Susan Larson

Paul Lehman
Thomas J. Lenz
Paul Levy

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Ralph Marure
George R. McCoy

Zebeder McLaurin
Rita McLennan
Hoy McConnell II

Christopher B. Meister
Alan Clark Netsch
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Hipolito Roldan
Lowell Sachnoff
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United States Department of Housing
and Urban Development
451 Seventh Street, S.W. - #4138
Washington, D. C. 20410

Attn: Deputy Assistant Secretary for
Public Housing Investments

Dear Deputy Assistant Secretary:

On behalf of the Gautreaux plaintiff class in the litigation entitled Gautreaux v. CHA, No. 66 C 1459, in the Federal District Court for the Northern District of Illinois, Eastern Division, we write in support of the application submitted by the Chicago Housing Authority in response to the SuperNOFA published in the Federal Register on March 31, 1998.

The Gautreaux plaintiffs support this application for the following reasons:

1. In our opinion the revitalization plan proposed by the application will facilitate the provision of mixed-income housing opportunities, with the strong prospect of racially desegregated housing opportunities, to families of the Gautreaux plaintiff class who have been adjudicated to be entitled to receive, but have yet to receive, such opportunities.

2. By designating the proposed redevelopment area as a "Revitalizing Area" in its Order of June 19, 1998 (subject to CHA success in the HOPE VI competition), the Federal District Court has made a finding that the revitalization plan does in fact afford a prospect of providing such housing opportunities.

3. The plan has been prepared in a collaborative manner under the leadership of the Office of the Mayor of the City of Chicago, and with the active participation of code departments of the City of Chicago (the Departments of Planning and Housing), the Court-appointed Receiver, and the ABLA residents, thus strongly enhancing the likelihood of the plan's realization.

4. Because of the location of the ABLA Revitalizing Area between the world's largest medical district on the west and the expanding University of Illinois, Chicago campus on the east, both of which institutions have recently initiated significant new development and have concrete plans for

additional development, the ABLA Revitalization Area constitutes a most attractive location for substantial private residential development interest.

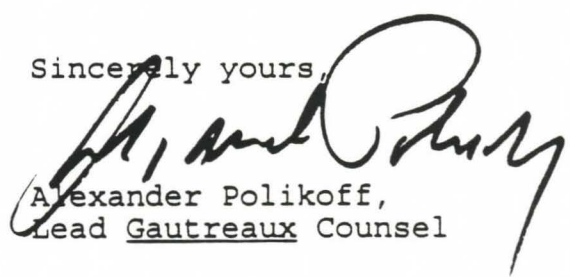
5. The HOPE VI grant of some \$28 million, secured in FY1996 pursuant to an "absolute priority" given to the CHA under Gautreaux, provides an important element of financial support to the overall plan while offering a significantly improved way of utilizing these 1996 funds -- i.e., to produce a residential community in which public housing units are mixed with non-public housing dwellings.

6. The agreement giving the City of Chicago, the Illinois Department of Human Services and residents of ABLA and the surrounding community a participatory role in relocation and family self-sufficiency planning and implementation greatly strengthens the prospects for leveraging services and support for, and enhancing the performance of, these crucial activities.

Overall, the strong, demonstrated commitment of the City of Chicago to this plan, the prime location of the site, the collaborative nature of the application process, and the continuing jurisdiction of the Gautreaux Court afford an excellent prospect for attracting private investment and assuring the transformation of this seriously distressed public housing-dominated neighborhood into a well-working mixed-income community which will afford significant relief to Gautreaux families while at the same time achieving HOPE VI objectives.

The site and the plan thus have the potential to become one of the jewels in the crown of HUD's HOPE VI nationwide revitalization efforts.

Sincerely yours,

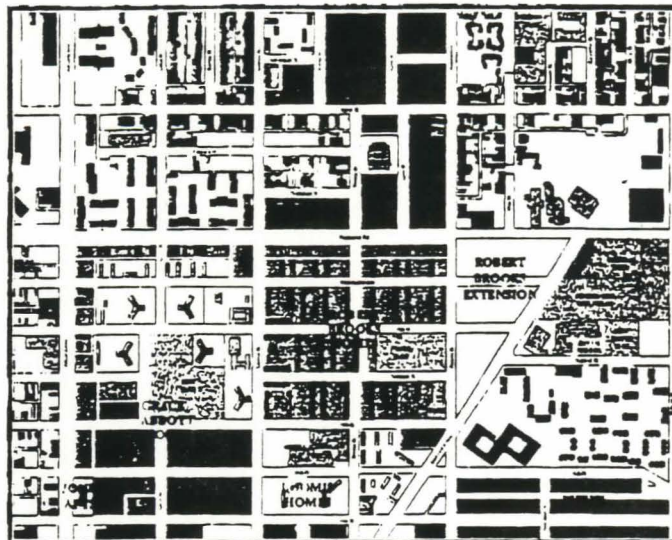


Alexander Polikoff,
Lead Gautreaux Counsel

ALP:mm

EXHIBIT B

Existing Site Conditions



1998 Hope VI Revitalization Application - ABLA

Chicago Housing Authority

June 26, 1998

B. EXISTING SITE CONDITIONS

1. Existing Physical Conditions

The ABLA development is situated on 100 acres and has more than 3,500 original units in a mix of highrises, walk-ups and rowhouses. Built successively over the course of thirty years between 1938 and 1968, ABLA is a vivid example of the mistaken strategy of building superblock concentrated public housing developments that lead to physical and social isolation. ABLA has suffered a long history of inadequate maintenance combined with the natural deterioration of building systems and structures causing the housing stock to become generally obsolete. It is plagued with over a thousand City building code violations and currently exhibits an overall vacancy rate of 52%. The severe social and physical distress of ABLA has led the CHA, the ABLA LAC (Local Advisory Council), the Receiver, the Gautreaux plaintiffs, the City of Chicago, and the residents to partner in a plan that will lead to the complete transformation of ABLA Homes.

As noted in the City of Chicago's 1997 Consolidated Plan Annual Performance Report and the recently released Five Year Affordable Housing Strategy, the City has a continuing goal to work in partnership with the CHA to develop and facilitate housing programs that leverage private and public resources to benefit the range of constituencies in need of affordable housing. This goal will be accomplished by the funding of the 1998 HOPE VI revitalization grant for the ABLA development.

a. Physical Deterioration:

The building systems of the ABLA development endured years of wear, weathering, abuse and neglect. The absence of proper maintenance and the adverse conditions in this development have accelerated deterioration of most building systems to a point where the systems' integrity are compromised beyond repair. According to an independent physical assessment by On-Site Insight, Inc., these building systems would need to be completely replaced to sustain the development (See Attachment). These conditions hold true for the exterior building components, the site systems and internal mechanical systems. (Note: Phase I of Brooks Homes modernization was completed in May 1998 for 132 units. An additional 220 units will be renovated in Phase II for a total of 352 rehabbed units under the Comprehensive Grant Program. 356 units of Brooks Homes will be demolished as part of this HOPE VI Application.)

(1) *Major Structural Deficiencies*

The housing stock at ABLA reveals numerous structural deficiencies. These varied building types are of masonry construction whose structural deficiencies stem from age, weathering and the historical absence of proper maintenance. Deferred maintenance and vandalism have contributed to the adverse conditions and distress at all of the buildings. Typical structural defects include cracks and spalling in concrete columns at Grace Abbot and Brooks Extension, and cracks in floor slabs, sidewalks, and other concrete components. Typical exterior defects include improper grading around low rise buildings that allow large pools of surface water to pond along the edge of the building contributing to long term defects of the foundation walls. Settlement has also caused masonry walls and parapets of mostly all the buildings to deteriorate and have heaved bricks. Stress cracks appear inside and outside of the walls. Cracked and broken masonry joints and moisture damage from defective flashing has allowed the tuckpointing to become distressed.

Roofs: The roofs at ABLA, with the exception of Grace Abbott rowhouses, are flat, built up roofs with interior drains and roof top exhaust fans. Leaks in the roofs are a continuous maintenance problem caused by conditions such as cracks and punctures in the membranes, seals drying out around the base of the drains and split flashing. Numerous units in the high rise buildings are unleaseable due to the continuous roof leaks. Temporary repairs have been performed but have yet to adequately address the problem of uninhabitable units. Roofs at Jane Addams were installed over seven years ago, but the interior drains are still original and have deteriorated and continue to cause leaks.

Electrical/Mechanical: The present electrical system in each building in ABLA neither meets residents needs nor complies with the City of Chicago's Building Code. Neither the kitchens nor bathrooms have 20 amp circuits or ground fault duplex receptacles. Revisions to the electrical system will require upgrade from the present service and also an increase in primary, secondary and distribution services in order to accommodate the augmented electrical load.

The current heating system for the ABLA development includes underground distribution of steam heat and hot water supplied from a central heating plant located on the Jane Addams site. Inefficient overheating during the winter months and the inability to regulate the amount of heat for each unit has been a constant problem at ABLA. With all the buildings being tied into this inefficient high pressure steam heating system, all the residents are affected through the loss

quality of life within the residential units as indicative of the many code violations the ABLA development continues to receive. Typical citations for the units, that do not meet Housing Quality Standards include repair of peeling paint and plaster, extermination of rodents, cockroaches and other vermin, window repairs, installing rat-proof material around exterior walls, plumbing repairs, repair of exterior canopies and repair of common sidewalks. Conservative internal estimates demonstrate that it would cost the Authority between \$30,000 and \$50,000 per unit to address the code violations at the units at Jane Addams alone (this being only a short-term repair). In the meantime, the City of Chicago continues to fine the Authority thousands of dollars each month for failing to remedy code violations.

(2) *Major Site Deficiencies*

Major site deficiencies are most notably the deteriorated underground steam system and especially the condensate return portion, which is inoperative. The ABLA development has several steam leaks billowing up from the various manholes throughout the development. Leaking ground water that falls on the hot steam lines causes these steam leaks. Standing water after a heavy rain at ABLA is due to the backed up sewer system and possibly broken piping. New infrastructure systems will be installed by the various utility companies: gas, lighting, electrical, sewer, etc.; with coordination by the City of Chicago and the CHA. Most recently one high rise building was demolished at Brooks Extension and during the excavation of the foundations, there were remnants of charred buildings from the Chicago Fire in 1871, which gives evidence of the poor soil conditions at ABLA. This evidence helps to dictate the design of slab on grade homes for the redeveloped area. There is also a lack of usable play equipment and landscaping on site. Most playgrounds were taken down because of liability concerns due to them not having soft surfaces, but they were never replaced. Paved parking lots are currently filled with potholes, have drainage problems and are magnets for abandoned cars and "backalley" mechanics.

(3) *Design Deficiencies*

Planning deficiencies of the past concentrated ABLA's public housing residents in one contiguous area and physically isolated the public housing development. ABLA was built on four superblocs that are disproportionate to the community at large. The density of the existing ABLA development is approximately 37.33 units per acre, which is high when compared to the average density of 28 per acre of typical Chicago neighborhoods. The proposed redevelopment

plans calls for an average of 28 units per acre. The original site planning for ABLA started with the Jane Addams development to the north with further developments sited to the south. The first plans disregarded the order of the established city grid and subsequent plans followed in this pattern. This created large off sets from the existing streets, wastelands of large open spaces that are unused, unsecured and not well maintained, and an isolated enclave from the city and the surrounding community. There is a lack of security planning and provisions, such as guard booths, single entrances, locking systems or intercoms. The ABLA development has numerous indefensible spaces, like open lobbies, which permit criminal elements to take control over buildings and common areas and multiple entries. The open galleries on the high rise buildings at Brooks Extension cause exposure to the elements in inclement weather, which creates a dangerous situation for residents and additional maintenance problems. Jane Addams has interior stairwells, which feed apartments on three floors. Not having a working intercom system, the front door is left opened and unsecured. This exposes the stairways, which are steel pans filled with concrete, to the same inclement elements and continuous steam leaks from the basements. The existing stairs have rusted out metal nosing on top and rusted out steel pans in the back which are dangerous and hazardous for the residents using the stairs. Another design deficiency at ABLA is the lack of on site garden opportunities for the residents.

(4) Environmental Conditions

An environmental assessment was prepared for the ABLA development and it was found that there are no deficient environmental conditions that could jeopardize the suitability of this site for the proposed revitalization activities. No underground storage tanks have been registered at any of the developments. Six (6) underground storage tanks are registered at the central boiler house located to the north of the site within Jane Addams development and are scheduled for removal.

(5) Accessibility Deficiencies

The original building and site design of the buildings at ABLA did not address those physical modifications to public housing that are currently mandated by the American with Disabilities Act (ADA). The ABLA community has several residents with varying degrees of disability including mobility impairment (i.e. those requiring wheelchair or a walker/cane), blindness and deafness. Although the ABLA management office has been modified, few improvements

have been performed to the residential buildings. There are physical barriers at entrances, common spaces and within units. These barriers include exterior stoops and steps into buildings, raised thresholds, no door pulls, and cracked and broken sidewalks. In the majority of units, there is insufficient space in the kitchen and bathroom for a wheelchair to maneuver. Also light switches, electrical outlets and door hardware have accessibility deficiencies. Incorporated into the comprehensive redevelopment efforts for ABLA will be full compliance with section 504 ADA and Fair Housing requirements.

b. Distress Within Applicant's Control

At the ABLA development approximately 52% of the units are vacant. Vacant units are heavily vandalized and stripped of all equipment and components including windows, radiators and piping. Free flowing water from broken lines and weather exposure from these units accelerates deterioration of the buildings. Fire and smoke damage originating from burned out abandoned apartments are clearly visible on the building's exterior. Most distress at the site is due to the level of high abuse that comes with isolating public housing residents within poorly maintained buildings. Criminal activity exacerbates the vandalism of stairwell and lobby lighting and security locks on the entry doors.

2. Distress in the Neighborhood

a. Physical Condition & Characteristics

The Near West Side of Chicago is a 5.76 square mile neighborhood directly west of the city's downtown. The neighborhood represents a juxtaposition of one of the nation's poorest public housing communities with some of the region's major generators of economic growth and opportunity. The targeted redevelopment area is anchored by the largest medical district in the country, the Illinois Medical District (IMD), and the University of Illinois at Chicago East and South Campuses (UIC). In addition to these large institutions, the Near West Side borders the vital industrial area known as the Pilsen District and holds a strong historical significance to Chicago with areas such as Little Italy on Taylor Street.

According to the 1990 Census, the Near West Side consisted of 21,543 housing units, of which over 5,900 are public housing units located in three developments in the community: Rockwell Gardens, Henry Horner Homes, and

ABLA Homes. In addition, there are a number of HUD subsidized developments in the community containing 2,242 units. In general, these subsidized developments are well-maintained.

The Near West Side is experiencing the tremendous energy of a revitalizing neighborhood with new market rate housing and large scale retail activities, and strong commercial corridors, such as Little Italy and Chinatown, which continue to draw clientele from across the city. The neighborhood also houses city wide institutions such as St. Ignatius College Preparatory School and the United Center. The neighborhood is also home to more than 3,300 public housing families who have historically been isolated from the existing resources in the community. The stark contrast between public housing and the wider Near West Side communities presents the challenge of ending years of isolation and concentration of poverty through integration and revitalization in the context of a mixed income community.

The disparities present in the Near West Side are also manifested in its physical characteristics. Large newly constructed institutional buildings and private market housing abut and surround over 160 acres of public housing and other deteriorated sub-standard housing. Built successively over the course of thirty years between 1938 and 1968, ABLA is a vivid example of the failed strategy of superblock concentrated public housing developments with the consequences of physical and social isolation. This plan will enable existing residents who desire to remain the opportunity to obtain the benefits of the ongoing revitalization of the community.

b. Land Use and Economic Activity

The average density in the Near West Side is between 25-28 units per acre, but it can be as low as 11 units per acre in certain areas such as new housing developments directly north of Jane Addams. ABLA, consisting of over 3,500 units within 100 acres, has an overall average density of 35 units per acre. ABLA housing includes a mix of rowhouses, walk-ups, and highrises, and densities range from 32 to 81 units per acre.

c. Demographic Data

According to the 1990 Census, the Near West Side has a population of 46,197 persons within 16,473 households. Population of the Near West Side is approximately 67% African American, 22% Caucasian, 9% Hispanic, 5% Asian, and 5% other. The racial composition of ABLA is nearly 100% African American. The Near West Side's juxtaposition of prosperity and extreme poverty is further demonstrated in the income levels. The 1996 estimated median household

income for the Near West Side is \$11,978. In the midst of major regional economic activity, approximately 55% of Near West Side families live below the poverty level. Of those in the labor force, the Near West Side has a 20% unemployment rate.

