

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LENWOOD JOHNSON)
)
VS.) CIVIL ACTION NO. _____
)
THE HOUSING AUTHORITY)
OF THE CITY OF HOUSTON)

INTRODUCTION

Plaintiff seeks to protect his First Amendment Right of free association. Specifically Plaintiff, who is President of the Allen Parkway Village Resident Council, requests this Court enjoin Defendant, and its agents, from interfering with elections conducted by the Resident Council.

JURISDICTION

1. Plaintiff brings this action pursuant to 28 U.S.C. §1983. Pursuant to 28 U.S.C. §§ 1343 (3) and (4) this Court has jurisdiction to redress the deprivation, under color of any state law, regulation, custom or useage, of any right secured by the Constitution of the United States or by any act of Congress. Plaintiff alleges that he has and will be denied rights granted by the First and Fourteenth Amendments of the Constitution. Pursuant to 28 U.S.C. §1331, the Court has jurisdiction of any civil action which arises under the Constitution. The Court has jurisdiction under 28 U.S.C. §§ 2201 and 2202 to declare the rights of parties and to grant all further relief found necessary and proper.

PARTIES

2. Lenwood Johnson is President of the Allen Parkway Village Resident Council. He is an American Citizen, who resides at 924 Allen Parkway Village, Houston, Texas 77019.

3. The Housing Authority of the City of Houston (hereinafter "HACH"), is a public housing authority organized under state law for the sole purpose of providing housing to low income households and individuals. Tex. Rev. Civ. Stat. Ann. art 1296k. Service may be effectuated on Defendant HACH by serving its Board of Commissioners, consisting of H.J. Tollett, Zinetta Burney, John Zipprich, II, Char Rothrock, and Luis Cano, at 4217 San Felipe, Houston, Texas 77017.

FACTS

4. Allen Parkway Village (hereinafter "APV") is the largest public housing complex in this city. Built with federal funds, APV is owned and operated by HACH a stated created entity whose sole purpose is to provide housing to low income tenants. Because of the acceptance of federal funds used to build and maintain APV, HAC must comply with federal as well as state law pertaining to low income housing.

5. Congress has mandated that Public Housing Authorities, such as HACH, which have accepted federal funds must consult with the tenants of such housing or with tenant associations where such exist before undertaking certain critical decisions (like demolition of low income projects).

6. In the case of APV the residents have in fact established a tenants' association which is named The Allen Parkway Village Resident Council (hereinafter "Resident Council"). (The "By-Law and Constitution" of the Resident Council is annexed to Plaintiff's affidavit.)

7. The Resident Council generally assists tenants in administrative proceedings involving housing, seeks to secure needed repairs at APV, and acts as liason between the tenants and various public bodies (such as HACH, the police, welfare departments, and city council) and private organizations (such as neighborhood groups).

8. Increasingly the Resident Council has devoted its energy and resources to informing the tenants about HACH's efforts to demolish APV.

9. Although HACH has urged demolition of APV since at least 1981, it was not until last year that it began to seriously undertake those steps needed to secure federal approval for this idea. Those steps culminated in a June 5, 1984, vote by HACH's Board of Commissioners to formally request federal approval for APV's demolition.

10. For a variety of reasons the Resident Council opposes HACH's plan concerning APV. (See Plaintiff's affidavit.)

11. In November of 1983, the Resident Council voted to oppose HACH's plan to demolish APV. (See Resolution annexed to Plaintiff's affidavit.)

12. The present officers of the Resident Council have been exceedingly active in promoting as an alternative to demolition the rehabilitation of APV. Among the most active of its officers in this regard has been Plaintiff who holds the position of President of the Resident Council.

13. Given the fact that HACH by federal law must show that its demolition proposal was developed in consultation with the Resident Council the Council's position has not been popular with HACH.

14. The Authority announced on Monday, June 18, 1984, that it would hold a Resident Council election on Wednesday, June 20, 1984. HACH has no legal authority to announce such an election for the Resident Council.

15. Given the way that election was conducted it is clear that HACH sought to remove the present officers so as to smooth the way for its demolition proposal.

16. Not only did HACH personnel make it impossible for the present officers to conduct this election but further when the results returned Plaintiff to office, HACH personnel invalidated the election.

17. HACH used as its pretext for voiding the results the fact that not all ballots were tabulated. However, it was HACH personnel who had decided prior to the tabulation which ballots would in fact be counted.

18. Specifically Ms. Karen Moon, HACH's Director of Housing Management at APV, decided at the point that ballots were returned that any ballot not brought directly to her would not be counted. Ballots which were brought to other HACH personnel who in turn attempted to turn them over to Ms. Moon were not accepted by Ms. Moon. (See Affidavit of Gladys House.)

19. Thus prior to tabulation Ms. Moon was aware of the existence of some ballots which she ruled were ineligible for tabulation. Notwithstanding this fact she decided to have the ballots which were returned to her tabulated.

