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THE HARTFORD-NEW BRITIAN JUDICIAL
DISTRICT HOUSING COURT

*CONNECTICUT'S EIGHTEEN-MONTH
EXPERIMENTAL COURT IN HOUSING:
AN EVALUATION*

*ARTHUR L. SPADA**

The "housing court" for the Hartford-New Britain Judicial District was enacted into law by state legislation in 1978.¹ Mandated to specialize solely "on matters related to housing," the court is historically unique for Connecticut. It is also an aberration in the modern tide seeking to unify all trial courts into a uniform statewide one-tier trial bench.

The housing court is a "session" of the Superior Court, thereby remaining an integral part of our one-tier statewide trial court. The court is accountable to the state's chief court administrator, Justice John A. Speziale. The court has been dubbed "experimental" and placed on probation for a period of eighteen months to prove itself.²

The court's primary purposes, according to the recently designated

* Judge, Superior Court of the Hartford-New Britain Judicial District in Connecticut.

1. CONN GEN STAT. REV. § 47a-68 (1979).

2. *Id.* § 51-348(c).

housing judge,³ are: 1) to reconcile landlord-tenant disputes in a dignified setting, and 2) to bring housing stock to code standards. If successful, the court most likely will be permanently legislated into the judicial landscape and will serve as a model for additional housing courts anticipated for the cities of New London, New Haven and Bridgeport. There is a strong indication the program will be successful.

Connecticut apportions its three million residents among eleven judicial districts. The distinction of pioneering Connecticut's first housing court was awarded to the Hartford-New Britain Judicial District, the seat of the state's capital and its central business community.

The housing court, like other historically unique and experimental governmental agencies, was "mid-wifed" by a citizen's lobby, long frustrated over the benign neglect accorded to housing issues. With a trial bench of one hundred judges confronting an annual case flow exceeding one million cases, it is easy to understand why housing-related complaints received the lowest judicial priority. This is not an indictment of an overwhelmed judiciary, which understandably finds it conceptually difficult to equate rigorous housing code enforcement with the prosecution of capital felons or the trial of complicated products liability cases.

Community discontent, however, both locally and nationally, articulates a growing dissatisfaction with the status of substandard housing and the inadequate resolution of housing disputes. The emergence of housing courts across the nation is a symptom of this discontent. Historically, people turn to their courts as a last resort to right what they consider a wrong. Thus, the genesis of our housing court.

The well-intentioned sponsors of the housing court may have been too ambitious. The court's geographical venue encompasses 722 square miles, containing a population of 836,000 persons, or approximately twenty-five percent of the state's population.⁴ Within this venue are thirty towns from hamlet-types of 9.2 square miles (Windsor Locks) to sprawling suburbs of 52.5 square miles (Glastonbury). The cities of Hartford (population 147,000) and New Britain (population 80,000), the district's two large urban centers, are burdened with the region's poor, who live for the most part in substandard housing.

The court's subject matter jurisdiction includes evictions, actions for back rent, damages, return of security deposits, appeals from Fair Rent Commissions, actions, and administrative appeals involving discrimina-

3. Superior Court Judge Arthur L. Spada was designated by Justice John A. Speziale on Dec. 22, 1978, to serve an 18-month period from Jan. 1, 1979, to June 30, 1980.

4. CONNECTICUT STATE REGISTER AND MANUAL 299 (1978).

tion in the sale or rental of residential property, forcible entries and detainers, housing and health code enforcement, negligence, and tort claims arising from dwelling premises, and a catch-all provision covering "[a]ll other actions of any nature concerning the health, safety or welfare of any occupant...if any such action arises from or is related to its occupancy or right of occupancy."⁵ The court's money jurisdiction is unlimited and selection of trial by court or jury is available.

The Hartford-New Britain Housing Court was modeled after the housing court in Springfield, Mass. Comparisons of the two courts, however, reveal striking contrasts. The Springfield Housing Court, legislated in 1973,⁶ processed 2,000 cases in its first year, and it anticipates a case flow of 8,000 cases in its sixth year of operation. Based on the case experience in 1978 from our "feeder" courts,⁷ and on the actions returned after Jan. 1, 1979, we anticipate an annual case flow of 12,000 cases. The Boston Housing Court, created in 1971,⁸ added a second judge in 1974 when its volume increased to 8,000 cases annually.

