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May 19, 2010

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Via Messenger

Hon. Marvin E. Aspen
U.S. District Court, Northern District
of Illinois, Eastern Division
219 South Dearborn, Room 2568
Chicago, IL 60604

Re: Gautreaux

Dear Judge Aspen:

Enclosed is a courtesy copy of a joint Motion to Enter Receivership Transition Order which was filed yesterday on behalf of the Receiver and the Chicago Housing Authority. This motion is set for presentment at the previously scheduled status conference tomorrow at 10:30 a.m.

Please call if you have any questions.

Sincerely,



Edward W. Feldman

EWF/co

cc: Alex Polikoff
Julie Brown
Thomas Johnson
Scott Ammarell

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,	)	Judge Aspen
	)	
Defendant.	)	

RECEIVERSHIP TRANSITION ORDER

This matter comes to the Court pursuant to agreement of the parties, following the suggestion by the Court that the parties develop a plan for the termination of the receivership of the Chicago Housing Authority (the "CHA") and the restoration of the powers and duties regarding development of non-elderly public housing in a responsible manner to the CHA. Plaintiffs, the CHA and the Receiver (Daniel E. Levin and The Habitat Company LLC) have engaged in extensive discussions among themselves and with the Court, and the CHA and the Receiver have agreed to the entry of this Order. Based upon that agreement, the prior discussions with the Court concerning this matter, the presentations of the parties, and the Court's knowledge of the record and of the history of the Receivership since its inception in 1987, the Court makes the following findings of fact and conclusions of law:

A. On August 14, 1987, the Court entered an uncontested Order appointing the Receiver ("Receivership Order"). That Order provided in part that

"[t]he 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." Receivership Order ¶2. It defined the "scattered site program" to include "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459." *Id.* at 2, Finding (C).

B. Since August 1987, the Receiver has developed directly, or overseen the development of, over 4,000 units of public housing. The Receiver has gained substantial expertise in mixed-income public housing development in a manner consistent with the desegregation remedies in this lawsuit, including development of public housing within complex and large developments of public and private residential housing and commercial space, financed by a diverse mix of governmental funding, tax credits, private debt and private equity.

C. In recent years, the working relationship between and among the plaintiffs, the CHA and the Receiver has substantially improved and has become collaborative.

D. The Court is mindful of decisions by the United States Supreme Court and Court of Appeals for the Seventh Circuit stating that a federal court should be respectful of the independence of local governmental entities and should not prolong unduly its involvement in the management and affairs of local government.

E. The Court finds that substantial progress has been made to ameliorate the conditions that warranted the Receivership and that a responsible transition

should occur to restore to the CHA the powers and functions that had been transferred to the Receiver by the Receivership Order.

F. There are many ongoing and planned developments that include public housing in the City of Chicago in which the Receiver has been deeply involved, garnered substantial knowledge and brought substantial skills. Currently, the Receiver is actively involved in several ongoing development projects in different areas of Chicago, such as, Cabrini (Parkside), ABLA (Roosevelt Square), Taylor (Legends South), Madden-Wells (Oakwood Shores), Stateway (Park Boulevard), Horner (West Haven), Rockwell (West End), Maplewood Courts, Lathrop, Ogden North, and the Property Investment Initiative. The parties and the Receiver have determined that time is required to effectively transfer to the CHA the acquired knowledge and experience of the Receiver respecting these developments and for the CHA to develop the capacity to assume control over the full range of responsibilities that the Receiver has been fulfilling. The parties properly desire to retain the benefits of the Receiver's expertise, capacity and skills during this transition to provide continuity and avoid needless disruption to the objectives of this lawsuit. An immediate termination of the Receivership without a deliberate and comprehensive transition plan creates a risk of harm to the parties and the public interest, including the desegregation remedies in this lawsuit.

