

The investigative reporter exposed abuse of residents and misappropriation of public funds at Council House, a HUD financially-assisted residence for senior citizens in Seattle. The court ruling essentially punishes the reporter, precludes further investigation, and allows the abuse and fraud to continue unabated.

The Constitution of the United States, an instrument of government and supreme law, prescribes the nature, functions, and limits of government. It incorporates amendments that control a system of fundamental laws and principles that have embodied rights and marked fair legal process since 1789.

Yet, Judge James A. Doerty, Superior Court, State of Washington, has denied an investigative reporter due process of law and has abrogated his constitutional rights. In particular, the Court denied: the right to timely notice; the right to prepare a defense; the right to confront accusers; the right to cross-examine witnesses; the right to attorney representation; and, the right to an impartial and unbiased hearing.

The courts have repeatedly established the general proposition that the newsgathering process merits some degree of constitutional protection. It remains for the court to decide the applicability of this right in each new setting. In this case the Appellate Court will decide whether the Superior Court subverted journalists' rights.

US Department of Justice has long acknowledged the freedom of reporters to investigate and report the news. It has also acknowledged that judicial decisions should not impair a reporter's responsibility to cover as broadly as possible controversial public issues. Therefore, investigative reporters enjoy constitutional protection for the public good.

People in positions of trust, whether public or private, remain subject to public scrutiny. This particularly applies to directors and managers of non-profit corporations that accept government funding. These "trustees" have no right to court protection or to use restraining orders to retaliate against journalists who act lawfully and ethically when investigating misconduct and misappropriation.

Moreover, all journalists have a right to associate freely with sources whom they choose and who choose to associate with them. Courts may not restrict them using antiharassment orders without due process and full and fair hearing of facts.

US Department of Housing and Urban Development (HUD) and Boards of Directors (Owners)

Congress has defined effective public/private partnership among owners, administrators, residents, and resident associations in the Code of Federal Regulations (CFR). HUD has the responsibility to promulgate supplemental regulations and to insure well-maintained, financially

solvent, affordable housing without discrimination. Each partnership forms part of a contract with HUD. That contract gives HUD officials the responsibility to supervise operations and insure compliance with all government regulations.¹ HUD delegates that supervision to its regional office, in this case, NW/Alaska Multifamily Hub (NW/Alaska MF-Hub).²

Occupancy policies and procedures that govern subsidized multifamily housing and supportive housing for the elderly apply to all non-profit corporations with insured, assigned, or non-insured mortgages.³ Those policies clearly mandate that directors must comply with federal regulations also state and local laws.⁴

Moreover, HUD has established enforcement guidelines to make management comply with applicable statutes and regulations.⁵ Locally, HUD Loan/Asset Management staff members monitor both administrators and owners to achieve HUD goals and to insure that they comply with all applicable regulations.⁶ That oversight should insure that owners comply with statutory, regulatory, and contractual obligations imposed upon them.⁷

HUD insists that the property owners hold ultimate responsibility for compliance and expects owners to evaluate employee performance also to take steps to correct any deficiencies as they occur. HUD does not intercede between owners and administrators except to review the qualifications of a proposed administrator and to monitor compliance with program goals and civil rights statutes and regulations.⁸ However, at Council House that monitoring or oversight lacks any credibility.

For example, the contract administrator (Carlita Quintos) sent a form letter (10 Mar 01) in response to several detailed and serious complaints. She wrote: "If you would like us to address some of your concerns, could you please provide us with a dated outline with the incidences that may be a *HUD non-compliance action*." Quintos, and her supervisor (Clarence Nelson), then blocked access to public records. Despite two visits to his office to validate documents and produce a "dated outline." Nelson closed the case and an auditor from HUD Office of the Inspector General (OIG) has tried to do the same.

Repeated requests for action over almost five months have met with no answer. Requests for other public records have met with the replies that they have shipped them to another office. HUD has now played a "shell game" with records subject to the Freedom of Information Act (FOIA) for almost two years. They have apparently attempted to cover up a lack of oversight that in turn covers up the owners' abuse and fraud.

