IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

DOROTHY GAUTREAUX, et al.,	)	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division
Plaintiffs-Appellees,	)	
v.	)	No. 66 C 1459
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY, and Executive Director Joseph Shuldiner in his official capacity,	)	No. 98 - 1807
Defendants-Appellants.	)	

NOTICE OF FILING

To: Attached Service List

PLEASE TAKE NOTICE that on Monday, May 4, 1998, we filed in the United States Court Of Appeals for the Seventh Circuit Plaintiffs' Motion for Leave to File Reply, together with the Reply referred to therein, copies of both of which documents are attached hereto and served upon you.

Respectfully submitted,

One of Plaintiffs' Attorneys

May 4, 1998

Alexander Polikoff
Julie Elena Brown
Business and Professional People
for the Public Interest
17 East Monroe Street - #212
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312/641-5570; fax: 312/641-5454

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Chicago, IL 60610
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CERTIFICATE OF SERVICE

Alexander Polikoff, an attorney, hereby certifies that on May 4, 1998, I caused copies of the foregoing Motion for Leave to File Reply and the Reply referred to therein to be served on the persons shown on the attached service list in the manner stated on such list.

Alexander Polikoff

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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	)	States District Court for
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Plaintiffs-Appellees,	)	Illinois, Eastern Division
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v.	)	No. 66 C 1459
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CHICAGO HOUSING AUTHORITY, and Executive Director Joseph Shuldiner in his official capacity,	)	No. 98 - 1807
	)	
Defendants-Appellants.	)	

MOTION FOR LEAVE TO FILE REPLY

Plaintiffs-Appellees, Dorothy Gautreaux, et al. ("plaintiffs"), respectfully ask the Court for leave to file the attached Reply to the Response of Defendants-Appellants ("CHA") to Appellees' Motion to Dismiss Appeal. In support hereof plaintiffs say:

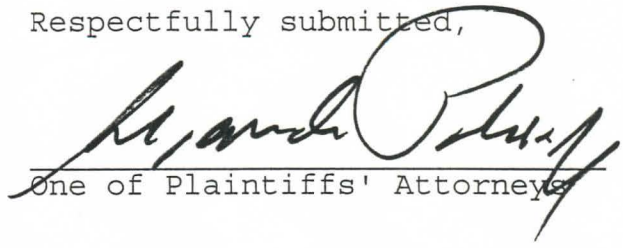
1. The Response contains numerous (mis)statements of fact which, in violation of Circuit Rule 28(d)(2), are unsupported by references to the record; its legal arguments are in large part predicated upon such misstatements.

2. In substantial part the Response is a brief on the merits, not on the jurisdictional question.

In fairness plaintiffs should therefore be permitted to file a brief reply.

WHEREFORE, plaintiffs request the Court to grant them leave to file the attached Reply.

Respectfully submitted,



One of Plaintiffs' Attorneys

May 4, 1998

Alexander Polikoff
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IN THE UNITED STATES COURT OF APPEALS
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DOROTHY GAUTREAUX, et al.,	)	Appeal from the United
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	)	
v.	)	No. 66 C 1459
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY,	)	
and Executive Director Joseph	)	No. 98 - 1807
Shuldiner in his official	)	
capacity,	)	
	)	
Defendants-Appellants.	)	

PLAINTIFFS-APPELLEES' REPLY
TO
DEFENDANTS-APPELLANTS' RESPONSE
TO
APPELLEES' MOTION TO DISMISS APPEAL

Plaintiffs-Appellees, Dorothy Gautreaux, et al. ("plaintiffs"), submit this Reply to the Response of Defendants-Appellants ("CHA") to plaintiffs' Motion to Dismiss Appeal.

Introduction

CHA's 26-page Response, replete with factual misstatements, unsupported by citations in violation of Circuit Rule 28(d)(2), puts plaintiffs in a procedural dilemma. To reply to all or most of CHA's unreferenced misstatements would, by sheer length, risk creating an appearance of complexity that might lead the Court to conclude it must examine the merits to resolve the jurisdictional question. To fail to reply would risk abandoning the field to CHA, strewn with its unsupported misstatements, even though the Court can resolve the jurisdictional issue by simply examining

two court orders, the 1969 judgment order and the HOPE VI order that clarifies it.

We choose a middle course. We rely on the Court to examine carefully the two relevant orders, while reading CHA's Response through the lens of Rule 28(d)(2). See Williams v. Leach, 938 F.2d 769, 773 (7th Cir. 1991); Haas v. Abrahamson, 910 F.2d 384, 385-86 n. 1 (7th Cir. 1990). In Part I of this Reply we confine ourselves to two illustrations of the importance of Rule 28(d)(2) to CHA's Response and to a list, without extended discussion, of some of the other CHA misstatements that violate the Rule. In Part II we briefly reply to CHA's legal argument, severed now from its misstated factual base.

I. CHA's Multiple Factual Misstatements

First Illustration. CHA says,

> "For the past five years the CHA has applied for and obtained HOPE VI grants for massive redevelopment projects at Cabrini-Green, Robert Taylor, and ABLA, and has engaged in substantial work on these projects, without planning or even attempting to comply with the Injunction." (Response, p. 2.)

It is apparent that this is a statement of fact, and that it is unsupported by "a reference to the page or pages of the record or the appendix where the fact appears." Circuit Rule 28(d)(2).

The statement is also demonstrably false. See Transcript ("Transcript"), Exh. D to the Motion to Dismiss at p. 15-16, for a reference to a letter in which CHA represents to HUD that replacement housing in the HOPE VI Cabrini-Green project will be sited in compliance with Gautreaux. See also Exh. D to

Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction, a November 14, 1995 letter to the Gautreaux Receiver from the then chair of CHA's Board, Edwin Eisendrath, also the HUD Secretary's Representative, confirming that, "as Receiver under the court order in the Gautreaux case," the Receiver would be the "development manager" for the Cabrini-Green development program, "including the HOPE VI program. . . " Moreover, by letter to HUD, not CHA but the Receiver, "as Receiver," filed for approval of the very first Cabrini-Green replacement units. See Transcript, pp. 18-20. Respecting the ABLA HOPE VI grant (actually a grant covering both ABLA and Horner) CHA has entered into a written letter agreement with plaintiffs that any disagreement between them respecting the expenditure of the ABLA or Horner HOPE VI funds would be submitted to the Gautreaux court for resolution (Exh. E to Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction), and has also entered into an agreement with the Receiver under which the latter is responsible "for all aspects of the implementation phase" of the development program relating to replacement housing" at ABLA and Horner (Exh. F to Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction, p. 2 of agreement).

These four letters and the ABLA/Horner agreement demonstrate, explicitly and unambiguously, CHA's long-standing recognition that the Gautreaux judgment order governs new public housing development pursuant to HOPE VI, and that - until its recent change of mind - CHA conducted itself accordingly. For the Court's convenience copies of the four letters and the

ABLA/Horner agreement are attached as Exhibits A, B, C, D and E, respectively, to this Reply. In the face of this written record it passes understanding how CHA could say what it has said to this Court.

CHA makes three attempts to explain away its letter (Exhibit A) representing to HUD that it would site Cabrini-Green replacement housing in accordance with Gautreaux. The first is CHA's suggestion (p. 19) - made here for the first time - that its letter is "ambiguous" because it may refer to the (consolidated) companion Gautreaux case against HUD (66C1460) rather than to the case against CHA (66C1459). Another such CHA letter (attached as Exhibit F to this Reply) makes the identical representation and refers explicitly to 66C1459. Moreover, the locational prescriptions on the siting of public housing derive exclusively from the judgment order in 66C1459; there are no separate such prescriptions in 66C1460.

The second attempt is CHA's suggestion that its representation to HUD is not "precedent" or "binding" because it was written by a "prior administration" (p. 19), as if government pronouncements could simply be declared "inoperative."

CHA's third explanation is that HUD has not interpreted CHA's letter as a binding commitment or relevant interpretation (p. 20). We really do not know how HUD has "interpreted" this one letter. We do know, however, how HUD interpreted the overall situation, based on the then extant orders of the District Court:

> "[A]ny funds under HOPE VI which go to replacement housing are currently a Receiver responsibility. We do not believe the CHA currently has any development authority for non-elderly units." (Memorandum from

HUD's Assistant General Counsel for the Midwest, July 29, 1997, attached as Exhibit G to this Reply.)

Housing the Receiver is responsible for is of course housing that must be located in accordance with the judgment order requirements. See Order Appointing the Receiver, August 14, 1987, Exhibit C to Receiver's Statement Regarding CHA Emergency Motion to Clarify Injunction, attached as Exhibit H to this Reply. (The Receiver was appointed, as an exercise of the Court's "inherent power to effectuate its own orders," to develop all CHA non-elderly public housing, including specifically "all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66C1459." (Exh. H, pp. 1,2.))[1]

Second Illustration. CHA also says,

> "The Injunction does not speak to the CHA's activities with regard to the units of housing that existed in the Limited Area at the time of the ruling of the Injunction . . ." (Response, p. 8.)

This unsupported statement is buttressed by another assertion:

> "The Injunction has been used to regulate the CHA's use of federal funds designated to be used to increase the CHA's aggregate housing stock; all other funds . . . have never been regulated, controlled, or in any other way affected by the Injunction's building proscriptions." (Id., pp. 14-15.)

