The original documents are located in Box 17, folder "Housing (4)" of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

INFORMATION

February 4, 1976

MEMORANDUM FOR THE PRESIDENT

FROM JIM CANNON

SUBJECT PRESIDENT'S TAPE FOR NATIONAL ASSOCIATION OF HOME BUILDERS CONVENTION

Secretary Hills and Nat Rogg, Executive Vice President of the National Association of Home Builders, have each commented that the tape you prepared for the NAHB Convention was an immense success. Secretary Hills reported that it was very well received by the Home Builders attending the Convention and Nat Rogg indicated that he believed it was the best public presentation he had ever seen you make.

It appears that this investment of your time in preparing the tape was well worth the effort and paid big dividends.

THE WHITE HOUSE

WASHINGTON

January 30, 1976

MEMORANDUM FOR JIM CANNON

FROM TOD HULLIN

SUBJECT PRESIDENT'S TAPE FOR NATIONAL ASSOCIATION OF HOME BUILDERS CONVENTION

Secretary Hills and Nat Rogg, Executive Vice President of the National Association of Home Builders, have each commented that the tape the President prepared for the NAHB Convention was an immense success. Secretary Hills reported that it was very well received by the Home Builders attending the Convention and Nat Rogg indicated that he believed it was the best piece of public presentation that he had ever seen the President make.

Attached for your signature is a memorandum to the President indicating that this investment of his time was well worth the effort.

cc: Lynn May 2/6/76 for action

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C.. 20410

February 5, 1976

Honorable James M. Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C. 20500

Dear Jim:

Under separate cover Assistant Secretary Meeker is forwarding for review and comment the 1976 Report on National Growth. We also are submitting a copy to the Office of Management and Budget today.

As you recall from the preliminary meetings of last year, the Administration has decided that the Report will review recent developments during 1974 and 1975, identify current trends, and discuss broad policy alternatives in the various areas of national growth. The Report includes frank discussions, based on government and private studies, of both unfavorable and favorable economic and social developments of the past two years.

A letter of transmittal from the President will accompany the Report to the Congress. It is my recommendation that this letter point out steps the President is taking to address many of the problems discussed in the Report. The letter of transmittal should refer to the State of the Union Message, the Economic Report of the President and other Administration initiatives. Tab A contains an outline for such a letter of transmittal.

The Report presently contains no recommendations. Although it is not the appropriate document for substantive policy recommendations in the areas of housing or transportation, for example, I propose to include recommendations to improve the process of study and planning for national growth. These recommendations would be included in the final chapter of this volume, and are contained in Tab B to this letter.

These recommendations grew out of the preparation of the Report. They represent important steps that the nation should take in coming years to strengthen our understanding of the effects of growth, to develop adequate procedures to protect and enhance our physical environment, to increase the awareness of citizens of the issues of growth management, and to devise a more workable intergovernmental approach to the management of national growth.

Sincerely,

Carla A. Hills

TAB A

PRESIDENTIAL LETTER OF TRANSMITTAL

I. Introduction

- The Administration has taken positive steps to address many of the problems discussed in this report through policy documents such as the State of the Union and the Economic Report of the President.

II. The Economy

- The discouraging trends of the last two years in inflation, unemployment, and GNP are turning around. We have made notable progress from the depths of the sharpest recession in the post-World War II period. (1/76 Econ. Report of the Pres.)

- The stock market is approaching the 1000 mark, reflecting renewed confidence in the country's economic future.

III. Energy

- The report points out the urgency of dealing with our future national energy needs.

- I have pointed out that unless we can assure an adequate supply of energy, there will be neither sustained growth nor more jobs for us to report in the future. (State of the Union Address)

- The recently signed national energy bill is a compromise measure which only partially completes my comprehensive energy independence program. (State of the Union Address and 1/76 Econ. Report)

IV. Open Government

- The lack of citizen confidence in government undermines all our efforts to take the initiative in guiding the country's growth.

- The Administration's emphasis on citizen participation, as exemplified by the preparation of this report, is designed to win that confidence again.

- The 1977 budget presents a realistic picture of what the government can and cannot accomplish. This Administration avoids promising what it cannot deliver. (State of the Union)

V. Government Operations

- The report discusses the necessity for increased government responsiveness to its citizens. I have called for a stop to the increase in massive government regulation. (State of the Union)

- A major goal of the Administration is to insure a full partnership among all branches and levels of government, private institutions, and individual citizens. (State of the Union)

- This Administration emphasizes the block grant and revenue sharing (State of the Union) approaches to strengthening the responsiveness and flexibility of Federal programs. The CETA and CDBG programs are successes, and a block grant education program has been proposed.

RECOMMENDATIONS FOR STRENGTHENING NATIONAL PLANNING FOR GROWTH

I. Research and Exchange of Information.

A. Federal agency participation in preparation of the National Growth Report:

The Interagency Task Force which guided development of the 1976 report should immediately begin planning the 1978 report. The research involved in the next report should be assigned according to agency responsibilities. This procedure would widen the scope of the report and it would reflect from the outset a greater depth of analysis and a wider range of policy options.

B. Continuing research on national growth:

Whether or not the National Growth report is utilized for this purpose, an organized Federal research program into the effects of national growth is necessary. This program would assess the effects of specific Federal actions, existing and proposed, on classes of communities or specific communities throughout the nation, and would be carried out under the general supervision of the Domestic Council. Federal agencies, in cooperation with interested parties, including public interest groups, research organizations and universities, would finance and undertake specific studies according to an agenda developed cooperatively among the Federal agencies to reflect research priorities.

C. Federal growth information center:

A clearinghouse is needed for the collection and dissemination of research results concerning national growth and development. This information service would promote a common understanding of the range of short-term requirements for community facilities and services and related private development and the impact of Federal actions on state and local community growth. Such information, readily available, would also enhance dialogue among the executive and legislative branches of the Federal government, the states and local governments, in determining appropriate public policies to meet population and community growth requirements in the coming decades. Such a center would serve the private sector by providing a valuable information and education function for private institutions and individual citizens.

II. Public Participation.

A. National Growth Reports:

A series of public seminars should be held in the spring of 1976 to critique this report, with a view towards the formulation of the research program for the 1978 version. Closer to the time of the next report, as was done last year, a series of public seminars should be held to solicit views on national growth issues and policy alternatives. The object of public participation is not only to provide for orderly and direct communication to the President and the Congress of a wide range of perceptions of national growth issues, but to increase public awareness of future implications of present policies and of the necessity to plan for the future.

B. Encouragement of public participation in the preparation of material such as that presented in the supplementary volumes to this report:

In conjunction with public participation in federally sponsored seminars, encouragement should be given to similar public contributions to the state and local governments' evaluations of growth alternatives and policies.

C. Government Programs:

If citizens are to play their rightful role in assisting in the development of public policy, planning and program implementation, a clearer and more orderly opportunity must replace the proliferation of public participation requirements in various categorical programs. At a minimum all block grant proposals -- including general revenue sharing -- should have uniform participation requirements. At the optimum a Uniform Public Participation Act could modify and standardize, as appropriate, all legislative requirements for citizen involvement -- thereby maximizing participation of an informed and concerned public and helping ensure open government.

III. Intergovernmental actions.

A. Executive Branch coordination of Federal planning programs and requirements:

At present, Federal government funding for state and local growth planning efforts as well as its procedures for internal growth planning are fragmented and uncoordinated. A designated element of the Executive Branch under the auspices of the Domestic Council should undertake the rationalization of Federal planning assistance programs and requirements across department and agency lines.

B. Legislative coordination of Federal planning programs and requirements:

Congress should conduct a review of growth management programs and requirements in Federal legislation to eliminate duplicative and contradictory grants of power.

The present system of addressing environmental questions regarding Federal programs almost exclusively by the Executive Branch after the legislation has been enacted is inefficient. Congress should develop mechanisms to address in the formulation of legislation the prospective impact on the nation's physical, social and economic environment.

At present we have environmental impact statements, economic impact statements and inflation impact statements -- all seeking to protect or inform the government or public against narrow concerns. The impact process as a coordination tool to understand the effect of proposed policy, legislation, rulemaking or regulatory processes needs to be expanded and strengthened to serve, at a minimum, as a warning of unanticipated side effects of government processes. This strengthening should be a joint concern of the Executive and Legislative Branches, each binding itself to the improved process to achieve a degree of coordination not offered within the organizational structures of the Executive Branch or the Congress.

