

THE ESSEX COUNTY DISTRICT COURT

HOUSING AUTHORITY OF THE CITY
OF NEWARK,

Plaintiff,

Civil Actions

vs.

In Newark

DENISE AIKENS NO. T-291932

YVONNE GARNER NO. T-291970

JEROME AND
PEGGY SOLOMON NO. T-291838

MARY PULLEN NO. T-291815

ETHEL DODSON NO. T-291918

HARDEN AND
LOTTIE GRAMM NO. T-291925

MARGARET GAMBLE NO. T-291969

HELEN BROWN NO. T-291945

JEAN JOHNSON NO. T-291983

DOROTHY LESLIE NO. T-291990

HOWARD AND
MARY BEAUCHAMP NO. T-292024

VIRGINIA SANDIFER NO. T-291830

RUTH STOKES NO. T-291839

ESSIE BURGESS NO. T-292053

FRANKLIN AND
JOYCE WOODS NO. T-291867

JANNIE LOYAL NO. T-291788

CHERYL DAVIS NO. T-291917

LEROY AND
MARLAN CLARK NO. T-291997

DAVID AND
BREN HOLMES NO. T-292167

O P I N I O N

ROSA LEE GRAHAM

NO. T-292059

RUSSELL AND
ELLEN FRAZIER

NO. T-292058

Defendants (consolidated).

Decided: November 27, 1973

Attorneys:

Friedman & D'Alessandro
Appeared for the Plaintiff
by: Ferdinand Biunno and Richard Conti

Newark Essex Joint Law Reform Project
Appeared for Defendants
by: Harris David and Michael Callan

WALSH, P.J.D.C.

Defendants have conducted a rent strike against the Newark Housing Authority on the claim that their dwellings are uninhabitable.

For the purposes of this case all twenty-two petitions for eviction of tenants, from the Stella Wright project, have been consolidated by order of court.

The evidence presented in this case describes a condition of housing, within the City of Newark, that defies solution. It depicts a financial taxing inequity that projects an inevitable bankruptcy to the city, if it continues. It presents a picture of construction and management of public housing that is devoid of any understanding of the integrity of human personality. To these woes, add the admission by the Newark Housing Authority and the tenants that these high rise apartments are not in the best interest of the tenants and are unmanageable.

The problem is further complicated by the fact that Newark has the highest per capita ratio of public housing, to total housing structures, of any city in the entire nation. Almost ten percent of the entire population, of the city, reside in public housing and the Newark Housing Authority is the fourth largest housing authority in the country. These facts are recited directly from the reports of the Newark Housing Authority because they contain general conditions that are attributable to the high rise apartment complex under study.

The original concept of public housing;

"xxx to remedy the unsafe and
insanitary housing conditions and the acute
shortage of decent, safe and sanitary
dwellings for families of low income xxx"

was a great and dedicated ideal.

The bitter truth of Newark Housing, based on the testimony of all who have testified herein, can lead to no other conclusion than the cure has now become certainly worse than the disease.

First, let us examine the financial fallacies of the entire housing system as a demonstration of how any further continued dependence on high rise housing, as a panacea for the ills of Newark, can only result in the ultimate, complete bankruptcy of the city and a continued unnecessary drain on the resources of the entire county.

The City of Newark, as of 1970, had a population of 222,000. As of 1972, there were 37,300 people occupying public housing accommodations. Stella Wright had 4,512 persons. All of the municipal services such as police, fire protection, health, garbage, water and schooling are paid out of a municipal budget from funds raised by levying a tax on real estate within its local boundaries.

For the year 1972, the budget to cover these expenses in its amended form totaled approximately \$147,000,000. This contemplated a compelled per capita expenditure of approximately \$365 per person, per annum.

By virtue of 42 USCA 1410 (b), property held by the Housing Authority is exempted from taxing by the City of Newark. It pays, for services rendered to its tenants, in lieu thereof, the sum of ten percent of the "annual shelter rents charged." This is a figure arrived at after deducting, from the total rent charged, certain utility charges.

