

Housing Advocates Settle Class Action Suit with CHA on Relocation for Displaced Families

By William Wilen

The U.S. district court in Chicago, with Judge Ruben Castillo presiding, preliminarily approved last month a settlement of *Wallace v. CHA*, a class action lawsuit being litigated by the Sargent Shriver National Center on Poverty Law and the Chicago Lawyers' Committee for Civil Rights Under Law. The lawsuit, filed in January 2003, alleged that the Chicago Housing Authority (CHA) was in violation of the federal fair housing laws and its own contractual obligations by failing to provide adequate relocation and effective social services to thousands of families displaced by the CHA under its Plan for Transformation. The CHA thereby perpetuated the segregation of these families by steering them into segregated neighborhoods and failing in affirmatively furthering fair housing in the implementation of its programs.

Under the Plan for Transformation, more than 4,000 families have been forced to move from CHA buildings slated for demolition. Although the CHA had entered into legally binding agreements promising to help displaced families move into neighborhoods more racially and economically integrated than those from where they were displaced, the CHA's relocation process produced the opposite result.

Displaced CHA residents now live in neighborhoods that are just as racially segregated and

nearly as poor as the communities from where they were forced to move, according to a study by Dr. Paul Fischer, a public housing expert and political science professor at Lake Forest College. The study, commissioned by the Shriver Center, analyzed data on more than 3,200 families who were forced to relocate by the CHA with Housing Choice Vouchers between 1995 and 2002. Fischer's study, entitled "Where Are the Public Housing Families Going? An Update," shows that almost 83 percent relocated to neighborhoods that were at least 90 percent African American. Nearly 50 percent moved to "high-poverty" neighborhoods, where 30 percent or more of the residents are below the poverty line. Dr. Fischer's complete report is available at www.povertylaw.org/advocacy/documents/fischer_study.pdf. In 2004 a report by the CHA's independent monitor, Thomas P. Sullivan, showed that movers in 2003 fared no better, with 97 percent relocating to areas racially segregated with a significant population of African American families.

The parties litigated the matter for over two years before reaching settlement. In December 2003 the court denied the CHA's motion to dismiss the complaint. In October 2004 the court certified the plaintiff class to consist of all

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Shriver Center, Jenner & Block Restore Housing Choice Vouchers

By Raj Nayak

The Sargent Shriver National Center on Poverty Law, joined by pro bono attorneys from Jenner & Block, last fall successfully negotiated for the Housing Authority of Elgin (Illinois) to reconsider and restore forty families to the Housing Choice Voucher Program. Citing federal budget cuts, the housing authority had terminated dozens of families from the program.

One of the Shriver Center's clients, Elizabeth, is an exemplary case. A mother of three, Elizabeth works part-time while her older children are in school. When she received her Housing Choice Voucher last May, her family got the opportunity to move to a larger (though still fairly crowded) apartment for her growing boys. The voucher allowed Elizabeth the chance to start saving some money to lift herself and her family out of poverty.

But Elizabeth's world was shaken last summer when the housing authority notified her that her voucher was to be terminated the next month—in the middle of her lease—not because of anything she had done wrong but simply because of budget cuts. Elizabeth faced a market-rate rent payment on the lease that she had only been able to afford with the help of her voucher.

Elizabeth was not alone. The housing authority, blaming budget cuts, terminated up to fifty-five families in the same situation last summer.

Nearly a dozen of those terminated families sought help from Prairie State Legal Services, the local direct legal services provider. The investigation by Prairie State attorneys Kathryn Bettcher and Sarah Megan found that the housing authority had mismanaged its voucher program but still had options—including dipping into its reserves and even appealing its budget determination—short of terminating the families. In any case, Prairie State found, the housing authority had improperly terminated the families.

