Chicago Housing Authority

EXECUTIVE DIRECTOR
G. W. MASTER

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CHICAGO, ILLINOIS 60602
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December 11, 1978

Magistrate Olga Jurco
U.S. Magistrate
U.S. District Court
219 South Dearbron Street
Suite 2402
Chicago, Illinois 60604

Dear Magistrate Jurco:

Enclosed herein is CHA's memorandum responsive to the issue again being raised by Plaintiffs' Counsel in his letter and memorandum of December 5, 1978. It is the contention of CHA that the interpretation of the "Housing Authorities Act" relative to the acquisition power of a local public housing authority is not a proper subject for review under the Order of Reference.

Nonetheless, CHA memorandum and supplement thereto previously submitted addresses these issues. We restate and adopt the arguments stated therein along with those in the enclosed memorandum.

Very truly yours,

Calvin H. Hall
General Counsel

CHH:cdr
Enclosure

A. Polikoff
J. Jensen

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	NO. 66 C 1459
vs.	)	66 C 1460
	)	
PATRICIA R. HARRIS and CHICAGO HOUSING AUTHORITY, et al.,	)	(Consolidated)
	)	
Defendants.	)	

MEMORANDUM OF DEFENDANT
CHICAGO HOUSING AUTHORITY
TO THE HONORABLE MAGISTRATE JURCO

I. THE HOUSING AUTHORITIES ACT LIMITS CHA'S ACQUISITION POWER.

There is no "so called" second disagreement as to CHA's approach in acquisition of property under the Housing Authorities Act for the Authority has acquired property in accordance with the clear requirements of the Act. The "second disagreement" is the work product of the Plaintiff's Counsel who is attempting, after CHA's 40 years of operation under the statute to have this Court (which respectfully lacks the jurisdiction to so do) issue an "advisory opinion" on the interpretation of the statute, which "legal issue" was not and cannot now be at issue in these hearings before Your Honor.

It is axiomatic that the Courts will not interfere with the legislative intent of the Legislature unless the legislature has acted in an unconstitutional manner.

The whole purpose, public object and governmental function of the Housing Authorities Act is to "engage in low-rent housing and slum clearance

projects", (Ill. Rev. Stat. 67-1/2, Sec. 2), and since 1939 after many attacks on its constitutionality, the validity of the Act, was upheld in Krause v. Peoria Housing Authority, 370 Ill. 356. (Emphasis added)

The persistent attempts by Plaintiff's Counsel to interpolate the definition of "blighted or slum area" as being the identification of "individual buildings" needing rehabilitation and then designating the buildings, collectively, an "integregated project" (Emphasis added) is incredulous and should not be countenanced by this Court for the terms "Blighted or Slum Area" are defined in Section 9 of the Housing Authorities Act, (Par. 9, Chap. 67-1/2) as follows:

"* * * * * * * * * * * * * * * * * * *

"A 'blighted or slum area' means any area of not less in the aggregate than two (2) acres which has been designated by municipal ordinance or by the Authority as an integrated project for rehabilitation, development or redevelopment, where (a) buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are a detriment to public safety, health or morals, or welfare. (Emphasis added)

It is significant that Plaintiff's Counsel's disagreement is the result of his desire to qualify individual buildings needing rehabilitation in the face of an express definition in the statute which requires an area not less in the aggregate than two acres which have been designated by municipal ordinance or by the Authority as an integrated project. (Emphasis added.)

CHA has indeed maintained that it must designate an area where buildings or improvements by reason of dilapidation, obsolescence, overcrowding, lack of ventilation, light and so forth or a combination of these factors are a detriment to public safety, health or morals, or welfare,

contrary to plaintiff's position of identifying buildings needing rehabilitation without complying with all the statutory requirements.

The theoretical approach of plaintiff is only that--he puts the cart before the horse, for you must first designate as an integrated project for rehabilitation based upon buildings falling within the statutory requirements of Paragraph 9, Supra.

It has been held that the primary purpose in construing a statute is to ascertain the legislative intent expressed therein. (Scott v. Freeport Motor Casualty Co., 379 Ill. 155, 161; Karlson v. Murphy, 387 Ill. 436, 443.). It has further been held that statutes are to be construed according to their intent and meaning and a situation which is within the letter is not regarded as within the statute unless it is also within its object, spirit and meaning. (People v. Moczek, 407 Ill. 373, 382; Karlson v. Murphy, 387 Ill. 436, 443; People ex rel. Simpson v. Funkhouser, 385 Ill. 396, 404).

