

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

DOROTHY GAUTREAUX, et. al.)	
)	
Plaintiff,)	
)	
v.)	No. 66 C 1459
)	
CHICAGO HOUSING AUTHORITY)	Hon. Marvin E. Aspen
a municipal corporation, et. al.)	
)	
Defendant.)	

**JOINT MOTION TO 1) AUTHORIZE UNITS FOR FAMILIES WITH CHILDREN
ABOVE THE THIRD FLOOR FOR TWO BUILDINGS TO BE LOCATED ON THE
WEST SIDE OF COTTAGE GROVE AVENUE BETWEEN 44TH STREET AND 45TH
STREET IN THE NORTH KENWOOD-OAKLAND REVITALIZING AREA, AND
2) AMEND THE TENANT ASSIGNMENT PLAN**

The Plaintiffs and Defendant Chicago Housing Authority ("CHA") respectfully move this Court to enter an Order in the form attached, which would waive the *Gautreaux* restriction on housing families with children in public housing units above the third floor for two buildings located on the west side of Cottage Grove Avenue between 44th Street and 45th Street, in the North Kenwood-Oakland Revitalizing Area and amend the Tenant Selection Plan.

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

1. The parties seek the Court's approval for CHA to develop public housing units above the third floor in two buildings on the west side of Cottage Grove Avenue between 44th Street and 45th Street. The proposed buildings will be part of a mixed-income development on CHA-owned and city-owned parcels within the North Kenwood-Oakland Revitalizing Area. The developer, Brinshore-Michaels, is a private development firm with considerable experience creating mixed-income and affordable housing in Chicago.
2. On July 1, 1969, this Court entered the Judgment Order in this case, which prohibits CHA from concentrating "large numbers of Dwelling Units in or near a single location."

The Judgment Order provided specifically, “No Dwelling Units shall be provided above the third story in any structure except for families without children...” The Judgment Order also provided that the Court may give special approval for developments that do not meet all the Judgment Order’s specific requirements but are “specifically designed to assist in achieving the purposes” of the Order. 304 F. Supp. 736, 739 (N.D. Ill. 1969).

3. On June 3, 1996, this Court entered an order designating the North Kenwood-Oakland Revitalizing Area and authorizing CHA to develop a limited number of public housing units therein. This Court’s orders of April 12, 2000 and September 12, 2002 expanded the North Kenwood-Oakland Revitalizing Area.
4. On October 30, 2012, this Court entered an order, attached as Exhibit 1, which further expanded the North Kenwood-Oakland Revitalizing Area to include two sites, one of which is the land on which the buildings proposed herein will be constructed.
5. The October 30, 2012 order authorized CHA to develop approximately 68 non-elderly public housing units in mixed-income developments within the expanded portion so long as the public housing units are “built, marketed roughly simultaneously, and well-distributed among the affordable and market rate units planned as part of the developments.”
6. The first mixed-income development in this expansion area, located at 47th Street and Cottage Grove Avenue, was completed in 2014, and included 28 public housing units dispersed among affordable and market rate units. Brinshore-Michaels is now ready to proceed with the first phase of its mixed-income development on the second site, located at 45th Street and Cottage Grove Avenue, in the expanded area.
7. The development plan for the first phase on this site calls for approximately 84 new rental units in two four-story buildings, of which 21 will be public housing units, 38 affordable units, and 25 market rate units. Each building will include 42 units. The first floor of each building will include 16,000 square feet of commercial space and the remaining floors will contain mixed-income residential units and community space.

Unit Type	CHA	Affordable	Market Rate	TOTAL
Studio	0	8	4	12
1 BR	8	10	6	24
2 BR	11	18	13	42
3 BR	2	2	2	6
TOTAL	21	38	25	84

8. The current development plan calls for two two-bedroom public housing units to be located on the fourth floor of each building.
9. On August 6, 2015, this Court entered an order modifying the Judgment Order to automatically waive the restriction on families above the third floor in buildings that meet the following criteria: 1) the structure is located in a General or Opportunity Area; 2) public housing units comprise no more than one-third of all units within the structure; 3) no more that 20% of all units within the structure contain three or more bedrooms; 4) each "unit size" (i.e. the number of bedrooms within a unit) within the structure is available to both public housing and non-public housing families, unless the structure contains only one unit of a particular unit size; 5) among units containing more than two bedrooms, no more than 75% of the same units size will be public housing units, unless the structure contains only one unit of that particular size; and 6) the public housing units are and remain well dispersed throughout the structure.
10. Although the proposed buildings meet four of the six criteria set forth in the August 6, 2015 order, they do not meet the first and fourth criteria. The buildings will be in a Revitalizing Area, not a General or Opportunity Area, and each unit size within the structure will not be available to both public housing and non-public housing families. The buildings will contain market-rate and affordable studio apartments, which CHA does not wish to make available to its residents. Because these buildings do not meet all the criteria listed in this Court's August 6, 2015 Order, the parties ask this Court to waive the restriction on public housing for families above the third floor for the proposed two buildings.

