

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 66 C 1459
vs.	)	
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

**JOINT MOTION OF PLAINTIFFS AND DEFENDANT
CHICAGO HOUSING AUTHORITY TO AMEND AN ORDER
WAIVING THE RESTRICTION ON HOUSING FAMILIES WITH CHILDREN
IN PUBLIC HOUSING UNITS ABOVE THE THIRD FLOOR FOR
SPECIFIC DEVELOPMENTS IN THE NEAR NORTH REVITALIZING AREA**

The plaintiffs and defendant Chicago Housing Authority ("CHA"), with the support of Daniel E. Levin and The Habitat Company LLC (jointly, the "Receiver"), respectfully move this Court to amend its September 25, 2006 order waiving the *Gautreaux* restriction on housing families with children in public housing units above the third floor to allow an additional five family public housing units in specific buildings.

In support of this motion, the parties state as follows:

1. On July 1, 1969, this Court entered an order which provided that, "CHA shall not concentrate large numbers of Dwelling Units (CHA public housing units) in or near a single location." The order provided specifically that,

"No Dwelling Units shall be provided above the third story in any structure except for families without children...."

The order also provided that, the Court, "by order," could give its approval to developments that were "specifically designed to assist in achieving the purposes" of the *Gautreaux* order. 304 F. Supp. 736, 739 (N.D. Ill. 1969).

2. On November 6, 1997, this Court entered an order designating a Near North Revitalizing Area and Authorizing the Acquisition of Public Housing Units Therein. On September 12, 2000, this Court entered an order reclassifying Census tracts 0806 and 0807 of the City of Chicago as General Areas and expanding the NNRA to include more of the Cabrini neighborhood and to allow for the development of at least 700 public housing units therein. Both orders acknowledged the revitalizing nature of the Cabrini neighborhood, and its strong potential for providing desegregated housing opportunities to plaintiff class families.

3. The subject of this motion is an order this Court entered September 25, 2006, waiving the restriction on housing families with children in public housing units above the third story for three specified buildings in the NNRA: 437 West Division, 511 West Division, and 545 West Division. See Order, attached as Exhibit A. These buildings are part of the first phase of development at the new mixed-income development Parkside of Old Town.

4. In addition to these buildings, the first phase of Parkside of Old Town includes nine buildings of low-rise townhomes, some of which are public housing units.

5. Construction of the three above specified mid-rise buildings and seven of the nine townhome buildings is complete. Due to insufficient pre-sales, however, the developer for Parkside of Old Town, Holsten Real Estate Development Corporation ("Developer"), is unable to begin construction on two of the townhome buildings, thus

delaying transfer and occupancy of six public housing units, causing the developer to miss deadlines in its financing agreements and also delaying relief for *Gautreaux* families.

6. To enable the Developer to comply with its financing agreements and to provide relief for *Gautreaux* families, the plaintiffs, CHA, the Receiver and the Developer have come to an agreement to designate five additional units as public housing in two of the mid-rise buildings specified in the Court's September 25, 2006 order: 437 West Division and 511 West Division. (The sixth will be substituted with a townhome unit in one of the townhome buildings already constructed).

7. As a consequence, the total number of public housing units in the mid-rise buildings would increase from the sixty-seven initially specified in the Court's September 25, 2006 order to seventy-two.

8. Four of the five additional units are planned to be located above the third floor. Currently, there are fifty-seven public housing units located above the third floor.

9. The parties and the Receiver believe that housing five additional CHA families in these buildings, although four are planned to be located above the third floor, meets the goal of creating mixed-income, desegregated housing opportunities for all of the reasons stated in the original joint motion (Exhibit B) as well as for the following reasons:

A) The addition of five public housing units to these buildings will not result in concentrations of public housing units. The additional units will be dispersed among affordable and market rate units, and public housing units will account for no more than 25% of the units on any floor.

B) Permitting the Developer to substitute the five units in the mid-rises for the five units in the townhome buildings will hasten relief for plaintiff class families.

