

FILED

IN THE COURT OF COMMON PLEAS

LAKE COUNTY, OHIO

KAREN PETERS

Appellant

vs

LAKE METROPOLITAN HOUSING

Appellee

CASE NO. 94CV000481

JUDGMENT ENTRY

The within cause came on for consideration this day, to wit: October 11, 1994 upon Appellant's Motion for Trial, filed July 28, 1994 and Appellee's Motion to Dismiss, filed August 26, 1994 herein.

Upon review of the Motions and responsive briefs the Court finds that appellant's complaint is an Administrative Appeal from the decision rendered by the Lake Metropolitan Housing Authority Section 8 Existing Housing Certificate Program. Approximately five years ago appellant signed up on a waiting list to be considered for government subsidized private housing. Allegedly on February 8, 1994, the appellee issued a letter to the appellant, requiring that she return to appellee a letter updating her personal information in order to remain on the waiting list. Appellant claims never to have received this letter. Because no response was received from the appellant, the appellee proceeded to remove appellant from the waiting list. She was notified of this fact by letter dated February 22, 1994. This letter also stated that the appellant could request an "informal review" of this decision. Appellant did request the informal review, but, because of her handicap, requested that she be excused from attending the "informal review" and instead sent her daughter.

The "informal review" was held on March 10, 1994. It seems that no record of the proceedings exists save for the decision of the Housing Authority, which reads as follows:

INFORMAL HEARING
March 10, 1994

Hearing was attended by Karen Peter's daughters Christine Pawlowski, Angela Pawlowski, and Pathways worker for Karen, Lora Steffan.

Karen Peters requested a review of decision to remove her from the waiting list.

Mrs. Pike, Applications Officer sent an update letter on 2-8-94 requesting applicant to contact agency if she was still interested in program. Mrs. Peters states she never received the letter, however the letter never came back to LMHA.

Applicant failed to respond within the ten day period.

Applicant was sent a second notice that she was removed from the list and this letter was received and was sent to same address as the first letter.

LMHA followed guidelines and regulations as stated in 882.216 CFR 24.

cc: Section 8 Mgr.
 Section 8 Tenant File
 Section 8 Application File
 Section 8 Complaint File

Exhibit A of Appellee's Transcript.

Appellant moves for an expanded hearing under R.C. §2506.03 for the reasons that (a) no evidence was taken at the hearing below, (b) no transcript of the proceedings below was kept or provided, (c) appellant was not permitted to cross-examine any witnesses testifying against her, and (d) the appellee failed to file any findings of fact or conclusions of law upon which its decision was based.

The appellee opposes the motion, arguing that the decision of the Housing Authority was an "informal review" and not a quasi-judicial action, and that therefore this Court lacks jurisdiction under Chapter 2506 to review the appeal. In addition, appellee argues that its action was justified because the appellant failed to show for the hearing.

It appears that appellee is inconsistent in arguing that it was justified in entering what amounts to a default

judgment in a hearing which it minimizes as an informal review. Black's Law Dictionary defines "quasi-judicial" as:

A term applied to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.
Black's Law Dictionary, abridged fifth edition, p. 650.

Appellee is certainly a public administrative officer or body which is required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for its official action as is evidenced by the fact of the hearing which it conducted in review of its administrative decision. Furthermore, the decision of the appellee affected the appellant's rights relative to federally subsidized housing, and was therefore one of a judicial nature. Accordingly, appellee's argument that Chapter 2506 is inapplicable and is without merit, and the motion to dismiss the appeal is not well taken and ought to be denied.

As regards appellant's motion for an expanding hearing, it appears that the appellee has made what may pass for findings of fact and conclusions of law, and thus there is sufficient information in the record for this court to review. However, as there was no sworn testimony taken, and no opportunity for cross-examination, the appellant's motion is well taken and the motion for an expanding hearing is hereby granted. Hearing on this appeal is hereby set for **THURSDAY, NOVEMBER 10, 1994** at 2:00 P.M.

WHEREFORE, it is the order of this Court that Appellee's Motion to Dismiss be and hereby is denied.

IT IS SO ORDERED.



PAUL H. MITROVICH, JUDGE

Copies to;
Clare I. McGuinness, Esq.
Richard L. Collins, Jr., Esq.