

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

DOROTHY GAUTREAUX, et al.,)	
)	
Plaintiffs)	
)	
vs.)	No. 66 C 1460
)	
GEORGE W. ROMNEY,)	
Secretary of the Department)	
of Housing and Urban Development)	
of the United States,)	
)	
Defendant)	

BRIEF OF THE METROPOLITAN HOUSING AND PLANNING
COUNCIL OF CHICAGO AS AMICUS CURIAE IN SUPPORT
OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I. The Status of this Matter.

On August 9, 1966 the plaintiffs filed two actions, one against the Chicago Housing Authority and one against the Department of Housing and Urban Development (the "Department"), seeking relief from discriminatory site selection and tenant assignment practices in the public housing program in the City of Chicago. On June 19, 1967 the court continued the action against the Department pending trial of the action against the Chicago Housing Authority.

This court has now found for the plaintiffs in the action against the Chicago Housing Authority and has directed that Authority to use its best efforts to increase the supply of low-income housing units in compliance with the court's order. Plaintiffs have now filed a motion for summary judgment against the Department, in support of which this brief is submitted by the Council.

II. Reasons for this Motion.

For over 35 years the Metropolitan Housing and Planning Council of Chicago (the "Council") as a civic, non-profit "watch dog" organization has been dedicated to enhancing the environment of Greater Chicago. The organization is headed by a 60 member Board of Governors who due to their diverse backgrounds, interests, and professions represent a broad cross section of the Chicago community. Law, finance, business, religion, architecture, teaching, welfare, and medicine are but some of the vocations represented. The Council is supported by the contributions of its more than 800 members residing throughout the Chicago metropolitan area.

The day-to-day work of the Council is carried out with the help of a small full-time professional staff, and ten working committees made up of individuals who on a

continuing basis volunteer their free time to investigate, evaluate, criticize and propose in regard to matters affecting housing and planning in the Chicago area. The work of these committees is, and has been, directed at the wide range of urban problems which confront all of us living here in Chicago: the simplification of governmental structure in the metropolitan area, the improvement of zoning controls, the better administration of the City's housing code, the strengthening of planning on a metropolitan area basis, the protection and improvement of existing public park space, and the providing of suitable housing for all our citizens.

Throughout the years the Council has built a solid reputation for recognizing and recommending remedies to some of our most pressing urban problems. To cite a few examples:

- 1937 - initiated the Illinois Housing Co-operation Act, the subsequent formation of the Chicago Housing Authority and the building of the first public housing in the City.
- 1953 - devised the Urban Community Conservation procedure.
- 1956 - developed Chicago's first housing code.
- 1957 - initiated metropolitan area planning by helping to bring into existence the North-eastern Illinois Planning Commission.
- 1961 - pioneered a method of coordinating capital improvement projects for governments throughout the Chicago metropolitan area.

1965 - saw its idea of rent supplements become part of Federal housing legislation.

1969 - aided in designing Illinois' first Department of Local Government Affairs.

At the present time the Council is vitally interested in seeing that the existing segregated patterns of Chicago's ghettos are not further re-enforced. To help achieve the objective of integrated housing on a metropolitan wide basis, the Council recently has asked its Committee on Subsidized Housing to inquire into the ways in which low and moderate income people can secure better housing not only in the City, but in the suburbs outside of Chicago.

Since 1956 the Council, along with other civic organizations in Chicago, has strenuously objected to the concentration of public housing projects in the ghetto areas of the City. Over the years these objections have been communicated not only to the involved public local bodies--such as the Chicago Housing Authority and the City Council--but also to the Housing and Home Finance Agency, and its successor the Department of Housing and Urban Development.

In February of 1956, the President of the Council wrote the Mayor's Housing and Redevelopment Coordinator criticizing the sites of several proposed public housing projects--

"We hope that you will work for a program scattering small public housing developments throughout the city, with a view to creating normal residential communities, instead of great colonies of racially, socially, economically, and politically segregated housing."

Four years later the Council sponsored a national conference on Housing and Economically and Socially Disadvantaged Groups in the population. Thirty-five of the nation's most knowledgeable housing experts agreed unanimously that the trend to monolithic public housing projects was destructive of the human and social goals of the program. The conference recommended that:

"A concerted effort should be made to develop smaller projects, with site plans and architectural designs achieving a humanized and more attractive integration of public housing with existing residential neighborhoods."

