

Readings

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NO. 71-1732, 33, 34

DOROTHY GAUTREAUX, et al.,

Plaintiffs-Appellees,

v.

GEORGE W. ROMNEY,

Defendant,

AND

CITY OF CHICAGO, A MUNICIPAL
CORPORATION, CENTRAL ADVISORY
COUNCIL, AN ILLINOIS CORPORATION
AND CHICAGO HOUSING AUTHORITY,

Intervening Defendants-Appellants.

On appeal from the United States District Court for the Northern
District of Illinois, Eastern Division.

MOTION AND BRIEF OF THE CHICAGO CHAPTER AND
OPERATION BREADBASKET OF THE SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE AS AMICUS
CURIAE

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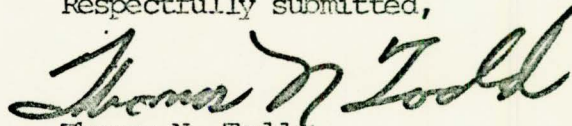
MOTION OF THE CHICAGO CHAPTER AND
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SOUTHERN CHRISTIAN LEADERSHIP
CONFERENCE FOR LEAVE TO FILE A
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NOW COMES, THE CHICAGO CHAPTER OF THE SOUTHERN CHRISTIAN LEADERSHIP
CONFERENCE and OPERATION BREADBASKET, the economic arm of the Southern
Christian Leadership Conference and respectfully moves this Honorable
Court for leave to file the Annexed Brief as amicus curiae in opposition
to the Motion of Intervenor-Appellants to suspend and vacate an order of
the United States District Court for the Northern District of Illinois,
Eastern Division.

The interests of the Undersigned, as amicus curiae, and the reasons for filing this Brief are stated in Part I of the Brief itself.

The Plaintiffs and the Defendant in this cause through their attorneys have consented to the filing of this Brief. The Intervening Defendants-Appellants, City of Chicago and the Chicago Housing Authority, through their attorneys, have advised this amicus curiae through one of its attorneys that they will have no objection to the filing of this Brief. The Intervening Defendant-Appellants Central Advisory Council has not, thus far granted our request for consent.

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas N. Todd".

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I

INTRODUCTION

The Chicago Chapter of the Southern Christian Leadership Conference (sometimes hereinafter referred to as "the Chapter"), is an unincorporated association of residents of the City of Chicago, County of Cook and the

State of Illinois. The Chapter maintains headquarters and executive offices at 7941 South Halsted Street in the City of Chicago, Illinois; such headquarters and executive offices being physically located at the aforesaid address within a facility that has been formally "dedicated" to the life and work of the late Dr. Martin Luther King, Jr., and has come to be well known as DR. KING'S WORKSHOP. Further, the Chicago Chapter of the Southern Christian Leadership Conference is affiliated with and is a duly constituted Chapter of the Southern Christian Leadership Conference, a Georgia Corporation; (sometimes hereinafter referred to as SCLC).

OPERATION BREADBASKET, is a National Division of the Southern Christian Leadership Conference, a Georgia Corporation; and is officially known as the economic arm of SCLC headed by a National Director, who also functions as project director for the local Chicago component of OPERATION BREADBASKET; the latter being a fully established and functioning department of the locally based Chicago Chapter of the Southern Christian Leadership Conference.

As set forth in its By-Laws, the purposes of the Chicago Chapter of the Southern Christian Leadership Conference, of which OPERATION BREADBASKET is a fully established community and economic development department, are as follows:

"The purposes of the Chicago Chapter of the Southern Christian Leadership Conference are to formulate, structure and implement programs directed toward the moral, ethical, cultural, civic, educational and economic regeneration, development and redevelopment of its own members,

associates, and the community at large; with emphasis upon the advancement of the constitutional and civil rights of minority persons; to promote and advance the philosophy and principals of nonviolence and nonviolent direct action as espoused and practiced by the late Dr. Martin Luther King, Jr., and the Southern Christian Leadership Conference; to engage in research; citizen education, voter education and registration; conduct conferences and symposiums; publish educational materials; to promote justice, equality, cultural harmony and cooperation among multi-racial groups throughout the world; to own, buy, sell, lease and otherwise deal in real estate in pursuit of the nonprofit objectives of the Chapter; and to do all things necessary and proper to carry out the foregoing purposes. The Chicago Chapter will function as the official representative of the Southern Christian Leadership Conference in the entire County of Cook of the State of Illinois, deriving that authority from the parent organization. It is the express purpose of the Chicago Chapter to further the program and philosophy of the Southern Christian Leadership Conference."

As the economic arm of SCLC, and the community and economic development department of the Chicago Chapter, OPERATION BREADBASKET directs its program thrust primarily at the economic plight of Black low income persons arising out of their continued needs for housing, employment, education, nutrition, cultural-personal motivation and citizenship.

The membership, associations and following of the Chapter and of OPERATION BREADBASKET which numbers in the thousands, are drawn from all walks of life, cutting across all philosophical, religious and economic class lines throughout the City of Chicago, County of Cook and State of Illinois.

In point of fact, the origin of OPERATION BREADBASKET and ultimately the Chicago Chapter of the Southern Christian Leadership Conference, grew out of the direct action activities, and more specifically, the peaceful protest demonstrations and marches organized and led by the late Dr. Martin Luther King, Jr. in the City of Chicago on behalf of low income Black residents for increased housing and increased housing opportunity in the year 1966; which demonstrations and conditions of housing affecting the Black poor residents in the City of Chicago contributed significantly to the community impetus leading toward the filing of this cause of action.

Further, as a direct and approximate result of the peaceful protest demonstrations organized, conducted and led by SCLC, and the late Dr. Martin Luther King, Jr., there was held in 1966 a major meeting on the subject of equal housing opportunity, attended by Dr. Martin Luther King, Jr. and officials of this amicus curiae along with the Mayor of the City of Chicago and other representatives of the intervening defendants-appellants, which meeting in 1966 came to be popularly known as "The Summit Conference"; and out of which came a memorandum of agreement committing the City of Chicago, its agencies, religious, civic and other organizations within the City to the reform of the real estate market system so as to provide equal opportunity in housing for all residents of the City of Chicago. Since its inception in 1966, OPERATION BREADBASKET, and now the Chicago Chapter of SCLC has maintained an ongoing program in the City of Chicago to improve the lot and living conditions of minority persons, particularly in the area of education, employment, business and housing.

Accordingly, the Chicago Chapter of SCLC and OPERATION BREADBASKET have a continuing interest in the proper resolution of the issues raised in this proceeding.

II

THE FACTS

In the interest of brevity, and because of its complete adequacy, the Undersigned amicus curiae adopts and incorporates herein by reference, as though fully set forth, the statement of facts heretofore filed with this court by the plaintiffs; and contained in the document entitled "Objection Of Plaintiffs To Motion Of Intervenor-Appellants To Suspend And Vacate An Order Of The District Court."

It is respectfully urged that the best interest of all of the parties to this proceeding; and particularly the best interest of the plaintiff class, to wit; Black low income residents of the City of Chicago, would be best served and protected if the sound discretion, thus far exercised by the United States District Court in this proceeding through the entry of its injunctive order on October 1, 1971, is not interfered with or disturbed.

III

ARGUMENT

It is tragically commonplace, and now indisputably established both in fact and in law, that institutional racism, being for purposes of this analysis, the conscious and unconscious application of organized power to decision making in disregard of and with injury to the lawful rights of Black Americans, is endemic; and constitutes a blight upon the fabric of democracy in National, State and Local political life.

