

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

CABRINI-GREEN LOCAL ADVISORY COUNCIL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 96 C 6949
	)	
	)	
CHICAGO HOUSING AUTHORITY, <u>et al.</u> ,	)	
	)	
Defendants.	)	

DOROTHY GAUTREAUX, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 66 C 1459
	)	
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY, <u>et al.</u> ,	)	
	)	
Defendants.	)	

MEMOMORANDUM IN RESPONSE TO PLAINTIFF’S
THIRD MOTION TO COMPEL ENFORCEMENT OF THE CONSENT DECREE

Responding to the LAC’s motion to compel enforcement of the Cabrini Consent Decree, the *Gautreaux* Plaintiffs state as follows:

I. The Consent Decree Expresses the Parties’ Intent To Develop Parcel #11 for Cabrini Replacement Public Housing

On September 12, 2000, the Court approved the Consent Decree entered in Cabrini LAC v. CHA, et. al. (The Consent Decree is cited hereinafter as “Intervenor’s Exhibit A”). Among other things, the Consent Decree requires the City of Chicago (“the City”) and the Chicago Housing Authority (“CHA”) to develop 700 new public housing units within the HOPE IV Planning Area as part of the Near North Redevelopment Initiative (“NNRI”):

The City will acquire additional land and/or impose appropriate restrictions and requirements on land owned by other persons or entities to make it possible to maintain the commitment by it and by CHA to construct at least 700 public housing units and 270 affordable rental units within the HOPE IV Planning Area....

Intervenor's Exhibit A, Section II.C.

Appendix B to the Consent Decree (copy attached hereto as Plaintiff's Exhibit A) is a map of the proposed residential development within the Cabrini HOPE IV Planning Area designated by the Consent Decree. Appendix C to the Consent Decree, (copy attached hereto as Plaintiff's Exhibit B) identifies Parcel #11, "NN High School Clybourn and Larrabee," as a "Future Development Site" for 382 mixed-income housing units, including 115 units of public housing.

Both the original and expanded Near North Revitalizing Area Orders entered by this Court in November 1997 and September 2000 respectively, state that the revitalizing circumstances and activities in the Cabrini Revitalizing Area "evidence a substantial likelihood that [*Gautreaux*] plaintiff class families will be provided desegregated housing opportunities if the terms and conditions of th[ese] order[s] are met." (Plaintiff's Exhibits C and D).

Now, over ten years after entry of the Consent Decree and of the expanded Near North Revitalizing Area Order, the *Gautreaux* plaintiffs still await much of the promised relief. According to the *Gautreaux* Development Manager's April 2011 Quarterly Report to the Court, 395 public housing units have been built within the Decree designated area, 39 units are under construction, and 87 units are in the planning phase with sites determined. (Quarterly Report, pg. 3). Although this has provided some relief to *Gautreaux* plaintiffs, 179 public housing units have yet to be planned, let alone developed and built, on the remaining sites identified in the Consent Decree. (Quarterly Report, pg. 3). Appendix C of the Consent Decree indicates that of the 179 remaining units, the largest number – 115 units – were proposed to be built on Parcel

#11, which was to be acquired by the City and developed as 382 units of mixed-income housing. (Pl. Ex. B). Yet, the Intervenor's Motion alleges that to date, after more than a decade, the City has neither acquired nor imposed appropriate restrictions on Parcel #11.

It is the view of the *Gautreaux* plaintiffs that the most effective way to meet the 700 public housing unit requirement set out in the Consent Decree would be for the City to acquire Parcel #11 and develop it as 382 units of mixed-income housing, including 115 units of public housing, in accordance with what appears to have been the intent of the parties expressed in the Consent Decree.

The City has not indicated or demonstrated to the Working Group any change in circumstances that would prevent it from carrying out the intent expressed in the Consent Decree to acquire and/or restrict Parcel #11 for Cabrini replacement housing. Absent such a showing, the *Gautreaux* plaintiff's ask the Court to direct the City to carry out the intent of the parties as expressed in the Consent Decree – that is, for the City to acquire or restrict the use of Parcel #11 for replacement public housing – and to do so expeditiously.