20. Only after Ms. Moon realized that the remaining ballots secured a victory for Plaintiff (by a margin of 34 votes) did Ms. Moon have the elections declared null and void.

21. On Friday, June 22, 1984, HACH announced that it would hold yet another Resident Council election on Monday, June 25, 1984 at 5:30 p.m.

22. Such an election will be held in a fashion designed to insure that Plaintiff does not win another term of office.

CAUSE OF ACTION

23. By taking control of the election of the Resident Council, an independent body, and then conducting the elections in such a fashion as to deprive Plaintiff of the benefit of such election, Defendant deprived Plaintiff of rights guaranteed him by the First Amendment of the United States Constitution.

PRAYER FOR RELIEF

PLAINTIFF requests this Court to grant the following relief:

a. Issue a Temporary Restraining Order pursuant to 28 U.S.C. §2284(3) and Rule 65, of the Federal Rules of Civil Procedure, prohibiting

Defendants, its officers and agents, from calling or conducting any election for the Resident Council, in that such action imposed by Defendant state actor deprives Plaintiff of his right to assembly as is guaranteed by the First and Fourteenth Amendments, and Plaintiff will otherwise suffer immediate, irreparable harm, and because Plaintiff is likely to prevail on the merits;

b. Adjudge and declare that defendant's actions detailed above violate Plaintiff's rights secured by 42 U.S.C. §1983 and the First and Fourteenth Amendments of the United States Constitution;

c. Preliminarily and permanently enjoin defendant, its officers and agents, from calling or conducting any election for the Resident Council;

d. Award Plaintiff his reasonable attorneys fees, cost and disbursements; and

e. Award such additional relief as is just and proper.

Dated: Houston, Texas
June 24, 1984



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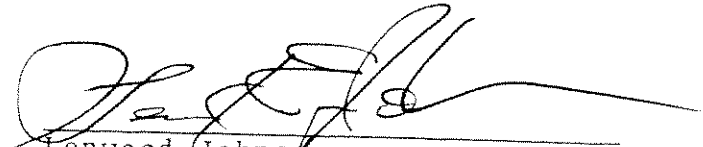
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Attorneys for Plaintiff

Affidavit

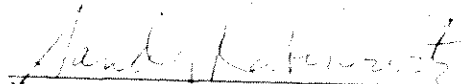
State of Texas)
)
County of Harris)

Lenwood Johnson, the Plaintiff above named, being duly sworn, upon oath says that he has read the foregoing Petition and that all the allegations contained therein are true to his own knowledge.



Lenwood Johnson

Subscribed and sworn to before me on this the 24th day of June, 1984.



Notary Public in and for
The State of T E X A S

My Commission Expires: 6 26 84

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LENWOOD JOHNSON)
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OF THE CITY OF HOUSTON)

PLAINTIFF'S MEMORANDUM OF AUTHORITIES IN
SUPPORT OF HIS REQUEST FOR A TEMPORARY RESTRAINING ORDER

Plaintiff, the President of the Allen Parkway Village Resident Council, seeks an order temporarily restraining Defendant, The Housing Authority of The City of Houston, from conducting an election of officers for the Resident Council at 5:30 p.m. this afternoon in light of Defendant's previous interference at last week's election which Plaintiff won. By interfering with the electoral process Defendant has violated Plaintiff's right of association as is guaranteed by the First Amendment of the United States Constitution.

In order for this Court to grant a Temporary Restraining Order pursuant to Rule 65, Fed. R. Civ. Proc., Plaintiff must establish: (a) that he is likely to prevail on the merits; (b) that he is in danger of suffering irreparable harm; (c) that potential harm to Defendant from issuance of a temporary restraining order does not outweigh possible harm to Plaintiff if such order is denied; and, (d) that granting of the temporary restraining order would not be against the public interest. See Knights of KKK v. East Baton Rouge Parrish School Board, 578 F.2d 1122 (5th Cir. 1978); Canal Authority v. Callaway, 489 F.2d 567 (5th Cir. 1974); and Blackshear Residents Organization v. Romney, 472 F.2d 1197 (5th Cir. 1973). This burden

is one that Plaintiff is fully prepared to meet and accordingly, this Court is compelled to grant Plaintiff's application for a temporary restraining order.

I.

Plaintiff has a Substantial
Likelihood of Success on the Merits

This cause of action presents a straight forward request by the Plaintiff Lenwood Johnson to exercise his Freedom of Association as is guaranteed by the First Amendment of the United States Constitution without interference by Defendant Houston Authority of the City of Houston (Hereinafter "HACH") an entity acting under color of state authority. In order to understand the dispute between these parties it is necessary to explain who they are and what their relationship is to one another.