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[1] What is most important about CHA's representations to HUD that HOPE VI replacement housing would be sited in conformity to Gautreaux is not CHA's posture but HUD's. Based in part on those representations, HUD made several HOPE VI awards to CHA, thus definitively evidencing that, in the view of "the agency charged with enforcing HOPE VI" (CHA Response, p. 20), there is no incompatibility between the judgment order and HOPE VI.

These statements are likewise demonstrably false. See pages 9-13 of the Transcript respecting orders by which the Injunction has "spoken" to units "that existed in the Limited Area at the time of the entry of the Injunction" in the Lawndale, Kenwood-Oakland, Cabrini-Green and Henry Horner neighborhoods. Copies of the two orders relating to the four separate neighborhoods are attached for the Court's convenience as Exhibits J and K, respectively.

The historical fact evidenced by these court orders - flatly contradicting CHA's unverified, unsupported-by-references, revisionist "History of Enforcement" (p. 14) - is that the judgment order has been used, not once but in four different neighborhoods, including the HOPE VI context of Cabrini-Green, to "regulate" and "affect" CHA's actions respecting many hundreds of replacement units, including: (1) replacement units that do not "increase the CHA's aggregate housing stock"; (2) units that are HOPE VI replacement units; and (3) existing units ("units of housing that existed in the Limited Area at the time of the ruling of the Injunction") to be replaced with new (replacement) units. These three historical facts were the subject of extended presentation to the District Court by the plaintiffs (see Transcript, at pp. 9-13), and were of course not denied - as they could not be - by CHA. Against this record, CHA's unsupported statements at pages 8 and 14-15 about the "History of Enforcement" of the judgment order border on the outrageous.

* * *

A few other CHA misstatements that violate the Rule (examples listed without extended discussion) are:

* If the District Court were to have jurisdiction over the HOPE VI program, that would "necessarily extend the duration of the Injunction for many, many years" (p. 2). In fact, with HOPE VI replacement units part of the desegregation remedy, CHA will obviously be able to meet its desegregation objective sooner than if they were not.

* The District Court's order "imposed substantial new obligations on the CHA" (p. 2). In fact the order self-evidently imposes not a single new obligation on CHA.

* The District Court "ignored entirely the Congressional purpose to revive the very neighborhoods in which the high-rise projects had been located and to create a mixed-income environment. . .." (p. 3). In fact the District Court examined four separate HOPE VI statutes, legislative history and HUD's HOPE VI Guidebook (Exh. A to Motion to Dismiss Appeal, pp. 2-4), and itself described the three-pronged HOPE VI scheme (id. 2).

* The 1969 judgment order requires the movement of public housing residents into white neighborhoods (p. 4). In fact the order nowhere requires the movement of a single public housing resident anywhere, as is apparent from a superficial reading. 304 F.Supp. 736.[2]

II. CHA's Three Legal Arguments

Stripped of unsupported and unsupportable factual misstatements respecting CHA's own conduct, the history of how the judgment order has been used, and what the District Court did

---

[2] One of CHA's persisting misstatements is its assertion that the order appealed from has the effect of "[r]equiring the CHA to build one-half of the [HOPE VI] replacement units in the General Area . . ." which is said to defeat the purpose of HOPE VI (p. 4). In fact, the order contains no such requirement; CHA has consistently ignored the order's alternative means of providing replacement housing in Limited Areas designated "revitalizing." See, e.g., Horner order, Exh. K to this Reply.

and did not do, CHA's three legal arguments are transparently unpersuasive.

First CHA Argument. The first CHA argument is that the District Court erroneously interpreted the judgment order (Argument I, pp. 11-21). However, an interpretation of an injunction is appealable only if it alters the legal relationship between the parties. Motorola, Inc. v. Computer Displays Intern., 739 F.2d 1149, 1155 (7th Cir. 1984). In our memorandum supporting the motion to dismiss the appeal we explained (at pp. 7-9) that the ruling appealed from imposed no new duties or prescriptions of any sort upon CHA and therefore did not change the legal relationship of the parties. Except for a lame attempt to distinguish the Mikel case on factual grounds having no legal significance (Response, pp. 20-21), CHA declines to respond. CHA's first argument, silent on this crucial question, should therefore be unpersuasive to this Court.

CHA's error argument on its "merits" is likewise unpersuasive. CHA contends that the District Court order "rewrites" HOPE VI in multiple ways, thereby raising separation of powers concerns (p. 17). CHA's in terrorem rhetoric in this regard ("subject[ing] a vast, complex federal program to the jurisdiction of the federal court" - p. 2; a "thirty-year-old injunction governs an entire federal statutory scheme" - p. 21; "transfer to the Receiver the CHA's authority over a $100 million federally-funded construction program" - p. 25) should not obscure the facts that: (1) the District Court's order does not affect HOPE VI activities other than the development of new

public housing, such as social services, demolition, rehabilitation, etc.; and (2) that HOPE VI-funded new public housing, which the ruling below clarifies is covered by the judgment order, is governed by the very same public housing statutes and regulations that govern non HOPE VI-funded new public housing development. See Plaintiffs' Response to CHA Emergency Motion to Clarify Injunction, Exh. E to plaintiffs' memorandum in support of their motion to dismiss the appeal, p.4.

These two facts undoubtedly help to explain HUD's posture before the District Court. After listening to plaintiffs' explain why there is no incompatibility between HOPE VI and the judgment order (Transcript, pp. 13-15), the District Court asked HUD, "the agency charged with enforcing HOPE VI" (CHA Response, p. 20), "I take it that my ruling is a non-issue as far as HUD is concerned?" and HUD's counsel responded, "I think that is true." (Id. p. 28.)

This lack of concern about the ruling below on the part of the agency charged with enforcing HOPE VI contrasts sharply with CHA's rhetoric designed to strike fear into the heart of the Court that the ruling below will bring the walls of federalism tumbling down. The judgment order is a remedy for a Fourteenth Amendment violation. As the Supreme Court has made clear, federalism concerns are not raised by the enforcement of such a remedy:

> "The Tenth Amendment's reservation of nondelegated powers to the States is not implicated by a federal court judgment enforcing the express prohibitions of unlawful state conduct enacted by the Fourteenth Amendment [citation omitted]. Nor are principles of

federalism abrogated by the decree." Milliken v. Bradley, 433 U.S. 267, 291 (1977).

Finally, CHA's repeated assertion that the District Judge did nothing but "stare hard" at a single provision of the judgment order (pp. 3, 16 and 19) is a canard. The fact is that the District Court based its ruling upon, among other things, examination of no fewer than four HOPE VI statutes (Exh. A to Motion to Dismiss Appeal, pp. 3-4), plus legislative history (id., pp. 2, 4), plus HUD's HOPE VI Guidebook (id., p. 4). It correctly concluded (CHA having advanced not a single substantive argument to the contrary, see Transcript, pp. 29-40), there is "no incompatibility between the HOPE VI program and the judgment order" (Exh. A, p. 4), and that therefore there is no warrant for overriding the judgment order's express terms.[3]

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[3] CHA's very first "error" argument is that HOPE VI did not exist when the judgment order was entered in 1969 (p. 12). The Court's Section 8 ruling, to which CHA refers (Response, p. 12), held that plaintiffs had not satisfied the evidentiary burden for modifying the judgment order. (Order of August 26, 1997, p. 5.) Moreover this order involved rent subsidies in the private housing market, not public housing which is the subject of both the judgment order and the HOPE VI order clarifying it (id., p. 3 n. 3). The judgment order covers any non-elderly public housing program that produces a "dwelling unit," and extends CHA's disestablishment of segregation obligation to all aspects of its system "whether or not covered by specific provision" of the judgment order. 304 F.Supp. 736, 737-38, 741. If there were ever any doubt about this, which there has not been, the unappealed order appointing the Receiver (Exhibit H to this Reply) would have resolved it ("all CHA non-elderly public housing programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66C1459"). Cf. Wilder v. Bernstein, 49 F.3d 69, 73 (2d Cir. 1995). The four arguments advanced in Wilder for overriding an order's express terms are remarkably similar to CHA's; the Court there said: "We do not find these arguments . . . to be sufficiently compelling to override the Decree's express terms." (Id.)

Second CHA Argument. The second CHA argument is that the question of the Court's jurisdiction must be resolved by briefing on the merits (Argument II, p. 21). This Court can always take a jurisdictional question with the merits, but the issue on a motion to dismiss an appeal on jurisdictional grounds is whether a sufficiently strong case has been made for jurisdiction as to justify briefing on the merits. Stripped of its unsupported, misstated factual predicate, CHA's second argument advances no persuasive reason why the Court need examine the merits to determine that the District Court order, which self-evidently is utterly silent respecting the imposition of any new duties or obligations upon CHA, does not change the legal relationship of the parties.

Third CHA Argument. The third and last CHA argument is that the District Court's order is "final" for appellate jurisdictional purposes (Argument III, pp. 21-25).[4] This CHA argument would make virtually every interpretation of an injunction appealable, notwithstanding no change in the legal relationship of the parties ensued. CHA admits that "other issues [on plaintiffs' motion for further relief pending in the District Court] will not be mooted by the HOPE VI appeal" (p. 23 n. 13). An appeal on those other issues will of course include

[4] CHA argues, for the first time, that it sought and received a "declaration of the CHA's rights. . ." (p. 21). Whatever CHA means by that, what CHA sought was a clarification, nothing more nor less. The present issue is whether the clarification CHA received is appealable.

the HOPE VI issue. Why should this Court hear two appeals when one will do? (Plaintiffs' pending motion "will end . . . with a judicial order setting forth the steps [CHA] must take to comply with the injunction. . . That order will be appealable as a final decision under section 1291 . . ." ACORN v. Illinois State Bd. of Elect., 75 F.3d 304, 306 (7th Cir. 1996).)

