

2. The Court declined to construe the order to include the Section 8 rent subsidy program. The Court stated that "'[b]ecause the Section 8 rent subsidy program was not in existence when the judgment order was entered, CHA's Section 8 program was not part of the relief provided to the plaintiff class.'" Memorandum Opinion and Order, U.S.

Dist. LEXIS 12924 at *5, n.3 (attached to Memorandum in Support of this Motion as Exhibit A).

3. The Court's reasoning applies with equal force to HUD's HOPE VI funding and programs, which are used by the CHA to revitalize existing distressed public housing projects in Limited Areas. The federal law that created HOPE VI was enacted in 1992, long after the judgment order was entered in this case in 1969.

4. The Court's prior opinions in this case decline to extend the Injunction to reach funds spent on revitalizing existing public housing in Limited Areas.

5. The parties have never treated the CHA's applications for HOPE VI funding in 1993, 1996 and 1997, and its use of HOPE VI funds, as governed by the judgment order. It is only recently that the plaintiffs and the Receiver began to assert that this Court has jurisdiction over HOPE VI.

6. The proper interpretation of the judgment order is that it has no application to the revitalization of existing public housing in Limited Areas, the activities funded by the HOPE VI program.

7. On September 18, 1997, HUD approved the CHA's implementation plan submitted with regard to funds the CHA had been awarded as a result of its 1993 HOPE VI application for the Cabrini redevelopment project; however, unlike its approval of the application itself, HUD's approval of the implementation plan is conditioned, *inter alia*, on the plaintiffs and this Court approving the implementation plan by October 18, 1997.

8. Prior to that time, HUD had not taken a similar position and had never insisted that the requirements of the Injunction and the order appointing the Receiver (for

example, the requirement that all applications for Gautreaux funds must be made by the Receiver) applied to HOPE VI funds or applications.

9. The condition now imposed by HUD that requires plaintiffs' and the Court's approval of an implementation plan for funds that have already been awarded (without such approval) is based on HUD's own interpretation of this Court's orders and the Injunction. If this Court determines that HOPE VI is not governed by the Injunction, HUD's interpretation is not correct, and the CHA will ask HUD to remove the condition that requires court approval and plaintiffs' approval.

10. The Cabrini project cannot meet the requirements of the Injunction. There is no possibility of creating an identical number of replacement units in the General Areas of the City, a point with which the plaintiffs do not disagree. Accordingly, in order to fulfill HUD's requirement, the CHA would be forced to negotiate with plaintiffs' counsel a waiver of the proscriptions of the Injunction with respect to the entire Cabrini project.

11. The CHA will be severely prejudiced and irreparably harmed if required to negotiate with the plaintiffs' counsel to obtain their approval, and Court approval, of the Cabrini project. Plaintiffs' counsel's public housing philosophy, that public housing residents should be integrated into the General Areas, is not consistent with the public policy and funding concerns that caused Congress to create HOPE VI. HOPE VI envisions redevelopment of existing distressed public housing high-rises through the creation of replacement units on-site, as well as through other more "unconventional" methods of creating housing.

12. In the past the CHA has been forced to negotiate with plaintiffs' counsel for approval of high-rise redevelopments, such as Horner and Lakefront, that were funded in whole or in part with "Gautreaux development money." As a result, the CHA's ends up with an agreed order to present to the Court, but not the program that it would have created without having to negotiate with plaintiff's counsel. While such a situation may be required with regard to "Gautreaux development money," it cannot be required with regard to funds designed to be used for initiatives outside of the scope of the Injunction.

13. The CHA has a substantial probability of success on the merits of its Motion, based on the Court's August opinion on the Section 8 program. In addition, the CHA faces serious and irreparable harm including a sudden loss of control over major pending projects, if this matter is not resolved by October 18, 1997. All of this warrants the Court's treatment of the motion as an emergency.

WHEREFORE, the CHA respectfully asks the Court to clarify that the Injunction does not govern CHA's HOPE VI programs and funding, and that such funding and programs are not part of the relief provided to the class under the Injunction.

Dated: September 30, 1997

Respectfully submitted,

Jerome Butler
General Counsel
Chicago Housing Authority



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Chicago Housing Authority

2. Due to the long and complex factual history of this case, and the multiple legal and factual issues raised in the CHA's motion, the CHA requests leave to file a memorandum, not to exceed 20 pages in length, in support of its Motion.

WHEREFORE, the CHA respectfully requests the Court to grant the CHA's
Motion for Leave to File Instanter Memorandum in Excess of 15 Pages.

Dated: September 30, 1997

Respectfully submitted,

Jerome Butler
General Counsel
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CERTIFICATE OF SERVICE

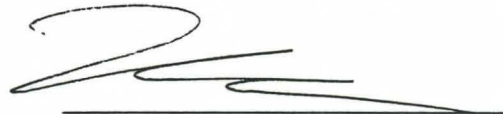
I, Nancy S. Eisenhauer, counsel for the CHICAGO HOUSING AUTHORITY, hereby certify that on Tuesday, September 30, 1997, I caused a copy of CHICAGO HOUSING AUTHORITY'S MOTION FOR LEAVE TO FILE INSTANTER MEMORANDUM IN EXCESS OF 15 PAGES to be served via hand delivery on counsel listed below:

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Nancy S. Eisenhauer

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

DOROTHY GAUTREAUX, et al.,	)	
	)	
Plaintiffs,	)	66 C 1459, 66 C 1460
	)	(Consolidated)
v.	)	
	)	Hon. Marvin E. Aspen
CHICAGO HOUSING AUTHORITY and	)	
ANDREW CUOMO, Secretary of Department	)	
of Housing and Urban Development,	)	
	)	
Defendants.	)	

NOTICE OF MOTION

TO:

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PLEASE TAKE NOTICE that on Friday, October 3, 1997 at 9:30 a.m., or as soon thereafter as this motion may be heard, we shall appear before the Honorable Marvin E. Aspen, or any Judge sitting in his place or stead, in the courtroom usually occupied by him at 219 S. Dearborn, Chicago, Illinois, and present CHICAGO HOUSING AUTHORITY'S MOTION FOR LEAVE TO FILE INSTANTER MEMORANDUM IN

EXCESS OF 15 PAGES, a copy of which is attached hereto and served upon you.

Dated: September 30, 1997

Respectfully submitted,

Jerome Butler
General Counsel
Chicago Housing Authority



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