Prairie State filed in state court two separate cases, both of which resulted in the reinstatement of the individual families they repre-

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Housing vouchers restored

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sented. However, since Prairie State receives federal funds and is thus subject to Legal Services Corporation restrictions, Prairie State could not pursue class action litigation to seek relief for the larger group of terminated families.

That was when the Shriver Center stepped in, recruiting Jenner & Block to work with it to represent the remaining families and restore their vouchers. The Shriver Center and Jenner & Block sought out other families who had been terminated, interviewed them about their expe-

riences, and prepared to file class action litigation in federal district court. After identifying potential class representatives, the Shriver Center and Jenner & Block sent to the housing authority a demand letter asking it to restore the remainder of the vouchers that had been terminated. The Shriver Center and Jenner & Block alleged that the housing authority's actions violated federal and state statutes, U.S. Department of Housing and Urban Development regulations, and even constitutional due process rights.

Rather than engage in protracted litigation, the housing authority immediately agreed to restore the vouchers in question. Elizabeth's voucher was restored, as were the vouchers of

the other families who were terminated last summer. The Shriver Center and Jenner & Block also helped the housing authority find other families with whom they had lost contact.

The Shriver Center, with Jenner & Block's help, had an impact by pursuing advocacy strategies that a federally funded legal services program, such as Prairie State, is not allowed to pursue. Beyond that, the Shriver Center, along with Jenner & Block, developed model pleadings and claims to fight similar voucher cuts feared around the country. The Shriver Center emerges as a national leader in defending the rights of families with Housing Choice Vouchers.

President Bush's Proposed 2006 Fiscal Year Housing Budget Cuts Hurt Illinois Families

By Kate Walz

In a time of rising housing costs, declining wages, and high unemployment, providing affordable and stable housing for those in need should be the hallmark of any sound national agenda. Instead President Bush's proposed 2006 fiscal year budget for federal housing programs, combined with the deep cuts those programs suffered in the 2005 fiscal year, may signal the end of the Housing Choice Voucher Program as a reliable anchor for needy families.

The struggles faced by Illinois families and the agencies trying to provide decent, affordable housing to them are emblematic of the housing difficulties nationally. According to a study by the Center on Budget and Policy Priorities, 3,415 Housing Choice Vouchers in Illinois will be lost because of federal cuts this year. By 2010 nearly 16,000 eligible Illinois families will be without housing assistance. Nationally approximately 80,000 vouchers were eliminated with the 2005 budget cuts. By 2010 as

many as 370,000 vouchers, of the two million total, could be eliminated with the 2006 cuts.

In light of the 2005-2006 cuts, large and small housing authorities are struggling with the loss of funding. Nearly all of the Illinois housing authorities will shelve their waiting lists for now. According to a study conducted two years ago by the Mid-American Institute on Poverty, approximately 133,458 families are on the Housing Choice Voucher and Public Housing waiting lists in Illinois, and nearly one-third of the waiting lists were already closed.

The Ford County Housing Authority will terminate five families from the program but is offering apartments in the county's public housing as an alternative. The Woodford County Housing Authority will decrease by four vouchers to 236.

The Oak Park Housing Authority estimates that it will have to terminate 14 families from the program unless it can avail of local or pri-

ivate resources. It has requested \$150,000 in emergency funding from the Oak Park Village Board.

Some authorities are trying to reduce cost with measures other than voucher termination. Like many other housing authorities in Illinois, the Elgin Housing Authority has reduced its payment standard, from 110 percent to 90 percent, making it next to impossible for families to compete for rental units with private market renters. The Springfield Housing Authority announced plans to reduce the number of vouchers available by more than 100, but likely through attrition and not termination of current program participants. Other housing authorities will deny all landlord requests for rent increases and increase tenant rent burdens where appropriate.

The Chicago Housing Authority, the largest Housing Choice Voucher administrator in the state, has already imposed a minimum rent for voucher recipients and has increased its criminal histories review of participants and applicants from two to three years.

