

THE HARTFORD-NEW BRITAIN JUDICIAL DISTRICT  
HOUSING COURT

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

BY

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The "Housing Court" for the Hartford-New Britain Judicial District was enacted into law by state legislation in 1978.<sup>1</sup> 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, 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 18 months to prove itself.<sup>2</sup>

The court's primary mission, as viewed by the newly designated housing judge,<sup>3</sup> is: (1) to reconcile landlord-tenant disputes in a dignified setting, and (2) to bring housing stock to code standards. If the court succeeds, it 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. No serious thought is being given to its failure.

Connecticut apportions its 3,000,000 residents amongst 11 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 capitol and its central business community.

The Housing Court, not unlike 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 100 judges, confronting an annual case flow exceeding 1,000,000 cases, it is easy to understand why housing related complaints commanded the lowest judicial priority. This is no indictment of an overwhelmed judiciary which understandably finds it conceptually difficult to equate rigorous housing code enforcement with the prosecution of capitol felons or the trial of complicated products liability cases.

But community discontent, both locally and nationally, is articulating 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, the people have turned to their courts, as a last resort, to right what they consider a wrong. Voila, the genesis of our Housing Court.

The well-intentioned sponsors of the Housing Court may have been too ambitious for it. The court's geographical venue encompasses 772 square miles, containing a population of 836,000 people, or approximately 25 percent of the state's population.<sup>4</sup> Within this venue are 30 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, not surprisingly, with the region's poor, living 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 discrimination in the sale or rental of residential property, forcible entries and detainers, housing and health code enforcement, negligent and tort claims arising from dwelling premises and a general catch-all, "all other actions of any nature concerning the health, safety or welfare of any occupant...if such action is related to its occupancy or right of occupancy."<sup>5</sup> 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, Massachusetts, our sister state to the north. Comparisons of the two courts, however, show striking contrasts.

Legislated in 1973,<sup>6</sup> the Springfield housing court 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<sup>7</sup> and on the actions returned after January 1, 1979, to date, we anticipate an annual case flow of 12,000 cases. The Boston Housing Court, created in 1971,<sup>8</sup> added a second judge in 1974 when its volume reached 8,000 cases annually.

Springfield serves a constituency of 500,000 people while we are required to service 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. Our lawyers do not enjoy that option. Massachusetts has one statewide housing code. We are shackled with a housing code for "each" of our constituent towns, in addition to a statewide sanitation and building code. Finally, the Springfield housing court restricts itself to "dwelling units" whereas we are required to preside over commercial as well as residential housing matters.

We are cautiously optimistic, however, that with the cooperation and support from the public, the bar, the legislature and the judiciary we can successfully fulfill our mission. With one judge, two assistant clerks, and four clerical assistants, we are 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.<sup>9</sup> This transfer power may have to be exercised as a last resort to preserve the primary role of the court.

Housing, stripped of its glamour and exotica is essentially shelter; and shelter, in the anthropological sense, is a basic human instinct which can neither be denied nor suppressed. When we deny, therefore, decent and safe housing to some of our citizens, either by design or by neglect, then we dehumanize them.

The preamble to the Housing Act of 1949<sup>10</sup> 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 for every American." The beneficiaries of this lofty promise, memorialized 30 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 Housing Act<sup>11</sup> reads in part, "Any judge assigned to hear housing matters should have a commitment to the maintenance of decent, safe and sanitary housing...." I had assumed, a priori, that all judges were intrinsically committed to decent, safe and sanitary housing. Apparently, the sponsors who did not share this assumption were obliquely saying something to us.

The successful passage of the Housing Act qualifies 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 at 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 Citizen's Advisory Council. Seventeen members have been appointed to date by Governor Grasso. Mrs. Patricia Augur of Plainville is the Council's first elected chairperson. The Council is charged by law "with 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 such judge may deem appropriate."<sup>12</sup>

There is a good chemistry between the judge and the Council. Individual members have been helpful and supportive.

The following is a partial list of the Council's activities: interview and recommend personnel for court staff, preparation and distribution of bi-lingual literature describing the court and its functions, out-reach programs for those likely to need the services of the court, research in drafting legislative amendments, joint sponsorship, with the court, of educational seminars for staff and public agencies on code and related housing matters, 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 I entertained about a "laity" juxtaposed to a court have since dissipated.