Springfield serves a constituency of 500,000 persons while Hartford-New Britain District serves 836,000. Massachusetts attorneys reserve the right to return their housing cases either to the housing court or to their district court, a trial court of limited jurisdiction. Hartford-New Britain lawyers do not enjoy that option. Massachusetts has one statewide housing code. Hartford is shackled with a housing code for "each" of its constituent towns, in addition to a statewide sanitation and building code. Finally, the Springfield housing court restricts itself to "dwelling units," whereas the Hartford-New Britain District must preside over commercial as well as residential housing matters.

The Hartford District remains cautiously optimistic, however, that with the cooperation and support from the public, the bar, the legislature, and the judiciary, the district can successfully fulfill its mission. With one judge, two assistant clerks, and four clerical assistants, the district is likely to be incapable of handling civil jury injury cases. The enabling statute empowers the housing judge to transfer cases where he deems it appropriate.⁹ This transfer power may have to be exercised as a last resort to preserve the primary role of the court.

5. CONN GEN STAT REV. § 47a-68(j) (1979).

6. MASS GEN LAWS ANN ch. 185B, § 1 (West Supp. 1977).

7. Superior Court, Geographical Areas 12, 13, 14, 15, 16 and 17. See CONN. GEN. STAT. REV § 51-346 to 353.

8. MASS GEN LAWS ANN ch. 185A, § 1 (West Supp. 1977).

9. CONN GEN STAT REV. § 47a-70 (1979).

Housing, stripped of its glamour and exotica, is essentially shelter, and the need for shelter, in the anthropological sense, is a basic human instinct which can neither be denied or suppressed. When society denies decent and safe housing to some of its citizens, either by design or by neglect, then society dehumanizes them.

The preamble to the Housing Act of 1949 pledges in part "the elimination of substandard and other inadequate housing... and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family..."¹⁰ The beneficiaries of this lofty promise, memorialized thirty years ago by the United States Congress, have been left cynical, disillusioned, and still homeless. It is no surprise, therefore, that the Connecticut Housing Act is without a preamble.

The closest equivalent in the Connecticut Housing Act reads in part, "Any judge assigned to hear housing matters should have a commitment to the maintenance of decent, safe and sanitary housing..."¹¹ One would naturally assume, a priori, that all judges were intrinsically committed to decent, safe and sanitary housing. Apparently, however, the sponsors did not share this assumption and were obliquely saying something to the courts.

The successful passage of the Housing Act could qualify as a model for a college civics course. Citizen interest in a housing court dates back to November 1974. A citizens' lobby comprising a broad spectrum of the community, undaunted by rebuffs and undiscouraged by legislative defeats in 1976 and 1977, finally succeeded in 1978 in legislating Connecticut's first housing court.

An additional historic footnote was written with the enactment of a Citizens' Advisory Council. Governor Grasso has appointed seventeen members thus far.¹² The Council is responsible for "viewing the housing docket proceedings and reviewing the manner in which the housing docket is functioning, consulting with the judge assigned to housing matters...and assisting him in such manner as the judge may deem appropriate."¹³

There is a good rapport between the judge and the council. Individual members have been helpful and supportive. The following is a partial list of the council's activities: interviewing and recommending personnel for court staff, preparing and distributing bi-lingual literature describing the

10. See 42 U.S.C. § 1441 (1976).

11. CONN. GEN. STAT. REV. § 51-165 (1979).

12. Mrs. Patricia Augur of Plainville is the council's first elected chairperson.

13. CONN. GEN. STAT. REV. § 47a-72 (1979).

court and its functions, supervising out-reach programs for those likely to need the services of the court, conducting research in the drafting of legislative amendments, sponsoring jointly, with the court, educational seminars for staff and public agencies on code and related housing matters, promoting public relations, and assistance in drafting "landlord-tenant" forms to expedite "pro se" litigation.

In the midst of all this, there has never been a hint of encroachment upon the decisional process. Whatever doubts existed about a "laity" juxtaposed to a court have since dissipated.

Housing court sessions are held in Hartford on Mondays, Tuesdays and Thursdays. The court moves to New Britain on Wednesdays and Fridays. It is a disadvantage, administratively, to preside at two courthouses, fourteen miles apart, but it has survived this impediment during its formative months.

As a unique service, given twenty-four hours' notice, an interpreter will be provided for litigant without distinction to civil or criminal litigation.

Pro se litigation is courteously accommodated, although the staff is prohibited from rendering legal advice. The housing act, in another unique departure from judicial history, mandates that such clerks shall provide assistance to pro se litigants.¹⁴ Lists and business cards of lawyer referral services, legal aid offices, and neighborhood legal service directories are available at both courthouses.

