

September 27, 2022

Chicago Board of Education
1 N. Dearborn, Suite 950
Chicago, Illinois, 60602

SUBMITTED VIA WRITTEN COMMENTS FORM

RE: Opposition to Resolution to Request Planning, Pre-Design and Design Services for the Proposed Near South High School Project

Dear Members of the Chicago Board of Education:

We are writing on behalf of Lugenia Burns Hope Center to alert you to the civil rights implications of the Chicago Housing Authority leasing public housing land held in trust for the Harold Ickes Homes/Southbridge Development to Chicago Public Schools for the development of a new high school. We understand that other individuals and groups have challenged the proposal on different bases, including the potential impacts on historically Black high schools on the near south side. Before you approve another major expenditure of funds related to the project, we urge the Board to conduct a community-led racial equity assessment and fully consider the implications of this decision—those outlined in this letter as well as those raised by others who oppose this proposal.

The Ickes land, owned by the Chicago Housing Authority (CHA) and subject to a declaration of trust, is to be used exclusively for public and affordable housing that has not yet been built. In order to build something other than the long-promised, mixed-income housing development, the CHA, the City of Chicago, and the Department of Housing and Urban Development (HUD) must, respectively, approve the lease, rezoning, and lifting of the trust. When CHA approved this transfer at its July board meeting, it was one of two major relinquishments of public housing land it authorized this summer alone and a continuation of its pattern of championing non-housing uses of public housing land in gentrifying areas—while lagging behind its continually shrinking goals for redeveloping housing. This pattern, and the Southbridge proposal, continue Chicago’s economic and racial segregation and do not remedy the pushout of Black families, contrary to CHA’s and the City of Chicago’s obligations to affirmatively further fair housing and comply with civil rights laws. **Your decision to plan for construction of a high school on this land will be mired by the site’s history of displacement, redevelopment delays, and broken promises for low-income residents, particularly Black families and people with disabilities, and the resulting civil rights violations.**

Lugenia Burns Hope Center (Hope Center) works to develop the civic engagement and empowerment of residents through education, leadership development, and community

organizing to empower residents to envision how they want their communities to be developed. **The organization has members who are former public housing residents displaced by CHA's Plan for Transformation or who seek to move to the Southbridge development.** Hope Center is part of a civil rights complaint under investigation with HUD's Office of Fair Housing and Equal Opportunity concerning the City of Chicago's violations of the Fair Housing Act by blocking the development of family affordable housing in predominantly white and gentrifying neighborhoods.

History of the Proposed Site

The site at issue is part of a former public housing development called Harold Ickes Homes, constructed in 1955 and including over 1,006 housing units for CHA families. The development eventually covered six square blocks, or approximately 18 acres. As part of CHA's Plan for Transformation, demolition at the site began in the early 2000s, when CHA cleared the three western blocks of the site. In 2010, CHA razed the remaining three eastern blocks, which contained 738 housing units, displacing hundreds of families to primarily racially segregated low opportunity areas of the city. **For years, CHA has promised those families they could return to public housing replacement units in a mixed-income, mixed-use community located in their historic community.**

CHA redeveloped the western blocks first, relinquishing the land for non-housing uses that included construction of a school, a public park, and an athletic field. In June 2015, CHA then selected and approved a plan to redevelop the three eastern blocks of the Ickes site into 877 new residential units as well as 60,000 square feet of commercial and retail space, collectively known as Southbridge. Only 244 of the newly built units would be dedicated public housing for CHA families—representing just a third of the original CHA units at the site.

Though development of Southbridge is underway, with construction of two residential buildings nearly complete, **so far only 68 of the 244 promised CHA units have been delivered.** The next phase of development is set to break ground in 2023 and will reportedly result in 39 additional CHA units. Nonetheless, at completion of the next phase, CHA will still owe over 55% of the promised replacements units, which again, only represented a third of the original public housing stock at the site. Plans for the next phases of development remain unclear and CHA confirmed at the September 22 Near South High School Information Session that the new housing units will not be built before this proposed high school is open in 2025.