Plaintiff is a resident of Allen Parkway Village (hereinafter "APV") which is the largest publicly operated low income housing complex in Houston. Defendant is a Public Housing Authority organized under state law for the sole purpose of providing housing to low income households and individuals. Tx. Rev. Civ. Stat. Ann. art 1296k. In order to build and maintain APV, HACH accepted and continues to accept federal funds disbursed by The United States Department of Housing and Urban Development pursuant to The Housing and Urban Development Act, 42 U.S.C. §1437 et seq. Having accepted such funds, HACH is obligated to comply with applicable federal laws pertaining to publicly assisted housing for low income tenants. These laws are set out at 42 U.S.C. §1437 et seq. and 24 CFR 860 et seq.

The Housing and Urban Development Act of 1970 specifically embodied a Congressional directive that tenants of low income were to be involved in vital decisions concerning public housing. Specifically, Congress intended the creation of "tenant organizations" which would participate in the management of low income housing projects. See, 42 U.S.C. 1437a(c)(2). To implement this Congressional directive, the United States Department of Housing and Urban Development (hereinafter "HUD") has issued regulations calling for public housing authorities, such as HACH, to consult with tenant organizations before undertaking major changes in the operation of public housing. Thus for example 24 CFR 407(c) urges entities like HACH to work with tenant organizations when converting a public housing complex from complex-wide to individual unit metering of utilities. Of even more importance to the case at bar is the requirement at 24 CFR 870.7(a) which states:

"Before submission to the appropriate HUD field office of a request for demolition and/or disposition, the PHA shall provide written notification to the tenants of the project and the tenant organization, if any, of the proposed request, and afford them a reasonable time to submit comments, including suggested alternatives, concerning the proposed action of the PHA. The PHA shall give full and serious consideration to the comments submitted by the tenants. The PHA shall provide HUD with copies of all written comments and alternatives submitted to the PHA by, or on behalf of, tenants and/or the tenant organization as well as the PHA's position concerning each comment and alternative."

Clearly then both Congress and HUD intended that such tenant organizations would be independent from Public Housing Authorities, such as HACH, or else the need for such consultation would be superfluous.

The tenants of APV have created such an organization calling it The Allen Parkway Village Resident Council (hereinafter "Resident Council"). Without detailing all of its functions it should be noted that at present the Resident Council is the vehicle by which tenants at APV are registering their opposition to HACH's proposal to demolish APV. Indeed the most vocal opponent of HACH's proposal is none other than Plaintiff who was elected President of the Resident Council in June of 1983.

Plaintiff's campaign to resist HACH's demolition proposal is reflected by his successful efforts: to secure the Resident Council's approval last November of a resolution opposing demolition (See the Resolution attached to Plaintiff's affidavit); to secure the Resident Council's approval thereafter to obtain legal counsel to assist the tenants to resist demolition; and finally, to secure the assistance of the architectural community in and around Houston in the creation of plans proving that rehabilitation is a feasible alternative to the demolition of APV.

Needless to say, Plaintiff's efforts, especially in light of the regulation set forth at 24 CFR 870.6 (concerning HACH's need to inform HUD as to the tenant organization's position concerning demolition) have not been well received by HACH. Indeed throughout the last year HACH has attempted to make Plaintiff's job, as President of the Resident Council, every more difficult. HACH has for example just this year refused for the first time to allow the Resident Council the use of APV's copying machine. Further at various times it has refused to make the keys to the community center available to Plaintiff thereby forcing the Resident Council to cancel meetings.

Realizing that these minor inconveniences were not sufficient to silence Plaintiff or the Resident Council, HACH apparently decided to unseat Plaintiff and the other officers of the Resident Council by scheduling and then controlling a Resident Council election.

Without legal authority the HACH announced on June 18, 1984, that elections would be held on June 20, 1984, for new officers of the Resident Council. Moreover, on that date Plaintiff discovered that neither he nor the other officers of the Resident Council would be allowed to chair the meeting. Further HACH personnel took it upon themselves to distribute and collect the ballots. Finally, Ms. Karen Moon, Director of Housing Management for APV, decided that only ballots returned directly to her could or would be counted; notwithstanding the fact that she was made aware prior to the tabulation of the ballots that this meant that a number of ballots would not be eligible for tabulation.

Only after Plaintiff secured the majority of ballots counted (87 for Plaintiff, 53 for his pro-demolition opponent) did Ms. Moon have the election declared invalid.

Hoping for better results, HACH announced on Friday, June 22, 1984, that it would hold another round of elections on June 25, 1984. Yet in doing so, it will be violating Plaintiff's Freedom of Association as is guaranteed by the First Amendment.

The United States Supreme Court:

"has acknowledged the importance of freedom of association in guaranteeing the right of people to make their voices heard on public issues:

"Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly."

NAACP v. Alabama, 357 U.S. 449, 460 (1958).

More recently the Court stated: "The First Admendment protects political association as well as political expression."

Buckley v. Valeo, supra, at 15.

