

7/25/80

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

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JUL 25 1980

John Powers Clerk of Court
United States District Court

DOROTHY GAUTREAUX, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 CHICAGO HOUSING AUTHORITY,)
 and MOON LANDRIEU, SECRETARY)
 OF DEPARTMENT OF HOUSING AND)
 URBAN DEVELOPMENT, et al.)
)
 Defendants.)

NO. 66 C 1459
66 C 1460
(Consolidated)

MOTION

Now come plaintiffs, by their attorneys, and pursuant to this Court's Memorandum Opinion and Order entered on October 22, 1979, move the Court to enter the draft order attached hereto.

In support of this motion plaintiffs state:

(1) On October 22, 1979, this Court granted plaintiffs' motion to reconsider the Court's earlier denial of plaintiffs' motion for further relief against the defendant, Department of Housing and Urban Development ("HUD"), and directed the

parties "to draw up a joint proposal for implementation of this relief to be submitted to the Court for final approval." (Memorandum Opinion and Order, October 22, 1979, p.5.)

(2) Since October 22, 1979, plaintiffs have sought to reach agreement with HUD upon such a joint proposal for implementation of such relief. Recently, however, HUD advised plaintiffs' counsel that it would not at this time agree to include any conditions relating to the provision of housing for Gautreaux plaintiff families in HUD's approval of applications of the City of Chicago for Community Development Block Grant funds.

WHEREFORE, plaintiffs have prepared a proposal in the form of the draft order attached hereto and request entry thereof.

Respectfully submitted,



Alexander Polikoff
One of the attorneys for plaintiffs

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ORDER

This matter coming on to be heard pursuant to this Court's Memorandum Opinion and Order dated October 22, 1979, and

The Court having heard the presentations of the parties and having determined that the proposed order is appropriate and in furtherance of the purpose of the judgement orders entered in this consolidated cause,

It is hereby ordered:

I. For purposes of this order,

A. "Assisted housing" shall mean dwelling units provided under the Low Income Public Housing Program (42 USC §§1437 et seq.), the Section 8 Housing Assistance Payments Program - New Construction and Substantial Rehabilitation (42 USC §1437f(b) (2)), and the Section 8

Housing Assistance Payments Program - Existing Housing/
Moderate Rehabilitation (24 CFR 882, Subparts D and E).

B. "Family housing" shall mean assisted housing
for non-elderly households of four or fewer persons.

C. "Large family housing" shall mean assisted
housing for non-elderly households of five or more
persons.

D. "Lawful powers" shall mean all actions the
City of Chicago ("City") is lawfully empowered to take
to facilitate the development of assisted family and
large family housing to assure compliance with the con-
ditions in Section II hereof, including without limita-
tion the following:

(1) Promotional and assistance activities
to encourage the initiation of development plans by
public and private housing developers, including without
limitation the provision of tax-exempt funds through the
issuance of tax exempt bonds or otherwise;

(2) Acquisition of sites, including improved
sites, preparation and maintenance on a current basis of
a publicly available inventory of such sites (including
any such sites owned by the City prior to the date of this
order), provision of suitable publicity with respect
thereto, and disposition of such sites (including by

means of "write-downs" or donations) to the Chicago Housing Authority ("CHA") and private developers;

(3) Preparation and maintenance on a current basis of a publicly available inventory of sites, including improved sites, owned by other public bodies or agencies and as to which the Chicago Plan Commission is given notice of proposed disposition pursuant to Illinois Revised Statutes Ch. 24, §11-12-4.1, provision of suitable publicity with respect thereto, and the employment of the City's best efforts to facilitate the disposition of such sites to CHA and private developers;

(4) Adoption or modification of local ordinances and land use measures, and conditioning public approvals and permits for residential planned unit developments and the making of grants under the City's Multi-Family Rehabilitation Program upon the development of such housing;

(5) Payment of site assemblage and site clearance costs, and provision of site improvements and public improvements;

(6) Issuance of zoning changes, building permits, utility connections and similar administrative approvals;

(7) Payment of the costs of preconstruction activities, including without limitation costs of surveys, market analyses, site and utility plans and obtaining financing;

(8) Construction of publicly owned platforms and foundations for air rights sites;

