

**N THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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

**JOINT MOTION OF PLAINTIFFS AND DEFENDANT CHICAGO HOUSING  
AUTHORITY FOR AN ORDER MODIFYING AN EARLIER ORDER, AUTHORIZING  
DEVELOPMENT OF PUBLIC HOUSING UNITS IN A LIMITED AREA AND  
AMENDING THE TENANT ASSIGNMENT PLAN**

Plaintiffs and defendant Chicago Housing Authority ("CHA"), by their respective attorneys and with the support of Daniel E. Levin and The Habitat Company LLC (collectively the Gautreaux Development Manager), respectfully move that the Court enter the attached Proposed Order, which would:

- a) Modify the previous order of August 22, 2005, which authorized development of 57 new non-elderly public housing units in Phase I of the West End development, a mixed-income development replacing Rockwell Gardens;
- b) Authorize 65 new non-elderly public housing units in Phase II of West End, an area bounded by Adams Street on the north, Van Buren Street on the south, Campbell and Artesian Streets on the east and Maplewood Street on the west; and
- c) Amend the CHA Tenant Assignment Plan to require that the 65 new public housing units in Phase II be made available first to public housing families relocating

under the CHA Plan for Transformation, then to families on the CHA public housing waiting list.

In support of this motion, the parties state as follows:

**Background**

1. The parties seek a modification of this Court's August 22, 2005 order, as well as the Court's authorization for development of public housing units to be included in Phase II of the West End redevelopment. East Lake Management and Development Company ("Developer"), the West End Phase II developer, was competitively selected for the redevelopment of the area previously housing CHA's Rockwell Gardens public housing development, and has developed the prior two Court-authorized phases (Phases IA and IB) described below.

2. CHA, the Gautreaux plaintiffs, the Gautreaux Development Manager, the Developer, Rockwell Gardens' residents and others have developed an overall master plan that calls for a three-part development providing approximately 690 units on the footprint of the old Rockwell Gardens buildings plus the nearby Phase IA site. The 690 units are to be evenly split among public housing, affordable and market rate units, and are planned to be 66% rental and 34% for-sale. See Exhibit 5 to the Affidavit of Daniel E. Levin, hereinafter "Levin Aff.", attached as Exhibit A. The plan will transform the current site (now vacant except for Phase I of West End, as described below in paragraph 4, after CHA demolished the Rockwell Gardens buildings and relocated its residents) and re-integrate Rockwell residents into the community.

3. To date, two phases of redevelopment, one on-site and one off-site, have been authorized by this Court:

A. On August 5, 2003, this Court entered an order authorizing the Receiver (now the Gautreaux Development Manager) to develop or cause to be developed Phase IA, the off-site phase of the development. Phase IA consists of 42 new mixed-income rental units, of which 14 are public housing units, 18 are affordable units and 10 are market rate. Phase IA has been built and occupied. Order of August 5, 2003, attached as Exhibit B.

B. On August 22, 2005, this Court entered an order authorizing the Receiver to develop or cause to be developed Phase IB, the first on-site phase of the development. Phase IB was to consist of 92 new mixed-income rental units and 116 market rate for-sale units. Fifty-seven of the rental units were to be public housing; the balance was to be affordable units. (No market rate rental units were planned for phase IB.) The IB rental development has been built and occupied. Order of August 22, 2005, attached as Exhibit C.

C. On June 5, 2006 Daniel E. Levin wrote a letter to this Court on behalf of himself and The Habitat Company, in their capacity as Receiver, explaining that a closing on 57 of the 116 planned for-sale units was imminent, and that it was likely that an additional 9 of the planned for-sale units would be soon developed. (See Exhibit 1 to the Levin Affidavit.) The letter stated, however, that development of all of the remaining 50 planned for-sale units within the Phase I boundary was problematic due to difficulties obtaining the land on which the units were to be built, and that developing all of the units within the Phase I boundary

therefore “may not be desirable.” The letter expressed the view that it made more sense to “defer the formal modification of the 2005 Order until such time as we can present an agreed motion that will include a comprehensive refined plan.” Id. On June 7, 2006 this Court acknowledged agreement with the approach set forth in the June 5<sup>th</sup> Levin letter. See Letter of Judge Marvin E. Aspen, attached as Exhibit D.

