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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,

Plaintiffs,

v.

GEORGE W. ROMNEY,

Defendants.

NO. 66 C 1460

*granted*  
*11/24/71*

MOTION FOR CONSOLIDATION OF ACTIONS

Now comes George W. Romney, Secretary of the Department of Housing and Urban Development, by WILLIAM J. BAUER, United States Attorney for the Northern District of Illinois, and moves this court pursuant to Rule 42 of the Federal Rules of Civil Procedure for the consolidation of this case and the companion case, Gautreaux, et al. v. Chicago Housing Authority, et al., Civil Action No. 66 C 1459. In support of said motion defendant states as follows:

1. The respective causes of action are identical except that George W. Romney, Secretary of the Department of Housing and Urban Development, has been found to have financed a racial discriminatory housing program in the City of Chicago, and the Chicago Housing Authority has been found to have developed, constructed, and maintained a racial discriminatory housing program in the City of Chicago.
2. The consolidation is for the purpose of determining what relief will be entered against defendant, George W. Romney, Secretary of the Department of Housing and Urban Development. Said relief will effect the Chicago Housing Authority and its obligations under this court's order entered July 1, 1969. Gautreaux, et al. v. Chicago Housing Authority, et al., 304 F. Supp. 736 (N.D. Ill. 1969)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ALBERT S. BARNETT, et al.,

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Plaintiffs-

3. That no party to any of the actions will be prejudiced by the consolidation of said actions, but that a consolidation will expedite the determination of the appropriate scope of relief in this cause, and promote the convenience of the court and the ends of justice.

TO:

PLEASE TAKE NOTICE that on the 14th day of November, 1971, at the opening of Court or as soon thereafter as counsel appear, the undersigned, WILLIAM J. BAUER, United States Attorney, in the courtroom of the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, before such other judge who may be sitting in his place and stead, say then and there present motion for consolidation of actions.

At which time and place you may appear if you see fit.

UNITED STATES ATTORNEY

STATE OF ILLINOIS )  
JCM:ft COCK ) SE.

being first duly sworn on oath, deposes and says that he is employed in the Office of the United States Attorney for the Northern District of Illinois; that on the 14th day of November, 1971, he received from the undersigned, together with a copy of this Notice, a Government franked envelope addressed to each of the above-named individuals, with the captioned notice, on said date at the hour of about 5:00 p.m.

SUBSCRIBED AND SWORN TO before me  
this 14th day of November, 1971

JCM:ft

NOTARY PUBLIC



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,  
Plaintiffs,  
v.  
GEORGE W. ROMNEY,  
Defendants.

NO. 66 C 1460

*Denied*  
*11/24/71*

MOTION TO ALTER OR AMEND THE JUDGMENT ORDER

Now comes George W. Romney, Secretary of the Department of Housing and Urban Development, by WILLIAM J. BAUER, United States Attorney for the Northern District of Illinois, and moves pursuant to Rule 59(e) of the Federal Rules of Civil Procedure that this court enter an order altering or amending the judgment order entered on November 11, 1971, in the following particulars:

1. That the City of Chicago, acting through its Committee on Planning and Housing, commence and conclude within dates to be prescribed by this court, public hearings on the remaining approximately 190 sites of the 275 sites heretofore submitted to the City by the Chicago Housing Authority pursuant to the order of this court entered on March 11, 1971 in the companion case of Gautreaux v. Chicago Housing Authority (66 C 1459).
2. That, immediately upon completion of the public hearings on the aforesaid approximately 190 sites, the Committee on Planning and Housing make its recommendations to the Mayor and City Council of the City of Chicago, with an accompanying report detailing specific reasons why any specific proposed site was found by the Committee to

be unacceptable for low-rent family housing. Further, that a copy of said recommendation and said report of the Committee on Planning and Housing be filed simultaneously with this court.

3. That upon receipt by the City Council of the City of Chicago of the aforesaid recommendations and report from the Committee on Planning and Housing, the City of Chicago, acting through its Mayor, Richard J. Daley, promptly cause the same to be placed on the agenda of the next meeting of the City Council for deliberation and decision.
- 4(a) That, immediately, upon the conclusion of said deliberation and decision by the City Council, the City of Chicago, acting through its Mayor, Richard J. Daley, file with this court a final report indicating the City Council's action with respect to each of the approximately 190 sites proposed by the Chicago Housing Authority for development of low-rent family housing, and (b), in the case of any site or sites which were not approved by the City Council for development of low-rent family housing, a detailed report shall be filed setting forth the specific reason or reasons why any such site or sites were found unacceptable by the City Council.
5. That the Chicago Housing Authority, acting through its Chairman, Charles E. Swibel, file with the United States Department of Housing and Urban Development by a date to be determined by this court, a Development Program for approximately 274 units of low-rent public housing on sites which have heretofore been approved

*withdrawn*  
*sent KHVP*



by both the City Council and the Department of Housing and Urban Development.

