
IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NO. 71-1732, 33, 34
71-1807

DOROTHY GAUTREAUX, et al.,

Plaintiffs-Appellees,

v.

GEORGE W. ROMNEY,

Defendant-Appellant

and

CITY OF CHICAGO, A MUNICIPAL
CORPORATION, CENTRAL ADVISORY
COUNCIL, AN ILLINOIS CORPORATION,
and CHICAGO HOUSING AUTHORITY,

Intervening Defendants-
Appellants.

On Appeal from the United States District Court
for the Northern District of Illinois

MOTION AND BRIEF OF THE LEAGUE OF WOMEN VOTERS OF
THE UNITED STATES, THE LEAGUE OF WOMEN VOTERS OF
ILLINOIS, THE LEAGUE OF WOMEN VOTERS OF COOK COUNTY
AND THE LEAGUE OF WOMEN VOTERS OF CHICAGO, AS AMICI CURIAE

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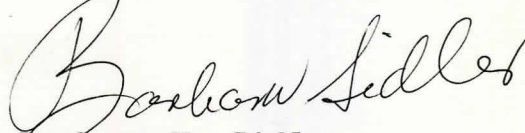
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MOTION OF THE LEAGUE OF WOMEN VOTERS OF THE
UNITED STATES, THE LEAGUE OF WOMEN VOTERS OF
ILLINOIS, THE LEAGUE OF WOMEN VOTERS OF COOK
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FOR LEAVE TO FILE A BRIEF AS AMICI CURIAE.

Now come the League of Women Voters of the United States, the League of Women Voters of Illinois, the League of Women Voters of Cook County and the League of Women Voters of Chicago and respectfully move this Honorable Court for leave to file the Annexed Brief as amici curiae in support of the position of the Plaintiffs-Appellees in the above-entitled cause.

The interests of the undersigned, as amici curiae, and the reasons for filing this Brief are stated in Part I of the Brief itself.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Barbara H. Sidler".

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AMICUS CURIAE BRIEF OF
The League of Women Voters of the United States,
The League of Women Voters of Illinois,
The League of Women Voters of Cook County,
The League of Women Voters of Chicago

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I.

THE INTERESTS OF THE AMICI

The amici, the League of Women Voters of the United States and its affiliated Illinois, Cook County and Chicago Leagues, have for many years devoted their joint attention and concern to the goal of equal opportunity for all citizens of this nation. One of the most important aspects of this goal is equal opportunity in housing -- equal access to housing in communities where good schools, jobs, transportation and recreation are reasonably accessible.

The League of Women Voters of the United States and the League of Women Voters of Illinois joined in a brief amicus curiae filed earlier in these proceedings (Appeal No. 71-1073). In that brief are described the nature of their organizations and the reasons for their special concern with this cause. (Amicus Curiae Brief of the Lawyers' Committee for Civil Rights Under Law, National Office, et al., pp. 5-7). The Court is respectfully referred to that brief for that information.

The League of Women Voters of Cook County is a county-wide League, whose membership of about 5000 women is made up of League members from Chicago and from 29 suburban Leagues. The Cook County League, because of its county-wide membership base, is acutely conscious of the metropolitan nature of the problem of low-income housing, and is concerned with the increasing

trend toward a poor, black inner city surrounded by a ring of nearly pure white, middle class suburbs. The League believes that an important step in moderating this trend is the placement of low-income or public housing on scattered sites, both in Chicago and in suburban communities. It joins with the Chicago, Illinois and national Leagues in calling not only for an end to the practice of racially discriminatory public housing in Chicago but for a remedy for the effects of past discrimination which is essential to the continued viability of the City of Chicago.

The League of Women Voters of Chicago, an affiliate of the Cook County, Illinois and national Leagues, is equally devoted to the goal of equal opportunity in housing and is especially concerned with the situation in Chicago. The Chicago League consists of a membership of about 800 informed and concerned women citizens of Chicago. Because its members all live in Chicago they are uniquely in a position to be aware of the impact of residential segregation on the quality of life in this city. Many Chicago League members are personally aware -- through study, volunteer work, and day to day observation -- of the problems of bringing up children in high density, high-rise ghettos such as Robert Taylor Homes. They have studied the relationships between residential segregation and segregation in education. They have concluded that it is of the utmost importance that the pattern of

residential segregation which has up to now been protected, promoted, and furthered by the government of the City of Chicago (the City), the Chicago Housing Authority (the CHA), with the knowing cooperation of the U.S. Department of Housing and Urban Development (HUD) must be broken if the City is to survive as a socially and economically viable entity. The Chicago League fears that we may already have gone too far toward a totally divided city, but if there is to be any hope, it must lie in breaking the invidious pattern of keeping people separate by color in their day to day life.

