



Providence Housing Court

Providence, R.I.

Susan E. McGuirl
Chief Justice

December 17, 1992

Mr. Michael R. Clement
Clerk
City of Providence

Dear Mr. Clement:

I am enclosing herewith a copy of the 1992 Providence Housing Court Report and my resignation as Chief Justice of this Court.

It has truly been an honor to serve for the past five years as Chief Justice.

I want to especially take this opportunity to thank you for all the assistance you have given to me personally and to the Court over the last five years.

If there is anything I can do in the future to help you in addressing the housing issues within the City, please feel free to contact me.

Sincerely,

Susan E. McGuirl
Susan E. McGuirl

SEM/bl
Enc.

IN CITY COUNCIL

JAN 7 1993

READ

WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

Michael R. Clement

CLERK

PROVIDENCE HOUSING COURT

1992 REPORT

Chief Justice:

Susan E. McGuirl

Associate Justices:

Irving Brodsky

Robyn Davis

Introduction

I have had the honor of serving as Chief Justice of the Providence Housing Court for five years, since the Court's inception. In the past, on behalf of the Court, I have issued reports reviewing the problems, strategies and recommendations. I do so again, for the last time.

In past reports the Court has made recommendations, some of which have not yet been adopted. These are included within this report. I again urge consideration of the passage of these recommendations.

Establishment

The Providence Housing Court was established in October of 1987 by the then Mayor, Joseph R. Paolino, Jr. and the members of the Providence City Council. Enabling legislation was passed by the R.I. General Assembly in 1987 and the Providence City Council passed certain ordinances establishing the Court.

Mayor Paolino and the City Council members indicated that they believed that the need for decent, safe housing in the City was critical. They believed that the State District Court could not, because of the many other urgent needs, devote sufficient time to the cases presented by the City of Providence. Prior to the establishment of the Housing Court, in most instances the City's cases, which approximated twenty per week, were heard on Thursday mornings. There were few hearings due to the congested court calendar. The building code cases and zoning violation cases

were heard in the Providence Municipal Court. The records showed that few hearings were heard on these cases.

It was the City officials' belief that more time was needed to be devoted to these critical issues and it was necessary to have a court that specialized in these types of cases, in order to ensure their priority and a measure of experience in dealing with properties and defendants.

The procedures and rules of the Court were adopted after meetings between the City Solicitor's Office, Code Enforcement and the designated Judges of the Court. The Boston Housing Court was used as a model in setting up the practices and procedures to be utilized by the Providence Court. The Providence Housing Court received the same legal and equitable authority of the State District Court Judges in dealing with housing and building matters. The Court, thereby, adopted the District Court Rules of Procedure. In addition, the Court adopted its own Rules of Practice, in order to clearly establish the integrity and independence of the Court as a separate branch of the city government.

History

In 1987, 167 cases were filed (all housing code cases). The Court also began to review each of the over 2000 housing code cases that were transferred from the State District Court.

Initially, the Court's regularly scheduled hearing sessions consisted of approximately thirty cases. Sessions would be held by the Court on Tuesday and Thursday afternoons and on Wednesday

evenings. There would also be a formal calendar on Tuesday mornings. The afternoon sessions were scheduled from 1:30 p.m. to 4:30 p.m. and the evening session was held between 6:00 p.m. and 9:00 p.m. However, despite the schedule, the afternoon sessions usually were completed after 5:00 p.m. and the evening sessions usually lasted about three to four hours, with some hearings concluding after midnight.

In light of the additional case load a third Judge was added to the Court in 1989. The Court then expanded its schedule by adding an additional hearing session. While this session was usually held on Thursday evenings, the timing of hearings for this session was left flexible, due to the schedule of the Court and counsel. The Court also added a Friday morning session for hearings on any emergency matter. Additional sessions were added on a case-by-case basis.

This past year, our sessions consisted of three afternoon hearing sessions--Tuesdays, Wednesdays and Thursdays, for Housing Code Violations; Wednesday night sessions for collections; Friday morning sessions for emergency matters and special neighborhood concerns and Friday afternoons for Building Code Cases.

Statistics for Period October 1, 1991 through October 1, 1992

During the period from October 1, 1991 to October 1, 1992, the Court had a total of 6,876 matters scheduled. A total of 479 new cases were filed and 366 were dismissed.