6. That this court further modify its judgment order entered November 11, 1971 so as to permit the release of the Second Year Model Cities Funds to the City of Chicago, for the reasons previously advanced by the defendant in the briefs previously filed and the arguments previously addressed to this court, and for the further reason that the forms of relief requested in paragraphs 1 through 5 of this motion constitute a more direct and pragmatic approach to the problem of the racially discriminatory public housing program existing in the City of Chicago.

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WILLIAM J. BAKER  
United States Attorney

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.

Plaintiffs,

v.

GEORGE W. ROMNEY, et al.,

Defendants.

No. 66 C 1460

NOTICE OF MOTION

TO: Alexander Polikoff  
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Counsel of the City of  
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PLEASE TAKE NOTICE that on November 24, 1971, at the opening of court or as soon thereafter as counsel may be heard, I will appear before Judge Richard B. Austin in the courtroom usually occupied by him in the United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois, or before such other judge who may be sitting in his place and stead, and then and there present defendant's motion to alter or amend the court's order entered on November 11, 1971, at which time and place you may appear if you see fit.

UNITED STATES ATTORNEY

CERTIFICATE OF SERVICE

JAMES C. MURRAY, Assistant United States Attorney, hereby certifies that he has caused to be delivered copies of defendant's notice of motion and motion to the above-named individuals and at the address(s) stated above on the 22nd day of November 1971.

JAMES C. MURRAY, Assistant  
United States Attorney

JCM:ft



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOROTHY GAUTREAUX, et al.,  
Plaintiffs,  
v.  
GEORGE W. ROMNEY, et al.,  
Defendants.

No. 66 c 1460

MEMORANDUM IN SUPPORT OF MOTION TO CONSOLIDATE  
AND MOTION TO ALTER OR AMEND THE JUDGMENT ORDER  
ENTERED NOVEMBER 11, 1971

An examination of the record in these cases reveals that the City of Chicago holds the key to any meaningful progress in redressing the racially discriminatory public housing program which has evolved over the last three decades in the City of Chicago. In Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907 (N.D. Ill. 1969), this court found a history of discrimination in site selection and tenant assignment policies in Chicago's public housing. As a result of the informal aldermanic veto system, as well as the City Council's reluctance to make decisions which would be unpopular with the white community, the overwhelming number of low-rent family housing units have been concentrated in the black neighborhoods of the City. Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907, 914 (N.D. Ill. 1969).

More recently, it has been the City of Chicago, through the City Council and the Committee on Planning and Housing, which has effectively



blocked the consideration of approximately 190 of the 275 cites proposed for public housing and submitted by the Chicago Housing Authority for approval, pursuant to an order of this court entered March 11, 1971 in Gautreaux v. Chicago Housing Authority. To date, the Committee on Planning and Housing has held no public hearings on these 190 sites and has not even scheduled such hearings. Under an Illinois law, which applies uniquely to the City of Chicago, the City Council must approve each and every site which the Chicago Housing Authority intends to acquire for the purpose of constructing low-rent family housing. (Ch 67 1/2 Ill. Rev. Stat. §9(1971))<sup>1/</sup> The refusal to hold public hearings and presenting the proposed cites to the City Council for consideration is a deliberate affront to this court and is totally contrary to the representations made by the City in the May '12, 1971 Letter of Intent, between the City of Chicago, the Chicago Housing Authority and the United States Department of Housing and Urban Development. Thus, if there is to be any real progress in the construction of low-rent family housing in the City of Chicago in conformity with the orders of this Court it is essential that any further remedial

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<sup>1/</sup> Chapter 67 1/2 of the Illinois Revised Statutes Sec. 9 states, in pertinent part:

If the area of operation of a housing authority includes a city, village or incorporated town having a population in excess of 500,000 as determined by the last preceding Federal census, no real property or interest in real property shall be acquired in such municipality by the housing authority until such time as the housing authority has advised the governing body of such municipality of the description of the real property, or interest therein, proposed to be acquired, and the governing body of the municipality has approved the acquisition thereof by the housing authority.



order encompass the intervenor, the City of Chicago. This court has the power to enter the order proposed by the defendant, the Secretary of the Department of Housing and Urban Development.

