

Housing

June 7, 1968

To: Dave Rose

Re: Nashville I-40 Steering Committee, et al.,
v. Buford Ellington, et al., U.S. Supreme Court,
No. 995, October Term 1967

Attached are the papers of a case the Supreme Court recently denied certiorari in. It essentially involves allegations of a denial of equal protection because a highway was being placed throughout the Negro community rather than the white community.

In sending these papers, Mr. Pollak stated "It is one area where the Civil Rights Division might be able to move in the urban problem arena." The possibility of us moving through the litigative tool in this area seems to me to be limited; an intervention under Title IX of the Civil Rights Act would be the primary avenue and it is difficult to see a litigation program developing solely on that basis. However, there seems to me that since much of the highway construction in the United States is now federally funded and the Department of Transportation is intimately involved with such construction, we might have some options opened to us through the Title VI unit. (It seems to me that this problem is closely analogous to the discriminatory site problem in public housing.) I am therefore transmitting these papers to you for your consideration. Hopefully, some program could be developed with the Department of Transportation to establish criteria for insuring that highways are not discriminatorily located. I would, of course, be glad to work with you on this in whatever way possible.

Owen Fiss

cc: Mr. Pollak
Mr. Lewin
Mr. Fiss