There are 755 active cases pending as of December 12, 1992. 63

body attachments were issued and 71 were withdrawn. There are approximately 221 active body attachments; 12 cases came before the Court on an emergency basis. \$23,172.00 was collected in fees and costs for the fiscal year July 1, 1991 through July 1, 1992. \$5,253.00 was collected for the period July 1, 1992 through October 1, 1992.

We believe the Court has made progress in its first few years to respond to the needs of additional, safe, decent and affordable housing. We must note, however, that the housing situation has changed dramatically in the last two years. The same problems exist, but they have been aggravated by the present economic conditions--thus making the need more critical. We believe that the City must meet this crisis with alternative, creative solutions.

We believe that there is a critical shortage of decent, safe and affordable housing for the people of the City of Providence.

The recession of 1991 and 1992 has caused all types of property owners to be experiencing problems in paying for rehabilitation. We have had to prepare a financial asset form to be completed by property owners who represent that they are unable to pay for rehabilitative repairs. The recession, combined with the real estate market, are leaving many property owners with property that they no longer can afford to own and maintain. In fact, the value of said property may be less than the mortgages held on these properties. Many property owners have lost their properties through foreclosure and bankruptcy. The largest number

of defendants before the Court are banks, mortgage company and others who have acquired properties through foreclosures.

Consequently, the Court has had to make adjustments as a result of these conditions. We have adopted a policy of placing liens on properties where the fines or costs have not been paid. The time allowed for rehabilitation schedules has been extended and the number of body attachments issued for those who have failed to appear has increased. However, the most significant and perhaps most alarming trend is in the number of houses that were cited with housing violations by the city inspectors and that, subsequently, became vacant and boarded. Most of these properties are not before the Court. Of the approximately 700 vacant properties, only 111 of these vacant buildings are before the Court.

We are concerned that the increased number of vacant buildings will lead to increased criminal activity at the sites and, of course, the possibility of vandalism/arson.

In addition to the growing financial problems, we have seen an increase in the number of special need defendants and an increase in the number of defendants where there is language difficulty. While the Court does not have the resources available to offer interpreters, we have been fortunate in being able to utilize representatives from neighborhood groups, family members or employees of the police department, as interpreters for those in Court.

Actions Taken by the Court this Year

- 1) The Court required that the City, in addition to the order

entered on each case, file a lien against the property based upon the judgment, for the amount of interest and costs in each case.

2) The Court, in addition to issuing a body attachment, imposed fines on those properties where the Defendant did not appear for a contempt hearing and where the violation had not been abated.

Priority Concerns

1. The Court made the following recommendations in 1990. While all concerned agreed that they would be helpful, the City Solicitor's Office decided that legislative authority, by way of ordinance, was needed. The Court has repeatedly asked the Solicitor to offer the legislation to the Council:

- (a) The Court suggests that actual Court Costs be assessed for each case, which cost bears a direct relationship to the cost of preparing and presenting the case. The City calculates that \$100.00 would be sufficient.
- (b) The Court desired to adopt guidelines for minimal fees to be imposed for violations which haven't been abated and where the Defendant has not appeared to offer testimony. These guidelines would give the defendant an appreciation of the actions to be imposed and will make the fines more consistent.

2. It is very important for the Housing Court to work with

the administration in preparing and planning housing programs for the City. There is no one in the City that sees the housing crisis more than those involved in the Housing Court.

3. The City must deal with the approximately 700 houses which have been abandoned in the City. Only 111 of these houses are presently pending in the Court. These cases must be presented to the Court and should be handled as priority matters on a special calendar.

4. Duplicate forms for each action in the Court should be completed in Court at the time of the action. This will save clerical time, both in the clerk's office and in the City Solicitor's office.

5. The Court requests, as it does each year, to adopt a program which would allow the Court to computerize its records and link up with the records of the Recorder of Deeds and eventually, with Code Enforcement.

6. Renewal of the night sessions for hearings on building and housing cases. The Department of Inspection and Standards notified the Court that in order to comply with the Mayor's Executive Order regarding overtime, it would no longer have inspectors available for the Court's night sessions. We believe that this seriously impairs the effectiveness of the Court. Our most productive sessions are night sessions. Some witnesses, neighbors and property owners are available only at night. We suggest strongly that this needs to be reviewed by the Mayor's office and by the City Council.

the Court will request, at a very minimum, that it be given permission, as needed, to have hearings in the evenings, so that neighbors will be able to attend and present testimony regarding conditions of a particular house or building.