As of March 1998, the average income of ABLA Homes was \$7,000 or only 11.8 % of the 1998 area median income for a family of four in the Chicago metropolitan area (\$59,500).

d. Crime Statistics

- Serious Crimes between 1995 and 1997 at ABLA:

	1995	1996	1997
Homicide	1	8	2
Criminal Sexual Assault	20	15	15
Serious Assault	255	264	221
Robbery	78	119	44
Burglary	122	105	104
Theft	180	186	219
Vehicle Theft	12	8	11
TOTAL	668	705	616

- Average number of police calls per month: there was an average of 1,565 dispatches per month within the three beat area including ABLA Homes from March - September, 1996.
- Average monthly vandalism: Vandalism at ABLA Homes is a daily occurrence. Examples of vandalism include removal of window frames, kitchen sinks/plumbing fixtures, light fixtures in hallways, convectors/heating elements, and fire hoses. There are also common instances of fires in garbage chutes, broken windows, and removal of stairwell fire doors in highrises. Management staff estimates that CHA expends approximately \$40,000 per month, or a little more than \$125 per unit annually, to repair and/or replace items due to vandalism.
- Number of lease terminations/evictions for criminal activity: For the period from January to June 1997, there were 55 for-cause cases from ABLA Homes (44 for drug related one-strike, 4 for felony one-strike, and 7 for non one-strike reasons.)

e. Adequacy of Existing Facilities

The Near West Side is served by many institutions and commercial facilities. In addition to the University of Illinois at Chicago and the Illinois Medical District, the Near West Side is also home to Malcom X College, one of the

top medical assistant training schools in the country. Unfortunately, ABLA residents have traditionally not benefited from the educational or economic strengths present in the neighborhood. The Near West Side is serviced by two elevated rail ("El") lines and several bus routes. The Eisenhower Expressway cuts through the middle of the Near West Side and the junctions for the Kennedy and Dan Ryan Expressways border the east side of the neighborhood. When asked to list strengths in their community, ABLA residents repeatedly cite the close proximity to downtown and accessible public transportation as important valuable attributes of the community. Two commercial centers recently opened in the area with large supermarket anchors, Jewel on Harrison Street and Dominicks on Canal Street. A new commercial center is also being built on the southwest corner of Ashland and Roosevelt as part of the Illinois Medical District expansion. These recent developments have greatly increased available retail services to the public housing communities.

f. Public School Svstems

The public schools that primarily serve the ABLA population, Jacob Riis School, Smythe School, and Medill School, are under populated. Chicago Public Schools has agreed to keep them operating and re-evaluate the needs upon completion of the proposed development activities.

g. Effect on the Neighborhood

The poor site design and physical deterioration of ABLA Homes have a blighting influence upon the Near West Side community. ABLA residents are isolated in superblocks which pose numerous dangerous and hazardous conditions for a resident population of which 33% are between the ages of one and ten. The deteriorated ABLA structures also hinder development of new housing, limit rehabilitation of the existing housing stock, deter commercial investment, and adversely affect the value of surrounding properties.

Long neglected maintenance of grounds deters efforts by residents to maintain their neighborhood. The mere visual effect of ill-kept, litter-strewn, unlandscaped grounds and partially boarded-up and vacant apartments discourages residents from maintaining their surroundings, and has a blighting effect upon the surrounding community and lessens the economic base of the City. The high incidence of crime, vandalism, gang activity, squatting, and open drug use discourages community interaction and creates social isolation. Community stability efforts, initiated by the ABLA LAC and concerned residents, are often undermined by the lack of security measures. Overburdened management, open and

vacant apartments, and poor design of structures throughout ABLA create indefensible spaces and an atmosphere that encourages crime, gangs, drug sales, and attracts additional outside criminal elements. The high concentration of very low-income minority persons, many lacking basic education or job skills, leads to social and economic isolation.

The ABLA Redevelopment Plan will effectively address many of the neighborhood deficiencies such as physical deterioration, poor site design, social isolation, and lack of municipal infrastructure and will create a revitalized, sustainable mixed income community.

(3) Need for Funding

a. Urgency of Distress

The Authority has approximately 1,200 outstanding work orders for ABLA, of which 10% are dangerous and hazardous. Common examples of these dangerous and hazardous violations include standing water in basements, open vacant units, plaster peeling, missing stair pans in hallways, missing peep holes, roof leaks, paint peeling, missing floor tile, and rotten kitchen cabinets.

In large part, code violation problems are most prevalent in Jane Addams, the oldest development within ABLA. As a result of these extensive violations, the Authority has been forced to close seven of the buildings at Addams. In total, sixteen ABLA buildings have been closed due to code violations. Although, a special crew has been assigned specifically to address dangerous and hazardous work orders, the City of Chicago recently brought demolition suits against the CHA in regards to four buildings which the City has determined are a threat to the public health and safety.

The severe distress at the site is also demonstrated in a vacancy rate of 52% and a tenant population of more than 1,500 families below 15% of the area median income. Without immediate intervention, the level of distress at the site will become imminently greater.

b. Lack of Available Funds

The CHA critically lacks available funds to implement the ABLA Redevelopment Plan. In the Draft Viability Analysis Summary and Proposed Revitalization Schedule, the CHA proposes a 15 year revitalization timetable for seventeen of the most distressed developments in the housing stock including ABLA Homes. The Viability Analysis states in part, "Existing levels of modernization funds are simply insufficient (and were never intended) to cover

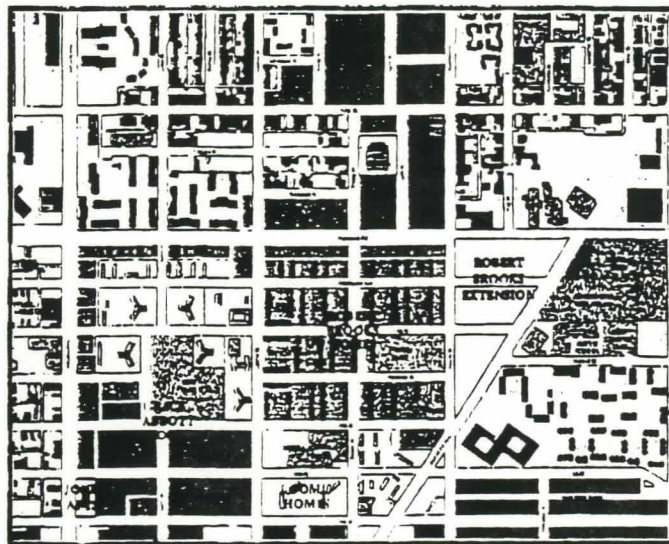
relocation, demolition, rehabilitation, and new construction on the scale contemplated by the plans. CHA receives \$118 million per year in modernization funding, but available dollars for physical improvements are limited to approximately \$50 million per year. (CHA uses a large portion of the modernization budget to pay for the costs of security.) Further, CHA estimates that the non-Viability sites will require \$625 million in rehabilitation funds over the 15-year phasing period. Even with regular infusions of HOPE VI funds, it is doubtful that CHA can complete all the work proposed at the 202 sites and maintain the non-202 sites in good condition."

Only with HOPE VI funds can ABLA be adequately redeveloped. A notable factor of the ABLA Redevelopment Plan is that it includes commitments and plans for complete funding of the revitalization, including all on-site and off-site replacement units, relocation, demolition, and self-sufficiency programs.

The revitalization of public housing developments throughout the City is a priority for the City of Chicago as demonstrated in the City's Consolidated Plan - "Neighborhoods Alive!" See excerpt from the City's Consolidated Plan in Exhibit D Attachments.

EXHIBIT C

Predevelopment Activities



1998 Hope VI Revitalization Application - ABLA

Chicago Housing Authority

June 26, 1998

C. PREDEVELOPMENT ACTIVITIES

1. Site Control

The site encompasses five sections: Jane Addams Homes with 24.52 acres, Grace Abbott Homes with 29.81 acres, Brooks Homes with 14.92 acres, Brooks Extension with 9.03 acres, and Roosevelt Road with 12.05 acres for a total of approximately 90 acres. The CHA is in control of the entire site except for three areas: (1) Addams Park is adjacent to the Grace Abbott Homes and is currently owned by the Chicago Park District; (2) Liberty Shopping Center is on the southern tip of the Brooks Extension development and was acquired by the Chicago Metropolitan Housing Development Corporation (CMHDC) in February 1998; and (3) the strip between Roosevelt Road and the alley, between Ashland Ave. and Racine Ave. which is privately owned.

Addams Park will be transferred to the CHA through an Intergovernmental Agreement between the Park District and the CHA. Attached is a commitment letter from the Park District. The Liberty Shopping Center is currently undergoing demolition and will be sold to the CHA for redevelopment. Attached is a commitment letter from CMHDC. Both agreements are scheduled to be finalized upon notification of approval of this application by HUD and the owners will grant site control to CHA at least sixty (60) days after approval of the application. The Roosevelt Road strip will be purchased by the City and will be conveyed to the selected developer(s) for additional mixed income housing. Acquisition is scheduled to begin in early November, and will be completed in early 1999.

Please note that 352 units of Brooks Homes are a part of the existing Development and are currently under going comprehensive modernization. These units have not been calculated into the 669 new units because rehabilitation will be completed under the direction of CHA.

2. Zoning

The four HOPE VI redevelopment sites are currently zoned as part of Planned Development #4 in the Chicago Zoning Ordinance. This Planned Development designation approved the design and layout of ABLA Homes as constructed. Addams Park although currently programmed as a public park is zoned R-4 General Residential District. Roosevelt Road is currently zoned commercial and will be rezoned residential as a part of this development.

Prior to the development of the 1998 HOPE VI ABLA Redevelopment Plan, a PUD amendment for the 1996 HOPE VI - Brooks Extension site was approved by the City.

The selected developer(s) will work with the City of Chicago Department of Planning and Development to amend Planned Development Ordinance #4 to encompass the entire redevelopment site. The implementation of the amended Planned Development is subject to the approval of the Chicago Plan Commission and City Council. The collaborative partnership with the City will ensure that all zoning issues are efficiently addressed. See attached City of Chicago Planned Development Handbook.

3. Relocation

To assist families with relocation to replacement and Section 8 housing, CHA conducts a Needs Assessment with a monitoring component to aid in Family Transition. The Needs Assessment and Monitoring Program includes:

- data collection, and reporting system design,
- participant interviews, and data collection
- assessment profiles.

A confidential Family Assessment Profile is completed for each family, utilizing a coding system and a report summary that outlines findings in the areas of family services, education, employment training and placement. This information is used to generate a Family Personal Profile which assesses the strengths and needs of families. Once the Family Personal Profile is completed a recommended service listing is generated to referral service agencies.

Assessment summaries are submitted monthly and family status reports are conducted on families annually. The annual report includes all progress reports and detail services utilization by participants along with a summary of successes in the aforementioned assessment category areas.

a. Section 8 Relocation

CHA's objective is to encourage, motivate, and assist residents who choose to transition to private market housing by providing counseling and supportive services to individuals receiving Section 8 Certificate/ Vouchers through the Family Transition Counseling Program. The goal of the Family Transition Counseling Program is to counsel and assist families in locating and accessing appropriate housing in the private market. To the greatest extent feasible, such

housing will be in economically non-impacted areas throughout the Chicago metropolitan area. The counseling components consist of the following elements:

- Introductory Information Session
- Counseling Services and Follow-up
- Extended Counseling and Extended Follow-up

The orientation session focuses on a realistic introduction to the advantages and disadvantages of relocating into other areas of the city; initiation of the process to assist families who desire to move into these areas; and identification of the types of additional services that families may need. Information provided in the orientation include the following:

- The calculation of 30% of adjusted income as it relates to a family's portion of the rent in the Section 8 program;
- Fair market rent schedules, payment standard, exceptions, and procedures;
- Utility allowance
- Security Deposit
- Forms used in Section 8 program administration;
- Standard leasing application information;
- Racial and familial discrimination, the rights protected by the Federal Fair Housing Act, the rights protected by the State of Illinois, Cook County and the City of Chicago, and the necessary steps to take if discrimination occurs; and
- An explanation and discussion of all written materials provided and information on additional services.

Participants in the Counseling Services receive support through an individual counselor and a series of group sessions. Counseling Services are designed to aid families in accessing housing in areas that may be unfamiliar to them.

Through individual counseling families receive the following services:

- Assistance in preparing any paperwork necessary for Section 8 assistance and any other applications or paperwork associated with moving into a new unit neighborhood.
- Counsel families on housing search techniques and train families how to present themselves as prospective tenants to undecided landlords in non-impacted areas.
- Offer financial planning assistance that helps families prepare a monthly budget and estimate the maximum feasible rent a family can pay.
- Perform credit checks; provide families with a copy of the credit check report; a review and explain the results.
- Identify five housing alternatives based on family needs and desires. Provide information on the neighborhoods in which the five housing alternatives are located. This information should include: public transportation routes, social services, employment and training opportunities, crime rates, schools, day care facilities and procedures for transferring or enrolling school age children.

-
- Provide the family escort services to at least three of the selected housing options so the family may conduct a physical unit inspection.
 - Assist in filing a housing discrimination complaint with the Illinois HUD office when the family alleges that illegal discrimination is preventing the family from finding a suitable unit.
 - Conduct a 30-day follow-up assistance and evaluation visit to ensure that the family is aware of the availability of support services.

The Extended Counseling and Follow-up services are to support families moving into housing in economically and non-impacted areas unfamiliar to them. This program will inform (or refer) families of the counseling and services offered by public or private agencies in the areas of employment, education, health and social services. Follow-up services include the following:

- A plan to contact the family sixty (60) days after move-in and every sixty (60) days thereafter as necessary, for a period of one (1) year from the move in date.
- A provision to contact the family approximately ninety (90) days before the renewal of the certificate or voucher.
- Provisions to contact the owners and managers of the housing as necessary to resolve any problems that may arise.

The CHA currently contracts with four qualified Section 8 relocation service providers: American Marketing Service, Leadership Council for Open Metropolitan Communities, Changing Patterns for Families, and Family Dynamics. All four service providers will work with ABLA residents. The CHA will work with the ABLA Family Self-Sufficiency Leverage Council, as described in Exhibit E - F, to establish linkages between these existing service providers as well as on any future Request for Proposals to provide additional relocation services to ABLA residents.

In an effort to improve upon the above system, CHA is currently meeting with the City of Chicago (a representative of the Mayor and the Commissioner of Housing), Business and Professional People in the Public Interest (BPI), the Leadership Council for Open Metropolitan Communities and the Metropolitan Planning Council to revise and recommend improvements for all Section 8 housing relocation on a city-wide basis. The above program is subject to change based on the recommendations of this committee.

4. Hazard Abatement

Hazardous environmental conditions exist in the properties proposed for rehabilitation and demolition. Friable Asbestos is typically found within certain portions of the pipe insulation of the steam and water distribution system

located in the buildings' crawl spaces, mechanical rooms and plumbing risers. Non-Friable Asbestos is typically found in the original ACT floor tiles. Although limited abatement has already been completed, prior to any rehabilitation or demolition activity, all remaining asbestos containing material will be abated in its entirety. This hazardous material procedure will be performed under the guidelines of the most stringent local and federal requirements.

Lead based paint (LBP) is also found randomly throughout the units; it typically exists on doorframes, window frames, and some wall and ceiling surfaces. However, as federal and state laws do not require LBP removal, no LBP remediation will be performed on buildings prior to demolition. Underground Storage Tanks (UST) are located at the main heating plant of the Jane Addams development and, although abandoned, are scheduled for removal. Other site conditions are limited to the underground steam pipes and utility ducts that contain hazardous material such as asbestos or transite. Prior to the physical development of the site or during demolition procedures these conditions will be remediated in full compliance with EPA standards.

5. Demolition

Proposed demolition activity will take place in all four family redevelopment sites of ABLA. The purpose of demolition is based on two main factors: de-densification (in regards to the proposed high-rise demolition), and elimination of distressed non-viable properties that have become a detriment to the community.

The following table details the proposed demolition plan:

<i>Sub-Development</i>	<i>Building Type</i>	<i># Floors</i>	<i># Structures</i>	<i># Dwelling Units</i>
Jane Addams	Walk-Ups and Rowhouses	2,3 and 4	32	987
Robert Brooks (Roosevelt Rd & Fosco Park)	Rowhouses	2	40	356
Grace Abbott	Rowhouses	2	33	168
	Highrises	15	7	1,050
Brooks Extension*	Highrise	16	3*	450

*Note: One highrise has been demolished.

The site of all demolished buildings will be utilized for residential development or the new community center.

The CHA has a pending demolition application for half of the Jane Addams units and an approved demolition application for two of the three Brooks Extension highrises. The CHA will submit a Demolition Application requesting approval for the remaining properties. See attached map of buildings proposed for demolition.

6. Disposition

The entire site will be disposed to the selected developer(s) pursuant to a 99-year land lease with monthly payments on market rate uses. In total, the CHA will dispose of nearly 70 acres. The CHA will submit a disposition application once the Inter-Governmental Agreement with the Chicago Park District is finalized, the Liberty Shopping Center is acquired from CMHDC, and the developer(s) has been selected through a competitive RFP process.

7. Acquisition

As previously mentioned, Addams Park (presently used as a public park) will be acquired and transferred to the CHA through an Intergovernmental Agreement with the Chicago Park District. The purpose of this acquisition is to make available strategically located land on which to build new housing. The development of this parcel is critical to the comprehensive planning efforts and concepts of breaking up the public housing super blocks, returning to the street grid and natural fabric of the city and returning a sense of community back to the area.

The Liberty Shopping Center site will be acquired from CMHDC once demolition is completed.

The City of Chicago will complete acquisition of properties along Roosevelt Road, which will be conveyed to the selected developer(s).

8. Site Improvements

The ABLA Redevelopment Plan includes extensive improvements to the infrastructure. Of particular concern at ABLA Homes has been the inadequate heating system – built in 1938 to service 1,000 units, it was extended to serve all 3,500 units of ABLA. Through the ABLA Redevelopment Plan, the heating system will be completely decentralized.

The City of Chicago will fund and construct the public improvements: streets, alleys, sidewalks, sewers, water, streetlights and street landscaping on the site. A preliminary estimate of this amount is approximately \$2.50 per square

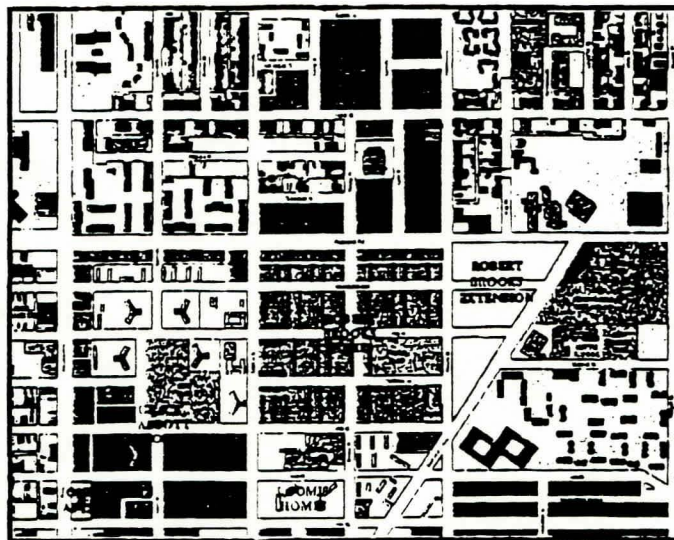
foot or approximately \$9.8 million for 90 acres*. The City of Chicago has begun site surveys and plans to begin construction of new streets on the Brooks Extension, Brooks Homes, and the southern portion of the Grace Abbott sites in early Fall 1998. The City has committed to reinstituting the original City street grid on the site in order to facilitate reintegration of ABLA Homes into the surrounding neighborhood.

