

In the
United States Court of Appeals
For the Seventh Circuit

SEPTEMBER TERM 1971 — JANUARY SESSION 1972
Nos. 71-1732, 1733, 1734 and 71-1807

DOROTHY GAUTREAU, et al., <i>Plaintiffs-Appellees,</i> v. GEORGE W. ROMNEY, <i>Defendant-Appellant,</i> and The CITY OF CHICAGO, CENTRAL ADVISORY COUNCIL, and CHICAGO HOUSING AUTHORITY, <i>Intervenor-Appellants.</i>	}	Appeal from the United States Dis- trict Court for the Northern District of Illinois. No. 66 C1460 HONORABLE RICHARD B. AUSTIN, Judge.
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March 8, 1972

Before SWYGERT, *Chief Judge*, DUFFY, *Senior Circuit Judge* and SPRECHER, *Circuit Judge*.

DUFFY, *Senior Circuit Judge*. This is the third round before us of a bitterly contested controversy. Two suits were commenced in 1966. Our first opinion, by a divided court, appears in *Dorothy Gautreaux v. The Chicago Housing Authority, et al.*, 436 F.2d 306 (7 Cir., 1970). We there held it was not an abuse of discretion for the District Court to impose dead lines and to order the Chicago Housing Authority (CHA) to use its best efforts to increase the supply of dwelling units as rapidly as possible.

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On the second appeal (*Gautreaux v. Romney*, 448 F.2d 731 (7 Cir., 1971)), we concluded that summary judgment should be granted to plaintiffs on both Counts I (Fifth Amendment) and II (42 U.S.C. §2000d, §601 of Civil Rights Act of 1964, and that HUD had violated the due process clause of the Fifth Amendment by its acquiescence in the pre-1969 site selection procedure of Chicago Housing Authority. However, we made the following statement: "[We] again point out that our holding should not be construed as granting a broad license for interference with the programs and actions of an already beleaguered federal agency [HUD]. It may well be that the district judge, in his wise discretion, will conclude that little equitable relief above the entry of a declaratory judgment and a simple 'best efforts' clause will be necessary to remedy the wrongs which have been found to have been committed."

The District Court did not choose to follow our suggestions in this respect. On October 1, 1971, the court signed an order enjoining the defendant, George W. Romney, Secretary of the Department of Housing and Urban Development (HUD) from making available to the City of Chicago, any funds for the second period of the Model Cities Program unless the City complied with certain stated conditions. This order involved the withholding of approximately \$26,000,000 in federal funds.

Funds for the purpose of constructing, maintaining and achieving low rent housing are provided by the United States Housing Act of 1937 (42 U.S.C. § 141, et seq.). The Secretary of HUD is charged by law with the administration of such funds. CHA does not provide any housing, low rent or otherwise, with any funds distributed under the Model Cities Programs.

The Model Cities Programs are created under the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. §§ 3301 et. seq.). Under these Programs the Secretary of HUD is authorized to grant funds for the purpose of enabling cities to undertake various programs for the benefit of low and moderate income people.