


Fall 2007

Is Chicago's Plan for Transformation Promoting Integration or Reinforcing Segregation?, 41 J. Marshall L. Rev. 249 (2007)

Joe O'Brien

Follow this and additional works at: <https://repository.law.uic.edu/lawreview>

 Part of the [Civil Rights and Discrimination Commons](#), [Constitutional Law Commons](#), [Housing Law Commons](#), [Law and Race Commons](#), [Law and Society Commons](#), [Legislation Commons](#), [Property Law and Real Estate Commons](#), [Social Welfare Law Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

Joe O'Brien, *Is Chicago's Plan for Transformation Promoting Integration or Reinforcing Segregation?*, 41 J. Marshall L. Rev. 249 (2007)

<https://repository.law.uic.edu/lawreview/vol41/iss1/8>

This Comments is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Review by an authorized administrator of UIC Law Open Access Repository. For more information, please contact repository@jmls.edu.

IS CHICAGO'S PLAN FOR TRANSFORMATION PROMOTING INTEGRATION OR REINFORCING SEGREGATION?

JOE O'BRIEN*

I. INTRODUCTION

On a frigid morning in February of 1998, Verna Berryman and her seventeen-year-old son Vernon were forced out of the Cabrini-Green housing project that had been their home for six years.¹ Over the next several months, Berryman and her son would engage in an agonizing journey traversing through a myriad of troubled neighborhoods in search of a quality home in the private market.² Like Berryman, thousands of uprooted tenants are forced to make a similar expedition because of what Chicago Housing Authority (CHA) officials call the "Plan for Transformation."³

Under this scheme, the CHA is using federal grants to integrate the city by destroying massive amounts of aged public housing to construct mixed income developments in place of the decrepit dwellings.⁴ As a result, many CHA tenants are forced to use federally funded housing vouchers and relocate in the private market.⁵

* J.D., May, 2008, The John Marshall Law School. The author appreciates the hard work of the current Editorial Board of *The John Marshall Law Review*. He also thanks his personal editor John Heintz, for assisting him in the writing of this Comment. The author dedicates this Comment to his family and extends much thanks to Adam Penkhus.

1. David E. Thigpen, *The Long Way Home*, TIME, Aug. 5, 2002, 42, available at <http://www.time.com/time/magazine/article/0,9171,1002982,00.html>.

2. *Id.*

3. *Id.*

4. *Id.*

5. See Edward Bair & John M. Fitzgerald, *Hedonic Estimation and Policy Significance of the Impact of HOPE VI on Neighborhood Property Values*, 22 REV. OF POL'Y RES. 771, 774 (2005) (reiterating that the main criticism of the HOPE VI program is that it causes mass displacement of CHA tenants).

The CHA's plan is highly controversial. There have been allegations that minority tenants are encouraged by CHA's own agents to relocate into racially ghettoized neighborhoods.⁶ Complaints also state that the discriminatory effects of the relocations (that minority tenants end up relocating to racially segregated neighborhoods) violate the Fair Housing Act (FHA),⁷ which requires housing agencies to "affirmatively further" fair housing through the promotion of more racially and economically integrated housing for tenants.⁸

Is the CHA's plan in fact failing to further the concepts of fair housing mandated by the FHA? To better answer this question, part II.A discusses the influence and effects of racism on public housing. Part II.B analyzes the federal government's attempt to remedy a longstanding history of racist housing policies through the introduction of the HOPE VI program.

Part II.C examines the way in which the CHA is using HOPE VI grants to integrate the city. It also discusses aspects of this plan that have led to litigation. Because the issue of whether or not the plaintiff's claims violate the FHA is still being litigated and remains unresolved, part III analyzes whether the implementation of the CHA's plan does, indeed, violate the FHA. Because the manifest weight of the evidence points to a clear violation of the act, Part IV offers proposals to remedy the violations.

II. BACKGROUND

A. *The Influence and Effects of Racism on Federally Financed Public Housing and How the Courts Have Intervened*

Federally financed public housing was created under the Public Works Administration Act in 1933.⁹ Until the codification

6. See *Wallace v. Chi Hous. Auth.*, 224 F.R.D. 420, 423 (N.D. Ill. 2004) (alleging CHA policy steers residents into racially and economically segregated neighborhoods); *Wallace v. Chi. Hous. Auth.*, 321 F. Supp. 2d 968, 972 (N.D. Ill. 2004) (allowing plaintiff's request for reconsideration in part); *Wallace v. Chi. Hous. Auth.*, 298 F. Supp. 2d 710, 714 (N.D. Ill. 2003) (alleging the CHA's practices concerning relocation led to segregated communities with high crime and poverty); see also *Cabrini-Green Local Advisory Council v. Chi. Hous. Auth.*, No. 04 C 3792, 2005 U.S. Dist. LEXIS 273, at *21 (N.D. Ill. 2005) (alleging defendants knew the program would perpetuate residential housing segregation).

7. Fair Housing Act, 42 U.S.C. §§ 3601-3631 (2000).

8. 42 U.S.C. §§ 3608(e)(5), 3601; see also *Wallace*, 298 F. Supp. 2d at 718-19 (holding plaintiff's stated claims for violations of the FHA and HUD regulations established a duty to affirmatively further fair housing).

9. Florence Wagman Roisman, *Keeping the Promise: Ending Racial Discrimination and Segregation in Federally Financed Housing*, 48 How. L.J. 913, 917 (2005).

of Title VI of the Civil Rights Act of 1964, it was well-accepted policy to racially segregate public housing.¹⁰ With federal funding and approval, local housing agencies constructed public housing in underdeveloped, racially segregated neighborhoods and selected minority tenants for these developments.¹¹ Often, the selected sites had high crime and poverty rates.¹² Many of the developments were also isolated from the rest of the city.¹³ Even after the enactment of Title VI of the Civil Rights Act, “the federal housing agency took no voluntary, effective action to desegregate public housing.”¹⁴

Successful claims filed against the U.S. Department of Housing and Development (HUD) and local housing agencies started a movement that would eventually change the face of public housing. In 1971, the Seventh Circuit held that HUD’s “knowing acquiescence” in the CHA’s discriminatory housing programs violated the Due Process Clause of the Fifth Amendment and the Civil Rights Act of 1964.¹⁵

In 1985, a district court in Texas responded to a suit by a group of public housing tenants by pointing out HUD’s utter

10. *Id.* at 917. Housing projects receiving federal aid were operated under the federal public housing administration’s policy of separate but equal. *Id.* Although the Supreme Court’s seminal decision in *Brown v. Board of Education* “signaled the unconstitutionality of government-imposed racial segregation,” federal officials declined to extend the *Brown* holding to housing programs. *Id.* at 917; see also Philip Tegeler, *Race and Housing Rights in the United States: The View from Baltimore*, 32-SUM HUM. RTS. 4 (2005) (identifying that “the role of the federal government in creating and sustaining a system of separate and unequal housing has been extensively documented by historians of urban policy”).

11. Bair, *supra* note 5, at 772-73 (explaining that local housing authorities receiving federal aid have historically attempted to racially segregate public housing developments).

12. *Id.*

13. See Cheryl Weber, *The Great Blight Hope: Despite Some Notable Successes, HUD’s Hope VI Program May Prove There’s No One-Size-Fits-All Solution to the Country’s Public-Housing Crisis*, 8 RESIDENTIAL ARCHITECT 1, 12 (2004) (noting that Pittsburgh’s largest housing project, “Allequippa Terrace,” consisted of 83 three-story apartment buildings that were completely cut off from the rest of the city). The project was actually located on top of an abandoned coal mine. *Id.*

14. Roisman, *supra* note 9, at 918.

15. *Gautreaux v. Romney*, 448 F.2d 731, 737 (7th Cir. 1971); see also *Blackshear Residents Org. v. Hous. Auth.*, 347 F. Supp. 1138, 1148 (W.D. Tex. 1971) (ruling in favor of a group of minority tenants who claimed that the federal government had approved and funded a local housing agency’s plan which was blatantly discriminatory). The court reasoned that the implementation of the housing agency’s plan conflicted with the policy of equal opportunity in housing expressed in Title VI of the Civil Rights Act of 1964, and the Fair Housing Act of 1968. *Id.*

failure to prevent racial segregation in public housing.¹⁶ After analyzing several reports, the judge concluded that:

(1) the vast majority of projects are predominately one race; (2) the percentage of one-race sites is highest in the low rent projects; (3) blacks participate disproportionately in older insured-assisted projects; (4) whites participate disproportionately in Section 8 new construction projects; and (5) the races have roughly equivalent needs for public housing.¹⁷

B. The Birth of HOPE VI: A New Approach to Public Housing

In 1989, largely in response to the litigation blasting federally financed housing programs, Congress created the National Commission on Severely Distressed Public Housing.¹⁸ The commission reported that the majority of public housing developments across the country were racially and economically segregated, infested with crime, and isolated from job opportunities for residents.¹⁹ The commission recommended that the federal government create mixed income developments to foster integration.²⁰

HUD institutionalized this recommendation and created HOPE VI in 1992.²¹ The concept of fostering integration between public housing tenants (through the development of mixed income communities) is one of the main goals of HOPE VI.²²

In many cities, housing authorities are using HOPE VI grants to demolish dilapidated public housing buildings and replace them with mixed income housing.²³ HUD has allowed local housing

16. *Young v. Pierce*, 628 F. Supp. 1037, 1044 (E.D. Tex. 1985).

17. *Id.*

18. Bair, *supra* note 5, at 773.

19. *Id.*

20. *Id.*

21. *Id.* at 771, 773.

22. SUSAN J. POPKIN, ET AL., FANNIE MAE FOUNDATION, THE GAUTREAUX LEGACY: WHAT MIGHT MIXED INCOME AND DISPERSAL STRATEGIES MEAN FOR THE POOREST PUBLIC HOUSING TENANTS? (2000), available at http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1104_popkin.pdf. HUD has awarded over three billion dollars to revamp 130 public housing developments in cities throughout the nation. *Id.* The net effect of these grants is that the worst public housing is being destroyed and replaced with housing that will serve a "more varied tenant population." *Id.* at 917. Most of these developments will include privately built housing for higher income tenants. *Id.*

23. See Janell Ross, *Walnut Terrace Remake Sought: Raleigh Housing Authority to Seek Hope VI Grant to Rebuild Public Housing Units*, NEWS & OBSERVER, May 20, 2006, at B3 (reporting that the Raleigh Housing Authority announced plans in May of 2006 to apply for its third HOPE VI redevelopment grant). If the grant is awarded, the authority will use the funds to destroy a 300-unit barracks-style public housing complex called Walnut Terrace near downtown Raleigh. *Id.* Walnut Terrace will be replaced with mixed income

authorities a great deal of flexibility to demolish their properties at a rate that the agencies see fit.²⁴ Also, the Quality Housing and Work Responsibility Act of 1998 (QHWRA),²⁵ along with other federal provisions, provide local housing authorities with wide latitude to determine who will live in the new units.²⁶

1. *The Housing Choice Voucher System*

The mixed income condominiums and town homes that are being built in place of the colossal towers simply cannot house all of the families that depend upon public aid.²⁷ In response to this

condominiums and townhomes. *Id.*

When it comes to the construction of the new mixed income developments, many HOPE VI projects are exercises in letting go of traditional thinking. Weber, *supra* note 13, at 2. The new housing units at every income level must be “virtually indistinguishable from each other,” and to avoid being labeled public housing, the design of the new developments “must create the impression that the community has evolved over time.” *Id.* at 3.

The new style of housing is far different from the barracks-style and “International-Style high rise template” which were used when public housing was constructed in the past. For example, the new development at Park Duvalle, in Louisville, Kentucky resembles “the classic prewar buildings of East Louisville’s best addresses.” *Id.* at 10.

24. POPKIN, *supra* note 22, at 915-16. Congress repealed the one-for-one replacement rule in 1995, which had required that local housing officials build a public housing unit for every unit destroyed. *Id.* Now, housing authorities need only replace “occupied units” and they can replace them with either “hard units” (public or scattered site units) or “soft units” (Section 8 certificates or vouchers). *Id.* at 916.

25. The Quality Housing and Work Responsibility Act, 42 U.S.C. § 1437 (2000).

26. POPKIN, *supra* note 22, at 916. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) states: “[t]hat any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, shall be cause for termination of tenancy.” 42 U.S.C. § 1437(d)(1)(6). This federal statute has been called the “one-strike and you’re out” provision. POPKIN, *supra* note 22, at 916.

In *Department of Housing & Urban Dev. v. Rucker*, 535 U.S. 125, 127-28 (2002), the Supreme Court upheld the authority of the CHA (as well as other housing authorities) to evict tenants, under the QHWRA, for the drug activity of household members and guests whether or not the tenant knew, or should have known, about the activity.