C. Submission of National Growth Report:

In order to take best advantage of its usefulness in the formulation of the Presidential budget and subsequent Congressional committee debate of Federal programs, this report should be submitted to Congress in October of odd-numbered years.

Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

Washington Agencies

Continued from First Page

however, they're only useful after he's been able to buy a house.

And critics charge that at the same time the government helps the would-be homeowner through its various housing programs, it hurts him with monetary policies that drive up interest rates. The difference between a 9% interest rate on a 30-year, $45,000 mortgage and the 7% rate common a few years ago is an increase of about $63, or 21%, in the monthly payment. Put another way, if mortgage rates had stayed at 7%, a purchaser could buy a house costing $10,000 more today for the same monthly payment required on that 9% loan.

While she agrees that interest rates are a problem, Mrs.

Nation's Housing Industry Going on a No Frills Kick

Continued from First Page

emphasis is on square design, which is cheaper to build and which creates the most space.

Fireplaces, shake roofs, carpeting, dishwashers and air conditioning are optional at extra cost on all models. Family rooms also are options with three of the four models. All homes in California, however, have enclosed two-car garages as required by local building codes.

Inside, less interior wall space—part of a basic box design—creates an open effect. In models decorated and furnished by Kaufman & Broad at its Chino development, light color schemes, optional family rooms and plenty of mirrors are used to offset the lack of square footage.

a typical $38,500 home purchased in 1975 in the following manner:

	Cost	% of Total
Materials	$12,657	32.9
Land	8,280	21.5
Labor	5,960	15.5
Financing	4,081	10.6
Overhead/Profit	4,620	12.0
Other expenses	2,902	7.5

"The greatest savings would be in mortgage," explains Sumichrast. "Finding cheaper money is just about an impossibility. The other possibility would be in smaller land parcels."

But land costs also have risen sharply because of environmental impact expenses and the general pressure on cities to urbanize.

Sumichrast says that land for a single-family, detached house used to make up 10 to 11% of the unit's prices. For example, a $20,000 house

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HUD DRAFT 2/12/76

I am returning without my approval H.R. 5247, the Public Works Employment Act of 1975.

I have charted a course for the economy, and this piece of legislation is a substantial departure from that approach. I believe that in order to assure a continued and healthy economic recovery, we must contain inflation while reducing unemployment and we must control the federal budget so as to provide the individual taxpayer with more income to spend as he chooses. It is only by stimulating the private sector that we can create a permanent decrease in unemployment and a lasting, rather than temporary, economic recovery. And, it is only by controlling excessive government spending that we can avoid another crippling bout of inflation.

I have proposed a budget which addresses the task of restraining the pattern of excessive growth in federal spending. Reducing the Federal Government's demand for funds is necessary to make funds available for productive investment in the private sector. More private investment means more lasting private sector jobs and greater productivity.

I expect my policies to result in the creation of more than 2 million private sector jobs in 1976 and an additional 2 million in 1977. These will be productive jobs, not just temporary employment payrolled by the taxpayer.

This policy of balance and of realism is working. Inflation is being brought under control. Unemployment is decreasing, and people are going back to work.

The bill before me is a major departure from that course. It will add $6 billion to the federal budget. Those dollars will be taken out of the private sector and rendered unavailable for the private investments necessary to create lasting productive jobs. These additional federal expenditures may drive up interest rates as the private sector competes with additional government borrowing, further endangering the economic recovery.

This is largely an election year pork barrel only loosely camouflaged as an anti-recessionary measure.

The specific deficiencies of this bill are legion.

This bill will create almost no new jobs in the immediate future, when those jobs are needed. Its primary, albeit very limited effect on employment, will come a few years from now when the economy will be well on its way to recovery and additional expenditures will only fuel inflation. The cost of producing even temporary jobs under this bill will probably exceed $25,000 per job.

The bill has a provision for federal subsidies for local public payrolls. This proposal would not solve the problem of unemployment. It would merely transfer to the Federal Government the cost of high public employee wage settlements, threaten to add to swollen public payrolls and add costs that localities will have to meet when this temporary program ends.

Moreover, jobs created will be public jobs at the expense of the private sector and the taxpayer.

- The public sector jobs provision of the bill rewards those communities who have been least efficient in holding down costs. For example, Westchester County, New York and Davidson County, North Carolina had similar unemployment rates last year but the per capita income in Westchester County is almost twice that of Davidson County. Yet, the formula in this bill would give Davidson County only one-fifth the aid per unemployed person that Westchester County would receive. In short, under the jobs provision, the rich get richer and the poor get little help.
- Other provisions of the bill are equally ill-focused. The $1.4 billion increase for waste water treatment facilities does not even pretend to be anti-recessionary. $10 billion of the $18 billion already allotted to states for this purpose is still unexpended.
- A new multi-million dollar urban renewal program is established. The prior urban renewal program was terminated because it is better to let cities decide for themselves how to expend federal funds. Nonetheless, Congress is now resurrecting its old categorical grant program.

And, another urban renewal program only further fractionates the Federal responsibility for urban community development, making coordination of federal assistance to the cities even more difficult and complex.

- o Both the urban renewal and public works provisions resurrect the grantsmanship which this Administration has sought to avoid in its urban assistance programs in order to assure an equitable distribution of funds.
- o Finally, the new programs envisioned by this legislation mean the creation of new federal bureaucracies with delays in start-up time, administrative costs, and red tape for recipients.

For all its faults, this legislative proposal at least purports to deal with a real problem. There are urban centers which have been particularly hard hit by the recession and will be slow to recover. There is a need for a program to provide financial assistance to such local governments, whose fiscal problems have

been exacerbated by the general economic recession. But that assistance should be provided without more red tape, another federal bureaucracy, and stringent categorical limitations to prevent local communities from setting their own priorities for recovery.

Accordingly, I believe a more reasonable approach to addressing the immediate needs of such cities is represented by H. R. 11860.

This bill combines the private sector stimulus to new construction represented by Titles I and III of H. R. 5247, and the special assistance to areas of high unemployment provided by Title II.

H. R. 11860 will build upon the successful Community Development Block Grant program. That program is already in place with an experienced staff and regulations and could therefore be administered without the creation of a new bureaucracy or the delay which is endemic to new programs. The proposal would create private sector jobs in areas of high unemployment by funding additional activities, such as water and sewer line construction and housing rehabilitation, eligible under the block grant program.

The proposed supplemental assistance would be activated when the national unemployment rate is over 7%, as it is now,

and would make available for distribution each calendar quarter a sum determined by multiplying $15 million times each 1/10th of 1% by which unemployment exceeds 7%. Since, under H. R. 11860 the distribution of funds is based upon the next preceding quarter's unemployment and since unemployment the last quarter of 1975 was 8.5%, as of April 1 of this year $225 million would be available for distribution for that calendar quarter (8.5% - 7% = 1.5% and 15 x $15 million = $225 million).

Approximately 75% of the assistance would be provided to cities and urban counties with unemployment over 8%, based directly and proportionately on the extent to which their unemployment exceeds 8%. In the same manner, the remainder of the funds would be distributed to states for distribution in non-urban areas having unemployment over 8%. Thus, the bill provides assistance where it is needed through a formula rather than pork-barrel politics.

Grants under this supplemental program would automatically flow to recipients' community development programs with a minimum of red tape. Recipients would submit a brief statement of their planned use of the funding, referencing their community development plan and the proposed job intensive use, acceleration of planned projects, and reduction of unemployment to be accomplished.

The advantages of this proposal over H. R. 5247 are that it concentrates assistance on communities with the highest unemployment, it phases out when the unemployment it is designed to combat has passed, it assists recipients to attract and keep industry by creating private sector jobs, it preserves local government decisionmaking in determining where the funds are most needed, and it provides needed city facilities. Of equal importance, the use of an existing administrative structure will speed the stimulus which the bill provides.

But the Dent in Urban Blight Is Small

Homesteading In the Cities Is Working—Occasionally

By JOSEPH P. FRIED

During the Depression of the 1930's it was "public housing." After World War II it was "urban renewal." A decade the longest, Wilmington, Baltimore and Philadelphia, fewer than 200 properties are being homesteaded, according to a new study by Rutgers University's Center for Urban Policy Research.

In New York City, where a multifamily, tenement variation of urban homesteading exists with city aid (it is called "sweat-equity cooperative conversion") only seven buildings, with 81 apartments, have been under rehabilitation.