In addition, the site improvements to the new housing properties will include front and back yards and adequate open spaces in accordance with the City of Chicago Planned Development Ordinance. Improvements will include landscaping and site amenities such as park benches, trash receptacles, etc.

* Includes new infrastructure at Brooks Homes, which is being renovated under the Comprehensive Grant Program.

EXHIBIT D

Physical Revitalization Plan



1998 Hope VI Revitalization Application - ABLA

Chicago Housing Authority

June 26, 1998

D. PHYSICAL REVITALIZATION PLAN

1. Description of Physical Revitalization

The ABLA Redevelopment/1998 HOPE VI Plan is the result of an unprecedented partnership between the CHA*, the City of Chicago, the ABLA Local Advisory Council (LAC), ABLA residents, and the plaintiffs in the landmark desegregation case Gautreaux v. CHA et al.

The overall ABLA Redevelopment Plan contemplates 2,895 on-site units and 383 off-site units. In total, 44.8% of all units will be designated for public housing of which 26.1% will be located off-site, 11.9% for affordable rental, 13.8% for an innovative affordable homeownership/rental program and 29.5% for market rate units. The ABLA Redevelopment/1998 HOPE VI Plan contemplates a total of 2,417 on-site units and 383 off-site units, and will completely revitalize one of the most distressed public housing developments in the country. The 1998 HOPE VI Plan proposes to utilize \$59 million in HOPE VI funds (\$24 million from 1996 HOPE VI allocation at Brooks Extension) to leverage an additional \$371 million in funding by the City of Chicago and private investor(s) by utilizing innovative financing strategies.

The ABLA Redevelopment/1998 HOPE VI Plan maximizes the leverage of limited public resources by bringing integral partners to the table, coordinating development activities in compliance with the City of Chicago's Consolidated Plan for Affordable Housing, and utilizing creative financing strategies. The City of Chicago's Department of Housing will issue a Request for Proposal (see attached draft) to solicit development proposals nationally and to procure a qualified developer(s) with relevant experience in developing large-scale, mixed finance and mixed income development in former public housing neighborhoods. The RFP will require the development of a minimum of 669 public housing units and 328 affordable rental units in order to maintain the presence of affordable housing in the neighborhood and to meet the needs of existing residents. The selected developer(s) will demonstrate relevant experience in developing multifamily units in urban settings and familiarity with complex financial structures including tax credit finance and layered financing. The RFP will also emphasize the need for the selected developer(s) to have the capacity and resources

* Pursuant to a 1987 order of the Federal District Court in Gautreaux v. CHA, et al., a Receiver, Daniel E. Levin and The Habitat Company, has and exercises all powers of CHA respecting the development of CHA non-elderly public housing.

immediately available to efficiently implement the development. The selected developer(s) will also be required to provide quality private management for all units, including public housing units.

On-site public housing units will be dispersed throughout the 100 acre development and will be indistinguishable from market rate units in both quality and visual appearance. The City of Chicago has committed to restoring the City's conventional street grid in order to eliminate the "superblocks" that contributed to the physical and perceptual isolation of ABLA Homes. Architecturally, the redevelopment plan will complement the structural aesthetics of the surrounding neighborhood. Similarly, special attention will be devoted to landscaping, streetscaping, development of attractive recreational amenities, and related infrastructure enhancements to ensure the reintegration of ABLA into its revitalized community.

To date there have already been significant steps taken in implementation of the ABLA Redevelopment. Phase I of the comprehensive modernization program of 132 units at Brooks Homes is completed and 220 units in Phase II are scheduled to begin this year. The Brooks modernization program is funded through the Comprehensive Grant Program. The CHA's 1996 HOPE VI grant for \$24 million at the Brooks Extension development will be incorporated into the overall ABLA redevelopment and leveraged to help complete the entire redevelopment. As a part of the Brooks Extension revitalization, one highrise is demolished and an adjacent dilapidated shopping center has been acquired by the Chicago Metropolitan Housing Development Corporation (CMHDC), which has agreed to convey the land to CHA upon completion of demolition. The City of Chicago has begun work on infrastructure improvements on the Brooks Extension site and allocated funds in 1998 for construction of an additional four streets.

The scenario included in this application is a sample development plan to demonstrate the financial feasibility of CHA's redevelopment strategy, *not the final development plan*. Developer solicitation will begin immediately following approval of the Tax Increment Financing District in late fall 1998. The CHA intends a mix of for-sale and rental units to provide housing for a wide range of incomes in the neighborhood. The sample development plan proposes new construction of 966 market rate units, 452 affordable homeownership/rental units (i.e. Two-Flat Program), and 997 rental

units of which 669 will be for public housing. *This scenario is subject to change based on the proposal of the selected developer(s).*

For the on-site units, the marketability of the site allows for a true income mix:

Targeted Income Range	% of Dev't	# of Units	Rental vs. For Sale
0-35%	37%	1,084	Rental
36-60%	14%	391	Rental
60+ rental	7%	202	Rental
81-120%	9%	252	For Sale
120%	33%	966	For Sale/Rental
TOTAL	100%	2,895	

The 383 off-site units will be 100% replacement units for public housing. These units will be located in neighborhoods in compliance with the Gautreaux Judgement Order. Please refer to Affirmatively Furthering Fair Housing below for more information on the Order.

In order to meet the needs of existing residents and to maximize income diversity, the CHA has agreed to a long term income mix where units targeted within the range of 0-35% of AMI will decrease to 30% and units targeted within the range of 36-50% of AMI will increase to 18% of the overall development. All 669 public housing units will remain under the ACC contract and will remain eligible for public housing subsidies. The long-term income targets will be achieved upon unit turnover and through the anticipated increase in income levels of existing residents participating in Self-Sufficiency Programs. Existing residents will not be relocated to meet a specific timeframe for achieving long-term income targets.

Prior to soliciting a private developer(s), the City will complete designation of the area as a Tax Increment Financing District and the CHA will enter into a Programmatic Agreement for Jane Addams with the Section 106 consulting parties pursuant to the National Historic Preservation Act (16 U.S.C. 470f). The CHA and the Section 106 consulting parties for Jane Addams (i.e. Illinois Historic Preservation Office, Advisory Council on Historic Preservation, and HUD) have successfully negotiated a Programmatic Agreement that will ensure that the redevelopment of Jane Addams will recognize the historic significance of the development to the greatest extent feasible. See attached.

Although a detailed development plan is contingent upon designating a developer(s), the collaborative partners of the ABLA Redevelopment/1998 HOPE VI Plan have identified clear recommendations on unit mix, design, and overall redevelopment of the neighborhood in this proposal.

2. Design

The following design guidelines will direct the redevelopment plan. Final design decisions, contingent on proposals submitted by the selected private developer(s), will be reached collaboratively between the CHA, the City of Chicago, the ABLA LAC and residents, and surrounding community stakeholders.

- Integrate all units into the existing Near West Side community surrounding the site and organize unit distribution to create a typical urban residential neighborhood. The design shall not aesthetically segregate public housing from market rate units, shall promote sustainable, safe and defensible space.
- The design plan shall encompass three building types: attached rowhouses, attached townhouses, and detached townhouses. Higher density mid-rise structures will be considered if they are well integrated into the overall site plan. Unit design and layout shall maximize functionality, with individual entrances, appropriate green space and liveable room sizes.
- The development will be subject to the standards set forth in the City of Chicago Residential Development Design Guidelines and the Chicago Zoning Ordinance. The departments responsible for these ordinances are members of an Intergovernmental Task Force established by the City of Chicago to facilitate compliance and efficient processing. The CHA is also an active member of the Task Force.

3. Safety & Security

Public safety is one of the principal concerns in the design of the proposed HOPE VI development program. The site design will include selective ornamental iron fencing around housing units as well as an "eyes on the street" front door approach. This will permit the residents of the development to more closely monitor both vehicular and pedestrian ingress and egress. Residents will also have visible access to their units. In addition to these measures, the City of Chicago will improve streets and sidewalks and install new lighting to ensure that the site is well lit at all times.

In addition to incorporating safety and security elements within the overall redevelopment plan, further measures are being undertaken to ensure residents' safety. The City of Chicago will be constructing a new fire station on site. The City is also currently analyzing the feasibility of constructing a new District Police Station. Supplementing municipal public safety services will be private security forces from the adjacent University of Illinois at Chicago and the Illinois Medical District that will extend coverage to the redevelopment site.

4. Healthy Homes

A healthy home is one that is energy-conscious, built tightly with better insulation, indoor air quality and proper ventilation. The Development Initiatives Division within the Authority will educate the residents on what a healthy homes and household safety for children through their "housekeeping training" program.

Construction specifications for the private developer(s) will include air-barrier insulation, non-toxic building materials, low-volatile organic compound paint and finishes and safety surfaces. Specifications will also incorporate child safety measures and devices which are currently incorporated in all of the CHA's scattered site new housing, such as child safety latches, anti-scald devices on faucets and spouts, microwave shelves above the countertop so access by children will be limited, GFI (Ground Fault Interrupters) outlets in all outlets located near a water supply, smoke and carbon monoxide detectors, windup devices for cords of mini blinds, illumination for stairways, banister rails no more than four inches apart and no-slip texture surface for bathtubs.

A recent report in the New England Journal of Medicine (May 7th, 1997 edition) detail results from the National Cooperative Inner-City Asthma Study and stated that there is a direct link between cockroaches and a higher rate of asthma in inner-city children due to a protein found in cock roaches. Proper pest management in the rehabbed and newly constructed units will eliminate access to dark, damp and undisturbed places like behind cabinets and under the sink storage spaces that cockroaches like to inhabit. All openings where cockroaches enter the home will be sealed and caulked. All seams, cracks, and openings in closets and cabinets will be caulked also. Due to cockroaches needing a water supply, special attention will be given to all openings that lead to a sink or drain.

5. Affirmatively Further Fair Housing

a. Accessibility

In completing the new construction activities, the CHA will ensure that the entire development complies with the Uniform Federal Accessibility Standards and the Fair Housing Act provisions on accessible and adaptable design. 5% of the rental and for-sale units will be accessible to individuals with mobility disabilities, and 2% of the rental and for-sale units will be accessible to individuals with visual or hearing disabilities.

b. Visitability

The CHA will ensure that all redevelopment activities comply with HUD guidance on visitability. These visitability features will include, at a minimum, accessible thresholds for unit and bathroom entrances. Each site will contain an accessible route through the entire site. Bathrooms will be accessible. All HUD visitability guidelines will be incorporated in specifications for all construction activities.

c. The Gautreaux Judgment Order

At this time, under the ruling in the case *Gautreaux v. CHA et al.*, United States District Court, Northern District of Illinois (the "Gautreaux litigation"), CHA is not permitted to build in a "limited area" unless either the CHA builds an equal number of units in the "general area" or the judge designates the "limited area" revitalizing. A limited area is defined a census tract which has more than a 30 percent African-American population. Attached is the motion jointly submitted by the CHA and the Gautreaux plaintiffs, and signed by Judge Marvin Aspen designating the ABLA area as "revitalizing."

6. Lessen Concentration of Low-Income Families

a. Significantly reduce the isolation of low income residents

The ABLA Redevelopment/1998 HOPE VI Plan will reduce the total number of public housing units from the existing 3,500 units to 1,084 on-site and 383 off-site units. The proposed income targets for the new development ensures deconcentration of low-income families while also recognizing the need to maintain affordable housing in the neighborhood. The proposed income mix provides not only a healthy mix for a sustainable community but also aims to

provide opportunities for public housing residents. The concentration of low income housing will be lessened in two significant ways: one, by integrating the proposed site into the revitalizing activities of the surrounding neighborhood, and, two, by increasing employment opportunities for the existing resident population and increasing existing incomes.

The CHA, under the federal court case Gautreaux v. CHA, et al., is prohibited from constructing public housing units in "limited areas" unless the CHA builds an equal number of units in "general areas" or the court designates the "limited area" as "revitalizing." A limited area is defined as a census tract with more than 30% African-American population. Attached is a signed order by Judge Marvin Aspen which designates ABLA Homes as "revitalizing."

The Near West Side, where ABLA Homes is located, is a mile and a half west of the Chicago's downtown commercial business district. The neighborhood represents a stark juxtaposition of one of the nation's poorest public housing communities with some of the region's major generators of economic growth and opportunity. Neighboring ABLA is the largest medical district in the country, the Illinois Medical District, which employs more than 40,000 workers and generates more than \$1.5 billion in annual revenue, and the largest university in the Chicago area, the University of Illinois at Chicago (UIC), with 25,000 students and 11,000 employees. ABLA is strategically situated to leverage private resources and ensure that ABLA and its existing residents are actively involved in the revitalization of the neighborhood.

The entire Near West Side is experiencing tremendous revitalization with a surge of new market rate housing and large scale institutional expansion. The Illinois Medical District (IMD) has begun a 14 million square foot facilities expansion program and projects the creation of 10,000 new jobs over the next 10 to 15 years. The University of Illinois at Chicago (UIC) campus expansion includes construction of 700 residential units directly east of ABLA in addition to student housing and commercial development. The ABLA Redevelopment, IMD, and UIC expansions are closely interrelated and interdependent. Consequently, the City of Chicago has established an intergovernmental redevelopment task force, which includes representatives from CHA, IMD, and UIC, to coordinate a joint redevelopment planning strategy and process. Failure to proceed with ABLA Homes revitalization at this time as proposed in this 1998 HOPE V application would significantly reduce opportunities and available financial resources in the future.

b. Increase access to municipal services, job information, mentoring opportunities, transportation, etc.

The ABLA redevelopment plan will greatly increase access to municipal services, educational facilities, job training and employment opportunities. For example, UIC's development team has committed to training and hiring ABLA residents during its five year construction program. In addition, UIC will hire residents as permanent employees through a pilot employment program being established that will waive standard state civic service requirements and provide on-the-job training. Similarly, IMD, which generate more than 50% of all jobs created in Chicago during the past two years, has recently established a special initiative to hire ABLA residents. Both institutions are undertaking such efforts to assist in promoting self-sufficiency among ABLA residents as part of the overall revitalization program.

7. Off-Site Replacement Housing

The proposed ABLA Redevelopment will include 383 off-site replacement units. The CHA will work closely with the City Department of Housing to identify appropriate off-site opportunities.

8. New Construction

Based on a recent market feasibility study commissioned by the City of Chicago's Department of Planning and Development, the median sale price for detached housing units on the Near West Side surrounding ABLA Homes in 1997 was \$159,000, \$117,000 for attached units, and \$205,000 for buildings with two to four units. Only 3% of the units in the housing stock were single family detached, while 40% of total units are located in buildings with 50 or more units.

Based on the market study, the CHA certifies that there is insufficient existing housing in the neighborhood to develop replacement housing through acquisition of existing units or acquisition and rehabilitation.

9. Non-Dwelling Spaces

The Chicago Park District will construct an 80,000 square foot community center on the ABLA site that will include an indoor swimming pool and other recreational amenities. The community center will also house satellite service delivery offices for the City of Chicago's Department of Human Services and Office of Employment & Training, day care facilities, a health and wellness center, a computer learning center for children and adults, a parent-child center to be operated by the Chicago Board of Education, and the ABLA LAC offices. In addition, the selected developer(s)

will be expected to include in its design proposal provisions for non-dwelling community spaces throughout the development.

Other non-dwelling facilities include park expansion and an increase in green and recreational spaces at a school located in the heart of the existing ABLA community. In addition, the Chicago Board of Education has committed capital improvement funds and information and technology improvements for all seven schools in the greater ABLA redevelopment area.

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	
CHICAGO HOUSING AUTHORITY, et al	)	Chief Judge Aspen
	)	
Defendants.	)	

DECLARATION OF JEFFREY D. HEAD

Jeffrey D. Head, being duly sworn upon oath, declares:

1. I am a Senior Development Manager for The Habitat Company and have worked for Habitat since August 1998. Prior to that I served for one year as a Special Project Coordinator for the City of Chicago's Department of Planning and Development, and three years as an Assistant to the Mayor.

2. My duties at Habitat include management and oversight of the Receiver's activities in connection with the development of replacement public housing in the ABLA Revitalizing Area. I report to Valerie B. Jarrett, Executive Vice-President of Habitat, and to Daniel E. Levin, Habitat's Chairman.

3. I am familiar with the Receiver's activities in connection with the ABLA redevelopment process. I have principal day-to-day responsibility for the Receiver in connection with ABLA, and have been the Receiver's representative at meetings of the ABLA Working Group. I am familiar with the deliberations of the Working Group to date, with activities of the Working Group, with the 1998 HOPE VI Application, and with the Request for Proposals ("RFP") that was issued on or about

July 13, 1999 to procure a development manager for ABLA. I have also reviewed the proposed Complaint filed by the "Concerned Residents of ABLA" and others.

4. No development plan exists for ABLA. A HOPE VI application such as the 1998 application is not a development plan. It is a tentative, conceptual document. The RFP issued for a development manager in July 1999 is not a development plan. As the process has developed, HOPE VI development dollars cannot flow at ABLA and the development cannot proceed until (i) a development manager is selected and a contract is negotiated; (ii) the development manager prepares a master development plan for the project; (iii) that plan is considered and approved by the "Working Group," including the Receiver and the Gautreaux plaintiffs; (iv) the plan is incorporated into a HOPE VI Revitalization Plan submitted to HUD for its approval; and (v) a Mixed-Finance Proposal for each phase of the development is submitted to HUD. None of these events has occurred yet, although the Working Group is close to making a final decision on selection of a development manager. A final selection decision is expected during January 2000. At that point a contract will be negotiated with the selected party. Only then will the actual preparation of a proposed master plan for ABLA begin.

