

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREUX, et al.)	
)	
Plaintiffs,)	
)	
vs.)	No. 66 C 1460
)	
GEORGE W. ROMNEY,)	
)	
Defendant.)	

MOTION OF CITY OF CHICAGO FOR LEAVE
TO INTERVENE WITH RESPECT TO PLAINTIFFS
MOTION FOR AN ORDER TO PRESERVE THE
STATUS QUO PENDING A HEARING

CITY OF CHICAGO, a Municipal Corporation, by its Attorney, RICHARD L. CURRY, Corporation Counsel, EARL L. NEAL, Speical Assistant Corporation Counsel, and VON ALLAN CARLISLE, Assistant Corporation Counsel, moves the Court pursuant to Rule 24 of the Federal Rules of Civil Procedure, for leave to intervene in the above entitled cause with respect to the motion for an order to preserve the status quo heretofore filed herein by the plaintiffs, and for ground for said motion states:

1. That the City of Chicago has an interest in the transaction which is the subject matter of the said motion.

(a) The City of Chicago is the recipient

2.

of certain Federal funds, pursuant to the "Model Cities Act," 42 USC, CH 41 Sec. 3301 et. seq.

(b) That the said funds have been committed to the City of Chicago in connection with its ongoing "Model Cities Program."

(c) That in reliance upon the said commitments numerous contracts have been made by the City of Chicago encumbering the said funds allocated by the Department of Housing and Urban Development of the United States.

2. That the relief prayed for in said motion would adversely affect the interest of the City of Chicago in the administration of its "Model Cities Program."

3. That the parties to the said action do not adequately represent the interest of the City of Chicago.

4. That attached hereto is a copy of the defendant, CITY OF CHICAGO pleading setting forth the defense to the plaintiffs said motion.

WHEREFORE, CITY OF CHICAGO prays for an order granting leave to intervene in the above entitled cause

3.

for the purpose of defending the plaintiffs motion
to preserve the status quo and to enjoin the issuance
of "Model Cities Fund."

CITY OF CHICAGO

BY: RICHARD L. CURRY
Corporation Counsel

BY: EARL L. NEAL
Special Assistant Corporation Counsel

BY: VON ALLAN CARLISLE
Assistant Corporation Counsel

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

EARL L. NEAL, being first duly sworn on oath says
he has read the above and foregoing motion by him sub-
scribed and that the same is true in substance and in fact.

SUBSCRIBED AND SWORN TO BEFORE

ME THIS _____ day of _____,

A. D., 1971.

NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.)	
)	
Plaintiffs,)	
)	
vs.)	No. 66 C 1460
)	
GEORGE W. ROMNEY,)	
)	
Defendant.)	

OBJECTIONS
TO PLAINTIFFS MOTION FOR AN ORDER
TO PRESERVE THE STATUS QUO PENDING
A HEARING

CITY OF CHICAGO, a Municipal Corporation, by its Attorneys,
RICHARD L. CURRY, Corporation Counsel, EARL L. NEAL, Special
Assistant Corporation Counsel and VON ALLAN CARLISLE, Assistant
Corporation Counsel, in answer to the Plaintiffs Motion state:

STATEMENT OF RELEVANT FACTS

1. That Plaintiffs Motion to Preserve the Status Quo
Pending a Hearing is in the nature of a Motion for Temporary
Injunction to restrain the issuance of funds by the Department
of Housing and Urban Development of the United States to the
City of Chicago in connection with the "Model Cities Program."

2.

That said funds are authorized pursuant to the "Model Cities Act, 42 USC, CH 41, Sec. 3301 et seq.

2. That on June 21, 1971, the Department of Housing and Urban Development submitted to the City of Chicago a "Letter of Credit" authorizing the City of Chicago to make commitments in accordance with its application previously submitted to HUD for the Second Year "Model Cities Program." And, that said "Letter of Credit" contemplate the execution of a contract between the United States Government and the City of Chicago for the funding in the amount of \$26,000,000.00.