To those who never thought urban homesteading would work, these figures are proof that the concept is a romantic nostrum that has only peripheral relevance to the huge and professional redevelopment needs of the inner city. To others, however, the concept still has major potential, if viewed in realistically and given the necessary support.

For one thing, experts holding this view note, the program, at least where it involves small homes, generally is not suitable for the poor (those with annual incomes below $10,000, depending on location) because the homesteader must pay back a rehabilitation loan that can amount to $20,000 or more.

Support Needed

THE WHITE HOUSE REQUEST

WASHINGTON

March 4, 1976

MEMORANDUM FOR JIM CANNON

FROM: LYNN MAY

SUBJECT: HUD Reports

As you know, I worked with HUD and OMB for several weeks on the development of the 1976 Report on National Growth and Development, which is prepared under the auspices of the Domestic Council Committee on Community Development, chaired by Secretary Hills. I received the final version of the report late Thursday, February 26. I also received copies of the from HUD at approximately the same time (the original was sent directly to Bob Linder).

I personally took the original of the Growth Report to Judy Johnston and explained to her that its due date was February 28 (Saturday). I also mentioned that the Mobile Homes Report was due March 1 (Monday) and that Linder should have received the original. I told her of Secretary Hills' desire to get the Reports in on time and asked her to effect the staffing immediately. She indicated she would do so but told me she was taking leave the following day (Friday). The next morning I called Bob Linder's office to see if they had received the staffing on the Growth Report. They indicated they had not. I personally went to Judy's office to determine the status of the Report and after some searching I found that both Reports had been staffed but with a suspense of COB Saturday, the 28th (too late to make it to the President and the Congress).

I then called the individuals to when the Growth Report had been staffed - Friedersdorf, Lazarus and Doug Smith of Hartmann's office. Smith became very irate over the phone at my insistance in requesting an immediate sign-off on a one sentence letter of transmittal. He expressed anger at Secretary Hills prior tactics of getting Reports in late and then steam-rolling them through. I had to personally visit Smith to smooth over the matter and gain his permission to send the Report to the President, without the sign-off by his office. I then visited Bob Linder with a cover memo to the President signed by you and asked that he get it to the President as soon as possible and transmit it to the Hill by Saturday. He stated he would send it to the President, but indicated that it might be impossible to get it to the Hill

by Saturday because he believed the offices of the Speaker and the Vice President were closed. I then called the HUD Congressional Liaison office who indicated that the Speaker's office was open Saturday morning and that they would work out an arrangement with the Vice President's office to backdate the Report to Saturday when they opened their mail on Monday.

I went back to Bob Linder with this information, but he indicated that it was not White House practice to send Reports up when the Congress was not in session and indicated he was averse to doing so. He maintained that the Report would probably be returned to the White House if sent up as HUD suggested. I then called you and told you about this. Subsequently Secretary Hills called Jim Connor, who ordered that the Growth Report be sent up on Saturday. It was, however, returned on Monday by the Vice President's office, despite HUD's efforts. It had to be sent back to the President for approval on Tuesday and was sent to the Hill later that day.

On Monday, my secretary called Bob Linder's office regarding the Mobile Home Report and was informed that it had not gone to the President and they did not know when it would be likely to be sent in. On Tuesday, she repeated the drill and found that it had been sent to the President and was awaiting signature. On Wednesday, she called requesting detailed information why the Report had not gone to the Congress and was told that Linder's office was awaiting 30 copies of the Report from me. I did obtain copies of the Growth Report for Linder from HUD because I believed I was obliged to since it was a Domestic Council activity. I was not aware that I had to act as a total go-between for Linder with HUD on the Mobile Homes Report. I arranged, however, for HUD to send copies to Linder and as a result the Report went to the Hill today at noon (Thursday).

I have spent between eight to ten hours of my time on the staffing of the two reports in question. At each point, I had to drag information out of Judy Johnston and Bob Linder. I can not help but feel that the White House bureaucracy is as unresponsive as the rest of the government. On the other hand, the HUD Reports are just a few of the many such documents that have to be processed daily and the short turn-around caused by HUD's late submission and Secretary Hills' adamant insistence on meeting deadlines complicated the process.

I do not want to deny my own responsibility on the Growth Report but I fail to see what more I could have done apart from walking the Reports to the President and delivering them to the Congress personally. Regarding the Mobile Homes Report, I intervened to attempt to honor Secretary Hills' wishes, but it was a routine report in which the Domestic

Council had no real part to play. I can't help but feel that the bad feelings caused by the Growth Report fiasco aggravated the delays surrounding the Mobile Homes Report.

The only suggestion that I can make to avoid future re-occurences is either (1) Agencies be compelled to get reports in five working days before they are to go to the Hill or (2) the White House Secretariat (including Judy Johnston) be more responsive to Agency and Domestic Council priorities. I don't believe that it is an effective use of Domestic Council staff time to monitor every step of the staffing process. I don't believe that either you or I should be caught in the middle of explaining the actions of another White House office to a Cabinet Agency or vice versa. We only lose in the process.

cc: Jim Cavanaugh

THE WHITE HOUSE

WASHINGTON

April 27, 1976

MEMORANDUM FOR: JIM CANNON
JIM CAVANAUGH

FROM: ART QUERN

SUBJECT: Housing Issues

Attached for your review are two housing related items which were mentioned at this morning's 7:30 meeting:

1. The text of the Supreme Court decision (Gautreaux decision) regarding low income housing.

2. The letter sent by Secretary Hills to Senator Tower regarding S-3295, The Housing Amendments of 1976.

Lynn May is working closely with HUD and OMB on these issues.

Attachment

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

APR 24 1975

Honorable John G. Tower
United States Senate
Washington, D.C. 20510

Dear Senator Tower:

In response to your request, I have reviewed S.3295, the proposed "Housing Amendments of 1976" as reported earlier this month by the Committee on Banking, Housing and Urban Affairs. In my judgment, the bill is unacceptable in its present form.

Our mutual purpose should be to provide decent, safe and sanitary housing for our low-income citizens. We should provide this through sensible, flexible and consistent programs. This bill, with its set-asides and mandates, would severely disrupt program delivery, would not expeditiously produce adequate shelter for its intended beneficiaries, and would undermine the local flexibility which was the keystone of the 1974 Housing and Community Development Act.

Subsidized Housing

The Senate bill would alter dramatically the mix of Federal housing programs in a way which is likely to impact negatively both on the dollar effectiveness of those programs and on the timely delivery of housing assistance to low and moderate income families.

The bill would reactivate the conventional low rent public housing program at the highest level of activity in its 40 year history, only two years after Congress itself determined to replace that program with a new rental assistance mechanism. The disadvantages of conventional low rent public housing, which led to its abandonment as a major Federal housing program, have been catalogued so often as scarcely to need repetition. A nineteen-fold increase in operating subsidies, the concentration of social problems, the exclusion of private sector involvement or private market discipline from the program's operation, and its horizontal inequities have all been well documented.

The proposed resurrection of public housing takes place largely at the expense of the Section 8 program, which was drafted to avoid the failings of public housing and is just beginning to demonstrate its true potential. Section 8 can deliver housing to needy families far more quickly than conventional low-rent public housing. For example, from reservation of funds to completion, conventional low-rent public housing takes up to 46 months versus 24 months for Section 8 New. Lower income families most in need of immediate housing assistance will be adversely affected by the bill's precipitous reversal of the Section 8 program.

Moreover, the bill's set-aside within the housing program destroys the 1974 Act's flexibility to adapt Federal housing assistance to the particular conditions and needs of individual communities. The Section 8 program requires communities to assess their housing needs in their Housing Assistance Plans. Narrow mandates for new construction eliminate this local discretion.

Also, the bill's heavy emphasis on newly constructed housing greatly increases the cost of housing our lower income citizens. First, public housing construction is more staff intensive than Section 8. Second, the bill's five separate set-asides would create an administrative nightmare. The administrative controls necessary to assure compliance, ranging from funds assignments to program reports, would constitute a morass of paper shuffling, which will slow down production and delay program delivery. Third, budget authority would be increased by more than $3.8 billion dollars. Each unit of mandated new public housing construction displaces two units of Section 8 existing housing that could be provided to lower income families, even where use of existing housing best meets local needs. The additional Federal borrowing required by this mandate will bring with it the usual inhibiting effects on private housing production.