G. The parties have reached agreement regarding a Receivership Transition Plan ("Plan"), a copy of which is attached as Exhibit A. Pursuant to this agreed Plan, the CHA and the Receiver would "begin transition of the Receivership responsibilities effective June 1, 2010 and to conclude on May 31, 2013." Exhibit A

at 2. This Plan would satisfy the multiple objectives of diminishing (with the prospect of ending) the Court's involvement in the operations of the CHA, allowing an orderly transition to occur, and permitting the CHA and the public to continue to benefit from the Receiver's expertise, all while furthering the desegregation remedies entered by the Court. The Court has reviewed the attached Plan and finds it reasonable and consistent in advancing the Court's desegregation remedies.

H. To facilitate the Court's and the plaintiffs' ability to monitor CHA's continued compliance with the 1969 Judgment Order (as amended), the quarterly reporting currently performed by the Receiver should continue through the completion of the Plan, with the additional requirement that the reports shall include narrative reporting on the progress of the transition of responsibilities pursuant to the Plan and on any agreed-upon adjustments to the Plan as it is implemented.

WHEREFORE, to effectuate the restoration of development authority to the CHA and to accomplish a responsible transition consistent with continuing to advance the remedies in this case,

IT IS HEREBY ORDERED:

1. Upon entry of this Order, the CHA and The Habitat Company LLC ("Habitat") shall implement the transition of responsibilities pursuant to the Plan. Effective June 1, 2010 ("Effective Date"), and subject to paragraph 2 below, this Order shall be deemed to supersede the Receivership Order and remain effective through May 31, 2013. On the Effective Date, the powers of CHA transferred to the Receiver by the Receivership Order will revert in full to the CHA, except that

Habitat shall thenceforth serve as "Gautreaux Development Manager" ("GDM") and shall have and exercise those powers, duties and responsibilities set forth below and in the Plan, including the power to enter into contracts with third parties pursuant to the Plan. As they gain experience with the implementation of the Plan, the parties and the GDM may agree to modifications of the Plan without prior Court approval, but the GDM shall advise the Court of such modifications in its quarterly reports pursuant to paragraph 5 below.

2. Habitat, as the GDM, shall continue to have the status of officer and agent of this Court, and as such shall continue to be vested with such immunities as previously vested in it by the Receivership Order and by law. This paragraph shall survive the expiration of this Order with respect to any claims or matters arising with respect to the GDM's actions or role prior to its expiration.

3. As provided in paragraph 4 of the Receivership Order, the GDM shall continue to have no obligation to make any expenditure of its own funds. Rather, the GDM will continue to administer and disburse funds provided by HUD and/or CHA in accordance with procedures agreed upon as needed between or among HUD, the CHA and the GDM. The GDM shall continue to keep separate accounts for costs incurred in connection with the projects in which it is involved under this Order and the Plan, provided, however, that responsibilities for maintaining such accounts may be transferred to the CHA as provided in the Plan. The GDM shall not be responsible for the payment of any costs or performance of any obligations not specifically authorized by the GDM in writing.

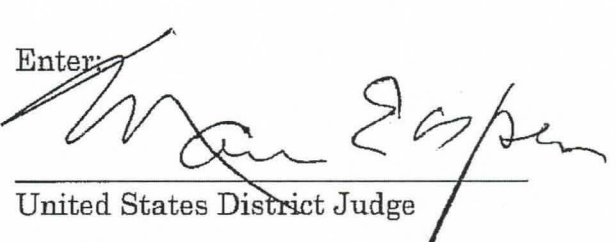
4. The GDM shall continue to be compensated in the same manner as provided in the Court's orders of November 30, 2000 and August 7, 2001 with respect to all developments in which the GDM participates under the Plan.

5. The GDM shall continue to provide quarterly reports respecting the status and implementation of the development of new, non-elderly public housing pursuant to the Plan and this Order, with the additional requirement that the reports shall include narrative reporting on the progress of the transition of responsibilities pursuant to the Plan and on any agreed-upon adjustments to the Plan as it is implemented.

6. Except as specifically provided in this Order, this Court's orders previously entered, as modified, remain in full force and effect. The Court continues to retain jurisdiction of this matter for all purposes, including enforcement or modification of this or other orders.

7. This Order shall be effective until May 31, 2013. As of that date, the CHA may perform or cause such other party as it may determine to perform those functions provided by the GDM under the Plan in such manner as the CHA may determine in its sole discretion, it being agreed that Habitat shall be free to seek to provide such functions in the future.