Conclusion

CHA's Motion to Clarify asked the District Court for an interpretation of the 1969 judgment order to exclude HOPE VI replacement units. The District Court responded by determining that "dwelling units" funded by HOPE VI, like "dwelling units" funded in other ways, are covered by the judgment order.

What CHA got was a clarification it did not like. If CHA wishes it may now take appropriate steps to modify the 1969 judgment order. The resulting order would of course be appealable, providing a second appropriate way for CHA to bring the HOPE VI issue to this Court.

Plaintiffs request the Court to grant the motion to dismiss the appeal.

Respectfully submitted,

One of the Attorneys for Plaintiffs

May 4, 1998
Alexander Polikoff
Julie Elena Brown
BUSINESS AND PROFESSIONAL PEOPLE
FOR THE PUBLIC INTEREST
17 East Monroe Street - #212
Chicago, Illinois 60603
312/641-5570; fax: 312/641-5454

The Chicago Housing Authority

August 11, 1993

Mr. Joseph P. Garaffa
Acting Regional Administrator
United States Department of Housing
and Urban Development
77 West Jackson Blvd-Room 2608
Chicago, Illinois 60604-3507

Re: **APPLICATION FOR DEMOLITION OF PARTIAL LOW INCOME PUBLIC HOUSING PROJECT IL2-20**

Dear Mr. Garaffa:

This correspondence is written to transmit the Chicago Housing Authority's formal "Application for Demolition of Partial Low Income Public Housing Project - IL2-20", to your office for submission and approval.

The Application requests HUD approval for the demolition of a 262 unit building located at 1117-1119 N. Cleveland in the Frances Cabrini Homes Extension (IL2-20).

This Application has been prepared in compliance with 24 CFR Part 970, Public Housing Program-Demolition or Disposition of Public Housing Projects; HUD Handbook 7486.1, The Public Housing Demolition, Disposition and Conversion Handbook; HUD Notice PIH 93-17 and 57 FR 46074, Requirements Relating to the Resident Organizations' Opportunity to purchase Development proposed for Demolition.

The demolition of this nineteen-story vacant structure is an integral part of the Authority's Urban Revitalization Demonstration (URD) proposal submitted to the HUD Washington D.C. office in May, 1993.

In this proposal, the Authority requested $50 million dollars in URD funding to aid in its comprehensive plan for the physical, social and economic restructuring and rebirth of the Cabrini-Green communities.

EXHIBIT A

Therefore, approval of this demolition request is vital to the Authority's efforts to rebuild and extend the life of this public housing development through the reduction of housing density.

The Demolition Plan and the actions proposed therein are in compliance with applicable HUD regulations and: (1) the relocation resources are decent, safe and sanitary and affordable, (2) no demolition or disposition action shall take place until all displaced tenants have been successfully relocated, unless there is to be staged relocation and staged demolition or disposition, and (3) that PHA action is in compliance with applicable civil rights laws and compliance agreements.

Should you have any further questions concerning this Application, please contact Lela J. Davis, Assistant to the Director, Construction Management Division at (312) 567-7861.

Sincerely,

Vincent Lane
Chairman

VL/LJD;slw

3. DEVELOPMENT METHOD

The Authority intends to develop the 190 new development replacement units through new construction utilizing a modified Turnkey Development method, wherein CHA will acquire the sites required for construction.

The additional 72 replacement units are part of the Authority's Urban Revitalization Demonstration program application, which permitted treatment of up to 500 units of distressed housing in one development. The Authority intends to combine its development and rental program in the Cabrini area with a Mixed Income New Communities Strategy (MINCS) Program, as detailed in the URD application submitted to HUD on May 5, 1993.

Replacement of these URD units in the Cabrini Extension will be provided by a variety of means, including the development of new low-income units in multi-family housing complexes on existing large sites in the community surrounding area and in other areas throughout the city and suburbs; rehabilitated apartments in the Cabrini complex; renovated existing housing in the surrounding community; rental or purchase of housing in HUD, Fannie Mae, and Freddie Mac foreclosed or assigned properties through the Chicago metropolitan area.

4. LOCATION OF REPLACEMENT UNITS

The proposed new units will be built on scattered sites in community areas around the Cabrini-Green, and in other sites throughout the Chicago Metropolitan area, in accordance with the Consent Decree (and subsequent orders) of the Gaurteaux litigation. All sites will be selected in accordance with the City of Chicago's Comprehensive Housing Affordability Strategy (CHAS).

Of the 500 total URD units, the Authority plans to replace 285 by constructing new low-income housing units on vacant land which presently exists in a one mile by three quarter mile area immediately surrounding (and including) the Cabrini-Green complex. The proposed replacement housing will be matched with development or market rate units to promote and economic, racial and cultural mix. The areas bounded by North Avenue on the North; Wells Street on the East; Superior on the South; and Chicago River and Halsted on the West.

The area contains over 40 acres of land, with about 25 acres of 62 percent already in public ownership by CHA, the Board of Education, or the City of Chicago. The remaining 16-plus acres of existing vacant land will be acquired on the open market at the fair market value or through eminent domain with court established compensation.

November 14, 1995

Distribution: 11/17/95 kac
Executive Office
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M. Johnson
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Pistilli/Owens
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A. Batyan
File

Mr. Daniel Levin
Chairman
The Habitat Company
350 West Hubbard Street
Chicago, IL 60610

RE: Cabrini Green Development Program

Dear Mr. Levin:

This will confirm our understanding and agreement that as Receiver under the court order in the Gautreaux case, you will perform the function of CHA's "development manager" for the Cabrini Green development program, including the Hope VI program, similar to the manner in which you are functioning in the Henry Horner Homes development program.

Sincerely,

Edwin Eisendrath

Edwin Eisendrath
Secretary's Representative

Copy to: Jon Shuldiner

EXHIBIT B

THE HABITAT COMPANY
AS RECEIVER FOR
THE CHICAGO HOUSING AUTHORITY

SCATTERED SITES PROGRAM

PHA DEVELOPMENT PROPOSAL
CABRINI EXTENSION (IL2-20) REPLACEMENT UNITS

44 UNITS

CABRINI EXTENSION
IL06-P002-182
CHICAGO, ILLINOIS

Volume 1 of 2

EXHIBIT C

THE HABITAT COMPANY

December 17, 1997

Mr. Kevin Emanuel Marchman
Acting Assistant Secretary
Office of the Assistant Secretary for Public and Indian Housing
U.S. Department of Housing and Urban Development
451 Seventh Street SE
Washington, D.C. 20410-5000

RE: **Submission of Development Plan for Mohawk North and Old Town Square**

Dear Mr. Marchman:

The Habitat Company ("Habitat"), as Receiver for Chicago Housing Authority's Scattered Site Program, submitted the above referenced Development Plan (the "Plan") on October 24, 1997. With this letter, please note that the Plan is hereby submitted, pursuant to the Court Order, dated August 14, 1987, Gautreaux v. CHA and HUD, U.S. District Court, Northern District of Illinois, Case Nos. 66 C 1459 and 66 C 1460, by the Joint Venture between Habitat and the Chicago Metropolitan Housing Development Corporation ("CMHDC"), hereafter referred to as the "Joint Venture".

In addition, on Pages 14 and 29 of the Plan, it states that "CHA certifies...". Please strike those references and add the following in their place:

Page 14: The Joint Venture certifies that it will comply with the Uniform Relocation Act and all other applicable Federal relocation requirements.

Page 29: The Joint Venture hereby certifies, makes assurances and warrants to HUD in accordance with Section 941.606 (n) of the Regulations:

"That is has the legal authority under State and local law to develop public housing units through the establishment or selection of an owner entity, and to enter into all agreements and provide all assurances required under the Regulations..." (See Exhibit III for correspondence from HUD in regards to their opinion on the concept of the lease.)

The Joint Venture will be responsible to HUD for ensuring that the public housing units are developed in accordance with all applicable public housing requirements, including the ACC, and all pertinent statutory, regulatory, and executive order requirements, as those requirements may be amended from time to time.

350 West Hubbard Street · Chicago, Illinois 60610 · Tel: 312.527.5400 · Fax: 312.527.4639

If you have further questions please feel free to contact us at 312.527.7471 (Jarrett), or 312.422.1680 (Leon).

Sincerely,

The Joint Venture Between Habitat and CMHDC

Valerie B. Jarrett
Executive Vice President
The Habitat Company, as Receiver

Rafael M. Leon
Executive Director
Chicago Metropolitan Housing Development Corporation

VBJ/RML/mjn

c: Louis Berra
Joseph Shuldiner
Jeffrey C. Rappin

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BPI

Business and Professional People
for the Public Interest

July 25, 1996

COPY BY FAX
ORIGINAL BY MAIL

Mr. Joseph Shuldiner
Executive Director
Chicago Housing Authority
626 West Jackson Boulevard
Chicago, Illinois 60661

Dear Joe:

This letter attempts to set out the understanding I believe we reached at our meeting in Betsy Julian's conference room on July 16 concerning the FY1996 Gautreaux set-aside.