Housing Court sessions are conducted in Hartford on Monday, Tuesday and Thursday. We move to New Britain on Wednesday and Friday. It is a disadvantage, administratively, to preside at two courthouses, 14 miles apart, but we can survive this impediment during our formative months.

As a unique service, on 24 hours notice, an interpreter will be provided for whatever language to a 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 our judicial history, mandates that "such clerks...shall provide assistance to pro se litigants."<sup>13</sup> Lists and business cards of lawyer

referral services, legal aid offices and neighborhood legal service directories are in easy supply to qualifying litigants at both courthouses.

Parenthetically, 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.<sup>14</sup> A short-handed staff is quickly overwhelmed when interruptions for pro se assistance are frequent and time consuming. We may need 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. Failing in this approach, prosecution will be vigorous and violators will meet the full impact of the law.

Reaction to the court and its operation has been met with overwhelming enthusiasm from local code enforcement officials. They now have a forum "which gives us a meaningful hearing."<sup>15</sup>

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 violation corrections are top priority objectives. Additionally, they are to assist dislocated tenants and coordinate community resources for the benefit of both the landlord and tenant.

The staff, including two lawyer assistant clerks, came on board, long on dedication but short on experience. The learning



process for all, including the judge, has been intense and accelerated. Unhappily, there were no footprints to follow. Those who succeed us will inherit, however, a smooth performing, highly efficient court staff, versed and knowledgeable in the operation of a housing court.

The evidence is manifestly clear that landlord-tenant disputes of whatever type are being professionally counselled at a pre-trial stage by our housing specialists, and when resolution fails, such disputes are being 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 20 written opinions. This will greatly enhance our goal of creating a compendium of landlord-tenant case law, indexed and available to the local bar for guidance. By the very nature of these cases and because of the limited financial resources of housing litigants, few cases, if any, are appealed to our Supreme Court. As a result, we have few contemporary cases annotated to our summary process statute, notwithstanding many decisions are written at the trial court level although never published.

In the area of hearing landlord-tenant disputes, we have witnessed immediate and gratifying results. We are not as confident in the area of prosecuting housing code violations. In nine weeks of operation, less than a dozen cases have been presented to the court for prosecution. We suspect this is symptomatic of a serious but unarticulated problem affecting

the poor and the inner city residents.

To own one's home has long been the 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 Wall Street Journal of February 26, 1979, published the average value of the American home, for January, 1979, with factors weighted for various regions, as being \$70,900. In January, 1978, it was \$58,000, an increase of 22.2 percent over a 12 month period. It is painfully evident that for millions of our fellow citizens, ownership of a home is beyond their financial capability. It is a sad fact that for untold many, apartment house dwelling is the only shelter they will ever know. And yet, in the inner cities, especially along the northeastern seaboard, apartment stock is 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 wherewithal 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."<sup>16</sup>

We are charged with a mandate to enforce housing code regulations, and yet we are not 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. "Substandard housing is better than no housing" is gaining credibility amongst the poor in need of shelter.

The complaining tenant becomes apprehensive of a rental increase to compensate for court mandated repairs, or of an eviction,<sup>17</sup> or still worse, an abandonment of the building by a marginal property owner. As a consequence, the prototypical urban dweller silently accepts substandard housing. And this "conspiracy of silence" weighs heavily on conscientious health code inspectors who find themselves straddled on our 20th century urban crisis: "Substandard housing or no housing." It is not surprising, therefore, to report that in our first nine weeks of court operation, we have yet to receive a single 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 poor families live in Hartford. Sixteen thousand one hundred (16,100) of the 56,000 state-wide resident households who required public support in 1978 resided in Hartford. As of December 1, 1978, 37,300 Hartford households were receiving either social security payments or public assistance. Nearly 80 percent of Hartford's

dwelling units are renter occupied and 67 percent of all living units exceed 40 years of age. Hartford's school enrollment is over 80 percent black and hispanic.<sup>18</sup>

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

The private market is no longer able to deliver decent and affordable housing to the poor.<sup>19</sup> A dwelling unit is considered decent if it meets basic structural, mechanical and housing code regulations. It is affordable housing when the rental cost of the unit does not exceed 25 percent of the family income. It is estimated that 21,000 low and moderate income families in Hartford need decent affordable housing.<sup>20</sup> The Housing Assistance Plan (HAP) has determined that 9,000 resident households are presently receiving housing subsidy while approximately 12,000 households need such assistance but are not receiving it.