D. Of the 66 for sale units that the Levin letter described as likely to be developed, 31 have been constructed to date. Levin Aff., par. 4. Eight of the 31 for sale units constructed have been sold; the remaining 23 built but un-sold units are either being leased to market rate renters or used for an on-site property management office. Levin Aff., par. 4.

#### **Phase IB Modification**

4. As originally planned and approved by this Court’s 2005 order, Phase IB was to include 57 public housing units built and marketed roughly simultaneously with 53 affordable and 98 market rate units. Of the total 151 non-public housing units, 116 were to be for sale. Fifty of 116 for sale units were to be built on land to be acquired. Levin Aff., par. 4. As described in the June 2006 letter from Daniel E. Levin to the Court, the acquisition of land for those 50 units became problematic. Exh. 1 to the Levin Aff., p.2.

5. Instead of developing the 50 for sale units within the Phase I foot print, which would have concentrated all 50 units in one off-site location, the current plan is to distribute the 50 for sale units across the remaining undeveloped Rockwell site as part of the for sale portions of Phases II and III. Levin Aff., par. 4.

6. The parties and the Gautreaux Development Manager therefore request that the Court modify the August 22, 2005 order to approve the construction of the 57 previously authorized public housing units as part of a Phase that includes 35 affordable rental units and 66 market rate for sale units, and require that the remaining 50 for sale units be provided in future Phases of Rockwell redevelopment, as specified by future Orders of this Court. Paragraph A of the attached Proposed Order would effectuate such a modification.

### **Phase II Authorization**

7. The plan for Phase II provides for 112 units of rental housing, of which 65 will be public housing units, 33 affordable, and 14 market rate. It also includes 71 for sale units, 24 affordable and 47 market rate, to be built on a separate timeline, after the remaining 35 Phase I for sale units have been developed. As has been the case with the prior phases, the public housing units will be scattered throughout the site, and the entire development will be privately owned and managed. Levin Aff., pars. 3,5.

8. This Court's 1969 Judgment Order prohibits the building of new non-elderly public housing units in Limited Areas (without corresponding, substantially simultaneous construction in General Areas). 304 F. Supp. 736, 738-39 (N.D. Ill. 1969). The proposed Phase II is located in a Limited Area. Nonetheless, for the reasons described below as well as in the Levin Affidavit, the parties believe the proposed development is "designed to achieve results consistent with [the Judgment Order]" and that the Court therefore has the authority to enter the attached Proposed Order pursuant to paragraph

X of the Judgment Order, 304 F. Supp. 736, 741 (N.D. Ill. 1969), and request that the Court do so.

9. The Court has on a number of occasions entered similar orders permitting development of public housing in Limited Areas, following a site-specific, case-by-case review, provided that the development of these units was "in furtherance of the purposes" of the Judgment Order. The Court entered such orders on December 16, 2003 (permitting the development of 27 public housing units adjacent to the old Stateway Gardens project, as part of a mixed-income development); on March 26, 2004; April 17, 2006; November 6, 2007 and July 23, 2009 (permitting the first four phases of the Robert Taylor redevelopment, collectively called Legends South, to go forward); and, most importantly, on August 5, 2003 and August 22, 2005 permitting the development of 14 and later 57 public housing units on and near the site of the Rockwell Gardens project, as part of the West End mixed-income development.