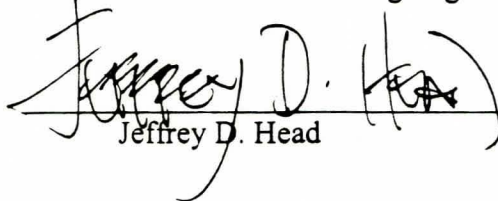
5. Paragraph 67 of the proposed Complaint alleges that defendants plan to replace the Jane Addams homes with "700 or more new units, with 80% of these expected to be sold at market-rate prices." That allegation is incorrect. If there were in fact any plan to sell 80% of new units at Jane Addams or anywhere else at ABLA I would have become aware of it. There is no such plan, and the 80%/20% concept has never even been discussed at any meeting of the Working Group. The RFP for a development manager requires the development manager to draft a plan that will "[t]o the maximum extent, disperse units for public housing families throughout the redeveloped

neighborhood and in the full range of housing types and unit sizes developed." RFP ¶1.4. No distinction is drawn for the Addams site.

6. The ABLA Local Advisory Council is a member of the Working Group and it attends all Working Group meetings through its representatives. The Receiver, CHA and the City consult regularly with ABLA residents through these meetings.

I declare under penalties of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 10, 2000



Jeffrey D. Head

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

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

ORDER

This matter coming on to be heard on the joint motion of the parties and the Receiver for an order designating an ABLA Revitalizing Area ("Revitalizing Area") and authorizing the development of non-elderly public housing units therein; and

The Court having heard the presentations of the parties and the Receiver respecting, and being advised that the City of Chicago supports entry of, the proposed order; and

The Court being further advised that the Receiver and the defendant, Chicago Housing Authority, in collaboration with the City of Chicago, are engaged in the preparation of an application for a FY1998 HOPE VI grant of \$35 million for the ABLA Revitalizing Area to be submitted by them to the United States Department of Housing and Urban Development (HUD) on or before June 29, 1998; and

The Court also being advised that by arrangement with the plaintiffs and HUD, CHA received a HOPE VI grant of \$24,483,250 in FY1996 for a portion of the Revitalizing Area, and that the

current HOPE VI application contemplates and proposes that this prior grant be utilized in conjunction with the grant currently being applied for; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been and is to provide plaintiff class families with desegregated housing opportunities; and

The Court also being cognizant that on occasion it has permitted public or assisted housing to be developed in census tracts not within the General Public Housing Area upon a sufficient showing of "revitalizing" circumstances such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made; and

The Court being of the view, based on the presentations of the parties and the Receiver, that subject to appropriate terms and conditions such a forecast can be made with respect to the Revitalizing Area should the Receiver and the defendant, Chicago Housing Authority (CHA), be awarded a FY1998 HOPE VI grant therefor pursuant to their proposed joint application;

IT IS HEREBY ORDERED:

1. Effective upon advice to the Court from the parties that a FY1998 HOPE VI grant has been made to the Receiver and CHA pursuant to a joint application to be submitted by them to HUD respecting the Revitalizing Area, the Court designates as the ABLA Revitalizing Area that portion of the City of Chicago that lies within the following boundaries: on the west, Ashland Avenue; on the south, the Burlington Northern Railway tracks

immediately south of 15th Street; on the east along Racine Avenue from such Burlington Northern Railway tracks to Blue Island Avenue, northeast along Blue Island Avenue to Roosevelt Road, west along Roosevelt Road to Racine Avenue, and north along Racine Avenue to Cabrini Street; and on the north, along Cabrini Street to Loomis Street, north along Loomis Street to Polk Street, and west along Polk Street to Ashland Avenue; and

2. Subject to such terms and conditions as are specified by further orders of the Court, the Receiver is authorized to develop such number of new public housing units within the Revitalizing Area as will result in public housing units comprising approximately 1,084 of a total of approximately 2,895 residential units within the Revitalizing Area, which is the approximate number of public housing and total residential units within the Revitalizing Area presently contemplated by such grant application, as part of an overall development including approximately 845 non-public housing units to be occupied by persons with incomes 36-120 percent of area median income, and 966 non-public housing units to be occupied by persons with incomes in excess of 120 percent of area median income.

ENTER:

Walter E. Cooper

June 19, 1998

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Memorandum") is made as of the 21st day of May, 1999, by and between the following parties: The Chicago Housing Authority ("CHA"), the Habitat Company ("Habitat"), the City of Chicago Department of Planning and Development ("DPD"), the City of Chicago Department of Housing ("DOH"), the ABLA Local Advisory Council ("LAC") and Plaintiff's counsel in Gautreaux vs. CHA et. al. (collectively, "the Parties"). The purpose of this Memorandum is to clarify and confirm the understandings of the parties regarding their current intentions relative to the collective efforts proposed to be undertaken in order to revitalize the ABLA Homes Community as contemplated in the HOPE VI Revitalization Plan. The Parties acknowledge and understand that the statements contained in the Memorandum are subject to the approval of the governing body of each Party as may be required by law or by the Charter or rules governing each Party.

Recitals

The Parties propose to undertake a project to redevelop the ABLA Homes ("the Project"). Subject to applicable legal requirements, and recognizing that each participant brings certain resources and responsibilities:

The Parties propose to meet on a regular basis in order to collectively make decisions regarding the Project;

The Parties pledge good faith and best efforts to make each such decision by consensus;

It is the intent of the Parties that each Party will participate in the decision-making process as fully as possible;

It is the intent of the Parties to ensure that no single Party has more control than any other Party in the working group decision-making process;

It is the intent of the Parties to work with a Development Manager for the Project to develop a Master Plan and to work diligently to implement the Master Plan for the benefit of the entire ABLA Homes Community.

THEREFORE, the Parties set forth their respective contributions and responsibilities as follows:

The CHA and Habitat

The Chicago Housing Authority ("CHA") and The Habitat Company, as receiver for CHA's development of non-elderly housing programs ("Habitat") have authorized DOH to issue a Request for Proposals and to manage the process of selecting a Development Manager. However, CHA and Habitat shall remain separately responsible for those duties imposed respectively upon each under the HOPE VI and other public housing capital funding rules and regulations, orders of the Gautreaux court, and all federal, state and local laws.

At the appropriate point in the process, CHA and Habitat will enter into separate contracts with entities and individuals for matters that fall within their various areas of responsibility under the Receivership Order of August 14, 1987 in the Gautreaux case and subsequent orders of the court.

CHA will lease its land to an approved Developer(s) who will be responsible for constructing certain physical improvements. CHA will be responsible for ensuring that applicable HUD and CHA management requirements are met and that relocation services provided for all residents choosing Section 8 relocation will be provided by CHA's private contractors.

City of Chicago Department of Planning and Development ("DPD")

DPD will oversee and coordinate the participation of all City Departments and other agencies of local government involved in the redevelopment process, including but not limited to, the Chicago Board of Education and the Chicago Park District. DPD will also coordinate assistance and communication with other government agencies to ensure the compatibility of various redevelopment projects in the area. DPD will coordinate and fund via the Roosevelt/ Racine TIF the acquisition of private parcels to be redeveloped in the Project, subject to the required process and approval.

City of Chicago Department of Housing ("DOH")

DOH will issue the Request for Proposal ("RFP") for a Development Manager. On behalf of the Parties, DOH will be responsible for coordinating all meetings and conferences regarding the RFP. DOH will provide technical advice regarding the financial structuring for the Project. DOH will coordinate and provide identified funds for the development of homes subject to the required process and approval.

ABLA Local Advisory Council ("LAC")

LAC is the elected representative body of the ABLA residents. The LAC will represent the concerns and interest of the residents to the other Parties and convene meetings of its membership to keep the tenants apprised of all phases of the redevelopment process. The LAC will have two (2) representatives as a part of the working group.

Plaintiff's Counsel in Gautreaux

Plaintiff's counsel in the case of Gautreaux vs. CHA et. al. will participate in the redevelopment process to the end of securing the further order of the court contemplated by the "revitalizing order" of 6/19/98 in the Gautreaux case, including reaching agreement with CHA pursuant to the letter of agreement of 7/25/96 between plaintiff's counsel and CHA respecting a portion of the funding for the HOPE VI Revitalization Plan.

University of Illinois Chicago ("UIC")/Illinois Medical District ("IMD")

One representative will serve as the liaison for both UIC and IMD. This representative will participate in the redevelopment process to ensure that assistance from both or either entity is properly coordinated. The representative will be responsible for keeping both UIC and IMD apprised of the redevelopment process. UIC and IMD will submit the name(s) of the representative to the Alderman. The Alderman will submit one name to the working group. The working group parties will by consensus approve or reject the Alderman's recommendation.

Other Provisions

This Agreement shall not create a partnership or joint venture among the Parties hereto. There are no third-party beneficiaries of this Agreement and no third-party shall have any rights hereunder.

REQUEST FOR PROPOSALS



DEVELOPMENT MANAGEMENT SERVICES
for the

MIXED-INCOME REDEVELOPMENT OF ABLA HOMES
Chicago, Illinois

City of Chicago
Richard M. Daley
Mayor

Department of Housing
John Markowski
Acting Commissioner

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Request for Proposals	1
1. Program Goals	2
2. Development Site and Parcel Specifics	5
2.1 Development Site	5
2.2 Development Parcel Specifics	5
3. Scope of Services	7
3.1 General Responsibilities	7
3.2 Specific Work Products and Responsibilities	9
4. Resources for Physical Redevelopment	14
4.1 HOPE VI Funds	14
4.2 Public Housing Operating Funds	14
4.3 Other Affordable Housing Subsidies	14
4.4 Historic Preservation Tax Credits	15
4.5 Tax Increment Financing	15
5. Potential Transaction Elements	16
5.1 Site Ownership and Control	16
6. Development Guidelines and Information	17
6.1 City of Chicago Residential Development Design Objectives	17
6.2 Historic Preservation	18
6.3 Public Housing Unit Mix and Dispersal throughout the Development	18
6.4 Access by Persons with Disabilities	18
6.5 Open Space and Parking Objectives	19
6.6 City of Chicago Zoning	19
6.7 Gautreaux Revitalizing Order	19
7. Employment and Business Opportunities	20
8. Submission Requirements	21
8.1 Responsive Proposals	21
8.2 Deadline for Submissions	21

REQUEST FOR PROPOSALS
DEVELOPMENT MANAGEMENT SERVICES
for the
MIXED-INCOME REDEVELOPMENT OF ABLA HOMES
Chicago, Illinois

EXHIBITS

(Exhibits are bound separately from the text of the RFP unless otherwise noted.)

- Exhibit 1: Memorandum of Understanding between the member organizations of the ABLA HOPE VI Working Group (bound with the text of the RFP)
- Exhibit 2: Revitalizing Order entered in the Gautreaux case on June 19, 1998
- Exhibit 3: Memorandum of Agreement among the City of Chicago, the Illinois Historic Preservation Officer, the United States Department of Housing and Urban Development, and the Advisory Council on Historic Preservation for the ABLA Redevelopment Project (the Jane Addams Memorandum)
- Exhibit 4: ABLA Post-Redevelopment map, showing the Site
Map of the Tax Increment Financing District designated November 11, 1998
Map showing existing conditions on the Site
(All bound with the text of the RFP)
- Exhibit 5: Residential market study commissioned as part of the HOPE VI application process
- Exhibit 6: Draft HOPE VI Grant Agreement
- Exhibit 7: Listing of some of the laws, ordinances, and regulations applicable to master plan implementation
- Exhibit 8: Regulation regarding the use of HOPE VI funds in mixed-finance developments
Listing of evidentiary materials required for the use of HOPE VI funds
- Exhibit 9: Information on Chicago Department of Housing resources available for the ABLA redevelopment project
- Exhibit 10: 1998 ABLA HOPE VI application section on physical revitalization
(For information only)
- Exhibit 11: City of Chicago Planned Unit Development Handbook executive summary
- Exhibit 12: Information on Chicago Housing Authority requirements with respect tot the creation of employment and business opportunities for public housing residents, resident-owned businesses, and MBE/WBEs
- Exhibit 13: Required statements, affidavits and other materials for Respondents
(Bound with the text of the RFP)
- Exhibit 14: Standard contract information that will apply to contracts for services entered as a result of this RFP

REQUEST FOR PROPOSALS

The City of Chicago, on behalf of the Chicago Housing Authority (CHA) and The Habitat Company, the court-appointed receiver for CHA's non-elderly public housing development¹, and the ABLA HOPE VI Working Group, is requesting proposals from development managers to plan and implement a mixed income residential development on the site of CHA's ABLA Homes and certain adjacent parcels. ABLA Homes is located on the Near West Side of Chicago, easily accessible to downtown, the United Center and the cultural, educational, economic and health care activities of the University of Illinois at Chicago (UIC) and the Illinois Medical District, which includes UIC medical facilities, the Rush-Presbyterian Medical Center, Cook County Hospital and West Side Veterans' Administration Hospital.

The proposal to redevelop ABLA Homes is the result of a joint effort by the City of Chicago, the CHA, the plaintiff's counsel in the case of Gautreaux vs. CHA et.al., The Habitat Company, and the ABLA Local Advisory Council. This group, along with a representative of the Illinois Medical District and the University of Illinois at Chicago, is known as the ABLA HOPE VI Working Group (the Group), and a Memorandum of Understanding between its member organizations is attached as Exhibit 1. It represents a commitment to create and sustain a range of attractive, secure housing options for a mix of income levels, including public housing, in this revitalizing neighborhood. The redevelopment of the ABLA Homes site and neighborhood will create a much more positive living environment for public housing residents and contribute to the stability and growth of the Near West Side community and the city as a whole. The redevelopment effort will take place alongside major investment in new commercial and residential development by both the University of Illinois at Chicago and the Illinois Medical District, and which can provide employment opportunities for ABLA public housing residents.

Holistic Urban Redevelopment Approach

The Near West Side is the focus of intensive private and public investment. The inclusion of public housing redevelopment as part of this activity is intended to demonstrate the transformation of neighborhood economies and opportunities that is possible through collaboration among the parties mentioned above and private investors and implementers. It will create a model for redevelopment in other neighborhoods across the city. Four basic principles form the foundation of the ABLA model:

- * ***Create diverse, mixed-income communities***, eliminating the isolation of public housing families from the rest of the community and supporting the market for continued investment in the neighborhood
- * ***Establish collaborative partnerships among public and private interests***, creating opportunities for private participation and creativity in the redevelopment process and leveraging public resources

¹ Pursuant to a 1987 order of the Federal District Court in Gautreaux vs. CHA et. al., a Receiver, Daniel E. Levin and The Habitat Company, has and exercises all powers of CHA respecting the development of non-CHA elderly housing.

- * *Give public housing families a choice* to stay in the redeveloped neighborhood, relocate to new public housing units located off-site, or seek other housing, with support in all cases for residents' efforts to achieve economic self-sufficiency
- * *Help public housing families become self-sufficient*, by targeting the challenges of job training, finding and keeping good jobs, handling family finances, meeting housekeeping and home maintenance responsibilities, fulfilling parental responsibilities, and locating safe and affordable child care

The CHA, The Habitat Company and the City of Chicago have also committed to provide 383 public housing replacement units in other areas of the city. The development of those units is not part of the scope of services to which this Request for Proposals (RFP) for master planning, financial planning and development management pertains.

The Group also contemplates commercial redevelopment along Ashland Avenue, and residential rehabilitation of a property at 15th and Loomis Streets, which will be expected to be incorporated into the master plan developed pursuant to this RFP, but which will not be the subject of financial planning or the development management under this RFP.

1. PROGRAM GOALS

Collaborative leadership by the Group has secured new HOPE VI funding for the ABLA holistic urban redevelopment plan from the U.S. Department of Housing and Urban Development (HUD). The development manager selected as a result of this RFP (the Selected Respondent) will demonstrate the highest capacity to accomplish the Scope of Services and deliver the outcomes detailed below (the Program Goals). The Selected Respondent will produce a master plan for the redeveloped neighborhood that includes land use and development planning for the area described in the section of this RFP (entitled Development Site and Parcel Specifics), produce a financial plan for the residential components of the redevelopment project as discussed in Section 2, and manage the process of implementing the physical development of the residential components specified in the Section 2 by coordinating the activities of all team members and consultants, conducting solicitations for development teams to carry out the individual components of the master plan, and negotiating with the developers on behalf of the Group. In order to avoid conflict of interest, the Selected Respondent will not have any interest or participate in any way in development activities other than as specified in the Scope of Services, which may be amended from time to time (see Section 3, Scope of Services, for further information). The following outcomes are considered Program Goals by the Group:

- 1.1 Create an attractive, secure, diverse and viable mixed income community with appropriate amenities and services to provide a stable and positive environment for Chicago residents

- 1.2 Create a variety of housing options within that community including market rate, affordable and public housing, including home ownership and rental options. At least 50 home ownership units will be made available to purchasers who are residents of public housing, in particular for eligible residents of the ABLA public housing development
- 1.3 Ensure that housing units targeted for public housing families are indistinguishable in quality and visual appearance from those targeted for other levels of income
- 1.4 To the maximum extent, disperse units for public housing families throughout the redeveloped neighborhood and in the full range of housing types and unit sizes developed
- 1.5 Achieve income tiering in new residential development for which the implementation is overseen by the Selected Respondent as follows: ²

<u>Income tier by % of Area Median</u>		<u># of units</u>	<u>% of total</u>
0-35%	(Public Housing)	1,084	37%
36-120%	(Affordable)	845	29%
Over 120%	(Market Rate)	966	34%
		-----	-----
		2,895	100%

- 1.6 Reduce the public housing units' dependence on public housing operating subsidies, while maintaining affordability
- 1.7 Maximize the use of private financing by strategic use of public resources, including public housing and City of Chicago resources
- 1.8 Ensure quality maintenance and management of the entire development, including home ownership and rental housing units for all levels of income, to promote the marketability, attractiveness, security and overall strength of the redeveloped neighborhood
- 1.9 Establish a vehicle to engage residents of all income levels and backgrounds, local institutions and other stakeholders in the ongoing affairs of the neighborhood

² The Revitalizing Order entered in the Gautreaux case on June 19, 1998 authorizes the Receiver in the Gautreaux case to develop new public housing units within the Revitalizing Area subject to such terms and conditions as are specified by further orders of the Court. The Revitalizing Order is attached as Exhibit 2.