The Newark Housing Authority contributed in lieu of taxes, for the year 1972, the sum of \$469,583.75. This amount was intended to cover the municipal costs for its 37,361 tenants. The amount allocated for Stella Wright was \$50,000 for its 4,512 residents. This represents an overall per capita contribution of approximately \$11.50 per person, and the specific Stella Wright per capita contribution of approximately \$11.00, as opposed to the actuality of a required minimum of \$385 per capita.

It doesn't take rare insight or great intellect to discern that in any one year of like taxing, the City of Newark is, on the overall, short changed by the Federal Government, in the amount of about thirteen and one half million dollars and specifically, the amount of Stella Wright is approximately \$1,650,000 short of expenditures over income.

How long can any municipality withstand such an onerous burden? Already it must utilize a tax rate that is described as one of the highest in the nation. This in turn forces out private home owners and industries. Claim is made that the high proportion of tax payments that private interest

are forced to assume has reached a point of being confiscatory.

The plain facts of the testimony reveal two striking examples of the inequities resulting to the taxpayers of Newark and Essex County.

The report of Resident Statistics for the Newark Housing Authority, 1972, indicates that there are 20,446 minors in the projects representing fifty-four percent of the total Newark Housing Authority population. The average cost of schooling, for a child in the City of Newark, is \$1,118 a year, based on a reported cost of \$965 for an elementary school pupil; \$1,174 for a high school pupil; and \$1,216 for a junior high school student.

If only seventy-five percent of these minors (15,000) are in school, for any given year, the cost at a minimum approximates \$16,770,000. This immediately indicates not only the financial drain on Newark, but on the other governmental agencies in the county and state.

A second example further illustrates the problem.

The testimony contained evidence of 1,077 fire department responses to Stella Wright, from 1967 to date. The cost of each run was set at a minimum of \$1,000. This, over a five year period, represents a staggering cost of \$1,077,000 for this project alone.

No other estimates of city cost were given in evidence. In fact, none are needed. They are warning enough that the situation cannot continue.

The hearing brought forth an admission from the Housing Authority to a similarity of physical and social characteristics that led to the deep rooted difficulties found in places like Pruitt-Igoe, a similar high rise, low income project in the City of St. Louis, Missouri.

The report of the Newark Housing Authority, dated October 26, 1971, urges that new and untested principles must be tried in the area of Newark, if the same tragic consequences of the Pruitt project is to be avoided in Newark.

It may be well to compare the similarities of these two projects:

	<u>PRUITT-IGOE</u>	<u>STELLA WRIGHT</u>
STRUCTURES.....	33-11 story buildings	14-12 story buildings
TENANT POPULATION.....	12,000	4,512
LAND AREA.....	57.28 acres	14.13 acres
LIVING UNITS.....	2,800	1,206
UNITS PER ACRE.....	48	85
THOSE ENJOYING EMPLOYMENT INCOME.....	35.5%	15.5%
DENSITY PERSONS PER ACREAGE.....	250	322
MINORS.....	72.5%	64.8%

A study of the above comparisons pointedly adds no luster to the conditions as they exist in the Stella Wright project.

After Pruitt-Igoe was abandoned, a labored study concluded that the project, ab initio, was the result of too much of the wrong kinds of concentration and created an isolated encampment that nobody wanted to go near; it was not the solution for either the poor who are forced to live there, nor for society as a whole; just as Stella Wright first functioned when it was completed and occupied, Pruitt-Igoe did likewise; because of the admission of too many welfare cases, the working class, white and black families, living in Pruitt-Igoe, began to move away; greater pressure was then brought on the authorities to admit more and more welfare cases; the result was a disaster; the proportion of welfare cases grew until they made up the majority of the project's population; the minors terrorized the tenants and vandalized the buildings; because the families earned little or no money they could not pay the existing rents; rents were lowered while maintenance costs went up, causing such a strain that the authorities had no choice but to skimp on services; unattended, facilities began to fall apart; elevators stalled; because windows were inadequately screened some children were injured; public toilets were eliminated from ground floors; children resorted to elevators or hallways to urinate; cramping twelve thousand people into fifty-seven acres of land exacerbated an

already grim social problem; junkies in search of money to support their habits went on rampages, even tearing the copper sheathing from the building roofs; when it rained the apartments leaked and the stairwells were iced.