Modernization Funds

While HUD has requested an authorization to continue the modernization program, the bill provides a $60 million set-aside which triples that request. That $60 million set-aside -- which translates into an $840 million increase in the budget authority -- is more than LHAs can absorb. A program of that magnitude would be unmanageable both by HUD and LHAs. The result of this excess will be the funding of marginal projects or the inadequate implementation of projects which do address legitimate needs.

Our experience with the modernization program demonstrates the limited capacity of its participants to absorb these funds. From 1968 through 1975, HUD provided $1.5 billion in assistance to local housing authorities for capital expenditures. As of June 30, 1974, less than $870 million had actually been advanced to housing authorities which, in turn, have disbursed only $675.5 million.

The more realistic $20 million level proposed in the Administration's budget proposal will fund $215 million in LHA capital costs.

Section 235

The authorization of $200 million for Section 235, which would require budget authority of $6 billion, is unnecessary at this time. The Department has just recently implemented the revised Section 235 program and plans on an annual reservation level of 100,000 units, for which the Department already has sufficient funds. With the proposed additional authorization, the Department would be expected to reserve 325,000 units in 1977. This would represent an unprecedented level of activity. However, such production levels would require over 1,200 additional staff years for processing alone. This does not include workload related to inspection during construction or management and servicing once the units are completed.

Aside from staff needed for the Section 235 program, the imposition of such a volume of work could undermine quality processing. I genuinely fear that the result would be the dreadful situation we have had in recent years, the consequences of excessive production levels and hasty, poorly conducted processing.

The program we have planned for 1977 -- 100,000 units -- is a reasonable level, which can be accomplished without a sacrifice of quality. We are optimistic that we can meet this production target while avoiding the pitfalls of the original program.

Extension and Expansion of 518(b)

Section 9 of the bill would make 518(b) a permanent part of the National Housing Act with expanded programmatic parameters. The original 518(b) was enacted to deal with problems associated with lapses in FHA processing affecting lower income home purchasers; the extension in the 1974 Act maintained this basic focus. Section 9 would expand this program to a general permanent feature of the FHA operation, without regard to whether there has been a showing of comparable need or whether the 518(b) approach is an appropriate way of dealing with the need.

It could make the taxpayer liable for a claim made by the purchase of any home more than 1 year old covered by FHA mortgage insurance, based on failure of the appraiser to detect any structural or other major defect affecting use or livability. The claims may be retroactive to January 1973.

The problems with this provision extend beyond its cost and staffing implications, which are difficult to estimate with any reasonable precision. The continuation and expansion of 518(b) in the form in which it appears in the bill will add a new element to FHA insurance which will add to costs and complicate processing without providing to homeowners the benefits of true insurance. In the long run this can only weaken further the role of the basic FHA insurance program in relation to other forms of home financing. In this respect, I think it is particularly inappropriate for the Congress -- with no showing of emergency need -- to enact such a major change in the FHA basic program in advance of the Congressional review of the role and future of FHA which I hope will take place next year.

Section 202 - Housing for the Elderly and Handicapped

The approval of an additional $2.5 billion in direct loan authority as included in section 11 of the bill imposes an unrealistic goal. This level of authority would provide for an additional 100,000 units which, in terms of processing requirements, would necessitate an additional 300 staff years in excess of the level included in the budget for this function. Budget authority and staffing increases of this magnitude place an intolerable burden on limited budgetary resources.

The budget recommends our proceeding with a Section 202 program in the form of a permanent loan program as directed by the Congress last year. The level proposed in the budget -- $375 million -- is a reasonable one which balances our staff resources with the popularity of the program.

It should also be noted that, although this program has been arbitrarily removed from budget totals, it still impacts on Treasury borrowings and on interest rates in the same fashion as if it were in the budget. This legislative "closing of the eyes" does not change reality.

Community Development

The philosophical basis for Title I of the Housing and Community Development Act of 1974 was that within broad guidelines local governments should set their own community development priorities. As compared with the categorical programs it replaced, the community development block grant program is more flexible, easier for local government to understand and work with, and less staff intensive at the Federal level.

The bill would represent a substantial reversion to the categorical approach. Section 12 would reestablish the Section 312 rehabilitation loan program at a funding level of $150 million, despite the fact that in 1975, block grant communities targeted 9%, or more than $230 million, of the block grant funds for rehabilitation activities. This is more than triple the reservation level we have experienced under the 312 program. The funds under the 312 program will be spent in accordance with a Federal rather than a local priority and will divert the Department's community development staff from the block grant program.

The expansion of the Section 701 comprehensive planning program by Section 13 of the bill raises similar problems. The Department has proposed that $75 million be available under this program for units of local government which do not receive funds under the block grant program. But expanding the program to $100 million and thereby enlarging the class of eligible communities is once again to assert Federal over local priorities and to separate the funding and administration of planning from the community development activity which ought to be the end product of the planning process.

To perpetuate categorical programs when the purposes they were designed to serve are better achieved under the block grant program is particularly inappropriate in light of the fact that funding under the block grant program will be $446 million more in FY 1977 than it was in FY 1976.

Finally, depending upon unit mix and contractual terms, implementation of the bill would require an increase in budget authority of between $12.9 billion and $17.7 billion. Such an increase would be wasteful and fiscally irresponsible. For the reasons outlined in this letter, among others, it will not provide local government or low income persons with the benefits intended by the 1974 Act.

Accordingly, I would recommend that the President veto S.3295 if enacted in its present form. The Office of Management and Budget has advised that it would concur in this recommendation.

Sincerely,

Carla A. Hills

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

HILLS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT *v.* GAUTREAUX ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 74-1047. Argued January 20, 1976—Decided April 20, 1976

Respondents, Negro tenants in or applicants for public housing in Chicago, brought separate class actions against the Chicago Housing Authority (CHA) and the Department of Housing and Urban Development (HUD), alleging that CHA had deliberately selected family public housing sites in Chicago to "avoid the placement of Negro families in white neighborhoods" in violation of federal statutes and the Fourteenth Amendment, and that HUD had assisted in that policy by providing financial assistance and other support for CHA's discriminatory housing projects. The District Court on the basis of the evidence entered summary judgment against CHA, which was ordered to take remedial action. The court then granted a motion to dismiss the HUD action, which meanwhile had been held in abeyance. The Court of Appeals, reversed, having found that HUD had committed constitutional and statutory violations by sanctioning and assisting CHA's discriminatory program. The District Court thereafter consolidated the CHA and HUD cases and, having rejected respondents' motion to consider metropolitan relief, adopted petitioner's proposed order for corrective action in Chicago. The Court of Appeals reversed and remanded the case "for additional evidence and for further consideration of metropolitan relief." *Held:* A metropolitan area remedy in this case is not impermissible as a matter of law. *Milliken* v. *Bradley*, 418 U. S. 717, distinguished. Pp. 11-21.

(a) A remedial order against HUD affecting its conduct in the area beyond Chicago's geographic boundaries but within the housing market relevant to the respondents' housing options is warranted here because HUD, in contrast to the suburban school

Syllabus

districts in *Milliken,* committed violations of the Constitution and federal statutes. *Milliken* imposes no *per se* rule that federal courts lack authority to order corrective action beyond the municipal boundaries where the violations occurred. Pp. 12–15.

(b) The order affecting HUD's conduct beyond Chicago's boundaries would not impermissibly interfere with local governments and suburban housing authorities that were not implicated in HUD's unconstitutional conduct. Under the § 8 Lower-Income Housing assistance program of the Community Development Act of 1974 HUD may contract directly with private owners and developers to make leased housing units available to eligible lower-income persons, with local governmental units retaining the right to comment on specific proposals, to reject certain programs that are inconsistent with their approved housing assistance plans, and to require that zoning and other land use restrictions be observed by builders. Pp. 15–21.

503 F. 2d 930, affirmed.

STEWART, J., delivered the opinion of the Court in which all Members joined, except STEVENS, J., who took no part in the consideration or decision of the case. MARSHALL, J., filed a concurring statement, in which BRENNAN and WHITE, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 74–1047

Carla A. Hills, Secretary of Housing and Urban Development, Petitioner,
v.
Dorothy Gautreaux et al.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[April 20, 1976]

MR. JUSTICE STEWART delivered the opinion of the Court.

The United States Department of Housing and Urban Development (HUD) has been judicially found to have violated the Fifth Amendment and the Civil Rights Act of 1964 in connection with the selection of sites for public housing in the city of Chicago. The issue before us is whether the remedial order of the federal trial court may extend beyond Chicago's territorial boundaries.