II. Should the Court not Require the City to Proceed with the Acquisition and Development of Parcel #11 for Replacement Public Housing, It Should Grant Alternative Relief

Should the Court determine that the Consent Decree does not require the City to proceed with the acquisition and development of the specified replacement public housing on Parcel #11, we urge the Court to direct the City to prepare and present to the Cabrini Working Group a plan specifying how the City otherwise intends to provide the requisite suitable land to satisfy the Consent Decree's 700 unit public housing requirement within a reasonable time. As provided in the Consent Decree, the Working Group was:

[F]ormed to *provide ongoing overall direction for the NNRI*, for the purpose of monitoring and reviewing development activities in connection with the NNRI, including

the preparation and issuance of RFPs and other bids...*changes in the design of the NNRI...[and] the letting of development, construction and other contracts for City – or CHA – owned land.*

(Int. Ex. A, Sec. I.A) (emphasis added).

City – or CHA – owned land [is] defined as land that the CHA, City or any other local municipal entity owns or acquired and/or contributed for purposes of development under this consent decree, *including the land identified as such in Appendices B and C to the consent decree.*

(Int. Ex. A, Sec. II.D) (emphasis added).

The Working Group “collectively make[s] decisions regarding the NNRI,” and the “parties represented on the Working Group...pledge good faith and best efforts to make each such decision by consensus.” (Int. Ex. A, Sec. I.E.1, 2). “No single party [has] more control than any other party in the [working] group decision make processes.”

(Int. Ex. A, Sec. I.E.3).

Because Parcel #11 is clearly “City owned land” identified in two Appendices to the Consent Decree (Pl. Ex. A and B), deciding now, after the passage of so much time, not to develop the parcel for the purposes of approximately 115 units of public housing in a mixed-income context would arguably be a significant “change in the design of the NNRI,” thereby requiring the City to consult with the Working Group. (Int. Ex. A, Sec. I.A).

Moreover, by acting unilaterally and entering into discussions regarding a proposal for Parcel #11, as alleged in the LAC’s motion, the City appears to have disregarded the “group decision making process” and, indeed, the function of the Court-ordered Working Group “to provide ongoing overall direction for the NNRI,” as set out in the Consent Decree.

We note also that the Consent Decree provides:

[A]n evaluation panel, consisting of representatives of the LAC, CHA, the City, counsel for the *Gautreaux* plaintiffs, and Habitat, will serve to select the developer(s) to carry out the agreed-upon activities with respect to the development of City – or CHA – owned [land].

Int. Ex. A, Sec. I.B.

The unilateral discussions alleged in the LAC's motion appear to amount to "select[ing] a developer" for "city owned land," without input of the Working Group. As such, the City may have effectively undermined the Working Group process by eliminating choices the Group could have made in shaping the direction of the development of Parcel #11.

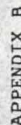
Therefore, should the Court determine that the Consent Decree does not require the City to acquire and develop Parcel #11 in the amount of replacement housing specified, or that it may significantly change the proposed use for the parcel, we urge the Court to direct the City to expeditiously prepare and submit to the Working Group an alternative proposal for acquiring suitable land to complete, within a reasonable time, the already long-delayed provision of the Consent Decree's required 700 public housing units. At this stage in the proceedings, the *Gautreaux* plaintiffs are entitled to no less.

Respectfully Submitted,

By: /s/ Julie Elena Brown
Julie Elena Brown
One of the Attorneys for the Gautreaux Plaintiffs

Alexander Polikoff
Julie Elena Brown
Business and Professional People for the Public Interest
25 East Washington Street, Suite 1515
Chicago, IL 60614
(312) 641-5570

SCALE 1" = 200'



PARCEL NO.	CITY OFFED	TO BE ACQUIRED
1	16.36 ACRES	
2	-----	
3		2.24 ACRES
4		1.28 ACRES
5		2.25 ACRES
6		2.61 ACRES
7		2.55 ACRES
8 "		6.45 ACRES
9	1.17 ACRES	
10	6.53 ACRES	
11	11.06 ACRES	
12	8.53 ACRES	
13		1.48 ACRES
14	5.60 ACRES	
TOTALS	97.30 ACRES	23.48 ACRES