27. See Henry Korman, *Underwriting for Fair Housing? Achieving Civil Rights Goals in Affordable Housing Programs*, 14 J. OF AFFORDABLE HOUSING & COMMUNITY DEV. L. 292, 310 (2005) (estimating that only between twenty to fifty percent of the original housing tenants actually return to the “revitalized communities”); see also Weber, *supra* note 13, at 8 (pointing out that local housing authorities have been criticized (along with HUD for allowing it) for using HOPE VI money as an opportunity to move poor minorities out of “desirable areas of the city” to make way for more “lucrative

problem, HUD officials have created a federally funded Housing Choice Voucher system.²⁸ Proponents point out that the poorest families can use the vouchers to find quality housing in the private market.²⁹

Because individuals who have used their housing vouchers “seem to be concentrated in high-poverty, high-minority, deprived communities,” there has been a recent influx of litigation alleging that HUD and local housing agencies perpetuate segregation.³⁰

C. *Launching the CHA’s Plan for Transformation*

The CHA’s plan is to use federal grants to destroy all of Chicago’s high-rise public housing buildings by 2009, as well as some mid-rise and low-level (row house) housing, and replace these units with mixed income housing.³¹ HUD approved the

forms of development”). For example, Centennial Place Apartments in Atlanta, Georgia has been considered a model HOPE VI community because of its successes. *Id.* However, 92.9% of the original residents did not return to the new development. *Id.* at 9. Urban studies professor Larry Keating argues that the redevelopment was motivated “by interests other than helping the poor receive better housing.” *Id.* The development is located across the street from Coca-Cola’s world headquarters and adjacent to the Olympic Park Stadium. *Id.* at 8-9.

28. See *Introduction to the Housing Voucher System*, CENTER ON BUDGET AND POLICY PRIORITIES, <http://www.centeronbudget.org/5-15-03hous.html> (last visited Sept. 28, 2006) (stating that a family using a HCV “is generally required to contribute thirty percent of its income for rent and utilities.” The voucher then pays the rest of those costs to a certain limit which is set by the housing agency).

29. See POPKIN, *supra* note 22, at 917 (stating that the QHWRA of 1998 mandates that seventy-five percent of all new and turnover vouchers be reserved for participants whose incomes are less than thirty percent of the area median). HUD believes that these policies will shift many of the poorest tenants to the private market. *Id.*

30. Roisman, *supra* note 9, at 923. The HOPE VI program “is repeating the evils of the urban renewal program, infamous as ‘Negro Removal.’” *Id.* Under the Urban Renewal Program, the federal government demolished thousands of units which were occupied by minority, low-income families, and then either did not relocate them at all, or relocated the tenants “into highly concentrated, high-rise public housing units.” *Id.* See generally, *Wallace*, 298 F. Supp. 2d at 714; *Wallace*, 321 F. Supp. 2d at 970; *Wallace v. Chi. Hous. Auth.*, 224 F.R.D. at 422; *Langlois v. Abington Hous. Auth.*, 324 F. Supp. 2d 33, 33 (D. Mass. 2002); *Reese v. Miami-Dade County*, 242 F. Supp. 2d 1292 (S.D. Fla. 2002); *Thomson v. U.S. Dep’t of Hous. and Urban Dev.*, 348 F. Supp. 2d 398, 404 (D. Md. 2005) (comprising a selection of litigation sources surrounding HOPE VI relocations).

31. *Tearing Down Cabrini-Green*, CBS NEWS, <http://www.cbsnews.com/stories/2002/12/11/60II/main532704.shtml> (last visited September 10, 2006); see also *The Plan for Transformation*, THE COALITION TO PROTECT PUBLIC HOUSING, <http://www.limits.com/cpph/CPH%20About%20Us%20Plan%20for%20Trans.htm> (last visited Oct. 8, 2007) (calling for the demolition of fifty-one of Chicago’s gallery-style high-rise buildings, as well as several thousand mid-rise and low-rise units so that mixed income developments can be

CHA's plan and has provided the agency with funding.³²

Although some have cheered the CHA's plan, others are skeptical.³³ To some CHA inhabitants, the redevelopment plan "is a euphemism for 'land grab.'"³⁴ Many CHA tenants consider guarantees that they will be able to live in the new mixed income developments to be empty promises.³⁵

CHA tenants may have reason to be wary of the new plan. According to one report, fewer than twenty percent of CHA tenants will be able to return to the new developments.³⁶ Instead of returning to their old neighborhoods, many CHA residents are given federally funded housing vouchers that assist the tenants in finding permanent housing in the private market.³⁷

constructed). *But see* POPKIN, *supra* note 22, at 933 (noting that the CHA is not the only housing developer of mixed income housing).

32. MOVING TO WORK AGREEMENT (MTW), U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, CHICAGO HOUSING AUTHORITY, 1, 1 (Feb. 6, 2000). The Moving to Work Agreement granted CHA approval for its policy of demolition and relocation, as well as relief from regulations governing how CHA spends federal funds. *Id.* The Moving to Work Agreement has allowed the CHA to begin implementing its plan. Currently, the CHA has raised more than half of Chicago's public housing high-rises. *Tearing Down Cabrini-Green*, *supra* note 31. And when the CHA's Plan for Transformation is complete, there will be around 14,000 fewer public housing apartments than when the demolition first started. *Id.*

33. *See* SUDHIR ALLADI VENKATESH, *AMERICAN PROJECT: THE RISE & FALL OF A MODERN GHETTO*, Harv. Univ. Press, 267 (2000) (stating that those residents favoring the demolition of the Robert Taylor Homes "cheered the plans" while others proclaimed the initiative to be a conspiracy to remove blacks in order to shift voting power from the inner-cities).

34. *The Plan for Transformation*, *supra* note 31.

35. *Id.* Residents are skeptical of CHA officials' promises because the new mixed income housing units only contain between ten to thirty percent public housing units. *Id.*

36. *See* Sudhir Venkatesh and Isil Celimli, *Tearing Down the Community*, SHELTERFORCE ONLINE, <http://www.nhi.org/online/issues/138/chicago.html>. (last visited Oct. 8, 2007). One of the replacements at Cabrini-Green is North Town Village which consists of 261 condos and town homes. *Tearing Down Cabrini-Green*, *supra* note 31. When the town houses at Cabrini are completed, half of the tenants will pay the full market rate, twenty percent will pay up to one-third of their monthly income, and around a third will be former public housing tenants who also will pay no more than one third of their income. Thigpen, *supra* note 1, at 3. At North Town Village only seventy-nine units are reserved for Cabrini residents, whose rent is subsidized by the government. *Tearing Down Cabrini-Green*, *supra* note 31.

Further, those who apply to live at North Town Village have to pass a strict screening process in order to gain access to the mixed income developments. *Id.* Candice Howell, a vice president at Holsten's development company, in charge of the screening process states, "We're looking for things, red flags, like unemployment, criminal behavior against property, criminal behavior against people . . . [g]uns, drugs, convictions . . ." *Id.* It was also required that families attend house training seminars before moving in. *Id.*

37. *See* First Amended Complaint, at 21, *Wallace*, 298 F. Supp. 2d 710 (N.D. Ill. Aug. 15, 2003) (No. 03 C 0491) (stating that the CHA is responsible

For CHA tenants, finding housing in the private market can be a difficult task.³⁸ As a result, in 2001, the CHA entered into the Relocation Rights Contract with the Central Advisory Council to help ensure that tenants would have effective relocation services.³⁹

Although there have been success stories,⁴⁰ the way in which the CHA has used vouchers to relocate has been widely criticized.⁴¹ The relocations in Chicago have come amid what some believe to be the worst affordable housing crunch in years.⁴² This has exasperated an existing housing squeeze for the city's poor.⁴³

Beyond the steep rents and the housing shortage, CHA residents using housing vouchers complain that building a new life away from the projects is blocked by the same obstacles that kept them caged in the concrete towers in the first place. Some obstacles include: racist landlords, a depleted job market, wary neighbors, and a lack of experience with CHA rules and policies.⁴⁴

for administering the HCV program, but the CHA has contracted with Quadel Consulting Corporation, and its subsidiary CHAC, Inc., to directly administer the program). The families who participate in the HCV program rent units that meet program standards. *Id.* If the CHA approves a family's "unit and tenancy" after inspection, the CHA enters into a "housing assistance payment contract with the owner to make rent subsidy payments on behalf of the family." *Id.* (quoting 24 C.F.R. 982.1); see also THE CHICAGO HOUSING CHOICE VOUCHER SYSTEM, <http://www.chacinc.com/docs/companybrochure.pdf#search=%22housing%20vouchers%20in%20chicago%22> (last visited Oct. 8, 2007) (asserting that families participating in the HCV program pay thirty percent of their monthly income toward rent and utilities and CHAC pays the difference directly to the tenant's landlord).

38. See *infra* text accompanying notes 41-43 (noting criticism of the CHA's relocation system); see also *infra* text accompanying notes 62-64 (pointing out that tenants are most often relocated to impoverished neighborhoods).

39. See *Wallace*, 298 F. Supp. 2d at 715 (explaining that under the terms of the contract, the CHA must provide counseling on transition and moving to integrated neighborhoods, public transportation stipends, and moving assistance).

40. See Thigpen, *supra* note 1, at 4 (recounting the experience of Sharonda Harper, who after leaving Cabrini-Green in 1996, received a phone call from the CHA inviting her to attend a housing meeting. Harper put her name in a lottery, passed a drug test, and now lives in "a clean three-bedroom apartment in a new cluster of town homes within sight of the remaining condemned Cabrini towers.").

41. *Id.*

42. *Id.* at 1-2. In the early 1990s, middle class buyers rapidly purchased condominiums and town homes in Chicago. *Id.* at 2. As a result of this "economic boom" Chicago lost about 52,000 rental units. *Id.* As more properties were converted to private ownership, the rates for remaining rentals climbed, pricing out people at the lower end of the market and pushing them into "marginal" neighborhoods. *Id.*

43. *Id.* at 2. There are already over 48,000 families on the waiting list for public housing in Chicago, and over 38,000 more are on the waiting list for housing vouchers. *Id.*

44. *Id.* at 3. A recent study by the Lawyers' Committee for Better Housing found that seventy-five percent of the city's landlords illegally refuse to rent

The ultimate question still remains: have HUD and the CHA learned their lesson from past court opinions denigrating housing agencies for failing to promote integration?⁴⁵ Some of the residents being forced to leave allege that the majority of African American tenants are encouraged (or forced, because no other viable options are offered) to relocate into racially ghettoized neighborhoods, thus undermining the concept of integration.⁴⁶

1. *The Controversial Plan for Transformation Leads to Litigation*

In *Wallace*, CHA residents filed a thirteen-count suit against the CHA and HUD claiming that the CHA's plan reinforced segregation.⁴⁷ The federal district court held that the plaintiffs had standing and stated claims under various sections of the Fair

apartments to tenants who are using housing vouchers. *Id.* Verna Berryman explains that “[i]t’s tough dealing with landlords when they know you have a voucher.” *Id.* Berryman went on to state that landlords “treat you different when they know you’re coming from the projects.” *Id.* Berryman feels that many of the landlords she came in contact with had unwarranted suspicions that “she or her teenage son was involved with drugs and subjected them to nasty interrogations before slamming the door in their faces.” *Id.*

Also, the majority of CHA residents have lived in public housing their entire lives. *Id.* Moreover, “they lack the experience and skill to negotiate with private landlords.” POPKIN, *supra* note 22, at 925. Some have “never paid a utility bill,” and most understand even less about CHA rules. *Id.* This lack of experience has caused CHA tenants to unintentionally violate a number of rules which has led to a high number of evictions. *Id.* For example, some CHA residents allow relatives and friends to stay with them for an extended period of time. *Id.* This practice was generally tolerated in the public housing high-rises, however, “doubling up” gets tenants evicted from private market units and disqualifies them from receiving housing vouchers. *Id.* Experts argue that the high amount of evictions, combined with the shortage of quality housing in Chicago, is causing an increase in homelessness throughout the city. The Coalition to Protect Public Housing, Plan for Transformation Fact Sheet, FROM HOUSING TO HOMELESSNESS: THE TRUTH BEHIND THE CHA’S PLAN FOR TRANSFORMATION,(2006), available at <http://www.limits.com/cpph/Public%20Housing%20Flier.pdf>.

45. See *Young*, 628 F. Supp. at 1042 (criticizing HUD and a local housing agency for failing to desegregate public housing).