WHEREFORE, plaintiffs and the defendant CHA request the Court to enter an order in the form attached hereto, permitting an additional five non-elderly public housing units to be developed and occupied in accordance with the tenant assignment requirements in this Court's September 25, 2006 order in the above specified mid-rise buildings in the Near North Revitalizing Area.

July __, 2009

Respectfully submitted,

/s/ Julie Elena Brown
One of the Attorneys for Plaintiffs

Alexander Polikoff
Julie Elena Brown
Business and Professional People for the
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25 East Washington Street, Suite 1515
Chicago, Illinois 60602

Attorneys for Plaintiffs

/s/ Scott Ammarell
Attorney for the Chicago Housing Authority

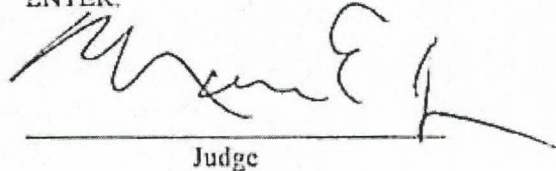
Scott Ammarell, General Counsel
Chicago Housing Authority
60 East Van Buren Street
Chicago, Illinois 60605

Attorney for Defendant CHA

Now, therefore, IT IS HEREBY ORDERED:

The July 1, 1969 Judgment Order's prohibition on constructing public housing dwelling units above the third story for families with children is hereby modified to permit CHA and the Receiver, previously appointed by the Court, to develop non-elderly public housing on behalf of the defendant, to occupy sixty-seven public housing units in Parkside of Old Town in the 437 West Division, 511 West Division, and 545 West Division buildings and to house families with children therein. This waiver applies only to the buildings described herein. The general restriction on housing families in public housing units above the third story remains in effect unless otherwise ordered by this Court. Further, the Chicago Housing Authority Tenant Selection and Assignment Plan, originally approved by Order of this Court on November 24, 1969, and amended by further orders dated September 12, 1983, June 9, 1989, October 1, 1990, October 6, 1994, August 14, 1995, July 20, 2001, August 29, 2002, March 24, 2003, August 5, 2003, November 4, 2003, and November 22, 2005, is hereby amended to require that the sixty-seven public housing units in buildings located at 437 West Division, 511 West Division, and 545 West Division be made available to eligible families according to the priorities set forth in the Cabrini-Green Consent Decree approved by this Court on September 12, 2000, provided, however, that such public housing units are and remain well distributed among the affordable and market rate for-sale units in such buildings.

ENTER:



Judge

Dated: 9/25/06

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

Dorothy Gautreaux, et al.	)	
	)	66 C 1459
Plaintiffs,	)	
	)	
vs.	)	
	)	Hon. Marvin E. Aspen
	)	
CHICAGO HOUSING AUTHORITY, et. al.,	)	
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Defendants.	)	
	)	
	)	

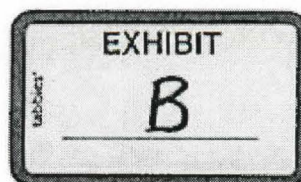
JOINT MOTION OF PLAINTIFFS AND DEFENDANT CHICAGO HOUSING
AUTHORITY FOR AN ORDER WAIVING THE RESTRICTION ON HOUSING
FAMILIES WITH CHILDREN IN PUBLIC HOUSING UNITS ABOVE THE THIRD
FLOOR FOR SPECIFIC DEVELOPMENTS IN THE NEAR NORTH REVITALIZING
AREA

The plaintiffs and defendant Chicago Housing Authority ("CHA"), with the support of Daniel E. Levin and The Habitat Company LLC (the "Receiver"), respectfully move this Court to enter an order waiving the *Gautreaux* restriction on housing families with children in public housing units above the third floor for specific developments in the Near North Revitalizing Area (NNRA).

In support of this motion, the parties state as follows:

1. On July 1, 1969, this Court entered an order which provided that, "CHA shall not concentrate large numbers of Dwelling Units (CHA public housing units) in or near a single location."