This description of Pruitt-Igoe's difficulties can almost word for word describe the conditions at Stella Wright as they unfolded in this court.

There is there any solution that distinguishes a better fate for Stella Wright and its inhabitants than that which was ultimately suffered by Pruitt-Igoe.

The testimony indicates that once the officials in Washington took away the privilege of selectivity of tenants from the Housing Authority it created the beginning of an unmanageable situation. The insistence from Washington that more and more welfare cases be crowded into the Stella Wright projects certainly indicates that the lesson of Pruitt-Igoe has not well been learned.

The representatives of the Housing Authority in this case have testified that no amount of money will correct any of the complained of incidences unless, and until, the problem of vandalism is first overcome.

Any future expenditure of monies has been described in this case as:

"pouring money down the drain".

The only suggestion that contained any glimmer of hope was:

"Only a massive infusion of police protection could possibly have some effect on salvaging what remains of the Stella Wright project".

This glimmer of hope was soon dashed by a high ranking member of the Newark Police Department who testified that all, presently contemplated, security programs would have little or no effect, whatsoever, on the conditions complained of. He further testified that prior attempts by the Newark Boarding Authority to supply adequate security, under the aegis of the Newark Police Department, had failed because the Newark Police found it necessary to make arrests of the very guards who had been hired, because they were found to be smuggling the students.

Further testimony was given that while there is a present ratio in the city of four police officers per one thousand persons in the general areas of Newark, there is only an 0.7 ratio per thousand in the Stella Wright area. This is described as completely inadequate in respect to the immediate demands.

No further hope was offered from the city, insofar as police protection is concerned, because it is apparent from the prior recitations in this study that monies are simply not available.

The very question presented by the problem seems to suggest the complete answer. It must be apparent from the comparison with Pruitt-Igoe and from the despair of all witnesses in projecting any hope of solution; that there are just too many people in too little a space, under conditions which are incapable of management.

If nothing can be done, the authorities should invoke the solution of Pruitt-Igoe and look to other avenues for housing, which appear to be numerous when you view all of the vacant land now present within the confines of the City of Newark.

No attempt appears to have been made, under the provisions of Section 42 U.S.C.A. Section 1410 (1), to dispose of these properties to the tenants themselves. In view of the low income and high vandalism situation it is doubtful that even the tenants themselves would accept the properties because of its unmanageability.

A summary of substantiated complaints and unabated defects in the complex reads like the index of a handyman's handbook, combined with a manual of local fire, health, safety and building code violations.

Recited within the hearing were the following predominate complaints, among others:

Fear of entering and leaving an apartment.

Fear of utilizing an elevator.

Fear of being mugged or robbed in the elevators and hallways.

Fear of fire in the incinerator flues.

Smoke in hallways and apartments.

Garbage in hallways and stairwells.

Urine and human feces in stairwells.

Lack of laundry facilities.

Lack of elevator service.

Lack of any security.

Lack of fire fighting equipment.

Rats, mice and roaches infest the place.

Defective doors on hoppers.

Debris in storage areas.

Defective incinerators.

Broken glass on grounds.

Broken windows throughout.

Exposed electrical wiring.

Defective roofs.

Defective skylights.

Floodings from roof.

Leaks in apartments.

Junkies inhabiting vacant apartments.

These then are the problems. What answers, if any, have been given by those arms of government that control the situation?

The court has little or no difficulty in making its determination, as to the habitability of these premises. That determination in at least three areas has already been made by other governmental bodies possessing far more expertise than this court.