10. In addition to these orders, the Court has permitted construction of new, non-elderly public housing units in "Limited Areas" surrounding CHA's old Horner, Lakefront, Madden-Wells, Cabrini-Green, ABLA and Stateway Gardens developments, after findings that these areas were now "revitalizing". In each of these cases, the parties represented that the proposed revitalizing areas had experienced a substantial increase in public and private investment, including private residential rehabilitation and new construction. In each case, the parties advised the Court that such development activity, completed and already underway, combined with the proposed large-scale mixed-income redevelopment of sites previously designated as exclusively public

housing, made economic integration likely in the short run with a possibility that racial integration might follow in the long run.

11. As when the parties were previously before the Court on the motions requesting authorization for the first two phases of the Rockwell Gardens redevelopment (Phases IA and IB), the plaintiffs and the Gautreaux Development Manager do not believe that the redevelopment area can yet be designated a "Revitalizing Area," although there has continued to be some encouraging activity. See Levin Affidavit, pars. 8,9. Conditions near West End continue to improve, but have not yet reached the same level of public and private investment that characterized the neighborhoods surrounding Henry Horner, North Kenwood-Oakland, Madden-Wells, Cabrini-Green, Stateway Gardens and ABLA at the time those Revitalizing Orders were entered. The area in which the new public housing units are proposed to be developed still contains a number of run-down commercial establishments, empty buildings and vacant lots. Interest in the purchase of the homeownership units has been limited. Likewise, private reinvestment in the area, while continuing, has been more limited and dispersed than in those neighborhoods found to be "revitalizing." Id.

12. The parties believe that the proposed Phase II development is part of a larger-scale mixed income redevelopment plan that if completed will make economic integration likely in the short run with a possibility that racial integration might follow in the long run.

13. Due to the continuing challenge of resolving shared concerns about the lack of revitalization in the area, the parties, the Gautreaux Development Manager, and the Developer have been meeting over the last two years to develop measures to address

the concerns. These measures have been memorialized in a Letter of Agreement, attached as Exhibit E (hereinafter "Agreement"). The Agreement addresses a number of issues, as follows:

A. For-Sale Development -- In 2005 when the parties were before the Court on Phase IB, the intent of the parties was for the homeownership units to be developed as close in time as possible to the development of the rental units in Phase of IB. The rental phase was completed and occupied; however, many of the homeownership units have not been constructed and most of those constructed have not sold, due to the national economic recession and its impact on the local real estate market. Levin Aff., par. 4. The parties remain committed to developing the units called for in the earlier court orders, both on-site and off-site, and believe that adding density to the area through the development of new rental properties, combined with ongoing efforts to improve and develop the area, will improve the area's prospects for a homeownership market. In response to the lack of Phase IB sales, the Developer has leased the unsold built units to market rate renters, thereby attempting to preserve the income mix in the developed units to the extent possible. Levin Aff., par. 4. The Developer has committed to ensure that the built units do not remain vacant, and to marketing the built and remaining unbuilt Phase I units when the parties to the Agreement deem it appropriate. Agreement, par. 1.

B. Social Services -- The plaintiffs believe that competent provision of quality social services is integral to ensuring that as many class members as possible are able to meet the screening criteria at West End and crucial to help

residents move toward self-sufficiency and maintain housing stability. The parties believe that stability among the rental population will have the further benefit of increasing the prospect of developing the planned for sale units as soon as possible. CHA has a contract with the Developer through 2011 and a contract with another service provider through December 31, 2010 to provide services to West End families. Under the Agreement CHA will use its best efforts to continue its financial support for social services at West End through at least 2015. Further, CHA and the Developer have agreed to enable meaningful evaluation of whether the services provided are meeting the needs of residents through providing regular reports on social services and meeting with the parties to the Agreement about those reports. Agreement, par. 2.

C. Property Management -- The parties believe that excellent management and security are critical to maintain the viability of the development and improve the prospects for developing the planned for sale units as soon as possible, as well as for maintaining residents' quality of life. Under the Agreement, the Developer will provide regular property management reports to the parties and meet with the parties about those reports. The Developer also has agreed to a plan for monitoring and handling security issues that arise, and CHA has committed to working with the Developer to address security issues as necessary. Agreement, pars. 3,4.