Citizens Against Rent Control v. Berkley, 454 U.S. 290, 295 (1981)

According to the Fifth Circuit "The right of association is fundamental. See, e.g., Richmond Newspaper Inc. v. Virginia, ___ U.S. ___, ___, 100 S.Ct. 2814, 2829, 65 L.Ed.2d 973 (1980) (plurality opinion); NAACP v. Button, 371 U.S. 415, 430, 83 S.Ct. 328, 336, 9 L.Ed.2d 405, Sotto v. Wainwright, 601 F.2d 184, 191 (5th Cir. 1979), cert. denied, 445 U.S. 950, 100 S.Ct. 1597, 63 L.Ed.2d 784 (1980)." Aladdin's Castle, Inc. v. City of Mesquite, 630 F.2d 1029, 1041 (5th Cir. 1980), rev. in part, 455 US 283 (1982). A long line of cases establishes that the right of free association protects associational activities directed at a plethora of ends, Griswold v. Connecticut, 381 U.S. 479, 483 (1965), including political, e.g., Buckley v. Valeo, 424 U.S. 1, 22 (1976), economic, UMW v. Illinois State Bar Association, 389 U.S. 217, 221-25 (1967), familial, e.g., Moore v. City of East Cleveland, 431 U.S. 494 (1977) (plurality opinion), intimate, e.g. Griswold v. Connecticut, supra., 381 U.S. at 486; see Karst, The Freedom of Intimate Association, 89 Yale L.J. 624 (1980); see generally Raggi, An Independent Right to Freedom of Association, 12 Harv.C.R.-C.L. L.REV. 1 (1977).

In the present instance Plaintiff has exercised his right "to engage in association for the advancement of beliefs and ideas." N.A.A.C.P. v. Button, 371 U.S. 415, 430 (1963).

Defendant, acting under color of state authority, interfered with Plaintiff's ability to act in concert with the majority of tenants in APV who elected him to a second term of office on June 20, 1984.

Given the fundamental nature of Plaintiff's right, any regulation let alone interference by a state actor, such as HACH, "is always subject to exacting judicial scrutiny." Citizens Against Rent Control, supra, 454 U.S. at 298. Indeed according to the Fifth Circuit regulation or interference with association is "not a legitimate governmental purpose, absent a compelling state interest to warrant such restraint." Aladdin's Castle, Inc. v. City of Mesquite, 630 F.2d 1029, 1042 (5th Cir. 1980), rev. in part, 455 U.S. 283 (1982). In order to be constitutional any state action regulating or interfering with the right of association must not "unnecessarily burden or restrict constitutionally protected activity," Dunn v. Blumstein, 405 U.S. 330, 343 (1972), must be drawn with "[p]recision." N.A.A.C.P. v. Button, supra, 371 U.S. at 438, must be "tailored," Shapiro v. Thompson, 394 U.S. 618, 631 (1969), to accomplish its legitimate objectives, and must not be the most restrictive method of regulation if other, "less drastic means" are available Shelton v. Tucker, 364 U.S. 479, 488 (1960).

Clearly Defendant's actions do not pass this stringent constitutional test. Defendant's actions, which seek to deprive Plaintiff of his office so as to mute the weight of his opposition to Defendant's demolition proposal, are not even legitimate state ends, let alone

narrowly tailored to accomplish their ends. Rather it is a form of censorship which power government under our Constitution is not afforded. See, Police Department v. Mosley, 408 U.S. 92, 95 (1972) ("The First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content.") If Alabama was found to lack a legitimate state end in seeking to obtain merely the membership rosters of the NAACP, can it seriously be doubted that the state pursues an illegitimate end when it tries to take over the internal operations of a private association in order to influence the membership of that association to adopt policies more amenable to the state? See, N.A.A.C.P. v. Alabama ex rel Patterson, 357 U.S. 449 (1958). The answer is unmistakably clear - the state is without authority to do what Defendants have attempted.

Plaintiff has, therefore, proven a likelihood success on the merits warranting the entry of the temporary relief he seeks.

II.

Plaintiff Will Suffer Irreparable Harm

In order to obtain a temporary restraining order, Plaintiff is required to show not only likelihood of success on the merits, but also the existence of a threat of irreparable injury as a prerequisite to said order.

In this case, the irreparable injury is readily apparent. The violation of constitutionally protected rights causes irreparable harm per se.

Government action depriving or chilling the exercise of First Amendment rights constitutes irreparable injury per se for the purpose of determining whether preliminary injunctive relief is appropriate. Elrod v. Burns, 427 U.S. 347 (1976). Cf., Constructors Association v. Kreps, 573 F.2d 811, 820, n.33 (3d Cir., 1978); Lewis v. Kugler, 446 F.2d 1343, 1350 (3d Cir., 1971), cert. denied, 434 U.S. 931 (1977). The Court in Elrod flatly stated that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." 427 U.S. at 373. Among the numerous other decisions endorsing the proposition that an individual is irreparably harmed by the restraint of his First Amendment rights are: Knights of Klu Klux Klan v. East Baton Rouge Parish School Board, 578 F.2d 1122 (5th Cir., 1978) (defendant enjoined to grant plaintiff access to school building for meetings); Princeton Education Association v. Princeton Board of Education, 480 F. Supp. 962 (S.D. Ohio 1979) (defendant enjoined to allow plaintiffs to address Board meeting); Solid Rock Foundation v. Ohio State University, 478 F. Supp. 96 (S.D. Ohio 1979) (university enjoined from prohibiting distribution of plaintiff's newspaper on campus); Walker v. Wegnes, 477 F. Supp. 648 (D.S.D. 1979) (state enjoined from enforcing anti-solicitation law).