Sponsorship

The National Council of Jewish Women (NCJW) created a non-profit corporation to build and refurbish Council House, a residence for senior citizens on Capitol Hill, Seattle. They obtained

federal financial assistance through the US Department of Housing and Urban Development (HUD) for the original construction and rehabilitation which makes the residence a public/private entity.

NCJW sanctioned appointment of rotating directors apparently without supervision. Those directors have consistently neglected to comply with HUD directives⁹ when managing the building and dealing with residents. They have violated federal, state, and municipal laws¹⁰ by denying residents their constitutional rights especially those rights covered by the First Amendment to the US Constitution. Moreover, NW/Alaska MF-Hub has neglected to monitor the operation properly for approximately fifteen years.

The directors employed Mark L. Mullen as both administrator and director for fourteen years, ostensibly creating a management conflict of interest. The directors appointed Stephen (aka Stefan) A. Mitchell, a professional stage actor with no administrative training, as administrator during August 2000. He had previously spent five years posing as a social worker and counselor under Mullen.

Both administrators have consistently neglected to comply with HUD directives when managing the building and dealing with residents. They have shown a pattern and practice of violating federal laws and denying residents their civil rights. Moreover, they continue to deny due process of law and use despotic means to direct five violent, enforcers. Consistently, they use kill-the-messenger techniques to destroy any lawful criticism. They use coercive persuasion to cover their incompetence then abuse power to avoid responsibility. They instill fear to try to manage the minds of the sometimes frail, elderly inhabitants.

Mitchell has frequently choreographed police arrests to intimidate and control residents. He boasts about his military training that taught him how to enforce his rules and discipline residents. He openly espouses "supremacist" policies that place residents on notice of what may happen to them if they speak out. They fear eviction and will not express their views. Some of them have had the courage to swear affidavits and attended court to try to persuade the directors to take notice. They have suffered ostracism and now court action'.

Democracy

Some of some democratic communities compromise anarchic and oligarchic extremes. Then a substantial amount of individual liberty simultaneously subsists with public order.¹¹ Anarchy means unregulated freedom, an absence of any cohesive principle that causes political disorder and confusion without a common standard or purpose. This creates fertile ground for despotism or oligarchy: government by elitist, right wing, supremacist groups. Council House now consists of a strange mix of elitist anarchy and supremacist oligarchy. This has resulted in residents surrendering to fear deliberately promoted though management intimidation and disinformation. The present political setting denies social justice absolutely despite congressional rulings that relate to this property and others like it.

The appellate argument specifically turns upon denial of residents' constitutional rights at Council House, a public/private entity governed by federal, state, and municipal regulations and laws. Particularly, it addresses the denial of first amendment and free speech rights to an accredited journalist, a resident in that facility who has exposed racist, abusive, and fraudulent mismanagement.

Nmesis.

Note: NW/Alaska MF-Hub and the Bremerton contract administrator have consistently denied access to documents under the Freedom of Information Act (FOIA). Therefore, some citations used here have not received full validation of applicability.

1. HUD Directive 4381.5 1-5. *Cooperation.*
2. HUD Directive 4381.5 1-1. *General.*
3. HUD Directive 4350.3 1-1. *Purpose.*
4. HUD Directive 4350.3 1-5. *Federal Requirements and State and Local Laws.*
5. HUD Directive 4381.5 1-4. *HUD Goals.*
6. HUD Directive 4381.5 1-1. *General..*
7. HUD Directive 4381.5 1-10. *Waiver of Handbook Directives by HUD Area Offices.*
8. HUD Directive 4381.5 1-6. *Owner/Management Agent Relationship.*
9. HUD Directives: 4381.5 *The Management Agent Handbook* and 4350.3 *Occupancy Requirements of Subsidized Multifamily Housing Programs*, generally.
10. HUD Directive 4350.3.1-5. *Federal Requirements and State and Local Law.*
11. William H. Rehnquist 23 Kan. L. Rev. 2.

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