7. Adequate staff for the Code Enforcement Division and the assignment of experienced attorneys to the Providence Housing Court. The City only had five housing inspectors for most of this year. The Court also went from having 1 and 1/2 attorneys assigned to the Court to 2 part-time attorneys.

8. Assign staff and attorneys to work with the Providence Plan or Providence Redevelopment to transfer these properties either to these entities or to local housing groups.

9. The City and its people need financial assistance in order to rehabilitate, raze and monitor the city houses. The City's housing is old. The cost of maintenance is high. Additional private and governmental monies are necessary. Hopefully, the Providence Plan will be successful in obtaining additional funding for rehabilitation programs.

Legislative Recommendations

1) Expand the jurisdiction of the Providence Housing Court to include jurisdiction over vacant lots and their related problems (debris, junk cars, improper storage);

2) Require all out-of-state property owners (individuals, partnerships and corporations) who purchase property in Providence to name an in-state agent for service of process and to be responsible to the city officials for the property;

3) Require all property owners (individuals, partnerships and corporations) who purchase property in Providence to list their home address, telephone number and social security number with the Tax Assessor;

4) Require, when transferring property, that the owner or title attorney certify to the transferee of the property, the legal uses for which the property may be used;

5) Authorize the Providence Housing Court to issue inspection warrants whenever it has satisfactorily proven by way of affidavit to a Housing Court Judge that there may exist a condition on certain property that would endanger the health or safety of people on or about the property;

6) Require defendants appearing before the Providence Housing Court to pay the cost of each inspection performed by the city officials after the case reaches the contempt stage in the court process;

7) Require residential property managers to register with the Rhode Island Builders Association or a like organization;

8) Allow the Building Inspector's Office, for a fee, to offer a pre-inspection certificate of approval to a property prior to the rental of a unit;

9) Grant authority to the City Building and Housing Inspectors to issue "environmental enforcement tickets" that would be prosecuted in the Housing Court;

10) Amend the Housing and Building Codes in order to include the "maintaining of a narcotic nuisance" as a code violation.

11) Amend the Municipal Tax Lien Statute to include liens filed by the Housing Court on property, so that the City after following the statutory procedures, may obtain ownership interest in the property.

General Recommendations

1) It is crucial to the success of any efforts in the Housing Court that the City, its representatives and attorneys, prioritize the cases that it presents to the Court. The City prosecutors need a strategy that deals effectively with certain city neighborhoods. The Court, from its experience can identify certain neighborhoods as at risk (Lower Mt. Pleasant Valley,) troubled (West End, and Olneyville) and repeatedly deteriorating (South Providence) but the Court can only deal with the cases presented by the City. The City must also prioritize and spend its limited resources on repeated violators.

2) We have repeatedly heard complaints regarding telephone contact with the City's Code Enforcement Office and the City Solicitor. People with complaints and property owners are unable to get through to the appropriate people and there are no records made of the calls. We would suggest a designated telephone line or hot line be set up within the City so that these communication problems do not continue. People calling with a complaint should be assured that there is a record made and that an office is accountable for it and property owners calling to work out a problem should be able to speak with a city official to do so. There are many property owners in the City who are responsible and

are willing to assure responsibility for their property but need directions from the City.

3) The Court suggests that the notice of violations be more specific as to the nature of the problem and that specific time periods be given for each violation rather than the immediate or 60 day period now given.

4) The Court continues to encourage the Code Enforcement Division of the Department of Inspection and Standards and the City Solicitor to present cases involving health and safety issues to the Court through Temporary Restraining Orders, rather than going through the present court process;

5) The Court encourages the departments to work with the Providence Police Department to follow-up on the warrants issued each week by the Court. The Court has found, where there has been a consolidated effort to contact the Defendants, many come willing before the Court.