Although we do not agree, HUD is taking the position that the FY1996 set-aside must be made available to Gautreaux plaintiffs pursuant to a CHA HOPE VI application for demolition of one or more CHA buildings under a NOFA to be issued shortly. Nonetheless HUD has said,

> "For your information, the HOPE VI grants will be awarded under a competitive process. However, the NOFA will provide an absolute priority for a CHA HOPE VI application seeking funding for up to 350 replacement public housing units in order to fulfill the present obligation to provide comparable relief in lieu of 350 section 8 new construction units that were required by the decree."

Under these circumstances, we have agreed as follows:

(1) CHA will work with the Gautreaux plaintiffs to prepare and submit an application under the forthcoming NOFA for the specific purpose of obtaining the "absolute priority" funding for 350 replacement public housing units referred to in Secretary Cisneros' letter. (CHA intends to submit a separate NOFA application for funding in addition to this "absolute priority" amount.)

(2) The FY1996 Gautreaux set-aside funding will only be expended, and the buildings to be demolished for which any part of the FY1996 Gautreaux set-aside is

EXHIBIT D

17 East Monroe Street, Suite 212, Chicago, Illinois 60603 312.641.5570 *phone* 312.641.5454 *fax*

to be used as replacement housing will only be selected, upon the mutual agreement of CHA and the Gautreaux plaintiffs, or pursuant to a decision of the Gautreaux court under paragraph (3) below.

(3) If after a reasonable time CHA and the Gautreaux plaintiffs are unable to agree upon the expenditure of some part or all of the FY1996 Gautreaux set-aside funding, or upon such selection of buildings to be demolished, the disagreement of the parties shall be submitted for resolution to the Gautreaux court. Either party shall be free to initiate such submission.

Cordially,

Alexander Polikoff

ALP:mm

AGREED:

Joseph Shuldiner, Executive Director
Chicago Housing Authority

cc: Edwin Eisendrath

The Chicago Housing Authority

April 30, 1997

Mr. Daniel Levin
Chairman
The Habitat Company
350 W. Hubbard St.
Chicago, Illinois 60610

Dear Mr. Levin:

SUBJECT: TRANSMITTAL OF EXECUTED HORNER HOPE VI AND ABLA/BROOKS EXTENSION HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

Enclosed is one (1) original executed Horner HOPE VI and ABLA/Brooks Extension HOPE VI Development Management Agreement dated April 21, 1997. This document details provisions for The Habitat Company to perform development manager services for the 350 public housing replacements units contemplated under the HOPE VI Program. ABLA/Brooks Extension will receive 200 replacement public housing units and Henry Horner homes will receive 150 replacement public housing units.

Please do not hesitate to contact Andrew Rodriguez of my staff at (312) 791-8500, Extension 4501 if you have any questions or if we can provide assistance.

Sincerely,

Joseph Shuldiner
Executive Director

Enclosure

cc: Andrew Rodriguez, Director, Redevelopment Division
Valerie Jarrett, Executive Vice-President, The Habitat Company
Phillip Hickman, Senior Vice-President and Director of Scattered Sites, The Habitat Company

EXHIBIT E

COPY

HORNER HOPE VI AND
ABLA/BROOKS EXTENSION
HOPE VI DEVELOPMENT MANAGEMENT AGREEMENT

April 21

This AGREEMENT ("Agreement") is made and entered into as of _____, 1997 between the Chicago Housing Authority, a municipal corporation organized and existing under the laws of the State of Illinois (the "Authority"), and The Habitat Company, an Illinois corporation ("Habitat").

RECITALS:

A. The Authority is a public housing agency authorized to operate public housing in the City of Chicago pursuant to the Illinois Housing Authorities Act. Daniel Levin and The Habitat Company were appointed Receiver for the development of all non-elderly CHA public housing development programs on August 14, 1987, by the U.S. District Court (Gautreaux Case).

B. The Authority submitted an application to the United States Department of Housing and Urban Development ("HUD") for funding of a Hope VI-Urban Revitalization Demonstration Program (Hope VI) pursuant to which HUD authorized the development of 200 units of housing to replace units scheduled for demolition in the public housing development community known as Brooks Extension (IL 2-31), which is a part of the combined public housing property known as ABLA (Abbott, Brooks, Loomis, Addams) and 150 units of housing to replace units scheduled for demolition in the public housing development community known as Henry Horner Homes - Phase II (IL 2-19), and Extension (IL 2-35), all as described in the application.

C. HUD approved funding for the Hope VI-Urban Revitalization Demonstration Program and pursuant thereto, HUD and the Authority plan to enter into an Implementation Grant Agreement (Form HUD- 1 044) to develop 200 replacement public housing units for the total amount of twenty-four million four hundred eighty-three thousand two hundred fifty dollars ($24,483,250), and to develop 150 replacement public housing units for the total amount of eighteen million four hundred thirty-five thousand three hundred dollars ($18,435,300).

D. Hope VI provides for the integration of public housing units into a sustainable, mixed-income community, which requires coordinated and comprehensive planning, and effective implementation of the plan.

E. The Authority desires to contract with Habitat to be development manager for the 350 public housing replacement units contemplated under HOPE VI Program (The Program). The Authority may desire to delegate to Chicago Metropolitan Housing Development Corporation (CMHDC) certain responsibilities/activities referred to in this Agreement as those of the Authority.

F. Notwithstanding this contract, the terms of the Receivership Order in the Gautreaux Case dated August 14, 1987, appointing Daniel Levin and The Habitat Company as Receiver for the development of all non-elderly CHA public housing development programs (Receiver) are not affected or altered in any way by this contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Obligations of Habitat and the Authority. Habitat and the Authority shall cooperate with each other in coordinating and managing the planning and implementation of the Program in accordance with the provisions of the Program in accordance with the provisions of the Annual Contribution Contract No. IL06URD00___ (Note: issuance by HUD is pending at this time (the "ACC")), as the same may be amended from time to time, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. Habitat agrees that in performing its obligations hereunder, it will comply with all applicable laws, including but not limited to, the applicable provisions of the United States Housing Act of 1937, as amended, the ACC and the applicable HUD regulations and HUD handbooks, but nothing shall prevent Habitat from requesting the Authority to seek a waiver of any of the applicable provisions of any of the foregoing. Habitat understands that although the Authority may request a waiver from HUD, there is no guarantee that HUD will grant such a waiver. In such event, Habitat shall not be relieved of performing its obligations hereunder in accordance with all applicable laws and regulations.

A. Planning Phase. The Authority in conjunction with Habitat shall solicit comment from the City of Chicago agencies, elected officials, community and business organizations and residents of ABLA. The Authority and Habitat shall solicit qualifications and proposals from, and retain design professionals and other consultants deemed necessary by Habitat to assist in the physical planning and coordination of the development contemplated. The Authority shall review with Habitat the proposals and approve of the contracts for the selected design professionals and consultants.

Habitat and the Authority shall solicit and analyze the proposals in light of the comments received. Habitat shall assist, as requested, and cooperate with the Authority with regard to the preparation of a revised HOPE VI Revitalization Plan for submission to HUD, if necessary, and after seeking approval from counsel for the Gautreaux plaintiffs, shall prepare a request to the U.S. District Court for permission to build replacement public housing in the ABLA area by declaring it a "Revitalizing Area."

B. Implementation Phase. Upon the Authority's and HUD's approval of an acceptable development program (the "Approved Program"), Habitat shall in cooperation with the

Authority, be responsible for all aspects of the implementation phase of the Approved Program including, without limitation:

1) Land acquisition, as necessary;
2) Unit design and density;
3) Determination of form of construction arrangement and negotiation of terms thereof,
4) Development budgets for each phase of the Program;
5) Selection of design professionals and consultants;
6) Negotiation of contracts with developers selected by Habitat to implement the Approved Program and
7) Supervision of the construction during the construction phase and coordination with the Authority and HUD during the warranty and post-construction phases.

The Authority and Habitat shall each delegate a staff person as the Official Representative (O.R.) to respectively represent the Authority and Habitat in business matters regarding this Agreement. The O.R. (or his/her designee) of the Authority shall provide prompt review of any request for approvals by Habitat. Examples of situations/activities requiring prior approval by the Authority's O.R. are:

a. Contracts to acquire real property;
b. Final design and the development site plan;
c. Selection of design professionals and consultants;
d. Construction contracts;
e. The total development cost (TDC) budget prepared for HUD approval.

The Authority's approval of the total development cost budget attached hereto as Exhibit B expressly authorizes Habitat to expend and draw down funds from CHA to the extent the amounts are within the limitations in the following budget categories: administration, planning and IOD, site acquisition (except for the property purchases).

Habitat shall advise the Authority in advance of all communications, presentations and submissions to government officials, community organizations or representatives in connection with its role as Development Manager for the Program. Should the Authority deem it appropriate for Authority personnel to become involved in the aforesaid activities, Habitat shall fully operate with the Authority in any such effort.

C. Personnel and Performance Habitat shall devote such time and personnel as necessary for the diligent, effective, thorough and careful performance of its duties hereunder. Habitat agrees to use its best skill and judgment in the performance of its obligations hereunder and to cooperate with Authority staff or agents in promoting the interests of the Approved Program. Habitat agrees to provide timely administration and advice, and to provide professional superintendence and administration of the work related to the Approved Program.

D. No Employer/Employee Relationship. Notwithstanding the foregoing, it is explicitly acknowledged that Habitat is engaged as an independent contractor for the performance of the services described herein. The Authority and Habitat are not partners, or joint venturers, and have no employer/employee relationship.