I

This extended litigation began in 1966 when the respondents, six Negro tenants in or applicants for public housing in Chicago, brought separate actions on behalf of themselves and all other Negro tenants and applicants similarly situated against the Chicago Housing Authority (CHA) and HUD.[1] The complaint filed against CHA in the United States District Court for the Northern Dis-

[1] The original complaint named the Housing Assistance Administration, then a corporate agency of HUD, as the defendant. Although the petitioner in this case is the current Secretary of HUD, this opinion uses the terms "petitioner" and "HUD" interchangeably.

trict of Illinois alleged that between 1950 and 1965 substantially all of the sites for family public housing selected by CHA and approved by the Chicago City Council were "at the time of such selection, and are now," located "within the areas known as the Negro Ghetto." The respondents further alleged that CHA deliberately selected the sites to "avoid the placement of Negro families in white neighborhoods" in violation of federal statutes and the Fourteenth Amendment. In a companion suit against HUD the respondents claimed that it had "assisted in the carrying on and continues to assist in the carrying on of a racially discriminatory public housing system within the City of Chicago" by providing financial assistance and other support for CHA's discriminatory housing projects.[2]

The District Court stayed the action against HUD pending resolution of the CHA suit.[3] In February of 1969, the court entered summary judgment against CHA on the ground that it had violated the respondents' constitutional rights by selecting public housing sites and assigning tenants on the basis of race.[4] *Gautreaux* v.

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[2] The complaint sought to enjoin HUD from providing funds for 17 projects that had been proposed by CHA in 1965 and 1966 and from making available to CHA any other financial assistance to be used in connection with the racially discriminatory aspects of the Chicago public housing system. In addition, the respondents requested that they be granted "such other and further relief as the Court may deem just and equitable."

[3] Before the stay of the action against HUD, the District Court had certified the plaintiff class in the CHA action and had rejected CHA's motion to dismiss or for summary judgment on the counts of the complaint alleging that CHA had intentionally selected public housing sites to avoid desegregating housing patterns. 265 F. Supp. 582.

[4] CHA admitted that it had followed a policy of informally clearing proposed family public housing sites with the alderman in whose ward the proposed site was located and of eliminating each site

CHA, 296 F. Supp. 907. Uncontradicted evidence submitted to the District Court established that the public housing system operated by CHA was racially segregated, with four overwhelmingly white projects located in white neighborhoods and with 99½% of the remaining family units located in Negro neighborhoods and 99% of those units occupied by Negro tenants. *Id.*, at 910.[5] In order to prohibit future violations and to remedy the effects of past unconstitutional practices, the court directed CHA to build its next 700 family units in predominantly white areas of Chicago and thereafter to locate at least 75% of its new family public housing in predominantly white areas inside Chicago or in Cook County. *Gautreaux* v. *CHA*, 304 F. Supp. 736, 738–739.[6] In addition, CHA was

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opposed by the alderman. 296 F. Supp. 907, 910, 913. This procedure had resulted in the rejection of 99½% of the units proposed for sites in white areas which had been initially selected as suitable for public housing by CHA. *Id.*, at 912.

With regard to tenant assignments, the court found that CHA had established a racial quota to restrict the number of Negro families residing in the four CHA family public housing projects located in white areas in Chicago. The projects, all built prior to 1944, had Negro tenant populations of 7%, 6%, 4%, and 1% despite the fact that Negroes comprised about 90% of the tenants of CHA family housing units and a similar percentage of the waiting list. A CHA official testified that until 1968 the four projects located in white areas were listed on the authority's tenant selection form as suitable for white families only. *Id.*, at 909.

[5] In July of 1968, CHA had in operation or development 54 family housing projects with a total of 30,848 units. Statistics submitted to the District Court established that, aside from the four overwhelmingly white projects discussed in n. 4, *supra*, 92% of all of CHA's family housing units were located in neighborhoods that were at least 75% Negro and that two-thirds of the units were situated in areas with more than 95% Negro residents. *Id.*, at 910.

[6] The District Court's remedial decree divided Cook County into a "General Public Housing Area" and a "Limited Public Housing Area." The "Limited Public Housing Area" consisted of the area within census tracts having a 30% or more non-white population

ordered to modify its tenant assignment and site selection procedures and to use its best efforts to increase the supply of dwelling units as rapidly as possible in conformity with the judgment. *Id.*, at 739–741.

The District Court then turned to the action against HUD. In September of 1970, it granted HUD's motion to dismiss the complaint for lack of jurisdiction and failure to state a claim on which relief could be granted. The United States Court of Appeals for the Seventh Circuit reversed and ordered the District Court to enter summary judgment for the respondents, holding that HUD had violated both the Fifth Amendment and § 601 of the Civil Rights Act of 1964, 42 U. S. C. § 2000d (1970), by knowingly sanctioning and assisting CHA's racially discriminatory public housing program. 448 F. 2d 731, 739–740.[7]

On remand, the trial court addressed the difficult problem of providing an effective remedy for the racially segregated public housing system that had been created

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or within one mile of the boundary of any such census tract. The remainder of Cook County was included in the "General Public Housing Area." 304 F. Supp., at 737. Following the commencement of construction of at least 700 family units in the General Public Housing Area of the city of Chicago, CHA was permitted by the terms of the order to locate up to one-third of its General Public Housing Area units in portion of Cook County outside of Chicago. See *id.*, at 738–739.

[7] The Court of Appeals found that "HUD retained a large amount of discretion to approve or reject both site selection and tenant assignment procedures of the local housing authority" and that the Secretary had exercised those powers "in a manner which perpetuated a racially discriminatory housing system in Chicago." 448 F. 2d, at 739. Although the appellate court stated that it was "fully sympathetic" with the "very real 'dilemma'" presented by the need for public housing in Chicago, it ruled that the demand for housing did not justify "the Secretary's past actions [which] constituted racially discriminatory conduct in their own right." *Ibid.*

by the unconstitutional conduct of CHA and HUD.[8] The court granted the respondents' motion to consolidate the CHA and HUD cases and ordered the parties to formulate "a comprehensive plan to remedy the past

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[8] The court's July 1969 order directing CHA to use its best efforts to increase public housing opportunities in white areas as rapidly as possible had not resulted in the submission of a single housing site to the Chicago City Council. A subsequent order directing the submission of sites for 1500 units by September 20, 1970, had eventually prompted CHA to submit proposed sites in the spring of 1971, but inaction by the City Council had held up the approval of the sites required for their development. See *Gautreaux* v. *Romney*, 332 F. Supp. 366, 368.

The District Court subsequently took additional measures in an attempt to implement the remedial orders entered against CHA. In May 1971, the city of Chicago and HUD agreed to a letter of intent that provided that the city would process sites suitable for use by CHA to permit the authority to commence acquisition of sites for 1,700 units in accordance with a specified timetable. HUD then released certain Model Cities funds on the condition that the City Council and CHA continue to show progress toward meeting the goals set forth in the May letter. After the city fell far behind schedule, the District Court granted the respondents' request for an injunction directing HUD to withhold $26 million in Model Cities funds until the city remedied its existing deficit under the timetable. See 332 F. Supp. 366, 368–370. The Court of Appeals reversed the injunction, holding that the District Court had abused its discretion in ordering funding cutoff. 457 F. 2d 124.

Between July 1971 and April 1972, the City Council failed to conduct any hearings with respect to acquisition of property for housing sites and did not approve land acquisition for any sites. 342 F. Supp. 827, 829. Following the filing of a supplemental complaint naming the mayor and the members of the City Council as defendants, the District Court found that their inaction had prevented CHA from providing relief in conformity with the court's prior orders. In a further effort to effectuate relief, the court ruled that the provision of Illinois law requiring City Council approval of land acquisition by CHA "shall not be applicable to CHA's actions . . . taken for the purpose of providing Dwelling Units." *Id.*, at 830. The Court of Appeals upheld this decision. 480 F. 2d 210.

effects of unconstitutional site selection procedures." The order directed the parties to "provide the Court with as broad a range of alternatives as seem . . . feasible" including "alternatives which are not confined in their scope to the geographic boundary of the City of Chicago." After consideration of the plans submitted by the parties and the evidence adduced in their support, the court denied the respondents' motion to consider metropolitan relief and adopted the petitioner's proposed order requiring HUD to use its best efforts to assist CHA in increasing the supply of dwelling units and enjoining HUD from funding family public housing programs in Chicago that were inconsistent with the previous judgment entered against CHA. The court found that metropolitan relief was unwarranted because "the wrongs were committed within the limits of Chicago and solely against residents of the City" and there were no allegations that "CHA and HUD discriminated or fostered racial discrimination in the suburbs."

