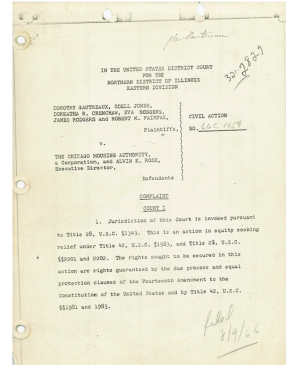


The Fight for Fair Housing:

A Summary of *Gautreaux v. Chicago Housing Authority*



About Impact for Equity

Impact for Equity (formerly BPI) is a public interest law and policy center that has been at the front lines of social justice in the Chicago region and Illinois for over 50 years. Known for its innovative and effective advocacy for racial and economic equity, today Impact for Equity is deeply engaged in advancing systemic change in housing and criminal legal system reform.

Contents

3	Overview
4	SECTION 1 The Origin of the Lawsuit: Dorothy Gautreaux and the West Side Federation
5	SECTION 2 Navigating the Courts: The Legal Journey of <i>Gautreaux v. Chicago</i> <i>Housing Authority</i>
7	SECTION 3 Remedies and Outcomes
7	Scattered Site Housing Program
8	Gautreaux Assisted Housing Program
9	Creating Inclusive Communities
11	SECTION 4 Additional <i>Gautreaux</i> Outcomes



Overview

Impact for Equity (formerly known as BPI) has represented public housing residents and applicants as plaintiffs in the *Gautreaux* lawsuit for more than five decades, seeking to remedy race discrimination in the Chicago Housing Authority's (CHA) public housing construction and resident assignment. The case was filed to challenge CHA's construction of massive, high-rise buildings restricted to redlined, racially segregated areas of the city of Chicago, and to challenge tenant assignment practices based on race.

Public housing plaintiffs won the case in 1969, and since that time the lawsuit has been about remedying the public housing segregation of the past that denied Black families opportunities to live in any neighborhood of their choice.

By requiring the construction of new public housing on a smaller scale and outside of neighborhoods in which Black residents were segregated, by enabling residents to utilize federal housing vouchers to move anywhere in the Chicago region, and by promoting investments in communities and resources at historic public housing developments, *Gautreaux* has opened and improved housing opportunities for public housing residents across the Chicago metropolitan area.

Due to the significant increase in the use of Housing Choice Vouchers, CHA now provides housing for over 71,000 households, many thousands more than it housed when the *Gautreaux* litigation was filed in 1966. CHA residents now live in all 77 community areas in Chicago, although they remain concentrated in Chicago's low-income neighborhoods where Black residents had been segregated.

While *Gautreaux* has fundamentally reshaped public housing in Chicago, it is also true that housing opportunities in Chicago remain racially segregated, and a shortage of affordable, available housing options, along with slow progress by CHA to complete construction of mixed income housing on sites where large public housing developments were demolished, continues to limit housing options for public housing families and applicants, even after more than five decades of litigation. Further, CHA housing is a small fraction of Chicago's total housing stock. While CHA has had an outsized impact on a small number of Chicago neighborhoods, the problem of segregation and affordable housing in Chicago is both broader and deeper than segregation in CHA's family portfolio alone, and so the work continues.

SECTION 1 The Origin of the Lawsuit: Dorothy Gautreaux and the West Side Federation

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Dorothy Gautreaux was a builder of community, a breaker of barriers, and a visionary. She participated in the planning and strategy meetings of the coordinating body of the Chicago civil rights movement during the 1960s and always brought to the often-rancorous debates a sense of hope and possibility.

As a resident of the CHA's Altgeld Murray Homes at Chicago's southern end, Ms. Gautreaux built community by organizing Girl Scouts, Boy Scouts, and PTAs. Her view was always that CHA residents both could and ought to direct their own lives.

As the postwar civil rights movement took shape, she brought her vision to that effort. Eventually, Ms. Gautreaux became the representative of CHA residents within the councils of the Chicago Freedom Movement after it was formed in a collaboration between local activists and Dr. Martin Luther King, Jr. She constantly held workshops to help tenants build their voice and organized carloads of neighbors to join the next demonstration. With great pride, she brought Dr. King to Altgeld for a rally.

