



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-0500

OFFICE OF THE GENERAL COUNSEL

AUG 16 1988

Alexander Polikoff, Esq.  
Business and Professional People  
for the Public Interest  
109 North Dearborn Street, Suite 1300  
Chicago, Illinois 60602

Re: Gautreaux

Dear Alex:

Enclosed herewith is HUD's motion to modify Consent Decree  
together with supporting papers.

Sincerely,

A handwritten signature in cursive script, reading "Joseph W. LoBue".

Joseph W. LoBue  
Trial Attorney

Enclosures

cc: Aaron Kramer  
James Thomas  
Judson Miner  
Maurice Jacobs

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

DOROTHY GAUTREAU, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 66C1459
v.	)	66C1460
	)	
SAMUEL R. PIERCE, JR., Secretary of	)	(Consolidated)
the Department of Housing and Urban	)	
Development, and CHICAGO HOUSING	)	
AUTHORITY,	)	
	)	
Defendants.	)	
	)	

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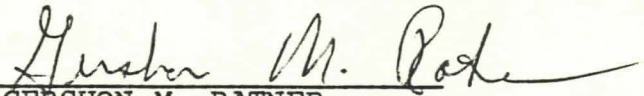
FEDERAL DEFENDANT'S MOTION TO  
MODIFY CONSENT DECREE

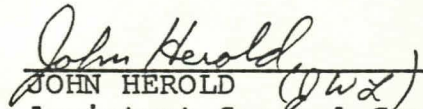
Pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and paragraphs 8.2 and 8.6 of the Consent Decree entered in this cause on June 29, 1981, defendant Samuel R. Pierce, Jr., Secretary of the U.S. Department of Housing and Urban Development, moves this Court to modify the Consent Decree, without affecting HUD's long-term obligation to provide assisted housing until 7,100 occupancies by eligible persons has been achieved: (1) to release HUD from its obligation to set aside additional funding for assisted housing during FY 1988 and (2) to specify that HUD shall not be obligated to set aside any funds for development of additional public housing units for any fiscal year beginning FY 1989 in which, as of October 1st of such year, the Receiver already has funding for 900 or more units not yet under construction, provided further, that, in any year in which the Receiver has fewer than 900 units not yet under

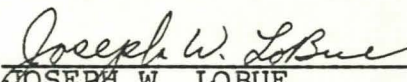
construction as of that date, HUD shall not be required to set aside funding for any more public housing units than necessary to bring the total number of such units to 900.

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

Respectfully submitted,

  
\_\_\_\_\_  
GERSHON M. RATNER  
Associate General Counsel  
for Litigation

  
\_\_\_\_\_  
JOHN HEROLD (JW2)  
Assistant General Counsel for  
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\_\_\_\_\_  
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Attorneys for Defendant SAMUEL  
R. PIERCE, JR., Secretary of  
Housing and Urban Development



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

DOROTHY GAUTREAUX, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 66C1459
v.	)	66C1460
	)	
SAMUEL R. PIERCE, JR., Secretary of	)	(Consolidated)
the Department of Housing and Urban	)	
Development, and CHICAGO HOUSING	)	
AUTHORITY,	)	
	)	
Defendants.	)	
	)	

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MEMORANDUM IN SUPPORT OF FEDERAL DEFENDANT'S  
MOTION TO MODIFY CONSENT DECREE

Preliminary Statement

At any time after the fifth anniversary of the effective date of the Consent Decree entered in this cause, either HUD or the plaintiffs may request the Court "to review the progress made in providing assisted housing to eligible persons . . . and, based upon such review, to modify or terminate any or all of the rights or obligations" provided in the Decree. Consent Decree, ¶ 8.2. Moreover, the party seeking such review is not required "to demonstrate changed circumstances to obtain such Court review." Id.

As this Court found in proceedings last year culminating in the appointment of a Receiver to administer the scattered site program, little progress has been made in completing development of scattered site public housing funded by HUD in some cases more than nine years ago. Federal funding for development of public housing in the City of Chicago has remained substantially unutilized. Presently,



approximately \$ 70 million earmarked for development of 1,116 scattered site housing units remains to be expended. At best, the Receiver will be unable to begin even planning for the development of additional public housing units for 17 to 29 months.

Paragraphs 5.5.2 and 5.5.3 of the Consent Decree require HUD to set aside contract authority under Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f, for 350 units per year of newly constructed and/or substantially rehabilitated housing. However, HUD's statutory authorization for the Section 8 New Construction/Substantial Rehabilitation programs was repealed in 1983. Pub. L. 98-181, 97 Stat. 1183 (Nov. 30, 1983). Pursuant to paragraph 8.6. of the Decree, plaintiffs nonetheless remain entitled to "alternative relief comparable to that specified [in the Decree] and consistent with HUD's revised funding or statutory authority for assisted housing."