* * *

"Local housing authorities should seek the best available experience and skills both in and out of government for assistance in reversing the trend toward concentration of non-white families in public housing."

The following warning was also added--

"In a program which organizes a community of similar problems in similar packages, on a large scale, the effect on the human personality and the quality of living of the entire community is deadly."

In 1964 an exchange of correspondence took place between the President of the Council and Robert Weaver, then

Administrator of the Housing and Home Finance Agency. At issue was a public housing project which was to be added to an already existing four mile "wall" of similar projects on State Street. Though the site was not one of those specified in the Complaint filed some two years later, Mr. Weaver by both letter and telegram was made cognizant of the Council's position on public housing in ghetto areas. The telegram read in part--

"As a long time sympathetic proponent of sound public housing programs we have repeatedly recommended that the concentration of monolithic high rise public structures be discontinued. Experience proves such projects to be detrimental to the well being of public housing tenants and poor public policy as to the general acceptance of the program, problems of supervision and direction of children, restriction of cultural, social and racial integration and stimulation of association with people of other backgrounds. We cannot believe that the multiplication of these high density high rise projects in the Negro Ghetto is the only solution possible"

Mr. Weaver expressed his appreciation about our concern but pointed out that "site selection and design concept are normally, and rightfully, matters of local concern."

In 1965 a study, commissioned by the Chicago Housing Authority, stated that--

". . . future projects should be scaled to the neighborhoods in which they are located, in order that they might be more readily assimilated into the local neighborhood structure, where generally a public housing maximum of 10 to 15 percent of the total dwelling units should be considered with such limitations varying with building types and locations."

Once again the above information was forwarded by the President of the Council to the Administrator of the Housing and Home Finance Agency.

The Council, a year later, once more made its views known to Mr. Weaver, then Secretary of the Department of Housing and Urban Development, but this time the objections were directed at all but one of the "Twelve Proposed Projects" specified in the Complaint--

"The location of these 11 sites reflects a dangerous policy of pyramiding existing ghettos, and impacting in them problems which are a threat to the entire city. This practice carries serious social, racial and political dangers."

* * *

"We have consistently recommended that Chicago must adopt a policy of small public housing developments, scattered in all parts of the city and blended with ordinary residential neighborhoods. To do otherwise is to create more problems than we are curing."

III. Summary of the Council's Position.

It is the Council's position that Negro citizens with low income can obtain truly equal access to housing only if this access is available throughout the metropolitan area. The Department of Housing and Urban Development is financing a number of federal housing programs throughout the metropolitan area that offer opportunities to provide housing suitable for the plaintiffs' needs and abilities to pay. In addition, as a result of mortgage foreclosures the Department regularly acquires suitably priced housing that could be made available for plaintiffs' use by the Department.

IV. The Plaintiffs Cannot Obtain Equal Opportunities if Their Options are Limited to the Central City.

This court's decree in the action against the Chicago Housing Authority effectively opens up many opportunities for housing for plaintiffs at new locations within the City of Chicago. While this is a big step forward, nevertheless it still does not provide plaintiffs with sufficient relief to insure them an equal position in American society.

Most of the new job opportunities in the Chicago area are found in the suburbs. The Advisory Commission on Intergovernmental Relations, in a 1968 study of population and job movements, found:

"The new or expanding industries in the city tend to provide white collar jobs with relatively high entrance requirements . . . and the best blue collar job opportunities are moving to suburban and smaller urban areas." (Urban and Rural Growth, p. 58)

Only housing located near these suburban job opportunities can give Negro citizens with low incomes an equal opportunity to compete for these jobs.

