



Business and Professional People For the Public Interest

January 16, 1974

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Re: Gautreaux v. CHA/HUD

Dear Messrs. Schaefer and O'Brien:

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I have been advised that on Monday of this week the Supreme Court denied certiorari in the CHA/HUD case on the City Council by-pass issue. Since CHA is under a continuing injunction to use its best efforts to provide new housing units as rapidly as possible, and HUD is under a continuing injunction to use its best efforts to cooperate with CHA in that endeavor, this seems an appropriate time to advise Judge Austin in some detail concerning the progress, or lack of it, on CHA Development Programs 2-85, 2-86 and 2-87 (covering the 1500 dwelling units the Court long ago ordered CHA to provide expeditiously) as well as plans for additional units. I would appreciate it, therefore, if you would provide me with the information requested in the balance of this letter. I am taking the liberty of sending a copy of this letter to Judge Austin.

Development Program 2-85

As I understand it, sites for this Development Program (approximately 267 units, I believe) were approved by CHA, HUD and the City Council, but construction has

been held up because HUD disapproved CHA's proposed costs on the ground they exceeded HUD "prototype" costs for the Chicago area. I will appreciate advice concerning what HUD and CHA are each doing, separately as well as cooperatively, to resolve the cost problem so that these long delayed units can be provided quickly. Either HUD's prototype costs for the Chicago area are unrealistically low or CHA's proposed costs are unjustifiably high, or both statements are true to some extent. The Court should be advised as to what HUD and CHA have done and are doing to get the right answer. Certainly the Development Program should not be held up indefinitely while each defendant blames the other and they do not cooperate to ascertain the true facts and resolve the dispute.

(I believe that Development Program 2-85 has not been delayed or otherwise affected by the by-pass phase of the case since the City Council had already approved sites for it. However, if by reason of the delay new sites are necessary, they can now be selected by CHA without City Council participation. I also believe that this Development Program is not affected by the "moratorium" referred to below.)

Development Programs 2-86, 2-87

As I understand it, sites for these Development Programs (the balance of the 1500 units) were approved by CHA and HUD but not the City Council. In light of the Supreme Court action, City Council approval is of course no longer needed. I further understand, however, that processing of these Development Programs has been held up by the "moratorium" declared by HUD in January, 1973. I will appreciate advice concerning what HUD and CHA have done, or now can do, separately as well as cooperatively, to enable these Development Programs to go forward. Please include in your response information as to whether there are any funds available for "conventional" public housing which were held up by the moratorium but now (in light of the Supreme Court action and the injunction against HUD) can be made available; whether funds for new construction under the Section 23 leasing program can be made available for the purpose; and whether any other action has been or can be taken by HUD and CHA so that the units covered by Development Programs 2-86 and 2-87 may be provided.

In this connection I particularly wish to call attention to President Nixon's statement of September 19 in which, among other things, he said the following:

"During the period in which a new approach is being developed, there will be a continuing need to provide housing for some low income families. We must recognize that in some areas of the country there will simply not be a sufficient supply of housing for the foreseeable future. I therefore propose that the Federal Government continue to assist in providing a limited amount of construction for low income housing - though I would expect to use this approach sparingly.

"To eliminate the many tangled problems which attend the delivery of subsidies under current construction programs, I am recommending a new approach to construction assistance by the Federal Government. Under this approach, the developer would make newly constructed units available at special rents for low income families and the Government in return would pay the developer the difference between such rents and fair market rents.

"During the remainder of fiscal year 1974, the Department of Housing and Urban Development will continue to process subsidy applications for units which had moved most of the way through the application process by January 5 of this year. In addition, the Department will process applications in cases where bona fide commitments have been made.

"I am advised by the Secretary for Housing and Urban Development that one of the existing construction programs - the Section 23 program under which new and existing housing is leased for low income families - can be administered in a way which carries out some of the principles of direct cash assistance. If administered in this way, this program could also provide valuable information for us to use in developing this new approach.

"Accordingly, I am lifting the suspension of January 5 with respect to these Section 23 programs. I am also directing the Secretary of Housing and

Urban Development to take whatever administrative steps are available to him to eliminate any abuses from such programs and to bring them into line as closely as possible with the direct cash assistance approach.

"Altogether, in order to meet bona fide commitments requiring action during this fiscal year and to carry out the Section 23 program, authorization has now been given to process applications for an additional 200,000 units, 150,000 units of which would be new construction." (Emphasis added.)