46. See Thigpen, *supra* note 1, at 3 (arguing that nearly eighty percent of families relocated by the CHA between 1999 and 2001 ended up in neighborhoods that were predominated by African Americans); see also John Bebow & Antonio Olivio, *CHA Moves Tenants Out – But Not Up, Ex-residents Still Live In Struggling, Segregated Areas*, CHI. TRIB., Feb. 27, 2005, at C1 (arguing that the relocations have perpetuated segregation).

47. See *Wallace*, 298 F. Supp. 2d at 710 (alleging threats of relocation to racially segregated housing). Plaintiffs’ alleged claims of “racial steering, perpetuation of segregation, breach of contract and other various violations of the FHA, Title VI of the Civil Rights Act of 1964, the Quality Housing and Work Responsibility Act of 1988 (“QHWRA”), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and two Executive Orders issued by Presidents Kennedy and Clinton.” *Id.* at 715.

Housing Act (FHA), as well as several HUD provisions that require a “duty to affirmatively further fair housing.”⁴⁸

A year after *Wallace*, a group of tenants challenged a CHA notice demanding that over three hundred Cabrini families relocate in one hundred and eighty days.⁴⁹ The federal judge was persuaded that “similar planning practices [that quickly forced tenants out without a specific relocation plan in place] have resulted in other Chicago public housing residents being relocated to racially segregated, poverty-stricken, high-crime communities.”⁵⁰ Although the court did not grant an injunction, the court found that an injunction would be an appropriate remedy for tenants because it would allow them more time before being forced out of their homes.⁵¹ Like in *Wallace*, the court also held that the CHA plaintiffs stated claims against HUD and the CHA under the FHA because of the discriminatory effects of the plan.⁵²

In summary, courts have only gone so far as to hold that the plaintiffs stated claims under the FHA against HUD and the CHA. The issue of whether or not the tenants will succeed on the merits is still pending.⁵³

III. ANALYSIS

A. Current Implementation of the Plan for Transformation Violates Section 3608 of the Fair Housing Act

1. The Requirements Under Section 3608 of the FHA

Section 3608(e)(5) of the FHA requires HUD and the CHA to “administer the programs and activities relating to housing and urban development in a manner *affirmatively* to further the

48. *Id.* at 718. The plaintiffs’ allegations that defendants violated the Quality Housing and Work Responsibilities Act (QHWRA), also survived dismissal. *Id.* at 719. “Section 1437c-1(d)(15) of the QHWRA requires a PHA to certify that it will carry out the public housing agency plan in conformity with [Title VI, the FHA, the Rehabilitation Act of 1973, and the Americans with Disabilities Act], and will affirmatively further fair housing.” *Id.*

49. *Cabrini-Green*, 2005 U.S. Dist. LEXIS 273, at *14. Plaintiffs complained that 180 days relocation notice was premature because there was no redevelopment plan in place when the notice was issued. *Id.* at *14-15. They also argued that the notice did not provide sufficient time in which to obtain relief with a Section 8 voucher. *Id.* at *15.

50. *Id.* at *16.

51. *Id.*

52. *See id.* at *19-20 (acknowledging that plaintiff state the same claims as in *Wallace* because the defenses raised here were already rejected in *Wallace*).

53. *See Wallace*, 298 F. Supp. 2d at 725 (holding that the plaintiffs stated claims under various sections of the FHA); *see also Cabrini-Green*, 2005 U.S. Dist. LEXIS 273, at *16 (explaining that the plaintiffs simply stated claims under the FHA based on *Wallace*).

policies of this [title].”⁵⁴ The policies of the FHA are to “provide, within constitutional limitations, for fair housing throughout the United States.”⁵⁵

The courts have consistently held that the purpose of the act should be interpreted broadly.⁵⁶ Section 3608 requires that the housing agencies have an “affirmative” obligation,⁵⁷ requiring them to do something “more than simply refrain[ing] from discriminating [themselves, or] from purposely aiding discrimination by others.”⁵⁸ The Second Circuit opined that the FHA requires housing agencies to promote “open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunities the [a]ct was designed to combat.”⁵⁹

2. *The Plan for Transformation Is Failing to Promote the Fair Housing Required Under Section 3608*

Instead of promoting integrated housing patterns, the CHA’s plan is perpetuating racial segregation. A study based upon CHAC’s (a private company under contract with the CHA) data revealed that “[a]lmost 80% of relocation families are living in greater than 90% African American census tracks.”⁶⁰ Out of the

54. 42 U.S.C. § 3608(e)(5) (2000) (emphasis added). The duty to further fair housing applies to HUD and to other agencies administering federally-funded housing programs. *Otero v. N.Y. City Hous. Auth.*, 484 F.2d 1122, 1133-34 (2d Cir. 1973).

55. 42 U.S.C. § 3601 (2000).

56. *See, e.g.,* *Trafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205, 212 (1972) (construing the FHA generously by giving standing “to all in the same housing unit who are injured by racial discrimination in the management of those facilities within the coverage of the statute”); *Laufman v. Oakley Bldg. & Loan Co.*, 408 F. Supp. 489, 492 (S.D. Ohio 1976) (stating the FHA “deals with discrimination in the sale or rental of housing in the broadest possible manner”); *Linmark Associates, Inc. v. Twp. of Willingboro*, 431 U.S. 85, 94-95 (1977) (holding that “Congress has made a strong national commitment to promoting integrated housing”); *Griffin v. Breckenridge*, 403 U.S. 88, 97 (1971) (interpreting civil rights statutes broadly).

57. 42 U.S.C. § 3608 (e)(5)(2000).

58. *N.A.A.C.P. v. Sec’y of Hous. and Urban Dev.*, 817 F.2d 149, 154 (1st Cir. 1987).

59. *Otero*, 484 F.2d at 1134. Section 3608 does not mandate any specific actions or plans that must be undertaken to desegregate housing. However, a high standard must be met in order to convince the courts that a housing agency has met its statutory obligations to promote fair housing under section 3608 of the FHA. *Thompson*, 348 F. Supp. 2d at 417; *see also* *Adarand Constructors v. Pena*, 515 U.S. 200, 228 (1995) (holding that even “benign discrimination” is subject to strict constitutional scrutiny).

60. Paul B. Fischer, *Section 8 and the Public Housing Revolution: Where will the Families Go?* (Sept. 2001), <http://www.woodsfund.org/resources/articles/section8paper.pdf>; *see also* Roisman, *supra* note 9, at 925 (reiterating these findings on a national level by stating that federal housing voucher recipients in general “usually end up in racially segregated

thirty census tracts in Chicago receiving the greatest number of African American families, all but two of the tracts are at least ninety-seven percent African American.⁶¹

The results of the CHA's plan reveal that the relocations, in effect, are also perpetuating economic segregation. A study conducted by the Urban Institute showed that a majority of CHA tenants relocate to impoverished neighborhoods with high crime rates and poor schools.⁶² Generally, displaced tenants have moved to neighborhoods just as isolated and just as poor as the ones they left.⁶³

But perhaps these negative effects of the plan are caused by conditions largely outside the CHA's control. Community barriers such as racism,⁶⁴ classism,⁶⁵ and white flight⁶⁶ undoubtedly

neighborhoods . . ."); see Deborah J. Devine et al., U.S. Dep't. of Hous. & Urban Dev., *Housing Choice Voucher Location Patterns: Implications for Participants and Neighborhood Welfare* viii - ix (2003) http://www.huduser.org/Publications/pdf/Location_Paper.pdf (emphasizing that minority families receiving housing vouchers are more likely to be concentrated in impoverished neighborhoods).

61. Brian Rogal, *CHA Families Moving to Segregated Areas*, CHI. REP., July-Aug. 1998, at 3; see also G. Thomas Kingsley, Jennifer Johnson & Kathryn LS Pettit, *Patterns of Section 8 Relocation in the HOPE VI Program*, 25 J. OF URBAN AFFAIRS 427, 437 (2003) (revealing that a national study of HOPE VI relocations found that Chicago was one of the poorest performing cities in reducing the concentration of African American residents).

62. MARY CUNNINGHAM & SUSAN J. POPKIN, CHAC MOBILITY COUNSELING ASSIGNMENT: FINAL REPORT, 24 (2002), available at http://www.urban.org/UploadedPDF/410588_CHACReport.pdf. A study conducted by the Urban Institute found that out of 105 tenants who moved, only eight percent moved to neighborhoods with a low poverty rate (below ten percent). *Id.* Twenty-three percent of the tenants moved to a neighborhood with a mid-range poverty rate (ten to twenty percent poor), and the remaining sixty-nine percent moved to neighborhoods with mid-range or high poverty rates. *Id.*

63. Kristine L. Zeabert, *Requiring a True Choice in Housing Choice Voucher Programs*, 79 IND. L.J. 767, 795 (2004); see also Susan J. Popkin et al., *The HOPE VI Program: What About the Residents?*, 15 HOUSING POL'Y DEBATE 385, 387 (2004) (stating that recent reports show that most relocated HOPE VI tenants are living in neighborhoods that are "extremely poor" and "racially segregated").

64. See Zeabert, *supra* note 63, at 785 (indicating that whites have historically tried to prevent African Americans from moving into neighborhoods "that whites consider to be theirs"). Many voucher recipients do not consider renting housing in areas with high non-minority populations because they feel unwelcome in those communities. *Id.* at 786; see also Flynn McRoberts, *Move from CHA High-Rise can Involve a Leap of Faith*, CHI. TRIB., Sept. 2, 1998 at A1 (reporting that six African American families asked to be relocated from scattered-site units after receiving violent threats, harassment, and various forms of intimidation from individuals of another race than the six families); Thigpen, *supra* note 1, at 3 (emphasizing that landlords who harbor misguided suspicions of CHA tenants also contribute to the problem when they illegally refuse to rent apartments to those families with housing vouchers).

65. See Thigpen, *supra* note 1, at 3 (quoting Verna Berryman who said she would not prefer to move into a mixed-income neighborhood because "[t]he

contribute to the racial and economic segregation of CHA tenants in Chicago. However, these problems do not diminish the CHA's duty to "affirmatively" further fair housing.⁶⁷ HUD and the CHA have knowledge of these community barriers, yet neither agency has taken enough of an initiative to combat them.

a. HUD and CHA Policies Are Overly Restrictive

For example, neither HUD nor the CHA has made enough of an effort to ensure that more CHA tenants obtain and remain in newly constructed mixed income housing. The federal "one strike and you're out" policy, which bans households that have even one member with a criminal record from access, combined with other strict screening requirements, restrict most CHA tenants from gaining and maintaining tenancy in the new developments.⁶⁸

The Quality Housing and Work Responsibility Act of 1998 (QHWRA)⁶⁹ has opened public and assisted housing to families with a much wider range of incomes.⁷⁰ The QHWRA also allows local housing agencies to impose work requirements on unemployed tenants without ensuring that tenants have adequate job training.⁷¹

The CHA's Relocation Rights Contract specifies the rights of the CHA families and the obligations of the CHA. It offers to all lease compliant families the right to return. The contract has also been criticized for good reason. It makes it unnecessarily difficult for families displaced by redevelopment to return to the mixed income developments.⁷² Instead of reassuring that a high percentage of tenants will return, the contract states that tenants

first time something goes wrong in the neighborhood, I know they'll blame it on the poor people").

66. See Zeabert, *supra* note 63, at 788 (explaining that most African Americans would like to live in a neighborhood that is around fifty percent black, which is "a neighborhood that most whites would move away from [because of perceptions that voucher recipients will be disruptive, increase crime rates, and lower property rates] resulting in a neighborhood that is close to one hundred percent black").

67. 42 U.S.C. § 3608(e)(5) (2000).

68. See POPKIN, *supra* note 22, at 916 (explaining that Chicago has interpreted the "one-strike and you're out" policies broadly, thus, applying it to any evidence of drug-related or felonious activity, "such as drug-related arrest rather than an actual conviction").

69. 42 U.S.C. § 1437 (2000).

