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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	66 C 1459
	)	
CHICAGO HOUSING AUTHORITY,	)	Hon. Marvin E. Aspen
	)	
Defendant.	)	

GAUTREAUX PLAINTIFFS' RESPONSE TO CAC MOTION

The Central Advisory Council has moved to amend this Court's June 3, 1996 Order respecting public housing units in the North Kenwood-Oakland Revitalizing Area ("1996 Order" or "Order"). Pursuant to the Court's Order of May 5, 2005, plaintiffs submit this Response.

Background

Among other things, the 1996 Order designated the North Kenwood-Oakland Revitalizing Area and authorized the Court's Receiver to develop up to 241 public housing units within the Area in three locations: (1) no more than 100 units on a CHA-owned site along the lakefront; (2) no more than 50 units on a CHA-owned site along Drexel Avenue; and (3) the balance of the authorized units on other sites distributed throughout the Revitalizing Area. (By Order dated April 11, 2000, the authorized lakefront units were increased to 120 and the Drexel units decreased to 30.)

Significantly, as relates to the CAC motion, the Order also required that one-half the public housing units developed on the Lakefront and Drexel sites be occupied by families with incomes in the range of 50-80% of the area median income ("AMI"). Finally, the Order modified the previously approved CHA Tenant Selection and Assignment Plan to afford eligible families who had been displaced from CHA's Lakefront Properties first priority to occupy all of such newly authorized public housing units.

From plaintiffs' "tenanting motion" filed on December 16, 2004 (Exhibit E to the CAC Motion), the Court knows that development of 60 of the 120 authorized public housing units at the Lakefront site, now called Lake Park Crescent, has been completed, but that difficulties have been encountered in renting the completed units in timely fashion to Gautreaux class families. Specifically, plaintiffs are informed that although CHA and its developer, Draper and Kramer, have now rented all or nearly all the 0-50% units at Lake Park Crescent, they have encountered serious difficulty in renting the 50-80% units, as explained in CHA's Motion to Stay and For a Conference, dated April 26, 2004. To address this difficulty, CHA and Draper and Kramer are now considering use of a "site-based waiting list" (CHA Motion to Stay, p. 7), which would include offering the units to persons who are income eligible for public housing but who are not presently residents of or applicants for CHA housing, and are therefore not members of the plaintiff class.

CAC's present motion essentially objects to this proposal on the ground that it would permit CHA to "skip over" CHA resident families who earn below 50% of AMI. (CAC Motion, par. 13.) Under CHA's Relocation Rights Contract ("RRC") with

residents, the non-resident families are said to have rights "inferior" to those of the resident families who are entitled to the benefits of the RRC. (Id.) (However, the RRC itself provides that its terms are subject to Gautreaux orders. Exhibit B to CAC Motion, p.82.)

The Motion also argues that a purpose of the 50-80% requirement was to provide "a framework for economic integration by requiring a mix of incomes among the public housing families," but that this requirement is no longer needed in light of the subsequent adoption of Lake Park Crescent's Tenant Selection Plan. This Plan requires all resident families either to be employed or to be engaged in activities leading to employment. (CAC Motion, par.14.) The work requirement, CAC says, "serves the same [economic integration] purpose as the 50-80% of AMI requirement. . ." (Id.) Therefore, the CAC Motion concludes, vacant units would be rented and the economic integration objective achieved by simply modifying the Order to eliminate its 50-80% requirement. (Id.) This would presumably enable Draper and Kramer to rent the still vacant units to lower-income but working (or getting ready to work) CHA families, something Draper and Kramer has already substantially accomplished with the 50-80% units, and avoid skipping over these families in favor of "outsiders."

Discussion.

The question of whether to eliminate the 50-80% requirement as CAC proposes is not easily answered. There is merit to the CAC view that the work requirement of the Lake Park Crescent Tenant Selection Plan, which was not in existence when the 1996 Order was entered, serves the same economic integration objective as the 50-80%

requirement. Plaintiffs, one of the proponents of the 50-80% requirement, favored the requirement as a proxy or surrogate for "working families" at a time when plaintiffs doubted that it was permissible, under HUD's then regulations, to impose work requirements "directly." Working families were thought likely to have incomes sufficient to foster the economic integration objective. From this point of view, there should be no need to have both an income and a working requirement.

