

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

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

v.

SAMUEL R. PIERCE, JR., Secretary of  
the Department of Housing and Urban  
Development, and CHICAGO HOUSING  
AUTHORITY,

Defendants.

Civil Action No. 66C1459  
66C1460

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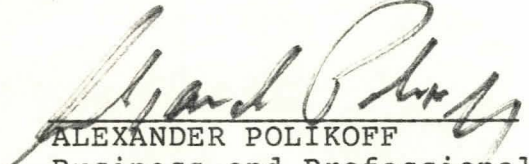
Judge Marvin E. Aspen  
U. S. District Court

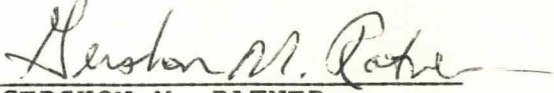
JOINT MOTION TO MODIFY CONSENT DECREE

Pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and paragraph 8.6 of the Consent Decree entered in this cause on June 29, 1981, defendant Samuel R. Pierce, Jr., Secretary of the U.S. Department of Housing and Urban Development, and plaintiffs jointly move this Court to enter the annexed Order modifying the Consent Decree between the parties.

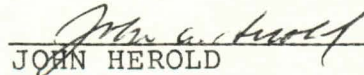
In support of this motion, the Court is respectfully referred to the memorandum submitted herewith.

Respectfully submitted,

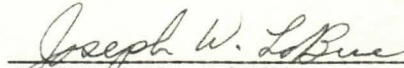
  
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(Consolidated)

MEMORANDUM IN SUPPORT OF JOINT  
MOTION TO MODIFY CONSENT DECREE

Under paragraphs 5.5.2 and 5.5.3 of the Consent Decree between plaintiffs and HUD, which was entered in this cause on June 29, 1981, HUD is obligated to set aside contract authority under Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f, to provide rental subsidies for 350 units per year of newly constructed and/or substantially rehabilitated housing until HUD's obligations under the Decree terminate.<sup>1/</sup> Section 209(a)(2) of Pub L. 98-181, 97 Stat. 1183 (Nov. 30, 1983) repealed HUD's statutory authorization for the Section 8 New Construction/Substantial Rehabilitation programs.

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<sup>1/</sup> Under paragraph 5.1 of the Decree, HUD is obligated to provide assisted housing in accordance with Part 5 of the Decree until "the number of occupancies of assisted housing units in the General Area and/or the Revitalizing Area . . . commenced by eligible persons equals 7,100."



Paragraph 8.6 of the Decree provides that "HUD's ability to perform any of its obligations specified in [the] Decree is subject to the availability of funding . . . and to the existence of statutory authority generally authorizing acts necessary for performance by HUD." Where, as here, HUD no longer has authority to perform certain of its obligations under the Decree, paragraph 8.6 provides that "plaintiffs shall be entitled to receive alternative relief comparable to that specified [in the Decree] and consistent with HUD's revised funding or statutory authority for assisted housing." In addition, the Decree directs the parties to consult in an effort to agree upon a proposed modification of the Decree to provide such alternative relief. During Fiscal Years 1984 through 1986, the parties agreed to substitute funding for 350 units of either public housing or a combination of public housing and Section 8 assistance for moderately rehabilitated housing, for the units otherwise called for by paragraphs 5.5.2 and 5.5.3 of the Decree.

For Fiscal Year 1987, plaintiffs and HUD have agreed that the interests of the plaintiff class would be best served if prompt action were taken to ensure that adequate funding is available to the recently appointed Receiver to complete units of public housing previously allocated to CHA. A portion of such funds may also be

used to reimburse CHA for costs incurred in the past for development of scattered site housing if such reimbursement is determined to be appropriate by HUD.<sup>2/</sup> The annexed Order implements that agreement.

Paragraph 1 of the Order reflects that HUD has agreed to hold or continue to hold \$24.5 million in reserve for the purpose of enabling the Receiver to complete development of scattered site public housing units previously allocated to CHA and, if determined to be appropriate by HUD, reimbursing CHA for costs incurred in the past for development of these units. The \$24.5 million referenced in paragraph 1 represents additional funds in excess of both the latest approved development cost budgets for five partially completed projects,<sup>3/</sup> and the existing loan authority for the

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<sup>2/</sup> HUD will decide whether, and to what extent, such reimbursement is reasonable and appropriate after further analysis of CHA's claims.

<sup>3/</sup> The five partially completed projects referenced in the Order are Project Nos. Il 2-096, Il 2-103, Il 2-104, Il 2-105 and Il 2-109. The latest approved development cost budget for three of the five projects is \$16,869,458 for Project No. Il 2-096, \$17,677,800 for Il 2-104, and \$10,921,277 for Il 2-105. See Exh. 3 F to CHA's Response in Opposition To Plaintiff's Motion To Appoint A Receiver. The latest development cost budget submitted by CHA and approved by HUD for the units which currently comprise Project Nos. Il 2-103 and Il 2-109 is \$26,092,333. Based upon an audit report completed by HUD's Office of Inspector General on March 27, 1986, HUD proposed to split Project Nos. Il 2-103 and Il 2-109 into five projects and to increase the total budget for these projects to \$29,771,719; however CHA never accepted this proposal. For purposes of the annexed Order, plaintiffs and HUD agree that the latest approved development cost budget for Project Nos. Il 2-103 and Il 2-109 is \$29,771,719.



remaining five projects.<sup>4/</sup> HUD will determine the precise amount of funds to be allocated to each project after further analysis and discussions with the Receiver and CHA.

