



Connecticut Civil Liberties Union Foundation

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November 20, 2001

Mr. Gary E. King
President/Executive Director
Connecticut Housing Finance Authority
999 West Street
Rocky Hill, CT 06067

RE: Request for Declaratory Ruling

Dear Mr. King,

We are writing on behalf of the Asylum Hill Problem Solving Revitalization Association ("Asylum Hill NRZ") and individual residents of the Asylum Hill neighborhood in Hartford to request a declaratory ruling pursuant to Connecticut General Statutes §4-176, requiring the Connecticut Housing Finance Authority (CHFA) to revise its practices and procedures for funding applications under the federal Low Income Housing Tax Credit (LIHTC) Program to prevent segregation of family low-income housing developments in areas of minority concentration and substantial poverty. This request for declaratory ruling is based on Conn. Gen. Stat. §8-37cc(b) and Conn. Gen. Stat. §46a-64c.

Questions Presented

We are seeking a declaratory ruling on the following matters:

- (1) Does Conn. Gen. Stat. §8-37cc(b) bar CHFA from placing additional low-income LIHTC family rental units within areas of minority concentration or poverty concentration?
- (2) Does Conn. Gen. Stat. §8-37cc(b) require CHFA to revise its procedures for review of funding applications under the LIHTC Program to prevent segregation and concentration of family housing developments in areas of minority concentration and poverty concentration?
- (3) Is the CHFA in violation of the affirmative requirements of Conn. Gen. Stat. §8-37cc(b) or Conn. Gen. Stat. 46a-64c in its administration of the LIHTC program by placing a substantial majority of LIHTC low-income family units inside high poverty, racially concentrated neighborhoods?

- (4) Is the CHFA obligated to take affirmative steps under Conn. Gen. Stat. §8-37cc (b) or Conn. Gen. Stat. 46a-64c to ameliorate the segregative effects of its past administration of the LIHTC program in Connecticut?

Statement of Material Facts

In August, 2001, over the objection of the Asylum Hill NRZ, the CHFA approved a reservation of low income tax credits for two buildings on Huntington Street in the Asylum Hill neighborhood of Hartford. These were the most recent in a series of tax credit grants for buildings on Huntington Street and throughout Asylum Hill that have brought hundreds of additional federally subsidized low-income housing units into an already racially isolated and poverty concentrated neighborhood.

The effects of CHFA's policy and practice of concentrating low-income housing units in Asylum Hill and other poor, racially concentrated neighborhoods in Hartford include increased overcrowding and school segregation in neighborhood schools, decreased access to employment among community residents, increased victimization of low-income residents of the community, and an overall increase in metropolitan-wide patterns of housing segregation.

According to the 2000 census, more than 80% of Asylum Hill residents are African American or Latino. In 1990, 23% of Asylum Hill families were below the federal poverty level. The local elementary school enrolls fewer than 5% white students, and 72% of students are in the free and reduced lunch program. Only 10% of housing units in Asylum Hill are owner-occupied.

The CHFA has failed to devise a system of review of tax credit allocation and incentives to avoid placement of additional low-income family units in existing areas of poverty concentration and racial isolation. The CHFA's failure to adopt meaningful regulations to prevent concentration of LIHTC units has led to placement of a vast majority of these low-income units in impacted neighborhoods. The CHFA has continued its policies and procedures in spite of its knowledge of their segregative effects, even after the legislature's 1991 mandate to the agency to affirmatively further fair housing and after the ruling of the Connecticut Supreme Court in Sheff v. O'Neill in 1996.

Statement of Position

Conn. Gen. Stat. §8-37cc(b) sets out CHFA's fair housing obligations:

Each housing agency shall affirmatively promote fair housing choice and racial and economic integration in all programs administered or supervised by such housing agency.

This statute, adopted in 1991 pursuant to Public Act 91-362, imposed on state housing agencies the same obligations imposed on the U.S. Department of Housing and Urban Development by the federal Fair Housing Act, 42 U.S.C. §3608 (duty to affirmatively further fair housing). Like

the federal Fair Housing Act's provisions, the state act requires the CHFA to affirmatively pursue policies to promote housing integration and prevent increased racial segregation. Similarly, the state fair housing law, Conn. Gen. Stat. §46a-64c parallels the federal Fair Housing Act's prohibition of housing policies with a discriminatory or segregative effect.

Thus, in Shannon v. HUD, 436 F.2d 809 (3d Cir. 1970), the federal courts held that the Fair Housing Act barred continuing location of low-income housing in poor, racially concentrated areas, and required HUD to adopt policies and procedures to prevent overconcentration of low-income housing. The resulting HUD "Site and Neighborhood Standards" put a halt to previously unregulated concentration of HUD-assisted low-income housing. The State of Connecticut, similarly, is required by its own fair housing laws, and the federal Fair Housing Act, to halt its continuing practice and policy of segregation, and to immediately adopt similar program rules to prevent further concentration of LIHTC units.

Conclusion

For all of the foregoing reasons, we request that the CHFA issue a declaratory ruling that the CHFA may not fund additional low-income LIHTC family rental units (including the tax credits recently allocated to Huntington Street) within areas of minority concentration or poverty concentration (including Asylum Hill) until such time as the agency revises its procedures for review of funding applications under the LIHTC Program to restrict the siting of low income family housing developments in such areas. We further request that the agency take steps to remedy the segregative effects of its past administration of the LIHTC program, by aggressively promoting siting of LIHTC units outside areas of minority concentration and by providing compensatory assistance to segregated urban neighborhoods, including but not limited to enhanced homeownership incentives, financing of home improvement loans, recreation and infrastructure improvements, and small business, economic development and job creation programs in low income neighborhoods.

The CHFA's actions also violate the federal Fair Housing Act, 42 U.S.C. § 3601 et. seq. and other federal laws. However, our clients' claims under the Fair Housing Act and other federal law are expressly reserved for judicial determination.

Thank you for your consideration of this petition.

Sincerely,



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Attorneys for Petitioners

cc: William Dickerson, General Counsel, CHFA