In each of the four fiscal years following the repeal of the Section 8 New Construction program, plaintiffs and HUD have 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. During Fiscal Years 1984 through 1986, funding for 443 additional units of public

housing was set aside for the Chicago Housing Authority, thereby adding to the backlog of 672 public housing units funded prior to 1984 but remaining incomplete today.<sup>1/</sup>

Notwithstanding the backlog of 1,116 public housing units which remain to be completed by the Receiver, many of which were initially funded more than eight years ago, plaintiffs have now requested that HUD set aside funding during FY 88 for 350 more units of public housing. While a small number of these additional units could be absorbed by suburban public housing agencies,<sup>2/</sup> most would be made available to the Receiver. Because the Receiver would be unable for 17 to 29 months to commence even preliminary planning for development of additional public housing over and above the 1,116 units already funded, if HUD were to accede to plaintiffs' request, impoverished families in other communities would be deprived of needed public housing for two years or more for the sole purpose of allowing plaintiffs to stockpile public housing funds for future use by the Receiver.

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<sup>1/</sup> HUD provided funding for 250 units of public housing and 100 units of Section 8 assistance for moderately rehabilitated housing ("Mod. Rehab.") during FY 84, 100 units of public housing and 250 Section 8 Mod. Rehab. units in FY 85, 350 units of public housing in FY 86, and amendment funds equivalent to 350 additional public housing units during FY 87. Of the total of 700 public housing units funded from FY 84 - FY 86, 257 were provided to suburban public housing agencies.

<sup>2/</sup> Suburban PHAs applied for an average of 86 units per year for each fiscal year 1984, 1985 and 1986.



Since an additional allocation of public housing development resources at this time would not increase production of public housing in the City of Chicago, this Court should modify the Decree to release HUD from its obligation to set aside funds for assisted housing during the current fiscal year. In addition, while HUD does not seek to modify its long-term obligation to provide assisted housing until 7,100 occupancies by eligible persons has been achieved, HUD respectfully requests that this Court limit the number of public housing units to be included in future year set-asides so that the funding available to the Receiver after such a set-aside for units not yet under construction would not exceed the amount necessary for development of 900 public housing units. This 900 represents 300 more than the maximum number of units that the Receiver estimates he can process during a one year period.

#### ARGUMENT

Courts generally require a party seeking modification of a Consent Decree to demonstrate both (1) exceptional or changed circumstances, and (2) a balance of equitable considerations, including the relative hardships upon the parties and innocent third persons, weighing in favor of modifying the Decree. Gautreaux v. Weaver, 535 F. Supp. 423, 426 (N.D. Ill. 1982), and cases cited therein. This traditional two-part analysis is significantly altered by the express language of paragraph 8.2 of the Decree which



provides that a party seeking review of the Decree more than five years after its effective date "will not be required to demonstrate changed circumstances to obtain such Court review." (emphasis added)

With respect to the second part of the two part analysis, the discussion below demonstrates that plaintiffs will suffer no palpable injury if the Decree is modified to release HUD from its obligation to set aside funds for public housing in FY 88 since the Receiver will be unable to begin even preliminary planning for additional public housing units before FY 1990. Since the Receiver cannot utilize additional public housing funds at present, an additional allotment of federal assistance would not provide an effective remedy to plaintiffs. Similarly, plaintiffs would suffer no real injury if this Court limits the number of public housing units to be included in future year set-asides since the limitation would be imposed only if the Receiver already had funding at the beginning of a Fiscal Year sufficient for the development of 900 public housing units not yet under construction contract.

While plaintiffs, by not stockpiling funds now, hypothetically could suffer an injury in future years if Congress were to eliminate HUD's statutory authority or annual appropriation for the development of public housing, such an injury is wholly speculative and does not outweigh the definite known injury to the public interest from wasting scarce public housing resources now.

Moreover, any such injury would be mitigated in large part, if not entirely, by the comparability provisions in the Decree, since plaintiffs would be entitled to whatever alternative federal housing assistance may then be available.

In contrast, if the Decree is not modified, HUD would be obligated to set aside funding for the Receiver, when it is not yet needed, at the expense of public housing agencies in other communities with an immediate need for funding. As a result, impoverished families in those communities would be deprived of needed public housing for two years or more with no corresponding benefit to plaintiffs. Such a result would be contrary to basic principles of fairness and public policy, and its avoidance weighs heavily in favor of modifying the terms of the Decree.

I. This Court Should Modify the Consent Decree To Defer HUD's Obligation To Set Aside Funding For Assisted Housing Units During Fiscal Year 1988.