Enter:


United States District Judge

Dated: May 20, 2010

EXHIBIT A

**CHICAGO HOUSING AUTHORITY
Receivership Transition Plan
May 20, 2010**

On July 1, 1969, the United States District Court for the Northern District of Illinois ("the Court") entered a Judgment Order in the case of Dorothy Gautreaux et al., Plaintiffs, versus Chicago Housing Authority, et al., Defendants, Civil Action No. 66 C 1459 ("Gautreaux Order"). The Order directed the Chicago Housing Authority ("CHA") to affirmatively administer its public housing system in a manner that would disestablish developments segregated based upon race, resulting from CHA's site selection and tenant assignment procedures, including:

- Requiring CHA to plan the design, development, and occupancy of Dwelling Units in conformance with the order (Article III);
- Limiting the concentration of large numbers of Dwelling Units (Article IV);
- Modifying CHA's tenant assignment policy (Article V; CHA Board Resolution No. 68-CHA-232);
- Modifying CHA's tenant assignment plan (Article VI); and,
- Requiring the reporting of information related to each location with one or more Dwelling Units approved by CHA, and to demonstrate compliance semi-annually with the Order (Article VII).

After it was determined that CHA needed assistance in sufficiently complying with the Gautreaux Order, a Receiver was appointed on August 14, 1987, and an Order was entered appointing Daniel E. Levin ("Levin") and The Habitat Company, subsequently amended to substitute The Habitat Company LLC for The Habitat Company ("Habitat"), jointly as Receiver to develop and administer CHA's scattered site program in compliance with the Gautreaux Order. The scattered site program refers to CHA development programs and vacant sites listed in Exhibit A of the Order, in addition to the programs numbered II 2-096, II 2-098, II 2-103 – II 2-113, and all CHA non-elderly public housing development programs authorized by HUD during the pendency of the Gautreaux Order.

Between 1987 and the present, Levin and Habitat have faithfully discharged their duties and obligations as the Court appointed Receiver. Over that time, Levin, Habitat, and CHA, collectively, have developed policies and practices in conformance with the Gautreaux Order. As a result, the Court has recently considered whether the Receivership remained necessary and requested that CHA and Receiver develop a proposed plan to end the Receivership and return all associated responsibilities to CHA. In response, a joint Task Force was formed with representation from both CHA and Habitat to collaboratively develop a Receivership Transition Plan.

Together, CHA and Habitat have developed this joint proposal which comprehensively addresses all aspects of the duties and responsibilities of the Receivership and Receiver. The Receivership function is comprised of five primary work flows:

- I. Program Management
- II. Transaction Management
- III. Construction Management
- IV. Financial Management
- V. Acquisition Management

For each of the work flows, the major activities and their respective custodians – CHA, Receiver, and other related parties – were identified. The parties determined that the majority of Receivership activities are currently being performed by both CHA and Receiver. As a result, Receivership transition planning efforts focused on those activities for which Receiver is sole or primary custodian, and emphasized key transition issues and their correlative resolutions. Program Management is the core work flow of the Receivership function. Program Management deals with each development's primary objectives and parameters, and culminates in the development of a Master Plan. The outcomes of Program Management lay the foundation for each development's compliance with the Gautreaux Order.

CHA and Receiver fully recognize the impact that termination of the Receivership may have on stakeholders to the Gautreaux judgment. Accordingly, CHA and Receiver have included counsel for the Gautreaux plaintiffs in the planning

CHICAGO HOUSING AUTHORITY
Receivership Transition Plan
May 20, 2010

and analysis of the proposed Master Transition Plan. Counsel for the Gautreaux plaintiffs has had an opportunity to review and comment on the specifics of the proposed plan.

It is the recommendation of CHA and Receiver to begin transition of the Receivership responsibilities effective June 1, 2010 and to conclude on May 31, 2013. An overview of the Receivership Transition Plan for each work flow is included below.