70. POPKIN, *supra* note 22, at 917.

71. *Id.*

72. Venkatesh, *supra* note 36, at 1. In order to be lease-compliant under the contract, "a public housing tenant should: 1) be current with rent or be in a payment agreement, 2) have no utility balance with the CHA or be in a payment agreement, 3) be in compliance with the CHA lease and 4) have a good housekeeping record." *Id.*

choosing permanent vouchers forever forfeit their right to gain access to the new mixed income developments.⁷³

As a result of the strict rules and empty promises, most tenants end up depending on housing vouchers. And as the statistical data indicates, these tenants are relocating to segregated neighborhoods with high crime and poverty rates.⁷⁴

b. The CHA's Social Services Are Grossly Inadequate

The CHA's Relocation Rights Contract also states that "[m]obility counseling is available for [l]easeholders interested in moving to opportunity areas."⁷⁵ Because demolition has outpaced development of mixed income housing, some tenants are flushed out of their homes quickly and without much guidance from the CHA.⁷⁶

Those that do receive counseling are given inadequate social support. Tom Sullivan, an attorney with the Chicago law firm Jenner & Block was contracted by CHA from July 18, 2002, to April 30, 2003, to monitor the relocation process, and, in particular, to study the effectiveness of the CHA's social support networks.⁷⁷ His report states that "no serious effort was made to explain the availability of moves to opportunity areas, or provide counseling" to tenants using housing vouchers to relocate.⁷⁸

In the last year, the CHA increased funding for the service connector program in an effort to gain more counselors that would reduce caseloads.⁷⁹ However, for some reason "the city has not tapped into all the federal funding available for social services."⁸⁰

73. *Wallace v. Chi. Hous. Auth.*, 298 F. Supp. 2d at 714.

74. See *supra* notes 58-62 and accompanying text.

75. Mary Johns, *Report Criticizes CHA Relocation Effort*, URBAN YOUTH INT'L JOURNALIST PROGRAM, <http://www.wethepeoplemedia.org/Articles/MaryJohns/ReportCriticizesCHARelocation.htm> (last visited Oct. 9, 2007). "Opportunity areas" are defined "as census tracts with no more than 23.49 percent of families with incomes below the poverty level and no more than 30 percent African American population." *Id.*

76. See Brian J. Rogal, *Watchdog Criticizes CHA Plan*, CHI. REPORTER, March 2003 at 6-7 (explaining that Thomas Sullivan's report attributes many relocation problems to rushed conditions caused by the quick destruction of public housing units, which in turn forced hundreds of families to move in the final weeks before they had a chance to find quality housing in integrated communities); see also *Cabrini-Green Local Advisory Council v. Chi. Hous. Auth.*, No. 04 C 3792, 2005 U.S. Dist. LEXIS 273 (N.D. Ill. 2005) (responding to plaintiffs' complaints that they were forced out of their homes too quickly, without adequate time to access social services).

77. Johns, *supra* note 75, at 1.

78. *Id.* (quoting Thomas Sullivan, INDEPENDENT MONITOR'S REPORT NO. 5, Law Firm of Jenner & Block (2003)).

79. Brian J. Rogal, *Staffing Shortage hits CHA Families*, CHI. REPORTER, April 2002, at 3.

80. *Id.* "Up to 15 percent of \$70 million in revitalization grants Chicago won in 2001 from the federal HOPE VI program could have been devoted to

CHA officials declined requests to turn over public documents charting the progress of the service connector.⁸¹

c. The CHA Has Overtly Encouraged Tenants to Relocate into Segregated Neighborhoods

In some instances, the CHA (through its agents) has overtly encouraged the perpetuation of segregation. For example, in 1997, Diane Wallace (one of the plaintiffs in *Wallace*) was given a Section 8 housing voucher and offered (by CHAC) to be relocated to an apartment at 5241 South Bishop.⁸² Because she had no other choice (e.g., to be moved into a mixed income development), Ms. Wallace accepted.⁸³ The apartment CHAC chose for her (which was infested with roaches and rats) was located in a racially segregated neighborhood with high poverty and high crime rates.⁸⁴ Wallace's daughter attended the closest public school, which failed to diagnose her learning disability and wrongfully expelled her.⁸⁵

Despite these serious problems, CHAC refused to allow Ms. Wallace to relocate from 5241 South Bishop.⁸⁶ Finally, in 2001, CHAC allowed Ms. Wallace to move and began assisting her in the process.⁸⁷ Although Wallace repeatedly told CHAC that she was interested in moving near the racially integrated and economically more prosperous neighborhood of Ford City, the apartment CHAC helped her find (and encouraged her to take) was located at 7925 South Peoria.⁸⁸ This apartment was engulfed by a high poverty neighborhood made up of almost entirely African Americans.⁸⁹ Other CHA tenants have similar stories that highlight the inability of the CHA's services to foster integration in the relocation process.⁹⁰

social services." *Id.* "But, the CHA chose to spend less than 5 percent." *Id.*

81. *Id.*

82. See Amended Complaint, *supra* note 37, at 26 (recounting that Ms. Wallace was offered a voucher to be relocated after bursting sewage pipes flooded her apartment, placing her safety and that of her children at risk).

83. *Id.*

84. *Id.* at 27.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.* at 28.

90. *Id.* at 29 (alleging that Ms. Maples and other CHA residents complained that CHA staff refused to show them "neighborhoods anywhere other than Englewood," a community which is racially and economically segregated). *Id.* When Ms. Maples complained, CHA and Changing Patterns officials said that they would look into this matter immediately, but Ms. Maples never heard back from either official. *Id.* Ms. Maples was forced to use her housing voucher and ended up relocating into an impoverished neighborhood which is "almost entirely African American." *Id.*; see also *id.* at 29-38 (detailing similar stories of other CHA plaintiffs); Thigpen, *supra* note 1, at 3 (highlighting

B. *The Plan for Transformation Violates Sections 3604(a) and (b) of the Fair Housing Act*

1. *Section 3604(a) – Denial of Housing*

Section 3604(a) of the FHA makes it unlawful “to refuse to sell or rent . . . or otherwise make unavailable or deny . . . a dwelling to any person because of race.”⁹¹

When governmental entities are accused of this violation, the case law indicates that there can be a constructive denial of housing that would violate 3604(a).⁹² This means that a government entity violates 3604(a) when it denies a housing opportunity rather than an actual dwelling.⁹³

The minority plaintiffs in *Wallace* were denied the opportunity to live in integrated communities.⁹⁴ Because of their race, some were overtly encouraged to use their vouchers to move into racially segregated areas.⁹⁵ Others were forced to move to such areas because of overly restrictive policies, which denied access to mixed income developments, and poor counseling services that failed to affirmatively promote integration among relocated CHA tenants.⁹⁶

2. *Housing Conditions and Services: Section 3604(b)*

Section 3604(b) of the FHA expresses that it is unlawful “[t]o discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race.”⁹⁷

Berryman’s difficulties in the private market due to the CHA’s inefficiencies in providing quality assistance).

91. See *Thompson*, 348 F. Supp. 2d at 415 (quoting 42 U.S.C. § 3604(a)).

92. *Id.*; see also *Resident Advisory Bd. v. Rizzo*, 564 F.2d 126, 150 (3d Cir. 1977) (holding that an illegal denial of housing resulted when a housing authority denied housing opportunities by failing to complete a housing development).

93. *Thompson*, 348 F. Supp. 2d at 415. *But see* *Edwards v. Johnston County Health Dep’t*, 885 F.2d 1215, 1222-24 (4th Cir. 1989) (holding that plaintiffs could not assert a § 3604 claim based on their allegations that they were afforded substandard housing). However, *Edwards* is not controlling in this situation because “there is a discernible difference between providing substandard housing and completely denying housing opportunities, which is what is being alleged in the complaints against HUD and the CHA in *Wallace*.” *Thompson*, 348 F. Supp. 2d at 416.

94. See *supra* notes 78-80 and accompanying text (showing how the plaintiffs in *Wallace* were denied opportunities to live in more integrated communities).

95. *Supra* notes 82-90 and accompanying text.

96. See *supra* notes 75-90 and accompanying text (emphasizing how CHA counselors were not committed to finding housing for voucher recipients in more integrated neighborhoods).

97. 42 U.S.C. § 3604(b) (2000).

Courts have interpreted "services in connection with housing" to be within the scope of this subsection of the FHA.⁹⁸ As discussed above in Part A.2.b, the CHA's social services are grossly inadequate as applied to African Americans (and other minorities).

3. *Proving Discriminatory Intent Is Not a Prerequisite to Relief Under Sections 3604(a) and (b)*

Under some circumstances, a violation of the FHA can be established by showing a discriminatory effect without a showing of discriminatory intent.⁹⁹ For example, after showing that HUD's and CHA's practices fall within the ambit of sections 3604(a) and (b), a plaintiff can make a prima facie case of liability by establishing that such practices either created a discriminatory impact, or arose from a discriminatory purpose.¹⁰⁰

However, the courts refuse to hold that every action that produces discriminatory effects is per se illegal.¹⁰¹ The courts use their discretion and consider the particular circumstances of each case in determining whether relief should be granted under the FHA.¹⁰² When analyzing these circumstances, the courts use a four-part test to determine if there has been a violation.¹⁰³ The four elements of this test include:

98. *Campbell v. City of Berwyn*, 815 F. Supp. 1138, 1143-44 (N.D. Ill. 1993).

99. *Metro. Hous. Dev. Corp. v. Vill. of Arlington Heights*, 558 F.2d 1283, 1290 (7th Cir. 1977); *see also* *Hawkins v. Town of Shaw*, 461 F.2d 1171, 1172 (5th Cir. 1972) (stating that "intent, motive, and purpose are elusive subjective concepts"); *Hart v. Cmty Sch. Bd. of Educ.*, 512 F.2d 37, 50 (2d Cir. 1975) (explaining that attempting to discover the true intent of an entity, such as a municipality or housing agency is problematic); *Trafficante*, 409 U.S. at 208-11 (reasoning that conduct that has the consequence of perpetuating segregation can be just as harmful as intentional discriminatory conduct); *Reading the Mind of the School Board: Segregative Intent and the DeFacto/DeJure Distinction*, 86 YALE L.J. 317, 322-26 (1976) (arguing that a strict focus on intent permits racial discrimination to go unpunished in the absence of evidence of overt bigotry). "As overtly bigoted behavior has become more unfashionable, evidence of intent has become harder to find. But this does not mean that racial discrimination has disappeared. We cannot agree that Congress in enacting the Fair Housing Act intended to permit municipalities to systematically deprive minorities of housing opportunities simply because those municipalities act discreetly." *Vill. of Arlington Heights*, 558 F.2d at 1290.

100. *Thompson*, 348 F. Supp. 2d at 417.

101. *Vill. of Arlington Heights*, 558 F.2d at 1290. Banning every action (under the FHA) that produced discriminatory effects "would go beyond the intent of Congress and would lead courts into untenable results in specific cases." *Id.* at 1290.

102. *Id.*

103. *See id.* (explaining that there is a four part test that is used in order to discern whether a neutral (where there is no evidence of discriminatory intent) housing plan which produces discriminatory effects will violate section 3604(a) and (b)).

(1) the strength of plaintiff's showing of discriminatory effects; (2) whether there is any evidence of discriminatory intent, (though not enough to satisfy the constitutional standard of *Washington v. Davis*); (3) the defendant's interest in taking the action complained of; and (4) the burden that defendants will suffer if the plaintiffs prevail on their claim.¹⁰⁴

The four-part test is satisfied here. Although plaintiffs cannot prove discriminatory intent (on the part of HUD or the CHA), there is strong, startling evidence that shows the Plan for Transformation is, in effect, perpetuating racial and economic segregation.¹⁰⁵ The actual effects of the plan cast doubt on the idea that the agencies have a real interest in trying to desegregate in an effort to promote more integrated housing and communities.¹⁰⁶ Finally, if the CHA plaintiffs prevail on their FHA claim, the burden placed upon the CHA and HUD will not be excessive. As the next section addresses, changing the plan will produce more desirable effects without overburdening the housing agencies.

IV. PROPOSALS

A. *Limit Caseloads*

Part of the reason that CHA relocation services are so poor is because counselors' caseloads are too high.¹⁰⁷ The CHA should consider limiting the number of CHA tenants in its program at any given time.¹⁰⁸ If this proves unfeasible, the CHA should increase the plan's resources to allow the agency to hire more counselors and drive down the excessive number of caseloads.¹⁰⁹

B. *Increase Training and Accountability for CHA Relocation Counselors*

The CHA also needs to provide more effective training programs for its relocation counselors.¹¹⁰ The training programs

104. *Id.* at 1290.

105. *See supra* notes 58-61 and accompanying text (explaining the extent of the racial and economic segregation of CHA tenants).

106. *See id.* (discussing the negative effects of the plan).

107. CHAC MOBILITY PROGRAM ASSESSMENT, INTERIM REPORT, 1, 34 (November 2001), available at http://www.urban.org/uploadedpdf/410377_CHAC_Reports.pdf (reporting that counselors at times reported caseloads as high as 400 tenants). Counselors also stated that they spent the majority of their time on the phone. *Id.* Some counselors had as many as sixty messages from CHA tenants in one day. *Id.*

108. *Id.* Pushing back demolition deadlines is one way to help reduce the excessive amount of CHA tenants erratically seeking out CHA counselors.