The amici have a long history of concern with social issues. All Leagues follow a process of study, research, and grassroots discussion of such issues before they formulate a position on any issue. Once decided upon, however, a League position is intended to be acted upon forcefully and in the full knowledge that it represents the informed best judgment of League membership. It is in that spirit that the four League organizations submitting this Brief respectfully request the Court to consider their arguments.

II.

THE POSITION OF THE AMICI

Since the facts are essentially not in dispute, the amici accept, for purposes of this Brief, the statement of facts set forth in pp. 2-14 of the Objections of Plaintiffs to the Motion

of Intervenor-Appellants to Suspend and Vacate an Order of the District Court, filed with this Court on October 26, 1971.

Further, the amici accept and support the arguments of law presented in the Brief of the Plaintiffs-Appellees, filed with this Court. The amici will not, in this Brief, repeat or elaborate upon those arguments, since they are already being ably presented to this Court.

Instead, the amici desire to state their views on three important points:

(1) The amici believe that it is of the utmost importance that no possible remedy be foreclosed to the district judge in his efforts to eliminate the unconstitutional practices of segregated public housing which have been found to exist in Chicago, and to remedy the present effects of those practices. *Gautreaux v. CHA*, 296 F. Supp. 907 (N.D., Ill., 1969).

(2) The amici further believe that the political situation in Chicago is such that the district court may reasonably be concerned that unless restrained HUD may continue to cooperate with the City and the CHA in exercising their "...powers in a manner which perpetuates a racially discriminatory housing system in Chicago" *Gautreaux v. Romney*, Appeal No. 71-1073.

(3) The amici assert that for HUD to release the Model Cities funds in question to the City under the facts of this case would involve the federal government in the support of a policy of racial discrimination in violation of the Fifth

Amendment to the U.S. Constitution. Cf. Burton v. Wilmington Parking Authority, 365 U.S. 715, and Bolling v. Sharpe, 347 U.S. 497.

The amici agree with the Intervenor-Appellants that the withholding of \$26 million in federal funds is a most regrettable circumstance and may create hardships for some of the residents of Model Cities target areas who benefit from such programs as day care, job training, and other programs not related directly to housing. However, they decline to place the blame for possible interruption of these programs on the district judge and his order of November 11 when it is in fact, the result of years of unenlightened housing practices by the administration of the City of Chicago and the Chicago Housing Authority.

III.

ARGUMENT

The amici have closely observed developments in the controversy concerning sites for public housing in Chicago, ever since the institution of the first Gautreaux case. They have become progressively more dismayed at the delays and evasions of the Intervenor-Appellants, the City of Chicago and the Chicago Housing Authority, who have long been aware that the law of the land calls for both the elimination of the present

discriminatory practices and of the effects of past discrimination as well.

The amici have seen the CHA maintain that it could not effect changes without the support of the City Council and individual Aldermen; they have heard Aldermen state that the problem lay not with them but with their constituents; they have heard the Mayor of the City attempt to assert a policy of "building housing where the people want it" as an excuse for perpetuating the ghetto. Most recently, in its Brief now before this Court, Intervenor-Appellant Central Advisory Council asserts that "...the realities of public housing site selection in the City of Chicago" are that nothing can be done unless the City or individual members of the City Council are subject to an order of Court. Brief of Central Advisory Council, p. 13.

In spite of the fact that this Court has found that the policies of CHA and HUD have perpetuated and aggravated patterns of segregation in the Chicago area, the City would have this Court believe that it was the district court which put at risk the social services provided for the poor people of Chicago by the Model Cities Programs. (Brief for the City, p. 18 et seq.) Is it not by now painfully obvious that it is the City, the City Council, the Mayor, and the CHA who have together persisted in jeopardizing the Model Cities Programs

by flagrantly continuing in the administration of housing and relocation programs which have been found to be clearly discriminatory, by refusing to meet the modest requirements set forth in Judge Austin's 1969 order, and by attempting to shift the responsibility and the blame to an anonymous electorate?