It is expected that certain current ABLA public housing residents who earn more than 35% of area median income will be among the initial residents of public housing units in the redeveloped community. In addition, the overall percentage of units rented to families between 0-35% of area median income is expected to decrease over time, as a commitment is implemented that 50% of public housing replacement units will be occupied by families earning between 36% and 50% of area median income. This increase in incomes will be accomplished as original residents leave the units, find employment or otherwise increase their incomes.

- 1.10 Fulfill the City's and CHA's obligations under the Memorandum of Agreement among the City of Chicago, the Illinois Historic Preservation Officer, HUD, the Advisory Council on Historic Preservation for the ABLA Redevelopment Project (the Jane Addams Memorandum). ³
- 1.11 Maximize employment opportunities for ABLA public housing residents (who shall receive priority), other public housing residents, other low-income residents of the community in which the project is located, and Chicago residents, and maximize business opportunities for public housing resident owned businesses, minority and women-owned businesses and Chicago residents in the planning and implementation of the ABLA redevelopment project

³The Jane Addams Memorandum makes certain stipulations regarding the consideration of rehabilitating or demolishing Jane Addams Homes buildings as part of the overall ABLA redevelopment strategy. If it is determined that buildings can be retained as part of a viable, marketable mixed income development, the Jane Addams Memorandum stipulates that they will be rehabilitated in accordance with standards promulgated by the Secretary of the Interior. If buildings are to be demolished, methods and standards are stipulated for proper recordation. The Jane Addams Memorandum is attached as Exhibit 3, and further information is provided in Section 6 on Development Guidelines and Information.

2. DEVELOPMENT SITE AND PARCEL SPECIFICS

2.1 *Development Site*

The ABLA redevelopment area (the Site) is shown on the map entitled ALBA Post-Redevelopment, included in Exhibit 4. It is bounded by Blue Island Avenue and Racine Avenue on the east; Cabrini Street, Grenshaw Street and Roosevelt Road on the north; Throop, Loomis and Ada Streets, and Ashland Avenue, on the west; and parcels to the south of 15th Street on the south. The Site is contained within a Tax Increment Financing (TIF) district designated by the City in November, 1998. Maps outlining the TIF district and showing existing Site conditions are included as Exhibit 4.

The Site includes major parcels that will be redeveloped as new mixed income housing, parcels targeted for new commercial, existing institutional and community uses such as churches, parks, and schools. For the major mixed income housing parcels, the Selected Respondent will be responsible for master planning, financial planning, developer solicitation, and management and oversight of the development process. The new commercial sites along the east side of Ashland Avenue, the proposed residential rehabilitation project at 15th and Loomis Streets, the existing institutional and community facilities (for example, churches, parks, and schools) are not to be the subject of detailed master planning, financial planning, developer solicitation or development management by the Selected Respondent. These uses and their relationship to the master plan for the mixed income residential development should be incorporated into the Selected Respondent's work product.

2.2 *Development Parcel Specifics*

2.2.1. Brooks Homes: Brooks Homes, an existing public housing development located among the parcels described above, is being rehabilitated under CHA's Comprehensive Grant modernization program. 132 units have been rehabilitated as the first phase of this project, and plans to rehabilitate an additional 220 units have been finalized. Master planning for the entire Site must incorporate the modernized Brooks Homes. The income tiering described in the Program Goals includes 352 rehabilitated Brooks Homes units in the 1,084 units to be available initially to present ABLA residents.

2.2.2. Jane Addams Homes: Jane Addams Homes, an existing public housing development which comprises one of the parcels identified above, has been determined eligible for listing on the National Register of Historic Places. It will be the Selected Respondent's responsibility to manage and oversee redevelopment in such a way that development activities involving Jane Addams buildings are carried out in accordance with the stipulations of the Jane Addams Memorandum.

2.2.3. Addams Park: The current site of Addams Park will be made available for redevelopment. The master plan will incorporate a physical and financial plan for redevelopment on the current Addams Park site, and the Selected Respondent as a result of this RFP will be responsible for managing the process of implementing development activities on this parcel.

2.2.4. Fosco Park: Expansion plans for the existing Fosco Park are currently being developed. The Chicago Park District is planning to construct a 80,000 square foot community center in the expanded Fosco Park that will include an indoor swimming pool and other recreational facilities, facilities for day and evening child care, a health and wellness center, a computer learning center, the Eisenberg Boys & Girls Club, and offices for the City Department of Human Services, Mayor's Office of Workforce Development, the Chicago Board of Education, and the ABLA Local Advisory Council. The master plan must incorporate the expanded Fosco Park and the community center, but the Selected Respondent will not be expected to prepare a financial plan or manage the solicitation and development implementation process for the redevelopment of this park or the community center.

2.2.5. 15th Street and Ashland Avenue parcels: The City plans to acquire certain parcels along the south side of 15th Street between Loomis Street and Ashland Avenue for residential development and open space, and along the east side of Ashland Avenue between 15th Street and Roosevelt Road for commercial re-use. The City will make these parcels available for development under separate development solicitation processes. The master plan must take into account the redevelopment of these parcels for such uses, but the Selected Respondent will not be expected to prepare a financial plan or manage solicitation and development implementation process for the redevelopment of these parcels.

2.2.6. Chicago Public Schools: Medill School and Jacob Riis School will continue to operate as a school facilities. Both schools will receive expanded outdoor campus parks. The master plan will take into account the continued use of these properties as schools, the Selected Respondent will not be expected to prepare a financial plan or manage the developer solicitation and development implementation process for the redevelopment of the school parcels.

3. SCOPE OF SERVICES

The Group seeks a lead development manager to provide development management services for the physical redevelopment of the Site, including the day-to-day management of the planning and implementation process. Development management organizations or teams responding to this request for proposals (Respondents) should demonstrate that they possess all of the capacities necessary to successfully produce a master plan, a financial plan for the mixed-income housing and other components of the redevelopment as specified in Section 2 and this Section 3. Respondents should also demonstrate the capacity to manage the implementation of the specified components of the redevelopment. Respondents will be expected to operate under arrangements that tie their compensation to performance criteria related as directly as possible to project milestones, and, ultimately, achievement of the Program Goals.

Respondents are expected to bring all necessary capacities to provide day-to-day management, on behalf of the Group, of the master planning and implementation of the entire mixed income residential development contemplated in the 1998 HOPE VI proposal to HUD, including each of the tasks listed below. If a Respondent does not include all of the technical or other capacities necessary to complete the scope, the Respondent must discuss in its proposal the way in which such capacities would be engaged at the appropriate points in the planning and development process. Respondents must at minimum include all necessary capacities to complete the master planning, financial planning, and development management components of the scope, and to establish and sustain involvement by groups and individuals with a stake in the long-term strength of the redeveloped neighborhood.

In order to avoid conflict of interest, the Selected Respondent will not have any interest or participate in any way in development activities other than as specified in the Scope of Services, which may be amended from time to time

3.1. *General Responsibilities*

The Selected Respondent will at all times work in the interest of achieving the Program Goals to the maximum extent. The Selected Respondent will work closely with and on behalf of the Group to develop a master plan and financial plan for the redevelopment, and to provide day-to-day oversight of their implementation, including the following activities. A Memorandum of Understanding between the member organizations of the Group is attached as Exhibit 1.

- 3.1.1. Supervising and coordinating Respondent team members and/or other consultants for all aspects of master planning, financial planning and development management
- 3.1.2. Coordinating information flow, progress and decision meetings with Group members, their designated representatives, and others as necessary
- 3.1.3. Coordinating communications to interested parties in the neighborhood and city-wide

- 3.1.4. Provide day-to-day management of implementation activities for physical redevelopment of the Site as specified in Section 2, including:
 - 3.1.4.1. Designing and managing solicitations for developers
 - 3.1.4.2. Making recommendations with respect to the evaluation of proposals by developers, in order to realize the Program Goals to the maximum extent
 - 3.1.4.3. Negotiating with selected developers in the interest of achieving the Program Goals to the maximum extent
 - 3.1.4.4. Supervising the activities of developers during development process
 - 3.1.4.5. Preparing and maintaining master schedules, budgets and progress tracking materials related to the master plan and implementation of the master plan, through full occupancy of the new development
 - 3.1.4.6. Preparing compliance and reporting materials for the physical redevelopment as required by the HOPE VI grant agreement
 - 3.1.4.7. Preparing compliance and reporting materials as required by the documents, regulations and laws governing those funds and approvals
- 3.1.5. Creating employment and business opportunities for public housing residents, resident businesses and MBE/WBEs (see Section 7 on Employment and Business Opportunities for further information on requirements)
- 3.1.6. Establishing vehicles for ongoing involvement by interested community stakeholders in the ongoing affairs of the neighborhood

3.2. *Specific Work Products and Responsibilities*

In carrying out the responsibilities set forth below, the Selected Respondent will provide the services of master planning, financial planning and management of implementation activities with respect to each parcel of the Site as specified in Section 2 on Development Site and Parcel Specifics, and as further detailed in this Section 3 on Scope of Services.

3.2.1. Detailed master plan that achieves the Program Goals: The master plan will include a site plan. For each parcel or area the site plan will include a proposal for the number and type of buildings, unit mix, home ownership and/or rental status, income targeting and bedroom counts among units. Bedroom distribution among the public housing units to be made available in any phase of development will take into account the family size of residents actually choosing to remain in the redeveloped ABLA community. The site plan will also address open space, parking, density and massing of buildings.

The master plan will also address the phasing of redevelopment activities. In carrying out this responsibility, the Selected Respondent will integrate schedules for relocation, heat decentralization, demolition, site assembly and preparation with planned development phasing. In planning for the phasing and implementation of the ABLA redevelopment project, the master plan will take into account the stipulations of the Jane Addams Memorandum.

The master plan will include a master development schedule for the redevelopment project, to be updated on an ongoing basis throughout project implementation. The updated master development schedule will be used in monitoring progress, reporting and communicating to the Group and government agencies, community stakeholders and other interested parties about the status of project.

The master plan will provide for development, in consultation with the Group (in particular the ABLA Local Advisory Council), local historical organizations and former residents, of a museum or interpretative exhibit on the significance of the Jane Addams Homes buildings in the development, planning and management of public housing in Illinois (see Section 6.2).

It is anticipated that the site plan and phasing plan for the redevelopment may also be updated at various points during the development process, to account for changes in market conditions, the needed number of bedrooms among ABLA residents returning to the development, and other issues.

In developing the master plan, the Selected Respondent will incorporate the results of the financial plan, including the market study, as discussed below.

The Selected Respondent will engage the Group and other organizations and individuals with a stake in the long-term strength of the community in the master planning process.

3.2.2. Realistic financial plan for development: The financial plan will address the allocation of HOPE VI and other public funds to different phases of the redevelopment, and estimate the amounts and types of private funds to be sought for each phase. The financial plan will specify the use of specific financing vehicles, such as tax exempt bonds, TIF proceeds, low income housing tax credits, historic rehabilitation tax credits, and estimate the amount and sources of funds to be raised using these vehicles (see Section 4 on Resources for Physical Redevelopment for further information). It is anticipated that the financial plan will be revisited periodically as proposals for the development of individual phases or components of the master plan are finalized, and as significant market shifts occur. However, the financial plan should demonstrate the overall feasibility of the master plan and thus contribute to the basis for solicitations for developers to implement it.

As part of the financial plan, a market study will be produced for the entire redevelopment project. Additional market studies will be produced as necessary thereafter for each phase of development, either by the Selected Respondent or by development teams solicited to produce detailed plans and develop the individual phases or components of redevelopment. The market studies will form the basis of financial plans for each phase and for ongoing financial planning for the redevelopment, will address the needs of the potential residents at all levels of income, and may lead to revisions of the site plan,

phasing or schedule. The City of Chicago commissioned a residential market study as part of the planning process for the 1998 HOPE VI application, which was submitted to the City in April, 1998, and is included as Exhibit 5.

3.2.3. Obtain necessary government approvals to allow for implementation of the master plan: The master plan and financial plan will form the basis from which more detailed design, financing and development plans will be created. In developing the master plan and financial plan, the Selected Respondent will also work with the appropriate public agencies and others to identify and address any potential barriers to receiving other necessary permits and approvals that may arise in the implementation of the master plan. The Selected Respondent will work with the Chicago Plan Commission and City Council to implement a new Planned Unit Development that reflects the master plan. The Selected Respondent will work with the U.S. Department of Housing and Urban Development to gain approval of the master plan and financial plan as the basis for developing mixed finance proposals for each phase of the ABLA mixed income development, as required by the HOPE VI Grant Agreement. A copy of the HOPE VI Grant Agreement is included as Exhibit 6.

3.2.4. Create employment and business opportunities for public housing residents and resident owned businesses, minority and women-owned businesses and Chicago residents: The Selected Respondent will conduct its master planning, financial planning and development management activities in such a way as to maximize such opportunities (see Section 7 on Employment and Business Opportunities for further information).

3.2.5. Establish a vehicle to engage all interested residents of the redeveloped community in decisions about its future: Residents of the redeveloped ABLA community, local institutions and other organizations and individuals with a stake in the future of the neighborhood will be engaged in the affairs of their neighborhood on an ongoing basis. Residents of all levels of income and backgrounds, who are renters or home owners, will be included. The Selected Respondent, working with the Group, will establish a vehicle or vehicles to facilitate discussion and coordination with respect to decisions affecting the future of the entire community.

3.2.6. On-site office: In order to promote achievement of the Program Goals, the Selected Respondent shall establish an office on the redevelopment site.

3.2.7. Provide daily oversight and project management for the high-quality implementation of the redevelopment project: The Selected Respondent will manage the day-to-day implementation activities of the master plan to maximize achievement of the Program Goals, and will be directly responsible for assuring compliance with the terms of the HOPE VI Grant Agreement (see Exhibit 6) on the part of all developers, contractors, consultants and others involved in the implementation of the master plan. Duties include the following responsibilities:

3.2.7.1. Design and manage solicitations for developers to implement each phase or component of the master plan: The Selected Respondent will develop requests for proposals and/or qualifications for development partners to implement the individual phases or

components of the master plan. The Selected Respondent will manage the processes for choosing from among the candidates the development teams offering the best value in terms of their ability to maximize achievement of the Program Goals, compensation and other factors considered. The Selected Respondent will be expected to manage the solicitation process for developers in accordance with all applicable Federal, state and local regulations. CHA and The Habitat Company will be responsible for ensuring that appropriate procurement processes under the HOPE VI program and legal requirements are used.

The Selected Respondent will negotiate arrangements with the development teams that include economic incentives for sustained performance with respect to the Program Goals.

3.2.7.2. Review and evaluate architectural designs for individual phases or components of the master plan: The Selected Respondent will work with the City of Chicago's Department of Planning and Development to oversee the development of designs such that they adhere to the City of Chicago Residential Development Design Guidelines, including its townhouse ordinance, the Chicago Zoning Ordinance and applicable requirements of the U.S. Department of Housing and Urban Development. Designs must comply with Federal, state and local accessibility requirements and will be encouraged to exceed them. If a building or buildings of the Jane Addams Homes is to be rehabilitated, designs affecting that building must also comply with the stipulations of the Jane Addams Memorandum (see Section 6 on Development Guidelines and Information.)

3.2.7.3 Monitor acquisition of all necessary permits and approvals to implement the master plan: During the implementation of the master plan, the entities involved in the development of the individual phases or components of the master plan will be directly responsible for acquiring the permits and approvals from local, state and federal government agencies that are necessary for development to proceed. The Selected Respondent will monitor the progress of the permit and approval acquisition as part of its development management responsibility, and assist as necessary and appropriate, based on its identification of potential barriers during the development of the master plan and financial plan.

A listing of some of the laws, ordinances and regulations applicable to the implementation of the redevelopment project is attached as Exhibit 7³. The regulation regarding use of HOPE VI funds in mixed-finance developments, and a listing of evidentiary materials required by the U.S. Department of Housing and Urban Development for such transactions are included in Exhibit 8. The Jane Addams Memorandum, which discusses points at which consultation with the Illinois Historic Preservation Agency is necessary, is attached as Exhibit 3.

³ The listing provided in Exhibit 7 contains most laws, ordinances, statutes and regulations thought to be generally applicable to developments of the type anticipated by this RFP. Depending upon the specifics of the master plan, however, laws, ordinances, statutes and regulations not listed may be applicable.

3.2.7.4. Oversee proper coordination by development teams with CHA and others as necessary with respect to demolition, site preparation and relocation: The Selected Respondent will supervise and facilitate coordination between development teams implementing individual phases of the master plan and other entities as appropriate, for the effective demolition of structures not targeted for rehabilitation, for site preparation, for environmental remediation, and for the temporary and permanent relocation of current residents. The demolition schedule will be affected by the schedule for planned changes to the heating infrastructure for existing buildings, which will allow them to be demolished without interrupting service to remaining buildings.

In addition, it is intended that temporary relocation for current ABLA residents wishing to remain at ABLA after redevelopment will be accommodated on-site in public housing. The development process and timeline must be closely coordinated during the period in which existing tenants are relocated for construction and then relocated to the newly developed units.