Plaintiffs contend that an allocation of funding for 350 additional public housing units for FY 88 is "comparable" to the Section 8 New Construction/Substantial Rehabilitation units otherwise called for by paragraphs 5.5.2 and 5.5.3 of the Decree. The Section 8 New Construction/Substantial Rehabilitation programs were provided for in Section 8(b) of the United States Housing Act of 1937 (formerly 42 U.S.C. § 1437f(b)(2)) which, prior to its repeal in 1983, authorized the Secretary of HUD to make rental subsidy payments to "owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units shall be available for occupancy by lower-income



families. . . " The public housing development program is embodied in Section 5(a)(2) of the Act, as amended, 42 U.S.C. § 1437c(a)(2), which authorizes the Secretary to "make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects."

HUD does not dispute that the two programs are "comparable" in the sense that both facilitate the production of newly constructed and/or substantially rehabilitated housing for low income persons. A critical distinction between the two programs, however, is the identity of the recipient of federal funds. The Section 8 program provided for direct subsidies by HUD to private developers. Therefore, a delay by one developer in commencing construction or completing a project would not inevitably delay construction of a project by a different developer. In marked contrast, public housing funds would be set aside principally, if not exclusively, for use by the Receiver. As a result of the Chicago Housing Authority's lack of progress in completing development of projects funded over the past nine years, the Receiver already has available \$70 million in federal housing funds and more than 1100 units which remain to be completed. Declaration of Thomas Sherman, ¶ 6. The Receiver will be unable to utilize any funding for additional units until he commences development of the units already funded.

At the request of counsel for HUD, the Receiver prepared an estimate of the number of scattered site housing units which the Receiver can reasonably develop over the next five years. (Attachment A). The Receiver's projections reflect that he will be unable to begin even preliminary planning for development of



additional public housing units over and above those already funded until at least January, 1990 and perhaps as late as January, 1991.<sup>3/</sup> Id., at 2, 5. Consequently, a set-aside of public housing development funds during Fiscal Year 1988 would not provide additional housing to the plaintiff class any more rapidly than a similar set aside allocated in Fiscal Year 1990. In either case, the Receiver would be unable to commence development of the units until at least January 1990.

Such a result would be particularly inappropriate given the limited funds available for development of new public housing. The total funding available to the Department in FY 88 for development of new public housing, nationwide, as well as major reconstruction of existing obsolete public housing projects, has been approximately \$471,211,566.<sup>4/</sup> Sherman Declar., ¶ 2. Of this amount, approximately \$376 million will be utilized specifically for development of additional public housing, as distinguished from major reconstruction of existing projects. Id. In order to set aside sufficient funding for 350 units of public housing in Chicago, HUD would have to reserve approximately \$24.5 million, which

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<sup>3/</sup> The Receiver's projections are based upon a total development period of 12 months for projects requiring minor repair work and 24 months for projects entailing new construction or substantial rehabilitation. In addition, the Receiver projects that he can initiate development of one new project of approximately 100 units every two to three months.

<sup>4/</sup> This amount includes \$210,923,000 provided in the Fiscal Year 1988 HUD Appropriation Act, \$77,252,861 of budget authority recaptured but not reserved in Fiscal Year 1987 and carried over for use in Fiscal Year 1988, and \$188,084,171 in Fiscal Year 1988 recaptures as of July 22, 1988. Sherman Declar., ¶ 2.

represents more than six percent of HUD's entire budget for development of additional public housing. Id., ¶ 5. Thus, plaintiffs are seeking in effect to tie up more than six percent of the total amount available in FY 88 for development of additional public housing even though they would obtain no benefit from a reservation of funds at this time.

The amount of funding sought by public housing agencies (PHAs) for development far exceeds the amount of budget authority available to HUD for this purpose. Sherman Declar., ¶ 4. For example, during Fiscal Year 1987, HUD was forced to deny funding for more than 1,000 of the 1809 units sought by PHAs within the jurisdiction of the Chicago Regional Office alone. Id. Moreover, applications by PHAs for funding grossly understate the actual need for public or assisted housing since PHAs recognize the limitations imposed by funding constraints, and reduce the number of units they request accordingly. While HUD approved applications for only 6,000 units of public housing in FY 87, almost four million renter households which are eligible for public housing require some form of assistance. Id. If HUD reserves \$24.5 million for the Receiver two years before it is needed, HUD would be compelled to decline applications by other communities for a corresponding amount of funding during Fiscal Year 1988. Id., ¶ 7. As a direct result, public housing agencies in other communities would be forced to delay commencement and ultimately completion of the development of public housing for two years, and low-income families in those communities would be deprived of public housing during the interim. Id.