TENG

TECH & ASSOCIATES, INC.
ENGINEERING/ARCHITECTS/PLANNERS
201 N. MICHIGAN AVE., CHICAGO, IL 60601
TEL: (312) 512-6100

PLAINTIFFS' EXHIBIT A

Rough Estimates of Number of Dwelling Units based on Revised Map										07/20/00
Existing and Proposed Developments										
Map ID	Project Name	Address	Status	Estimated Acreage	Less Roads	Net Acres	Dwelling Units	Total	CHA units	
10	Holsten Development	Halsted and Evergreen	approved	6.83	1.53	5.30	261	261	79	
	Orchard Park Condos	1500 block of Clybourn	done			0	54	54	13	
	Homes of Mohawk North	1400 block of Larrabee	done			0	80	80	16	
	Old Town Square RPD #801	Scott and Wells	revised			0	140	140	17	
	Mohawk North Partnership	1400 block of Mohawk	approved			0	15	15	5	
12	Renaissance Realty	North and Larrabee	in review	0.6	0	0.6	60	60	18	
	Sub Total						610	610	148	
Future Development Sites at 44 units/net acre - except where noted to side										
Parcel #	Site Location	Ownership Status		Estimated Acreage	Less Roads	Net Acres	Dwelling Units	Total	CHA units	
1	Cabrini Extension Property	Owned by CHA		18.4	4.6	13.8	607	607	82	
2	Jenner - Bryd School site (non-res)	Owned by Board of Education - non-residential								
3	SE corner of Oak and Larrabee	to be acquired by city and conveyed to CHA		3.2		3.2	143	143	43	
4	Centum property at Chicago/Cambridge	to remain private		0.0	0.0	0.0	0	0	0	
5	Howe/Division/Crosby (current MCL proposal)	under negotiation (20 to 25% CHA)		5.3	1.3	3.9	137	137	34	
6	Centum property at Oak/Kingsbury	to remain private		0.0	0.0	0.0	0	0	0	
7	Larrabee/Hobbie/Crosby	to be acquired by city		2.6		2.6	112	112	34	
8	Halsted, the Canal, Division, Evergreen	to be acquired by city		6.5	1.0	5.5	240	240	72	
9	Ogden right-of-way north of Division	owned by city to be conveyed to CHA		1.2		1.2	51	51	15	
10	Holsten Development (see above)									
11	NN High School Clybourn and Larrabee	to be sold by city for mixed income residential		11.6	2.9	8.7	382	382	15	
12	Renaissance Realty (see above)									
13	Clybourn and Larrabee (assuming additional acquisition)	2 acres owned by city, additional acquisition possible		1.7		1.7	75	75	23	
14	Clybourn and Division (assuming vacation of Cleveland)	owned by city		2.5		2.5	111	111	33	
	MCL Retail Phase II (as residential) BRPD # 837	under negotiation (20 to 25% CHA)		2.5		2.5	140	140	35	
	Totals for possible sites			55.4	8.8	45.6	1,998	1,998	516	
	Total number of units							2608		

PLAINTIFFS' EXHIBIT B

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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
	)	66 C 1460
CHICAGO HOUSING AUTHORITY, et al.	)	
	)	
Defendants.	)	

AGREED ORDER

This matter coming to be heard on the Joint Motion of the Plaintiffs and the Defendant Chicago Housing Authority for an order Designating a Near North Revitalizing Area and Authorizing the Acquisition of Public Housing Units Therein; 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 cognizant that the circumstances described in the Joint Motion and supporting affidavit evidence revitalizing activity in the affected census tracts such that designation as a Revitalizing Area is appropriate; and

The Court being of the view that the aforementioned circumstances evidence a substantial likelihood that plaintiff class families will be provided desegregated housing opportunities if the terms and conditions of this order are met;

PLAINTIFFS' EXHIBIT C

Now, therefore, IT IS HEREBY ORDERED :

