Divided We Live

Alexander Polikoff’s memoir about his landmark public-housing case shows just how complex simple justice can be.

By Harold Henderson

Segregation was the will of the people. In August 1947, 5,000 south-side whites rioted for three nights in a row, battling police and attacking black people driving through the area—all because the Chicago Housing Authority had housed black veterans in the all-white Fernwood Park Homes.

The will of the people was reflected again that year when the Illinois legislature gave the Chicago City Council veto power over the location of new public housing. The council allowed building only within the existing black belt, and the CHA soon erected one high-rise after another along South State Street. Across the city, applicants for new public housing, often despaired for a place to live, were labeled A (white) or B (black). The Bs were told that they could be housed promptly only in black neighborhoods.

Almost 60 years later, segregation is apparently still the will of the people. Go to the heart of any demographic map of Chicago. And that’s despite the fact that for the last 40 odd years the city has had an affirmative action ordinance and a federal desegregation case. Filed in 1966, Gautreaux v. Chicago Housing Authority was considered the Brown v. Board of Education of housing law—has to date accomplished only one-quarter of its goal, though in the process it has spun off enough bewildering subplots to program a whole cable channel.

Waiting for Gautreaux, attorney Alexander Polikoff’s new memoir is a history of this tangled legal tale, as is lucid and genial as Polikoff is in person. It should cement his place among the non-white diplomats who’ve done the most for Chicago. But his book makes it easy to overlook the paradoxes of the case that has consumed much of his working life.

In 1966 Chicago Urban League research director Harold Barron contacted Polikoff and fellow lawyer attorney Chuck Merkel, who together had just won a school desegregation lawsuit in Waukegan. Barron outlined Chicago’s sorry public-housing history, and once they were housed he found CHA residents willing to bring a class-action lawsuit against their landlord. Late that summer Polikoff, Merkel, and three colleagues filed on behalf of Dorothy Gautreaux, Odell Jones, Dorothea Creamechaw, Robert Fairfax, Eva Rodgers, and James Rodgers, representing the 40,000 families then living in CHA housing.

Federal judge Richard B. Austin, a former prosecutor and Richard J. Daley loyalist, heard the case. His famous first words to Polikoff could have come from the old man himself: “Where do you want them to put ‘em? On Lake Shore Drive?” But in early 1969, once he’d heard both sides, Austin found the CHA guilty of intentional segregation. The result was a violation of the Equal Protection Clause of the Constitution. His ruling ordered that public housing not promote racial segregation. It’s simple justice: government shouldn’t tell people where to live. But Judge Austin knew that if he just told the CHA to go and sin no more, it would go right on sinning, only more discreetly. So he met with attorneys from both sides to hammer out the details. What about the 1,456 additional apartments already planned for the south side? And what about the CHA build after that, and where? The result was a compromise. The planned units could go ahead in the black belt. The next 700 all had to go in neighborhoods that were less than 30 percent black, as did three of every four built after that. No more high-rises could be built, and any new public housing could be crammed into the near south and west sides. Half of any new units built would be reserved for poor people already living in the area.

CHF residents had no seat at the table—a fact Polikoff has taken flak for over the years. “Gautreaux remains a case brought on behalf of blacks by white lawyers,” he admits in the book. “Not the ideal posture for a public interest lawsuit supposed to vindicate community rights. But he and his colleagues had no meaningful way to consult with their 40,000 clients. And if they had, what if they said something they didn’t want to hear?” Either we would anger the very persons whose views we had sought by guessing their counsel, or because of the views of some outsider to the case we would disregard our own best judgment, which is what our clients were entitled to receive.

His argument would be stronger if the judgment he referred to had been based on legal technologies rather than policy issues. And there are the very real effects of such judgment on his clients’ well-being to consider. In the 1990s, for instance, the Coalition to Protect Public Housing opposed the demolition of CHA high-rises, arguing that nowhere near enough replacement housing would be available to displaced tenants. But the Gautreaux team favored demolition, even if it might lead to homelessness.


In other words: better to build no more public housing at all than a few apartments in white neighborhoods. The CHA, the City Council, even the courts spent a decade stalling, and reform mayors Jane Byrne and Harold Washington accomplished little. By 1987, when Judge Marvin Frankel (the third on the case) appointed a private firm to do the job the CHA wouldn’t, the stall had worked. “Practically no developable land remained in predominantly white neighborhoods that could be purchased within [federal] cost limits,” writes Polikoff. About half of the 1,813 units that finally got built went into low-income Latino neighborhoods. Gautreaux, a tool designed to blur the black-and-white lines of the city in 1969, was now being integrated blacks and Latinos.

Polikoff had more success on another front. In 1974 Congress voted to replace traditional public housing monies with federal “Section 8” rental subsidies good on the private market, and Judge Austin set aside a portion of these funds for rent vouchers. CHA families could use any where in the metropolitan area—furthering Gautreaux’s goal of achieving desegregation but without building new projects. Helping black public housing residents move into the private market was then a novel idea, and it started slow. But eventually what became known as the “Gautreaux program” caught on. By its one-day-a-year telephone sign-up threatened to crash the city’s phone system. Still, federal officials wanted to know how they were doing for the past. Negotiations with the Carter administration went on past Election Day 1980 until Polikoff compromised again: the program would stop once 7,100 Gautreaux families had been housed using Section 8 vouchers. All told, Polikoff had managed to obtain legal relief for only about 10,000 families, one-quarter of the original number of plaintiffs.

By the 1990s CHA high-rises were physically crumbling. Judge Austin asked the residents tearing them down and rebuilding in the ghetto, but that’s what Judge Austin’s order under the 1966 Democratic National Convention at the United Center drew near. Mayor Daley was priming the prime mover for the out-of-town guests, repairing the streets and installing trees, a park, and a new branch library. At the same time, residents of the dilapidated nearby Henry Horner Homes had taken the CHA to court, accusing the agency of gross neglect and asking that the Horner buildings be torn down and rebuilt. “Had we stood in their way,” Polikoff writes, “the powerful national and local political forces bent on perpetuating the United Center environs for the Democratic Convention could have well swept Gautreaux away, ending any role for the case in public housing redevelopment.” Gautreaux had been designed to bring about racial integration. Instead Polikoff allowed mixed-income housing to be built at Horner in the gnos