Such an irrational result is simply unnecessary to provide an effective remedy to plaintiffs under the Decree. HUD is not seeking here to reduce the long-term relief provided for by the Decree, and remains committed to achieving 7,100 occupancies as provided by paragraph 5 of the Decree.<sup>5/</sup> However, HUD is seeking to avoid wasting scarce public resources for assisted housing by reserving funds when they simply cannot be used by the Receiver, while simultaneously insuring that assistance is provided in a timely fashion to avoid disruption of the production of public housing.

Paragraph 8.2 of the Decree, by providing for judicial review of the provisions of the Decree after a five year period, affords the Court the flexibility necessary to assure that limited resources for public housing are utilized prudently and effectively, and yet in a manner which carries out the underlying objective of the Consent Decree. As this Court pointed out in construing paragraphs 5.5.2 and 5.5.3 of the Decree: "[T]he parties must have intended as nearly as circumstances would permit, that a continuous stream of relief would be provided by the decree until HUD's obligations thereunder are satisfied as opposed to a stream characterized by repeated gaps of indeterminate length." Memo. Opinion and Order, at 5 (Sept. 1, 1982). In the case of public housing, this objective would be satisfied fully by HUD ensuring that the Receiver has

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<sup>5/</sup> HUD is currently compiling data on the precise number of occupancies of assisted housing units by eligible families since the Decree was entered. Preliminary data reflects that approximately 2,526 eligible families had occupied assisted housing units in either the General or the Revitalizing Areas as of December 31, 1987.



sufficient funds available to enable him to develop additional public housing as rapidly as circumstances permit. It does not require that HUD reserve funds where additional funds cannot be utilized for several years hence. Since an additional allocation of funding for public housing would not advance the objectives of the Decree, HUD respectfully requests that this Court defer HUD's obligation under Paragraphs 5.5.2 and 5.5.3 of the Decree to set aside additional funds for assisted housing in Fiscal Year 1988.

II. This Court Should Modify The Consent Decree To Limit HUD's Obligation To Provide Funds For Development Of Additional Public Housing Units In Future Year Set Asides To The Extent That Adequate Funds Are Already Available To The Receiver

Under the terms of the Decree, HUD will be obligated to set aside additional assistance for Fiscal year 1989 on October 1, 1988. To avoid a recurrence of the wasteful backlog of unutilized public housing assistance and to avoid future disputes concerning the number of public housing units to which plaintiffs are entitled, HUD respectfully requests that this Court impose a limit upon the number of public housing units to be included in future year set asides. The limit or cap adopted should ensure that funding for additional public housing units should be set aside only when it is reasonably likely that the Receiver will begin utilizing those funds in that same Fiscal Year.

The Receiver's projections reflect that he will commence development of 300 to 500 units of additional public housing during Fiscal Year 1989 and 400 to 600 units each year thereafter. Even assuming that the Receiver will be able to adhere to his most

optimistic projections, he will commence development of a maximum of 600 units per year. If funds were available to the Receiver at the beginning of any Fiscal Year for 600 or more public housing units which had not yet been developed, even based on the Receiver's most ambitious estimates, no additional assistance would be necessary to assure the continued and unabated development of public housing in Chicago during that year.

Insofar as there might still be some possibility that the Receiver has underestimated his maximum production rate, if the Receiver were given a cushion of an additional 300 units above 600 so that he was ensured a total of 900 undeveloped units at the beginning of each fiscal year, this should eliminate any possibility that his production process would lose time due to lack of sufficient funding in any year. "Commencement of development," however, is not a reliable indicator of whether the Receiver has the capacity to use new set aside funds because it includes merely initiation of the planning process. Even if the Receiver has begun planning a project, that does not indicate either significant progress or the level of future effort and resources required for the Receiver to complete a project's development. The Receiver would still be obligated to locate and acquire individual sites and prepare detailed designs and drawings, which is frequently a time-consuming process. Instead of measuring the Receiver's capacity to use additional set aside funds at the "commencement of development" stage, HUD suggests assessing that capacity at the later stage at which the Receiver has actually awarded construction contracts. Accomplishment of this phase of the development process would be a



more concrete and reliable indicator that development had progressed substantially enough to permit the Receiver to undertake new projects. Thus, HUD proposes that the standard adopted should be based upon the number of public housing units in the Receiver's inventory which are not yet under construction.<sup>6/</sup>

Specifically, HUD requests that this Court modify the Consent Decree to provide that HUD shall not be obligated to set aside any funds for development of additional public housing units for any fiscal year beginning in FY 89 in which, as of October 1st of such year, the Receiver already has funding for 900 or more units not yet under construction, provided further, that, in any year in which the Receiver has fewer than 900 units not yet under construction as of that date, HUD shall not be required to set aside any more public housing units than necessary to bring the total number of such units to 900. In other words, if the Receiver has funding available at the beginning of a fiscal year for development of 700 units of public housing which are not yet under construction, HUD would be obligated to set aside funding for an additional 200 public housing units at the beginning of that fiscal year. By ensuring that the

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<sup>6/</sup> The Receiver estimates that he will commence development of approximately 100 public housing units every two to three months. For each of these 100 unit projects, he will require approximately 12 months for planning (including site acquisition and design) and 12 months for construction. Therefore, units begun during FY 89 will proceed to construction at regular two to three month intervals during FY 90. As such, use of a standard predicated upon the number of units in a pre-construction phase would not result in a disruption or break in development.