On appeal, the Court of Appeals for the Seventh Circuit, with one judge dissenting, reversed and remanded the case for "the adoption of a comprehensive metropolitan area plan that will not only disestablish the segregated public housing system in the City of Chicago . . . but will increase the supply of dwelling units as rapidly as possible." 503 F. 2d 930, 939. Shortly before the Court of Appeals announced its decision, this Court in *Milliken* v. *Bradley*, 418 U. S. 717, had reversed a judgment of the Court of Appeals for the Sixth Circuit that had approved a plan requiring the consolidation of 54 school districts in the Detroit metropolitan area to remedy racial discrimination in the operation of the Detroit public schools. Understanding *Milliken* "to hold that the relief sought there would be an impractical and unreasonable over-

response to a violation limited to one school district," the Court of Appeals concluded that the *Milliken* decision did not bar a remedy extending beyond the limits of Chicago in the present case because of the equitable and administrative distinctions between a metropolitan public housing plan and the consolidation of numerous local school districts. 503 F. 2d, at 935–936. In addition, the appellate court found that, in contrast to *Milliken*, there was evidence of suburban discrimination and of the likelihood that there had been an "extra-city impact" of the petitioner's "intra-city discrimination." *Id.*, at 936–937, 939–940. The appellate court's determination that a remedy extending beyond the city limits was both "necessary and equitable" rested in part on the agreement of the parties and the expert witnesses that "the metropolitan area is a single relevant locality for low rent housing purposes and that a city-only remedy will not work." *Id.*, at 936, 937. HUD subsequently sought review in this Court of the permissibility in light of *Milliken* of "inter-district relief for discrimination in public housing in the absence of a finding of an inter-district violation."[9] We granted certiorari to consider this important question. 421 U. S. 962.

II

In *Milliken* v. *Bradley, supra,* this Court considered the proper scope of a federal court's equity decree in the context of a school desegregation case. The respondents in that case had brought an action alleging that the Detroit Public School System was segregated on the basis of race as the result of official conduct and sought an order establishing "'a unitary, nonracial school system.'" 418 U. S., at 723. After finding that con-

[9] Although CHA participated in the proceeding before the Court of Appeals, it did not seek review of that court's decision and has not participated in the proceedings in this Court.

stitutional violations committed by the Detroit School Board and state officials had contributed to racial segregation in the Detroit schools, the trial court had proceeded to the formulation of a remedy. Although there had been neither proof of unconstitutional actions on the part of neighboring school districts nor a demonstration that the Detroit violations had produced significant segregative effects in those districts, the court established a desegregation panel and ordered it to prepare a remedial plan consolidating the Detroit school system and 53 independent suburban school districts. *Id.*, at 733–734.[10] The Court of Appeals for the Sixth Circuit affirmed the desegregation order on the ground that, in view of the racial composition of the Detroit school system, the only feasible remedy required "the crossing of the boundary lines between the Detroit School District and adjacent or nearby school districts." *Bradley* v. *Milliken*, 484 F. 2d 215, 249. This Court reversed the Court of Appeals, holding that the multidistrict remedy contemplated by the desegregation order was an erroneous exercise of the equitable authority of the federal courts.

Although the *Milliken* opinion discussed the many practical problems that would be encountered in the consolidation of numerous school districts by judicial decree, the Court's decision rejecting the metropolitan area desegregation order was actually based on fundamental

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[10] Although the trial court's desegregation order in *Milliken* did not direct the adoption of a specific metropolitan plan, it did contain detailed guidelines for the panel appointed to draft the desegregation plan. 345 F. Supp. 914 (ED Mich.). The framework for the plan called for the division of the designated 54-school district desegregation area into 15 clusters, each containing a part of the Detroit school system and two or more suburban districts. Within this framework, the court charged the panel with the responsibility for devising a plan that would produce the maximum actual desegregation. *Id.*, at 918, 928–929. See 418 U. S., at 733–734.

limitations on the remedial powers of the federal courts to restructure the operation of local and state governmental entities. That power is not plenary. It "may be exercised 'only on the basis of a constitutional violation.'" 418 U. S., at 738, quoting *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, 16. See *Rizzo* v. *Goode*, —— U. S. ——, ——. Once a constitutional violation is found, a federal court is required to tailor "the scope of the remedy" to fit "the nature and extent of the constitutional violation." 418 U. S., at 744; *Swann, supra*, at 16. In *Milliken*, there was no finding of unconstitutional action on the part of the suburban school officials and no demonstration that the violations committed in the operation of the Detroit school system had had any significant segregative effects in the suburbs. See 418 U. S., at 745, 748. The desegregation order in *Milliken* requiring the consolidation of local school districts in the Detroit metropolitan area thus constituted direct federal judicial interference with local governmental entities without the necessary predicate of a constitutional violation by those entities or of the identification within them of any significant segregative effects resulting from the Detroit school officials' unconstitutional conduct. Under these circumstances, the Court held that the interdistrict decree was impermissible because it was not commensurate with the constitutional violation to be repaired.

Since the *Milliken* decision was based on basic limitations on the exercise of the equity power of the federal courts and not on a balancing of particular considerations presented by school desegregation cases, it is apparent that the Court of Appeals erred in finding *Milliken* inapplicable on that ground to this public housing case.[11]

[11] The Court of Appeals interpreted the *Milliken* opinion as limited to a determination that, in view of the administrative com-

The school desegregation context of the *Milliken* case is nonetheless important to an understanding of its discussion of the limitations on the exercise of federal judicial

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plexities of school district consolidation and the deeply-rooted tradition of local control of public schools, the balance of equitable factors weighed against metropolitan school desegregation remedies. See 503 F. 2d, at 935–936. But the Court's decision in *Milliken* was premised on a controlling principle governing the permissible scope of federal judicial power, a principle not limited to a school desegregation context. See 418 U. S., at 744.

In addition, the Court of Appeals surmised that either an interdistrict violation or an interdistrict segregative effect may have been present in this case. There is no support provided for either conclusion. The sole basis of the appellate court's discussion of alleged suburban discrimination was the respondents' exhibit 11 illustrating the location of 12 public housing projects within the portion of the Chicago Urbanized Area outside the city limits of Chicago. That exhibit showed that 11 of the 12 projects were located in areas that, at the time of the hearing in November of 1972, were within one mile of the boundary of a census tract with less than a 70% white population. The exhibit was offered to illustrate the scarcity of integrated public housing opportunities for the plaintiff class and for lower-income white families and to indicate why the respondents did not "expect cooperation from the suburban areas" in providing housing alternatives in predominately white areas. In discussing the data underlying the exhibit, counsel for the respondents in the trial court expressly attempted to avoid the "possible misconception" that he was then asserting that the suburban municipalities and housing authorities were "guilty of any discrimination or wrongdoing." In view of the purpose for which the exhibit was offered and the District Court's determination that "the wrongs were committed within the limits of Chicago," it is apparent that the Court of Appeals was mistaken in supposing that the exhibit constitutes evidence of suburban discrimination justifying metropolitan area relief.

In its brief opinion on rehearing, the Court of Appeals asserted that "it is reasonable to conclude from the record" that the intracity violation "may well have fostered racial paranoia and encouraged the 'white flight' phenomenon which has exacerbated the problems of achieving integration." 503 F. 2d, at 939–940. The

power. As the Court noted, school district lines cannot be "casually ignored or treated as a mere administrative convenience" because they separate independent governmental entities responsible for the operation of autonomous public school systems. 418 U. S., at 741–743. The Court's holding that there had to be an interdistrict violation or effect before a federal court could order the crossing of district boundary lines reflected the substantive impact of a consolidation remedy on separate and independent school districts.[12] The District Court's desegregation order in *Milliken* was held to be an impermissible remedy not because it envisioned relief against a wrongdoer extending beyond the city in which the violation occurred but because it contemplated a judicial decree restructuring the operation of local governmental entities that were not implicated in any constitutional violation.

III

The question presented in this case concerns only the authority of the District Court to order HUD to take remedial action outside the city limits of Chicago. HUD does not dispute the Court of Appeals' determination

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Court of Appeals' speculation about the effects of the discriminatory site selection in Chicago is contrary both to expert testimony in the record and the conclusions of the District Court. Such unsupported speculation falls far short of the demonstration of a "significant segregative effect in another district" discussed in the *Milliken* opinion. See 418 U. S., at 745.

