

T. 10/27/82

Proposed discovery request
to the State of Illinois

ACR:mvr

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At least until the 1940's it was the policy of the Illinois Department of Registration and Education (D.R.E.) to support and encourage the Realtors Code of Ethics, which in turn supported the establishment and maintenance of racially separate neighborhoods (see attachments).

We want to find out whether there is evidence that the State of Illinois, through the D.R.E., took action to enforce this policy in the Chicago area. If there is such evidence, it would tend to show that the State was involved in intentional racial segregation of neighborhoods. This would raise several possibilities so far as the State's liability for Chicago's segregated schools is concerned:

(1) With no collusion or knowledge of each other's action, the Chicago Board of Education (C.B.E.) and the D.R.E. may have acted to reinforce the other's action; e.g., Realtors knew that a specific block was "for whites" (and acted accordingly with D.R.E. support) because it was in a "white" elementary school attendance zone and school officials reinforced the identifiability of the school and the block as "white" by assigning only white teachers to the schools. Similarly, a school zone line may have been altered to include a racially mixed block to a school that was becoming a "black" school contemporaneous with the Realtors' (and D.R.E.'s) decision that it was now all right to show homes to blacks in that block;

(2) The same or similar actions may have been taken pursuant to the official cooperation of the agencies;

(3) There may have been an overlap in the membership of the agencies;

cc: Records
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(4) There may have been informal cooperation; or

(5) The D.R.E. may have had an influence on the location of new schools.

We do not know whether or not the State engaged in such activities nor, if it did, whether any evidence of the activity is now available. I believe it is worth pursuing at this stage of the investigation. I agree with your observation that it is inefficient and unwise to throw all intentional racial discrimination by a state into a school liability case, but I think it is reasonable to include housing discrimination where there is a potential link to school segregation. */

Your October 25, 1982, note referring to our earlier draft of the D.R.E. discovery request expresses your reservations about our pursuing "metropolitan housing violations." I assume from our conversation of that date that your primary concern is the relevance of housing evidence of any kind (but in particular evidence that the State took action in the housing area which caused the interdistrict segregation of the public schools) to the issue of the State's liability to pay for part of the interdistrict remedy that Chicago has already begun to implement. I agree that "metropolitan" evidence is not likely to be relevant to the state liability issue, but I have no reason to even surmise that the kinds of evidence I have described above would be anything except intradistrict in nature or consequence. However, we are also obliged under the Consent Decree to conduct an "interdistrict investigation". The Consent Decree does not compel us to seek

*/ I do not believe that the availability or non-availability of a housing remedy is a relevant consideration in deciding whether or not to investigate liability. If there is a practical housing remedy, it ought to be asserted both because it is practical and because it is related to the nature of the violation. If the housing violation is linked to school segregation and there is a practical school remedy, it should be asserted.

There are other public acts, not involving housing, that may be linked to school segregation: If a highway route were chosen with the specific intent of insulating a "white" school from a residential area inhabited by blacks, would the presence or absence of a "highway remedy" preclude either a search for highway-school official collusion (and joint liability) or a practical school remedy? If an overpass is a practical remedy, should the school board pay for it?

interdistrict school remedies if interdistrict violations are found; at the same time, I do not think we should be limited to a search for school violations. If the State of Illinois has taken some action -- in housing, employment, education or elsewhere -- that has intentionally restricted access by blacks in Chicago to the suburbs (or from one suburb to another), we should be willing to investigate that possibility and determine what, if any, remedies are available. Just because we do not expect to find any metropolitan housing violations by the D.R.E. does not mean that we should decide in advance not to take an initial look at one of the few potential sources of information on the subject. Lastly, it seems consistent with a policy of searching for other remedies as alternatives to busing for school desegregation to search for violations that would lead to non-school remedies.

I would like to send out the attached letter -- the old draft as amended.