1. A report of inspection by the Newark Department of Health and Welfare made a finding of fact, based on an inspection of fifty-six percent of the Stella Wright apartments, in the fall of 1972. Among its many findings it listed specific and general municipal code and health violations in a number totaling approximately four thousand.

At time of trial, there was testimony that eighty-five percent of these violations remain unabated. There was little or no evidence of maintenance. Conditions were deplorable, the premises were uninhabitable. The complex should have been condemned and the principal reason that they were not was because there was no other place to house the tenants.

In a strongly worded memorandum, dated August 24, 1972, the Director of the Division of Inspections, after finding that many of these violations may have originated with the failure of the tenants to maintain their premises in a clean and sanitary fashion, stated:

"I recommend that you take under serious consideration the advisability of having these premises declared unfit for human habitation."

2. The New Jersey Department of Environmental Protection, Bureau of Air Pollution Control fully substantiated the complaints relative to the incinerators. This finding was conceivably so serious that a judgment of the Superior Court of New Jersey was obtained by the Attorney General, against the Housing Authority, compelling the complete shut down of all of the incinerators at the project and directing the installation of a compactor system.

That this severe remedy was required, is not at all doubted. A personal viewing of the site, by this Court, results in reaching the same conclusion.

3. A report by the New Jersey State Advisory Committee, to the United States Commission on Civil Rights, as far back as 1968, found, as a matter of depressing economic fact, that public housing is no longer a stepping stone to something better, but has become a permanent residence for an increasingly larger percentage of tenants. The report

was replete, with ringing condemnations of conditions found at the housing sites in the Central Ward and concluded with the finding:

"No high-rise public housing should be constructed and thought should be given to the disposal of at least one of the Central Ward high-rise projects xxx".

4. The approach taken, by the U. S. Department of Housing and Urban Development (H.U.D.), is a puzzling reaction to what is a very alarming, infectious, personal problem to all citizens of this county; a problem that initially was created by the construction of, and continued financial management by H.U.D. of these low income, high-rise dwellings in Newark.

What does H.U.D. offer by way of solution to the problem? Basically, it makes three main findings in a "comprehensive consolidated management review report";

(1) It finds the Newark Housing Authority top-heavy with executives;

(2) Employees performing tasks of dubious value;

(3) They were going to program their computers to "capture vandalism data".

Perhaps, if more local concern and knowledge of the problem really was desired, it could have been "captured" by a telephone call to the captain of the local police station.

No suggestion, as to handle the then prevailing rent strike, is made except to recommend:

"We urge local authority to continue its effort to negotiate with the welfare department to pay rents directly to the authority".

This attempt to bypass all the problems of the projects, by injecting this proposed solution, is an insult to the taxpayers of Essex County, who are, in effect, asked to contribute blindly their same tax dollars, from one governmental agency to another, without even the decency of having the knowledge or guarantee that the money will be used properly and precisely for the purposes for which it was dedicated, and to perpetuate an admitted hopeless situation.

5. A far more honest and reasonable explanation was put forward by the Newark Housing Authority, who in many aspects of this testimony, appears to be more the wronged than the wronging. It is they who are charged with managing a high rise complex which many authorities, under the conditions here testified to, state cannot be managed; under conditions which H.U.D. found unmanageable in St. Louis; under conditions of complete financial control of H.U.D.; under conditions of limiting procedural policy control of H.U.D.; in face of

rising vandalism, with which it cannot keep even; and now a rent withholding that threatens its existence.

In its report dated October 26, 1971, on a proposal submitted to H.U.D., the Newark Housing Authority put its finger right on the pulse of the problem. It stated:

"As the causes indicate, the scope of the problem goes far beyond the capability of local management. Further, the perspective of operating problems depends on the particular concern of the viewer;

For the Federal government Newark Housing Authority is fast approaching financial infeasibility;

For Newark Housing Authority, much of its housing is becoming unmanageable;

For many of the residents, the environment is unlivable;

XXX

Operating subsidies, though still inadequate for the needs, are being provided."

