Petavo

-706821-S16(77)
346

MEMORANDUM

THE CITY OF NEW YORK
HUMAN RESOURCES ADMINISTRATION

DATE: January 5, 1984

TO: James A. Krauskopf
Administrator/Commissioner

cc

FROM: Joseph Armstrong
General Counsel

SUBJECT: Suits on Behalf of the Homeless

FYI

This memorandum is divided into two sections: The first discusses suits on behalf of the homeless brought against our Agency seeking services and facilities and the second discusses suits against our Agency by "community organizations" seeking to deter HRA from opening facilities for the homeless.

Suits by the Homeless

CALLAHAN v. KOCH

This suit, the initial action brought against us pertaining to the homeless, was commenced in 1979 by and on behalf of homeless men seeking shelter and services. They based their claim of entitlement to these services on State constitutional and statutory grounds. At a hearing for a preliminary injunction, Justice Tyler found that there were approximately 750 men in New York City who required shelter and ordered that our Agency, in "partnership" with the New York State Department of Social Services, ensure that there be facilities and services for these men. Subsequent to this decision, HRA sought to provide for the homeless over and above what was required by the court. At the behest of the Corporation Counsel, we agreed to enter into a consent decree to provide very extensive relief to homeless men. All of the other cases and all of the other judgments flow from this consent decree, which among other things, set occupancy limits for the buildings in which we proposed to house homeless men, established minimum square footage per resident, set shower and lavatory requirements (1 shower for every ten residents and one lavatory for every six residents), and standards for recreation and dining room space. The plaintiffs have engaged in further litigation concerning HRA's alleged non-compliance with this consent decree. During one of these proceedings in early 1982, the court, after a hearing, found that we were in compliance. We subsequently sought a modification of the decree but were unsuccessful, except for relaxing the shower and lavatory standards to 1 shower for every 15 residents and 1 toilet for every ten. In late fall of 1983, plaintiffs

again returned to court seeking enforcement of various provisions of the decree. By Order dated December 23, 1983, HRA was required to:

a) Reduce the population of Keener to 416 men, no later than February 1, 1984;

b) Submit a written statement setting forth our opinion as to the maximum capacity of the Schwartz building in light of the requirements contained in the original decree;

c) Install showers, sinks, and toilets at the Fort Washington Armory in order that this facility meet the standards set out in the decree, as modified. This must be completed by March 31, 1984 with leave given to HRA to return to court, if necessary, to show why we cannot meet that date;

d) Post signs at each shelter advising each resident of the right to an individual locker which can be locked;

e) Cease using the basement at 55 Hanson Place as sleeping space not later than December 27, 1983;

f) Provide a separate television room at the Kingsbridge Armory not later than January 12, 1984 or, in the alternative, cease using the television in any area adjacent to sleeping areas;

g) Provide, not later than June 1, 1984, separate rooms (as described in the decree) for sleeping and recreation at the Kingsbridge Armory or discontinue operation of such facility by such date;

h) Cease double bunking in the main building at Camp LaGuardia not later than August 31, 1984, advise the court and plaintiffs promptly if it appears that dormitory construction will not be completed by that date;

i) Submit a report, not later than January 27, 1984, detailing the operation of the shelter program's laundry system, including the daily use made of the system by the residents at each shelter facility.

SDSS is required to submit a report, not later than January 20, 1984, stating whether, in its view, the use of the first floor of the East New York shelter as a sleeping area is in accordance with the consent decree and applicable state regulations.

ELDRIDGE v. KOCH

This is the "sister" suit to Callahan. The allegations were that everything men are entitled to, women must have as well. The lower court agreed that the decree in Callahan was applicable to Eldridge and granted partial summary judgment to the plaintiffs. An appeal was taken from this decision, and, on December 20, 1983, the Appellate Division unanimously reversed the lower court order, ruling that there were questions of fact in need of judicial resolution. The court held that the standards in Appendix A of the Callahan consent decree (governing men's shelters converted from other uses) "should be construed as guidelines to be considered at trial along with other relevant factors in determining the adequacy of the facilities provided in each shelter, and whether or not the facilities providing for homeless women, taken as a whole, are equal to those provided for homeless men."