In the vital area of housing, the United States District Court for the Northern District of Illinois-Eastern Division, applying the law of the land, has merely directed that racially discriminatory housing programs and practices be terminated in the City of Chicago, and that the Intervening Defendants-Appellants, City of Chicago and Chicago Housing Authority (CHA), proceed with a well defined and reasonable program to provide badly needed housing for the City's low income residents and remedy past discriminatory effects Gautreaux vs Chicago Housing Authority 296 F. Supp 907 (ND ILL. 1969). While purporting to agree with the principle and doctrine established by Gautreaux vs. Chicago Housing Authority (Supra), the U.S. Department of Housing and Urban Development has demonstrated both a lack of capacity, as well as the absence of a sufficiently strong administrative disposition to enforce compliance with either national law, Shannon vs HUD, 436 F.2d 809 (1970), its own agreements (see letter dated May 12, 1971, signed by Richard J. Daly, Mayor of the City of Chicago; Charles R. Swibel, Chairman, Chicago Housing Authority; and George J. Vavoulis, Regional Administrator of HUD, or its own regulations and requirements; particularly where that compliance is grounded upon

"equal opportunity considerations" or remedying past and present effects of racial injustices visited upon Black citizens of the United States, such as the plaintiffs in this case. Kennedy Park Homes Assn. vs City of Lackawanna, 436 F. 2d 108 (1970) Cert. Den. 401 U.S.1010 (1970); Hicks vs Weaver 302 F. Supp. 619 (D LA. 1969).

On the contrary, as this court in September 1971, correctly found, the U.S. Department of Housing and Urban Development as a governmental agency, and its secretary have exercised their "...powers in a manner which perpetuated a racially discriminatory housing system in Chicago, and ...the secretary and other HUD officials were aware of that fact." Gautreaux vs Romney, Appeal No. 71-1073.

The undersigned, OPERATION BREADBASKET, through its National Director has engaged representatives of Intervening defendants-Appellants City of Chicago and CHA on several occasions, on the subject of meeting the housing needs of low income Black residents of the City of Chicago on a nondiscriminatory basis, only to be treated to those intervening defendants-appellants almost rigid stance and refusal to proceed with a program calculated to meet the housing needs of members of the plaintiff class on a nondiscriminatory basis. This amicus has also met with the Honorable George Romney, Secretary of the U.S. Department of Housing and Urban Development and offered the services of this amicus, along with written proposals developed by groups and representatives of the plaintiff class in order to expand housing opportunity on a lawful basis for Black low income residents. This amicus knows of its own knowledge

that the officials of the Department of Housing and Urban Development have continued to express concern for the need of members of the plaintiff class for funding assistance programs as well as the need to provide increased housing opportunity on a nondiscriminatory basis, while consistently failing or refusing to enforce compliance with national law or its own agreements, rules and regulations.

The May 12, 1971 agreement entered into between the U.S. Department of Housing and Urban Development; the City of Chicago and the Chicago Housing Authority (CHA) is in fact, and ought be found by this court to be a "socio-economic contract," entered into by and between those parties, in material part, for the direct benefit of that special constituency of low income Black residents of the City of Chicago serviced by this *amicus curiae*. The same can be said of the July 1969 decree of the United States District Court which ordered the termination by CHA of 20 years of deliberate racially discriminatory housing practices; and directed the formulation of a new approach to providing housing for the cities poor Black residents that would rectify past discriminatory practices and otherwise comply with established Federal law.

It is to be noted that in the more than reasonable exercise of its sound discretion, the court below by the entry of its order of October 1, 1969, does not require the intervening defendant-appellants, City of Chicago and CHA, even now to fulfill their total obligation to house the poor in order to receive the 26 Million Dollars that are the subject of the Second Year Model Cities Funding request. Rather, and

we think unfortunately, the trial court has only required that these intervening defendants-appellants make good on part of their mutual promise contained in the letter of intent (socio-economic contract) signed by them on or about May 12, 1971, by supplying only 700 units of housing for low income residents, instead of meeting the entire 4300 unit deficiency that the joint City-HUD team previously found to exist. Even this requirement is urged by the intervening defendant-appellants as being unreasonable, and the order appealed from described as violative of public policy.