Pro se demands for services are escalating to a level where they are seriously encroaching upon staff efficiency. Summary process by definition is expeditious and statutorily time sequenced.¹⁵ A shorthanded staff is quickly overwhelmed when interruptions for pro se assistance are frequent and time consuming. It may become necessary to request court volunteers to reinforce the pro se advocacy.

A deputy assistant state's attorney and three housing specialists comprise the professional staff. The prosecutor's primary role is to prosecute violations of state sanitary and municipal housing codes. The initial approach will not be punitive. It will seek to effectuate needed housing repairs. If this approach fails, prosecution will be more vigorous and violators will meet the full impact of the law.

Reaction to the court and its operation has met with overwhelming enthusiasm from local code enforcement officials. They now have a

14. *Id.* § 51-51v.

15. *Id.* § 47a-26.

forum "which gives us a meaningful hearing."¹⁶

The three housing specialists are required to initially screen and evaluate all housing matters. Pre-trial settlement of landlord-tenant disputes and supervision of code violations corrections are priority objectives. Additionally, the specialists assist dislocated tenants and coordinate community resources for the benefit of both the landlord and the tenant.

The staff, which includes two assistant law clerks, is highly dedicated but lacks experience. The learning process for all, including the judge, has been intense and accelerated. Unfortunately, there were no footprints to follow. Those who succeed us will inherit a smoothly performing, highly efficient court staff, versed and knowledgeable in the operation of a housing court.

The evidence clearly indicates that parties to landlord-tenant disputes are being professionally counseled at a pre-trial stage by the court's housing specialists. When resolution fails, such disputes will be heard expeditiously with the time and dignity due such litigation. Lawyers willing and prepared to pursue novel theories or defenses are provided a receptive forum. In less than five weeks of presiding over contested trials, the court has issued twenty written opinions. This will greatly enhance the court's objective of creating a compendium of landlord-tenant case law, indexed and available to the local bar. By the very nature of these cases and because of the limited financial resources of housing litigants, few, if any, cases are appealed to the Supreme Court of Connecticut. As a result, there are few contemporary cases annotated to the summary process statute, notwithstanding the many decisions written at the trial court level that are never published.

In the area of hearing landlord-tenant disputes, there have been immediate and gratifying results. The court, however, is less confident in the area of prosecuting housing code violations. In nine weeks of operation, the court has received less than a dozen cases for prosecution. This may be symptomatic of a serious but unarticulated problem affecting the poor and the inner city residents.

Owning a home is a cherished dream of every American. It is a "piece of the American pie," and the quickest route to financial stability and middle-class respectability. The median sales price of the American home in the first quarter of 1978, with factors weighted for various regions, was \$34,900.¹⁷ By the first quarter of 1979, the median sales value was

16. Joseph Zibbiddeo, Hartford Housing Code Enforcement officer.

17. U.S. DEPT OF COMMERCE, BUREAU OF THE CENSUS, CURRENT HOUSING REPORTS: HOUSING VACANCIES: FIRST QUARTER 6 (1979).

\$42,300,¹⁸ a 21.2 percent increase over a twelve-month period. For millions of Americans owning a home is beyond their financial means. These persons must turn to apartment dwellings, perhaps the only type of shelter they ever will know. This problem is exacerbated because in the inner cities, especially along the northeastern seaboard, apartment complexes are either rapidly deteriorating or being demolished without being replaced.

A primary goal of the housing court is to bring housing stock to housing code standards. At last report, there were 12,000 substandard dwelling units within the city of Hartford. Yet a gnawing doubt exists that this goal can be achieved. The resources required to fulfill this promise may require political and legislative action. Prominent urban planners similarly see vigorous code enforcement as a two-edged sword for the poor.

Code enforcement as currently practiced can only occasionally aid low-income people and may in more cases than not actually bring harm to them. Code enforcement has not been effective in resolving the housing problems of the decaying inner cities because it has failed to deal with the dynamics of the low-income housing market and the people secured by the market.¹⁹

The Hartford-New Britain Judicial District is charged with a mandate to enforce housing code regulations, and yet one must not be unmindful that too vigorous an approach may cause serious disruption to inner city residents. Such a program may result "in throwing the baby out with the bath water."

Many city apartment dwellers are caught in a "Catch-22" bind. The notion that "substandard housing is better than no housing" is gaining credibility among the poor who need shelter.

The complaining tenant becomes apprehensive of a rental increase to compensate for court-mandated repairs or eviction,²⁰ or even worse, for an abandonment of the building by a marginal property owner. Consequently, the prototypical urban dweller silently accepts substandard housing. This "conspiracy of silence" weighs heavily on conscientious health code inspectors who find themselves straddled on the twentieth

18. *Id.*

19. Hartman, Kessler & Legates, *Municipal Housing Code Enforcement and Low-Income Tenants*, 40 AM INST. PLANNERS J. 90 (1978).