11. This Court has previously entered orders waiving the restriction on housing families with children in public housing units above the third story for a number of buildings in Revitalizing Areas, including: Building A located in Shops and Lofts at 47, the development on the first site of the most recent expansion of the North Kenwood Revitalizing Area (Order of October 30, 2012); one building of Phase 2B of Park Boulevard (Order of May 31, 2012); and one building at the northwest corner of Clybourn and Division (October 15, 2015).
12. The parties believe that housing CHA families above the third floor in the buildings to be located on the west side of Cottage Grove Avenue between 44th Street and 45th Street advances the goal of creating mixed-income, desegregated housing opportunities for the following reasons:
 - a. Permitting public housing units above the third floor of these two mid-rise buildings allows development of more public housing units in this Revitalizing Area.
 - b. The parties have carefully reviewed the proposed floor plans and agreed to a distribution that furthers the goals of the *Gautreaux* Judgment Order.
 - c. Concentration of families in public housing developments will not occur in these buildings. Public housing units will account for just under one-third of all units in the buildings, and will remain dispersed among and externally indistinguishable from affordable and market-rate units. Although some public housing families will be located on the fourth floor, their neighbors will be non-public housing families.

AMENDING THE TENANT SELECTION AND ASSIGNMENT PLAN

13. The parties also move this Court to amend the current Tenant Selection and Assignment Plan (TSAP) to allow the 21 public housing units that are the subject of this motion to be made available first to eligible CHA families relocating under the CHA's Plan for Transformation/Plan Forward prior to applicants on CHA's site-based wait lists.
14. The Court has modified the TSAP to permit relocating CHA families access to newly developed mixed income units on numerous occasions including on August 24, 2010 (Lawndale Complex replacement); April 2, 2013 (Stateway Gardens replacement);

February 26, 2014 (Robert Taylor replacement); December 3, 2015 (Casa Queretaro); and November 28, 2017 (ABLA Homes replacement).

15. On February 1, 2018, this Court amended the TSAP to allow for implementation of a site-based wait list program for CHA's general and community wait lists. Paragraph 17 of that order provided the previous orders allowing specific mixed-income developments to house families covered under the CHA's Plan for Transformation/Plan Forward to remain in effect, and provided that prior reference to the CHA's general public housing wait list shall be deemed to refer to the new site-based wait lists.

16. The public housing units proposed herein are replacement housing for the former Washington Park Homes. Eligible CHA families under CHA's Plan for Transformation/Plan Forward, with a priority for families from the Washington Park Homes, will be the first offered these 21 public housing units as replacement housing. If there are no such eligible CHA families relocating under the Plan for Transformation/Plan Forward available to occupy the units, such units will be made available to families on the CHA's site-based wait list.

WHEREFORE, the parties request the Court to enter an Order in the form attached hereto waiving the restriction on housing families with children in public housing units above the third story for the above described buildings to be located on the west side of Cottage Grove Avenue between 44th Street and 45th Street, and amending the Tenant Selection and Assignment Plan.

/s/ Elizabeth Silas
One of the Attorneys for the CHA

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

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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DOROTHY GAUTREAUX, et. al.)	
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Plaintiff,)	
)	
v.)	No. 66 C 1459
)	
CHICAGO HOUSING AUTHORITY)	Hon. Marvin E. Aspen
a municipal corporation, et. al.)	
)	
Defendant.)	

AGREED ORDER

This matter coming to be heard on the Joint Motion of Plaintiffs and Defendant Chicago Housing Authority (“CHA”) for an order A) waiving the restriction on families with children in public housing units above the third floor for two buildings located on the west side of Cottage Grove Avenue between 44th Street and 45th Street, in a Revitalizing area that does not meet the criteria listed in the August 6, 2015 Order for automatic waiver of said restriction; and B) amending the current Tenant Selection and Assignment Plan entered on February 1, 2018; and

The Court having heard from parties concerning the proposed order; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been to provide plaintiff class families with desegregated housing opportunities; and

The Court being authorized to issue orders in this case “designed...to achieve results consistent with [the Judgment Order]” (304 F. Supp. 736, 741); and

The Court being of the view, based on the representations of the parties, that the proposal to locate public housing units above the third floor in these buildings is designed to achieve results consistent with the Judgment Order previously entered in this case;

Now, therefore, IT IS HEREBY ORDERED:

The Chicago Housing Authority shall be free to

- A) house families with children in public housing units above the third floor in two buildings to be located on the west side of Cottage Grove Avenue between 44th Street and 45th Street, so long as the units are and remain well-distributed among the non-public housing units to be constructed in the buildings.
- B) amend the Tenant Selection and Assignment Plan to require public housing units in such buildings be made available first to eligible CHA families relocating under the CHA Plan for Transformation/Plan Forward, with a priority to returning Washington Park families, and, if there are no such families to occupy the units, made available to families on the CHA's site-based wait lists.

ENTER:

Honorable Marvin E. Aspen

Date:

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v.)
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Defendants.