Receiver has funding available for at least 900 units of public housing for which construction has not even begun, HUD and the plaintiffs can assure the continuous production of public housing until the relief contemplated by the Decree is fulfilled.

Conclusion

For the foregoing reasons, HUD respectfully requests that Federal Defendant's Motion To Modify Consent Decree be granted.

Respectfully submitted,

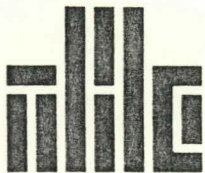
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THE HABITAT COMPANY



405 North Wabash Avenue Chicago, Illinois 60611 312/527-5400

April 18, 1988

Joseph Lobue, Esq.  
U.S. Department of Housing  
and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

Subject: Production Goals  
CHA Scattered Site Program  
Chicago, Illinois

Dear Mr. Lobue:

This letter is in response to your request of Douglas R. Woodworth for an estimate of the number of units which can be produced by the Receiver for the CHA Scattered Site Program. Enclosed is an estimated production schedule for five years only, (1988 through 1992, inclusive).

This schedule was prepared based on several assumptions which are summarized in the accompanying notes. The pace of production is dependent upon processing modifications needed to accommodate the program and HUD's pace of processing. In the near future, I look forward to reviewing these with you and/or others at HUD. Understand, of course, that the pace of production could be increased if all of our initial suggestions were to be adopted.

I trust the enclosed production schedule is responsive to your questions. If you have further questions or if I can be of additional assistance, please don't hesitate to contact me.

Sincerely,

SCATTERED SITE PROGRAM

*Philip A. Hickman*  
Philip A. Hickman  
Director

PAH:dc  
Enclosures

cc: Daniel E. Levin  
Douglas R. Woodworth  
Gertrude Jordan  
Alexander Polikoff, Esq.

LITIGATION DIVISION  
REFERRED TO:

MAY 2 4 10 PM '88

REC'D OGC



SCATTERED SITE PROGRAM  
PRELIMINARY PRODUCTION SCHEDULE  
1988 - 1992

4/18/88

SUMMARY

The five-year preliminary production schedule for the Scattered Site Program is based on the following assumptions.

Receiver's Existing Properties

ACC 115, consisting of 133 units has been approved by HUD. It is anticipated that actual construction on these units will begin by the end of July, 1988, and continue for the next 12 months.

ACC 116, consisting of 100 units, has also been approved by HUD. It is anticipated that actual construction on these units will begin by the end of September, 1988, and continue for the next 12 months. In addition, HUD approval is recommended to sell or demolish another 147 units.

New ACCs

Each new ACC, starting with ACC 117, is packaged to include 100 units. An ACC may fall into one of two types:

1. Acquisition without Substantial Rehabilitation. These units will require minor repair work. Acquisition of these units is expected to take 6 months and repair work an additional 6 months before completion.
2. Acquisition with Substantial Rehabilitation or New Construction. It is too early in the planning process to determine specifically if these units will be developed as new construction, substantial rehab or combination. In any case, we anticipate a planning period of 12 months and a construction period of 12 months.

As a means to creating a mix of existing buildings and newly constructed units, the attached production schedule shows an alternating ACC pattern of acquisition without substantial rehabilitation and one of development. This is preliminary and may vary substantially depending on experience with each.

It is anticipated that processing modifications will be necessary in order for the estimated production pace to be maintained.

Beginning in 1989, the Program will be adding 100 units every two months. During the first three calendar years, 1733 units will be in the pipeline and 2933 units are planned for the five year period.

The Habitat Company  
Scattered Site Program  
Chicago, Illinois

**Summary:**

**Preliminary Production Schedule**

The preliminary production goals for new units during the first five years are summarized below.