109. *Id.*

110. *See Amended Complaint, supra* note 37, at 18, para. 70 (arguing that some inexperienced CHA counselors and officials overtly encourage tenants to relocate into racially and economically segregated areas).

should emphasize effective and innovative ways to help tenants relocate into more integrated communities.¹¹¹

Further, the CHA should require its counselors to keep much more detailed records of where their clients have relocated, and force the counselors to report this data to higher authorities.¹¹² It should provide incentives such as salary increases or promotions to those counselors who have shown that a high percentage of their clients have relocated into more integrated communities. In addition, the CHA should implement serious repercussions (such as pay cuts or demotions) for those counselors whose reports show they have perpetuated segregation.

C. Allow Tenants More Time to Access Social Services Before Forcing Them to Relocate with a Housing Voucher

Providing better trained relocation counselors will not make much of an impact on promoting integration if many of CHA's tenants never get a chance to utilize such services. HUD policies have allowed the CHA to strictly adhere to its demolition deadlines, thus quickly destroying public housing without constructing adequate replacement developments.¹¹³ This has forced tenants out of their homes before they have had a chance to seek out and adequately utilize social services.¹¹⁴

The CHA needs to ensure Chicago's public housing tenants receive adequate time to utilize social services before being forced out of their homes.¹¹⁵ The policy should also give tenants timely notice of when they are expected to leave, and adequate notice of the social services available to them.

111. The training programs should be longer in duration and shall provide more hands-on training, such as shadowing opportunities. The CHA could also engage in national studies in order to compare and contrast the best relocation techniques. The findings could be presented in training seminars.

112. See SUSAN F. POPKIN, ET AL., CHA RELOCATION COUNSELING ASSESSMENT INTERIM REPORT 1, 1-10 (2001) (providing an in-depth look at where a small sample of CHA tenants have relocated after leaving their homes). The CHA should employ similar tracking devices and force their counselors to keep detailed reports (like the reports conducted by Popkin) to get the counselors more personally involved and connected with the tenants they have assisted in the relocation process.

113. Provisions within the QHWRRA (most notably 42 USC § 1437) allow the CHA to close a public housing building on short notice if there are threatening health and safety concerns. Given this flexibility, CHA officials can pretty much declare that any of the old public housing high-rises in Chicago have threatening health and safety concerns. 42 U.S.C § 1437 (1988).

114. See *Cabrini-Green*, 2005 U.S. Dist. LEXIS 273, at *16 (explaining that the cause of the litigation was that CHA plaintiffs felt that they were being forced to leave their homes too quickly, without a chance to utilize social services for guidance in their move to the private market).

115. See *id.* (portraying how the CHA has abused its discretion by forcing its tenants out very quickly, while avoiding to violate any federal law or HUD provision).

Therefore, CHA policy should state that public housing tenants must be expressly warned, in writing, of the exact date they will be expected to leave their home. *This written notice should be sent out to the public housing tenants at least one year prior to the date in which they are expected to leave their dwellings.*¹¹⁶ The notice given to tenants should also provide residents with adequate and understandable information about their housing choices, and should explain their right to seek social services including relocation counseling, and/or job-training and drug-counseling services. This would give public housing tenants at least one year to utilize social services. Furthermore, the mandate would also ensure that the tenants have notice of when they will be expected to leave and of the services available to them.

D. Start Providing Social Service Early, and Maintain Adequate Briefings Throughout the Relocation Process

Sending out the notice described above will not be enough to help tenants relocate into more integrated communities. Some tenants, who do not trust the CHA, will disregard the letter. Some tenants are illiterate and will not be able to understand the letter. Thus, CHA policy should encourage its counselors and officials to affirmatively contact individual families living in public housing that is destined for demolition.¹¹⁷ A personal visit by a counselor or official will show tenants that the CHA is serious about helping its tenants. These visits will allow CHA tenants to begin to trust the CHA, and as a result, the tenants will be more likely to cooperate and utilize social services.

Additionally, the CHA should consistently provide more understandable and innovative mobility briefings to tenants throughout the entire relocation process to provide effective relocation counseling.¹¹⁸

116. See *id.* at 15-16 (holding that 180 day relocation notices do not provide tenants with enough time to access and adequately utilize social services).

117. See MARGERY AUSTIN TURNER ET. AL., THE URBAN INSTITUTE, SECTION 8 MOBILITY AND NEIGHBORHOOD HEALTH 49 (1999) (arguing that it is better to affirmatively contact housing project tenants earlier, instead of waiting for tenants to come to the counselors before the tenants will be forced out). Some experts suggest that housing authorities should begin their counseling process as soon as they receive HOPE VI grants. *Id.* at 49.

Beginning the counseling process early allows families to make more informed choices about relocation. *Id.* However, presenting basic information at a group meeting or through a brief flyer is often not sufficient. *Id.* Some residents will be too distressed about having to move to absorb the information, some may not be able to understand the information because of literacy problems, and others may simply disregard the information. *Id.*

118. See CHAC MOBILITY PROGRAM ASSESSMENT, *supra* note 107, at 34 (pointing out that CHAC has "invested considerable time and funds" in revamping mobility briefings in order to ensure that the materials are easier to read and "visually attractive"). However, more than half of the respondents

E. Provide More Sufficient Information to CHA Tenants About the Demographics of Neighborhoods

Assisting CHA tenants will be futile if the neighborhoods that counselors select for their clients are no longer integrated communities. CHAC, like all mobility programs, relies upon census data to guide its participants into opportunity areas.¹¹⁹ However, in many cases, "census data may be so outdated that households are moving to neighborhoods that have 'tipped' and are no longer low-poverty [or are no longer highly 'integrated']."¹²⁰ The agency should take steps to obtain current data so that relocating tenants have a better chance of moving to a truly integrated neighborhood.

F. Make Efforts to Combat Discrimination in the Private Market

Finding a home for a CHA minority tenant in an integrated community is only half the battle. Often times, landlords refuse to rent or sell dwellings to former CHA tenants solely because of the individual's race, or because the individual once lived in public housing.¹²¹ The CHA needs to take a stand against landlords who discriminate for improper reasons. During briefings, mobility counselors emphasize that it is illegal for landlords in Chicago to deny an individual an apartment because he or she is using a housing voucher (and also for other reasons such as race).¹²² The counselors inform the tenants to contact fair housing agencies and file a complaint if they have been discriminated against.¹²³

However, many tenants feel that filing a complaint is an overly burdensome process that is often times unnecessary.¹²⁴ And some tenants simply choose not to file a claim because they do not understand whether or not they have a legally cognizable discrimination claim.

The CHA should work to provide tenants with direct and effective legal assistance. With adequate legal counsel, tenants will have a clear understanding of whether or not their rights have been violated. Armed with this knowledge, more tenants will file claims against landlords who discriminate. Successful claims against these landlords should help to deter this type of

in one study reported that they had not been shown the video on making a "mobility move." *Id.* And around eighteen percent of CHA tenants did not enroll in the Mobility Program because "they did not understand it." *Id.*

119. CUNNINGHAM & POPKIN, *supra* note 62, at 32.

120. *Id.*

121. TURNER, *supra* note 117, at 34.

122. *Id.*

123. *Id.*

124. *Id.* at 34-35. It is extra burdensome for tenants using housing vouchers to file these complaints because many of them are in the process of attempting to relocate to the private market. *Id.*

discrimination, which is all too prevalent in Chicago's private market today.¹²⁵

*G. Place CHA Tenants into Mixed Income Developments by
Relaxing Strict Screening and Improving
Drug Counseling and Job Training*

What about the tenants who have been promised new homes in the mixed income developments? A majority of CHA tenants are not allowed to return to mixed income developments because they are not passing the strict screening requirements.¹²⁶

Strict screening must be relaxed so that low income tenants can move into the mixed income developments. It should be a federal offense to deny lease applications in federally funded housing developments on the basis of employment status or past convictions where those individuals obtain job training or drug-related counseling.¹²⁷ Failure to complete job training or drug counseling would result in immediate eviction.¹²⁸

For this policy to work, the CHA must provide effective job training¹²⁹ and drug counseling services.¹³⁰ Furthermore, the CHA

125. See Thigpen, *supra* note 1, at 3 (explaining that many of Chicago's landlords illegally refuse to rent apartments to families attempting to use housing vouchers).

126. See Diana K. Levy & Deborah R. Kaye, *How are HOPE VI Families Faring?: Income and Employment*, METRO. HOUS. & CMTYS. CTR., URBAN INST. (Series Policy Brief No. 4, 2004) (explaining that the new mixed income developments often require the tenant to be employed).

127. See *id.* at 4 (stressing that strict employment requirements bar former CHA residents with health or other barriers who would otherwise be ideal tenants for the mixed income developments). The strict employment requirements also bar former residents who have "cyclical employment history(s)," and who might not be employed at the precise time they are seeking access to the mixed income development, but who will seek employment "once poor health, child care responsibilities or transportation difficulties ease." *Id.*

128. If these new screening requirements are not adopted, HUD and the CHA should at the very least hold seminars with officials in charge of screening in the mixed income developments and stress screening criteria that takes "employment history, health status, and family-care-related employment barriers into consideration." *Id.*

129. See Nandita Verma et. al., *Raising Hope with Jobs-Plus, Promoting Work in Seattle Public Housing During a Hope VI Redevelopment*, Oct. 2005 MDRC i, iii (stressing that "a program like Jobs-Plus can be effective in a very diverse public housing community"). The Jobs-Plus Model (which could be implemented in Chicago) is based upon three principles. *Id.* First, the "employment-related services and activities" are set up to help residents secure and retain employment by providing "job search instruction, education programs, vocational training, and support services, such as child care and transportation assistance." *Id.* at 3. Second, "financial incentives to work" consists of significant "changes in public housing rent rules." *Id.* The program helps "to 'make work pay' by reducing the extent to which higher earnings from work result in increases in rent, which may discourage work." *Id.* And

must make sure that tenants have access to these job training and drug counseling services as early as possible.

H. Increase Funding for HOPE VI

HUD announced that there was a two hundred and eighty-three million dollar public housing operating subsidy "shortfall" for 2006.¹³¹ Congress did not pass the Fiscal Year 2007 (FY07) HUD Appropriations Bill in 2006.¹³² Thus, Congress should enact legislation to provide two hundred and eighty-three million dollars in "supplemental funds" necessary to make up for an "unexpected" and "devastating" shortfall in operating funds.¹³³

Congress should also adjust the President's request for FY07 operating funds to four and a half billion dollars, which would "ensure that public housing authorities are able to maintain housing units."¹³⁴

With increased funding for HUD, the federal agency could award more HOPE VI grants to local housing agencies like the CHA. The CHA could use a substantial amount of the money obtained from these grants to improve its social services.

V. CONCLUSION

In terms of federally financed public housing, how far have we come? HUD has a longstanding history of housing programs promoting segregation rather than integration.¹³⁵ Thousands have

last, "community support for work" fosters "neighbor-to-neighbor exchanges of information about job opportunities or various employment services available through Jobs-Plus." *Id.*; see also Levy, *supra* note 126, at 4 (suggesting that the HOPE VI program should "partner with job training programs that have a documented track record of preparing people, especially women, for local jobs with advancement potential that pay a good wage"). Levy also suggests that local housing agencies do more to "provide access to safe and affordable child care" so that voucher recipients have more time to look for jobs, and so that these individuals also can keep their jobs without having to leave their children home alone or with untrustworthy house-sitters. *Id.* at 5.

130. See Susan J. Popkin et. al., *Residents at Risk: A Profile of Ida B. Wells and Madden Park*, THE URB. INST. 1, 35 (2003) (finding that in one particular development, ninety-four percent of those interviewed said they were in need of job referral and job training services). Eighty-two percent stated that they needed drug and alcohol abuse counseling services. *Id.*

131. *Fill the PHA Funding Shortfall*, NATIONAL LOW INCOME HOUSING COALITION (Sept. 2006) http://nlihc.org/detail/article.ctm?article_id=3423&id=19. HUD began informing public housing officials in June of 2006 that "operating subsidies would be only at 85.5% of identified need." *Id.*

132. *Id.*

133. *Id.*

134. *Id.* The amount requested by the President for FY07 would only "provide reimbursement to housing authorities for, at most, only 80% of their costs." *Id.*

135. See Roisman, *supra* note 9, at 917-20 (revealing numerous instances of HUD's failures to integrate public housing).

suffered through decades of inadequate housing because public housing tenants have been forced to live in impoverished, crime-ridden, racially segregated neighborhoods.¹³⁶ Court opinions such as *Young* forced HUD and local housing agencies to implement new policies to promote integration.¹³⁷ But, is HOPE VI the program that has ended what many considered to be a national housing disaster?