If this Court does not act immediately to grant relief, Plaintiff will continue to be denied substantial First Amendment Rights as Defendant intends to hold yet another Resident Council election this very day at 5:30 p.m.

The district court has no discretion to deny relief by a preliminary injunction to a person who clearly established by undisputed evidence that he is being denied a constitutional right.

Henry v. Greenville Airport Commission, 284 F.2d 631, 633 (4th Cir. 1960). See also, Doe v. Mundy, 514 F.2d 1179 (7th Cir. 1975).

III.

Injury to the Plaintiff Far Outweighs any Injury to the Defendant

While Defendant cannot possibly point to any injury that it would suffer as a result of a temporary delay in the elections it has scheduled for this evening at 5:30 p.m., Plaintiff has proven that Defendant's actions during the last week have seriously deprived him of his right of free association as is guaranteed by the First Amendment of the United States Constitution. Should this election therefore not be enjoined Plaintiff will continue to be deprived of his First Amendment right.

IV.

The Public Interest is Served by Granting a Temporary Restraining Order

As the Supreme Court of the United States has noted "Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This right was enshrined in the First Amendment of the Bill of Rights." N.A.A.C.P. v. Button, 371 U.S. 415, 431 (1963). Defendant, as shown above, is attempting to deprive Plaintiff of his right of association to engage in political association. The public interest is clearly served by granting this temporary restraining order so that Plaintiff and other tenants at Allen Parkway Village may enjoy the benefits that our Constitution affords them.

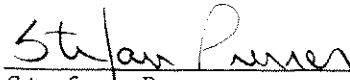
V.

Conclusion

For the foregoing reasons and authorities cited above, Plaintiff Lenwood Johnson asserts that he has established, pursuant to Rule 65, Fed. R. Civ. Proc., that (1) he is likely to prevail on the merits; (2) he is in danger of suffering irreparable harm; (3) potential harm to the Defendant, from issuance of a temporary restraining order, does not outweigh possible harm to Plaintiff if such relief is denied; and (4) issuance of a temporary restraining order will serve the public interest. Further Plaintiff will suffer such injury "before the adverse party or his attorney can be heard in opposition." Rule 65(b), Fed. R. Civ. Proc.

Accordingly, this Court is compelled to grant Plaintiff's application for a temporary restraining order.

Respectfully submitted,



Stefan Presser
American Civil Liberties Union
1236 West Gray
Houston, Texas
(713) 524-6021

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LENWOOD JOHNSON

VS.

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OF THE CITY OF HOUSTON


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MOTION FOR ENTRY OF A TEMPORARY
RESTRAINING ORDER AND ORDER TO SHOW CAUSE

Pursuant to Rule 65, Fed. R. Civ. P., Plaintiff requests that this Court, based on the reasons set forth in Plaintiff's Verified Complaint, Affidavits and Memorandum of Authorities in Support of His Request for a Temporary Restraining Order, immediately enjoin Defendant, its officers and agents, from interfering with Plaintiff's constitutional right of Freedom of Association by scheduling or conducting any election of officers for the Allen Parkway Village Resident Council, an independent association of which Plaintiff is president.

Further based on the foregoing documents Plaintiff request that this Court bring this matter on by Order to Show Cause why Defendant should not be preliminarily enjoined from interfering with Plaintiff's rights pending the final resolution of this matter.

Respectfully submitted,



Stefan Presser
American Civil Liberties Union
1236 West Gray
Houston, Texas
(713) 524-6021

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
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LENWOOD JOHNSON)
)
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)
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OF THE CITY OF HOUSTON)

TEMPORARY RESTRAINING ORDER

Plaintiff, having moved this Court pursuant to Rule 65, Federal Rules of Civil Procedure for a Temporary Restraining Order enjoining Defendant, The Housing Authority of The City of Houston, its agents and employees, officers under its command, and all other persons in active concert and participation with them, from scheduling or conducting any election of officers for the Allen Parkway Village Resident Council or in any other way interfere with Plaintiff's right of Freedom of Association.