There is also merit to the CAC's equity argument. CHA families who have long been entitled to the relief of a desegregated or economically integrated housing opportunity, and who meet Lake Park Crescent's working and other entrance requirements, should not be "skipped over" in favor of members of the general public who have no comparable entitlement to relief. This is an argument that resonates with plaintiffs.

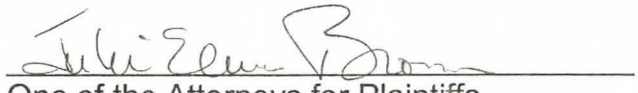
On the other hand, members of the North Kenwood-Oakland community may argue that they did not oppose the 1996 Order in part because of its 50-80% provision, which – whatever its purpose may have been – is undeniably couched in income, not employment, terms, and that it would be unfair to them now to "change the rules." They may also point out that families engaged in activities designed to lead to employment may not have incomes comparable to those who are actually working. In addition, plaintiffs are concerned that vacant Lake Park Crescent units be occupied as promptly as possible, and it is unclear whether the CAC proposal will be effective in filling those units.

Given the complexity of the situation, plaintiffs believe that the Court would benefit from oral presentations, in addition to the written responses and replies

authorized by the Order of May 5, 2005. In particular, as the Court has done on prior occasions in analogous circumstances, we think the Court might wish to hear from community representatives, for example, the Honorable Toni Preckwinkle, Alderman of the Fourth Ward, who is a member of the Working Group for Lake Park Crescent and has taken a keen interest in its development, as well as the community's official planning body, the Conservation Community Council, and also from the Lake Park Crescent developer, Draper and Kramer.

Accordingly, plaintiffs respectfully suggest that the Court set this matter down for brief oral presentations by the parties, and by such non-parties, if any, as the Court wishes to afford the opportunity to participate, as promptly as convenient following the filing of the CAC's reply.

Respectfully submitted,



One of the Attorneys for Plaintiffs

May 23, 2005

Alexander Polikoff
Julie Elena Brown
BUSINESS AND PROFESSIONAL PEOPLE
FOR THE PUBLIC INTEREST
25 East Washington Street - #1515
Chicago, Illinois 60602
312/641-5570; fax: 312/641-5454

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NOTICE OF FILING
and
CERTIFICATE OF SERVICE

To: Attached Service List

PLEASE TAKE NOTICE that we have today filed with the Honorable Marvin E. Aspen, in Room 2568 of the U. S. District Court, 219 South Dearborn Street, Chicago, Illinois, the attached **Gautreaux Plaintiffs' Response to CAC Motion,** a copy of which is hereby served upon you.

Respectfully submitted,

Julie Elena Brown

One of the Attorneys for the Plaintiffs

May 23, 2005

Alexander Polikoff
Julie Elena Brown
BUSINESS AND PROFESSIONAL PEOPLE
FOR THE PUBLIC INTEREST
25 East Washington Street - #1515
Chicago, Illinois 60602
312/641-5570; fax: 312/641-5454

CERTIFICATE OF SERVICE

Julie Elena Brown, an attorney, hereby certifies that on Monday, May 23, 2005, she caused a copy of the foregoing Notice, together with the **Gautreaux Plaintiffs' Response to CAC Motion,** to be served by fax and mail as indicated on the attached Service List.

Julie Elena Brown

Service List

Gail Niemann, General Counsel
Chicago Housing Authority
200 West Adams Street – 21st Floor
Chicago, IL 60606
By Fax: 312/726-6053
Copy by Mail

Thomas E. Johnson
Johnson, Jones, Snelling, Gilbert & Davis
36 South Wabash Avenue - #1310
Chicago, IL 60603
By Fax: 312/422-0708
Copy by Mail

Edward Feldman
Miller, Shakman & Hamilton
180 North LaSalle Street - #3600
Chicago, IL 60601
By Fax: 312/263-3270
Copy by Mail

B P I
Business and Professional People for the Public Interest
25 East Washington Street - Suite 1515, Chicago, Illinois 60602
Phone: 312/641-5570
Fax: 312/641-5454

FAX FAX FAX FAX

From: **Julie Elena Brown**

To:

Gail Niemann / CHA	-	**312/726-6053**
Thomas E. Johnson	-	**312/422-0708**
Edward Feldman	-	**312/263-3270**

Date: **May 23, 2005**

Number of Pages (Including Cover): **9**

In case of trouble, contact: **Marissa Manos**

REMARKS:

Please see the attached.