In order to enable plaintiffs to obtain jobs in suburban areas the public housing program must be expanded from an inner city program to a metropolitan program. The National Commission on Urban Problems (the Douglas Commission) recommended the "use of a wide variety of sites" feasible for the public housing program, including "parcels of vacant land within city borders, land owned by the Federal Government, dwellings on which VA and FHA mortgages have been foreclosed, abandoned sites reverting for delinquent taxes, urban renewal sites, and suburban land suitable for lease by city public housing authorities." The Commission also specifically recommended that developers of 221(d)(3) housing "be required to lease a minimum of 10 percent of their units to local housing authorities for low-income housing." (Building the American City, p. 188)

The National Advisory Commission on Civil Disorders (the Kerner Commission) reached similar conclusions. It

found that "future jobs are being created primarily in the suburbs, but the chronically unemployed population is increasingly concentrated in the ghetto. This separation will make it more and more difficult for Negroes to achieve anything like full employment in decent jobs. But if, over time, these residents began to finding housing outside central cities, they would be exposed to more knowledge of job opportunities. They would have a far better chance of securing employment on a self-sustaining basis." (Report, p. 406)

This court now has a significant opportunity to assist plaintiffs in reaching the goals endorsed by these highly-respected national commissions. Only a positive plan sponsored by the Department under the guidance of this Court can assure that the public housing program will operate throughout the Chicago Metropolitan Area.

V. Federal Government Programs Have Deprived Plaintiffs to Access in Suburban Areas.

Until very recent years the federal government has knowingly fostered and sponsored housing programs under conditions of almost 100% de facto segregation. In its report the Kerner Commission stated that "white society is deeply implicated in the ghetto. White institutions created it,

white institutions maintain it, and white society condones it." (p. 2) The federal housing program is certainly one of these institutions.

It is widely recognized that the federal government, through readily available mortgage insurance and tax-deductions, greatly encouraged the rapid development of suburban housing over the past 25 years. These suburban housing developments were encouraged by the federal government despite its knowledge that the great preponderance of the areas in which this housing was built were not open to Negro citizens.

The Douglas Commission, revising the history of the housing programs of the Federal Housing Administration (the "FHA", now a sub-unit of the Department), documented the extent to which FHA worked only for the benefit of middle-income whites and discriminated against low-income Negroes. It found the FHA to be "a vital factor in financing and promoting the exodus from the central cities and in helping to build up the suburbs."

"That is where the vast majority of FHA-insured homes have been built. The suburbs could not have expanded as they have during the post-war years without FHA." (p. 99)

"Believing firmly that the poor were bad credit risks and that the presence of Negroes tended to lower real estate values, FHA has generally regarded loans to such groups as 'economically unsound.' Until recently,

therefore, FHA benefits have been confined almost exclusively to the middle class, and primarily only to the middle section of the middle class. The poor and those on the fringes of poverty have been almost completely excluded." (p. 100)

The FHA's treatment of the Negro poor went beyond mere neglect, the Commission found. By "tacit agreement" among lending institutions, fire insurers and the FHA large portions of the central cities were "red-lined"--in other words, it was agreed that no loans would be made or insured within them.

"Even middle class residential districts in the central cities were suspect, since there was always the prospect that they, too, might turn as Negroes and poor whites continued to pour into the cities, and as middle and upper-middle income whites continued to move out." (p. 100)

"The net result, of course, was that the slums and the areas surrounding them went downhill farther and faster than before." (p. 101)

Until recent years the FHA was even more explicit in its discrimination against Negroes. It encouraged developers to create racially restrictive covenants in new suburban subdivisions "and was a powerful enforcer of the covenants. The FHA definition of a sound neighborhood was a 'homogeneous' one--one that was racially segregated." (p. 101) Although racial covenants have been held invalid

for over 20 years, and although the official policy of the Department on both the national and regional levels is strongly opposed to racial segregation, it remains a fact that a negligible percentage of the suburban housing insured by FHA is occupied by Negroes. The changes at the policy level have not yet succeeded in changing established patterns of de facto segregation.

The Kerner Commission also recognized the past failures of the federal government in the housing area and recommended that "Federal housing programs must be given a new thrust aimed at overcoming the prevailing patterns of racial segregation. If this is not done, "the Commission warned," those programs will continue to concentrate the most impoverished and dependent segments of the population into the central city ghettos where there is already a critical gap between the needs of the population and the public resources to deal with them. (p. 28)

The financing of segregated public housing in the City of Chicago by the Department that was demonstrated in Gautreaux v. Chicago Housing Authority was just a part of an overall pattern of federal government programs that were directed towards the creation and maintenance of completely segregated housing systems for Negroes and whites. The fact

that the Department was not the sole cause of the racial segregation, either in its public housing or other programs, cannot excuse the fact that it financed millions of housing units that it knew as a practical certainty would never be, and never were, made available to citizens of the Negro race.