It is difficult to answer such a perplexing question. Scholars, philosophers, and lawyers all feel differently about the issue. But when we ask the actual tenants themselves, the unequivocal answer is the "Plan for Transformation" is failing in Chicago. The stories of the plaintiffs in *Wallace* reveal tenants being relocated into apartments filled with rats and roaches, and into racially segregated neighborhoods dominated by violent gangs.¹³⁸ These stories hauntingly highlight the fallacies of the relocation efforts in Chicago.¹³⁹ For many of these relocated tenants, life is even worse than it was before they were forced to leave the concrete towers.¹⁴⁰ Further, statistical evidence supports the tenants' notion that the program is desperately failing to promote integration.¹⁴¹

There have been a few success stories,¹⁴² and the CHA has recently made some significant changes,¹⁴³ but due to strict screening requirements and a limited amount of mixed income units, the amount of tenants who are allowed into the new

136. *Id.*

137. *See Young*, 628 F. Supp. 1037 (pointing out that HUD and a local housing agency failed to desegregate public housing and mandating that HUD make more efforts to integrate public housing).

138. *See Amended Complaint*, at 26-38, *Wallace*, 298 F. Supp. 2d 710 (discussing the personal experiences of several CHA tenants that were relocated into racially segregated neighborhoods). Many of the individuals were actively encouraged by CHA agents to relocate into racially segregated neighborhoods, and denied access into the newly built mixed income developments. *Id.*

139. *See Amended Complaint*, at 39, *Wallace*, 298 F. Supp. 2d 710 (describing the many negative aspects of public housing tenants who have been relocated into private housing markets in Chicago).

140. *See id.* (reiterating the hardships that relocated tenants are forced to endure in their new neighborhoods).

141. *See Fischer*, *supra* note 60 (noting that nearly eighty percent of relocated families are living in census tracts which are over ninety percent African American).

142. *See Thigpen*, *supra* note 1, at 3 (describing a successful relocation).

143. *See CHAC MOBILITY PROGRAM ASSESSMENT*, *supra* note 107, at 33-34 (finding "several key reforms" including: substantial efforts to improve monitoring and tracking, improved housing inspections, an innovative security deposit loan program (which offers zero-interest loans on security deposits to participants who move to opportunity areas), and more adequate follow-up services).

developments is small when compared to the vast number of tenants forced to relocate into racially segregated neighborhoods.¹⁴⁴

If the HUD and the CHA fail to make the necessary changes discussed above, people must continue to keep fighting the housing crisis through litigation. As seen in the past, successful litigation (where the courts have found a violation of a federal law such as the FHA)¹⁴⁵ forces housing agencies to make major changes in order to attempt to desegregate housing.¹⁴⁶ Perhaps a ruling in favor of the CHA plaintiffs could lead to the development of new policies that could turn the Plan for Transformation into a success story. While these issues remain unresolved, the lives of thousands of tenants hang in the balance.

144. See Venkatesh, *supra* note 36 (reporting that less than twenty percent of the tenants will be able to return to the newly constructed mixed income developments).

145. See *Young*, 628 F. Supp. at 1052 (pointing out that HUD and a local housing agency failed to desegregate public housing).

146. See Roisman, *supra* note 9, at 918 (emphasizing that what little HUD did to desegregate was largely in response to litigation that ruled against the agency).

BACK ISSUES

The issues listed below and unbound volumes of *The John Marshall Law Review* are still available from The John Marshall Law Review, Att'n: William R. Everding, Managing Editor, 315 South Plymouth Court, Chicago, Illinois 60604, at the following prices: single issues \$10.00 (International - \$16.00); unbound volumes \$32.00 (International - \$45.00); and bulk rates available upon request. Order forms are available online at: <http://www.jmls.edu/lawreview/subscriptionform.pdf>. Back issues are also available in electronic format at <http://heinonline.org/>.

Vol. 34 No. 1

Dean Robert Gilbert Johnston, *Louis Biro: A Remembrance*; Robert MacCrate, *Keynote Address*; Scott Brewer, *On the Possibility of Necessity in Legal Argument: A Dilemma for Holmes and Dewey*; Joel R. Cornwell, *Languages of a Divided Kingdom: Logic and Literacy in the Writing Curriculum*; Linda Ross Meyer, *Why Barbara, Celarent, Darii, and Ferio Flunk out of Law School: Comment on Scott Brewer, On the Possibility of Necessity in Legal Argument*; Elizabeth Mertz, *Teaching Lawyers the Language of Law: Legal and Anthropological Translations*; Susan F. Hirsch, *Making Culture Visible: Comments on Elizabeth Mertz's Teaching Lawyers the Language of Law: Legal and Anthropological Translations*; Brook K. Baker, *Language Acculturation Processes and Resistance to In"doctrine"ation in the Legal Skills Curriculum and Beyond: A Commentary on Mertz's Critical Anthropology of the Socratic, Doctrinal Classroom*; Jane B. Baron, *Language Matters*; Jane E. Larson, "A Good Story" and "The Real Story"; Kathryn M. Stanchi, *Exploring the Law of Law Teaching: A Feminist Process*; Regina Austin, *Contextual Analysis, Race Discrimination, and Fast Food*; Reginald Leamon Robinson, *Race Consciousness: Can Thick, Legal Contextual Analysis Assist Poor, Low-Status Workers Overcome Discriminatory Hurdles in the Fast Food Industry? A Reply to Regina Austin*; Charles R. Calleros, *In the Spirit of Regina Austin's Contextual Analysis: Exploring Racial Context in Legal Method, Writing Assignments and Scholarship*; Sonali Das, *Silencing Speech in the Workplace: Re-examining the Use of Specific Speech Injunctive Relief for Title VII Hostile Environment Work Claims*; Deana Saxinger, *Cash Balance Plans: They Work For Employers But Do They Work For Employees?*; Angel M. Traub, *The Wall is Down, Now We Build More: The Exclusionary Effects of Gated Communities Demand Stricter Burdens Under the FHA*.

Vol. 34 No. 2

Marshall J. Hartman & Stephen L. Richards, *The Illinois Death Penalty: What Went Wrong?*; Steven Clark, *Procedural Reforms in Capital Cases Applied to Perjury*; Sharone Levy,

Righting Illinois' Wrongs: Suggestions for Reform and a Call for Abolition; Stephen L. Richards, *Reasonable Doubt Redux: The Return of Substantive Criminal Appellate Review in Illinois*; Wayne T. Westling, *Something is Rotten in the Interrogation Room: Let's Try Video Oversight*; William G. Andreozzi, *Prohibiting the Deduction for Non-Corporate Tax Deficiency Interest: When Treasury Goes Too Far*; Marilyn Lablaiks, *Bad Medicine: ERISA's Equitable Remedies and the Preemption of Fundamental Legal Rights*; Courtney Perkins, *The Seattle Art Museum: A Good Faith Donee Injured in the Restoration of Art Stolen During World War II*.

Vol. 34 No. 3

Mandy DeFilippo, *You Have the Right to Better Safeguards: Looking Beyond Miranda in the New Millennium*; Michael P. Seng, *Reflections on When "We, the People" Kill*; Stephen Brooks, *Does a Life Insurance Subtrust Create a Prohibited Assignment Within a Qualified Plan*; Thomas A. Gionis, *Paradox on the High Seas: Evasive Standards of Medical Care – Duty Without Standards of Care*; *A Call for the International Regulation of Maritime Healthcare Aboard Ships*; Sarah Lindley, *Violence and Injury in Illinois Schools: Students Deserve a Remedy*; Ako Miyaki-Murphy, *In the Wake of Crosby v. National Foreign Trade Council: The Impact Upon Selective Purchasing Legislation Throughout the United States*.

Vol. 34 No. 4

Doris Estelle Long, *First, "Let's Kill All The Intellectual Property Lawyer's!": Musings on the Decline and Fall of the Intellectual Property Empire*; Janice M. Mueller, *Patenting Industry Standards*; William T. Fryer, III, *Trademark Product Appearance Features, United States and Foreign Protection Evolution: A Need for Clarification and Harmonization*; Donald L. Zuhn, Jr., *DNA Patentability: Shutting the Door to the Utility Requirement*; Ted L. Field, *Computer-Aided Drug Design Using Patented Compounds: Infringement in Cyberspace?*; Karl Maersch, *ICANN't Use My Domain Name? The Real World Application of ICANN's Uniform Domain-Name Dispute Resolution Policy*; Jason Green, *Is Zippo's Sliding Scale a Slippery Slope of Uncertainty? A Case for Abolishing Web Site Interactivity as a Conclusive Factor in Assessing Minimum Contacts in Cyberspace*.

Vol. 35 No. 1

John H. Clough, *Federalism: The Imprecise Calculus of Dual Sovereignty*; Karl Moltzen, *The Jury Poll and a Dissenting Juror: When a Juror In a Criminal Trial Disavows Their Verdict in Open Court*; Frances Howell Rudko, *Pause at the Rubicon, John Marshall and Emancipation: Reparations in the Early National Period?*; Petr Pithart, *The World After Terrorism*; April L. Foreman, *Web of Manipulation: The Learned Intermediary Doctrine and Direct-to-Consumer Advertising on the World Wide Web*; Anne B. Ryan, *Punishing Thought: A Narrative Deconstructing the Interpretive Dance of Hate Crime Legislation*.

Vol. 35 No. 2

Dean Robert Gilbert Johnston & Sarah Lufrano, *The Adversary System as a Means of Seeking Truth and Justice*; Kimberly Carlson, *When Cows Have Wings: An Analysis of the OECD's Tax Haven Work as It Relates to Globalization, Sovereignty and Privacy*; Brandon K. Lemley, *Effectuating Censorship: Civic Republicanism and the Secondary Effects Doctrine*; THIRD ANNUAL ARTHUR J. GOLDBERG CONFERENCE: Don Turner, Willard A. Workman, & Ira Arlook, *International Trade and Labor: Leveling Up or Down*; FOURTH ANNUAL ARTHUR J. GOLDBERG CONFERENCE: Gerald E. Berendt, David Moberg, & Stephen Franklin, *The Labor Strike: Is It Still a Useful Economic Weapon for Unions?*; Benjamin B. Cotton, *Prospecting or Cybersquatting: Registering Your Name Before Someone Else Does*; Derek Witte, *Avoiding the Un-Real Estate Deal: Has the Uniform Electronic Transactions Act Gone Too Far?*

Vol. 35 No. 3

Anthony M. Cabot & Robert C. Hannum, *Gaming Regulation and Mathematics: A Marriage of Necessity*; Marc D. Ginsberg, *Beyond the Viewbox: The Radiologist's Duty to Communicate Findings*; ASSOCIATION OF AMERICAN LAW SCHOOLS ANNUAL MEETING: INTERNATIONAL AIDS: A Case Study in the Challenges of Globalization, John G. Culhane, Peter Kwan, Andrew L. Strauss, Allyn L. Taylor, Pierre De Vos, Mark E. Wojcik; Nathan W. Eckley, *Reaping the Benefits of Agricultural Biotechnology Through Uniform Regulation*; Brian M. Holt, *Genetically Defective: Courts' Interpretation of the Americans with Disabilities Act Fails to Protect Against Genetic Discrimination in the Workplace.*

Vol. 35 No. 4

THE FUTURE OF EMPLOYEE BENEFITS LAW: A JOHN MARSHALL LAW REVIEW SYMPOSIUM: Katherine J. Kennedy, *A Primer on the Taxation of Executive Deferred Compensation Plans*; Susan J. Stabile, *Another Look at 401(K) Plan Investments in Employer Securities*; David A. Pratt, *Pension Simplification*; Pamela Perun, *Phased Retirement Programs for the Twenty-First Century Workplace*; Lorraine Schmall, *Women and Pension Reform: Economic Insecurity and Old Age*; Christopher E. Condeluci, *Winning the Battle, But Losing the War: Purported Age Discrimination May Discourage Employers from Providing Retiree Medical Benefits*; Gregory Pitts, *E.R.I.S.A Subrogation as Interpreted Within the Seventh Circuit—A Roadmap for Managing First Dollar Recovery*; Todd M. Murphy, *Crossroads: Modern Contract Dissatisfaction as Applied to Songwriter and Recording Agreements.*

Vol. 36 No. 1

Molly Mosley-Goren, *Jurisdictional Gerrymandering? Responding to Holmes Group v. Vornado Air Circulation Systems*; Darin Bartholomew, *Is Silence Golden When it Comes to Auditing: A First Amendment Focus*; Bernard E. Nodzon, Jr., *Free Speech in a Digital Economy: An Analysis of How Intellectual Property Rights Have Been Elevated at the Expense of Free Speech*; Brian J.