2. Compensation. Habitat shall be paid a development manager fee ("Developer Fee") equal to the greater of 3% of the Total Development Cost ("TDC") or $3672.49 per unit, for each completed unit of public housing under the Approved Program. This fee is provided for in the "planning" category of the Development Budget. Additionally, Habitat shall be reimbursed for all administrative costs directly associated with site acquisition, administration and planning ("Costs") listed in the Development Budget. Notwithstanding the foregoing, the sum of all Developer Fees and Administrative Costs payable by the Authority shall not exceed the greater of 7% of the TDC, or $8569.14 per unit, whichever is greater. The portion of the Developer's Fee attributable to each completed unit shall be earned and paid upon completion (denoted by issuance of a Certificate of Occupancy by the City of Chicago) and transfer of such unit. Costs shall be paid within 30 days of receipt of an invoice. Habitat shall invoice the Authority no more than once each month. Notwithstanding the foregoing, it is expressly agreed to and acknowledged that the Authority shall not be responsible for the payment of salaries, wages or other employee compensation and benefits, FICA, payroll taxes, administrative costs, or any federal, state or local taxes relative to Habitat's business. In addition to the above fees and administrative costs to Habitat, the Authority shall receive fees of 3% of the TDC.

The Program contemplates the development of public housing but there may also be market rate housing in a mixed-income setting. To the extent that Habitat receives any development management fees or other compensation in connection with its role in the planning for and/or development of market rate housing, such fees or other compensation shall be divided between the Authority and Habitat as follows: 1/3(one third) to the Authority, 2/3(two thirds) to Habitat.

3. Resident Outreach. The Authority shall be the principal public spokesperson with respect to the Approved Program. As such, the Authority shall coordinate with, and be the principal communication link to the ABLA residents, their official representatives and their consultants. The Authority shall provide Habitat advance notice of such meetings and communications and shall cooperate with Habitat to facilitate the coordination of such communication by joint attendance at such meetings.

The Authority shall be responsible for the demolition and social service components of the Hope VI Program.

4. Cooperation of the Parties. The Authority and Habitat agree to fully cooperate with one another to carry out the planning and implementation of the Approved Program. Both parties agree to execute and deliver any all documents reasonably requested by the other or required

by any governmental authority relative to the Approved Program. The parties agree that if modifications of the ACC or waivers of HUD regulations or provisions are necessary to appropriately implement the Program, they will seek such amendments or waivers from HUD.

5. Indemnification. The Authority shall indemnify and hold Habitat harmless from and against all liabilities, costs, damages and expenses (including without limitation, reasonable attorneys' fees, disbursements and amounts paid in settlement of claims) incurred by Habitat in connection with the Authority's breach of any of its duties and obligations under this Agreement, except any resulting from the gross negligence, or willful breach of any obligation under this Agreement by Habitat, its agents, or others under its direct control. Habitat shall indemnify and hold the Authority harmless from and against all liabilities costs, damages and expenses (including without limitation, reasonable attorneys' fees, disbursements and amounts paid in settlement of claims) incurred by the Authority in connection with Habitat's breach of any of its duties and obligations under this Agreement, except any resulting from the gross negligence of Authority or its willful breach of its obligations under this Agreement.

6. Term. The term of this Agreement shall commence on the date hereof and shall expire upon completion of the Approved Program unless sooner terminated in accordance with the terms hereof. In the event that the (Program or) Approved Program is terminated, or otherwise limited or forestalled for reasons beyond the Authority's control, the Authority may, at its option, terminate this Agreement by written notice to Habitat. Upon termination of this Agreement, including termination pursuant to default, as provided in paragraph 7, Habitat shall immediately refrain from entering into any further contracts or agreements with respect to the implementation of the Approved Program, subject however to its obligations as Receiver, to the extent any obligations exist. Habitat shall also transfer to the Authority, at the time and in the manner reasonably directed by the Authority, all of its right, title and interest in completed and uncompleted work, supplies, materials, contracts, agreements, guarantees, books, papers, reports, records, plans, specifications, drawings, surveys, schedules, reports, and all other property resulting from and related to the performance of Habitat's obligations under this Agreement. Habitat shall be relieved of all responsibility to provide any further services hereunder and the Authority shall assume all and full responsibility for all matters and contracts assigned to it and for the performance of Habitat's obligations hereunder. Furthermore, upon such termination, Habitat shall be promptly paid all compensation for services provided prior to such termination.

7. Default. In the event that Habitat breaches any of its duties or fails to meet any of its obligations hereunder, the Authority shall notify Habitat in writing of such breach or failure. Habitat shall have thirty (30) business days from the date of receipt of such notice to cure such breach or perform such deficient obligation. It shall be an event of default if Habitat has failed to cure any breach or correct any performance deficiency within thirty (30) business days after receipt of notice given in accordance with the terms of this Agreement. Upon the occurrence of an event of default, the Authority shall have the following rights and remedies.

(a) The right to terminate this Agreement as to any or all of the Approved Program activities effective at a time specified by the Authority;

(b) All other rights and remedies available at law or in equity.

The parties acknowledge that this provision is solely for the benefit of the Authority and that if the Authority permits Habitat to continue to perform despite Habitat's default, Habitat shall in no way be relieved of any of its responsibilities, duties or obligations under this Agreement nor shall the Authority waive or relinquish any of these rights.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law or in equity. No delay or failure to exercise any right or power accruing upon any event of default shall impair any such right or power nor shall it be construed as a waiver of any event of default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

8. Minority and Women Business Enterprise Commitment. Habitat agrees to comply with the terms and conditions of the Authority's Minority Business Enterprise ("MBE") and Women Business Enterprise ("WBE") conditions, provided, however, that the Executive Director may waive the MBE and WBE participation requirements. The MBE and WBE schedules are attached as Exhibit C.

During the term of this Agreement, Habitat hereby agrees to provide, and to contract with all contractors and subcontractors performing work/services pursuant to this Agreement to provide, opportunities to the Authority Residents in accordance with C.F.R. Part 135. The MBE and WBE schedules and 24 C.F.R. Part 135 Participation plans shall be attached hereto as Exhibit C and incorporated by references as if fully set forth herein.

9. Audit Requirement. Habitat shall keep books, documents, paper, records and accounts in connection with the Approved Program accessible and open to audit by the authority, HUD, the Comptroller General of the United States or their duly authorized representatives, and allow inspection, copying, abstracting and transcriptions. Habitat shall make these records available to the Authority at reasonable times during the performance of this Agreement. In addition, Habitat shall retain all such documents and records in a safe place and make them available for at least three (3) years after the final payment is made in connection with this Agreement and all other pending matters are closed.

Payment of any invoice by the Authority does not constitute a waiver of the Authority's rights to subsequently question, compromise or request repayment or future credit for any invoice previously paid. Habitat shall maintain records showing actual time devoted and

costs incurred.

10. Drug-Free Workplace. Habitat should establish procedures and policies to promote a "Drug-Free Workplace" and should notify all employees of this policy for maintaining a "Drug-Free Workplace," including the penalties that may be imposed for drug abuse violations occurring in the workplace. Habitat agrees to notify the Authority, in writing, if any of its employees are convicted of a criminal drug offense in the workplace no later then ten (10) days after such conviction.

11. Conflict of Interest and Anti-Lobbying. No member of the governing body of the Authority or other units of government and no other officer, employee, or agent of the Authority or other unit of government who exercises any functions or responsibilities in connection with the Approved Program to which this Agreement pertains, shall have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and/or Authority executive and senior staff or employee shall be admitted to share in any part of this Agreement or any financial benefits arising thereunder.

Pursuant to the conflict of interest requirements in OMB Circular A- 1 02 and 24 CFR §85.36(b)(3), no person who is an employee, agent, consultant, officer, or appointed official of the Authority and who exercises or has exercised any functions or responsibilities with respect to HUD assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such HUD activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for itself or for those whom it has family or business ties, during his or her tenure with the Authority or for one year thereafter. Furthermore, the Authority represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. subsection 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended.

12. Compliance with HUD Regulations. In addition to the obligations stated in Paragraph 1, Habitat shall comply with the applicable provisions of HUD regulations, and all state and local laws, ordinances and executive orders including, but not limited to, the Uniform Administrative Requirements contained in 24 C.F.R. §§ 85.1 et seq., (1993), as amended; Title VI of the Civil Rights Act of 1967 (42 U.S.C. 2000d et seq.,); Fair Housing Act (42 U.S.C. 3601-20 et seq.,); Executive Order 11063, as amended by Executive Order 12259; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.,); Rehabilitation Act of 1973 (29 U.S.C. 794); Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); National Environmental Policy Act of 1969 (24 CFR Part 58); Clean Air Act (42 U.S.C. § 7401/et seq.,); Federal Water Pollution Control Act (33 U.S. C. § 1251 et seq.,), as amended; Flood Disaster Protection

Act of 1973 (42 U.S.C. 4106); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); Executive Order 11246, as amended by Executive Orders 12086 and 11375; Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 483 1 (b)); Executive Order 12372; Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276); Byrd "Anti-Lobbying" Amendment (31 U.S.C. § 1352); Debarment and Suspension (Executive Orders 12549 and 12689); and the regulations implementing the laws as set forth in 24 C.F.R. Section 85.1 et seq., (1993), as amended.

13. Governing Law : Dispute Resolution. This Agreement will be governed as to performance and interpretation in accordance with the laws of the State of Illinois.