McCAIN v. KOCH

This lawsuit also flows from and greatly expands Callahan. Plaintiffs seeking class action status (with the class copmprised of all needy families with children who have been, are or will become homeless and who have been, are or will be applicants for emergency assistance) secured an interim order placing on our Agency, so far as is practicable, the obligation to place homeless families in housing which must meet criteria specified in the housing code and subsequently issued State regulations and Administrative Directives and to ensure, when possible, that geographic ties are maintained. Also, under McCain, each and every request by the recipient, be it for transportation allowances, storage, moving expenses, security deposits, etc., must be responded to in writing, and if HRA's decision is adverse to the recipient, a right to an expedited fair hearing must be afforded. McCain has resulted in an almost weekly trek to court when we refuse to provide certain services to which plaintiffs believe they are entitled. There have also been numerous fair hearings (between 14 to 20 to date) with many more to follow. We have been awaiting a final judicial determination in this case since June. The court has informed the parties that the decision has been delayed because it is seeking to determine the effect of the new State regulations and Administrative Directives on the case. These may afford plaintiffs all of the relief they requested and, therefore, make it unnecessary to continue with the lawsuit.

As an additional outgrowth of McCain, a proposed class action suit was filed to require HRA to provide school transportation allowances for children living in emergency housing facilities in order to enable them to attend school in the area in which they lived prior to being relocated. A stipulation was entered into, pending the return date of January 6, 1984 for the motion for a preliminary injunction, in which we agreed (1) to have the proceeding referred to Justice Greenfield, the judge before whom the McCain suit is pending; (2) to comply immediately with various fair hearing decisions; and (3) to give school transportation allowances to the named plaintiffs.

Suits by Community Organizations

BAM v. KOCH

In our efforts to open new sites for homeless men, one of our choices was 55 Hanson Place. When our plans for the use of this facility became known to the community, a local organization brought suit in federal court seeking to stay our use of that facility. The suit was based on the grounds that we had failed to inform or involve the community in our plans to renovate this facility and use it as a shelter for homeless men.

The court denied the temporary injunction sought by plaintiff and set the case down for a hearing to determine if we had denied plaintiffs equal protection of the laws. After hearing, the court denied the request for an injunction. The plaintiffs appealed, and the United States Court of Appeals agreed with the District Court and affirmed the denial of the injunction. The equal protection claim remains to be tried in the District Court.

LEANZA - GREENPOINT HOSPITAL TASK FORCE v. HRA

This suit arose as a result of our determination that the Greenpoint Hospital could be renovated and used to shelter homeless individuals. Brought in state court, it sought to deter our use of that facility, alleging that we had failed to inform and meet with the community, and that the use of this facility would substantially erode the quality of life in the neighborhood.

The Court denied the injunction, and, although the suit is still pending, we do not expect any further legal action.

PADAVAN v. CUOMO & KOCH

This suit was brought to deter us from using the Creedmoor Psychiatric Hospital as a shelter for homeless individuals. Padavan, a State Senator, sued on behalf of himself and as Senator for the Eleventh Senatorial District, and as Chairman of the New York State Senate Committee on Mental Hygiene and Addiction Control, alleging among other things, that we failed to file an environmental impact statement pursuant to the New York State Environmental Conservation Law.

The defense of this suit was basically similar to the defenses made in BAM and GREENPOINT, but we also sought dismissal on procedural grounds. Senator Padavan, at the request of the judge (who agreed with our procedural defense) agreed to withdraw his suit with a right to renew the action at a later date as a taxpayer. No further action has been taken regarding this facility.

KENTON HOTEL

Once it was determined that we needed a long term lease for the Kenton Hotel premises, we requested DGS to commence negotiations for such a lease. It was determined, however, that the landlord was seeking a sum which was not acceptable, and a decision was made to commence a condemnation proceeding. In the interim, the landlord attempted to terminate our license to occupy the premises and made a demand for a fee in the amount of $25,000 a month, a marked increase from the $5,700 per month which the Department had previously paid. When the Department did not respond favorably, the landlord commenced an action to eject us from the premises. Court papers were submitted in July, 1983, and we are still awaiting a decision.

Because we were concerned that the landlord's action would come to judgment prior to the completion of the Uniform Land Use Review Procedure ("ULURP") and prior to the commencement of the condemnation proceeding, an action was commenced to permit our continued use and occupancy for a period of nine months. We are awaiting a decision on that action as well.

In the interim, the landlord sought and was granted a preliminary injunction against the Department's attempt to make repairs to the facility. We have moved to reargue the granting of the preliminary injunction, and no decision has been rendered on this motion.

cc: Georges Vernez
Martin Burdick
Harvey Robins
Henry Adler
Aaron Gottlieb
Alan Krums