XXXXX

"Lacking the depth, skill and financial capacity to operate properly under these difficult circumstances, Newark Housing Authority atrophied-relationship with

residents eroded and the agency
sank into bureaucratic, impersonalized
and unresponsive patterns of operation."

The Newark Housing Authority, in this hearing, quite
confidly and honestly, admits continued atrophy in any possible
attempt of solution of the problem. It agrees:

"public housing high-rise for low income
families in the City of Newark, exclusive of
housing for the elderly, have proven to be
unsuccessful, unmanageable, and not in the
best interests of the tenant, the community
and the city itself."

These are the complaints. These are the supposed
answers and the court looks hopelessly for a solution among
them. It does not find it anywhere. What is the solution?

Since the court must now meet the problem, it might
well serve to first recite some of its impressions.

It appears that the controlling authority for planning,
designing, financing and managing the projects owned by the
Newark Housing Authority, rests completely and ultimately with
H.U.D. The purse string for all the operations is opened and
shut in Washington, D.C. This approximates a situation wherein,
H.U.D. becomes Newark's and Essex County's largest absentee
plus landlord. H.U.D. appears most lacking in understanding
of the local problems, and unwilling to accept responsibility
for solutions.

It further appears that money alone is not the answer to the problem. At least no evidence has been forthcoming, in this lengthy hearing, that an influx of money would result in anything more than:

"xxx pouring it down the drain ..."

This court is satisfied that this high rise, low income, monstrosity should not continue to exist as an expensive penalizing monument to some bureaucrat's inability to say that he or they were wrong in the first place. It contains a concentration of just too many of the wrong things that plague the peace of mankind. It presents a meeting place, under one roof, for too many things that constitute the worst in man. Simply stated there are just too many people in too small an area with too many problems of the worst order. This is the court's description of Stella Wright.

This court is powerless to correct any of the wrongs complained of in this defense. It, by jurisdiction, is limited to a judgment of eviction, or an order of abatement.

But this court does find: If you have no proper means of shelter to preserve life few other of the guarantees thereunder matter little. If you are fearful of going in and out of your house, you are extremely limited in your enjoyment of it. If you live on the fifth or tenth floor of an apartment, it matters little what the cause of failure of an elevator is.

A continued threat of fire, from a court condemned incinerator system, curtails a quiet enjoyment and the pervasive presence of heavy smoke in hallways and apartments presents serious health and safety problems. Over 4,000 municipal and health violations in only fifty-six percent of the apartments presents tremendous evidence of vandalism and lack of maintenance. A finding by the fire department that it must overlook over 700 fire violations cannot be taken lightly. A finding by the chief inspector of the City of Newark, that the Stella Wright Housing Project is uninhabitable and should be condemned, should not be overlooked. Approximately 2,120 elevator repair reports, for eleven months, regardless of cause, adequately substantiates complaints of immobility. Police testimony of lack of protection, coupled with fear of robbery, rapes and muggings, constitutes a reasonable basis for declaring a residence uninhabitable. Occupation of vacant apartments by narcotic addicts, and the stealing of brass nozzles from the fire hoses and copper sheathing from the roofs to support their habits, makes living there deplorable. The floods in the stairwells and apartments were to some extent caused by this vandalism. The presence of rats, roaches and vermin, in an uncontrollable number, makes conditions intolerable. Fear of being mugged by the very guards hired to protect gives little comfort to those in fear of their lives. The admitted inability of Newark

Housing Authority to keep abreast of the vandalism, provides little comfort to the innocent sufferer. Unprotected hallways in high rise apartments are a source of encouragement for illegal occupation and crime. Unprotected entrances and elevators are a like source of encouragement. The findings and the admissions of unmanageability by the Newark Housing Authority cannot be ignored. The findings of the New Jersey Pollution Commission and the Advisory Committee on Civil Rights cannot be ignored. A population of 1,206 poor families by 4,512 persons on 14.13 acres is a density that denies even the possibility of tolerable living conditions.