All claims, disputes and other matters in question arising out of, or relating to, this Agreement or the performance thereof may, if so elected by a party, be submitted to, and determined by, arbitration if good faith negotiations among the parties do not resolve such claim, dispute or other matter within sixty (60) days. Such arbitration shall proceed in accordance with the Commercial Arbitration rules of the American Arbitration Association then pertaining (the "Rules"), insofar as such Rules are not inconsistent with the provisions expressly set forth in this Agreement, unless the parties mutually agree otherwise, and pursuant to the following procedures:

(a) Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. Each party shall appoint an arbitrator, and those party-appointed arbitrators shall appoint a third neutral arbitrator within ten (10) days. If the party-appointed arbitrators fail to appoint a third neutral arbitrator within ten (10) days, such third neutral arbitrator shall be appointed by the American Arbitration Association in accordance with the Rules. A determination by a majority of the panel shall be binding.

(b) Reasonable discovery shall be allowed in arbitration.

(c) The costs and fees of the arbitration, including attorney's fees, shall be allocated by the arbitrators.

(d) The award rendered by the arbitrators shall be final and judgement may be entered in accordance with applicable law and in any court having jurisdiction thereof.

14. Patents and Copyrights. The Authority reserves an exclusive, perpetual and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for the Authority's purposes, including, but not limited to, commercial exploitation: (a) the copyright or patent in any work or deliverables developed in connection with the implementation of the Approved Program under this Agreement; and (b) any rights of copyright or patent to which Habitat purchases ownership with the funds awarded pursuant to this Agreement. If HUD determines that the patent or copyright, which is

either developed or purchased by Habitat serves a federal government purpose, a royalty-free, non-exclusive and irrevocable license shall vest in HUD.

Any discovery or invention (37 C.F.R. part 40) arising out of, or developed in conjunction with the work to be performed under this Agreement shall become the exclusive property of HUD and be promptly and fully reported to HUD for a determination as to whether patent protection on such invention or discovery should be sought.

15. Religious Activities. Habitat agrees that in connection with this Agreement: (a) it shall not discriminate against any person on the basis of religion and shall not limit employment or give preference in employment to persons on the basis of religion; (b) it shall not discriminate against any person applying for employment on the basis of religion and shall not give preference to persons on the basis of religion; and (c)it shall provide no religious instruction or counseling, conduct no religious worship services, engage in no religious proselytizing, and exert no other religious influence in connection with its performance hereunder.

16. Miscellaneous.

A. Further Assurances. Each party shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement as are not inconsistent with the terms hereof.

B. Reporting. Each quarter, during the term of this Agreement, Habitat shall prepare a written report to the Authority describing the status of the Approved Program. Specifically, the report shall include an accounting of all expenditures made or incurred in connection with the Approved Program, and summaries of actions taken pursuant to Paragraph 1(b) hereof. Said report shall be delivered to the Executive Director of the Authority no later than the 20th day following the beginning of each quarter. In addition, Habitat shall attend regularly scheduled meetings at such time intervals the Authority deems desirable regarding Habitat's progress in implementing the Approved Program.

C. Authority. Each party warrants and represents to the other that its execution of this Agreement has been duly authorized and the individuals signing this Agreement on behalf of each party have the authority to do so.

D. Construction. The paragraph captions used in this Agreement are for the purposes of convenience only and are not intended to, and shall not, affect the meaning, interpretation or construction of the text of this Agreement.

E. Entire Agreement: Amendment. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. It may not be modified or amended except with the written consent of both parties.

F Confidentiality. Each party, for itself and its agents and employees, agrees that the documents and information made available to it (other than documents and information otherwise available in the public domain) are to be held by each party in the strictest confidence, that copies shall not be distributed to any party other than such parties whose knowledge of such documents and information is reasonably necessary to effect the purposes of this Agreement.

G. Enforcement Costs. If either the Authority or Habitat brings an action against the other party to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action shall be entitled to recover from the other party costs, reasonable attorney's fees and any other expenses incurred in connection therewith.

H. Notices. All notices, waivers demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (i) if delivered by messenger, when received; provided that no item shall be deemed received unless such messenger obtains a written receipt therefor, (ii) if mailed, on the third business day after deposit in the United States mail, certified or registered, postage prepaid, return receipt requested, (iii) if telexed or telecopied, twenty-four hours after being dispatched by telex or telecopy with confirmation of valid transmittal with a copy delivered by mail in the manner set forth in subsection (ii) above, and (iv) if sent by commercial overnight carrier, prepaid for next day delivery, on the next business day after delivery to such courier, in each case addressed to the party's address appearing below:

Authority: Chicago Housing Authority
626 W. Jackson Boulevard
7th Floor
Chicago, Illinois 60661
Attention: Executive Director

Habitat: The Habitat Company
350 West Hubbard Street
Chicago, Illinois 60610
Attention: Chairman

or to such other address(es) or addressee(s) as any party entitled to receive notices hereunder shall designate to others in the manner provided herein for the service of notices.

IN WITNESS WHEREOF, Habitat and the Authority have executed this Agreement as of the day and year first above written.

THE CHICAGO HOUSING AUTHORITY

By: _____
Executive Director

THE HABITAT COMPANY

By: _____
Chairman

The Chicago Housing Authority

May 18, 1995

VIA MESSENGER

Mr. Edwin Eisendrath
Secretary's Representative
United States Department of
Housing and Urban Development
77 West Jackson Boulevard
Room 2608
Chicago, Illinois 60604-3507

Re: Application for Partial Demolition of Low Income Public Housing (IL2-20)

Dear Mr. Eisendrath:

This correspondence is written to transmit to your office for approval the Chicago Housing Authority's ("Authority") formal "Application for Partial Demolition of Low Income Public Housing - IL2-20".

The Application requests HUD's approval for demolition of 398 units at the Cabrini Green Extension (IL2-20) for the following buildings:

1150-60 N. Sedgwick	262 units
1157-59 N. Cleveland	136 units

The 1157-59 N. Cleveland building is currently vacant and boarded-up and will be part of Phase I demolition. The 1150-60 N. Sedgwick structure presently has an occupancy rate of 67.94 percent and will be included in Phase II demolition.

The Application has been prepared in compliance with 24 C.F.R. Part 970, Public Housing Program-Demolition or Disposition of Public Housing Projects; HUD Handbook and Conversion Handbook; HUD Notice PIH 93-17 and 57 FR 46074, Requirements Relating to the Resident Organizations' Opportunity to Purchase Development proposed for Demolition.

EXHIBIT F

These buildings are being proposed for demolition due to their physical conditions as well as de-densification of the development.

Approval of this demolition request is vital to the Authority's efforts to rebuild and extend the life of this public housing development through the reduction of housing density as expressed in the Authority's May, 1993 Urban Revitalization Demonstration Application.

The Demolition Plan and the actions proposed therein are in compliance with applicable HUD regulations and the Authority's action is in compliance with applicable civil rights laws and compliance agreements.

Should you have any questions concerning the Application, please contact Andrew Rodriguez, Director, Construction Management at (312) 567-7775, extension 1004.

Sincerely,

Marilyn F. Johnson
Acting Executive Director/
General Counsel

MFJ:PNB:mr

a:Boc9.Demolit.let

4. Location of Replacement Units

The proposed new units will be built on sites in community areas around the Cabrini-Green development, and on other sites throughout the Chicago metropolitan area, in accordance with the *Gautreaux v. Chicago Housing Authority* (Nos. 66 C 1459 *et al.*) modified Consent Decree and subsequent orders or waivers thereto. All sites will be selected in accordance with applicable HUD requirements and the City of Chicago's Comprehensive Housing Affordability Strategy (CHAS).

5. Development Schedule

The replacement housing units will be developed in accordance with time frames and requirements of the HOPE VI Grant Agreement between CHA and HUD. The schedule, which is subject to change with HUD approval is:

ACTION	ESTIMATED TIMEFRAME
HUD approval of HOPE VI Revised Plan to Revitalize Cabrini-Green and bond issue	Expected May 1995
Contract of Sale	November 1996
Construction Start	December 1996
Occupancy (Date of Full Availability) for all replacement units	December 1998

6. Resident Relocation

The building at 1157-1159 North Cleveland was vacated in October 1993 due to dangerous and hazardous conditions. Relocation of the 1150-1160 North Sedgwick building will occur as described in Section E and in accordance with the HUD relocation requirements.

U.S. Department of Housing & Urban Development
Office of the Assistant General Counsel - Midwest
77 West Jackson Boulevard, Room 2533
Chicago, IL 60604-3507

July 29, 1997

MEMORANDUM FOR: Richard Kruschke, Public Housing Director, Office of Public Housing, Illinois State Office, 5APH

ATTENTION: Louis Berra, Director, Distressed and Troubled Housing Recovery, 5APH

FROM: Katherine Abraham for Lewis M. Nixon, Assistant General Counsel for the Midwest, 5AC

SUBJECT: Development Authority Under Gautreaux

At the oral request of Richard Kruschke and Louis Berra on July 28, 1997, we are responding to the question of whether the Chicago Housing Authority or the court appointed Receiver has the general responsibility for development of non-elderly public housing serving as replacement units at Cabrini-Green.

The August 14, 1987 Gautreaux order appointed Daniel E. Levin and the Habitat Company jointly as receiver to develop the scattered site program. The 'scattered site program' was defined to include all CHA non-elderly public housing development programs which might in the future be authorized by HUD. The December 3, 1993 order, the nunc pro tunc order as we typically refer to it, specifically gave development authority for 377 additional scattered site units to serve as replacement housing for Washington Park and Cabrini Green to the Joint Venture comprised of the Receiver and the Chicago Metropolitan Housing Development Corporation ("CMHDC"). In the same order, the Joint Venture was given authority for the eighteen unit Lawndale replacement units, the 350 unit demonstration program and the 25 Family Self Sufficiency Program.