1. The portion of the City of Chicago described on Exhibit A hereto is designated the Near North Revitalizing Area ("NNRA");
2. CHA shall be authorized to arrange for the acquisition of leasehold interests in, and HUD shall be free to provide funding for, approximately 250 privately developed units on four (4) sites within the NNRA, known as Halsted North, Mohawk North, Larrabee North and Orchard Park (each as located on Exhibit A), for sublease to public housing families, provided that on each of the aforementioned sites, the public housing units shall account for no more than 30% of the total number of units developed on each site; and
3. None of the arguments presented in connection with the granting of this Order, nor the decision to seek or grant this Order, shall be used by the parties in connection with the pending litigation, nor shall any arguments by either party in the pending litigation be waived or estopped by the arguments presented in connection with the granting of this Order or the decision to seek or grant this Order.

ENTER:

James L. Cooper

11/6 Date: , 1997

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 E. Aspen
	)	
Defendants.	)	

AGREED ORDER

This matter coming to be heard on the Joint Motion of the plaintiffs, the defendant Chicago Housing Authority and the Receiver for an Order reclassifying census tracts 0806 and 0807 as General Areas, designating an Expanded Near North Revitalizing Area and authorizing development of public housing units therein; 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 also being cognizant that on occasion it has permitted public or assisted housing to be provided in census tracts other than 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 having determined that the circumstances described in the Joint Motion and attached affidavit justify a reclassification of census tracts 0806 and 0807

PLAINTIFFS' EXHIBIT D

from Limited to General and an expansion of the boundaries of the Near North Revitalizing Area as proposed in the Joint Motion; and

The Court being of the view that the aforementioned circumstances evidence a substantial likelihood that plaintiff class families will be provided desegregated housing opportunities if the terms and conditions of this order are met;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Census tracts 0806 and 0807 of the City of Chicago are reclassified as General Area tracts;
2. The Near North Revitalizing Area is expanded to include the portion of the City of Chicago shown on Exhibit C of the Joint Motion;
3. The Receiver shall be authorized to arrange for the development within the existing and expanded Revitalizing Area of 700 public housing units, or such greater number as may be authorized by further order of this Court, by lease, new construction or otherwise. Pursuant to the consent decree entered in *Cabrini-Green LAC v. CHA and City of Chicago*, 96C6949, such public housing units shall account for no more than 30 percent of the total number of housing units in each development, except as otherwise permitted by the revised *Cabrini* consent decree.

ENTER:

A handwritten signature in black ink, appearing to be 'M. A. 92', is written over a horizontal line.

Dated: September 12, 2000

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

CABRINI-GREEN LOCAL ADVISORY COUNCIL,	)	
	)	
Plaintiff,	)	
v.	)	No. 96 C 6949
	)	
CHICAGO HOUSING AUTHORITY, <u>et al.</u> ,	)	
	)	
Defendants.	)	

DOROTHY GAUTREAUX, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
v.	)	No. 66 C 1459
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY, <u>et al.</u> ,	)	
	)	
Defendants.	)	

NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Attached Service List

PLEASE TAKE NOTICE that we have today filed with the Honorable Marvin E. Aspen, in Room 2568 of the U. S. District Court, 219 South Dearborn Street, Chicago, Illinois, the attached **MEMORANDUM IN RESPONSE TO PLAINTIFF'S THIRD MOTION TO COMPEL ENFORCEMENT OF THE CONSENT DECREE**, a copy of which is hereby served upon you.

Respectfully submitted,

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

June 22, 2011

Alexander Polikoff
Julie Elena Brown
BUSINESS AND PROFESSIONAL PEOPLE
FOR THE PUBLIC INTEREST
25 East Washington Street - #1515
Chicago, Illinois 60602
312/641-5570; fax: 312/641-5454

CERTIFICATE OF SERVICE

I, Julie Elena Brown, an attorney, certify that on June 22, 2011, I caused copies of the foregoing Notice of Filing and Memorandum in Response to Plaintiff's Third Motion to Compel Enforcement of the Consent Decree to be served electronically upon the persons whose names appear on the attached service list.

/s/ Julie Elena Brown
Julie Elena Brown

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