(9) Employment of other measures to reduce development costs, including without limitation waiver of fees and other administrative costs and payment of special monetary grants to private developers and CHA for the development of assisted large family housing;

(10) Employment of the City's powers under Section 213 of the Housing and Community Development Act of 1974, as amended, to provide priorities for particular development proposals;

(11) Employment of the City's powers under the allocation guidelines in HUD notice H79-104, dated October 29, 1979, and successor guidelines, to designate particular development locations;

(12) Employment of the City's powers under 24 CFR §§880.303 and 881.303 to request preapproval of particular development sites or select particular development proposals;

(13) Employment of the City's powers to refuse to make or approve Urban Development Action Grant applications pursuant to 24 CFR 570, Subpart G, where such

applications propose funding for activities that directly or indirectly support housing developments and do not include such housing;

(14) Provision of assistance to neighborhood-based non-profit organizations and local development corporations for the purposes set forth in 24 CFR §570.204(c), including without limitation assistance for the construction, or for subsidizing or financing the construction of, such housing, and for the operation and maintenance thereof;

(15) Execution of an agreement with CHA to facilitate development activities by CHA, including without limitation an agreement providing for the establishment by the City of a revolving fund for the purchase by CHA of vacant and improved sites; and

(16) In the event the foregoing and other actions fail to assure that the conditions in Section II hereof are complied with, development (including construction and/or rehabilitation) by the City of such housing.

II. HUD shall include in any approval of the City's Year VI (Fiscal Year 1981) application for funding under the Community Development Block Grant ("CDBG") Program, the following specific conditions respecting the entirety of the grant:

A. To the extent CHA so requests the City shall use all of its lawful powers to help CHA develop assisted family and large family housing in the General Public

Housing Area ("GPHA") in conformance with orders heretofore entered in this consolidated cause, including but not limited to the 400 units of assisted housing for non-elderly households in the GPHA authorized in this Court's order of May 18, 1979. The City shall promptly advise CHA in writing of its willingness to use such powers to so assist CHA and shall invite written requests for such assistance from CHA. The City shall promptly transmit to HUD and the plaintiffs copies of its said advice to CHA and copies of any requests for such assistance received from CHA. Upon the taking of any action in response to such requests the City shall prepare and promptly transmit to HUD and the plaintiffs statements describing all such actions taken.

B. Using all of its lawful powers as necessary, the City shall achieve production by July 15, 1981, of a number of family and large family Section 8 new construction and substantial rehabilitation dwelling units equal to the number of such units as to which HUD issued firm financial commitments, as heretofore defined by HUD, during the period September 16, 1976, to September 30, 1979, as follows:

(1) 469 units of Section 8 new construction in the GPHA, of which at least 37 units shall be large family housing; and

(2) 1,891 units of Section 8 substantial rehabilitation, of which at least 138 units shall be large family housing, including at least 49 units in the GPHA, and of which at least 816 units (in addition to such 49 units) shall be in the GPHA.

For purposes of this Section B, "production" shall mean the commencement of on-site construction.

C. Using all of its lawful powers as necessary, the City shall achieve production by July 15, 1981, of its CDBG Year V (Fiscal Year 1980) Annual Housing Assistance Plan goals for family and large family Section 8 new construction and rehabilitation units, as follows:

(1) 1,035 units of Section 8 new construction in the GPHA, of which at least 320 units shall be large family housing, including at least 38 units having 4 or more bedrooms;

(2) 1,806 units of Section 8 substantial rehabilitation, of which at least 474 units shall be large family housing, including at least 57 units having 4 or more bedrooms; and

(3) 387 units of Section 8 moderate rehabilitation, of which at least 101 units shall be large family housing, including at least 12 units having 4 or more bedrooms.

For purposes of this Section C, "production" shall mean: the execution of an Agreement to Enter into a Housing Assistance Payments Contract between the owner and HUD pursuant to 24 CFR §§880.311 or 881.311; or, with respect to proposals processed under the Fast Track Procedures of 24 CFR §883, Subpart D, the execution of an Annual Contributions Contract between HUD and IHDA and the approval by HUD of an executed Agreement to Enter into a Housing Assistance Payments Contract between the owner and IHDA pursuant to 24 CFR §883.407; or, with respect to Section 8 moderate rehabilitation proposals, the execution of an Agreement to Enter into a Housing Assistance Payments Contract between the owner and CHA or its representative pursuant to 24 CFR §882.508.