Upon the pleadings and evidence submitted on behalf of the Plaintiff and the hearing held to date, and upon the finding by this Court that: (1) Plaintiff is suffering or is in danger of suffering, irreparable harm in that he has been deprived of his constitutionally protected right of freedom of association; (2) Plaintiff is likely to prevail on the merits; (3) the potential harm to the Defendant from issuance of a Temporary Restraining Order does not outweigh potential harm to Plaintiff if such relief is denied; and (4) the issuance of a Temporary Restraining Order will serve the public interest, it is,

ORDERED, ADJUDGED and DECREED that pending a final hearing and determination by this Court upon the merits of this cause of

action, that:

Defendant, its agents and all others acting in concert with them, or subject to their official control and direction, are hereby enjoined from scheduling or conducting any election of officers for the Allen Parkway Village Resident Council or in any other way interfering with Plaintiff's right of Freedom of Association.

Dated this _____ day of _____, 1984, in Houston, Texas.

UNITED STATES DISTRICT JUDGE

EFFECTIVE the _____ day of _____, 1984, at _____
o'clock _____.m.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LENWOOD JOHNSON)
)
V.) CIVIL ACTION NO. _____
)
THE HOUSING AUTHORITY)
OF THE CITY OF HOUSTON)

ORDER TO SHOW CAUSE

Upon the verified complaint and the affidavits attached thereto,

IT IS ORDERED THAT the Defendant show cause in Room _____ of the United States Courthouse, at 515 Rusk Avenue, Houston, Texas, on the _____ day of June, 1984, at _____ o'clock, or as soon thereafter as counsel can be heard, why an Order should not issue or the Court take such other action as shall:

1. Preliminarily enjoin Defendant, its officers, agents, and all persons acting on its behalf, from scheduling or conducting any election of Officers of the Allen Parkway Village Resident Council: and
2. Grant Plaintiff such other relief as may be just and proper;

it appearing that irreparable harm is likely to result unless this Court preliminarily enjoins defendant, that plaintiff at least raise sufficiently serious questions going to the merits to make them a fair ground for litigation, and that the balance of hardships tips in favor of plaintiff; and it is further

ORDERED that pending the return date of plaintiff's motion for a preliminary injunction, Defendant and all persons acting on its behalf, be and hereby are temporarily restrained from scheduling or conducting any election of officers of the Allen Parkway Village Resident Council; and it is further

ORDERED that service of this order on Defendant on or before
_____ o'clock on the _____ day of June, 1984, be deemed sufficient;

DONE and ORDERED AT the United States Courthouse, 515 Rusk Avenue,
Houston, Texas on this 25th day of June, 1984, ____ o'clock __m.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
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LENWOOD JOHNSON

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CIVIL ACTION NO. _____

CERTIFICATE OF ATTORNEY

I, Robert Sohns, attorney for the Plaintiff, hereby certify that the Defendant through its attorney, Marsha Johnson, received notification of this lawsuit on June 25, 1984, and said communication made to the attorneys for the Defendant by telephone prior to filing the suit.

I further certify that the delay to furnish formal notice of this Application to Defendant would in all likelihood result in the further denial of Plaintiff's constitutionally protected rights. The risk of irreparable injury to the Plaintiff far outweigh any injury or inconvenience to Defendant by the issuance of a Temporary Restraining Order.



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Attorneys for Plaintiff

A F F I D A V I T

STATE OF TEXAS)
)
COUNTY OF HARRIS)

LENWOOD JOHNSON, being duly sworn, deposes and says:

1. I am a resident of Allen Parkway Village. Since March of 1980 my son and I have lived at 924 Allen Parkway Village, Houston, Texas 77019.

2. I was elected President of the Resident Council of Allen Parkway Village in June of 1983.

3. Allen Parkway Village Resident Council has as its stated purposes the improvement of living conditions in the area and surrounding community, cooperation with management concerning maintenance of the complex and the serving as liaison between residents, management and community organizations. (See By-Law and Constitution of Allen Parkway Village Resident Council, which is attached as Appendix "A".)

4. Throughout my tenure as President, the Council has assisted tenants in securing grievance hearings concerning such issues as fines for late charges and the policy of towing "illegally" parked cars. Further, we have continuously sought to secure needed repairs for the physical plant of Allen Parkway Village which has been badly neglected by the Housing Authority. Finally when necessary we have legally assisted tenants to resist unwarranted eviction proceedings. More generally we aid tenants in their contacts with police and welfare departments and attempt to be a liaison for Allen Parkway Village with surrounding communities.

5. Increasingly the Resident Council has devoted its energy and resources to informing the tenants about the Housing Authority of the City of Houston's efforts to demolish the Allen Parkway Village.

6. Partly because the Authority's effort to demolish Allen Parkway Village has resulted in the Authority's total neglect of the physical plant of the Village and partly because the Authority has been unable to build any new low income housing during the last two years which could be used to replace the Village the Resident Council voted to resist the Authority's demolition decision. (See Resident Council Resolution attached as Appendix "B".)

7. The present officers of the Resident Council have been exceedingly active in promoting as an alternative to demolition the rehabilitation of the Village.

8. Given the fact that the Authority by law must show that its demolition proposal was developed in consultation with the Resident Council's the Counsel's position has not been popular with the Authority.