The West Side Federation was an amalgam of 53 Black neighborhood organizations, another outgrowth of the massive civil rights rally led by Dr. King in Chicago. Driven by research conducted by the Chicago Urban League, in 1965, the West Side Federation sent a letter to the federal government's top housing official, asking it to reject the Chicago Housing Authority's latest group of proposed public housing sites. The Federation letter pointed out the "pervasive pattern" of segregation in CHA projects, most of which were in redlined, racially segregated areas of the city. CHA's newest proposal for nine more developments, four of them high-rises, and six next to large existing public housing projects, would surely mean more of the same.

The West Side Federation's opposition was ignored, and CHA moved forward with the construction of racially segregated developments. Alongside other CHA residents, Dorothy Gautreaux worked with the Urban League and ACLU to hire lawyers, including Alex Polikoff, to file litigation opposing this practice in 1966.



Dorothy Gautreaux, organizer, civil rights leader, and one of the named plaintiffs in *Gautreaux v. Chicago Housing Authority*

The case was filed on behalf of Ms. Gautreaux and other named plaintiffs and became a class action representing all Black CHA families and those on the CHA waiting list. When Alex Polikoff joined Impact for Equity (then BPI) in 1970, he brought the litigation with him.

Although Ms. Gautreaux sadly passed in 1968, one year before the court ruled in favor of the plaintiffs, the case came to bear her name for decades.

Dorothy Gautreaux and the many Black leaders like her in Chicago made the *Gautreaux* lawsuit possible. Their dreams, their determination, and their challenges made it clear that the old order could not stand.



Activists in the Chicago Freedom Movement fought against unfair housing practices. Photographed by John Tweedle

SECTION 2 Navigating the Courts: The Legal Journey of *Gautreaux v. Chicago Housing Authority*



When the *Gautreaux* lawsuit was filed in 1966, CHA was in the midst of a massive program to build thousands of high-rise public housing apartments to be located almost exclusively in neighborhoods where racist real estate practices, public policies, and violence had segregated Black families. It was also secretly using its waiting list to assign families on the basis of race.

The *Gautreaux* case alleged that by limiting the siting of thousands of public housing units to neighborhoods in which Black residents were segregated, and by assigning tenants on the basis of race, CHA had violated the Equal Protection Clause of the U.S. Constitution's Fourteenth Amendment. (In 1966, Chicago's population was comprised predominantly of Black and white residents and CHA's family population was also predominantly Black. As a result, the *Gautreaux* case addresses CHA's discrimination against Black residents and applicants only.)

A companion case was filed simultaneously against the U.S. Department of Housing and Urban Development (HUD) for knowingly funding these CHA discriminatory activities. The HUD case asserted that HUD's funding of these practices violated the Due Process Clause of the U.S. Constitution's Fifth Amendment.

Public Housing Residents Win

Decisions by District Court Judge Richard B. Austin in 1969 in the CHA case, and by the Seventh Circuit

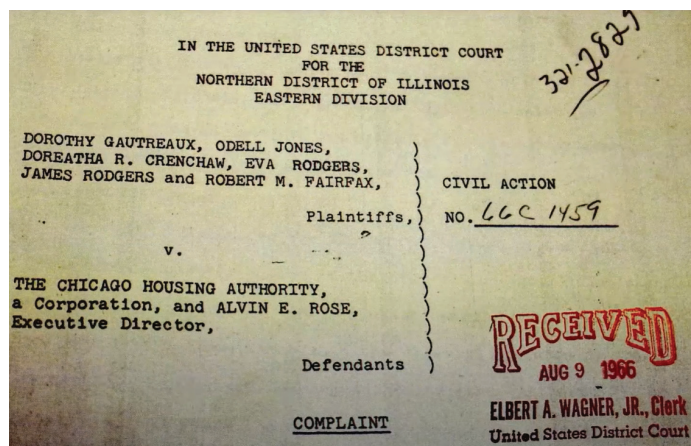
in 1971 in the HUD case, determined that both CHA and HUD were liable. The Chicago Daily News said at the time that whatever happened following the judgement, "one thing that Judge Austin has done is to put Chicago face to-face with its most crucial issue — whether it is to be a city united or a city divided."

The critical question in *Gautreaux* quickly became how to remedy the discrimination found by the courts. Ultimately, over the years, three major approaches emerged, defined by several key court orders.

Remedying Housing Discrimination

First, to redress the isolation and racial segregation caused by CHA's construction of massive, high-rise buildings restricted to redlined, racially segregated areas of the city, the District Court's 1969 judgment order required the CHA to construct three units of CHA housing in areas where Black households made up less than 30% of the population for every new unit constructed in an area where that was not the case (a ratio that was changed to one and one in the 1980s). It also prohibited CHA from housing families with children above the third floor, limited the size allowed for new CHA developments, and mandated implementation of a new, non-discriminatory tenant assignment plan. This remedy was to be implemented through a scattered site program.