3. That the Department of Housing and Urban Development has authorized contracts tentatively committed to the City of Chicago in the sum of approximately \$26,000,000.00 for the funding City of Chicago Second Year "Model Cities Program." And, that approximately \$20,000,000.00 of said funds have been committed pursuant to binding contracts and the balance committed for programs currently in operation. (See Affidavit attached hereto as Exhibit "A".)

4. That the nature and programs developed pursuant to the said contracts are more specifically delineated in the Affidavit of ERWIN A. FRANCE, attached hereto, as Exhibit "A."

5. That in addition thereto, approximately \$4,000,000.00 has been committed to the "Multi Service Center."

6. That funds can only be extended pursuant to the "Model Cities Program" in areas duly designated in which there has been established by election a governing council comprised of citizens of the community. The following are the four (4) Model Cities areas duly designated in the City of Chicago:

(a) MIDSOUTH Model Cities area bounded by 60th Street on the North; 67th Street on the South; Cottage Grove on the West; and Stony Island on the East.

(b) NEAR SOUTH Model Cities area bounded by 39th Street on the North; Federal Street on the West; 51st Street on the South over to Cottage Grove, North on Cottage Grove to 47th Street and then East to Lake Michigan.

(c) WEST Model Cities Area bounded by the Eisenhower Expressway on the North; 21st Street on the South; Rockwell Street on the East; Hamlin Avenue and Independence Boulevard on the West.

(d) NORTH Model Cities Area bounded by Irving Park Road and Montrose Avenue on the South; Lawrence Avenue and Foster on the North; Clarendon Avenue and Sheridan Road on the East; and Clark Street on the West.

7. That of the total funding for two (2) Model Cities action years, approximating \$76,000,000.00, only \$3,500,000.00

is related to housing needs, to-wit:

(a) Approximately \$1,000,000.00 has been committed for the Leasing Program to provide housing for low income families throughout the Chicago Metropolitan Area.

(b) Approximately \$900,000.00 has been allocated to provide the initial cost for constructing single family privately owned dwellings pursuant to Section 235 of the Housing Act.

(c) Approximately \$390,000.00 is allocated for a study to design buildings employing new techniques in order to provide housing at a lower cost and at a higher quality.

(d) Approximately \$628,000.00 is allocated for land acquisition to provide new construction developed by Not For Profit Community Based Organizations, primarily for moderate income housing.

(e) Approximately \$600,000.00 is allocated for the development of a COMMUNITY BUILDING MAINTENANCE CORPORATION the purpose of which is to provide services for the remodeling of existing structures.

(f) That with respect to funds utilized for the "235 Housing Program", most of the money will be recovered through the final mortgage executed by the owner.

(g) That none of said funds are allocated for the construction of low income rental housing.

8. That the City Council was in recess for a major portion of the summer months during which no public hearings were heard, nor could have been heard.

9. That the objectives of the Model Cities Act do not include provisions for the construction of low income rental housing.

PLAINTIFF HAS NOT SET
FORTH IN ITS "MOTION
TO MAINTAIN THE STATUS
QUO" A PROPER LEGAL
BASIS FOR THE GRANTING
OF SAID MOTION

I

That the relief sought mainly to impair the issuance of Model City funds will in no way maintain the "status quo" as required by law Stratton v. St. Louis S.W. R.Y. 282 US 10 (1930); Ideal Toy Co. v. Sayce Doll Corp. 302 F 2d 623 C.A. 2d (1962)

- A. That the total funds authorized to the City of Chicago have been committed prior to the filing of the said Motion (See Exhibit "A" attached hereto)
- B. That the Model Cities Program in no wise relates to the subject matter of this cause namely, the location of low income housing (See Exhibit "A" attached hereto)

II

That the Plaintiff, or, the class it purportedly represents has not alleged any facts in support of a finding that they will suffer irreparable harm or that an emergency exists as required by law.

III

Plaintiffs' Motion seeks relief which would jeopardize the public interest and the class which Plaintiff purports to represent.