D. Community Space – CHA and the Developer have committed to providing community space for West End residents within the development. Agreement, par. 5.

E. Commercial Development -- Ongoing redevelopment has spurred planning for commercial development in the area, as discussed below in paragraph 14.C. However, further commercial development in the immediate vicinity of West End is still desirable. Consequently, CHA and the Developer have committed to ongoing discussions with the West End Working Group and relevant City officials about how to spur commercial development in the area. The Developer has also committed to participating in meetings about commercial development in the 2<sup>nd</sup> Ward. Agreement, par. 6.

F. Schools -- The parties believe efforts to improve the local school options are critical to the quality of life of West End residents and for the long-term prospects of the hoped-for income mix for the development. Consequently, CHA and the Developer have committed to ongoing discussions with the West End Working Group and Chicago Public Schools officials on increasing quality educational options for West End children. Additionally, the Developer has committed to efforts to keep West End parents informed of school options for their children. Agreement, par. 7.

14. While the plaintiffs and the Gautreaux Development Manager do not believe the area proposed for Phase II can fairly be considered "revitalizing," the parties agree that development of Phase II should go forward, as it will further the purposes of the Judgment Order for the following reasons:

A. Quality Mixed-Income Housing -- The proposed 65 public housing units will offer members of the *Gautreaux* plaintiff class an opportunity to live in quality mixed-income housing. In addition to the 65 public housing units, Phase II

consists of 33 affordable rental units designated for households earning up to 60% of the area median income (up to \$60,300 for a family of four), and 14 market-rate rental units. See Levin Affidavit, par. 5. The proposed buildings will be privately owned and managed. See Levin Affidavit, par. 6.

B. Planned Rockwell Gardens Redevelopment – As described above, the development of the Phase II rental units represents only a portion of the overall Rockwell mixed-income redevelopment plan. With the authorization and construction of rental Phase II of the Rockwell redevelopment, there will be a total of 275 completed mixed-income residential units. Further, the parties believe the sum of this development will facilitate remaining redevelopment. Approximately 690 mixed-income units are contemplated as part of the larger redevelopment effort on the former Rockwell site. Approximately 33 percent of the total on-site units will be public housing, 33 percent affordable rental, and 33 percent market rate. Of the 690 total on-site units, 34% are planned to be for sale. See Levin Aff., Exh. 5.

C. Development Prospects in the Surrounding Community -- Adjacent to the east, north and west of the Rockwell redevelopment is the previously-designated Horner Revitalizing Area ("HRA"). Renamed "Westhaven", the Horner redevelopment is nearly completed. Westhaven Park, the mixed income phase of Horner redevelopment, now comprises 547 mixed income rental and for sale units. One hundred ninety seven additional units are in the planning phase, 176 for sale. Levin Aff. par., 8.

Directly west of the West End Phase II site a rental development named City Gardens is in the planning phase. The development will be built on CHA-owned land once occupied by Maplewood Courts. If authorized by this Court, it will contain 27 public housing units in an 80 unit mixed income rental development. Levin Aff. par. 8.

Since Horner redevelopment began, there has been a large investment of public and private resources in the HRA, including a substantial increase in private housing rehabilitation and construction. Within the HRA, east of Western Avenue many condominium projects were completed in recent years, and development was progressing westward until the economic downturn.

Since Phase I of West End was developed over 100 condominiums and several rowhomes have been built. Today, however, sales have slowed and dozens of townhomes and condominiums are for sale in the area surrounding West End. Prices range from a low of \$159,000 for a 2 bedroom condominium on Madison Street immediately to the east of West End, to a high of \$275,000 in the same area. Levin Aff, par., 8.