D. Using all of its lawful powers as necessary, the City shall achieve production by July 15, 1981, of its CDBG Year VI (Fiscal Year 1981) Housing Assistance Plan goals for family and large family Section 8 new construction and rehabilitation units, as follows:

(1) 393 units of Section 8 new construction in the GPHA, of which at least 135 units shall be large family housing, including at least 16 units having 4 or more bedrooms;

(2) 605 units of Section 8 substantial rehabilitation, of which at least 210 units shall be large family housing, including at least 25 units having 4 or more bedrooms; and

(3) 150 units of Section 8 moderate rehabilitation, of which at least 35 shall be large family housing, including at least 4 units having 4 or more bedrooms.

For purposes of this Section D "production" shall mean: the submission to HUD and IHDA of proposals for Section 8 new construction housing developments that meet the requirements of 24 CFR §§880.305 and 306(a)(3), and of proposals for Section 8 substantial rehabilitation housing developments that meet the requirements of 24 CFR §§881.305 and 306(a)(3); or with respect to proposals processed under the Fast Track Procedures of 24 CFR §883, Subpart D, the submission to IHDA of proposals that meet the requirements of 24 CFR §§883.403(c) and (d) and 404 and as to which IHDA certifies to HUD that the requirements of either 24 CFR §§880.305(b) and (c) or 24 CFR §§881.305(b) and (h) have been complied with; or, with respect to Section 8 moderate rehabilitation proposals, the submission to CHA or its representatives of proposals that meet the requirements of an advertisement pursuant to 24 CFR §883.506, including the requirements of 24 CFR §883.506(b).

III. On February 2, 1980, HUD shall file with the Court and serve upon the parties a report stating HUD's views

respecting (A) the City's progress in complying with the conditions in Section II, (B) the extent to which the City is or is not using its lawful powers to comply therewith, including without limitation a statement describing all actions taken by the City subsequent to the entry of this order to help assure such compliance, and (C) any other matters which in HUD's judgement are appropriate to bring to the attention of the Court to the end of informing the Court fully respecting the likelihood that such conditions will be complied with, including without limitation any recommendations for action to be taken by the Court.

IV. On or before July 31, 1981, HUD shall file with the Court and serve upon the parties a final report respecting the City's compliance with the conditions in Section II. Such final report shall state HUD's views, including the specific factual bases therefor, as to whether the City has complied with all of such conditions and shall include, without limitation, a statement describing all actions taken by the City subsequent to January 31, 1981, to assure such compliance. If the City has not so complied such report shall state HUD's views, including the specific factual bases therefor, as to whether (A) the City has used all of its lawful powers to attempt to comply with the conditions in Section II, and (B) such failure

to comply is due to factors beyond the control of the City. If, in HUD's view, the City has not used all of its lawful powers to comply with such conditions and the failure to comply therewith is not due to factors beyond the control of the City, HUD shall include in such final report a proposal for remedial action by HUD with respect to the City's Year VI (Fiscal Year 1981) and Year VII (Fiscal Year 1982) CDBG grants, including without limitation the reduction of such grants. Thereafter, pursuant to notice and motion by any party, and upon such further presentations as the Court deems appropriate, the Court may enter such further order as it deems just and equitable in the circumstances.

V. HUD shall promptly serve upon the plaintiffs copies of all documents delivered to HUD by the City or CHA, or received by HUD from the City or CHA, which relate to actions taken or to be taken by HUD, the City or CHA to assure that the conditions in Section II hereof are complied with.

VI. Except as and to the extent specifically provided in this order, this Court's orders previously entered herein, as previously modified, remain in full force and effect, and the Court retains jurisdiction of this matter for all

purposes, including enforcement and the issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information, material changes in conditions existing at the time of this order or any other matter.

Judge, United States District Court

Dated: , 1980

CERTIFICATE OF SERVICE

I certify that on this 25th day of July, 1980,
I served the foregoing Notice, and the Motion referred
to therein, upon each of the attorneys to whom the
Notice is addressed by causing it to be mailed, postage
prepaid, to their addresses as shown on said Notice.


Attorney