- A. That Virginia Petroleum Jobbers Association v. Federal Power Commission 259F 2d 921 (C.A.C.D., 1958) requires that the Plaintiff must demonstrate that the provision of temporary relief is in the public interest.
- B. That the programs provided, pursuant to the Model Cities Act provides in the main for: social services to certain defined communities i.e., health centers, summer programs, library facilities, day care, services for unmarried mothers, swimming pools pre-school programs, free breakfast and job training.

- C. That the City of Chicago is committed, pursuant to 61 contracts, for the expenditure of approximately \$21,000,000 and that said contracts were lawfully entered into in reliance upon the assurances previously given by the Department of Housing and Urban Development.
- D. That to restrain the issuance of the funds would prevent the City from paying its legal obligations and would cause the City to suspend or terminate contracts pursuant to which the above services are being performed.

IV

The injunctive remedy sought by the Plaintiff does not fall within the scope of either Rule 62C of the rules of Federal Civil Procedure or Rule 8A of the Federal Rules of Appellate Procedure in that said remedy does not relate to the issues before the Court in this cause of action.

- A. That the Plaintiffs have the burden to demonstrate a likelihood of success with respect to the remedy sought in this matter - the providing of public housing is not a part of the Model Cities Program. Teleflex Industrial Products, Inc. v. Brunswick Corp. 294 F. Supp. 256; Ideal Toy Co. v. Sayce Doll Corp. 302 F 2d 623 C.A. 2d (1962); Trans-World Airlines v. Civil Aeronautics Board, 185 E 2d 66, 70 CA2 (1966), Cert. Denied 340 US 941

B. That the alleged Memorandum of May 12, 1971 is merely a Memorandum of Intention setting forth the objectives of the parties hereto and in no way is the Memorandum a binding legal agreement:

1. That the Memorandum has not been formally adopted by the governing bodies or their respective agencies.
2. That the context of the Memorandum clearly demonstrates that it is merely a delineation of objectives.

C. That the said Memorandum is an expression of the discretionary power of the administrator and the exercise of this discretion is beyond review. (City of Chicago endorses the brief of the United States Attorney in this regard).

WHEREFORE, City of Chicago prays that the Motion of the Plaintiff be denied.

CITY OF CHICAGO

BY:

Richard L. Curry
RICHARD L. CURRY,
Corporation Counsel

Earl L. Neal
EARL L. NEAL, Special
Assistant Corporation Counsel

Von Allan Carlisle
VON ALLAN CARLISLE,
Assistant Corporation Counsel

STATE OF ILLINOIS)
) SS:
)
COUNTY OF COOK)

EARL L. NEAL deposes and says that the allegations set forth in the foregoing Objections and Answer are true in substance and in fact.

SUBSCRIBED AND SWORN
TO BEFORE ME THIS 20th
DAY OF September, 1971

Marcia D. Erwin
NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.)	
)	
Plaintiffs,)	
)	
vs.)	No. 66 C 1460
)	
GEORGE W. ROMNEY,)	
Defendant.)	

A F F I D A V I T

I, ERWIN A. FRANCE, being first duly sworn on oath, deposes and says:

1. That your Affiant is an Administrative Assistant to the Mayor, City of Chicago, charged with directing the Chicago Model Cities Program. That your Affiant has been so engaged since November, 1967. That your Affiant is primarily responsible for the coordination and development of the Model Cities Program throughout the City of Chicago.

2. That on June 21, 1971, the Department of Housing and Urban Development indicated an intention to submit a Letter of Credit for approximately \$26,000,000.00 for the implementation of the second year Model Cities Program. That the following are the commitments heretofore made with

with respect to said Grant:

CONTRACTS

1.	Project #1481 Health Centers	\$2,267,657.00
2.	Project #1486 Information & Referral	38,330.00
3.	Project #2381 Land Acquisition	280,488.00
4.	Project #2384 Threshold	37,679.00
5.	Project #2581 Leasing Program	1,000,000.00
6.	Project #3287 Summer Program	15,522.55
7.	Project #3387 Summer Beautification	276,781.00
8.	Project #3581 Urban Intern	37,508.00
9.	Project #3687 Mundelein (HICA)	122,742.00
10.	Project #3891 Chicago Public Library	98,977.00
11.	Project #3789 Kennedy-King	61,000.00
12.	Project #4182 Prevention of J/D	307,409.00
13.	Project #4186 Youth Service Homes	200,690.00
14.	Project #4188 Residential Apprentice	36,111.00
15.	Project #4581 Registrar of Citizen's Complaints	94,902.62
16.	Project #4685 Alternative	193,180.00
17.	Project #4881 Chicago Police Department	1,095,000.00
18.	Project #5188 Day Care	533,078.00
19.	Project #5384 CHA Day Care	121,126.00
20.	Project #5493 Services for Unmarried Mothers	342,591.00
21.	Project #5589 Foster Family Day Care	38,174.00
22.	Project #5681 Mayor's Office of Inquiry & Information	110,973.00
23.	Project #5785 Marillac House	41,798.00
24.	Project #6584 Dept. of Consumer Sales, Weights & Measures	123,776.00
25.	Project #6681 Mayor's Committee of Economic/Cultural Development	105,274.59
26.	Project #7782 Streets & Sanitation	1,527,077.00
27.	Project #8181 Department of Human Resources	278,006.00
28.	Project #8981 Model Cities Summer Program	29,996.00
29.	Project #9681 Contract Compliance	81,706.00
30.	Project #9881 M. D. T. A. Training	248,985.00

31.	Project #9882 Mayor's Office of Manpower	\$ 1,092,247.00
32.	Dr. Joseph Braga	4,530.00
33.	Project#0001 Relocation	802,701.09
34.	Project #3187 Swimming Pool	133,825.70
35.	Project #3481 Co-Plus Administration	601,792.00
36.	Project #3482 New Careers	1,361,300.00
37.	Project #3483 Instructional Team Leaders	660,700.00
38.	Project #3484 Community School	547,631.00
39.	Project #3487 Co-Plus Nutrition	268,560.00
40.	Project #3488 Pre-School Program	506,189.00
41.	Project #3489 In-Service Co-Plus	283,700.00
42.	Project #3491 In-Service	540,360.00
43.	Project #3492 TESL	97,300.00
44.	Project #3493 Reading Cntr Hess	45,100.00
45.	Project #3494 Free Breakfast	492,530.00
46.	Project #3495 Improved Language Arts	112,900.00
47.	Project #3499 Summer Co-Plus	575,845.00
48.	Project #3498 Reading Project (Performance)	538,151.00
49.	Project #3583 Reading Project	27,216.00
50.	Project #1682 Cook County	218,000.00
51.	Project #2488 Community Bldg.	257,787.00
52.	Project #2783 Not-for Profit Developers	198,766.00
53.	Arthur D. Little	50,000.00
54.	Project #6787 C.E.D.C.	113,652.50
55.	Project #6788 C.F.D.C.	1,300,476.75
56.	Booz, Allen, Hamilton	70,000.00
57.	Perkins and Will	49,785.00
58.	Spa-Redco	45,815.00
59.	W. V. Rouse	45,000.00
60.	Daniel D. Howard	9,920.00
61.	Project #5183 Services for Seniors	106,806.00
		<hr/> \$ 20,905,123.80

SUMMARY

CONTRACTS	\$ 20,905,123.80
PROGRAM ADMIN.	1,687,228.00
MULTI SERVICE CENTER	<hr/> 4,000,000.00

TOTAL

\$ 26,592.351.80

4.

3. That of the total funds allocated to the Model Cities Program, none of said funds are directed toward the construction of low income rental housing.

FURTHER AFFIANT SAITH NOT.

ERWIN A. FRANCE, Affiant

STATE OF ILLINOIS)
) SS:
)
COUNTY OF COOK)

ERWIN A. FRANCE, being first duly sworn on oath says that he has read the above and foregoing Affidavit by him subscribed and that the same is true in substance and in fact.

Subscribed and sworn to before
me this _____ day of _____
A.D., 1971.

Notary Public