
IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

DOROTHY GAUTREAUX, et al.,)	Appeal from the United
)	States District Court for the
Plaintiffs,)	Northern District of Illinois
)	
v.)	No. 66 C 1459
)	
CHICAGO HOUSING AUTHORITY, et al.,)	Honorable Marvin E. Aspen
)	
Appellees,)	
)	
and)	
)	
CENTRAL ADVISORY COUNCIL,)	
)	
A Nonparty, as Appellant)	

U.S.C.A. - 7th Circuit
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JAN 27 2006

GINO J. AGNELLO
CLERK

BRIEF OF APPELLEES THE CHICAGO HOUSING AUTHORITY AND
TERRY PETERSON, ITS CHIEF EXECUTIVE OFFICER

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ORAL ARGUMENT REQUESTED

BIS OCT 25 2005

GINO J. AGNELLO
CLERKCIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 05-3968

Short Caption: Gautreaux et al. and Central Advisory Council v. Chicago Housing Authority et al.

To enable the judges to determine whether recusal is necessary or appropriate, an attorney for a non-governmental party or amicus curiae, or a private attorney representing a government party, must furnish a disclosure statement stating the following information in compliance with Circuit Rule 26.1 and Fed. R. App. P. 26.1.

The Court prefers that the disclosure statement be filed immediately following docketing; but, the disclosure statement must be filed within 21 days of docketing or upon the filing of a motion, response, petition, or answer in this court, whichever occurs first. Attorneys are required to file an amended statement to reflect any material changes in the required information. The text of the statement must also be included in front of the table of contents of the party's main brief. **Counsel is required to complete the entire statement and to use N/A for any information that is not applicable if this form is used.**

(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing the item #3):

THE CHICAGO HOUSING AUTHORITY and TERRY PETERSON

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

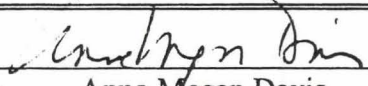
Johnson, Jones, Snelling, Gilbert & Davis

(3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any; and

N/A

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock:

N/AAttorney's Signature:  Date: October 24, 2005Attorney's Printed Name: Anne Megan Davis

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). Yes__ No X.

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CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

BLS OCT 25 2005

Appellate Court No: 05-3968

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Short Caption: Gautreaux et al. and Central Advisory Council v. Chicago Housing Authority et al.

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N/A

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock:

N/A

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Attorney's Printed Name: Thomas E. Johnson

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TABLE OF AUTHORITIES

None

This brief is submitted on behalf of the Chicago Housing Authority and Terry Peterson, its Chief Executive Officer, in his official capacity (collectively “CHA”), who are appellees in this appeal.

JURISDICTIONAL STATEMENT

The jurisdictional statement of the Central Advisory Council (“CAC”), a non-party, and the appellant in this appeal, is not complete or correct. CHA agrees with the statement of the district court’s jurisdiction and this Court’s appellate jurisdiction that is set forth in the brief of Daniel E. Levin and The Habitat Company LLC, who serve jointly as the court-appointed receiver for the CHA in the district court (“the Receiver”). Accordingly, in order to avoid unnecessary duplication, CHA adopts and incorporates by reference the jurisdictional statement contained in the Receiver’s brief.

STATEMENT OF ISSUES PRESENTED

CHA adopts and incorporates by reference the restatement of the issues that is contained in the Receiver’s brief.

STATEMENT OF THE CASE

CHA adopts and incorporates by reference the Receiver’s Statement of the Case.

STATEMENT OF FACTS

CHA adopts and incorporates by reference the Receiver’s Statement of Facts.

SUMMARY OF THE ARGUMENT

CHA adopts and incorporates by reference the Receiver’s Summary of the Argument.

STANDARD OF REVIEW

For the reasons set forth in the Receiver’s brief, the standard of review is abuse of discretion.

ARGUMENT

CHA adopts and incorporates by reference the Receiver's argument, and supports the Receiver's position that Judge Aspen's two July 14, 2005 orders and his September 9, 2005 order should be affirmed in all respects. CHA writes separately only to emphasize that Judge Aspen faced a very concrete and practical problem. Most of the thirty public housing units at Lake Park Crescent, set aside for families with incomes between 50% and 80% of median, sat empty. Those units for very low income families (under 50% of median), as well as the affordable units and the market units had been rented. Every CHA family earning between 50 and 80% of median had been solicited for the units, yet months after their completion, 24 units remained vacant. Hundreds of hours spent combing the CHA waiting lists had not filled the units either.

CHA's goal before Judge Aspen was to obtain relief that would allow these units to be leased, to needy families. Two proposals were put on the table, either: 1) open the units to income-eligible families outside the CHA (while preserving a priority for CHA and CHA wait-list families); or 2) open the units to working CHA families earning less than 50% of the area median income. Neither option was unlawful; both held promise for filling the units. CHA was open to either option, and so informed Judge Aspen. The most important consideration was to end the months of haggling by the various stakeholders and move forward with a lease-up plan.

Judge Aspen elected the first option, permitting a site-based waiting list (while preserving a priority for those families in CHA housing or on the CHA waiting list). Once his order was implemented, the units were leased, all to families within the 50-80% income range. Our information is that only a handful of these units went to families not on the CHA wait list. Not only is the development full, but the developer has a waiting list to draw from when vacancies

occur. The mixed-income goal of the CHA's Plan for Transformation is preserved, CHA residents are given top priority, and the vandalism, deterioration and trouble that goes with vacant units has been avoided.

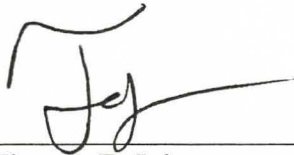
For all of the reasons the Receiver has discussed in its brief, this Court should defer to Judge Aspen, when he is resolving these kinds of practical and immediate problems. To change course now at Lake Park Crescent will only cause confusion and disharmony.

CONCLUSION

Based upon the foregoing and the facts and arguments set forth in the Receiver's brief, CHA respectfully urges the Court to affirm both the district court's July 14, 2005 Order and the September 9, 2005 Order denying CAC's motion for clarification.

Dated: January 27, 2006

Respectfully submitted,



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CERTIFICATES OF COMPLIANCE

In accordance with F.R.A.P. 32(a)(7), I certify that this brief, exclusive of the Table of Contents, Table of Authorities and Certificate of Service, is 719 words.

In accordance with Circuit Rule 31, I further certify that an electronic copy of this brief in PDF format was filed with this Court and served upon Appellant CAC, a non-party, and the parties on the service list.



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Dated: January 27, 2006

CERTIFICATE OF SERVICE

THOMAS E. JOHNSON, an attorney, hereby certifies that two printed copies and 1 electronic copy of BRIEF OF APPELLEES THE CHICAGO HOUSING AUTHORITY AND TERRY PETERSON, ITS CHIEF EXECUTIVE OFFICER, was served upon each of the following parties, on January 27, 2006:

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