The site's location—a stone's throw from the loop, abutting the revitalized South Loop, and less than a mile from the lakefront—now provides abundant access to transportation, employment opportunity, green space, and recreational and cultural amenities. This is access those thousands of CHA residents once had, and lost, with the demolition of the Harold Ickes Homes and other CHA public housing developments near Chicago's city center.

The Proposal Continues a Pattern of Non-Housing Land Uses at the Expense of Public Housing

Earlier this year, CPS approached CHA with a plan to build a new high school on the southernmost block of the Ickes site. In exchange for a 99-year ground lease, CPS would then deed two acres of land on South Wabash to CHA. On July 19, 2022, the CHA Board approved the plan, authorizing the lease and eventual acquisition of the land on South Wabash.

The southernmost block of the Ickes site was slated to be the final phase of the Southbridge development, hosting the remaining replacement CHA units. This new proposal calls into question if, where and how CHA will now construct those units. While CHA maintains that all the remaining replacement units will still be developed on site by increasing density elsewhere, the agency has provided no specific information or plan for how, or when, this will be accomplished.

CHA has, this summer alone, quickly pushed forward proposals to build this school at Ickes and a training facility for a professional sports team at the former Addams, Brooks, Loomis, Abbott (ABLA) site.¹ These proposals continue CHA's pattern of leasing, swapping, and selling vacant public housing land that CHA itself has failed to redevelop for more than two decades,² as initially promised in the Plan for Transformation (2000) and later by the Plan Forward (2013). While redevelopment of the long-awaited housing units languishes across CHA's portfolio, the City helps broker these development deals³ and pushes them through City Council with the help of aldermanic prerogative.⁴ Neither the CHA or the City have released a comprehensive plan or analysis that considers how offloading public housing land impacts their ability to meet the specific (and already-diminished) redevelopment goals across CHA's legacy public housing sites, the individual or cumulative civil rights implications of these deals, or their duties to affirmatively further fair housing.

¹ Letter from Chicago Lawyers' Committee for Civil Rights et al. to Committee on Zoning, Landmarks, and Building Standards (Sept. 16, 2022), *available at* <https://static1.squarespace.com/static/5871061e6b8f5b2a8ede8ff5/t/632ca66dbccf07721a620c82/1663870575216/Zoning+Committee+Opposition+to+Request+to+Amend+the+Planned+Development+%23896+9.16.2022.pdf>.

² Natalie Moore, "A proposal to swap CHA land for a new South High school is part of an old trend," WBEZ (Sept. 2, 2022), *available at* <https://www.wbez.org/stories/public-housing-residents-want-an-end-to-cha-land-swaps/0b168c58-ac93-4139-825c-177cd600d847>.

³ See, e.g., Press Release, City of Chicago Mayor's Press Office, "Mayor Lori E. Lightfoot, Chicago Fire Football Club, Chicago Housing Authority Begin Talks for New Near West Side Training Facility," (Jan. 27, 2022), *available at* https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2022/january/ChicagoFireTrainingFacility.html.

⁴ HUD Administrative Complaint, *Chi. Area Fair Hous. All. et al. v. City of Chicago* (Nov. 15, 2018), *available at* <https://www.povertylaw.org/wp-content/uploads/2019/11/CAFHA-et.-al-v.-City-of-Chicago-HUD-Administrative-Complaint.pdf>.