Among other questions that obviously arise, I think we should know whether Development Programs 2-86 and 2-87 can be viewed by HUD as "applications for units which have moved most of the way through the application process by January 5 of this [1973] year," whether these Development Programs can be part of the "limited amount of construction for low income housing" which the President said the Federal Government would continue to assist, whether they can be included within the "additional 200,000 units," etc. It would seem to me that since HUD as well as CHA has been determined to be legally responsible for the public housing segregation in Chicago, and to have a legal obligation to assist in remedying it, HUD would make special efforts to provide the funds that are needed to accomplish that purpose.

Additional Units

The Court's injunctions against CHA and HUD are not, of course, limited to the first 1500 units. (I believe, for example, that CHA requested a reservation for an additional 3500 units.) Will you please let me know, therefore, what HUD and CHA are doing and can do, separately and in cooperation with each other, to assure that the intent of the injunction orders is carried out and as many units are provided as possible. Please include in your response information as to whether Section 23 leasing funds, both for new construction and use of existing inventory, can be provided and used in such a manner as to implement the injunction orders. If there are any obstacles to doing so, what are they?

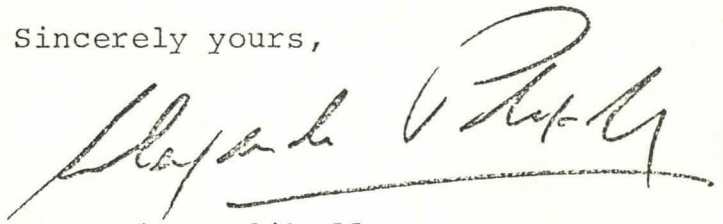
Messrs. Schaefer and O'Brien

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(Without meaning to limit the generality of this inquiry in any way, I have mentioned Section 23 in particular because I understand that HUD is in the process of issuing new regulations covering that program and I assume this means that "new" funds are or shortly will be made available under that program. I will appreciate confirmation of that assumption and information as to what HUD and CHA are doing to obtain and utilize any such funds to implement the injunction orders.)

I assume you will have to obtain the requested information from your respective clients but I will appreciate a response as soon as convenient. My purpose, of course, is to identify the obstacles that now remain, if any, to implementation of the outstanding orders against CHA and HUD, to be assured that HUD and CHA are cooperatively addressing them, and to get a prognosis on what progress can now be expected.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Alexander Polikoff", with a long horizontal flourish extending to the right.

Alexander Polikoff

ALP:eo

cc: Judge Richard B. Austin

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 66 C 1459
v.	)	66 C 1460
	)	Consolidated
GEORGE W. ROMNEY, et al.,	)	
	)	
Defendants.	)	

ORDER

This matter coming on to be heard pursuant to paragraphs 3 and 4 of this Court's order of January 3, 1972 (as modified by subsequent orders relating to the time of hearing only), pursuant to the response of defendant Chicago Housing Authority ("CHA") with respect thereto filed on March 17, 1972, and pursuant and 29, to the hearing held on September 28/ 1972, for the consideration (as provided in such order of January 3) of such response and the entry of further orders in connection therewith; and,

It appearing from the evidence that CHA presently has a "reservation" from the defendant United States Department of Housing and Urban Development ("HUD") for 1500 Dwelling Units (as defined in this Court's judgment order of July 1, 1969, 304 F.Supp. 736), that CHA has approved three "development plans" for all of said 1500 Dwelling Units as are to be located in the General Public Housing Area (as defined and provided in said

judgment order), and that CHA has submitted or shortly will submit such development plans to HUD for approval; and

It further appearing from the evidence that CHA has previously applied to HUD for an additional reservation for 3500 Dwelling Units but that such application may be technically defective; and,

The Court having retained jurisdiction of this matter for all purposes, specifically including enforcement of this Court's judgment order of July 1, 1969, which order, among other things, obligates CHA to "use its best efforts to increase the supply of Dwelling Units as rapidly as possible in conformity with the provisions of [such] judgment order," and directs CHA to "take all steps necessary to that end, including making applications for allocations of federal funds and carrying out all necessary planning and development", and,

It appearing to the Court that pursuant to such reservation of jurisdiction further orders are necessary to enforce such judgment order and "to remedy the past effects of CHA's unconstitutional site selection" as provided in this Court's memorandum opinion of February 10, 1969:

IT IS HEREBY ORDERED:

1. Within 15 days from the date hereof CHA shall either obtain written confirmation from HUD that its pending application for a reservation for 3500 Dwelling Units is acceptable in its present form as a valid application for such number of Dwelling

Units, or shall resubmit such application to HUD in appropriate form.

2. The Court retains jurisdiction over this matter for the entry pursuant to notice of such further orders as may be appropriate to effectuate the provisions of this order or otherwise.

ENTER:

1s/ RBA
United States Judge

September 29, 1972