Primary Workflows – Program, Transaction, Construction, Financial, and Acquisition Management

Program Management

Program Management is the function most closely associated with the tenets of the Gautreaux Order. Program Management involves consensus-building with appropriate community stakeholders, city officials, and HUD; Procurement and management of Developers; Negotiation, approval, and continual development of the Master Plan, including determination of income mix and other critical factors in conformance with Gautreaux standards, and ancillary plans (including, but not limited to: Phasing, Public Utilities, Community and Social Services Plans); Setting and adhering to Plan budgets; and, Regular reporting to HUD. During the Receivership, Habitat was intensely involved in brokering confidential discussions with community stakeholders such as Gautreaux Plaintiffs, as well as, other advocates and interested parties, to build consensus on Program Management issues. During the transition, CHA will be included in these conversations to achieve greater transparency and the deliberation of issues through shared, open discussions. Inclusion of the CHA will become the norm; however, this does not preclude private conversations between Habitat and stakeholders if the need arises, with the goal that CHA will be brought into the discussions at the earliest possible time in support of the agreed upon collaborative approach. Due to intensive stakeholder involvement and the consensus-building nature of Program Management, full knowledge transfer and conversion of the Program Management functions will take the longest of the primary four workflows to fully transition from Habitat to CHA. It is anticipated that, for the full Receivership Transition Process period, Habitat will continue to participate in both active and knowledge transfer advisory roles. The detailed transition of this process is set forth in the attached Master Transition Plan. The Receiver and CHA anticipate that the final transition can be completed by May 31, 2013.

Transaction Management

Transaction Management is a function that CHA has broad familiarity with, as it has been successfully managing transactions for non-Receivership programs and activities since the Authority's inception. Moreover, both CHA and Habitat have been jointly and actively involved in primary Transaction activities during the Receivership, so transition issues are anticipated to be minimal. However, Habitat has been the sole party responsible for certain Transaction Management activities, such as Pre-Development Loan preparation and leading negotiations with Gautreaux plaintiffs, thus effective knowledge transfer will be critical to ensuring that these activities are smoothly transitioned to CHA. Moreover, Habitat's legal representation and advisor, Reno and Cavanaugh, PLLC, has been, and will continue to be, closely aligned with the legal processes around securing HUD approval for projects and issuing formal responses to HUD comments, collating evidentiaries, and preparing other legal documentation, such as Affidavits. For deals that close in calendar year 2010, CHA will engage in knowledge transfer with Habitat, while Habitat will maintain its active Transaction Management role. By 2011, CHA will be the party primarily responsible for Transaction Management and Habitat will offer advisory guidance to further the transition. The detailed transition of this process is set forth in the attached Master Transition Plan. The Receiver and CHA anticipate that the final transition can be completed by December 31, 2011.

CHICAGO HOUSING AUTHORITY
Receivership Transition Plan
May 20, 2010

Construction Management

Construction Management is another function that CHA has widely-applied expertise in, as it has been successfully managing construction, both in concert with Habitat on Receivership projects, as well as independently for non-Receivership projects. This collaboration with Habitat during the Receivership enables the transition of Construction Management activities to be more seamless. The focus areas for transition will be: Securing HUD approval of Design and Development drawings, Permit Drawing Review, and Conduction of the Cost Review. It is important to note that other parties, such as the Chicago Department of Community Development ("DCD"), are actively engaged in certain phases of Construction Management, namely the officiating of pre-construction conferences. In order to ensure the seamless transition, CHA will need to acquire new hires with the requisite construction management experience. For properties that close in calendar year 2010, Habitat will retain primary responsibility for Construction Management activities to the end of development when the final unit of that Phase is delivered for public housing occupancy. During 2010, CHA will engage in knowledge transfer with Habitat, while maintaining its collaborative Construction Management role. CHA will be the party primarily responsible for Construction Management of projects that break ground after January 1, 2011 and Habitat will offer advisory guidance to further the transition. The detailed transition of this process is set forth in the attached Master Transition Plan. The Receiver and CHA anticipate that the final transition can be completed by December 31, 2011.