9. On Monday, June 18, 1984, the Authority announced that it would hold a Resident Council election on Wednesday, June 20, 1984. Given the way the election was conducted it is clear that the Authority sought to replace the officers of the Resident Council so it could smooth the way for its demolition proposal.

10. Although I was unsure by what right the Authority called this election I instructed the Nominating Committee to prepare for it by selecting candidates and creating a ballot.

11. When I arrived at the Community Center on the evening of the election I discovered that Housing Authority personnel were "guarding" the door against entry of "illegals". I informed them the Resident Council had a roster of tenants to accomplish this end. The Authority personnel adamantly refused to allow myself and other Council officers to take control of this, or as I was to discover, any other aspect of the meeting.

12. Shortly after I called the meeting to order, Ms. Karen Moon, who is the Director of Housing Management at Allen Parkway Village, informed me that I would not be allowed to preside. Instead, she stated that Mr. Vincent who is President of the Council of Development Presidents would conduct the meeting. I protest that the Allen Parkway Village Resident Council was an independent organization which had not invited the Authority to this meeting. At this point Ms. Moon had me removed by the police.

13. Having asserted her authority Ms. Moon placed Mr. Vincent in charge of the meeting.

14. Mr. Vincent was informed that the Nomination Committee had a report to make. After accepting the report concerning the president's position, nominations were accepted from the floor. At this point, Mr. Ta Tu's name was entered in contest against mine.

15. It should be noted that Mr. Tu had recently spoken in favor of the Authority's demolition plan at a city council meeting.

16. Immediately thereafter Mr. Vincent attempted to secure a vote on behalf of Mr. Tu. The residents however protested saying that they wished to use the ballots already drafted.

17. Repeatedly, Mr. Vincent attempted to get the residents to vote by a show of hands. When at last he realized that the gathering opposed this idea, he assented to a secret vote, but only for the position of Presidency.

18. Thereafter ballots were completed and returned. The tabulation of those ballots established that I had secured 87 votes to Mr. Tu's 52.

19. Notwithstanding this tabulation, which Ms. Moon assisted in creating, Ms. Moon declared that I was not the winner because of the existence of a number of questionable ballots. Ms. Moon, however, know of these ballots

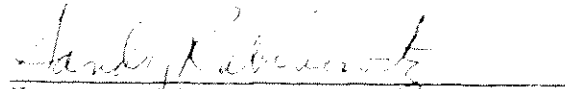
before she began the tabulation and it was she who made the decision not to count them.

20. On Friday, the Housing Authority announced that it will hold another Resident Council election on Monday, June 25, 1984, at 5:30 p.m.

21. It is clear to me that the Authority has no intention of conducting any election which it believes I might win.


LENWOOD JOHNSON

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, this the 24th day of June, 1984.


Notary Public in and for the State
of T E X A S

My Commission Expires: 8 26 84

A F F I D A V I T

STATE OF TEXAS)
)
COUNTY OF HARRIS)

GLADYS HOUSE being duly sworn, deposes and says:

1. I am President of the Freeman's Town Association a not for profit organization whose purpose is to ensure the effective participation of Fourth Ward residents in the redevelopment and revitalization of their community.

2. Such redevelopment for the present residents will be impossible should Allen Parkway Village be demolished. Indeed, demolition of Allen Parkway Village will likely lead to the whole sale razing of the Fourth Ward. It is for this reason that the Association opposes the Housing Authority of the City of Houston's proposal.

3. Lenwood Johnson, President of the Allen Parkway Village Resident Council, has been the most tireless of demolition opponents. Thus, when I learned that the Housing Authority had scheduled an election for Allen Parkway Village Resident Council officers without even so much as consulting with the present officers, I feared that this was yet one more step taken by the Authority to steam roll the opposition.

4. My fears were confirmed when I arrived at the Allen Parkway Community Center last Wednesday evening only to witness Ms. Karen Moon order Houston Police officers to physically eject Mr. Johnson from the podium.

5. Shortly thereafter, with Housing Authority personnel firmly in control of the meeting, a pro-demolition candidate was found to challenge Mr. Johnson's presidency.

6. Only after this was accomplished, did Ms. Moon begin to hand out ballots.

7. Apparently Ms. Moon had further decided that only ballots brought directly to her would be counted for when I brought to her attention a number of ballots which had been brought forward and deposited with other Housing Authority officials she simply destroyed them. Similarly when other Housing Authority officials presented ballots to her which they had been given, she refused to incorporate these with hers although she failed to destroy them.

8. Thus, at the point that Ms. Moon decided to count the ballots, she was aware that there were a number of ballots which she was refusing to count.

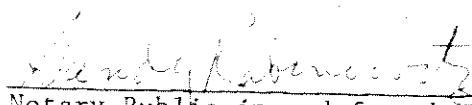
9. It was not until after the conclusion of the count, however, when it was clear that Mr. Johnson had won that she suddenly became concerned about these other ballots.