6) It is suggested that the City require all property owners to comply with the Insurance Certificate Ordinance which requires all home owners to inform the City of the insurance carrier which carries a policy on the property. The Court would further suggest that copies of all violations be sent to the respective insurance carriers;

7) The Court suggests that the City send copies of all violation notices issued to the holders of the mortgages, so that they may review the notice to determine if the owner is complying with the "good repair" clause, which is standard in most commercial

mortgages;

8) The Court suggests that the City perform an annual citywide housing survey to assess building by building the condition, so that they can prioritize the areas and types of buildings they view;

9) The Court suggests that the City consider a block by block inspection in particularly troubled neighborhoods, in order to prioritize their case load and maximize their results;

10) It is suggested that the City should, on certain types of violations, determine whether the tenant should also be presented as a defendant before the Providence Housing Court;

11) The Court suggests a most effective use of the City's administrative hearing remedy. Again, since the City does not prioritize its cases, too frequently home owners with apparent and legitimate financial problems and minor code violations are brought before the court, when they could be as effectively dealt with administratively. This would enable the court to focus on the real problem cases;

12) It is suggested that the City must follow up on the buildings that become vacant and must take steps after 180 days by seeking an order for razing or rehabilitating the building. If the property owner fails to rehabilitate the building, then we suggest that the City should initiate receivership under the Abandoned Property Statute;

13) It is suggested that the Court work with the city to establish a "Tenant Education Program" to teach living skills to

the tenants. This program would be modeled after the very successful program established by the Providence Housing Authority. The monies collected by the court could be used to pay for such a program, or if appropriate, the tenant could pay a fee. This educational program could be used by both the Housing Court and the District Court as a resource whenever appropriate;

14) The Court suggests that a brochure must be made available, in at least three languages (English, Spanish and Cambodian), which details what the City expects from tenants and property owners. This brochure would also explain the function of the Court and the actions that the Court can take. The brochure should be short, simple and easy to read and understand, with illustrations. This, again, is a repeated request of the Court, which has been sacrificed due to budget constraints. If the City is unable to pay for the printing, etc. of such a brochure, the court would suggest application to private companies for the printing expense.

CONCLUSION

The need for decent, safe, affordable housing existed prior to the establishment of the Providence Housing Court and, in fact, was the reason for its establishment. The Court, until this year, has made steady progress in addressing these needs and improving the housing situation. Due primarily to the economic recession and depressed real estate market, these needs have become more critical. Creative solutions must be found to meet these pressing needs. The suggestions and solutions in this report are not

necessarily the complete answer, but they will, if enacted, go a long way to helping solve some of the problems.

The suggestions incorporated herein are not just from the Providence Housing Court, but have been elicited from other city officials and neighborhood groups with whom we have met and from members of the private sector who are interested and knowledgeable about these problems. All of these individuals know the importance of housing to the residents of Providence. They know that a house is more important in people's lives and has more of an impact than anything else. There is nothing else that compares to someone's home. A house is more than just a shelter, it is more than place one may be fed. It is a place where hopefully one is cared for; it is a place that offers a sense of security and a sense of privacy. It is the place where children are learning to care. It is a place where children are taught to live with other people. They are learning a sense of dignity and they are learning a sense of their self-worth. The value of that home has very little to do with its market price--the value of that home has everything to do with the worth of this City.

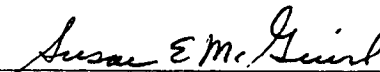
The City of Providence, through the establishment of the Providence Housing Court, has done more than any other city in the State of Rhode Island to address this housing crisis. Hopefully, we will continue to be a model, not only for this State, but for others elsewhere who are seeking answers.

I want to take this opportunity to thank each of the Associate Justices with whom I have worked. Judge Beverly Ledbetter, Judge Fred Lippett, Judge John Martinelli, Judge Irving Brodsky and Judge Robyn Davis.

I also want to extend my appreciation to the City Solicitor's Office and to the Department of Building and Standards, especially those individuals who have worked with the Court from the first day and continue to do so, Director Merlin A. DeConti, Jr.; Prosecution Coordinators Richard Gomes and Ralph Guarniero

Finally, I must publicly note the contributions of the staff of the Housing Court, including that of the three clerks that have served the Court from its first day, Anne Paolilli, Barbara Souza and Christine McCoy and the present Court Administrator, Roberta Bellini.

Respectfully submitted,



Susan E. McGuirl
Chief Justice