In this connection, it is respectfully submitted that the intervening defendants-appellants, City of Chicago and CHA hardly qualify to invoke the aid of the court of equity, or this court on review, on the grounds that the trial court's order is either unconscionable, imposes hardship on the employed poor in the Model Cities target areas, or violates public policy. The hands of the intervening defendant-appellants, City of Chicago and CHA, wreak with the odor and filth of racism; and the vile of injustice committed against Black residents of the City of Chicago solely because of their Blackness, and against both Black and White residents because of their mutual poverty.

Loss of employment is indeed painful to any segment of that special Black constituency of low income persons serviced by this amicus; and who constitute the plaintiff class. This amicus lives with and experiences the pain, anguish and misery caused by joblessness, that marks the lives of the Black members of the plaintiff's class day by day; week by week; and year by year. IT HURTS. However, we respectfully urge this court to see that 4,000 jobs now held by, and which may become lost to model area residents may not be the most crucial issue in this case;

certainly not against a background of more than twenty years of deliberate and covert racial discrimination in housing committed by the intervening defendants-appellants, City of Chicago and CHA against the City's Black low income resident families; and against a current profile which betrays an invidious, conscious and concerted refusal by the intervening defendants-appellants, City of Chicago and CHA to now provide additional housing (which would also mean increased employment opportunity) for this City's Black and White low income families.

At this very moment, more than 13,000 known low income families, 90% of whom are Black, wait for urgently needed housing, wherever it can be developed, both within and without the City of Chicago, while the intervening defendants-appellants, City of Chicago and CHA play a wicked political game of "now you see it - now you don't"; calculated to placate the sentiments of the racially bigoted and economically more fortunate who object to residing in communities with Black and poor families. Under these circumstances, the intervening defendants-appellants, City of Chicago and CHA mock justice, and have neither the moral nor legal standing in a court of equity to raise any question of the "devastating effect" of the trial court's injunction order upon the "public interest."

Indeed, in light of the foregoing the time has come to ask, and the undersigned as amicus curiae is justified in raising the question here of whether it is the "public interest" and the interest of the poor that the intervening defendants-appellants, City of Chicago and CHA really seek to serve by their request that Model Cities funds be released;

or whether the intervening defendants-appellants merely seek continued "political control" over the destiny of the City's Black and poor residents through the use of federal funding mechanisms.

It is respectfully submitted that Black Americans in greater and greater numbers, particularly in the City of Chicago, are struggling to overcome the "slave-slavemaster mentality" which urges bargaining with one's dignity, personhood and life; silent submission in the face of economic oppression and bad housing conditions; acceptance of overcrowded inner-city living conditions, or, "lose your model cities job." Such is the not so subtle message contained in the arguments advanced by the intervening defendants-appellants in this proceeding.

Intervening defendants-appellants dare to urge that there is no relationship between the Model Cities Program administered by the U.S. Department of Housing and Urban Development and the programs for housing low income residents administered by that same federal agency. Therefore, assert the intervening defendants-appellants, neither the United States District Court nor the Secretary of the Department of Housing and Urban Development may lawfully order or direct the withholding of funds from the Model Cities Program because of the refusal of Intervening defendants-appellants to proceed with a program for providing housing for low income residents on a nondiscriminatory basis.

We believe that this argument has been adequately met by plaintiffs who in their objections filed herein, call to this court's attention the HUD requirements for a comprehensive relocation plan as a condition precedent to the funding by HUD of either the Model Cities Program, urban renewal or neighborhood development programs. We join plaintiffs in advising this court that it was never intended by Congress nor the U.S. Department of Housing and Urban Development that the Model Cities Program be seen in isolation.