	End Of Year 1 <u>1988</u>	End Of Year 2 <u>1989</u>	End Of Year 3 <u>1990</u>	End Of Year 4 <u>1991</u>	End Of Year 5 <u>1992</u>
<u>New Units Added to Pipeline Per Year</u>					
New (Existing Buildings)					
Phase I - ACC 115	133				
Phase II - ACC 116	100				
Additional Units Range					
Low end	200	300	400	400	400
High end	400	500	600	600	600
Incremental Units Per Year					
Low end	433	300	400	400	400
High end	633	500	600	600	600
Cumulative Total: New Units					
Low end	433	733	1,133	1,533	1,933
High end	633	1,133	1,733	2,333	2,933
<u>Total Units in Pipeline at Year End - High End</u>	633	700	800	900	900
<u>Total Units Completed</u>					
During Year					
Low end	0	433	300	300	400
High end	0	633	500	500	600
Cumulative Total					
Low end	0	433	733	1,033	1,433
High end	0	633	933	1,433	2,033



PRELIMINARY PRODUCTION SCHEDULE  
1988 - 1992

THE HABITAT COMPANY  
SCATTERED SITE PROGRAM  
Chicago, Illinois

	1988	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
DEVELOPMENT PHASE													
ACC 115 - 133 units													
Planning													
Construction									(12 mo)				
ACC 116 - 100 units													
+ 147* sold/demo units:													
Planning													
Construction										(12 mo)			
Disposition											<147>		
BEGIN NEW ACC													
ACC 117 - 100 units													
Acquisition													
Fix								(6 mo)					(6 mo)->
ACC 118 - 100 units													
Planning									(12 mo)				
ACC 119 - 100 units													
Acquisition											(6 mo)		
ACC 120 - 100 units													
Planning													(12 mo)->
Units in Planning													(100):
New Per Month				133	100	0	100	(133)	100	(100)	100	0	100
Cumulative Total				133	233	233	333	200	300	200	300	300	300
Units Under Construction													
New Per Month								133	0	100	0	0	100
Cumulative Total								133	133	233	233	233	333
Completed Units													
New Per Month													
Cumulative Total													
Incremental Units in Pipeline		0	0	133	233	233	333	333	433	433	533	533	633
Cumulative Total in Planning, Under Construction, Completed		0	0	133	233	233	333	333	433	433	533	533	633
NOTE: The existing 386 units, 34 vacant sites, and 43 units under option are included in ACC 115 and 116. The first 386 units "under construction", therefore, means they are in the pipeline and "acted on" but not necessarily physically: "under construction". The property recommended for sale, the vacant sites and units under option are included in ACC 166 but not included in the pipeline numbers.													
* 147 units, includes 105 units recommended to be sold and 42 units recommended for demolition.													

NEW ACC	1989	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
DEVELOPMENT PHASE													
ACC 115 - Construction							<133>						
ACC 116 - Construction									<100>				
ACC 117 - Fix		(6 mo)				<100>							
ACC 118 - Planning													
ACC 118 - Construction									(12 mo)				
ACC 119 - Acquisition													
ACC 119 - Fix						(6 mo)			<100>				
ACC 120 - Planning		(12 mo)											
ACC 120 - Construction													
ACC 121 - 100 units Acquisition													
ACC 121 - Fix					(6 mo)						(6 mo)		
ACC 122 - 100 units Planning													
ACC 122 - Construction						(12 mo)							
ACC 123 - 100 units Acquisition													
ACC 123 - Fix									(6 mo)				
ACC 124 - 100 units Planning													
ACC 124 - Construction										(12 mo)			
ACC 125 - 100 units Acquisition													
ACC 125 - Fix												(6 mo)	
Units in Planning										(100)			
New Per Month		0	0	100	(100)	100	0	100	(100)	100	0	100	(100)
Cumulative Total		300	300	400	300	400	400	500	400	400	400	500	400
Units Under Construction										(100)			
New Per Month		0	0	0	100	0	(100)	(133)	100	100	(100)	0	100
Cumulative Total		333	333	333	433	433	333	200	300	300	200	200	300
Completed Units													
New Per Month		0	0	0	0	0	100	133	0	100	100	0	0
Cumulative		0	0	0	0	0	100	233	233	333	433	433	433
Incremental Units in Pipeline		0	0	100	100	200	200	300	300	400	400	500	500
Cumulative Total for Planning, Under Construction, Completed		633	633	733	733	833	833	933	933	1,033	1,033	1,133	1,133