[12] The Court in *Milliken* required either a showing of an interdistrict violation or a significant segregative effect "[b]efore the boundaries of separate and autonomous school districts may be set aside by consolidating the separate units for remedial purposes." 418 U. S., at 744. In its *amicus* brief in *Milliken*, the United States argued that an interdistrict remedy in that case would require "the restructuring of state or local governmental entities" and result in "judicial interference with state prerogatives concerning the organization of local governments."

that it violated the Fifth Amendment and § 601 of the Civil Rights Act of 1964 by knowingly funding CHA's racially discriminatory family public housing program, nor does it question the appropriateness of a remedial order designed to alleviate the effects of past segregative practices by requiring that public housing be developed in areas that will afford respondents an opportunity to reside in desegregated neighborhoods. But HUD contends that the *Milliken* decision bars a remedy affecting its conduct beyond the boundaries of Chicago for two reasons. First, it asserts that such a remedial order would constitute the grant of relief incommensurate with the constitutional violation to be repaired. And, second, it claims that a decree regulating HUD's conduct beyond Chicago's boundaries would inevitably have the effect of "consolidat[ing] for remedial purposes" governmental units not implicated in HUD's and CHA's violations. We address each of these arguments in turn.

A

We reject the contention that, since HUD's constitutional and statutory violations were committed in Chicago, *Milliken* precludes an order against HUD that will affect its conduct in the greater metropolitan area. The critical distinction between HUD and the suburban school districts in *Milliken* is that HUD has been found to have violated the Constitution. That violation provided the necessary predicate for the entry of a remedial order against HUD and, indeed, imposed a duty on the District Court to grant appropriate relief. See 418 U. S., at 744. Our prior decisions counsel that in the event of a constitutional violation "all reasonable methods be available to formulate an effective remedy," *North Carolina State Board of Education* v. *Swann*, 402 U. S. 43, 46, and that every effort should be made by

a federal court to employ those methods "to achieve the greatest possible degree of [relief], taking into account the practicalities of the situation." *Davis* v. *Board of School Comm'rs*, 402 U. S. 33, 37. As the Court observed in *Swann* v. *Charlotte-Mecklenburg Board of Education:* "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." 402 U. S., at 15.

Nothing in the *Milliken* decision suggests a *per se* rule that federal courts lack authority to order parties found to have violated the Constitution to undertake remedial efforts beyond the municipal boundaries of the city where the violation occurred.[13] As we noted in Part II, *supra*, the District Court's proposed remedy in *Milliken* was impermissible because of the limits on the federal judicial power to interfere with the operation of state political entities that were not implicated in unconstitutional conduct. Here, unlike the desegregation remedy found erroneous in *Milliken*, a judicial order directing

[13] Although the State of Michigan had been found to have committed constitutional violations contributing to racial segregation in the Detroit schools, 418 U. S., at 734–735, n. 16, the Court in *Milliken* concluded that the interdistrict order was a wrongful exercise of judicial power because prior cases had established that such violations are to be dealt with in terms of "an established geographic and administrative school system," *id.*, at 746, and because the State's educational structure vested substantial independent control over school affairs in the local school districts. See *id.*, at 742–744. In *Milliken*, a consolidation order directed against the State would of necessity have abrogated the rights and powers of the suburban school districts under Michigan law. See *id.*, at 742 n. 20. Here, by contrast, a metropolitan area remedy involving HUD need not displace the rights and powers accorded suburban governmental entities under federal or state law. See Part III–B, *infra*.

relief beyond the boundary lines of Chicago will not necessarily entail coercion of uninvolved governmental units, because both CHA and HUD have the authority to operate outside the Chicago city limits.[14]

In this case, it is entirely appropriate and consistent with *Milliken* to order CHA and HUD to attempt to create housing alternatives for the respondents in the Chicago suburbs. Here the wrong committed by HUD confined the respondents to segregated public housing. The relevant geographic area for purposes of the respondents' housing options is the Chicago housing market, not the Chicago city limits. That HUD recognizes this reality is evident in its administration of federal housing assistance programs through "housing market areas" encompassing "the geographic area 'within which all dwelling units . . .' are in competition with one another as alternatives for the users of housing." Department of Housing and Urban Development, FHA Techniques of Housing Market Analysis 8 (Jan. 1970) *quoting* The Institute for Urban Land Use and Housing Studies, Housing Market Analysis: A Study of Theory and Methods, c. II (1953). The housing market area

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[14] Illinois statutes permit a city housing authority to exercise its powers within an "area of operation" defined to include the territorial boundary of the city and all of the area within three miles beyond the city boundary that is not located within the boundaries of another city, village, or incorporated town. In addition, the housing authority may act outside its area of operation by contract with another housing authority or with a state public body not within the area of operation of another housing authority. Ill. Rev. Stat. c. 67½, §§ 17 (b), 27c (1959).

Although the state officials in *Milliken* had the authority to operate across school district lines, the exercise of that authority to effectuate the Court's desegregation order would have eliminated numerous independent school districts or at least have displaced important powers granted those uninvolved governmental entities under state law. See n. 13, *supra*.

"usually extends beyond the city limits" and in the larger markets "may extend into several adjoining counties." *Id.*, at p. 12.[15] An order against HUD and CHA regulating their conduct in the greater metropolitan area will do no more than take into account HUD's expert determination of the area relevant to the respondents' housing opportunities and will thus be wholly commensurate with the "nature and extent of the constitutional violation." 418 U. S., at 744. To foreclose such relief solely because HUD's constitutional violation took place within the city limits of Chicago would transform *Milliken*'s principled limitation on the exercise of federal judicial authority into an arbitrary and mechanical shield for those found to have engaged in unconstitutional conduct.

B

The more substantial question under *Milliken* is whether an order against HUD affecting its conduct beyond Chicago's boundaries would impermissibly interfere with local governments and suburban housing authorities that have not been implicated in HUD's unconstitutional conduct. In examining this issue, it is important to note that the Court of Appeals' decision did not endorse or even discuss "any specific metropolitan plan" but instead left the formulation of the remedial plan to the District Court on remand. 503 F. 2d, at 936. On rehearing, the Court of Appeals characterized its remand order as one calling "for additional evidence and for further consideration of the issue of metropolitan area relief in light of this opinion and that of the

[15] In principal markets such as Chicago, the Standard Metropolitan Statistical Area is coterminous with the housing market area. See Department of Housing and Urban Development, FHA Techniques of Housing Market Analysis 13 (Jan. 1970); Department of Housing and Urban Development, Urban Housing Market Analysis 5 (1966).

Supreme Court in Milliken v. Bradley." *Id.*, at 940. In the current posture of the case, HUD's contention that any remand for consideration of a metropolitan area order would be impermissible as a matter of law must necessarily be based on its claim at oral argument "that court-ordered metropolitan relief in this case, no matter how gently it's gone about, no matter how it's framed, is bound to require HUD to ignore the safeguards of local autonomy and local political processes" and therefore to violate the limitations on federal judicial power established in *Milliken*. In addressing this contention we are not called upon, in other words, to evaluate the validity of any specific order, since no such order has yet been formulated.

HUD's position, we think, underestimates the ability of a federal court to formulate a decree that will grant the respondents the constitutional relief to which they may be entitled without overstepping the limits of judicial power established in the *Milliken* case. HUD's discretion regarding the selection of housing proposals to assist with funding as well as its authority under a recent statute to contract for low-income housing directly with private owners and developers can clearly be directed towards providing relief to the respondents in the greater Chicago metropolitan area without preempting the power of local governments by undercutting the role of those governments in the federal housing assistance scheme.

An order directing HUD to use its discretion under the various federal housing programs to foster projects located in white areas of the Chicago housing market would be consistent with and supportive of well-established federal housing policy.[16] Title VI of the Civil Rights

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[16] In the District Court, HUD filed an appendix detailing the various federal programs designed to secure better housing oppor-

Act of 1964 prohibits racial discrimination in federally assisted programs including, of course, public housing programs.[17] . Based upon this statutory prohibition, HUD in 1967 issued site approval rules for low-rent housing designed to avoid racial segregation and expand the opportunities of minority group members "to locate outside areas of [minority] concentration." Department of Housing and Urban Development, Low-Rent Housing Manual, § 205.1, ¶ 4 (g) (Feb. 1967 rev.). Title VIII of the Civil Rights Act of 1968, expressly directed the Secretary of HUD to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further" the Act's fair housing policy. 42 U. S. C. § 3608 (d)(5) (1970).