Second, the *Gautreaux* plaintiffs took advantage of a new type of housing subsidy, the Section 8 program, to expand CHA resident choice. Created by Congress in 1974, Section 8 provided households with subsidies they could use in privately owned housing. The *Gautreaux* plaintiffs argued that residents ought to be able to use these vouchers anywhere in the Chicago region rather than only within the city proper. HUD and the U.S. Justice Department fought hard to prevent that ability until a unanimous Supreme Court decision in 1976 required a metropolitan-wide approach. As a result, HUD established and funded a metropolitan-wide



Gautreaux v. Chicago Housing Authority was filed in federal court on August 9, 1966

SECTION 2 Navigating the Courts: The Legal Journey of *Gautreaux v. Chicago Housing Authority*

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rent subsidy demonstration program for *Gautreaux* families, to be administered by a local fair housing organization rather than the CHA.

The third major approach, which did not begin for many years, involved mixed income housing developments. When CHA launched its Plan for Transformation in 2000, utilizing the federal HOPE VI program to demolish and redevelop much of its public housing stock, the *Gautreaux* plaintiffs expanded their efforts, begun in the 1990s, to use the case to require that replacement public housing be mixed income. This housing would include public housing units among the other housing built. The *Gautreaux* plaintiffs also advocated for the creation of community amenities such as schools, libraries, community centers, grocery stores, parks and recreation facilities and fought for processes that would enable tenants displaced by demolition to move into new units.

In 2019, the *Gautreaux* plaintiffs and CHA entered into a Settlement Agreement, approved by the District Court after a fairness hearing in January 2019. The Settlement Agreement provides a detailed series of development and oversight requirements for CHA geared towards achievement of the long-outstanding goal of remedying the development of a racially segregated system of public housing in Chicago.



High-rise towers at Robert Taylor Homes (2000)



Above: Hansberry Square, a mixed income development on the former Robert Taylor Homes site (2011)



Left: The Oakwood Center, a community center for residents of Oakwood Shores (former Madden, Wells, and Darrow Homes site)

SECTION 3 Remedies and Outcomes: Scattered Site Housing Program



The different approaches for addressing CHA's discriminatory practices were created and shaped by several court orders. These remedies have both influenced national housing policies and dramatically impacted public housing in Chicago.

The scattered site housing program built new public housing across the city.

The first remedy provided under *Gautreaux* was the creation of new scattered site public housing in areas where historically CHA had not constructed public housing.

The *Gautreaux* case was filed to challenge CHA's construction of massive, high-rise buildings restricted to redlined, racially segregated areas of the city. To redress the isolation and racial segregation caused and exacerbated by the discriminatory location of large public housing developments, the federal court required that scattered site units be developed either first or simultaneously outside of neighborhoods in which Black residents were segregated, where CHA had overwhelmingly focused its development previously, reinforcing the effects of redlining and other racist government and private sector housing practices. New scattered site units were to create opportunities to live in community-integrated housing across the city of Chicago for Black public housing families.

Scattered site public housing, smaller developments typically with no more than 30 apartments at one location, were designed to be integrated into existing communities and to create inclusive

environments by requiring they be leased to current community residents as well as transferring *Gautreaux* families and those on the CHA waitlist.

Although a court order obligated HUD to pay for the scattered site units through special funding set-asides, the scattered site program had a very slow start. The Chicago City Council first refused to approve sites for public housing in predominantly white neighborhoods. After *Gautreaux* lawyers persuaded the District Court to set aside the state law that gave the City Council this veto power over public housing sites (an order affirmed by the appellate court), CHA's ineffectiveness nonetheless persisted, and few scattered site units were produced.

The program finally began in earnest when the District Court imposed a development receivership on CHA in 1987, appointing an independent real estate firm, The Habitat Company, and its chairman, to take on CHA's development duties under court supervision. As the Receiver, The Habitat Company began to develop scattered site public housing, but by that time, nearly 20 years after the original judgment, there was much less land available at prices that would fit within HUD's cost limits for public housing. HUD set-aside funding for scattered site development ended in 1998, and only small numbers of scattered site units have been built or acquired by CHA since then.