3.2.7.5. Oversee completion of construction or rehabilitation: For each phase of development in the master plan, improvements must be constructed or rehabilitated and all necessary permits obtained for all structures and facilities to be placed in service. The Selected Respondent will monitor completion of planned construction through full occupancy.

3.2.7.6. Oversee and coordinate the creation of business and employment opportunities for ABLA public housing residents and resident-owned businesses, MBE/WBEs, and Chicago residents by entities involved in implementing the master plan: All parts of the redevelopment process, including master planning, design, construction and property management will create employment and business opportunities for ABLA public housing residents and resident-owned businesses (which shall have priority), minority and women owned business enterprises, and low-income residents of the surrounding community, and other Chicago residents (see Section 7 on Employment and Business Opportunities and Information). The Selected Respondent will be responsible for overseeing, coordinating and tracking the creation of such opportunities during the implementation activities for the project.

3.2.7.7. Establish property management arrangements and long-term maintenance priorities for the redevelopment that promote the Program Goals to the maximum extent: Each development phase in the master plan must have high-quality long-term management.

Management of public housing units may be provided under different contractual arrangements with CHA depending upon the development approach and ownership status proposed and approved for such components of the development. For ownership units, activities include the formation and staffing of neighborhood and/or home owners' associations, and maintenance of common areas and amenities. For rental components of the development, activities include: leasing, tenant income and application verifications, rent collections, project accounting and financial reporting, record keeping, preventative and

emergency maintenance and replacements, responding to tenant requests and complaints, and generally performing or causing to be performed all duties required for the management of high-quality, secure, attractive and marketable rental property. It is anticipated that property managers or contractors for related functions will report to the owning entities of redeveloped rental housing and/or any associations of owners of single family housing. However, the Selected Respondent will be responsible for establishing contractual and other arrangements with the owning entities and any associations that promote and enforce high-quality ongoing maintenance and management of the properties.

4. RESOURCES FOR PHYSICAL REDEVELOPMENT

4.1 HOPE VI Funds

The U.S. Department of Housing and Urban Redevelopment recently awarded \$35 million for the redevelopment of the ABLA public housing project, which will be combined with a 1996 HOPE VI award of \$24.8 million. Of these funds, a total of \$43,440,197 has been targeted for physical development activities in the 1998 HOPE VI application.

4.2 Public Housing Operating Subsidy

The CHA receives operating subsidy for public housing units in the City of Chicago. Depending upon the availability of federal operating subsidy, the CHA will make available approximately \$350 per unit per month (including tenant rent contribution) for each unit of public housing provided. Amounts up to \$450 per unit per month will be available if utilities are included in the rent. These figures are generally equivalent to the allowable expense level per unit per month under the Performance Funding System (PFS), which governs the level of public housing operating subsidy that CHA receives from HUD.

A significant consideration in the future of public housing is the potential for change in the level of operating subsidy approved by Congress over time. In 1996, Congress approved only enough operating funds to subsidize units at 95% of the need calculated under the PFS formula used by HUD and housing authorities to do so. CHA is willing to make limited guarantees as to the amount of subsidy allowed per unit as changes in the PFS system occur.

4.3 Other Affordable Housing Subsidies

The City of Chicago's Department of Housing (DOH) will work with the Selected Respondent and the development teams selected to implement individual phases or components of the master plan to determine the amount and combination of DOH resources necessary to achieve the Program Goals of the ABLA redevelopment. Resources are also available from the Illinois Housing Development Authority (IHDA), upon application. For purposes of the 1998 HOPE VI application, a preliminary plan was developed to demonstrate potential redevelopment solutions. This plan estimated that almost \$120 million in City subsidies would be used to create residential opportunities for a range of incomes. Funds identified included approximately \$32 million in multifamily mortgage revenue bonds, low income housing tax credits generated by these bonds which would leverage about \$37 million in equity investment, secondary mortgage financing of about \$20 million, and Tax Increment Financing support.

More detailed information on Chicago Department of Housing programs which may contribute to the project is included as Exhibit 9.

5. POTENTIAL TRANSACTION ELEMENTS

During the development of the successful application for the 1998 HOPE VI grant for ABLA Homes, several transactional mechanisms were suggested as potential vehicles to combine public housing funding sources with other public and private sources of funds to create the new mixed-income community. Many potential ownership and transaction structures exist for the individual phases or components of the master plan, ranging from the CHA holding no ownership interest, a partial ownership interest, or 100 percent of the ownership interest of the public housing units that are to be developed. The Selected Respondent will work with the Group to ensure that all the approaches it develops to financing the development, and the approaches implemented by the development teams for the individual phases or components of the master plan, will maximize achievement of the Program Goals.

A copy of the HOPE VI application narrative on the physical revitalization of the ABLA public housing development, for information only, is attached as Exhibit 10. Additional information on the transaction structures discussed in the application is available upon request.

5.1 *Site Ownership and Control*

The Site consists of parcels currently owned by CHA and parcels that will be acquired by the City. It is expected that CHA will enter into a long-term land lease or leases to allow for redevelopment on parcels it owns. The City intends to acquire other parcels and make them available for redevelopment as necessary either by lease or sale.

6. DEVELOPMENT GUIDELINES AND INFORMATION

In general, the master plan and architectural designs should include low-rise attached, semi-attached or free standing structures that are comparable to the density and character of the surrounding neighborhood. Mid-rise structures may be considered if they are well integrated into the master plan, compatible with surrounding development, consistent with HUD regulations with respect to placement of public housing units for families, and promote the achievement of the Program Goals. Buildings, units and layouts should provide functional, attractive and marketable housing arrangements for housing units targeted to all levels of income in the redeveloped community. Architectural and site designs should promote efficient project operations, lower maintenance costs, energy efficiency and the safety and security of the occupants.

Specifically, the master planning and design of the project must address the City of Chicago's Residential Design Objectives and Townhouse Ordinance, HUD Housing Quality Standards, the Chicago Zoning Ordinance, requirements and guidelines for accessibility and visitability by people with disabilities promulgated both by HUD and the Mayor's Office for People with Disabilities, orders of the court in the Gautreaux case, and any other federal, state and local requirements. Development activities affecting buildings of the Jane Addams Homes must comply with the Jane Addams Memorandum with respect to rehabilitation or recordation and demolition.

6.1 *City of Chicago Residential Development Design Objectives*

As stated in the Program Goals, the ABLA redevelopment is intended to create an attractive, economically integrated and positive community environment. Townhouse development will adhere to the City's townhouse ordinance, as applicable. The City of Chicago's design objectives are intended to reinforce and strengthen the physical, economic and social aspects of the entire community. The master plan and each phase of development will be expected to contain the following elements:

- 6.1.1. Neighborhood planning that restores a traditional urban fabric and adds to the Near West Side's character as a compact, pedestrian-friendly, mixed use and secure urban neighborhood, consistent with the City's open space and parking requirements for new residential development
- 6.1.2. Housing that mixes building scales, housing types and densities to create a model for a livable and economically viable mixed-income development
- 6.1.3. Architecture and landscape design that draws on familiar and successful Chicago neighborhoods and promotes principles of defensible space
- 6.1.4. Architecture and infrastructure that promote the independence of people with disabilities and enable them to participate equally in all facets of community life

Design objectives based on these principles, and intended to describe more fully the desired character of new residential development, and copies of relevant ordinances are available upon request.

6.2 *Historic Preservation*

Jane Addams Homes has been determined eligible for listing on the National Register of Historic Places. It will be the Selected Respondent's responsibility to conduct master planning, financial planning and development management and oversight such that the City's and CHA's responsibilities under the Jane Addams Memorandum are met. If any historic buildings are to be retained, they will be rehabilitated to the maximum extent feasible in accordance with the *Secretary of the Interior's Standards for Rehabilitation of Historic Buildings*. If any historic buildings are to be demolished, they will be recorded in accordance within the Jane Addams Memorandum. The Jane Addams Memorandum is included as Exhibit 3, and the *Standards* are available upon request. The National Park Service guidelines on interpreting the Standards may be obtained from the Illinois Historic Preservation Agency.

The master plan will provide for development, in consultation with the Group (in particular the ABLA Local Advisory Council), local historical organizations and former residents, of a museum or interpretative exhibit on the significance of the Jane Addams Homes buildings in the development, planning and management of public housing in Illinois. As stipulated by the Jane Addams Memorandum, the Jane Addams Homes museum will be located on the original site of the Jane Addams development, and in an existing building, if feasible, or in a new building or structure on the Jane Addams parcel that is accessible to the public. An architectural review will be completed to determine whether use of an existing building is feasible. The Selected Respondent will work with the Group to develop a plan for the financing, development, ownership and operation of the museum or exhibit, and to recruit or organize entities to realize the plan.

6.3 *Public Housing Unit Mix and Dispersal throughout the Development*

As noted in the Program Goals, new public housing units are to be dispersed to the maximum extent throughout the redeveloped neighborhood, and in the full range of housing types and unit sizes developed. As noted in the Scope of Services, bedroom counts of public housing units will take into account the actual family size of ABLA public housing residents choosing to remain in the redeveloped ABLA community.

6.4 *Access by Persons with Disabilities*

Designs developed by teams selected to implement the individual phases or components of the master plan will be required to comply with all applicable federal, state and local accessibility statutes. HUD requires that 5% of all public housing units be accessible to the physically disabled under the regulations of the Uniform Federal Accessibility Standards (UFAS), and that an additional 2% of public housing units be equipped with devices for the visually or hearing impaired. In addition, respondents will be encouraged to provide for both accessible and adaptable units that exceed the minimum requirements

and indicate the inclusion of both accessible and adaptable units in all types and styles of housing, not concentrated in one part of the development. For more information and suggestions, the City of Chicago's *A Guide to Fair Housing: Creating Options for People with Disabilities* is available upon request.

6.5 Open Space and Parking Objectives

The Selected Respondent will be expected to develop a master plan providing adequate open space for each unit in the redeveloped community, and to ensure that in the detailed planning and implementation of each phase or component of the master plan that parking and open space are provided. The Selected Respondent will be responsible for working with the Chicago Park District, the CHA, and the City to include the expansion of Fosco Park and the development of other neighborhood parks in the master plan. Developments are generally expected to provide a minimum of 150 square feet of usable common open space per unit. If the development cannot accommodate the required open space within the development, a fee can be paid in lieu of providing the open space. The development will provide convenient and safe parking for all residents who require parking, and parking for people with disabilities, in compliance with applicable City of Chicago ordinances and design objectives.

6.6 City of Chicago Zoning

The parcels containing Jane Addams, Brooks, Brooks Extension and Grace Abbot Homes are currently zoned for residential use as part of Planned Development #4, which approved their existing design and construction. Addams Park, although most recently used as a public park, is zoned R-4 as a General Residence District. The strip of land along the south side of Roosevelt Road between Ashland and Racine Avenues, and along the south side of 15th Street between Ashland Avenue and Throop Street will be rezoned to accommodate residential development.

The Selected Respondent will work with City of Chicago's Department of Planning and Development to implement a new Planned Unit Development for the Site, based on the master plan, which will be subject to approval by the Chicago Plan Commission and City Council. the City of Chicago's Planned Unit Development Handbook is included as Exhibit 11. A listing of applicable statutes, laws, ordinances and regulations is attached as Exhibit 7.

6.7 Gautreaux Revitalizing Order

The redevelopment project is subject to a Revitalizing Order entered in the Gautreaux case on June 19, 1998. The Revitalizing Order authorizes the Receiver in the Gautreaux case to develop new public housing units within the Revitalizing Area subject to such terms and conditions as are specified by further orders of the Court. The Revitalizing Order is included in Exhibit 2.

7. EMPLOYMENT AND BUSINESS OPPORTUNITIES

The Selected Respondent must comply with all Federal, state and local laws and ordinances in relation to the development of the project, including requirements related to participation by minority and women-owned businesses, and Section 3 employment, business and training opportunities for ABLA public housing residents (who will have priority) and low and very low income residents of the community area in which the project is located, and Chicago resident employment. The City and CHA will to use CHA's standards and procedures for compliance with Section 3 and MBE/WBE requirements, including contractual requirements related to Section 3 hiring and business opportunities.

Respondents will be evaluated on the approach they propose to provide employment and business opportunities during the creation of the master plan and the financial plan for the development. Respondents will also be evaluated on the approach they propose to oversee the creation of business and employment opportunities by teams selected to develop individual components or phases of the master plan. In addition, for development involving any type of federal funding (HOPE VI, HOME, CDBG, public housing modernization funds and/or operating subsidy), must comply with the requirements of the Davis-Bacon Act, and Executive Order 11246 on equal opportunity.

Further information on CHA's requirements, procedures and documentation is attached as Exhibit 12.

8. SUBMISSION REQUIREMENTS

8.1 *Responsive Proposals*

In order to be considered responsive to this Request for Proposals, Respondents must address each of the items listed in the Section 10.4 on Submission Format in their submissions. Responses must be submitted in the form specified in Section 10.4; however, portions of submissions may be cross referenced to avoid duplication. Submissions will be reviewed for omissions of items upon receipt, and Respondents notified of any omissions. Respondents will be asked to provide any missing information within a specified period, if in the Evaluation Panel's sole discretion the nature of the omitted material is such that additional time to provide it would not constitute a competitive advantage to the Respondent that made the omission.

The Evaluation Panel reserves the right to recommend that any or all submittals, and/or any parts thereof, be accepted or rejected, and that any informality in any submittal be disregarded, if in the opinion of the Evaluation Panel the achievement of the Program Goals will be served thereby.

The Respondent will provide sixteen (16) full copies of the Submission. All documents which require signatures will have original signature on all sixteen (16) copies of the Submission.

The Selected Respondent will be required to provide original signatures on all Previous Participation Certificates (HUD Form 5030) in six (6) additional copies that will be submitted to HUD for approval.

8.2 *Deadline for Submissions*

Submissions must be received at no later than 4:00 p.m. Central Standard Time on September 16, 1999 for submissions originating within the Chicago metropolitan area. Submissions arriving in overnight delivery packages originating outside the Chicago metropolitan area must be received no later than 10:00 a.m. Central Standard Time on Friday, September 17, 1999. Submissions must be received at the following address:

ABLA Development Manager Request for Proposals
c/o Dana Sutton
City of Chicago Department of Housing
318 South Michigan Avenue, 6th Floor
Chicago, IL 60604

If received after the time indicated, submissions will be rejected and returned unopened. Submissions will be opened immediately after the time that they are due.

9. SELECTION PROCESS

9.1 *Role of the City of Chicago Department of Housing*

The City of Chicago Department of Housing has agreed to oversee the selection process on behalf of CHA, The Habitat Company and the Group. The Department of Housing will convene the Evaluation Panel, manage communications and document flow with respect to the selection process, document the proceedings and facilitate the engagement of expert advisors.

9.2 *Evaluation Panel*

Responsive submissions will be rated and ranked by an Evaluation Panel representing the Group. As a result of the process described below, the Evaluation Panel will provide recommendations to the Chicago Housing Authority and The Habitat Company as to the selection of a Respondent. The Evaluation Panel will include representatives of each of the entities participating in the Group.

9.3 *Expert Advisors*

Experts in fields such as the development of large-scale mixed-income housing including public housing, partnership structuring for large-scale development, real estate finance, historic preservation, architectural design and/or master planning may be selected by the Department of Housing to advise the Evaluation Panel during the selection process. It is anticipated that the ABLA resident representative may also choose to involve an expert advisor and/or legal counsel during Evaluation Panel deliberations. Such expert advisors will not rate and rank Respondent submissions.

9.4 *Process*

The Evaluation Panel will rate and rank submissions in response to this Request for Proposals based upon the Selection Criteria listed below, and recommend a Respondent for selection. Based upon its initial review of the Submissions and information gathered as a result of inquiries clarifying the initial submissions, the Evaluation Panel may recommend that some number of Respondents be selected as Finalists. Finalists will be interviewed and asked to present their approach and proposal for the Scope of Services to the community. Finalists may also be asked to submit additional or more detailed material in response to issues and questions discussed during the interview and community presentation process.

In making recommendations to CHA and The Habitat Company, it is expected that the Evaluation Panel will select the Respondent whose submission offers the best value in terms of the long-term achievement of the Program Goals, considering the quality of the proposal, the Respondent's qualifications, compensation structure, price and other factors.

The Evaluation Panel may also elect not to recommend a Respondent as a result of this process. In addition, the Evaluation Panel reserves the right at any time to recommend withdrawal of this RFP.

In no event shall the City, CHA or other participants in the selection process under this RFP be liable to Respondents for any cost or damages incurred by Respondents or Respondent team members, subconsultants, or other interested parties in connection with this request for proposals process, including but not limited to any and all costs of preparing the Proposal and participation in any conferences, oral presentations or negotiations.

9.5 Confidentiality

Respondents may designate portions of the submissions which contain proprietary information to remain confidential. Each page of each item regarded as confidential should be clearly marked "CONFIDENTIAL". Respondent financial statements, submitted in accordance with the section on Submission Format below, will be considered confidential material regardless of whether or not they are so marked.

10. SELECTION CRITERIA AND SUBMISSION REQUIREMENTS

10.1 *Ranking System*

The Evaluation Panel will have a 100-point scoring system. Percentages of total points for each selection criterion are listed in parentheses, below.

10.2 *Factors Considered for Each Selection Criterion*

For all of the selection criteria listed below, the Evaluation Panel will evaluate the approach outlined in the Respondent's Submission, along with the Respondent team's experience and qualifications to plan and manage the implementation of a detailed strategy that effectively addresses the Program Goals. While the development manager will not be expected to develop the various components of the master plan directly, practical experience in the direct design, development, financing, marketing, property management, maintenance and/or asset management of real estate will be taken into account by the Evaluation Panel in considering the capacity of the Respondent to produce realistic master plans and financial plans, and to negotiate arrangements with developers for the implementation of the master plan and to ensure effective implementation. To the extent that the Respondent team has worked with projects that have similar characteristics to those envisioned for the ABLA redevelopment project, either as part of a development manager team or as part of an implementing development team, the Evaluation Panel will take the characteristics of those projects into account as they relate to the selection criteria. The Evaluation Panel will consider the past experience of each member of the Respondent team, the team's capacity as a whole, and the team's experience in working together (if any).