NEW ACC	1990	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
ACC 118 - Construction								<100>					
ACC 120 - Construction		(12 mo)									<100>		
ACC 121 - Fix		<100>											
ACC 122 - Planning - Construction						(12 mo)							
ACC 123 - Fix		(6 mo)					<100>						
ACC 124 - Planning - Construction		(12 mo)								(12 mo)			
ACC 125 - Acquisition - Fix						(6 mo)				<100>			
ACC 126 - Planning		(12 mo)											
ACC 127 - Acquisition - Fix			(6 mo)							(6 mo)			
ACC 128 - Planning						(12 mo)							
ACC 129 - Acquisition							(6 mo)						
ACC 130 - Planning										(12 mo)			
ACC 131 - Acquisition											(6 mo)		
Units in Planning	(100)					(200)				(200)			
New Per Month	100	0	100	0	100	0	100	0	100	0	100	0	
Cumulative Total	400	400	500	500	400	400	500	500	400	400	500	500	
Units Under Construction													
New Per Month	100	0	(100)	0	200	0	(100)	(100)	200	0	(100)	(100)	
Cumulative Total	400	400	300	300	500	500	400	300	500	500	400	300	
Completed Units													
New Per Month	0	0	100	0	0	0	100	100	0	0	100	100	
Cumulative Total	433	433	533	533	533	533	633	733	733	733	833	933	
Incremental Units in Pipeline	100	100	200	200	300	300	400	400	500	500	600	600	
Cumulative Total in Planning, Under Construction, Completed	1,233	1,233	1,333	1,333	1,433	1,433	1,533	1,533	1,633	1,633	1,733	1,733	

NEW ACC	1991	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
ACC 122 - Construction													
ACC 124 - Construction													
ACC 126 - Construction		(12 mo)											
ACC 127 - Fix													
ACC 128 - Planning													
ACC 128 - Construction					(12 mo)								
ACC 129 - Fix		(6 mo)											
ACC 130 - Planning													
ACC 130 - Construction										(12 mo)			
ACC 131 - Acquisition													
ACC 131 - Fix					(6 mo)								
ACC 131 - Planning		(12 mo)											
ACC 132 - Acquisition			(6 mo)										
ACC 132 - Fix										(6 mo)			
ACC 133 - Planning					(12 mo)								
ACC 134 - Acquisition								(6 mo)					
ACC 135 - Planning										(12 mo)			
ACC 136 - Acquisition											(6 mo)		
Units in Planning	(200)					(200)				(200)			
New Per Month	100	0	100	0	100	0	100	0	100	0	100	0	
Cumulative Total	400	400	500	500	400	400	500	500	400	400	500	500	
Units Under Construction						(100)				(100)			
New Per Month	200	0	(100)	0	200	0	(100)	0	200	0	(100)	0	
Cumulative Total	500	500	400	400	500	500	400	400	500	500	400	400	
Completed Units													
New Per Month	0	0	100	0	100	0	100	0	100	0	100	0	
Cumulative Total	933	933	1,033	1,033	1,133	1,133	1,233	1,233	1,333	1,333	1,433	1,433	
Incremental Units in Pipeline	0	0	0	0	0	0	0	0	0	0	0	0	
Cumulative Total in Planning, Under Construction, Completed	1,833	1,833	1,933	1,933	2,033	2,033	2,133	2,133	2,233	2,233	2,333	2,333	



NEW ACC	1992	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
ACC 126 - Construction	--												
ACC 128 - Construction													
ACC 130 - Construction													
ACC 131 - Construction	----- (12 mo) -----												
ACC 132 - Fix	-----												
ACC 133 - Planning													
- Construction	----- (12 mo) ----->												
ACC 134 - Fix	----- (6 mo) -----												
ACC 135 - Planning													
- Construction	----- (12 mo) ----->												
ACC 136 - Acquisition													
- Fix	----- (6 mo) -----												
ACC 137 - Planning	----- (12 mo) -----												
ACC 138 - Acquisition													
- Fix	----- (6 mo) -----												
ACC 139 - Planning	----- (12 mo) ----->												
ACC 140 - Acquisition													
ACC 141 - Planning	----- (12 mo) ----->												
ACC 142 - Acquisition	----- (6 mo) ----->												
Units in Planning	(200)					(200)				(200)			
New Per Month	100	0	100	0	100	0	100	0	100	0	100	0	
Cumulative Total	400	400	500	500	400	400	500	500	400	400	500	500	
Units Under Construction	(100)					(100)				(100)			
New Per Month	200	0	(100)	0	200	0	(100)	0	200	0	(100)	0	
Cumulative Total	500	500	400	400	500	500	400	400	500	500	400	400	
Completed Units													
New Per Month	100	0	100	0	100	0	100	0	100	0	100	0	
Cumulative Total	1,533	1,533	1,633	1,633	1,733	1,733	1,833	1,833	1,933	1,933	2,033	2,033	
Incremental Units in Pipeline	0	0	0	0	0	0	0	0	0	0			
Cumulative Total in Planning, Under Construction, Completed	2,433	2,433	2,533	2,533	2,633	2,633	2,733	2,733	2,833	2,833	2,933	2,933	

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

DOROTHY GAUTREAUX, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 66C1459
v.	)	66C1460
	)	
SAMUEL R. PIERCE, JR., Secretary of	)	(Consolidated)
the Department of Housing and Urban	)	
Development, and CHICAGO HOUSING	)	
AUTHORITY,	)	
	)	
Defendants.	)	

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DECLARATION OF THOMAS SHERMAN

THOMAS SHERMAN declares and states as follows:

1. I am the Director of the Office of Public Housing of the United States Department of Housing and Urban Development (HUD). In my official capacity, I am responsible for the administration and oversight of the public housing programs authorized by 42 U.S.C. § 1437 et seq. This Declaration is based upon my personal knowledge and information and documentation provided to me by my staff.