Financial Management

Financial Management is another area in which CHA has significant expertise, both independently on non-Receivership projects, and in concert with Habitat throughout the Receivership. In developing the overall Receivership Transition Process, special attention was paid to identifying the activities that Habitat has been solely responsible for (Developing the Master Budget, Procurement Budget, and Administrative and Planning Budget and obtaining HUD approval thereof) and the tools and methodologies used to capture the proper information (Yardi). Financial functions previously performed by Habitat will be absorbed into the usual CHA financial management systems, processes and procedures (Lawson). Habitat will continue to manage the payout and closeout of HOPE VI funds that are already under its control, as the vast majority of those funds have been expended. The detailed transition of this process is set forth in the attached Master Transition Plan. The Receiver and CHA anticipate that the final transition can be completed in 2011.

HOPE VI Management

Habitat has been solely responsible for HOPE VI financial management activities since the Receivership was enacted. It is anticipated that the current HOPE VI awards of approximately \$258 million will be 90% expended by the close of 2010 (exclusive of the new \$20 million grant for Stateway Gardens). During 2010, CHA will engage in knowledge transfer with Habitat; and in 2011, with Habitat advising, CHA will assume the lead role in managing the Stateway Gardens award. As CHA has been previously responsible for applying for rounds of HOPE VI funding, it is expected that CHA will apply to HUD for future available rounds of funding from HOPE VI program's successor, The Choice Neighborhoods Initiatives program, and become the sole manager of any awards granted.

Acquisition Management

Acquisition Management is an activity area where CHA has applied expertise, both with non-Receivership projects, and in concert with Habitat on activities related to Receivership projects. Acquisition Management deals primarily with the identification and inspection of properties for purchase, including conferring with related City Officials and Departments, and other stakeholders such as Gautreaux Plaintiffs, to determine if CHA should purchase the cited properties. If the decision is made and agreed-upon by stakeholders to acquire and develop a property, Habitat has acted as the sole proprietor for submitting applications to secure approval from HUD, and then worked collaboratively with CHA to purchase the property, provide construction oversight, and accept units for occupancy. These responsibilities are expected to be fully transitioned to CHA in 2011.

CHICAGO HOUSING AUTHORITY
Receivership Transition Plan
May 20, 2010

Property Investment Initiative Program Management

Properties purchased for rehabilitation will be managed under the parameters of the Property Investment Initiative ("PII"), a scattered-site development program that is geared toward acquiring and rehabilitating 3+ bedroom units in Gautreaux General Areas as well as certain Limited Areas of opportunity for families. The program is focused on putting vacant and foreclosed buildings back into productive use. Habitat is currently responsible for selection and management of contractors, architects, and brokers. Concurrently, CHA and Habitat engage City Officials to secure approval for property purchase and development. Once rehab is complete, CHA is responsible for occupancy and transition of residents to the newly developed unit. It is estimated that at least 12 units will be available by the end of 2010. During the first twelve months of the Receivership Transition Plan, CHA will engage in knowledge transfer with Habitat, while maintaining its collaborative PII role. By June 1, 2011, CHA will be the party primarily responsible for administration of the PII and Habitat will offer advisory guidance to further the transition. By December 31, 2011, the Receiver and CHA will co-evaluate to determine whether sufficient transition activities have taken place. If additional transition activities are necessary, an appropriate future target date will be set to fully actualize the PII transition to CHA.

Conclusion

It is the recommendation and request of CHA and Receiver that the Court enter an order by which it will end the Receivership effective June 1, 2010, and simultaneously order the implementation of the Master Transition Plan (Exhibit I), allowing Habitat to continue to participate in both active and knowledge transfer advisory roles throughout the transition period. Full transition of four of the five primary workflows of Transaction, Construction, Financial, and Acquisition Management are anticipated to be actualized in 2011. A review date of December 31, 2011 has been established for the Property Investment Initiative Management workflow, a secondary workflow within Acquisition Management, to determine the best final transition date. It is projected that the Program Management workflow will be fully transitioned by May 31, 2013.

In summary, the Receivership functions are proposed to transition as follows:

<u>Workflow</u>	<u>Transition Complete</u>
Program Management	May 31, 2013
Transaction Management	December 31, 2011
Construction Management	December 31, 2011
Financial Management (Includes HOPE VI Management)	In 2011
Acquisition Management (Includes PII Management)	In 2011; PII – Evaluate on December 31, 2011