In respect to Plaintiff's Counsel's position to require CHA to identify individual buildings needing rehabilitation and then designate the buildings collectively, (Emphasis added); as "integrated project" it is our interpretation that the land in a "project" area must be contiguous.

Section 9 of the Housing Authorities Act, (Par. 9, Chap. 67 1/2, supra) provides in part as follows: (We repeat this Section)

> "A 'blighted or slum area' means any area of not less in the aggregate than two (2) acres which has been designated by municipal ordinance or by the Authority as an integrated project for rehabilitation, development or redevelopment, where (a) buildings or improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, excessive land coverage, deleterious land use or layout or any combination of these factors, are a detriment to public safety, health or morals, or welfare, * * *".

It will be noted that "blighted or slum area" means any area of not less in the aggregate than two acres which has been designated * * * as an integrated project.

The words "any area" as used herein, would seem to relate to a particular extent of surface and not to isolated or separated portions of surface.

The word "aggregate" is defined in the case of Bauer v. Rosetos & Co., 306 Ill. 602, 609, as follows:

> " 'Aggregate' is a word in common use and its meaning is well understood. Lexicographers define 'aggregate' to mean 'a mass, assemblage or sum of particulars;' 'the totality of all points or numbers that satisfy a given condition, as the aggregate of rational numbers;' 'the entire number, sum, mass or quantity of something; amount; complete; whole.' "

The word "integrated" is defined in Webster, New International Dictionary, as follows:

> "Composed of separate parts which make a unity."
> The word "integrate" is defined in said dictionary as:
> "To form into one whole; to make entire; to complete; to round out; to perfect. To unite parts or elements so as to form a whole."

It is apparent that a "project" for the acquisition of the type of "blighted or slum areas" described in said paragraph (a) of the definition of "blighted or slum area" in Section 9, Supra, must constitute one whole or unity.

It is therefore our opinion that the acquisition of such area as is described in subparagraph (a) of the definition of "blighted or slum area" in Section 9, relates to acquisition of a particular tract of land which constitutes a unit and that, in such cases, the land in such "Project area" should be contiguous.

Since the definition of "blighted or slum area in Section 9, Supra, contains not only a requirement of a minimum area of not less in the

aggregate then two acres, but also that said area has been designated as an integrated "project", it would therefore follow that said "project area", although composed of separate lots or parcels of land, should constitute a unity or should form a whole. Accordingly such a "project" area should consist of a particular tract of land which constitutes a unit and such land to be acquired should be contiguous.

II. PLAINTIFF'S COUNSEL MISREADS CREMER V. PEORIA HOUSING AUTHORITY

Plaintiff's Counsel misread Cremer v. Peoria Housing Authority, 399 Ill. 579, as being authority for the proposition that slum clearance was not a necessary requisite for the acquisition of property in order to facilitate the supply of additional housing under the 1947 State Grant Act I. R. S. Chapter 67-1/2, §§53-62.

Although it is admitted that the property acquired by the Peoria Housing Authority was not located in a blighted or slum area, the Court significantly pointed out that the Peoria Housing Authority received State Aid Grants under the 1945 Act in the sum of $133,070.00 and under the 1947 State Grant Act in the amount of $87,386.00. The Court also noted that under the 1945 Act, slum clearance was a necessary prerequisite, but under the 1947 Act all that was necessary to receive a grant was to show the use and the purpose under the grant. To clarify the Court's decision, we submit that the Court did not decide the case on this issue, and stated as follows:

> "In facilitating the supply of additional housing facilities, the 1947 State Grant Act strikes directly at the social evils inherent in the existing acute shortage of adequate dwellings. This, alone, constitutes a proper public purpose for the expenditure of State funds. The public purpose of the State Grant Acts is supplemented to the extent that, although grants are

no longer contingent upon the elimination of an equivalent slum area, they promote the development of substantial housing and thus aid in preventing the creation of new blighted areas and permit existing slum areas to be cleared. Slum clearance is, of course, a proper public purpose. (People ex rel Tuohy v. City of Chicago, 394 Ill. 477; Zurn v. City of Chicago, 389 Ill. 114; Krause v. Peoria Housing Authority, 370 Ill.356.) With the housing shortage at its peak the practicality or likelihood of any real progress in slum clearance remains remote. (At p. 589)

"Cremer v. Peoria Housing Authority, 399 Ill. 579, p. 589."

Respectfully submitted,

Calvin H. Hall

Dated: December 11, 1978

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