Despite its slow start and limited scale, about 2,000 new scattered site apartments were built, and there are now scattered sites in more than 57 of 77 Chicago community areas. Today, ensuring that the scattered site units are properly maintained and accessible to CHA residents remains a priority and challenge.



Scattered site properties provide housing in smaller scale developments across Chicago

SECTION 3 Remedies and Outcomes: Gautreaux Assisted Housing Program



The housing voucher mobility program helped residents exercise the freedom to rent anywhere in the metropolitan region.

The Gautreaux Assisted Housing Program, which provided an opportunity for public housing families to rent apartments in the private market anywhere in the Chicago region, was another remedy provided under the *Gautreaux* litigation.

This program, made possible by the 1974 Congressional enactment of a new form of subsidized housing known as Section 8, enabled *Gautreaux* plaintiff class families to use federal housing vouchers to move into privately owned housing. The *Gautreaux* plaintiffs won a unanimous 1976 Supreme Court decision in *Hills v. Gautreaux*, which authorized a metropolitan-wide approach to using Section 8 vouchers, and HUD and the plaintiffs then agreed to a new *Gautreaux* remedial program that allowed participants to move anywhere in the Chicago region.

Beginning in 1976, the program, administered by the Leadership Council for Metropolitan Open Communities, provided “mobility counseling,” enabling public housing families to move outside of neighborhoods where Black families had been segregated. The program ran for over two decades, ending in 1998 when HUD’s obligations under the *Gautreaux* consent decree were completed.

In all, over 7,000 families (about 25,000 people) chose to utilize the program to move, mostly from racially segregated, high poverty Chicago neighborhoods to other Chicago neighborhoods and over 100 suburbs.

Studies of the experiences of the families that moved with the program found positive outcomes on several measures, including employment, safety, and education. This success led Congress to authorize a ten-year, five-city national housing mobility demonstration called Moving to Opportunity, and housing mobility programs modeled on *Gautreaux* were created in a number of cities around the country.

CHA’s housing voucher program is now more than three times the size of its public housing program; today CHA administers over 47,000 rent vouchers.



In the years following the end of the HUD-mandated mobility program, CHA has instituted several new versions of this *Gautreaux* program.

While CHA’s current mobility program is considered by some to be one of the nation’s best, most families using housing vouchers are not a part of the program and face significant barriers in the private market, contributing to the concentration of voucher use in lower income, historically redlined, and racially segregated communities.

Pursuant to the 2019 Settlement Agreement, CHA agreed to improve the availability of information and services for CHA families to enable residents to choose to live in diverse areas across the city of Chicago.

SECTION 3 Remedies and Outcomes: Creating Inclusive Communities



***Gautreaux* required that redevelopment of historic public housing communities create inclusive housing.**

The third major outcome of *Gautreaux* has been to ensure that changes to historic public housing developments create vibrant, healthy housing for CHA residents.

In 2000, CHA began its Plan for Transformation, which was driven by changes in the federal administration of public housing under the HOPE VI program. That program required public housing authorities to assess large housing developments with more than 10% vacancy to determine whether demolishing those developments and providing their residents with Section 8 vouchers would be cheaper than rehabilitating them. In Chicago, developments with thousands of public housing apartments failed that viability test.

Against that backdrop, Chicago launched the Plan for Transformation, which included demolishing then-existing high-rise public housing developments and replacing them with mixed income housing on the historic public housing land. Mixed income housing would include public housing, affordable housing, and unsubsidized market rate housing located together in a single development. The new developments would include smaller-scale buildings more in line with the surrounding communities and would be built together with new or improved community facilities.

Replacement of the large high-rise developments – which had racially segregated residents and isolated them in high concentrations of poverty since their construction three decades earlier – with lower density, mixed income housing offered *Gautreaux* families the opportunity to live in better quality housing located in communities receiving resource investments.

Unlike scattered site housing and the mobility program, creating new mixed income housing was not a remedy required by *Gautreaux* court order, and CHA did not require *Gautreaux* approval to demolish public housing. However, because of *Gautreaux* restrictions on CHA development, CHA could not proceed with redevelopment without authorization by the *Gautreaux* court.

As a result, court-approved mixed income housing became a new type of *Gautreaux* relief. *Gautreaux* counsel participated in working groups created by CHA to provide stakeholder input on redevelopment plans for each of the dozen sites. *Gautreaux* attorneys have worked to ensure that all public housing in mixed income developments is well dispersed across each site and integrated into all rental buildings, and that developments are designed to provide vibrant communities for public housing residents, including investment in jobs and places to shop, parks, schools, community centers, safety and security, and other community amenities.