The amici can well understand that Judge Austin could conclude that if \$26 million is released to the City of Chicago for use in its Model Cities Programs, these funds may be spent on programs designed to "keep them where they are" -- to paper over some of the worst aspects of ghetto life, and ultimately to perpetuate the system of discriminatory housing and community life which the Constitution requires to be abolished.

This Court is well aware that despite court orders in these cases, the CHA has taken only token steps to acquire sites and build housing in non-racially impacted areas. Nor has it taken any affirmative action to overcome the effects of past discrimination on the subject population and the City.

Under these circumstances, in examining the use of Model Cities funds which: (1) are targeted for essentially the same areas and the same population as public housing units would serve; and (2) are to be administered by the same people and through the same agencies who have been responsible for creating and aggravating the present pattern of racial

segregation in housing, and who have failed to carry out the district court's orders to provide dispersed housing throughout the metropolitan area, the district court is justified in severely scrutinizing the planned use of the Model Cities funds and in placing a high degree of responsibility upon the City, HUD, and the administrators of the Model Cities programs to use the funds only in ways that will promote integration and will help to overturn present patterns of segregation.

The amici are convinced that the entry of the order of November 11 was well within the power of the district judge. They have studied, for the sake of comparison, some of the recent school desegregation cases, and would like to emphasize to this Court the flexibility which has been exhibited in fashioning remedies in these cases, where unusual remedies have been required to break up patterns of past discrimination. Such unusual remedies have been upheld by the Supreme Court, most recently in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 28 L. Ed 2d 554 (1971), in which the Court stated:

"Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."
28 L. Ed 2d, at 566.

and further in the same case:

"All things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some, but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems." 28 L. Ed. 2d, at 573.

This Court has already found that the public housing system in Chicago has been "deliberately constructed and maintained" in an unconstitutionally discriminatory manner. It has also recognized that, in its own words, "the administration of the decree in the former case (*Gautreaux v. CHA*) has unquestionably been a difficult and time consuming task, presenting unique problems for resolution and generating enormous public interest." Appeal No. 71-1073, pp. 4-5.

The district judge needs, in our opinion, time and freedom to develop plans which "promise realistically to work, and ... to work now." *Green v. County School Board*, 391 U.S. 430 (1968).

This Court is no doubt aware that Judge Austin, in the orders entered December 23, 1971 and January 3, 1972, directing further relief in *Gautreaux v. CHA*, is continuing his efforts to give CHA every opportunity to develop and present a plan for the siting and construction of public housing that will meet the requirements of this Court and of the Constitution. It will not help him, it will handicap him if Model Cities funds are made available for programs -- including to some extent housing-related programs -- which may well undercut these efforts.

IV.

CONCLUSION

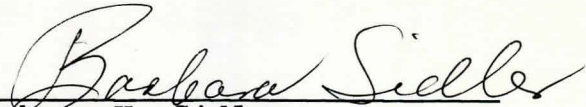
The City and the CHA, in the opinion of these amici, would be acting in the public interest if they would cease their obstruction of Judge Austin in his efforts to carry out the mandate of this Court and of the Constitution, and would instead devote equal zeal to finding methods for meeting the problems of a severe shortage of low income housing in Chicago, a decaying inner city, and the resulting turmoil, violence, and disruption of family life which grow inevitably from the overcrowded, high rise ghettos of Chicago.

The amici, therefore, respectfully request that this Court affirm the order of the district court, entered November 11, 1971, restraining HUD from releasing the

\$26 million of second year Model Cities funds.

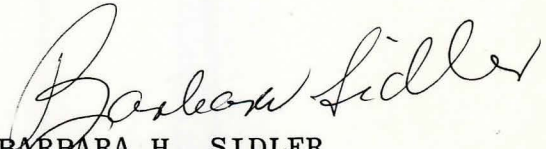
Respectfully submitted,

The League of Women Voters of
the United States and its
affiliated Illinois, Cook
County and Chicago Leagues.


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for
pleadings
book

PLEASE TAKE NOTICE that on January 13, 1972, I shall file in the U.S. Court of Appeals for the Seventh Circuit, the attached Motion and Brief of the League of Women Voters of the United States, the League of Women Voters of Illinois, the League of Women Voters of Cook County and the League of Women Voters of Chicago as Amici Curiae in the above entitled cause.


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