There has also been some commercial development activity near the Rockwell site. In 2002, a 15,000 square-foot Walgreens opened at the north-east corner of Madison Street and Western Avenue, two blocks from the north-east corner of the Phase I-B site. The City is negotiating a land acquisition agreement with Pete's Grocery to build and operate a grocery store and small retail stores on the south-east corner of Madison and Western and the anticipated opening date is Fall 2011. A CVS pharmacy is expected to be under

construction this summer a few blocks west of the West End site. The Chicago Blackhawks have opened a practice rink north of the West End site, on Madison Street, that also provides open rink time to the general public. A small, active retail node has developed at the corner of Western Avenue and Madison Street, also just north and east of the Phase II site. Levin Aff, par., 8.

D. Public Institutions and Investment – A number of public investments have occurred or are planned in the immediate area. In the former Grant Elementary School, directly northeast of the Phase II site, the Chicago Public Schools have opened Marine Military Academy and Phoenix Military Academy. A number of new charter schools have opened in the area. A new streetscape installation, including trees, lighting, banners, ornamental benches, bike racks and planters, is planned by the City of Chicago for Western Avenue, just east of the Phase II site. A 2.18 acre community park is to be built by the Chicago Park District on the Rockwell site, adjacent to the northwest section of the Phase II site. Levin Aff., par. 8.

E. Letter of Agreement -- The measures provided for in the Letter of Agreement are intended to ensure a high quality of life for residents of West End and to preserve the development's mixed income potential. Moreover, in developing these agreed measures, the parties, the Gautreaux Development Manager and the Developer worked collaboratively to address their shared concerns and the parties and the Gautreaux Development Manager believe the resulting working relationship will enable them to continue to address additional issues that may arise.

F. Locational Advantages – The proposed development site is approximately two-and-a-half miles from the heart of downtown Chicago. It is well-served by prominent city streets and expressways. The Chicago Transit Authority's elevated line and several bus lines serve the area. South and east of the redevelopment site is the Illinois Medical District, with two major teaching hospitals, Stroger Cook County Hospital, and the Jesse Brown Veteran Affairs Medical Center. Levin Aff., par. 8.

15. For the several reasons stated in paragraphs 12 - 14 above, the parties request that the attached Proposed Order be entered to authorize the development of 65 public housing units within the Phase II West End site as described herein.

16. Because the 65 public housing units in Phase II will be built as part of a new mixed-income development that serves as replacement housing for Rockwell Gardens, the parties also move to amend the current Tenant Assignment Plan to require that the public housing units in the Phase II development that is the subject of this motion be made available first to eligible CHA families under CHA's Plan for Transformation, and then to families on the CHA public housing waiting list. The Tenant Assignment Plan otherwise approved by this Court and binding on the CHA would provide relocating CHA families with only one-quarter of these new public housing units. In similar circumstances, the Court has modified the CHA Tenant Assignment Plan to permit relocating CHA families access to such newly developed units. See, e.g., this Court's orders of March 24, 2003 (involving the Lakefront redevelopment); August 5, 2003 and August 22, 2005 (regarding the Rockwell Gardens redevelopment); December 16, 2003 and November 21, 2005 (regarding the Stateway Gardens redevelopment) and March

26, 2004, April 17, 2006, November, 6, 2007 and July 23, 2009 (regarding the Robert Taylor Homes redevelopment).

WHEREFORE, the parties, with the support of the Gautreaux Development Manager, move that the Court enter the attached Proposed Order.

/s/ Julie Elena Brown  
One of the Attorneys for Plaintiffs

/s/ Scott W. Ammarell  
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Date: July 20, 2010

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**Exhibit A – Affidavit of Daniel E. Levin**  
**Exhibit B – Order of August 5, 2003**  
**Exhibit C – Order of August 22, 2005**  
**Exhibit D – Letter of Judge Marvin E. Aspen, June 7, 2006**  
**Exhibit E – Letter of Agreement**



**CERTIFICATE OF SERVICE**

I, Julie Elena Brown, an attorney, certify that on July 20, 2010, I caused copies of the foregoing Notice and Motion to be served electronically upon the persons whose names appear on the attached service list.

/s/ Julie Elena Brown  
Julie Elena Brown

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