Other Illinois housing authorities have said that they will deny portability moves, often the main way families access economically thriving, job-rich areas of the state, as well as moves within the housing authority jurisdiction, if they do not have enough money to subsidize families who want move to a higher-cost area or unit. The U.S. Department of Housing and Urban Development (HUD) is allowing housing authorities to deny these moves if based on insufficient funding from 2005 and after they have confirmed that the receiving housing authority will not absorb the voucher. HUD will not require the denying public housing authority to seek a waiver from HUD.

Shriver Center Works with Advocates to Fight Voucher Cuts in Bloomington-Normal

Some housing authorities may have to make the ultimate decision—whether to terminate families from the program.

The McLean County Housing Authority plans to terminate 64 families from the program by April 30, 2005. Until last year, the housing authority managed only 22 Housing Choice Vouchers and no public housing. When the subsidized property Lancaster Heights in Bloomington-Normal, Illinois, pre-paid its subsidized mortgage, 198 Vouchers were added to McLean's supply in December of 2003. Many of the same families

who lost their housing at Lancaster Heights, as well as families from McLean's waiting list who received vouchers, will now lose their rental subsidies.

The Shriver Center is working with advocates from Prairie State Legal Services, the National Housing Law Project, the Center on Budget and Policy Priorities, and the State-wide Housing Action Coalition to advocate for a reconsideration of this housing authority's budget allocation for 2005 so that all 220 vouchers will be fully funded.

Shriver Center, Housing Preservation Project, and Chicago ACORN Fight to Save Lawndale Housing

By Kate Walz

The Shriver Center, advocates from the Minnesota Housing Preservation Project, and Chicago ACORN (Association of Community Organizations for Reform Now) are working together to save nearly 1,000 units of a federally subsidized Project-based Section 8 housing called Lawndale Restoration on Chicago's West Side.

The Lawndale Restoration buildings constitute most of the affordable, subsidized housing on the West Side. Last fall the project's owner, Cecil Butler, was revealed to have fallen considerably behind on payments for a \$51 million mortgage from the Illinois Housing Development Authority. Also discovered was that, notwithstanding glowing inspection reports from the U.S. Department of Housing and Urban Development (HUD), the property suffered from serious building and federal Housing Qual-

ity Standard code violations, including cracked masonry, defective porches, rodent infestation, leaks, broken doors, missing locks, and standing water.

Since last fall, ACORN organizers have been meeting with residents to raise concerns about housing conditions and to gauge what the residents would like to happen with the property. Most residents, assuming the property would be repaired and under new management, would like to remain in their homes. The City of Chicago also wants to maintain the property as Project-based Section 8 and allow residents to continue to live there.

In spite of support from the city government and Lawndale residents to maintain the Project-based Section 8 subsidy, HUD will foreclose on the property and terminate the Project-based Section 8 contract. HUD will "voucher out"—

that is, provide all eligible tenants with tenant-based Housing Choice Vouchers—the property and sell the buildings to either interested private developers or the city government.

Shriver Center attorneys Kate Walz and Raj Nayak and the Housing Preservation Project last month sent to HUD on behalf of ACORN and several Lawndale residents a letter indicating that HUD's decision not to preserve the Project-based Section 8 contract was in violation of federal law and asked to meet with HUD in the next few weeks to determine if maintaining the subsidized housing was possible.

A loss of a subsidized property of this size is troubling in Chicago since up to 17,000 units of subsidized housing are at risk of losing their affordability restrictions over the next five years. This potential loss, coupled with the loss of public housing units through Chicago's Plan For Transformation and the deep financial cuts in the Housing Choice Voucher program, only worsens Chicago's affordable-housing crisis. That HUD will not consider maintaining subsidized properties at risk of foreclosure also sets a dangerous precedent nationally.

Worse still, nearly all of the Lawndale residents are African American and include many disabled residents, senior citizens, and families. If displaced with Housing Choice Vouchers, these residents would likely follow the trend of Chicago's current voucher population in moving to high-poverty, racially segregated areas of the city, while losing all ties with their historic, gentrifying community at Lawndale.

