

Judge Refuses to Grant Injunction on Housing

Bellinger Order Lets Authority Continue Plans

The granting of an injunction to halt the new low-rent housing project planned for Columbia was refused yesterday in an order signed by Judge G. Duncan Bellinger of the Fifth judicial circuit. The complaint, brought by W. E. McNulty, taxpayer of the city of Columbia, suing for himself and all other taxpayers of the city against Mayor L. B. Owens and the Columbia Housing authority was dismissed by the order.

The order followed a hearing held last week before Judge Bellinger at which D. W. Robinson, legal counsel for the authority, declared that a new housing project was an obvious need for Columbia and contended, for the defendants, that the authority had a legal right to proceed with the construction of additional dwelling units.

The plaintiff was represented by the firm of McKay and Manning of Columbia, and contended that a new housing project would compete with private property owned by the plaintiff and also that it would be illegal on a number of grounds.

Witnesses in Case.

Witnesses for the defendant included W. S. Hendley, chairman of the housing authority of Columbia and also E. C. Coker, Geddings H. Crawford and S. L. Latimer, Jr., authority members, as well as other witnesses. A number of exhibits were offered in evidence, including a map of the city showing the location of juvenile delinquency and slum areas.

In his order yesterday, Judge Bellinger declared that "From the record before the court the conclusion is inescapable that bad housing conditions have an adverse effect on the health and morals of the city of Columbia, therefore the elimination of these slum areas is a proper function of government, both city and state."

Concerning the validity of the organization of the Columbia Housing authority, which was questioned in the complaint, the order stated that the legislature by its act of May 10, 1937, expressly validated the creation of housing authorities under the present act. Judge Bellinger, on this point, went on to say.

"It follows, therefore, that the acts of the congress and of the legislature of South Carolina are not in violation of any provision of either constitution and that the actions of the city of Columbia and of the Columbia Housing authority in the manners complained of in the complaint are legal in every particular."

Regarding the right of congress to spend money for housing, the order took the following position:

"If, therefore, the taxpayer can raise the question of the validity of federal expenditures it is clear the federal congress has the right to provide for federal contributions in this vital public work, and it is clear that under the act of September 1, 1937, the congress has authorized the United States Housing authority to enter into contracts of this nature."

Congress on three separate occasions, the order added, had passed acts providing for the use of federal funds in assisting states and their political subdivisions in remedying unsanitary housing conditions in both urban and rural communities.

New Project.

The Columbia Housing authority plans to erect in the city of Columbia at a total cost of \$560,000 a slum clearance and low-cost housing development, which will be financed by the issuance by the Columbia Housing authority of 3 per cent. serial bonds maturing over a period of about 60 years, totaling \$560,000. Of these bonds the Columbia Housing authority proposes to sell to the United States Housing authority an aggregate amount of between \$458,000 and \$504,000, selling the remaining bonds locally or to the city of Columbia.

The proposed contracts between the city of Columbia and the Columbia Housing authority permit the city of Columbia to give to the Columbia Housing authority any land which the city might own which may be useful to the project, or the services of the city of Columbia, such as engineering services, the use of the facilities of the Columbia street department, or other things which the city might contribute. Such property or services as may be contributed by the city are to be deducted from the total amount of bonds to be issued and will reduce the amount of bonds which will have to be financed locally.

These contracts further provide that the United States Housing authority will make an annual contribution to the Columbia Housing authority of approximately \$19,000 to help defray the operating costs and interest and principal requirements in accordance with the bond maturities. The city of Columbia will also agree to accept the sum of \$500 annually in lieu of all taxes and assessments. The bonds and operating expenses will be paid out of this government subsidy and from the rents collected from the project.

The Columbia Housing authority and the city of Columbia by these agreements will obligate themselves to demolish as many dwelling units as are erected. If, therefore, the property on which the housing project is built does not contain as many dwelling units as would be erected on the property, the city is obligated to tear down a sufficient number of units on property owned by it or to use its police powers to accomplish the demolition of unsanitary dwellings on private property so as to make the demolition equivalent to the number of dwelling units erected.

Going into what bad housing means to a city, the order further declared, **Need For Housing.**

"In the city of Columbia, for instance, of 12,000 dwelling houses, some 4,400 are without inside toilets, some 5,200 without bath or shower facilities, some 4,200 without gas or electric lights, and some 2,400 in need of substantial repairs. Columbia's high death rate, 20 per 1,000 against a national average of 11 per 1,000, may well be attributable in part to the housing condition: in the city. An examination of the juvenile delinquency in Columbia during the year 1937, shows that practically all of these cases come from bad housing areas. A similar check indicates that bad housing is a very material factor in our high infant mortality rate.

"Experience in other parts of the country and in England indicate a very substantial improvement in health and in morals where sanitary housing has been provided for persons of low income.

"University Terrace, a completed low-cost housing project in Columbia, is illustrative of the benefits that accrue to Columbia from projects of this nature. This project was built on property immediately adjacent to the University of South Carolina and to the Negro high school of Columbia. Of the 54 dwelling units which previously occupied this block, only one contained a bath tub and only two inside toilets. It was an area which was a subject of considerable concern to the city police department, and a very unwholesome influence to the students of the high school immediately adjacent thereto.

"This area was eliminated and dwelling units for both white and Negro persons erected thereon. It has been in operation for some seven or eight months now, and not a single police case has been made in connection with the 74 Negro families occupying the Negro portion of this property.

City Incomes.

"The statistics of the department of labor show that in the corporate limits of the city of Columbia there are 2,500 white families with incomes of less than \$1,000 a year, and 4,200 Negro families with incomes of less than \$1,000 a year. Statistics indicate that 20 to 25 per cent. of a family's income is as much as should be spent for rent and utilities, which means that for a family with an income of \$1,000 a year not over \$20 per month for rent, water, heat and lights, and for those of smaller income correspondingly less.

"Considering all of these matters, including the obvious need for low-cost housing, the apparent inability of private capital to supply such housing, and the satisfactory solution of the problem afforded by similar governmental programs of slum clearance and low-cost housing here and elsewhere, we conclude that the slum clearance and low-cost housing project planned by the Columbia Housing authority is an exercise of a proper governmental function for a valid public purpose.

"Having reached this conclusion it follows that this property may be exempt in whole or in part from taxation under the provisions of article 10, section 1 and article 10, Section 4 of the constitution of 1895. This property is municipal property within the meaning of section 4, it is also property used exclusively for public purposes within the meaning of that section. It therefore follows that the property of the authority is exempt from taxation by the constitution. The provisions of the act of 1934 as amended by the act of May 10, 1935 (40 statutes 430,440) providing for the exemption of this property from taxation constituted a confirmation by the legislature of the exemption of this property by the constitution and further provided for the exemption of this property from special assessment. It thus appears that the property is exempted from taxation and special assessment, and therefore the contract between the city of Columbia and the Columbia Housing authority for the payment of \$500 in lieu of taxes and special assessment, which contract is authorized by the act of 1934, is a benefit to the taxpayer of the city of Columbia rather than a detriment and they cannot complain thereof.

"Having reached the conclusion that the project is for a public purpose it follows that the Columbia Housing authority may exercise the power of eminent domain if that power be necessary in acquiring property for slum clearance or low cost housing, and because of the public purpose of this project it does not constitute a taking of property for private purposes within the prohibition of section 17 of article 1 of the constitution."