In the August 15, 1993 Joint Venture Agreement, CMHDC is described as an affiliate of the CHA. Provision 5.1 of the Agreement states that overall management and control of the business of the Joint Venture shall be vested in Habitat provided that Habitat would consult with CMHDC on Major Decisions.

Based on the referenced materials, it is the belief of this office that either the Receiver, for general purposes, or the Joint Venture, under the nunc pro tunc order for specific projects, has development authority. In regard to the 377

EXHIBIT G

replacement units for Cabrini and Washington Park approved for funding by HUD in September 1993 and 1994, the Joint Venture has clearly been authorized by Judge Aspen. We also believe that any funds under HOPE VI which go to replacement housing are currently a Receiver responsibility. We do not believe the CHA currently has any development authority for non-elderly units.

We have reviewed David Sowell's letter of July 14, 1997 to Rich Monocchio concerning a draft proposal for 44 units of replacement units for Cabrini Green and note that Mr. Sowell says CMHDC would have to separate from CHA and have its own identity. If that is true, then the Joint Venture Agreement and the draft proposal are inconsistent because as stated above, under the Joint Venture Agreement CMHDC is described as an affiliate of CHA. It is our understanding the reason behind the Joint Venture was for CMHDC to develop expertise under the wing of the Receiver, so it could become the development arm of the CHA.

Depending on the nature of Judge Aspen's expected August 15, 1997 ruling it may be time for the parties to consider dissolving the Joint Venture and for filing a motion before Judge Aspen based on such a discussion. It may also be appropriate to ask the court for clarification concerning development authority under HOPE VI.

If you have further questions please send a memorandum to the attention of Jan Elson.

081387(A) MJ/jl 1311L

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

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

ORDER

This matter coming on to be heard pursuant to plaintiffs' motion dated May 8, 1987 for the appointment of a receiver for the scattered site program (defined below), due notice having been given and the Court having heard the presentations of the parties, the Court makes the following findings of fact and conclusions of law:

(A) The Chicago Housing Authority (the "CHA") has joined in plaintiffs' motion for the appointment of a receiver for the reasons which CHA has heretofore stated in this cause.

(B) This Court has concluded that it has no reasonable alternative but to exercise its inherent power to effectuate its own orders and to so appoint said receiver for the scattered site program in accordance with the provisions of this order. It is the expectation of this Court that the appointment of a receiver will facilitate cooperation between the United States

EXHIBIT H

Department of Housing and Urban Development ("HUD"), CHA and the receiver respecting the scattered site program.

(C) For purposes of this Order the "scattered site program" shall mean (i) the buildings and vacant sites listed in Exhibit A attached hereto (collectively, the "Uncompleted Units") and (ii) CHA Development Programs numbered Il 2-096, Il 2-098, Il 2-103 through Il 2-109, and Il 2-113 (excluding any completed buildings in such programs) and all CHA non-elderly public housing development programs which may in the future be authorized by HUD during the pendency of Civil Action No. 66 C 1459.

WHEREFORE, IT IS HEREBY ORDERED:

1. The Court hereby appoints Daniel E. Levin and The Habitat Company jointly as receiver ("Receiver") to develop and administer the scattered site program as effectively and expeditiously as possible in compliance with the orders of this Court, such appointment to be effective as of the Effective Date (defined below). Until the Effective Date, CHA shall continue to be responsible for implementing the scattered site program in compliance with the prior orders of this Court. On the Effective Date CHA shall turn over to the Receiver possession and control of the Uncompleted Units, it being understood, however, that title to the Uncompleted Units shall remain in the name of CHA.

2. The Receiver shall have and exercise all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including:

(a) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (i) submission to HUD of applications for funding, development programs and other documents, (ii) site selection and acquisition (including policies respecting the location of sites and buildings to be acquired), (iii) the relocation of occupants, when necessary and (iv) construction and rehabilitation of dwelling units and the design and specifications therefor in compliance with applicable laws and ordinances; and

(b) Carrying out the determinations so made, including without limitation (i) negotiating and executing any contracts or other documents necessary or appropriate to implement the scattered site program, (ii) employing, transferring and discharging staff for the scattered site program, (iii) purchasing insurance insuring the Receiver, and the interest of CHA if feasible and available at no additional cost, against liability for such risks and in such amounts as the Receiver and HUD shall from time to time agree upon, (iv) managing and administering buildings included within the scattered site program prior to the turnover thereof to the CHA in accordance with Paragraph 5 below, and (v) doing such other acts and things, including site selection and acquisition in the name of CHA, construction and rehabilitation of dwelling units and retaining the services of such personnel, consultants, attorneys, accountants and other professionals, as are determined by the Receiver to be necessary and appropriate to implement the scattered site

program and to enable the Receiver to discharge its duties pursuant to the provisions hereof.

3. The Receiver shall have the right at any time, upon due notice to the parties hereto, to make application to the Court requesting that the Receiver be excused from complying with some or all of the provisions set forth in the Annual Contributions Contracts heretofore entered into between HUD and CHA (collectively, the "ACC"), the HUD Procurement Handbook for Public Housing Agencies No. 7460.8, the HUD Public Housing Development Handbook No. 7417.1, or other applicable rules and regulations, or applicable laws or ordinances, or that as to the Receiver, the requirements of such agreements, provisions, laws, ordinances, rules and regulations be modified, if the Receiver determines that compliance therewith would be costly, inefficient or otherwise impede or restrict its ability to carry out this Court's orders. Nothing contained herein shall be deemed to constitute a determination by the Court, or the consent or an acknowledgement by HUD or CHA, that the Court has the jurisdiction or authority to grant any of the foregoing relief.

4. The Receiver shall have no obligation to make any expenditure except from funds provided by HUD in accordance with procedures to be agreed upon between HUD and the Receiver. The Receiver shall keep separate accounts for costs incurred in connection with the scattered site program from and after the Effective Date. The Receiver shall not be responsible for (i) payment of any costs or performance of any obligations incurred

by CHA prior to the Effective Date, except obligations incurred pursuant to the ACC unless the Receiver is excused from complying with the terms thereof pursuant to Paragraph 3 above, or (ii) payment of any costs or performance of any obligations incurred by CHA thereafter, except as may be specifically authorized by the Receiver in writing. Notwithstanding the foregoing, the Receiver shall not be responsible for (iii) compliance with the provisions of any ACC with respect to buildings and sites previously acquired or completed by CHA except those described in Exhibit A, or (iv) any act or omission of CHA either before or after the Effective Date.

5. The Receiver shall promptly turn over to CHA, and CHA shall accept, any building within the scattered site program upon completion of construction or rehabilitation of each such building. For purposes hereof, subject to the reasonable approval of HUD, construction or rehabilitation of a building shall be deemed to be completed when the Receiver's project architect determines that such building is ready for occupancy, and, if required by applicable law or ordinance, a certificate of occupancy has been issued for such building.

6. The Receiver shall prepare reports respecting the status and implementation of the scattered site program as of the end of each month in the year 1987, commencing with the month of September, 1987, and thereafter quarterly as of March 31, June 30, September 30 and December 31 of each year. Copies of the same shall be filed with the Court and served on

the parties within 20 days following the end of the period covered by each such report.

7. CHA, its agents, servants and employees shall provide full cooperation and assistance to, and shall not interfere with, the Receiver in the performance of the Receiver's responsibilities hereunder, including without limitation providing full access to all information, records, documents, files relating to the scattered site program.

8. There shall be paid to the Receiver from funds provided by HUD pursuant to the ACC or Annual Contributions Contracts entered into between the Receiver and HUD, or by CHA if appropriate, (i) all direct costs and expenses reasonably incurred by the Receiver in connection with the performance by the Receiver of its duties pursuant hereto, (ii) to the extent not included in clause (i), a pro-rata share of all salary, compensation and other direct costs of those employees of The Habitat Company (other than Daniel E. Levin, James P. McHugh and Douglas R. Woodworth), James McHugh Construction Co. (other than James P. McHugh) or other entities which are affiliates of or controlled either directly or indirectly by the Receiver, who at the direction of the Receiver perform services on behalf of the scattered site program, for the actual time devoted by said employees to the performance of services for the scattered site program, and (iii) a fee in the amount of three percent (3%) of the aggregate development costs (excluding the costs described in clause (ii) above and any costs previously incurred by CHA)

for each building in the scattered site program (except buildings developed pursuant to a turnkey development) as reflected on the original development budget(s) therefor submitted by the Receiver and approved by HUD, the fee for such building being payable upon the completion thereof as determined in accordance with Paragraph 5 hereof. The Court will set a reasonable fee with respect to turnkey developments. The Court hereby determines that included in the category of expenditures for which the Receiver shall be entitled to reimbursement are all costs, expenses and liabilities (including reasonable attorneys' fees and court costs) reasonably incurred or sustained by the Receiver by reason of the performance by the Receiver of its duties pursuant to the provisions hereof to the extent said costs, expenses and liabilities are not covered by the insurance described in Paragraph 2(b)(iii) above.

9. Nothing in this Order shall (i) preclude or restrict the Receiver or any party hereto from asserting any claims against the Receiver or any other party hereto for any matter in connection with the scattered site program or otherwise; provided, however that the foregoing shall not constitute a waiver by the Receiver or any other party of any defense which it may have to such claim, including, but not limited to, a defense by the Receiver that it enjoys immunity from such claim, (ii) obligate HUD to furnish funds to the Receiver 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, or (iii) constitute a determination of the amount of funds which HUD is obligated to furnish by virtue of such previous orders or otherwise.