Paragraph 2 of the Order provides that HUD will receive a credit toward its obligations under paragraphs 5.1, 5.5.2 and 5.5.3 of the Decree to the extent that HUD agrees to use and actually utilizes additional funds for the purposes described in paragraph 1 of the Order. The credit is based upon the parties' agreement that the reasonable dollar value of 350 units of public housing which might otherwise be provided by HUD during Fiscal Year 1987 is \$24.5 million or \$70,000 per unit.

Under paragraph 3 of the Order, HUD is obligated at the beginning of the Fiscal Year following the date of completion of all units in the above projects, or any altered, modified, or reconfigured version of the above projects, to set aside contract authority for any FY 87 units which have not been satisfied by application of the credit referenced in paragraph 2 of the Order. For example, if HUD receives a credit for 200 units of assisted housing pursuant to paragraph 2 of the Order, HUD will be obligated to set aside contract authority for the remaining 150 units of assisted housing, in addition to any assistance which HUD would otherwise be obligated to provide under the Decree, during the

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<sup>4/</sup> Development Cost Budgets have not been submitted or approved for Project Nos. Il 2-098, Il 2-106 through Il 2-108, and Il 2-113. The loan authority administratively reserved by HUD for these projects is \$1,045,187 for Project No. Il 2-098, \$7,908,032 for Il 2-106, \$4,382,240 for Il 2-107, \$3,592,000 for Il 2-108, and \$16,008,000 for Il 2-113.

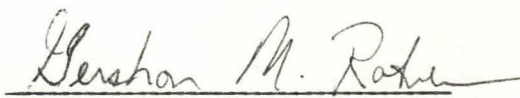
Fiscal Year following the date of completion. The type of assistance to be provided will be determined after consultation with plaintiffs in accordance with paragraph 8.6 of the Decree.

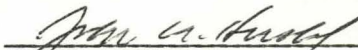
CONCLUSION

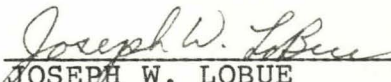
For the foregoing reasons, plaintiffs and HUD respectfully submit that the Court should enter the annexed Agreed Order.

Respectfully submitted,

  
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Housing and Urban Development

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AUTHORITY,	)	
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AGREED ORDER

The Consent Decree between plaintiffs and HUD, entered on June 29, 1981, is hereby modified pursuant to paragraph 8.6 thereof to provide that HUD's obligation to set aside contract authority during Fiscal Year 1987 pursuant to paragraphs 5.5.2, 5.5.3, and 8.6 of the Decree shall be satisfied as follows:

1. HUD has agreed to hold or continue to hold \$24.5 million in reserve for the purpose of enabling the Receiver to complete development of scattered site public housing units previously allocated to CHA and, if determined to be appropriate by HUD, reimbursing CHA for costs incurred in the past for development of scattered site public housing units included in Project Nos. 11 2-



096, I1 2-103, I1 2-104, I1 2-105 and I1 2-109. The funds referenced in this paragraph are additional funds in excess of both the latest approved development cost budgets for Project Nos. I1 2-096, I1 2-103, I1 2-104, I1 2-105, and I1 2-109 and the existing loan authority reserved for Project Nos. I1 2-098, I1 2-106 through I1 2-108, and I1 2-113.

2. To the extent that HUD agrees to use and actually utilizes such additional funds for the purposes described in paragraph 1 of this Order, HUD shall receive a credit, in a proportionate amount as provided below, toward its obligation to set aside contract authority in Fiscal Year 1987 pursuant to paragraphs 5.5.2, 5.5.3, and 8.6 of the Consent Decree and a corresponding credit toward the 7,100 occupancies referenced in paragraph 5.1 of the Decree. The number of units/occupancies to be credited toward HUD's obligations under the Decree shall be computed by dividing the total amount of additional funds utilized by HUD in accordance with this paragraph by \$70,000; provided however that the amount of such credit shall in no event exceed 350 units/occupancies.

3. To the extent that the credit computed in accordance with paragraph 2 above is less than 350 units, HUD shall be obligated at ~~the beginning of the Fiscal Year following the date of completion of~~ all units in the above projects, regardless of how such projects may be altered, modified, or reconfigured, to set aside contract authority for a corresponding number of assisted housing units in addition to any assistance which HUD would otherwise be obligated to

provide during that Fiscal Year under the Decree. The type of assistance to be provided under this paragraph shall be determined in accordance with the provisions of paragraph 8.6 of the Decree.

4. Nothing in this Order shall obligate HUD to furnish funds to either the Receiver or to CHA in addition to any funds which HUD would otherwise be obligated to provide to CHA by virtue of any previous order of this Court or otherwise.

5. Except as expressly modified by this Order, the provisions of the Consent Decree between plaintiffs and HUD previously entered herein, as previously modified, remain in full force and effect.

Enter:

Dated: September \_\_, 1987

UNITED STATES DISTRICT JUDGE