The order provided specifically that,



"No Dwelling Units shall be provided above the third story in any structure except for families without children..."

The order also provided that, the Court, "by order," could give its approval to developments that were "specifically designed to assist in achieving the purposes" of the Gautreaux order. 304 F. Supp. 736, 739 (N.D. Ill. 1969).

2. On November 6, 1997, this Court entered an order designating a Near North Revitalizing Area and Authorizing the Acquisition of Public Housing Units Therein. On September 12, 2000, this Court entered an order reclassifying Census tracts 0806 and 0807 of the City of Chicago as General Areas and expanding the NNRA to include more of the Cabrini neighborhood and to allow for the development of at least 700 public housing units therein. Both orders acknowledged the revitalizing nature of the Cabrini neighborhood, and its strong potential for providing desegregated housing opportunities to plaintiff class families.
3. On September 12, 2000, this Court also entered an order approving the consent decree between the Cabrini-Green Local Advisory Council, Terry Peterson and the Chicago Housing Authority, and Richard M. Daley and the City of Chicago. Cabrini Green Local Advisory Council v. Chicago Housing Authority et. al. 96 C 6949. This consent decree acts as a "full and final settlement of all claims alleged" in litigation between the five parties over the "design and implementation of the Near North Redevelopment Initiative (NNRI) and HOPE VI revitalization plans for Cabrini-Green." Cabrini Consent Decree, p. 1. The consent decree mandates the construction of at least 700 replacement public housing units and 270

affordable units. Furthermore, Section II.D. Replacement Housing, Income Mix, states that, "The income mix for all housing developed pursuant to this consent decree on City- or CHA-owned land shall be as follows: 50% market rate, 20% affordable (as defined below), and 30% public housing.... Other land developed in the HOPE VI Planning Area on land that is not City-or CHA-owned may have other respective percentages of market rate, affordable, and/or public housing contributing to the overall goal of a mixed-income community." Cabrini Consent Decree, pp. 9-10.

4. As described in the attached affidavit from Daniel E. Levin, the Receiver and CHA has been working diligently to provide replacement housing for Cabrini families in a variety of privately owned, mixed-income developments within and near the NNRA. A number of mid-rise buildings have been proposed in order to ensure that the total number of 700 public housing units can be reached and in order to produce housing that is consistent with the surrounding area and neighborhood. Three specific buildings in the first phase of the Parkside of Old Town redevelopment are proposed to house public housing families with children above the third floor as follows:

- 1) Building 1 – Block 4 – 437 West Division

- 122-unit mid-rise condominium building
- 9-stories
- 8 one-bedroom and 17 two-bedroom public housing units dispersed throughout the mid-rise building

- 2) Building 3 – Block 2 – 511 West Division

- 72-unit mid-rise condominium building

- 8-stories
- 4 one-bedroom and 8 two-bedroom public housing units dispersed throughout the mid-rise building

3) Building 4 – Block 1 – 545 West Division

- 105-unit mid-rise rental building
- 8-stories
- 4 one-bedroom and 26 two-bedroom public housing units dispersed throughout the mid-rise building

5. The parties and the Receiver believe that housing CHA families in these developments, albeit some above the third floor, meets the goal of creating mixed-income, desegregated housing opportunities for the plaintiff class for the following reasons:

A) Permitting these mid-rise buildings allows development at slightly higher densities than would otherwise be the case, which will make it easier, given scarce land, to reach the consent decree requirement of 700 replacement public housing units.

B) Concentrations of families in public housing units will not occur within these buildings.

In each building, public housing units will be dispersed among affordable and market rate units. Though some public housing families with children may be housed above the third floor, they will be neighbors with market-rate families and other working families, thereby providing the plaintiff class families with mixed-income housing opportunities which may be racially mixed as well. In addition, these buildings, in their size and type, fit well with the architecture and housing types found in the surrounding communities and thus help to ensure that public housing will be “rewoven” into the fabric of these

communities, ending decades of physical isolation. Given the affluent and vibrant economic context surrounding Cabrini-Green, the use of a limited number of mid-rises in the area will not jeopardize the effort to provide plaintiff class families with racially desegregated, mixed-income housing opportunities.