This court has certainly not lost sight of the fact that the original grievance asserted by plaintiffs in this cause of action was discrimination against plaintiffs in housing on the basis of plaintiffs race. In other words, institutional racism in the administration of federal housing programs for low income persons, is the only issue raised by plaintiffs in this case. In that regard, Intervening defendants-appellants either ignore, or misread the affirmative obligation expressly imposed upon the Secretary of the U.S. Department of Housing and Urban Development by legislation adopted by Congress subsequent to the filing of this lawsuit.

We would respectfully remind the court that in the wake of the tragic assassination of Dr. Martin Luther King, Jr., (six (6) days following his death) and as an acknowledged tribute to his efforts to provide equality of opportunity for all citizens in the area of housing, Congress on April 10, 1968 adopted Title VIII of the Civil Rights Act of 1968 (National Fair Housing Act - Public Law 90-284).

In this statute, Congress provided, inter alia, as follows:

Sec. 801 It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

The foregoing proviso, established for the first time in the United States, the comprehensive policy of nondiscrimination specifically addressed to the area of housing. Responsibility for enforcement of the new fair housing act has been placed upon the Secretary of the U.S. Department of Housing and Urban Development, with all executive departments having been required, by the statute, to both administer their own programs and cooperate with the Secretary of Housing and Urban Development in furthering the purposes of the National Fair Housing Act.

Congress thereupon expressly admonished the Secretary of Housing and Urban Development to:

"Sec. 808 (e) (5) Administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title."

No matter how else Title VIII of the Civil Rights Act of 1968 might be construed, clearly the purport of the foregoing proviso is to require coordination by the Secretary of all HUD programs, and the affirmative administration of those programs of HUD, including the Model Cities Program and federally assisted housing programs in a manner so as to eliminate discrimination based upon race, as well as color, religion and national origin. For this purpose therefore, by congressional mandate, all programs of HUD are related to each other.

CONCLUSION


The funds that are provided by the Model Cities Program are vital to the needs of the residents of the City of Chicago, and to the crucial needs of Black low income persons who are members of the class represented by the plaintiffs herein. The trial court below acknowledged its full awareness of and sensitivity to this fact. What the trial court and all parties to this proceeding also know is that more than 4300 units of housing are crucial to the lives of the more than 13,000 low income persons now on the waiting list of the Chicago Housing Authority who cry out to improve the living conditions for themselves and their families. It is interesting, ironic and indeed tragic to have to observe that the intervening defendants-appellants herein, namely the City of Chicago and the Chicago Housing Authority hold both the key to the model cities funds as well as the key to the doors of more and better housing so badly needed by those persons of low income on who's behalf this cause of action has been brought. It is respectfully urged that rather than to disturb the sound discretion thus far exercised by the trial court below, this court should assist the trial court by requiring all parties to this cause of action to take those steps necessary, and which are clearly possible, that would result in the immediate release of the model cities funds and the development and construction of additional housing to be occupied by low income residents.

To be sure, the Black poor of the City of Chicago are not likely to realize relief from years of denial brought on by racial discrimination by being provided with a model cities job with no prospect for

improved living and housing conditions; nor can such a result obtain by the provision of a limited number of additional houses without increased and equal job opportunity. The crucial need is for both; and there is no lawful justification under existing circumstances for either to be denied.

Respectfully submitted,

The Chicago Chapter and
OPERATION BREADBASKET of the
Southern Christian Leadership Conference

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NOTICE OF MOTION

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PLEASE TAKE NOTICE that on October 26, 1971, I filed in the Court of Appeals, Seventh Circuit, the attached Motion and Brief of the Chicago Chapter and Operation Breadbasket of the Southern Christian Leadership Conference as Amicus Curiae in the above entitled cause.

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STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

AFFIDAVIT OF SERVICE

I, THOMAS N. TODD, having been duly sworn upon oath, state that

I caused to be served a copy of the foregoing Notice of Motion by

delivering a copy of same to the following persons on October 26 , 1971.

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