VI. The Department's Current Policies Cannot Successfully Achieve Integration of Federal Housing Programs.

In recent years the Department has exhibited at the policy level commendable concern about the effects of federal housing programs on racial minorities and persons of low income. Since the election of President Kennedy almost 10 years ago, the top officials of the Department have publicly stated their determination to correct the errors of past programs.

Despite these policies, however, the Department continues to foster the construction of racially segregated housing. Boxed in by bureaucratic immobility and the pressure to obtain the most bricks for a buck regardless of social consequences, the Department still operates two virtually separate programs--one black and one white. Innumerable memos from the Washington and regional offices have not succeeded in changing this pattern.

This court in Gautreaux v. Chicago Housing Authority has demonstrated its awareness of the difficulty of making huge governmental agencies respond through traditional administrative means. The same situation exists in all of the Department's housing programs. Unless this court slices the Gordian knot of bureaucratic red tape federal housing programs will continue to operate on a segregated basis depriving plaintiffs of their right to equal protection of the laws. The council hopes that the Department will participate constructively with this court in formulating programs for accomplishing these purposes.

VII. The Department Can Make Housing Available to Plaintiffs Throughout the Metropolitan Area.

The Department is currently authorized to finance housing available to persons with low and middle income under a number of separate federal programs. The Department is currently authorized under Federal legislation (i.e., Sections 221(d)(3), 235, 236, 231 and Rent Supplements) to finance housing directly available to persons with income comparable to those of the plaintiffs. Many such projects have been constructed or are in process at some stage in various suburbs of Chicago. The Department is also authorized under Federal legislation (i.e., Section 23) to lease units

produced under the aforementioned programs to the Chicago Housing Authority. The Council firmly believes that the Department, acting under such programs, should provide de-segregated housing to plaintiffs to remedy the effects of, and provide relief from, the discrimination they have suffered in which the Department has participated.

In addition, the Department has available another potential source of housing for the plaintiffs that offers great possibilities for meeting their housing needs. Since World War II the FHA has insured mortgages on thousands of homes in the Chicago suburbs. When owners of these homes are unable to make the payments on the mortgage the mortgage is foreclosed and the lending institution tenders the property to the Department and collects the insurance. The Department thus has available to it a continually replenished stock of foreclosed homes which could be made available for the plaintiffs' needs. Many of these homes, while not originally designed specifically for low-income groups, were built at costs substantially lower than current construction costs and could easily be sold or leased to the Chicago Housing Authority or otherwise made available to plaintiffs at prices or rents within their means.

VIII. Conclusion.

In summary it is the Council's position that the plaintiffs' motion for summary judgment should be granted, and that the Department should be directed to file a proposed plan designed to make housing available to the plaintiffs throughout the metropolitan area.

Respectfully submitted,

Metropolitan Housing and Planning
Council

By: _____

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DOROTHY GAUTREAUX, et al.,
Plaintiffs

vs.

GEORGE W. ROMNEY,
Secretary of the Department
of Housing and Urban Development
of the United States,
Defendant

Now comes The Metropolitan Housing and Planning Council, by its attorney, and respectfully moves this Court for leave to file its brief, attached hereto, as amicus curiae, in support of plaintiffs' motion for summary judgment, filed October 31, 1969. Amicus has, in the brief attached hereto, identified its interest in this proceeding and stated its reasons as to why a brief amicus curiae is desirable in this cause.

By: Calvin P. Sawyer
Attorney for Amicus Curiae

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NOTICE

TO: Thomas P. Foran
United States Attorney
Room 1500, U.S. Courthouse
Chicago, Illinois 60604

PLEASE TAKE NOTICE that on Thursday, December 4, 1969, at the opening of court or as soon thereafter as counsel may be heard, I will appear before Judge Richard B. Austin in the courtroom usually occupied by him in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or before such other judge who may be sitting in his place instead, and then and there move the court on behalf of the below designated person for leave as amicus curiae to file a brief in support of plaintiffs' motion for summary judgment, a copy of which motion and brief is attached hereto.

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922-5616

Calvin P. Sawyer, Attorney
for the Metropolitan Housing
and Planning Council

Received a copy of the above notice and the motion and brief therein referred to this _____ day of December, 1969.

Assistant United States Attorney