B) Authorize the development of approximately 68 new non-elderly public housing units within the expanded North Kenwood-Oakland Revitalizing Area; C) Waive the *Gautreaux* restriction on housing families with children in public housing units above the third floor in Building A in Shops and Lofts at 47; and D) Amend the CHA Tenant Selection and Assignment Plan to require that the authorized new public housing units in the expanded North Kenwood-Oakland

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Revitalizing Area be made available first to public housing families living in CHA units or with temporary Section 8 vouchers relocating under the Plan for Transformation, or if no such families are available, then to families on the CHA public housing waiting list; and

The Court having heard from the parties concerning the proposed order, including that the Gautreaux Development Manager supports the Joint Motion; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been to provide plaintiff class families with desegregated housing opportunities; and

The Court being authorized to issue orders in this case “designed...to achieve results consistent with [the Judgment Order]” (304 F. Supp. 736, 741); and

The Court being of the view, based on the representations of the parties and the Gautreaux Development Manager, that the proposals to expand the North Kenwood-Oakland Revitalizing Area, authorize the development of approximately 68 new non-elderly public housing units within the expanded area, locate public housing units above the third floor in the building described as Building A in the Joint Motion, and amend the CHA Tenant Selection and Assignment Plan are designed to achieve results consistent with the Judgment Order previously entered in this case;

Now, therefore, IT IS HEREBY ORDERED:

A. The Court hereby designates as an expansion to the North Kenwood-Oakland Revitalizing Area that portion of the City of Chicago that lies within the following boundaries:

- 1) Beginning at the intersection of South Cottage Grove Avenue and East 47th Street, south on South Cottage Grove Avenue, west on East 48th Street, north on South Evans Avenue, and east on East 47th Street to South Cottage Grove Avenue.

2) Beginning at the intersection of South Cottage Grove Avenue and East 45th Street, west on East 45th Street, north on South Evans Avenue, west on East 44th Street, north on South Langley Avenue, east on East 43rd Street, south on South Evans Avenue, east on East 44th Street to South Cottage Grove Avenue, and south to East 45th Street.

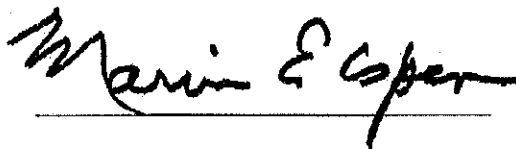
B. The Chicago Housing Authority shall be free to develop to cause to be developed approximately 68 units of non-elderly public housing in mixed-income developments within the expanded portion of the North Kenwood-Oakland Revitalizing Area described above, provided, however, that the public housing units are built, marketed roughly simultaneously, and well-distributed among the affordable and market rate units planned as part of the developments, as described in the Joint Motion.

C. The Chicago Housing Authority shall be free to house families with children in units above the third floor in Building A in Shops and Lofts at 47, provided, however, that the units are and remain well-distributed among the new affordable and market rate units to be constructed in the building.

D. The Chicago Housing Authority Tenant Selection and Assignment Plan, originally approved by Order of this Court on November 24, 1969, and amended by further orders dated September 12, 1983, June 9, 1989, October 1, 1990, October 6, 1994, August 14, 1995, July 20, 2001, August 29, 2002, March 24, 2003, August 5, 2003, December 16, 2003, March 30, 2004, August 22, 2005, November 22, 2005, April 17, 2006, November 6, 2007, July 23, 2009, and July 21, 2010, is hereby amended to require that the approximately 68 public housing units that are the subject of this Order be made available to eligible families relocating under the CHA's Plan for Transformation, and that if there are no such families available to occupy any such

units, that such remaining units be made available to families on the CHA public housing waiting list.

ENTER:

A handwritten signature in black ink, reading "Marvin E. Aspen". The signature is written in a cursive style and is positioned above a horizontal line.

Judge Marvin E. Aspen

Dated: 10/30/12

**UNITED STATES DISTRICT COURT
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DOROTHY GAUTREAUX, et al,)	
Plaintiffs,)	
v.)	
)	
)	66 C 1459
CHICAGO HOUSING AUTHORITY,)	66 C 1460
et al,)	
Defendants.)	Hon. Marvin E. Aspen
)	

TO: All Parties and Counsel of Record

NOTICE OF MOTION

PLEASE TAKE NOTICE that on the day of November 29, 2018 at 10:30 a.m. or as soon thereafter as counsel may be heard, Defendant, the Chicago Housing Authority, a Municipal Corporation, shall appear before the Honorable Judge Marvin E. Aspen of the United States District Court for the Northern District of Illinois in Room 2568 at 219 S. Dearborn Street, Chicago, IL, and shall then and there present the attached **Joint Motion to Waive the Restriction on Housing CHA Families with Children in Units above the Third Floor and Amend the Tenant Assignment Plan**, a copy of which is herewith served upon you.

CHICAGO HOUSING AUTHORITY

By: s/s Elizabeth M. Silas
Elizabeth M. Silas

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CERTIFICATE OF SERVICE

I, Elizabeth M. Silas, an attorney certify that on November 15, 2018, I caused copies of the foregoing Notice and Motion to be served electronically upon the person whose name appear on the attached service list.

s/s Elizabeth M. Silas

Elizabeth M. Silas

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