C) This Court has approved the area under consideration as a Revitalizing Area. In approving this motion, the Court received significant evidence about the strength and vitality of the surrounding area and the potential for strong development in Cabrini-Green. The NNRA has undergone significant public and private redevelopment in recent years. In addition, the neighborhoods surrounding the NNRA are three of the wealthiest in the city and provide quality housing, amenities, jobs, retail services, good schools, and outstanding cultural and recreational opportunities. The attached affidavit from Daniel E. Levin provides greater detail about the strength and vitality of the Near North Revitalizing Area and the surrounding communities.

WHEREFORE, plaintiffs, and the defendant Chicago Housing Authority, request the Court to enter an order, in the form attached hereto, waiving the restriction on housing families with children in public housing units above the third story of any structure for the above specified buildings in the Near North Revitalizing Area.

September 21, 2006

Respectfully Submitted,

/s/ Alexander Polikoff

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/s/ Gail Niemann

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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	)	
Plaintiffs,	)	
	)	No. 66 C 1459
vs.	)	
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY, et al.,	)	
	)	
Defendants.	)	

AGREED ORDER

This matter coming to be heard on the Joint Motion of Plaintiffs and Defendant Chicago Housing Authority, for an Order amending this Court's September 25, 2006 order waiving the *Gautreaux* restriction on housing families with children in public housing units above the third floor to allow an additional five family public housing units in specific buildings; and

The Court having heard from the parties concerning the proposed order, including that the Receiver, Daniel E. Levin and The Habitat Company LLC, supports the Joint Motion; and

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

The Court being authorized to issue orders in this case "designed . . . to achieve results consistent with [the Judgment Order]" (304 F. Supp. 736, 741); and

The Court being of the view, based on the representations of the Parties and the Receiver, that the proposal to allow an additional five family public housing units in two buildings, designated 437 West Division and 511 West Division, four of which are planned to be located

above the third floor, is designed to achieve results consistent with the Judgment Order previously entered in this cause;

Now, therefore, IT IS HEREBY ORDERED:

This Court's September 25, 2006 order waiving the *Gautreaux* restriction on housing families with children in public housing units above the third floor is hereby modified to permit the Receiver, previously appointed by the Court, to designate an additional five units as family public housing units in Parkside of Old Town in the 437 West Division and 511 West Division buildings, and to allow those units to be occupied by families with children in accordance with the tenant assignment requirements in this Court's September 25, 2006 order. This waiver applies only to the buildings described herein. The general restriction on housing families in public housing units above the third story remains in effect unless otherwise ordered by this Court.

ENTER:

Judge

Dated: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	
CHICAGO HOUSING AUTHORITY, et al.,	)	Hon. Marvin E. Aspen
	)	
Defendants.	)	

NOTICE OF MOTION

To: Attached List

PLEASE TAKE NOTICE that on Thursday, July 16, 2009, at 10:30 a.m., we shall appear before the Honorable Marvin E. Aspen, Judge of the United States District Court for the Northern District of Illinois, Eastern Division, and then and there present the **Joint Motion of Plaintiffs and Defendant Chicago Housing Authority to Amend an Order Waiving the Restriction on Housing Families with Children in Public Housing Units about the Third Floor for Specific Developments in the Near North Revitalizing Area**, a copy of which is attached and hereby served upon you.

/s/ Julie Elena Brown
One of the Attorneys for Plaintiffs

July 13, 2009

Alexander Polikoff
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312- 641-5570; fax: 312-641-5454

CERTIFICATE OF SERVICE

I, Julie Elena Brown, an attorney, certify that on July 13, 2009, I caused copies of the foregoing Notice and Motion to be served electronically upon the persons whose names appear on the attached service list.

/s/ Julie Elena Brown

Julie Elena Brown

SERVICE LIST

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