In Kennedy Park Homes Association v. City of Lackawanna, 436 F.2d 108 (2nd Cir. 1970), a home association and others sought to require the City of Lackawanna to take all necessary steps to allow the home association to proceed with its construction plans for the development of a low-income housing project on a certain tract of land. In the City of Lackawanna, 98.9 percent of the non-white population lived in one section of the city. This was the result of industrial development and municipal improvement in the city which affected the segregation of the black community. The site proposed by the home association for the low-income housing project was outside the non-white section of the city. Once the site became a matter of public record petitions were circulated in white areas which opposed the sale of the land because the tract lacked sewer facilities and schools. Although such plans were pending before the city's zoning board and housing planning a development board since 1967 these agencies recommended to the City Council a moratorium on all new subdivisions. They also recommended that certain parts of the all-white sections of the city be designated for open spaces and park areas. The City Council adopted the recommendations of these agencies. The Court found that the City of Lackawanna had, through its inaction, promoted a racially discriminatory housing situation. In affirming the district court decision, the court stated:



"In Wilmington Parking Authority, supra, at 725, 81 S. Ct. 861, the Court found Delaware to be involved in private discrimination because it had "elected to place its power, property and prestige behind the admitted discrimination" and by its inaction had made itself a party to the discriminatory act. And in Reitman v. Mulkey, 387 U.S. 369, 87 S.Ct. 1627, 18 L.Ed. 2d 830 (1967), the Court approved the action of the Supreme Court of California in striking down Section 26 of Article I of the California Constitution because it involved the State in racial discrimination in the housing market. This conclusion was reached by consideration of the Section's immediate objective, ultimate effort and existing conditions at the time of its adoption.

"These two decisions completely undercut Lackawanna's claim here."

Kennedy Park Homes Association v. City of Lackawanna, 436 F.2d 108,113 (2d Cir. 1970)

The veto power as exercised by the City Council of the City of Chicago over low cost housing sites has created a situation identical with that found in Kennedy Park Homes Association v. City of Lackawanna, supra. Gautreaux v. Romney, Slip Opinion No. 71-1073. (7th Cir. 1971); Gautreaux v. Chicago Housing Authority, 296 F. Supp. 907 (N.D. Ill. 1969). Accordingly, the Secretary of the Department of Housing and Urban Development is requesting that this court enter an order requiring the city to exercise the authority conferred on it by state law in order to eliminate the discriminatory public housing program in the City of Chicago. Norwalk Core v. Norwalk Development Agency, 395 F. 2d 920 (2 Cir. 1968); Hawkins v. Town of Shaw, 437 F. 2d 1286 (5 Cir. 1971).



The need for drawing the Chicago Housing Authority into the instant proceedings is manifest. Despite the fact that sites within the "General Public Housing Area" for approximately 274 units of low-rent family housing have been approved by both the City Council and the Department of Housing and Urban Development, the Chicago Housing Authority has yet to submit a Development Program to the Department of Housing and Urban Development for review and approval. Without an approved Development Program the acquisition of the sites and the construction of dwelling units will not go forward.

The United States Department of Housing and Urban Development wants to cooperate with the City of Chicago and the Chicago Housing Authority in the development of low-rent family housing units in accordance with the order entered by this court on July 1, 1969 in Gautreaux v. Chicago Housing Authority. But the Department of Housing and Urban Development cannot do the job alone. The City of Chicago must approve the sites and the Chicago Housing Authority and prepare and implement a Development Program. To facilitate compliance with the court's directives the Department of Housing and Urban Development has approved a program reservation for 1500 units of low-rent family housing for the City of Chicago and has announced in the May 12, 1971 Letter of Intent that it will execute Annual Contribution Contracts as soon as the Chicago Housing Authority has completed the necessary preliminary steps, i.e., the preparation of an acceptable Development Program.

### CONCLUSION

In order to achieve any real results in correcting the racially discriminatory public housing program in the City of Chicago both the City of Chicago and the Chicago Housing Authority must be actively participating with the Department of Housing and Urban Development. Wherefore, the defendant, George Romney, Secretary of the Department of Housing and Urban Development, respectfully requests that this case be consolidated with Gautreaux v. Chicago Housing Authority, and that the November 11, 1971 order of this court in the instant case be amended in a manner consistent with the Rule 59(e) motion which accompanies this memorandum.

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WILLIAM J. BAUER  
United States Attorney

JCM:dma



CERTIFICATE OF SERVICE

JAMES C. MURRAY, Assistant United States Attorney hereby certifies that he served a copy of the foregoing memorandum in support of motion to consolidate and motion to alter or amend the judgment order entered November 11, 1971, by causing copies thereof to be delivered to the following attorneys at the addresses indicated, on the \_\_\_\_ day of

November 1971:

✓ Alexander Polikoff  
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JAMES C. MURRAY  
Assistant United States Attorney

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