2. As of July 22, 1988, the total public housing development grant budget authority available to HUD for Fiscal Year 1988 was \$471,211,566. These funds consist of \$210,923,000 provided in the FY 1988 HUD Appropriation Act, \$77,252,861 of budget authority recaptured but not reserved in FY 87 and carried over for use in FY 88, and \$183,035,705 in additional funds recaptured during FY 88 as of August 12, 1988.



3. Up to 20% of the public housing development funds for Fiscal Year 1988 are available for the major reconstruction of obsolete projects (MR0Ps). The amount ultimately utilized for this purpose is dependent upon applications submitted by individual public housing agencies. HUD estimates that the budget authority available for development of additional public housing units (exclusive of funds to be utilized for MR0Ps) will be approximately \$376 million. This would be sufficient to develop approximately 6,000 units.

4. The amount of funding sought by public housing agencies (PHAs) nationwide for development far exceeds the amount of budget authority available to HUD for this purpose. For example, PHAs within the jurisdiction of the Chicago Regional Office applied for funding for 1,809 units of public housing during Fiscal Year 1987. Due to funding limitations, HUD was forced to deny funding for 1,010 of the 1,809 units sought. Moreover, applications by PHAs for funding grossly understate the actual need for public or assisted housing since PHAs reduce their requests in recognition of the limitations imposed by funding constraints. While available funds were sufficient to enable HUD to approve PHA applications for development of only approximately 6,000 units of public housing nationwide during FY 87, HUD's Office of Policy Development and Research determined, based on the 1983 National Annual Housing Survey, that almost four million very low-income renter families, which were eligible for public housing, were living in severely

inadequate housing or paying more than half of their income for rent.

5. I have been advised that the plaintiffs in this case are seeking funding for 350 additional public housing units during Fiscal Year 1988. Under HUD's current cost guidelines, the cost of a three-bedroom walk-up public housing unit in the City of Chicago is \$69,600. Accordingly, HUD would have to set aside \$24,360,000 to ensure that adequate funds are available to develop 350 units of public housing. This amount constitutes slightly more than six percent of the estimated amount to be available nationwide for additional public housing units (assuming 20% of the funds are used for MROPS).

6. The Chicago Housing Authority and/or the Receiver currently have available, from previous allocations by HUD, approximately \$70 million for development of 1,116 additional public housing units. A list of the number of units and designated project numbers is attached as Exhibit A to this Declaration.

7. Projections of future development submitted to HUD by the Receiver reflect that it is unlikely that the Receiver will be able to commence development of any additional public housing units for 17 to 29 months over and above the 1,116 units already funded. As such, the Receiver will not require additional funding until at least Fiscal Year 1990. Unless HUD is relieved of the obligation to reserve funding for the Receiver two years before it is needed, HUD would be compelled to decline applications by other communities for a corresponding amount of funding during Fiscal Year 1988. As a



direct result, public housing agencies in other communities would be forced to delay commencement and ultimately completion of the development of additional public housing for two years, and low-income families in those communities would be needlessly deprived of public housing during the interim.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 16, 1988

Thomas Sherman  
THOMAS SHERMAN

Exhibit A

<u>Project Number</u>	<u>Number of Units</u>
098	17
104	199
106	102
107	61
108	50
109	31
113	230
115	133
116	106
117	<u>187</u>
Total	1,116



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

NOTICE OF MOTION

TO: Attached Service List

PLEASE TAKE NOTICE that on Tuesday, August 30, 1988, at 9:30  
a.m., or as soon thereafter as counsel may be heard, we shall appear  
before the Honorable Marvin E. Aspen, and then and there present  
Federal Defendant's Motion to Modify Consent Decree, a copy of which  
is attached hereto.

Dated: August 16, 1988

Joseph W. Lobue  
JOSEPH W. LOBUE  
Trial Attorney  
U.S. Department of Housing and  
Urban Development  
451 7th Street, S.W.  
Washington, D.C. 20410

Certificate of Service

I certify that copies of the foregoing Notice of Motion, Federal Defendant's Motion to Modify Consent Decree, and the Memorandum and Declaration in support thereof were mailed, postage prepaid, to all parties on the attached service list this 16<sup>TH</sup> day of August, 1988.

Joseph W. Lobue  
JOSEPH W. LOBUE



GAUTREAUX CASES - CURRENT SERVICE LIST

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