20. CONN GEN STAT. REV § 47a-20 (1979) (suspends eviction for six months if the tenant can prove the landlord's action is in retaliation to a complaint, but does not prohibit evictions after the six-month period).

century urban crisis: substandard housing or no housing. It is not surprising, therefore, to report that in the court's first nine weeks of operation, the court did not receive any tenant's complaint.

An examination of Hartford's housing profile and its residents may corroborate the above charges. Eighty-nine percent of Greater Hartford's low-income families live in Hartford. Of the 56,000 statewide resident households who require public support in 1978, 16,100 of them resided in Hartford. As of Dec. 1, 1978, 37,300 Hartford households received either social security payments or public assistance. Nearly eighty percent of Hartford's dwelling units are renter-occupied, and sixty-seven percent of all living units exceed forty years of age. Hartford's school enrollment is more than eighty percent black and hispanic.²¹

The results are clear. The young and affluent have departed the city, leaving its core to the poor, the aged, and the otherwise disadvantaged.

The private market is no longer able to deliver decent and affordable housing to the poor.²² A dwelling unit is considered decent if it meets basic structural, mechanical, and housing code regulations. It is affordable housing when the rental costs of the unit does not exceed twenty-five percent of the family income. It is estimated that 21,000 low- and moderate-income families in Hartford need decent, affordable housing.²³ The Housing Assistance Plan (HAP) has determined that 9,000 resident households are presently receiving housing subsidy, while approximately 12,000 households still need such assistance.

The private housing market in Hartford is eroding at an alarming rate. City tax foreclosures since 1965 have removed 143 buildings from the tax rolls at an annual tax loss of \$400,000. Structures abandoned and placarded from 1966 to March 1979 have eliminated 5,000 dwelling units from the market place at an annual tax revenue loss of \$2,800,000. Demolitions since 1966 have obliterated 4,200 living units costing the city an annual tax loss of \$2,000,000. In March 1978, William Slitt, Hartford's Director of Housing, reported 688 vacated and abandoned units. Budgetary restraints prevented the demolition of these units. In December 1978, this figure escalated to 1,276 vacant and abandoned units.²⁴

21. See William Slitt, Profile of Hartford Housing (January 1979); William Slitt, Memorandum Related to Declining Tax Revenue (February 1979) (Slitt is the Hartford housing director).

22. See Housing Policy, draft 4, Court of Common Council, Hartford, Conn. (Feb. 13, 1979).

23. See note 21 *supra*.

24. *Id.*

Placarded and boarded shells give mute testimony to the bankruptcy of the private housing market and to the inability of the city to “bury” its own dead.

Private property owners, as a general rule, neither abandon their investments nor permit them to deteriorate. When, however, the exception is the rule, it becomes essential to understand the forces responsible for this development.

The private property owner, compelled by circumstances to pay increasing taxes, finds himself with a declining rental income as rental payments dwindle. Many tenants have been forced to make a choice between paying rent or putting food on the table. The choice is obvious.²⁵

The Slitt report reaches disturbing, although not surprising, conclusions.

There is a correlation between lower income households, living at poverty levels and sustained by welfare assistance and/or social security and tax delinquent properties, placarded and abandoned buildings and building demolitions. Further, there is distributed throughout the city a great number of publicly-assisted households who occupy private housing, the owners of which do not receive full rental payments, *victimized by a fallacious welfare rent schedule*.²⁶ (emphasis added)

Since the initiation of the state assistance flat grant programs in 1971, shelter formulas have been grossly inequitable to the private property owner.

State welfare rents originate from public housing rents and are then adjusted to reflect private market rents. This approach is fallacious because the source, public housing rents, differs from private market rents as follows:

- a. Public housing debt service is much lower.
- b. Public housing pays ‘10% of shelter rent’ in lieu of full taxes against full taxes paid by private property owners.
- c. Public housing debt service is subsidized by the federal government.
- d. Public housing operating costs are subsidized by the federal government.

25. William Slitt, Memorandum Related to Declining Tax Revenue 1 (February 1979).

26. *Id.* at 4.

e. Public housing operates on a non-profit basis against profit factor in private housing.²⁷

A comparison of state welfare utility allowances with the market costs further exacerbates this unfairness. In a five-room dwelling unit, the state allows \$44.06 monthly for heat, hot water, gas and electricity, whereas true market costs total \$91.63.