Aerial view of the State Street Corridor, which held large, concentrated public housing on Chicago's South Side.



SECTION 3 Remedies and Outcomes: Creating Inclusive Communities



The idea behind the Plan for Transformation was that public housing residents would ultimately benefit from greater investment in their communities, but thousands of families lived in the high-rise buildings slated for demolition. The residents who would be displaced by the Plan were at risk of significant harm if CHA did not successfully and compassionately relocate them. When relocation plans faltered, Impact for Equity lawyers joined a separate lawsuit, *Wallace v. Chicago Housing Authority*, to address the Plan's flaws and seek additional services to enable a wider range of relocation options for residents, and they helped facilitate the appointment of an independent monitor to oversee CHA's relocation plans.

Since the inception of mixed income development, thousands of high-quality public housing units have been constructed at about a dozen mixed income developments across the city of Chicago, and significant community investment has occurred at

many of the sites. However, while progress has been made, it has been uneven and unnecessarily slow, leaving vast areas of land at several mixed income sites vacant or underutilized while thousands of families wait for public and affordable housing.

Under the 2019 *Gautreaux* Settlement Agreement, CHA committed to timelines for the construction of hundreds of new CHA units in its mixed income developments. In addition to CHA units, hundreds of non-CHA affordable and market rate housing units were to be built in those communities, as well as new commercial, recreational, educational and other public facilities.

Because the completion of the mixed income development sites is not guaranteed by the *Gautreaux* Settlement Agreement, ensuring that CHA resources are developed swiftly for the benefit of public housing residents is a continuing need in Chicago.

High rises at Cabrini-Green Homes (1988) and a mid-rise, mixed income building at Parkside of Old Town, part of the Cabrini redevelopment (2016)



High rises at Stateway Gardens (1988) and mixed income housing at the Park Boulevard redevelopment (2016)





Over the decades of litigation in the *Gautreaux* lawsuit, plaintiffs have sought a number of additional changes to require the creation and maintenance of housing for the benefit of public housing families and applicants. These changes include:

- Eliminating the City Council's veto power over sites for public housing.** When City Council members refused to approve CHA's proposals to build public housing in compliance with the court-ordered requirements, *Gautreaux* lawyers brought additional litigation to hold the City Council accountable. This litigation resulted in a court order that set aside the state law that gave the City Council its authority to approve CHA property acquisitions, thus ending the practice of alders having veto power over the choosing of sites for construction of public housing.
- Introducing private management for public housing.** In 1983, *Gautreaux* plaintiffs' strong advocacy led CHA to experiment with private management of scattered site public housing. Ultimately, this model was expanded to include all CHA housing. Generally, the private managers were more responsive to tenants than their CHA predecessors, but maintaining safe, clean and high-quality housing is an ongoing challenge.
- Requiring adequate maintenance of occupied buildings.** During the early years of the Plan for Transformation, *Gautreaux* lawyers challenged CHA's failure to adequately maintain occupied buildings it planned eventually to demolish.
- Requiring improvements to speed-up leasing of available units.** During the time when CHA was demolishing high-rise buildings and relocating thousands of residents, *Gautreaux* lawyers obtained a court order that limited how long CHA could hold a scattered site unit vacant for relocation purposes. They also crafted an agreement for CHA to assist residents to prepare for relocation into mixed income communities one year before they were to move.
- Urging holistic investment in public housing communities.** *Gautreaux* lawyers have demanded the city of Chicago invest in the parks, transportation, streetscape, commercial development, and schools of the communities that have been the home to large public housing developments. As one example, an early learning initiative in Altgeld Gardens and its surrounding neighborhood led to an Early Learning Coalition and a continuum of programs for babies, young children and their families.
- Negotiating a more efficient, site-based wait list that is more likely to match families with their preferred housing option.** *Gautreaux* lawyers negotiated a court-approved site-based wait list system, first implemented in 2018, that replaced an old requirement that applicants take any unit offered, regardless of location, or be removed from the wait list. The new system allows applicants to choose a preferred site, and provides estimated wait times for each site, resulting in more people making successful matches and being housed faster.



The Light of Truth: Ida B. Wells National Monument, a bronze and marble public sculpture by artist Richard Hunt, was built on the site of the Ida B. Wells Homes. Public housing residents were part of the campaign to get the monument built.



Combating injustice together

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