10.3 *Selection Criteria*

10.3.1. Proposal for Project Master Planning, Financial Planning and Development Management (30% of total): The Evaluation Panel will consider the extent to which the Respondent team's proposal for master planning, financial planning and development management is likely to promote the Program Goals. The Evaluation Panel will consider the potential to realize the Program Goals represented by the Respondent's approach to developing a master plan and realistic financing plan for the development, and the anticipated types of relationships between public and private sector organizations that it envisions may be necessary and appropriate to carry out its master plan, and the way in which it proposes to fulfill the Scope of Services.

The Evaluation Panel will also consider the Respondent's commitment, approach and process for creating employment, business and training opportunities for ABLA public housing residents (who shall have priority), other public housing residents and low or very-low income residents of the project's community service area, and business opportunities for resident-owned businesses, Minority and Women Enterprises (MBE/WBE), employment opportunities for Chicago residents.

10.3.2. Qualifications for master planning, financial planning and development management (45% of total): The Evaluation Panel will consider the Respondent's capacity and previous experience to plan and manage the implementation process of a redevelopment program at the scale and complexity of the ABLA Redevelopment, comply with all statutory and regulatory requirements, and successfully achieve the Program Goals. In doing so, the Evaluation Panel will consider the proposal provided by the Respondent alongside the team's prior experience in planning and managing the implementation of similar projects.

The Evaluation Panel will consider the Respondent team's capacity to establish arrangements with individual developers and other entities involved in the implementation of the master plan that will result in high-quality marketing, management and maintenance of components of a large mixed income rental and home ownership community, including ongoing compliance with all applicable laws and regulations as well as economic performance and resident satisfaction.

The Evaluation Panel will also consider the degree to which the Respondent team's stated approach, experience and track record indicate an ability to carry out both the general and specific responsibilities, and deliver the work products, stated in its proposal.

In the submission related to this criterion, Respondents should provide the required information for team members responsible for completing each component of the Scope of Services in a timely, responsible, professional and high-quality fashion. The Evaluation Panel will also consider the level of current commitments engaging important staff of the Respondent team and the expected duration of those commitments.

10.3.3. Resident and Community Participation (15% of total): The Evaluation Panel will consider the Respondent team's proposed process and programmatic strategies for achieving meaningful participation by all residents and stakeholders of the redeveloped community in the decision-making and ongoing operations of the development. The Evaluation Panel will consider the Respondent Team's track record and experience in resident and community involvement in evaluating proposals under this criterion.

10.3.4. Compensation and Business Approach (10% of total): The Evaluation Panel will consider the roles and responsibilities contemplated for each member of the Respondent team and the fees or other compensation structure proposed for their involvement, and the way in which their compensation is proposed to be tied to performance for the component of the Scope of Services for which they are responsible.

Respondents are required to outline compensation structures that they would propose for all of the activities described in their proposal, and discuss how these compensation approaches will contribute to the achievement of the project's Program Goals.

10.4 Submission Format

Responses must be submitted in the form of the submission format, below. However, portions of submissions may be cross referenced to avoid duplication, and exhibits may be included in submissions in addition to the required exhibits listed below.

10.4.1. Executive Summary: To be written by the Respondent and to precede the following letter, submissions and exhibits.

10.4.2. Letter: Respondents should certify, under signature, to the content of the entire proposal. The letter will include sections and subsections as detailed below, and provide all the information requested in this RFP as well as all assurances required by HUD and CHA.

10.4.2.1. Organization of Respondent team

- a. Organization chart showing all legal entities involved in the Respondent team, their relationships to one another, their responsibilities under the Respondent's proposal, and personnel with individual responsibilities in the proposal. (Respondents should include agreements, letters of intent or other documents regarding relationships between the entities of the Respondent team, if any, as an Exhibit to their submissions.)
- b. If the Respondent team includes more than one legal entity, identification of the legal entity considered the "lead" in the Respondent team, which would expect to enter into direct contracts to fulfill the Scope of Services.
- c. Designation of a contact person and alternate contact person for purposes of communications related to this RFP. The contact person will function as the single point of contact for the Department of Housing throughout the selection process. The Respondent will provide address, telephone and facsimile information for both the contact person and the alternate.

10.4.2.2. Proposal: The Respondent's proposal should address at minimum all the components of the Scope of Services, in the order that they are set forth in Section 3 on Scope of Services, cross-referencing as necessary. Work products and project milestones for each component specified in the Scope of Services in Section 3 should be identified and described. A proposed project schedule should be included, noting estimated delivery of work products and achievement of project milestones.

10.4.2.3. Qualifications: The Respondent should provide a discussion of the qualifications of each member of the Respondent team with respect to each component of the proposal, referencing prior relevant experience in master planning, financial planning and development management, and/or direct development, financing, marketing, property or asset management,

or other experience the Respondent considers relevant to its proposal and the Scope of Services. In this discussion, the Respondent should note particular experience with communities or developments containing mixed-income rental and/or home ownership housing or both, and experience with specific government subsidy programs, if any.

In addition to this discussion, the Respondent should provide:

- a. Resumes of principals and specific personnel to be assigned to the ABLA redevelopment project. Please note prior experience of team members working together, if any, and locations of each individual's home office.
- b. Listing of previous projects for which the Respondent team or team members produced the master plan or the financial plan and/or acted as development manager, or for which the Respondent team or team members acted as part of the implementing development team or as a property manager or asset manager. Respondent teams should include all projects considered relevant by the Respondent, including as appropriate team members' experience in the master planning, design, financing, development, marketing and property management of urban rental and home ownership projects, including:
 - (i) Affordable and/or mixed income components, with unit mix and mix of incomes, if any;
 - (ii) Subsidy programs used, if any;
 - (iii) Historic rehabilitations, or projects in which historic buildings were integrated into larger master plans and/or developments, if any;
 - (iv) Developments containing both commercial and residential components, if any, and;
 - (v) For each project listed, include date placed in service, names of clients and any public sector partners, with contact names, addresses, and telephone numbers.
- c. If members of the Respondent team have acted as property managers or asset managers, discussion of the financial and programmatic performance history and status of the projects in their portfolio, including identification of low or mixed income projects (if any) and the types of government subsidies (if any) involved in the financing of the projects.
- d. Discussion of strategies used in previous projects by Respondent team members for creating employment and business opportunities for public housing residents and resident-owned businesses, low income residents of project communities, and MBE/WBEs, and the outcomes of those strategies. For each project discussed, provide a reference or references including name, title or position, telephone number and address.

- e. For the "lead" member of the Respondent team, the most recent three years' financial statements of the organization, including balance sheet and income and expense information. The Respondent should provide the statements in a separate envelope (in other words, not bound with the remainder of the Submission) and reference them in the body of the Submission. Financial statements will be considered confidential information and will be reviewed separately by DOH. DOH will be the only one of the Evaluation Panel organizations to review financial statements.
- f. Discussion of existing commitments and their potential impact on key staff's ability to commit time and/or travel to Chicago, if necessary, during the periods of time when their expertise would be needed.
- g. Listing and brief description of all legal actions for the past three years in which any Respondent team member has been barred from participating in Federal contracts, a debtor in bankruptcy, a defendant in a lawsuit for deficient performance under a contract, a defendant in an administrative action for deficient performance on a project, or a defendant in any criminal action. Indicate resolutions that have been reached.

10.4.2.4. Resident and community participation: Respondents should provide the following:

- a. Discussion of their approach and process contemplated for creating meaningful opportunities for resident, community and stakeholder participation and involvement.
- b. Discussion of their experience with creating vehicles for engaging residents and community members in the ongoing affairs of the development or neighborhood for any previous public housing, affordable, or mixed-income, rental or home ownership projects, and the outcomes of those strategies. For each project discussed, provide a reference or references including name, title or position, and contact information.

10.4.2.5. Proposed pricing for services:

- a. Narrative describing the legal and organizational approach employed by Respondent team members in development manager situations in which they have participated in the past, discussing outcomes achieved to date.
- b. Detailed compensation proposal based upon the proposal for the Scope of Services. The compensation proposal should address each component of the proposal for the scope of work, addressing work products and milestones as appropriate. Respondents should outline how compensation would be paid and what events would trigger payments. Compensation proposals should be comprehensive and will be subject to negotiation. Respondents should outline the following details, for each member of the Respondent team:

- (i) Identification of team member
- (ii) Responsibilities under the Scope of Services
- (iii) Calculation of compensation, including, for each component of the proposal:
 - List of staff members involved
 - Estimated gross work hours per staff member, for each year of the schedule
 - Hourly rates including salary, overhead and indirect costs per staff member
 - Estimated out of pocket expenses
 - Sum of costs for each specific deliverable and for each other component of the proposal
- (v) Total estimated compensation for completing the entire proposal and all deliverables
- (iv) Proposed linkages between compensation and performance under the component(s) of the proposal for which the team member is responsible

10.4.2.6. Exhibits: Respondents will also complete and submit all of the statements, affidavits and other materials included on the following forms, which are included in this RFP as Exhibit 13:

- (i) Statement of Bidder's Qualifications
- (ii) Subcontractor Information Submittal
- (iii) Contractor's Affidavit
- (iv) MBE/WBE Utilization Plan and Amendment
- (v) Section 3 Opportunities Plan

Respondents should review the standard contract information that will apply to service contracts entered as a result of this RFP, which are included in this RFP in Exhibit 14.

EXHIBIT 1:

Memorandum of Understanding between the member organizations of the ABLA HOPE VI
Working Group

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Memorandum") is made as of the 21st day of May, 1999, by and between the following parties: The Chicago Housing Authority ("CHA"), the Habitat Company ("Habitat"), the City of Chicago Department of Planning and Development ("DPD"), the City of Chicago Department of Housing ("DOH"), the ABLA Local Advisory Council ("LAC") and Plaintiff's counsel in Gautreaux vs. CHA et. al., (collectively, "the Parties"). The purpose of this Memorandum is to clarify and confirm the understandings of the parties regarding their current intentions relative to the collective efforts proposed to be undertaken in order to revitalize the ABLA Homes Community as contemplated in the HOPE VI Revitalization Plan. The Parties acknowledge and understand that the statements contained in the Memorandum are subject to the approval of the governing body of each Party as may be required by law or by the Charter or rules governing each Party.

Recitals

The Parties propose to undertake a project to redevelop the ABLA Homes ("the Project"). Subject to applicable legal requirements, and recognizing that each participant brings certain resources and responsibilities:

The Parties propose to meet on a regular basis in order to collectively make decisions regarding the Project;

The Parties pledge good faith and best efforts to make each such decision by consensus;

It is the intent of the Parties that each Party will participate in the decision-making process as fully as possible;

It is the intent of the Parties to ensure that no single Party has more control than any other Party in the working group decision-making process;

It is the intent of the Parties to work with a Development Manager for the Project to develop a Master Plan and to work diligently to implement the Master Plan for the benefit of the entire ABLA Homes Community.

THEREFORE, the Parties set forth their respective contributions and responsibilities as follows:

The CHA and Habitat

The Chicago Housing Authority ("CHA") and The Habitat Company, as receiver for CHA's development of non-elderly housing programs ("Habitat") have authorized DOH to issue a Request for Proposals and to manage the process of selecting a Development Manager. However, CHA and Habitat shall remain separately responsible for those duties imposed respectively upon each under the HOPE VI and other public housing capital funding rules and regulations, orders of the Gautreaux court, and all federal, state and local laws.

At the appropriate point in the process, CHA and Habitat will enter into separate contracts with entities and individuals for matters that fall within their various areas of responsibility under the Receivership Order of August 14, 1987 in the Gautreaux case and subsequent orders of the court.

CHA will lease its land to an approved Developer(s) who will be responsible for constructing certain physical improvements. CHA will be responsible for ensuring that applicable HUD and CHA management requirements are met and that relocation services provided for all residents choosing Section 8 relocation will be provided by CHA's private contractors.

City of Chicago Department of Planning and Development ("DPD")

DPD will oversee and coordinate the participation of all City Departments and other agencies of local government involved in the redevelopment process, including but not limited to, the Chicago Board of Education and the Chicago Park District. DPD will also coordinate assistance and communication with other government agencies to ensure the compatibility of various redevelopment projects in the area. DPD will coordinate and fund via the Roosevelt/ Racine TIF the acquisition of private parcels to be redeveloped in the Project, subject to the required process and approval.

City of Chicago Department of Housing ("DOH")

DOH will issue the Request for Proposal ("RFP") for a Development Manager. On behalf of the Parties, DOH will be responsible for coordinating all meetings and conferences regarding the RFP. DOH will provide technical advice regarding the financial structuring for the Project. DOH will coordinate and provide identified funds for the development of homes subject to the required process and approval.

ABLA Local Advisory Council ("LAC")

LAC is the elected representative body of the ABLA residents. The LAC will represent the concerns and interest of the residents to the other Parties and convene meetings of its membership to keep the tenants apprised of all phases of the redevelopment process. The LAC will have two (2) representatives as a part of the working group.

Plaintiff's Counsel in Gautreaux

Plaintiff's counsel in the case of Gautreaux vs. CHA et. al. will participate in the redevelopment process to the end of securing the further order of the court contemplated by the "revitalizing order" of 6/19/98 in the Gautreaux case, including reaching agreement with CHA pursuant to the letter of agreement of 7/25/96 between plaintiff's counsel and CHA respecting a portion of the funding for the HOPE VI Revitalization Plan.

University of Illinois Chicago ("UIC")/Illinois Medical District ("IMD")

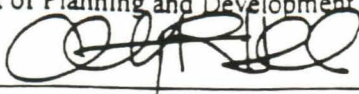
One representative will serve as the liaison for both UIC and IMD. This representative will participate in the redevelopment process to ensure that assistance from both or either entity is properly coordinated. The representative will be responsible for keeping both UIC and IMD apprised of the redevelopment process. UIC and IMD will submit the name(s) of the representative to the Alderman. The Alderman will submit one name to the working group. The working group parties will by consensus approve or reject the Alderman's recommendation.

Other Provisions

This Agreement shall not create a partnership or joint venture among the Parties hereto. There are no third-party beneficiaries of this Agreement and no third-party shall have any rights hereunder.

By executing below the parties indicate that the foregoing correctly sets forth their understanding regarding their respective obligations and contributions to the ABLA Homes revitalization project.

City of Chicago
Department of Planning and Development

BY: 
Commissioner

City of Chicago
Department of Housing

BY: 
Commissioner

Chicago Housing Authority

BY: 
Executive Director

The Habitat Company

BY: 
Vice President

ABLA Local Advisory Council

BY: 
President

Plaintiff's Counsel in Gautreaux vs. CHA et. al.

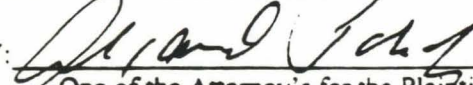
BY: 
One of the Attorney's for the Plaintiff

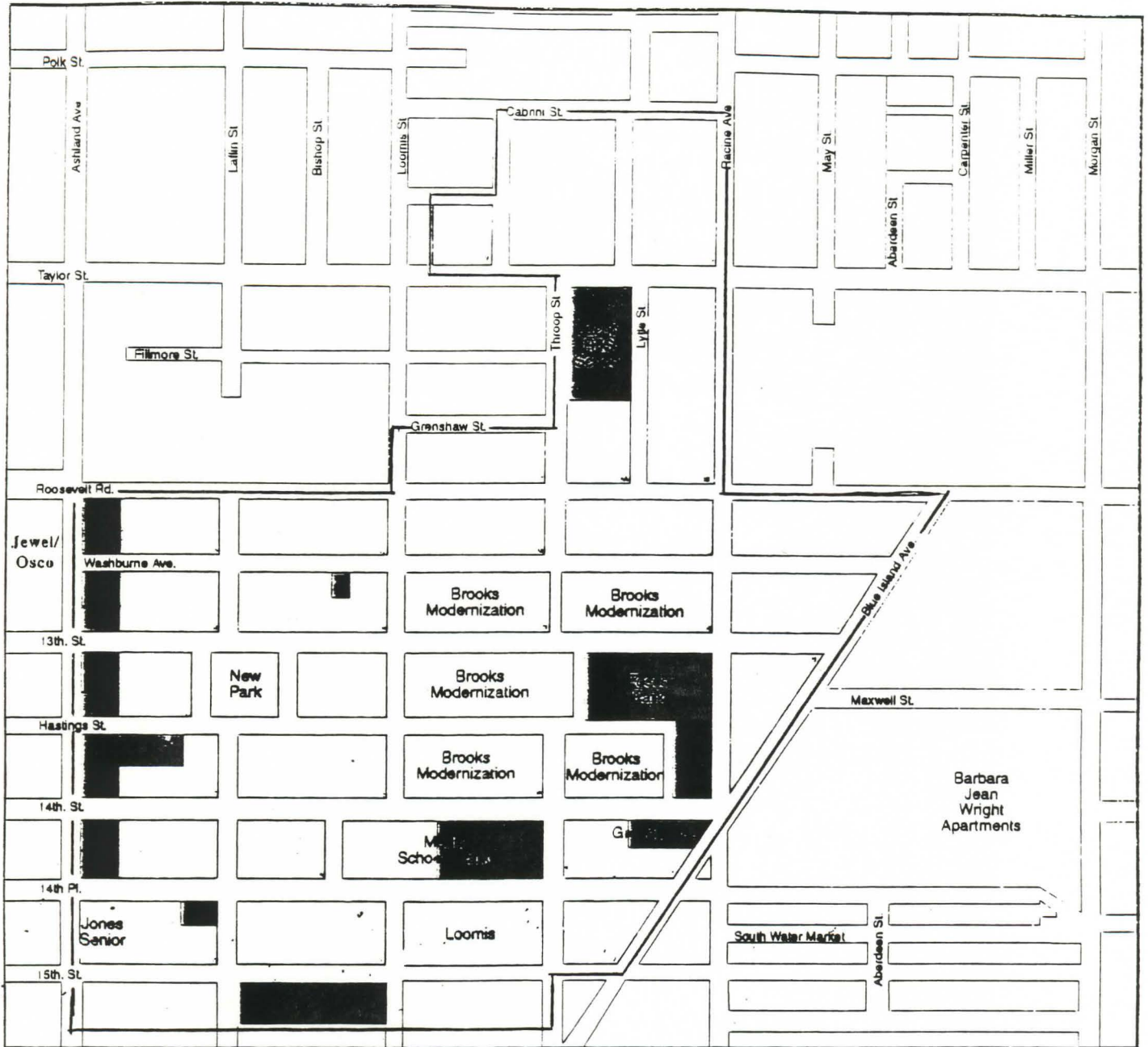
EXHIBIT 4:

ABLA Post-Redevelopment map, showing the Site

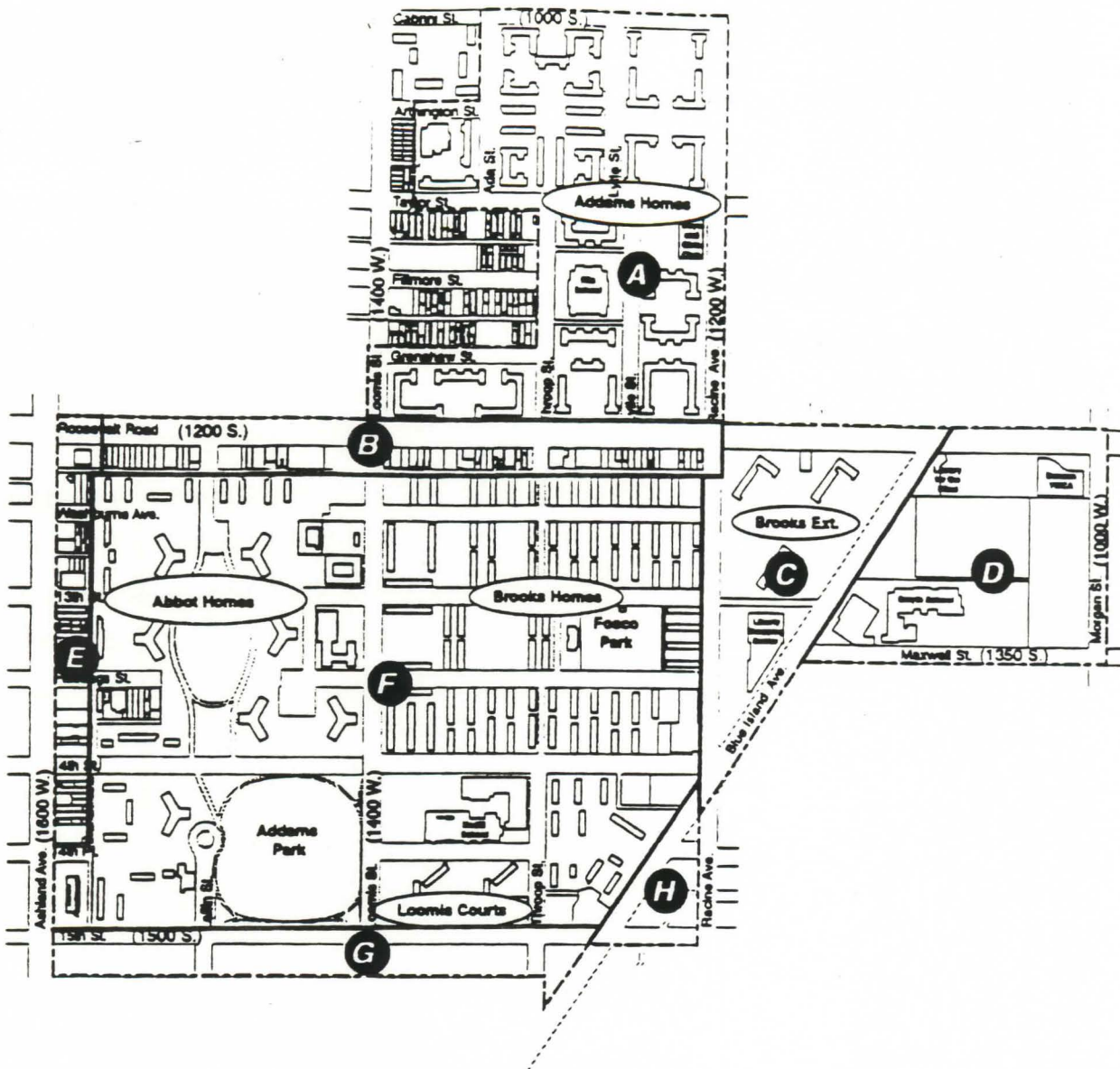
Map of the Tax Increment Financing District designated November 11, 1998

Map showing existing conditions on the Site

ABLA Post - Redevelopment



- Residential
- Mixed Use
- Institutional
- Commercial
- Parks

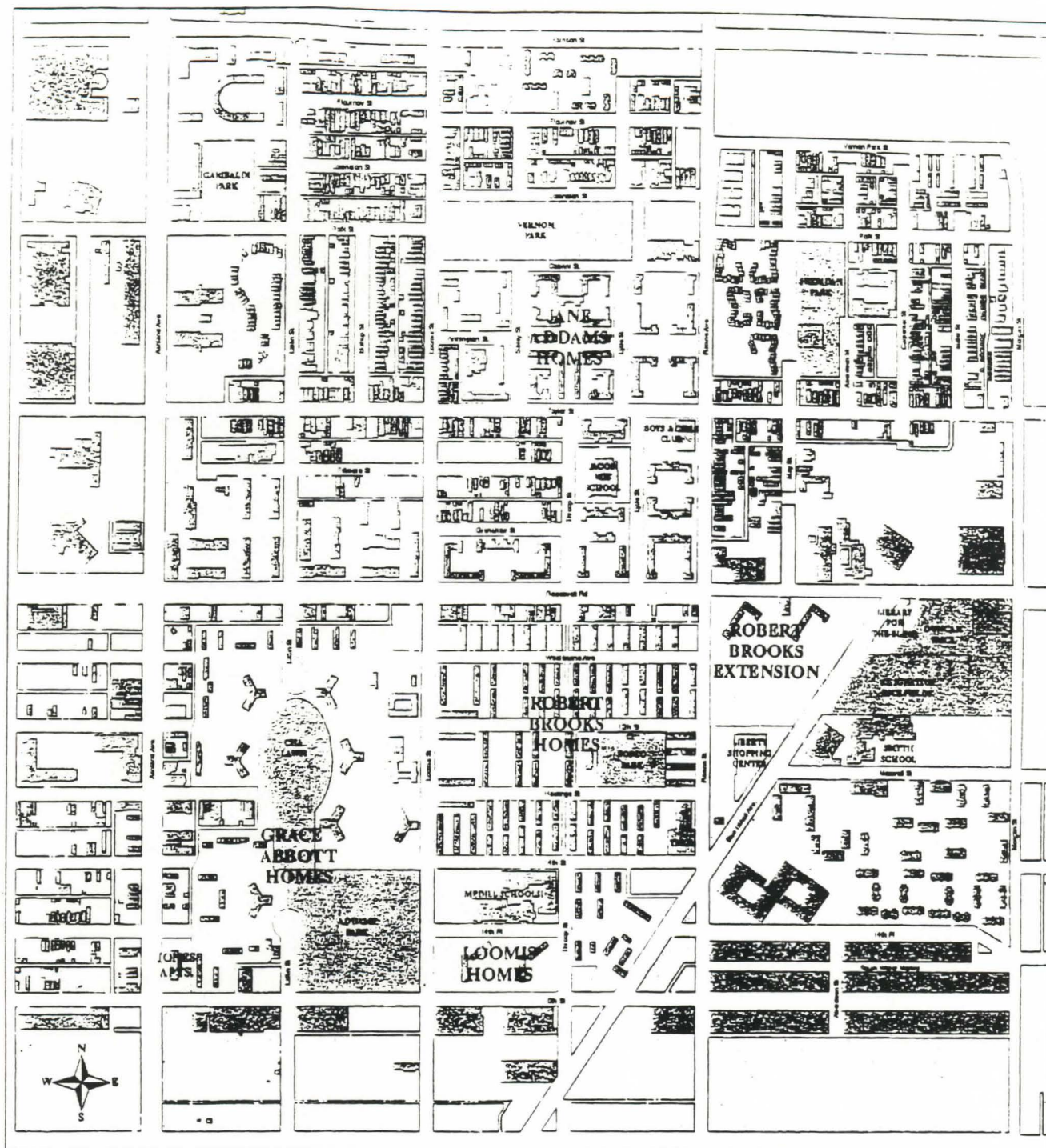


- Project Area Boundary
- Sub-Area Boundary
- Ⓕ Sub-Area

Planing Subareas

Roosevelt Rd. \ Racine Ave.

Chicago, Illinois



ABLA REDEVELOPMENT
 EXISTING CONDITIONS
 JUNE 1998

- ☐ CHA PROPERTY
- ☐ INSTITUTIONS
- ☐ PARKS

HOPE VI GRANT IMPLEMENTATION GUIDEBOOK

INTRODUCTION

HOPE VI is an ever-changing program, guided not by regulation but by language in its appropriations laws from Congress. This feature makes it particularly flexible and affords housing authorities the ability to structure their projects in ways that best meet their needs. Within that flexibility, however, there are certain procedures that all HUD Grantees must follow. This HOPE VI Grant Implementation Guidebook is intended to provide nuts-and-bolts information to HOPE VI Grantees to help them negotiate the Federal rules and procedures associated with carrying out a HOPE VI project.

What this Guidebook does NOT do is provide information regarding important issues such as physical design, financial structuring, occupancy policies, etc. For that type of information, please refer to the Mixed-Finance Guidebook, which is available from the HUD Clearinghouse by calling 800-955-2232. The Mixed-Finance Guidebook is a valuable tool for Grantees and non-Grantee PHAs alike.

Although the chapters of this Guidebook will answer many questions about the administration of your grant, your most important source of information is your HUD Grant Manager in the Office of Public Housing Investments. Please be sure to contact your Grant Manager if you have any questions or need further clarification of any information included here.

You should also be sure to pay special attention to the Glossary of this Guidebook. Not only does it define terms and common acronyms, but it also provides valuable information and cross references, including websites, that will guide you to the best and most current HOPE VI-related information possible.

HOPE VI GRANT IMPLEMENTATION GUIDEBOOK

TABLE OF CONTENTS

1. General HOPE VI Information

HOPE VI Fact Sheet
Glossary of Terms
Program Authority and Funding History
HOPE VI Appropriations
2. HOPE VI Revitalization and Demolition Grant Administration

Budget Guidance
Grantee Financial Instructions
HOPE VI Relocation
3. HOPE VI Revitalization Grant Implementation

HOPE VI Revitalization Grants
Eligible Revitalization Activities and Program Requirements
Revitalization Grant Timeline
Total Development Costs
General Guidance on Resident and Community Involvement
Community and Supportive Services Workplan
Revitalization Grant Reporting Requirements
Revitalization Grant Oversight and Monitoring
4. Mixed-Finance HOPE VI Revitalization Grants

Mixed-Finance Public Housing Development
Mixed-Finance Proposal and Checklist
Mixed-Finance ACC Amendment
Evidentiary Materials and Checklist
HOPE VI Homeownership
5. HOPE VI Demolition Grants

HOPE VI Demolition Grants
Demolition Grant Management and Monitoring
Demolition Grant Closeout Procedures
6. HOPE VI Planning Grants

All HOPE VI Planning Grants
Planning Grant Closeout Procedures

HOPE VI REVITALIZATION GRANT TIMELINE

A. Making the Award

1. The PHA submits a HOPE VI application on the deadline date specified in the year's Notice of Funding Availability (NOFA), as published in the Federal Register. The application includes a HOPE VI Budget (Form HUD 52825-A), on which the applicant requests funds by broad categories called Budget Line Items (BLIs).
2. HUD reviews the application, assigns a score, and checks for completeness. HUD may revise the total budget amount downward, as permitted by the NOFA.
3. HUD reserves the funds to be awarded.
4. HUD notifies the successful applicant of the amount awarded.

B. Orientation

1. A HUD Headquarters Grant Manager is assigned to each new grant.
2. At a Business Meeting held in Washington, HUD provides each successful applicant with:
 - a. a HOPE VI Grant Agreement
 - b. HUD Form 1044 (Assistance Award/Amendment), which is the cover/signature page for the Grant Agreement
 - c. The HOPE VI Guidebook, which includes:
 - (1) Grantee financial instructions necessary to enable the Grantee to access grant funds
 - (2) Grantee reporting requirements
 - (3) the Community and Supportive Services Work Plan
 - (4) HOPE VI budget guidance
 - (5) other guidance on such topics as relocation, and resident involvement, and mixed-finance development
3. The Grantee, HUD Grant Manager, Partners, City officials, HUD Field Office staff, and other interested parties conduct an on-site meeting to discuss the merits of the application, ways it can be improved, and next steps in the implementation process.

C. Grant Execution

1. The Executive Director of the PHA signs and returns four copies of the Form 1044 to HUD.
2. The HUD Field Office, the Grantee, the State, or some other qualified party performs an environmental review of the proposed site.
3. The HUD executes the 1044s and HUD's Office of Finance and Accounting obligates the total amount of the grant funds. The date of HUD's signature is the effective date of the Grant agreement.
4. HUD sends each Grantee a copy of the executed 1044 for its files.
5. HUD places all funds into BLI 2000, which is a holding BLI that the Grantee cannot access.

D. Predevelopment

1. As provided in the Grant Agreement, the Grantee may request predevelopment funds to be made available for drawdown. To request funds, the authorized PHA LOCCS User places a call to the Voice Response System, requesting that grant funds be wire transferred from the U.S. Treasury to the Grantee's designated bank account. Funds are deposited within three business days of the request.
2. The Grantee procures partners in compliance with the requirements of 24 CFR part 85.
3. The Grantee prepares a Revitalization Plan (RP), as required by the requirements of the Grant Agreement. The requirements of the RP will vary from grant to grant, and are provided to each Grantee by the HUD Grant Manager.
4. The HUD Grant Manager reviews the RP and works with the Grantee to make any needed changes or additions.
5. HUD approves the RP via a letter to the Grantee.
6. Within 18 months from the date of RP approval, a general contractor's (or equivalent) agreement must be executed and construction activities commenced.

E. Proposal

1. For each phase of construction the Grantee submits to HUD a Mixed Finance Proposal ("Proposal") in accordance with 24 CFR 941 subpart F. HUD, the Grantee, and its Partners work together to resolve any issues raised, including eligible uses of funds, appropriate roles and responsibilities among the Partners, etc. Revised drafts of the Proposal may be submitted as these issues are resolved.
2. Upon approval of the Proposal, the Grantee and its Partners use it as the basis for conversations with lenders, equity investors, and other Participating Parties to leverage other funds. As a result of these conversations, the Proposal may have to be revised to accommodate investor needs. HUD reviews and provides written approval of significant changes to the Proposal as needed.
3. The Grantee and its partner/developer develop documents required by the Mixed Finance ACC Amendment that controls the use of funds that are used for development. The Mixed Finance ACC Amendment lists evidentiary materials that will become Exhibits to the ACC Amendment when finalized. The Mixed Finance ACC Amendment include a detailed budget (Exhibit F; Exhibit F-1 for the first phase) that indicates all of the activities that are approved and how the HOPE VI funds will be spent. Exhibit G of the Mixed Finance ACC Amendment indicates the ratio of HOPE VI funds to other funds to be spent. All funds must be drawn down in that ratio.
4. HUD reviews the evidentiary materials and pre-approves them as they are submitted.
5. A Closing is held on the financial transaction between Grantee, its Partners and investors for the current phase. All documents are signed between the Grantee, its Partners and investors. Parties to transaction may negotiate some issues at the last minute, changing pre-approved evidentiary materials.
6. The Mixed Finance ACC Amendment may be signed before, during, or after Closing. Since some evidentiary materials may change at Closing, the Mixed Finance ACC Amendment may not be able to be executed until after Closing. If certain aspects of the Mixed Finance ACC Amendment are changed after the document is executed, HUD must approve the changes in writing.

F. Construction

1. Construction begins for current phase.
2. The Grantee requests HUD funds through LOCCS according to the ratio set forth in the approved Mixed Finance ACC Amendment. Once the funds have been received by the Grantee, the PHA may pay for incurred expenses directly, or make a payment to a designated escrow agent, who will collect payments from all sources and make disbursements to contractors.
3. For each subsequent phase, the Grantee submits a new Proposal or amendment to the existing Mixed Finance Full Proposal which indicates changes from one phase to the other (e.g., the identification of partners in Exhibit B of the Mixed Finance ACC Amendment, the budget breakout in Exhibit F, the draw ratio in Exhibit G).
4. Evidentiary materials are prepared for each new phase.
5. HUD and the Grantee execute a subsequent Mixed Finance ACC Amendment or an amendment to the existing document.
6. A Closing is held with other funders.
7. HUD spreads the HOPE VI funds associated with the next phase from BLI 2000 into the appropriate BLIs, making them available for drawdown by the Grantee.
8. Construction must be completed within 48 months from the approval of the RP.

G. Reporting

1. Every quarter, the Grantee provides HUD with a Quarterly Report which provides detailed information about the progress of the grant, expenditures made, and residents served.
2. Once construction is completed, the Grantee provides HUD with required documentation for closeout. After audit, any unspent portion of the grant is recaptured.