10. She then declared that the election was null and void because these other ballots were not counted.

11. There is not the slightest doubt in my mind that the Housing Authority intends to remove Mr. Johnson from office.


GLADYS HOUSE

24th SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, this the day of June, 1984.


Notary Public in and for the State
of T E X A S

My Commission Expires: 8-22-84

Carroll DIB ✓
36 ✓
CB ✓
Johnson's Heritage
Housing Authority
Carroll

THE NEW YORK TIMES, WEDNESDAY, MARCH 20, 1985

Houston Aide Accused of Ill-Treating Vietnamese

By WAYNE KING
Special to The New York Times

HOUSTON, March 19 — The head of a public housing tenants' organization testified today that the executive director of the Houston Housing Authority had displayed a pattern of treating Vietnamese tenants with contempt and using a racial epithet in referring to them.

The testimony came in the second day of a hearing on a motion to stop the authority from evicting Vietnamese tenants from an inner-city housing project.

On Monday lawyers for the Vietnamese introduced a study, commissioned by the housing authority itself, that suggested the agency had intentionally "steered" politically powerless Vietnamese into the project to make it easier for the authority to let it decline, tear it down and sell the downtown land for a large profit.

The theory, according to the housing authority study, was that "a decision to demolish a project that houses Vietnamese refugees would cause less political 'fallout' than the same decision to tear down a project housing mostly black families."

Director Disputes Study

Despite the study, which cost the housing authority \$57,000, its executive director, Earl Phillips, testified Monday that the authority had not "steered" Vietnamese into the project.

Built in the 1940's as an all-white project, the 1,000-unit project, Allen Parkway Village, had by the mid-1970's become heavily black, but in recent years it has housed an increasing number of Southeast Asians, who now account for about 60 percent of its occupancy.

Mr. Phillips, who is black, offered no explanation for the rapid change in the project's ethnic makeup and maintained it was "not significant."

Today the head of the project's tenant council, Lenwood Johnson, who is also black, said that Mr. Phillips had "a lot of contempt" for Vietnamese and "called them names that were very derogatory."

One such word, he said, was "tang," which he said he could not define but which he compared to other racial epithets.

Use of Term Is Denied

Mr. Phillips, who testified for more than five hours Monday, did not take the stand today. At a recess, however, he denied ever using such a term and said, "I don't even know what the word means." He described Mr. Johnson's testimony as "unfounded."

Mr. Johnson said Vietnamese tenants were treated differently from others at the housing project. "No, I have not seen them treat any other race that way," he said. "It kind of makes me ashamed."

Mr. Johnson said that Asians in the project, most of whom speak little or no English, were sometimes evicted without warning.

"I've seen them board up houses — I've seen them lock out Indo-Chinese

families without a hearing," he said.

"I saw them board up a house with the family in it, the housing authority maintenance people," he said. "They came and took out the stove and the hot water heater and started boarding up the windows. They were in the house at the time."

Mr. Phillips did not comment specifically on those allegations but characterized the testimony in general as "not the truth."

However, he confirmed that units that became vacant in the housing project were boarded up rather than filled with other tenants.

The housing authority voted in late 1983 to tear down the project and use the land to generate income through sale or lease, but the Department of Housing and Urban Development, which provides Federal subsidies for Allen Parkway Village, has not given its permission to demolish the project.

Renewal Aid Was Rejected

Critics of the plan to tear it down maintain that the city has embarked on a program of willful neglect to force the Federal Government to allow abandon-

ment of the project so the land can be used for more attractive redevelopment. They note that the housing authority spurned \$10 million in Federal aid to renovate the project.

Lawyers for the Vietnamese on Monday introduced the housing authority's 1985 budget, which showed 905 units available, the same number that has been used for several years. However, the housing authority acknowledges that fewer than 500 of the project's original 1,000 units are now in service, the rest being boarded up.

After a detailed examination of the budget in the courtroom Monday, Sam Hudman, an administrator in the Houston office of the Department of Housing and Urban Development, conceded that the project had collected more than \$700,000 over the last three years for units that were boarded up.

He described the spending for such units as "unusual" but not illegal.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LENWOOD JOHNSON

VS.

THE HOUSING AUTHORITY
OF THE CITY OF HOUSTON

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CIVIL ACTION NO. H-84-2682 C.A.


AGREED ORDER

Disregarding the election held on June 20, 1984, the Resident Council of Allen Parkway Village is free to choose the date, time and the method of election of officers for the Allen Parkway Village Resident Council with an observer from the Housing Authority of the City of Houston, if it so chooses to attend.

SIGNED AND ENTERED THIS _____ day of _____, 1984.

Norman W. Black
United States District Judge

APPROVED AS TO FORM AND SUBSTANCE:



Stefan Presser
ATTORNEY FOR PLAINTIFF

Marcie Johnson
ATTORNEY FOR DEFENDANT