The CHA's and the City's Pattern of Public Housing Land Transfers Violates Federal Civil Rights Laws

The CHA, the City of Chicago, and HUD must consider the fair housing and civil rights implications of this proposal before, respectively, approving the lease, rezoning the parcel, or lifting the trust. Both the City and CHA have a duty not to discriminate, and to comply with the Fair Housing Act, which prohibits policies and practices that have the intent or effect of discriminating against members of a protected class.⁵ Because CHA and the City of Chicago receive federal housing-related funds, they likewise have a duty to affirmatively further fair housing. Specifically, they must (as a condition of receiving the grants and funds) certify that their housing policies affirmatively further fair housing. 42 U.S.C. § 5304(b)(2). The duty to affirmatively further fair housing requires that “[a]ctions must be taken to fulfill, as much as possible, the goal of open integrated residential housing patterns and to prevent the increase of segregation.”⁶ A failure to comply with this duty jeopardizes the receipt of federal funds.⁷

Additionally, as a recipient of federal dollars, the City of Chicago and CHA are subject to Title VI of the Civil Rights Act of 1964 and have a duty not to discriminate on the basis of race, national origin, or color in any program or activity that receives federal funds or other federal financial assistance.

In deciding whether to move forward with a new proposal at the Ickes site, including to lease the land to CPS, the CHA and the City must first consider the civil rights implications of this specific decision and the broader pattern of land transfers. They should evaluate the ongoing need for affordable housing in Chicago and on the Near South Side by considering market rents, vacancy rates, household incomes, rates of housing cost burden, and public and subsidized housing waiting lists. This analysis should consider the supply of affordable rental housing in areas of opportunity with easy access to public transportation, good jobs and schools, and high-quality healthcare. Finally, they should consider how the proposals impact people of color, families with children, people with disabilities, and other protected classes.⁸ On information and belief, the CHA and the City have failed to undertake any meaningful analysis of these factors prior to advancing this proposal or others.

HUD will also review CHA's proposal to lift the housing trust and lease this land. Under Section 18 of the United States Housing Act, the disposition of CHA-owned land for the development of a high school will also require HUD review and approval. Specifically, as described in the CHA's July board resolution, CHA must submit an application to HUD's Special Application Center that certifies that the retention of the property is not in the best interests of the residents or

⁵ *Texas Department of Housing & Community Affairs v. The Inclusive Communities Project, Inc.* 576 U.S. 519 (2015).

⁶ *Otero v. New York City Hous. Auth.*, 484 F.2d 1122, 1134 (2nd Cir. 1973).

⁷ *United States ex. Rel. Anti-Discrimination Center Inc. v. Westchester County*, 668 F. Supp. 2d 548, 569 (S.D.N.Y. 2009); See generally HUD's 2021 Interim Final Rule Restoring Affirmatively Furthering Fair Housing Definitions and Certifications, available at <https://public-inspection.federalregister.gov/2021-12114.pdf>.

⁸ See, e.g. *Access Living of Metropolitan Chicago v. City of Chicago*, No. 1:18-cv-03399 (N.D. Ill.) (challenging the City of Chicago's use of millions of dollars in federal funding on affordable housing development that is noncompliant with accessibility requirements under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Fair Housing Act).

the proposed disposition otherwise meets certain requirements set forth at 24 C.F.R. § 970.17(a)-(d).

Conclusion

Before authorizing planning for a new high school on Ickes land, we encourage you to conduct a community-led racial equity assessment that fully considers the impacts of a new high school and building on this site displacement. In addition to concerns voiced by other community members and groups, this proposal is yet another failure by CHA and the City to consider the civil rights and fair housing impacts before approving development on public housing land. To date, CHA has delivered barely a third of the promised public units at Southbridge. The CHA's delays in delivering replacement units cannot serve, once again, as the basis to jettison a vital supply of coveted, available, public housing land in a gentrifying community. Advocates, including the Hope Center and former Ickes residents, will continue to challenge CHA's and the City's failures to affirmatively further fair housing with this proposal and resulting civil rights violations.

We urge Members of the Chicago Board of Education to consider these comments prior to authorizing a budget expenditure for planning a new high school on a site that will be mired by CHA and the City of Chicago's fair housing and civil rights violations and to reject the proposal.

Sincerely,

Emily Coffey
Micaela Alvarez
MacKenzie Speer
Chicago Lawyers' Committee for Civil Rights