Success: New Year Finds New Hope at Horner

By Traci Sanders

For the last ten years, the Chicago Housing Authority (CHA) has been part of a very high-profile move—dubbed the "Plan for Transformation"—toward new mixed-income communities to replace its several deteriorating public housing developments. Among the first developments slated for demolition, the Henry Horner Homes development was also among the first to be tied up in litigation, resulting in a landmark decision in *Henry Horner Mothers' Guild v. CHA*. The consent decree, which serves as a national model, called for a partnership between the Horner residents and the CHA. Both sides cooperated on the planning and implementation of the redevelopment of what promised to be a newly thriving community. In April 2005 we now ask, Are there any signs of success?

Who better to ask than a resident who has lived at Horner from its beginnings in 1961 to the mixed-income community that it is today. Ms. Cloteal Butler moved to 1936 West Washington Street in the Henry Horner Homes development in 1967 after suffering displacement due to a tragic house fire at her former residence. A space heater left on high overnight burned through the wood floor of the second story.

Ms. Butler described Henry Horner in 1967 as a beautiful place, with lush green grass lawns, trees, and decorative two-foot-high black iron fences. The residents exhibited a strong sense of community and caring about their neighbors

and their environment. Ms. Butler herself wasted no time in becoming a vibrant public figure, from being elected vice president of the Local Advisory Council in her second year of residence to serving as an active member of the Mothers' Guild, a community group dedicated to providing a stimulating environment for children outside school. She also nurtured her other passion—maintaining a community garden.

Ms. Butler worked in that garden every day after returning home from work, and there she suffered another accident in 1997. She stepped on a rusty instrument, and, after many subsequent visits to the hospital, she had to have her foot amputated. Seven years later, doctors diagnosed that her entire leg would have to be removed. Because Ms. Butler's status as a disabled resident had significantly changed, she was immediately provided a newly-constructed Phase II Horner West Haven Park handicap-accessible first floor unit in lieu of her third floor mid-rise unit.

Through all of this, Ms. Butler remained active in community affairs. Following the consent decree, she was selected as a member of the Tenant Selection Committee, made up of the CHA and tenants of Horner with the express purpose of choosing future residents of the West Haven mixed-income community. Ms. Butler is now very happy with her new unit and her new neighbors. Her new accommodations remind her of the Henry Horner Homes she knew in the beginning: made for the next generation.

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Shriver Center Advocates Lead National Dialogue on Public Housing Screening Criteria

By Raj Nayak

William Wilen and Raj Nayak, attorneys at the Sargent Shriver National Center on Poverty Law, will lead a nationwide discussion by teleconference call on April 25 for housing advocates facing stringent screening criteria for the return of displaced residents to redeveloped mixed-income public housing.

When the Chicago Housing Authority (CHA) displaced thousands of families with its ten-year redevelopment plan, the “Plan for

Transformation,” the CHA promised them the chance to return to new public housing apartments built in mixed-income communities. However, the CHA has since instituted stringent screening criteria that prevent many displaced families from taking advantage of these new units, and other housing authorities across the country are looking to follow the CHA’s lead. In response, the Shriver Center is mounting a national campaign for more realistic

screening criteria that are flexible enough to allow displaced families (and very low-income families in general) an opportunity to take advantage of redeveloped public housing.

In an article in the November-December 2004 issue of *Clearinghouse Review*, Wilen and Nayak explain the CHA’s new screening criteria, which include credit checks, criminal background checks, drug testing, and minimum work requirements (usually a rigid thirty hours per week). Nayak and Wilen focus in particular on the inflexible work requirements and on potential policy advocacy and litigation strategies to promote requirements better tailored for families working to escape poverty. They describe an alternative screening model based on the Henry Horner Homes in Chicago, where tenant participation (through a consent decree managed by Wilen) has produced a more reasonable screening process and a high return rate. Horner also offers evidence that a screening process allowing most displaced residents to return can also result in a “successful” mixed-income redevelopment by nearly any measure including ease of attracting market-rate tenants and the development’s overall property values.