10. The Receiver is hereby excused from complying with Rule 9(b) of the Civil Rules of the United States District Court for the Northern District of Illinois.

11. The effective date of this Order (the "Effective Date") shall be the date upon which the Receiver has filed with this Court and served upon the parties hereto a notice signifying that the Receiver is satisfied that there is in force the insurance coverage referred to in Paragraph 2(b)(iii) above.

12. Except as and to the extent specifically provided in this Order, this Court's judgment orders previously entered herein, as previously modified, remain in full force and effect. The Court retains jurisdiction of this matter for all purposes, including enforcement and issuance, upon proper notice and motion, of orders modifying or supplementing the terms of this order upon the presentation of relevant information or material changes in conditions existing at the time of this order or any other matter.

ENTER:

United States District Judge

August 14, 1987

EXHIBIT I

DELIBERATELY EXCLUDED

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

DOROTHY GAUTREAUX, et al.

Plaintiffs,

v.

CHICAGO HOUSING AUTHORITY and HENRY CISNEROS, Secretary of Department of Housing and Urban Development

Defendants.

Judge Marvin E. Aspen
U.S. District Court

66 C 1459
66 C 1460

(Consolidated)

AGREED ORDER

WHEREAS, on August 14, 1987 the Court entered an Order appointing the Habitat Company as Receiver and giving the Receiver

> all powers of CHA respecting the scattered site program necessary and incident to the development and administration of such program, including: (1) Making all determinations governing the scattered site program in compliance with prior and future orders of this Court, including without limitation (1) submission to HUD of applications for funding, development programs and other documents . . . . (Order, pp. 2-3);

WHEREAS, on March 9, 1990, the Court entered an Agreed Order recognizing that the August 14, 1987 Order had given the Receiver the authority to develop and administer the scattered site program "on an exclusive basis" (Order, p. 1), but nonetheless granting CHA the authority to develop up to 350 units of scattered site housing as a demonstration program (the "Demonstration Program");

EXHIBIT J

WHEREAS, on August 3, 1993 in a status conference with the parties conducted by telephone, the Court approved a Joint Venture Agreement between the Receiver and the Chicago Metropolitan Housing Development Corporation, an affiliate of CHA, for the development of the 350 Demonstration Program units, which agreement contemplated the possibility that the Joint Venture would seek authority to develop 18 units of scattered site housing in the North Lawndale area (as replacement for 18 public housing units proposed to be demolished in that area) and 25 units of scattered site housing under the Family Self-Sufficiency Program (Agreement, p. 5);

WHEREAS, CHA has submitted applications to HUD for funding to develop such 18 scattered site units and such 25 scattered site units, as well as for 377 units of additional scattered site units (Projects IL06-P002-180 and P002-182) to replace certain other public housing units proposed to be demolished;

WHEREAS, the 18 scattered site units proposed to be constructed in the North Lawndale area are in the Limited Public Housing Area as defined by previous Court orders; and

WHEREAS, believing that it is in the best interests of the Gautreaux plaintiff class that the Joint Venture be authorized to develop the scattered site units referred to above, the parties are in agreement that the aforementioned Court orders should be modified as set forth below;

THEREFORE, IT IS HEREBY ORDERED THAT:

1. CHA shall be deemed, nunc pro tunc, to have had the authority to apply for funding for the development of 18 units of

scattered site housing in the North Lawndale area as replacement for 18 units of public housing proposed to be demolished in that area, 25 units of scattered site housing under the Family Self-Sufficiency Program, and 377 additional scattered site units (Projects IL06-P002-180 and P002-182) to replace certain other public housing proposed to be demolished, provided, however, that unless otherwise ordered by this Court all future funding applications for scattered site development shall be submitted by the Receiver in accordance with the August 14, 1987 Order of this Court;

2. The Joint Venture is hereby authorized to develop such 18 units of scattered site housing in the North Lawndale area of Chicago, a Limited Public Housing Area, in addition to the 350 Demonstration Program units previously authorized;

3. The Joint Venture is hereby authorized to develop such 25 units of scattered site housing under the Family Self-Sufficiency program, in addition to the 350 Demonstration Program units previously authorized, subject to further orders of this Court, if necessary, respecting the location of such units;

4. The Joint Venture is hereby authorized to develop such numbers of units of scattered site housing as HUD may authorize pursuant to such CHA applications for funding for 377 additional scattered site units to replace certain other public housing units proposed to be demolished, subject to further orders of this Court, if necessary, respecting the location of such units; and

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED:

December 10, 1993

United States District Judge

AGREED TO ON BEHALF OF:

Plaintiffs

12/1/93

Chicago Housing Authority

U. S. Department of Housing
and Urban Development

Receiver

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED:

December 10, 1993

United States District Judge

AGREED TO ON BEHALF OF:

Plaintiffs

12/1/93

Chicago Housing Authority

U. S. Department of Housing and Urban Development

Receiver

5. Except as provided above, all other currently effective orders of the Court in these consolidated cases shall remain in full force and effect.

ENTERED:

December __, 1993

United States District Judge

AGREED TO ON BEHALF OF:

Plaintiffs

Chicago Housing Authority

U. S. Department of Housing and Urban Development

Receiver
DANIEL LEVIN
THE HABITAT COMPANY

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	66 C 1460
CHICAGO HOUSING AUTHORITY and	)	
HENRY CISNEROS, Secretary of	)	(Consolidated)
Department of Housing and Urban	)	
Development,	)	
	)	
Defendants.	)	

O R D E R

This matter came on to be heard on the motion of plaintiffs, pursuant to this Court's order of March 9, 1995, which authorized public housing units to be provided within the Horner Revitalizing Area ("HRA") subject to a further order of Court specifying the number of such units and the conditions relating thereto, and which approved certain paragraphs of a proposed consent decree in Henry Horner Mothers Guild v. CHA and HUD, 91 C 3316 (USDC N.D. Ill.) ("Horner litigation"); and

The Court having heard the presentation of plaintiffs in support of their proposed further order, including advice of a Settlement Agreement in the Horner litigation, signed August 7, 1995; and

The Receiver, Daniel Levin and The Habitat Company, having represented to the Court that they have examined the HRA respecting the appropriate number of public housing units to be

EXHIBIT K

provided therein and the conditions to be made applicable thereto, and that they join in plaintiffs' motion, believing that the further order proposed by plaintiffs embodies both an appropriate number and appropriate conditions as contemplated by this Court's order of March 9, 1995; and

The Court having heard the presentations of the defendants, U. S. Department of Housing and Urban Development ("HUD") and Chicago Housing Authority ("CHA") with respect to said proposed further order; and

The Court being cognizant that the principle remedial purpose of the orders previously entered in these consolidated cases has been and is to provide plaintiff class families with desegregated housing opportunities; and

The Court also being cognizant that on occasion it has permitted public or assisted housing to be provided in census tracts other than the General Public Housing Area upon a sufficient showing of "revitalizing" circumstances such that a responsible forecast of economic integration, with a longer term possibility of racial desegregation, could be made; and

The Court being of the view that such a forecast can be made with respect to the HRA if the terms and conditions of this order are met;

Now, therefore, IT IS HEREBY ORDERED:

(1) In the event the five buildings owned by CHA at 2111, 2145, 2029 and 2051 West Lake Street, and at 124 North Hoyne Street, containing 466 dwelling units in the aggregate, are

demolished, the Receiver shall be free to provide within the HRA, through new construction and/or acquisition with rehabilitation, 466 replacement dwelling units, provided, however, that one-half of such replacement dwelling units are occupied by families whose incomes are in the range of 50-80% of the median income in the Chicago Metropolitan Area, and that such units are geographically distributed approximately evenly among replacement dwelling units, and provided further that in accordance with paragraphs 2(a) and 2(c) of a Settlement Agreement in the Horner litigation signed August 7, 1995, and subsequently approved by the Court in that litigation, of which this Court has been advised and a copy of which has been attached hereto and is hereby incorporated by reference, the parties shall be free to seek a modification of such number of replacement dwelling units to be provided within the HRA;

(2) Plaintiffs shall be free to allocate up to $20 million of the fiscal year 1995 "set-aside" available to them under the Consent Decree approved by this Court in 66 C 1460 to aid in implementing paragraph (1) of this Order, and the Receiver may build and CHA may provide on a priority basis to families who reside in the CHA developments known as Henry Horner Extension, Henry Horner Homes and Henry Horner Annex ("Horner residents"), scattered site units pursuant to paragraph (3)(b) of this Order, provided that scattered site units furnished to residents of the Henry Horner Extension shall be made available without reimbursement therefor from funding supplied under the Consent

Decree in the Horner litigation; and

(3) The CHA Tenant Selection and Assignment Plan previously approved by this Court shall be modified (a) to afford Horner residents a priority to be housed in one-half of the replacement dwelling units in the HRA as to which the income requirement specified in paragraph (1) of this Order does not apply, and to provide for occupancy of the other half of such replacement dwelling units by families whose incomes are in the range of 50-80% of the median income in the Chicago Metropolitan Area, and (b) to afford Horner residents who elect scattered site units in Phase I of the Horner Revitalization Program a priority to be housed in one-half of future scattered site units to be provided by the Receiver elsewhere than in the HRA, all upon presentation of appropriate orders therefor.

Enter:

August 14, 1995

Judge