The court reluctantly must admit to possession of no limpid, clear sovereign remedy. It can only anticipate that some authority in the Housing and Urban Department will appropriate sufficient monies to continue the present inept system that satisfies neither the need nor the needy.

The project, when fully occupied and receiving one hundred percent payment of rents operates at between 800,000 and a million dollars a year deficit. The tenants are not charged a rent based on the value of the apartments. Better than sixty percent of the residents are charged for amounts far less than the actual operating cost of \$116 per unit. Therefore, a substantial abatement, which this court concludes is merited from the evidence submitted, will not terminate the ideal of the project, but hopefully be the onset of a remedy to correct the

abuses recited herein.

The tenants are presently availing themselves of utilities such as light, heat and water. These have an unchallenged value and are properly charged and subject to abatement. They must be paid.

The court has taken into consideration all the defenses of the individual defendants in fixing a rate of abatement in the amount of eighty percent of the rents due and owing.

In arriving at this conclusion the court relied on the following cases:

Borzito vs. Gambino 63 NJ 460;
Marini vs. Ireland 56 NJ 130 (1970);
Resti Realty Corp. vs. Cooper 53 NJ
444 (1969); Sambalson vs. Quinones
119 NJ Super 333 (app. div. 1972);
Boston Housing Authority vs. Hemingway
293 N.E. 2nd 831 (Supreme Court, Mass.
1973); Javins vs. First National Realty
Corporation 428 Fed. 2nd 1071 (D.C. Cir.
1970)

Until the conditions complained of herein are abated the current rent shall continue to be paid in the abated amount.

eighty percent of the present charge plus five percent per month on the unpaid back rent; as abated, until paid in full.

The abated amount due from the defendants is:

<u>DEFENDANTS</u>	<u>PROVEN OR STIPULATED DUE</u>	<u>ABATEMENT</u>	<u>RENT DUE</u>
DENISE AIGENS	\$651.00	\$520.80	\$130.20
YVONNE GARNER	\$1,950.00	\$1,560.00	\$390.00
JEROME and IRISY SOLOMON	\$3,413.50	\$2,730.80	\$582.70
MARY PUDLEN	\$4,603.00	\$3,682.40	\$920.60
ETHEL DONSON	\$1,813.00	\$1,450.40	\$362.60
LOTTIE and HARDEN GRAHAM	\$2,099.00	\$1,679.20	\$419.80
MARGARET GAMBLE	\$1,563.90	\$1,251.12	\$312.78
HELEN BROWN	\$585.00	\$468.00	\$117.00
JEAN JOHNSON	\$727.97	\$582.38	\$145.59
DOROTHY LESLIE	\$932.00	\$745.60	\$186.40
HOWARD and MARY BEAUCHAMP	\$1,672.00	\$1,337.60	\$334.40
VERGINIA SANDIFER	\$1,356.50	\$1085.20	\$271.30
RUTH STOKES	\$3,429.40	\$2,743.52	\$685.88
ESSIE BURGESS	\$2,294.00	\$1,835.20	\$458.80
FRANKLIN and JOYCE WOODS	\$1,944.50	\$1,555.60	\$388.90
JANNIE LOYAL	\$3,523.00	\$2,818.40	\$704.60
CHERYL DAVIS	\$1,167.50	\$934.00	\$233.50

(LIST CONTINUED)

TEROY and MARIAN CLARK	\$3,772.30	\$3,017.84	\$754.46
DAVID and FERN HOLMES	\$5,321.60	\$4,257.28	\$1,064.32
ROSS LEE GRAHAM	\$516.00	\$732.80	\$220.80
RUSSELL and ELLEN FRAZIER	\$2,680.30	\$2,144.24	\$536.06

This court fervently hopes that the U.S. Housing and Urban Department will immediately act to assist the Newark Housing Authority to the end that it will shortly be in a position to move to rescind this order, or in the alternative provide it with the necessary funds and freedom of operation to make some other plan work.

Submit an order.

JOSEPH F. WALSH, P.J.D.C.