Steffen, Ph.D., *Freedom of the Private-University Student Press: A Constitutional Proposal*; David L. Hudson, Jr. and John E. Ferguson, Jr., *The Court's Inconsistent Treatment of Bethel v. Fraser and the Curtailment of Student Rights*; David L. Hudson, Jr., *Reflecting on the Virtual Child Porn Decision*; Kristen Hudson Clayton, *The Draft Hague Convention on Jurisdiction and Enforcement of Judgments and the Internet—A New Jurisdictional Framework*; Lisa Petrilli, *Lost Chance in Illinois? That May Still Be The Case*; Sandra Ferson Young, *An International Antitrust Dilemma: An Analysis of the Interaction of Antitrust Laws in the United States and the European Union*.

Vol. 36 No. 2

Kristal S. Steppich, *Behind the Words: Interpreting the Hobbs Act Requirement of "Obtaining of Property From Another"*; Casey L. Westover, *The Twenty-Eighth Amendment: Why the Constitution Should Be Amended to Grant Congress the Power to Legislate in Furtherance of the General Welfare*; Eve T. Krazewski, *Overhauling the Good Faith Reasonable Doubt Test: Unions Should Be Obligated to Provide Annual Mandatory Polls to Determine Continuing Union Majority Status*; Clovia Hamilton, *University Technology Transfer and Economic Development: Proposed Cooperative Economic Development Agreements Under the Bayh-Dole Act*; Pamela Edwards, *Into the Abyss: How Party Autonomy Supports Overreaching Through the Exercise of Unequal Bargaining Power*; Frederic R. Kellogg, *Holmes, Common Law Theory, and Judicial Restraint*; Paul Kleppetsch, *In the Wake of Kyllo v. United States: The Future of Thermal Imaging Cameras*; Peter Puchalski, *Illinois Construction Negligence, Post-Structural Work Act: The Need for a Clear Legislative Mandate*.

Vol. 36 No. 3

Daniel Goldberg, *Cornering the Market in a Post 9/11 World: The Future of Horizontal Restraints*; Celeste M. Hammond, *The (Pre)(As)sumed "Consent" of Commercial Binding Arbitration Contracts: An Empirical Study of Attitudes and Expectations of Transactional Lawyers*; Georgette Chapman Poindexter, *Impossible, Impracticable, or Just Expensive? Allocation of Expense of Ancillary Risk in the CMBS Market*; Thomas C. Homburger & Timothy J. Grant, *A Changing World: A Commercial Landlord's Duty to Prevent Terrorist Attacks in Post-September 11th America*; Harold L. Levine, *A Day in the Life of a Residential Mortgage Defendant*; Mark E. Wojcik & Lawrence Friedman, *Foreword: Setting Standards: Should the Federal Circuit Give Greater Deference to Decisions of the U.S. Court of International Trade in International Trade Cases?*; The Honorable Gregory W. Carman, *A Suggested Revision of the Standard of Review That the Federal Circuit Applies to Appeals of Antidumping and Countervailing Duty Cases from the U.S. Court of International Trade*; John F. Costello, Jr., *Mandamus as a Weapon of "Class Warfare" in Sixth Amendment Jurisprudence: A*

Case Comment on United States v. Santos; Bob Madden, The Valuation of an Experience: A Study in Land Use Regulation.

Vol. 36 No. 4

SEVENTH CIRCUIT REVIEW: Donald L. Beschle, *The First Amendment in the Seventh Circuit: 2002*; Iain D. Johnston, *Survey of Seventh Circuit Decisions: Class Actions*; Molly Mosley-Goren, *Intellectual Property Law Decisions of the Seventh Circuit*; David Anthony Rutter, *Title VII Retaliation, A Unique Breed*; Kendra Johnson Panek, *Forum Selection Clauses in Diversity Actions*; Paul Cherner & Abel Leon, *Americans With Disabilities Act (ADA)*; Matthew Hector, *Privacy to be Patched in Later – An Examination of the Decline of Privacy Rights*; Anthony J. Longo, *Agreeing to Disagree: A Balanced Solution to Whether Parties May Expand the Scope of Judicial Review Beyond the FAA*; Donna L. Moore, *Implementing A National Putative Father Registry by Utilizing Existing Federal/State Collaborative Databases.*

Vol. 37 No. 1

Scott Paccagnini, *How Low Can You Go (Down the Ladder): The Vertical Reach of RICO*; Lisa Lawler Gradior, *Back to Basics: A Call to Re-evaluate the Unemployment Insurance Disqualification for Misconduct*; Timothy E. Wind, *The Quandary of Megan’s Law: When the Child Sex Offender is A Child*; Gregory J. Wrtman, *Freedom of Discrimination?: The Conflict Between Public Accommodations’ Freedom of Association and State Anti-Discrimination Laws*; Kyle Murray, *Assumption-of-the-Risk Retirement?: A Survey of Recent “Serious Consideration” Case Law*; Lee Ann Rabe, *Sticks and Stones: The First Amendment and Campus Speech Codes*; Violeta I. Balan, *Recognition and Enforcement of Foreign Judgments in the United States: The Need for Federal Legislation*; Andrew J. Boyd, *Righting the Canoe: Title IX and the Decline of Men’s Intercollegiate Athletics*; Koby Bailey, *Energy “Goods”: Should Article 2 of the Uniform Commercial Code Apply to Energy Sales in a Deregulated Environment?*

Vol. 37 No. 2

SYMPOSIUM: MARBURY V. MADISON AND JUDICIAL REVIEW: LEGITIMACY, TYRANNY AND DEMOCRACY: Samuel R. Olken, *Foreword*; William E. Nelson, *The Province of the Judiciary*; Larry D. Kramer, *The Pace and Cause of Change*; Samuel R. Olken, *The Ironies of Marbury v. Madison and John Marshall’s Judicial Statesmanship*; Louis Michael Seidman, *The Secret Life of the Political Question Doctrine*; Thomas W. Merrill, *Marbury v. Madison as the First Great Administrative Law Decision*; Mark Tushnet, *Constitutional Hardball*; Walter Kendall, *Reflections on Judicial Review and the Plight of the Poor in a World Where Nothing Works*; Maria Zas, *Consular Absolutism: The Need for Judicial Review in the Adjudication of Immigrant Visas for Permanent Residence*; Jana L. Tibben, *Family Leave Policies*

Trump States' Rights: Nevada Department of Human Resources v. Hibbs and Its Impact on Sovereign Immunity Jurisprudence.

Vol. 37 No. 3

EMPLOYEE BENEFITS SYMPOSIUM: Kathryn J. Kennedy, *Dedication*; David Wray, *Foreword*; Donald T. Bogan, *ERISA: Rethinking Firestone in Light of Great-West – Implications for Standard of Review and the Right to a Jury Trial in Welfare Benefit Claims*; Ellen A. Bruce and John Turner, *Lost Pension Money: Who is Responsible? Who Benefits?*; Mark D. DeBofsky, *The Paradox of the Misuse of Administrative Law in ERISA Benefit Claims*; Barry Kozak, *The Cash Balance Plan: An Integral Component of the Defined Benefit Plan Renaissance*; Steven R. Lifson, *Practical Planning Ideas for Distributions from IRAs and Qualified Plans*; Dana M. Muir, *Counting the Cash: Disclosure and Cash Balance Plans*; Nikolay A. Ouzounov, *Keeping Employees' Trust: The Rocky Road Ahead for Pension Plan Trustees*; Mary Ann Leuthner, *Need for a Ceasefire in the War on the Workers: Restoring the Balance and Hope of the National Labor Relations Act*; Margaret C. McGrath, *Insulin-Dependent Diabetes and Access to Treatment in the Workplace: The Failure of the Americans with Disabilities Act to Provide Protection*; Allison Cychosz, *The Effectiveness of International Enforcement of Intellectual Property Rights.*

Vol. 37 No. 4

Julie Spanbauer, *Dedication*; Jeremy Colby, *SWANCC: Full of Sound and Fury, Signifying Nothing...Much?*; Kevin M. McDonald, *Separations, Blowouts, and Fallout: A Treadise on the Regulatory Aftermath of the Ford-Firestone Tire Recall*; Nikolay A. Ouzounov, *Facing the Challenge: Corruption, State Capture and the Role of Multinational Business*; Julie Campagna, *United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises With Regard to Human Rights: The International Community Asserts Binding Law on the Global Rule Makers*; Andrew J. Boyd, *Medical Marijuana and Personal Autonomy*; Timothy O' Brien, *A Dollar Short: The Impact of the CAN-SPAM Act of 2003 on Illinois Businesses*; Anita Schausten, *Retaliation Against Third Parties: A Potential Loophole in Title VII's Discrimination Protection*; Andrzej Niekrasz, *The Past is Another Country: Against the Retroactive Applicability of the Foreign Sovereign Immunities Act to Pre-1952 Conduct*; Andrea Evensen, *"Don't Let the Sun Go Down on Me:" An In-Depth Look at Opportunistic Business Method Patent Licensing and a Proposed Solution to Allow Small-Defendant Business Method Users to Sing a Happier Tune.*

Vol. 38 No. 1

SYMPOSIUM: REAL ESTATE IN BANKRUPTCY: A LOOK BACK FOR A BETTER LOOK FORWARDS: Michael Bartolic, *Dedication*; Erin N. Graham, *Dedication*; Jennifer Hagberg, *Dedication*; Celeste M.

Hammond, *Foreword*; Douglas G. Baird, *Remembering Pine Gate*; A. Mechele Dickerson, *Bankruptcy and Mortgage Lending: The Homeowner Dilemma*; Paul B. Lewis, 203 N. LaSalle *Five Years Later: Answers to the Open Questions*; Robert M. Zinman, *Precision in Statutory Drafting: The Qualitech Quagmire and the Sad History of Section 365(h) of the Bankruptcy Code*; Gerald F. Munitz, *Treatment of Real Property Liens in Bankruptcy Cases*; Paul L. Hammann & John C. Murray, *Creditors' Rights Risk: A Title Insurer's Perspective*; Brian Bassett, *How to Keep the Lights On: An Exploration of the Abrogation of Wholesale Energy Contracts*; Timothy Scahill, *The Domestic Security Enhancement Act of 2003: A Glimpse Into a Post-Patriot Act Approach to Combating Domestic Terrorism*; Jeffrey Stephen Sobek, *Balancing Individual Privacy Rights and the Rights of Trademark Owners in Access to the WHOIS*.

Vol. 38 No. 2

Scott Fruehwald, *The Boundary of Personal Jurisdiction: The "Effects Test" and the Protection of Crazy Horse's Name*; Floyd Weatherspoon, *Racial Profiling of African-American Males: Stopped, Searched, and Stripped of Constitutional Protection*; Troy L. Booher, *Finding Religion for The First Amendment*; Sue Ann Mota, *Global Antitrust Enforcement: The Sherman Act Does Not Apply Without Any Direct Domestic Effect, but Discovery Assistance May Be Available to a Foreign Tribunal, According to The U.S. Supreme Court*; Virginia F. Milstead, *State Sovereign Immunity and the Plaintiff State: Does the Eleventh Amendment Bar Removal of Actions Filed in State Court?*; Bruce Epperson, *Permitted but Not Intended: Boub v. Township of Wayne, Municipal Tort Immunity in Illinois, and the Right to Local Travel*; James C. Munson & Christi J. Guerrini, *Avoidable Due Process Confusion: Special Use Hearings in Illinois After Klaeren*; Cecil C. Kuhne, III, *Rethinking Campaign-Finance Reform: The Pressing Need for Deregulation and Disclosure*; Jeffrey D. Waltuck, *Remaining Silent: A Right With Consequences*; Nathan Wilda, *David Pays for Goliath's Mistakes: The Costly Effect Sarbanes-Oxley Has on Small Companies*.

Vol. 38 No. 3

Donald T. Bogan, *ERISA: State Regulation of Insured Plans After Davila*; Richard Ehrhart, *Section 409A-Treasury "Newspeak" Lost in the "Briar Patch"*; Albert Feuer, *When Are Releases of Claims for ERISA Plan Benefits Effective?*; Nell Hennessy, *Follow the Money: ERISA Plan Investments in Mutual Funds and Insurance*; Craig C. Martin & Elizabeth L. Fine, *ERISA Stock Drop Cases: An Evolving Standard*; James L. Daniels, *Violating the Inviolable: Firearm Industry Retroactive Exemptions and the Need for a New Test for Overreaching Federal Prohibitions*; Paula Jacobi, *Pharmaceutical Tort Liability: A Justifiable Nemesis to Drug Innovation and Access*; Megan McCoy, *"Who's The Boss?": An Analytical and Practical Approach to Determine the "Employer" in*

a Defined Contribution Qualified Retirement Plan; Zubaida Qazi, In the Wake of Gratz v. Bollinger: Standing on Thin Ice; Patrick Walsh, Stemming the Tide of Stem Cell Research: The Bush Compromise.