Wilen and Nayak hope to start a dialogue on advocacy strategies as well as spread the word on lessons learned at Horner. The nationwide discussion for advocates is part of the *Clearinghouse Review*’s new conference call series.

For more information on the call, contact Raj Nayak at rajnayak@povertylaw.org.

Wallace case settled

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present and former public housing residents who have moved or will move out of the CHA by using a Housing Choice Voucher and who moved or will move into segregated neighborhoods with a Housing Choice Voucher after October 1, 1999.

Under the settlement, the CHA is obligated to use its “best and reasonable efforts” to provide programs to assist *Wallace* class members to exercise their own choices in relocating to economically and racially integrated communities. One such program is the Enhanced Housing Opportunity Program (Enhanced HOP), to which the plaintiffs and the CHA agreed as part of the settlement. Under Enhanced HOP, former public housing residents who have already moved into the private rental market with a Housing Choice Voucher—the majority of the *Wallace* class—will be able to take part. This will entitle them to receive several notices of eligibility to participate, to enroll in the program for up to one year, to learn about the benefits of moving to racially integrated neighborhoods, and to take tours to such neighborhoods. Enrolled families will receive referrals to at least three units in racially integrated neighborhoods and transportation to view the units. These families will also have access to social services—including an individual caseworker, counseling, and referrals to address barriers to housing—provided by the CHA’s Service Connector Program or by the CHA’s Housing Choice Voucher

administrator (CHAC).

Families still living in CHA housing but who move with Housing Choice Vouchers in the future will also be able to participate in *Wallace* programs. The CHA will provide them with individual service plans developed with caseworkers, small group presentations encouraging moves to racially integrated and low-poverty areas, a community search tour that includes visits to racially integrated and low-poverty areas, escorted visits to racially integrated and low-poverty housing units, and case-managed services for twelve months after moving.

The settlement also provides that the Shriver Center and the Chicago Lawyers’ Committee for Civil Rights Under Law will monitor the settlement for three years—by attending meetings, interviewing class members, and receiving progress reports and census data from the CHA. If the monitoring demonstrates that CHA, CHAC, or their contractors are failing to implement the settlement during the three-year period, the plaintiffs may seek to reinstate the case and continue the litigation. The CHA also agreed to pay plaintiffs’ counsel \$200,000 to reimburse them for the costs and expenses of the litigation.

Judge Castillo will conduct a “fairness hearing” on the settlement on May 31, 2005, at 9:00 a.m. to determine whether the settlement is fair, reasonable, and adequate for final approval. Class members will receive notice of the hearing and be given an opportunity to appear at the hearing if they have any objections to the settlement.

Howard Landau, who was a successful commercial real estate developer in Chicago, spent much of his life sharing his success with others less fortunate. In response to decreasing availability of affordable housing in the City, Landau helped create in 1989 Community Ventures, a program at the Jewish Council on Urban Affairs. The program’s goal is to

link investors with community-based housing projects.

Mr. Landau was also a longtime supporter of the Sargent Shriver National Center on Poverty Law, and, with support from the Landau Family Foundation, the Shriver Center continues to lead the push for more affordable, safe, and decent housing.

This newsletter updates information on

housing issues on which the Shriver Center focuses. From representing public housing residents to protecting the rights of all renters, the Shriver Center, as in all its work, seeks to develop innovative responses to pressing housing issues.

For additional information, visit the Shriver Center online at www.povertylaw.org.

SAVE THE DATE!

Monday, April 25, 2005

2:00 p.m. Central time

Clearinghouse Review conference call on public housing screening criteria

To RSVP send your name, program name, & address to maenglish@povertylaw.org