

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ADAPT OF PHILADELPHIA, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
PHILADELPHIA HOUSING AUTHORITY,	:	
et al.	:	NO. 98-4609

MEMORANDUM

Bartle, J. June , 2004

Before the court is a motion of the Philadelphia Housing Authority ("PHA") to approve certain Phase II units pursuant to a Settlement Agreement and Release ("Settlement Agreement") entered into between the plaintiffs and the PHA to provide accessible low income scattered site housing for the mobility impaired. The plaintiffs oppose the motion.

This litigation has had a long and tortured history, filled with some very contentious chapters. At the core of plaintiffs' case was the position that the housing for mobility impaired should be spread out among and fully integrated with that for the rest of society.

The settlement agreement between the parties provided for a certain number of accessible units to be dispersed throughout the City of Philadelphia. The housing was to be made available in several phases. While the Settlement Agreement identified various locations for the accessible housing, it also provided "[w]ith plaintiffs' consent, which shall not

unreasonably be withheld, PHA may substitute different units for any of the units identified above, on a one-for-one basis." If the plaintiffs do not agree to the substitution, the Settlement Agreement allowed PHA to seek relief from the court. PHA is now seeking such relief.

PHA proposes to substitute seven additional townhouses and four apartments in a development known as the Tasker Homes in place of units identified in the Settlement Agreement. The Tasker Homes consists of 245 rental units which are currently being constructed. Of these, 173 will be townhouses. The remaining seventy-two units will be located in a three story building for the elderly and near elderly. This development in South Philadelphia will cover a six block area bounded by Morris Street, New Hope Street, 21st Street, 29th Street, and Vare Avenue. Under federal law, independent of the Settlement Agreement involved here, nine townhouses or 5% of the 173 units must be made accessible to the mobility impaired. See 24 C.F.R. § 8.22.

Plaintiffs oppose the substitutions PHA seeks on the ground that they are concentrated in a small area and thus do not constitute scattered site units. Plaintiffs also point to prior substitutions of similarly concentrated housing to which they have agreed in the spirit of compromise and cooperation. Plaintiffs are now drawing a line in the sand.

After review of the record, including the photographs and descriptions of the Tasker Homes, as well as the obstacles

which PHA faces in implementing the Settlement Agreement, we will grant PHA's motion in part. We will permit PHA to substitute four townhouses which will bring the total number of townhouses accessible to the handicapped at the Tasker Homes to 7.5% of the total. We find that this limited substitution fits within the concept of scattered site housing, considering the size of Tasker Homes and the fact that it is spread over six blocks. Similarly, we will allow PHA to substitute three units in the seventy-two unit apartment building. Any further concentration of accessible low income housing for the mobility impaired in the Tasker Homes would defeat the scattered site principle.

Finally, we note that this ruling is based on the particular facts before us and should not be construed by either plaintiffs or PHA as a precedent for the future.

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ORDER

AND NOW, this day of June, 2004, for the reasons set forth in the accompany Memorandum, it is hereby ORDERED that:

(1) the motion of PHA to approve Phase II Units is GRANTED in part and DENIED in part; and

(2) PHA may substitute four townhouses for three apartments only in the development known as Tasker Homes in place of units identified in the Settlement Agreement and Release.

BY THE COURT:

_____ J.