Vol. 38 No. 4

Louis J. Virelli III, *Don't Ask, Don't Tell, Don't Work: The Discriminatory Effect of Veterans' Preferences on Homosexuals*; Matthew R. Schreck, *Preventing "You've Got Mail"TM From Meaning "You've Been Served": How Service of Process by E-Mail Does Not Meet Constitutional Procedural Due Process Requirements*; Nsongurua J. Udombana, *A Question of Justice: The WTO, Africa, and Countermeasures for Breaches of International Trade Obligations*; Jason A. Abel, *Balancing a Burning Cross: The Court and Virginia v. Black*; Professor Ralph Ruebner, *The Evolving Nature of the Crime of Genocide*; Mark W. Bina, *Private Military Contractor Liability and Accountability After Abu Ghraib*; Joan Colson, *Rule of Ethics or Substantive Law: Who Controls an Individual's Right to Choose a Lawyer in Today's Corporate Environment*; Robert W. Gray, *The Applicability of Constructive Eviction, Implied Warranty of Habitability, Common-Law Fraud, and the Consumer Fraud Act to Omissions of Material Facts in a Commercial Lease*; Daniel B. Roth, *Campaign Finance Reform, Electioneering Communications, and the First Amendment: Resuscitating the Third Exception.*

Vol. 39 No. 1

Sandra Liss Friedman & Helena D. Sullivan, *Optrex and the Attorney-Client Privilege: Implications and Potential Significance*; Munford Page Hall, II, *Remands in Trade Adjustment Assistance Cases*; Patricia M. McCarthy, *An Importer's Election: Whether to Invoke Attorney Advice in Defense or to Preserve Privilege*; John B. Pellegrini, *What Does Optrex Mean for the Customs Bar?*; Stuart M. Rosen, Jennifer J. Rhodes, & W. Andrew Ryu, *Preliminary Injunctions: A Respondent's Perspective*; Jeffrey M. Telep, *Injunctions Against Liquidation in Trade Remedy Cases: A Petitioners' View*; Elizabeth C. Seastrum & Matthew D. Walden, *Adjudicating International Trade Cases at the U.S. Commerce Department: Endless Remand or Balanced Resolve?*; Michael P. DiNatale, *Patients Beware: Preemption of Common Law Claims Under the Medical Device Amendments*; Lisa M. Fealk-Stickler, *Regulating the Regulators: The Impact of FDA Regulation on Corporations' First Amendment Rights*; Meghan Riley, *American Courts are Drowning in the "Gene Pool": Excavating the Slippery Slope Mechanisms Behind Judicial Endorsement of DNA Databases*; Nimalka Wickramasekera, *Public Use or Experimental Use: Are Clinical Trials Susceptible to Another Attack Similar to That in Smithkline Beecham Corp. v. Apotex Corp.?*

Vol. 39 No. 2

Debra Pogrund Stark, *Forward*; Debra Pogrund Stark, *Navigating Residential Attorney Approvals: Finding a Better Judicial North Star*; Jon Romberg, *The Hybrid Class Action as Judicial Spork: Managing Individual Rights in a Stew of Common Wrong*; Darlene C. Goring, *The History of Slave Marriage in the United States*; Robin A. Boyle, *Law Students with Attention Deficit Disorder: How to Reach Them, How to Teach Them*; Dean A. Strang, *Felons, Guns, and the Limits of Federal Power*; Gregory Crespi, *Valuation in Cost-Benefit Analysis: Choosing Between Offer Prices and Asking Prices as the Appropriate Measure of Willingness to Pay*; Douglas Kash and Matthew Indrisano, *In the Service of Secrets: The U.S. Supreme Court Revisits Totten*; Kaycee Hopwood, *“For It’s One, Two, Three Strikes, You’re Out . . .”*; Jessica Butterfield, *Blue Mourning: Postpartum Psychosis and the Criminal Insanity Defense, Waking to the Reality of Women Who Kill Their Children*; Ruth Yacona, *Manson v. Brathwaite: The Supreme Court’s Misunderstanding of Eyewitness Identification*.

Vol. 39 No. 3

Honorable William J. Bauer, *Dedication*; Priscilla E. Ryan, *Foreword*; Justin Cummins and Meg Luger Nikolai, *ERISA Reform in a Post-Enron World*; Craig C. Martin, Matthew J. Renaud & Omar R. Akbar, *What’s up on Stock-Drops? Moench Revisited*; Mark Casciari and Ian Morrison, *Should the Securities Exchange Act be the Sole Federal Remedy for an ERISA Fiduciary Misrepresentation of the Value of Public Employer Stock?*; David Pratt, *Standards of Practice for Pension Practitioners*; Paul M. Secunda, *Inherent Attorney Conflicts of Interest Under ERISA: Using the Model Rules of Professional Conduct to Discourage Joint Representation of Dual Role Fiduciaries*; Alison McMorran Sulentic, *Can Systems Analysis Help Us to Understand C.O.B.R.A.?: A Challenge to Employment-Based Health Insurance*; Larry Grudzien, *The Great Vanishing Benefit, Employer Provided Retiree Medical Benefits: The Problem And Possible Solutions*; Colleen E. Medill, *Resolving The Judicial Paradox Of “Equitable” Relief Under ERISA Section 502(A)(3)*; John F. Hiltz, *Uniform Laws or State Immunity? The Constitutionality of Section 106(a) After Seminole*; Ezra Spilke, *Adjudicated on the Merits?: Why the AEDPA Requires State Courts to Exhibit Their Reasoning*; Jeffrey Hoskins, *Negligent Infliction of Emotional Distress: Recovery is Foreseeable*

Vol. 39 No. 4

Mark L. Jones, *Fundamental Dimensions of Law and Legal Education: An Historical Framework—A History of U.S. Legal Education Phase I: From the Founding of the Republic Until the 1860s*; Richard H.W. Maloy, *The “Priority Statute” – The United States’ “Ace-in-the-Hole”*; Jeffrey A. Parness, *No Genetic Ties, No More Fathers: Voluntary Acknowledgment Rescissions and Other Paternity Disestablishments Under Illinois Law*; Paul A. Clark, *Limiting the Presidency to Natural*

Born Citizens Violates Due Process; Frank Adams, *Why Legislative Findings Can Pad-Lock Redistricting Plans in Racial-Gerrymandering Cases*; Walter M. Frank, *Making our Congressional Elections More Competitive*; A Proposal for a Limited Number of Statewide At-Large Elections in Our More Populous States; Vasiliki Agorianitis, *Being Daphne's Mom: An Argument for Valuing Companion Animals as Companions*; Timothy Tommaso, *Disparate Impact and the ADEA: So, Who is Going to be in the Comparison Group?*; Benjamin Burnham, *Hitching a Ride: Every Time You Take a Drive, the Government is Riding With You*; Renee Labuz, *Shareholders' Rights to a Cause of Action Under the Investment Company Act of 1940 Following Exxon Mobil v. Allapattah*

Vol. 40 No. 1

L. Darnell Weeden, *Hurricane Katrina and the Toxic Torts Implications of Environmental Injustice in New Orleans*; Amy D. Ronner, *Dostoyevsky and the Therapeutic Jurisprudence Confession*; Steven M. Puzis, *Developing Trends with the Class Action Fairness Act of 2005*; Surabhi Ranganathan, *Reconceptualizing the Boundaries of "Humanitarian" Assistance: "What's in a Name" or "The Importance of Being 'Earnest'"?*; Reuven (Ruvi) Ziegler, *The French "Headscarves Ban": Intolerance or Necessity?*; Justin R. Watkins, *Always Low Prices, Always at a Cost: A Call to Arms Against the Wal-Martization of America*; Jessica Lynn Mok O'Neill, *If You Love Me Dear, Please Sign Here: Will the "Love Contract" Play a Role in Protecting Employers from Sexual Harassment Liability?*; John Heintz, *Political Currency and Hard Currency: The No Child Left Behind Act Turns Three*; Andrea Koklys, *Second Chance for Justice: Reevaluation of the United States Double Jeopardy Standard*

Vol. 40 No. 2

REAL ESTATE LAW SYMPOSIUM: Celeste M. Hammond, *Foreword*; Richard H. Chused, *The Roots of Jack Spring v. Little*; Mary Spector, *Tenant Stories: Obstacles and Challenges Facing Tenants Today*; Mary Marsh Zulack, *If You Prompt Them, They Will Rule: The Warranty of Habitability Meets New Court Information Systems*; Robert G. Schwemm, *Why Do Landlords Still Discriminate (and What Can Be Done About It)?*; Lloyd T. Wilson, Jr., *The Beloved Community: The Influence and Legacy of Personalism in the Quest for Housing and Tenants' Rights*; David L. Callies and Christopher T. Goodin, *The Status of Nollan v. California Coastal Commission and Dolan v. City of Tigard after Lingle v. Chevron U.S.A., Inc.*; Dale A. Whitman, *Deconstructing Lingle: Implications for Takings Doctrine*; Richard A. Epstein, *From Penn Central to Lingle: The Long Backwards Road*; Debra Pogrud Stark, *How Do You Solve a Problem Like in Kelo?*; William Glunz, *Granholt v. Heald: The Twenty-First Amendment Takes Another Hit – Where Do States Go from Here?*; Amanda Draper, *Identity Theft: Plugging the Massive Data Leaks with a Stricter Nationwide Breach-Notification Law*; Robert Connolly, *Legitimizing Private Placement Broker-Dealers Who Deal with Private Investment Funds: A Proposal for a New Regulatory Regime and a Limited Exception to Registration*

Vol. 40 No. 3

EMPLOYEE BENEFITS LAW SYMPOSIUM: Kathryn L. Moore, *Foreword*; Alison McMorran Sulentic, *Secrets, Lies & ERISA: The Social Ethics of*

Misrepresentations and Omissions in Summary Plan Descriptions; David Pratt, *The Past, Present and Future of Health Care Reform: Can It Happen?*; Mark D. DeBofsky, *What Process Is Due in the Adjudication of ERISA Claims?*; Craig C. Martin & Joshua Rafsky, *The Pension Protection Act of 2006: An Overview of Sweeping Changes in the Law Governing Retirement Plans*; Barry Kozak & Joshua Waldbeser, *Much Ado About the Meaning of "Benefit Accrual": The Issue of Age Discrimination in Hybrid Cash Balance Plan Qualification Is Dying but Not Yet Dead*; Kathryn L. Moore, *Book Review: The Battle for Social Security: From FDR's Vision to Bush's Gamble*, Nancy J. Altman; Albert Feuer, *Who Is Entitled to Survivor Benefits from ERISA Plans?*; Adrienne Detanico, *Banning Smoking in Chicago's Social Scene: Protecting Labor and Broadening Public Health Policy*; Bonny Bumiller, *Legalized Gaming and Political Contributions: When the Diceman Cometh, Will Corruption Goeth?*

Vol. 40 No. 4

GAMING LAW SYMPOSIUM: Heidi McNeil Staudenmaier & Ruth K. Khalsa, *Theseus, the Labyrinth, and the Ball of String: Navigating the Regulatory Maze to Ensure Enforceability of Tribal Gaming Contracts*; I. Nelson Rose, *Gambling and the Law®: The International Law of Remote Wagering*; Anthony N. Cabot & Louis V. Csoka, *Fantasy Sports: One Form of Mainstream Wagering in the United States*; William N. Thompson, Robert W. Stocker, II & Peter J. Kulick, *Remedying the Lose-Lose Game of Compulsive Gambling: Voluntary Exclusions, Mandatory Exclusions, or an Alternative Method?*; D. Michael McBride, III & H. Leonard Court, *Labor Regulation, Union Avoidance and Organized Labor Relations Strategies on Tribal Lands: New Indian Gaming Strategies in the Wake of San Manuel Band of Indians v. National Labor Relations Board*; Cory Aronovitz & Jon Topolewski, *Casernote: The Emerald Casino Fiasco*; Anne Skrodzki, *Signing Statements and the New Supreme Court: The Future of Presidential Expression*; Christine Niemczyk, *Boxing Out Big Box Retailers: The Legal and Social Impact of Big Box Living Wage Legislation*; Michael Hopkins, *Hemlock in the Marketplace: How Freedom of the Press for College Newspapers Poisons the First Amendment*; Ronald Neroda, *A Winner for the Windy City: A Comment in Support of Establishing a Land-Based Casino in the City of Chicago*