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 date 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 had escalated to 1,276 vacant and abandoned units.<sup>21</sup> 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, then 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."<sup>22</sup>

The Slitt report makes 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.<sup>23</sup> (Emphasis added.)

Commencing in 1971 with the initiation of the state assistance flat grant programs, shelter formulas have worked a gross inequity upon 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, differ 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.
- d. Public housing operates on a non-profit basis against profit factor in private housing."<sup>24</sup>

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, as any housewife can attest, totals \$91.63.

The flat grant formula for public assistance affects a near majority of Hartford's residents. Its obvious shortfalls 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 were eligible for the Section 8 program (rental subsidy on rent that exceeds 25 percent of monthly income) but 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 household applicants.<sup>25</sup>

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 tragic 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 near or past the age of obsolescence.
3. The majority of renters are on some type of public assistance.
4. Vacancies exist neither in the public nor 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. Taxes in Hartford, at over 90 mills, a 100 percent increase in 12 years, leave the owner little or no money to

reinvest in his properties.

The responsibility for this crisis needs to be shared at all levels of government. It is well documented that 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 disadvantaged.

Meanwhile, the Housing Court is faced with the realistic limitations confronting tenants and the housing market. Until new tools are assigned the court, we may need to tread gingerly, 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 speedy but, in more instances than not, 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: should government be the landlord of last resort?

While this issue gets debated in our legislatures, some short term remedial action is mandatory. Urban renewal would



command billions of dollars and in this age of "Proposition 13," most would agree that renewal on such a massive scale is unrealistic and beyond the financial capacity of our governments. 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 them to low and moderate income tenants.

3. Create a state sponsored Section 8 rental assistance program to include those in need of 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 receivers. This program has never been funded or utilized since its inception, and yet it represents a hope for rehabilitating substandard stock where the rents are insufficient. The state is provided a security lien superior to all existing encumbrances, save taxes. We foresee formation of tenants' committees, under this program, 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 as pie in the sky and beyond our financial capability. Not to do more in light of a calamitous urban crisis will surely foredoom our cities. And what will rise from the ashes will be the poor, still without affordable and decent housing, except that their numbers will have been greatly swelled.

"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."<sup>26</sup>

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## FOOTNOTES

1. Public Act 78-365; now 47a, Connecticut General Statutes.
2. Public Act 78-364, Section 5(6).
3. Superior Court judge, Arthur L. Spada, designated by Justice John A. Speziale, on December 22, 1978, to serve 18 months from January 1, 1979, to June 30, 1980.
4. Connecticut State Register and Manual, 1978, pg. 299.
5. Public Act 78-365, Section 1(j).
6. M.G.L.C. 185B.
7. Superior Court, Geographical Areas 12, 13, 14, 15, 16 and 17.
8. St. 1971, C. 843, adding M.G.L. c.185A.
9. Public Act 78-365, Section 6.
10. 42 U.S.C., Section 1441.
11. Public Act 78-365, Section 3.
12. Ibid., Section 8.
13. Ibid., Section 4.
14. Section 47a-26, Connecticut General Statutes.
15. Joseph Zibbiddeo, Hartford Housing Code Enforcement Officer.
16. Municipal Housing Code, Enforcement and Low-Income Tenants, by Hartman, Kessler and LeGates; AIP Journal, March, 1978.
17. Section 47a-20, Connecticut General Statutes, suspends eviction for six months if the tenant can prove the landlord's action is in retaliation to a complaint. It does not prohibit the landlord from seizing possession after the expiration of the six-month waiting period.
18. Statistics gleaned from "Profile of Hartford Housing," January, 1979, and "Memorandum Related to Declining Tax Revenue," February, 1979, by William Slitt, Hartford Housing Director.
19. Housing Policy, Draft #4, adopted by Court of Common Council, Hartford, February 13, 1979.
20. See footnote Number 18, supra.

21. Footnote Number 18, *ibid.*, *supra*.
22. William Slitt, Director of Housing, Memorandum Related to Declining Tax Revenue, February, 1979, pg. 1.
23. *Ibid.*, pg. 4.
24. *Ibid.*, pgs. 18-19.
25. Profile of Hartford Housing, William Slitt, January, 1979, pg. 28.
26. Progress and Poverty, The Problem; Henry George, 1839-1897.