The flat grant formula for public assistance affects a near majority of Hartford's residents. Its obvious shortcomings have sharply reduced the number of available rental units for the poor, forced property owners to abandon rental properties and permitted a widespread deterioration of existing dwelling units.

The Public Housing Corporation, the city's administrator of Section 8 rental assistance payments program, reports that by November 1978, 4,669 applicants who were eligible for the Section 8 program (rental subsidy on rent that exceeds twenty-five percent of monthly income) had to be turned away. Public housing projects, operated by the Hartford Housing Authority, once spurned even by the poor, now have a waiting list of 2,872 applicants.²⁸

The housing situation could not be more critical. The city is confronted with abandoned buildings, an oversubscribed Section 8 program, no vacancies in either the public or private sector, and, finally, a shrinking housing market incapable of extracting a fair rental from tenants and incapable of expanding to accommodate housing applicants.

Several conclusions can be drawn from this scenario:

1. Shelter formulae computed within the state flat grant system do not reflect true market costs.
2. Most dwelling units in the city are renter-occupied and are obsolete.
3. The majority of renters are on some type of public assistance.
4. Vacancies do not exist in either the public or private sector.
5. Section 8 rental assistance is beyond reach for thousands of resident households.
6. Tenants are hesitant to file housing code violations.
7. Private owners cannot secure a fair market rental from public assistance tenants.
8. Tenants, obliged to pay more rent than is provided on their shelter formulae, are eventually dispossessed for non-payment.
9. Hartford's property taxes, which exceed ninety mills, a one hundred percent increase in twelve years, leave the owner little or no money

27. *Id.* at 18-19.

28. *See Profile of Hartford Housing, supra* note 21, at 28.

to reinvest in his properties.

All levels of government need to share the responsibility for this crisis. Surrounding communities are reluctant to properly utilize community block grants to build new low- and moderate-income dwelling units. The responsibility for housing the region's poor continues to fall on the inner cities, which alone can no longer bear this social and moral obligation.

Suburban communities are either rejecting or under-utilizing block grant funds available from the federal government. Bonus units are customarily turned back, and housing for the elderly becomes a euphemism to squeeze out the poor and otherwise disadvantaged.

The housing court is faced with the realistic limitations confronting tenants and the housing market. Until new tools are assigned the court, it may be necessary to proceed cautiously, attempting to find in each case the maximum tolerance an investment can yield for repairs without financially jeopardizing it. Progress in some cases may be rapid, but more often it may pivot upon maintaining the viability of the property as "shelter."

Unlike education, housing is not a specific constitutionally guaranteed right in Connecticut. But the living scenario of our cities raises a fundamental question of whether government should be the landlord of last resort.

While this issue is debated in the legislature, some short-term remedial action is mandatory. Urban renewal would command billions of dollars, and in light of "Proposition 13," most would agree that renewal on such a massive scale is unrealistic and beyond the financial capacity of government. Rehabilitating existing housing stock and guaranteeing a reasonable profit for the private sector appears to represent the soundest alternatives for curing this societal illness.

Recommendations, therefore, would be as follows:

1. Increase the flat grant so that shelter payments will be competitive with the private sector.
2. Guarantee a reasonable rate of return for a limited number of years to private developers who build new housing or rehabilitate old stock, and rent such housing to low- and moderate-income tenants.
3. Create a state-sponsored Section 8 rental assistance program to include those who need housing subsidy. This will put a premium on property ownership and property rehabilitation.
4. Implement Section 19-347i, Connecticut General Statutes, enacted in 1967 as a state financial assistance program for rent recipients. This program has never been funded or utilized since its inception, yet it represents a hope for rehabilitating substandard stock where the rents are

insufficient. The state has a security lien superior to all existing encumbrances, with the exception of taxes. Under this program it would be possible to form tenants' committees to coordinate repair priorities with the receiver.

5. Rehabilitate housing stock and convert the same into tenant-owned condominiums with mortgages in favor of the state or a private lending institution.

Critics may find one or all of the suggested proposals to be financially infeasible. To do no more in light of the calamitous urban crisis will surely foredoom our cities. What will rise from the ashes will be the poor, still without affordable and decent housing, and tragically, their numbers will have increased tremendously. As one political scientist noted, "So long as all the increased wealth which modern progress brings goes but to build fortunes, to increase luxury and make sharper the contrast between the House of Have and the House of Want, then progress is not real and cannot be permanent."²⁹

29. H. GEORGE, *PROGRESS AND POVERTY* 10 (1929).