Among the steps taken by HUD to discharge its statutory duty to promote fair housing was the adoption of project selection criteria for use in "eliminating clearly unacceptable proposals and assigning priorities in funding to assure that the best proposals are funded first." Evaluation of Rent Supplement Projects and Low-Rent Housing Assistance Applications, 37 Fed. Reg. 203 (1972). In structuring the minority housing opportunity component of the project selection criteria, HUD attempted "to assure that building in minority areas goes forward only after there truly exists housing opportunities for minorities elsewhere" in the housing market and to avoid encouraging projects located in substantially racially mixed areas. *Id.*, at 204. See 24 CFR § 200.710 (1975). See generally Maxwell, HUD's Project Selection

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tunities for low-income families and represented that "the Department will continue to use its best efforts in review and approval of housing programs for Chicago which address the needs of low income families."

[17] It was this statutory prohibition that HUD was held to have violated by its funding of CHA's housing projects. See 448 F. 2d 731, 740.

Criteria—A Cure for "Impermissible Color Blindness"?, 48 Notre Dame Law. 92 (1972).[18] More recently, in the Housing and Community Development Act of 1974, Congress emphasized the importance of locating housing so as to promote greater choice of housing opportunities and to avoid undue concentrations of lower income persons. See 42 U. S. C. §§ 5301 (c)(6), 5304 (a)(4)(A), (C)(ii) (1970 ed., Supp. IV); H. R. Rep. No. 93-1114, at 8.

A remedial plan designed to insure that HUD will utilize its funding and administrative powers in a manner consistent with affording relief to the respondents need not abrogate the role of local governmental units in the federal housing assistance programs. Under the major housing programs in existence at the time the District Court entered its remedial order pertaining to HUD, local housing authorities and municipal governments had to make application for funds or approve the use of funds in the locality before HUD could make housing assistance money available. See 42 U. S. C. §§ 1415 (7)(b), 1421b (a)(2) (1970). An order directed solely to HUD would not force unwilling localities to apply for assistance under these programs but would merely reinforce the regulations guiding HUD's determination of which of the locally authorized projects to assist with federal funds.

The Housing and Community Development Act of

[18] A HUD study of the implementation of the project selection criteria revealed that the actual operation of the minority housing opportunity criterion depends on the definition of "area of minority concentration" and "racially mixed" area employed by each field office. The meaning of those terms, which are not defined in the applicable regulations, 24 CFR § 200.710 (1975), varied among field offices and within the jurisdiction of particular field offices. Department of Housing and Urban Development, Implementation or HUD Project Selection Criteria for Subsidized Housing: An Evaluation 116–117 (Dec. 1972).

1974, 42 U. S. C. § 1437 *et seq.* (1970 ed., Supp. IV), significantly enlarged HUD's role in the creation of housing opportunities. Under the § 8 Lower-Income Housing Assistance program, which has largely replaced the older federal low-income housing programs,[19] HUD may contract directly with private owners to make leased housing units available to eligible lower-income persons.[20] As HUD has acknowledged in this case, "local governmental approval is no longer explicitly required as a condition of the program's applicability to a locality." Regulations governing the § 8 program permit HUD to select "the geographic area or areas in which the housing is to be constructed," 24 CFR § 880.203 (b), and direct that sites be chosen to "promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons." §§ 880.112 (d), 883.209 (a)(3) (1975). See §§ 880.112 (b), (c), 883.209 (a)(2), (b)(2). In most cases the Act grants the unit of local government in which the assistance is to be provided the right to com-

[19] For fiscal year 1975 estimated contract payments under the § 8 program were approximately $10,700,000 as compared to a total estimated payment of $16,350,000 for all federal subsidized housing programs. The comparable figures for fiscal year 1976 indicate that $22,725,000 of a total $24,800,000 in estimated contractual payments are to be made under the § 8 program. See Hearings on Department of Housing and Urban Development—Independent Agencies Appropriations for 1976, before the Subcomm. on HUD—Independent Agencies of the House Comm. on Appropriations, 94th Cong., 1st Sess., pt. 5, at 85–86 (1975). See also *id.*, at 119 (testimony of HUD Secretary Hills).

[20] Under the § 8 program, HUD contracts to make payments to local public housing agencies or to private owners of housing units to make up the difference between a fair market rent for the area and the amount contributed by the low-income tenant. The eligible tenant family pays between 15% and 25% of its gross income for rent. See 42 U. S. C. § 1437f (1970 ed., Supp. IV).

ment on the application and, in certain specified circumstances, to preclude the Secretary of HUD from approving the application. See 42 U. S. C. §§ 1439 (a)-(c) (1970 ed., Supp. IV).[21] Use of the § 8 program to expand low-income housing opportunities outside areas of minority concentration would not have a coercive effect on suburban municipalities. For under the program, the local governmental units retain the right to comment

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[21] If the local unit of government in which the proposed assistance is to be provided does not have an approved housing assistance plan, the Secretary of HUD is directed by statute to give the local governmental entity 30 days to comment on the proposal after which time the Secretary may approve the project unless he determines that there is not a need for the assistance. 42 U. S. C. § 1439 (c) (1970 ed., Supp. IV). In areas covered by an approved plan, the local governmental entity is afforded a 30-day period in which to object to the project on the ground that it is inconsistent with the municipality's approved housing assistance plan. If such an objection is filed, the Secretary may nonetheless approve the application if he determines that the proposal is consistent with the housing assistance plan. § 1439 (a). The local comment and objection procedures do not apply to applications for assistance involving 12 or fewer units in a single project or development. § 1439 (b).

The ability of local governments to block proposed § 8 projects thus depends on the size of the proposed project and the provisions of the approved housing assistance plans. Under the 1974 Act, the housing assistance plan must assess the needs of lower-income persons residing in or expected to reside in the community and must indicate the general locations of proposed housing for lower-income persons selected in accordance with the statutory objective of "promoting greater choice of housing opportunities and avoiding undue concentration of assisted persons." 42 U. S. C. §§ 5304 (a)(4)(A), (C)(ii). See H. R. Rep. No. 93-1114, at 8. See also *City of Hartford* v. *Hills*, — F. Supp. —, Civil No. H-75-258 (Conn., Jan. 28, 1976). In view of these requirements of the Act, the location of subsidized housing in predominantly white areas of suburban municipalities may well be consistent with the communities' housing assistance plans.

on specific assistance proposals, to reject certain proposals that are inconsistent with their approved housing assistance plans, and to require that zoning and other land use restrictions be adhered to by builders.

In sum, there is no basis for the petitioner's claim that court-ordered metropolitan relief in this case would be impermissible as a matter of law under the *Milliken* decision. In contrast to the desegregation order in that case, a metropolitan relief order directed to HUD would not consolidate or in any way restructure local governmental units. The remedial decree would neither force suburban governments to submit public housing proposals to HUD nor displace the rights and powers accorded local government entities under federal or state housing statutes or existing land use laws. The order would have the same effect on the suburban governments as a discretionary decision by HUD to use its statutory powers to provide the respondents with alternatives to the racially segregated Chicago public housing system created by CHA and HUD.

Since we conclude that a metropolitan area remedy in this case is not impermissible as a matter of law, we affirm the judgment of the Court of Appeals remanding the case to the District Court "for additional evidence and for further consideration of the issue of metropolitan area relief." 503 F. 2d, at 940. Our determination that the District Court has the authority to direct HUD to engage in remedial efforts in the metropolitan area outside the city limits of Chicago should not be interpreted as requiring a metropolitan area order. The nature and scope of the remedial decree to be entered on remand is a matter for the District Court in the exercise of its equitable discretion, after affording the parties an opportunity to present their views.

The judgment of the Court of Appeals remanding this

case to the District Court is affirmed, but further proceedings in the District Court are to be consistent with this opinion.

It is so ordered.

MR. JUSTICE STEVENS took no part in the consideration or decision of this case.

SUPREME COURT OF THE UNITED STATES

No. 74-1047

Carla A. Hills, Secretary of Housing and Urban Development, Petitioner,
v.
Dorothy Gautreaux et al.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[April 20, 1976]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN and MR. JUSTICE WHITE join, concurring.

I dissented in *Milliken* v. *Bradley*, 418 U. S. 717 (1974), and I continue to believe that the Court's decision in that case unduly limited the federal courts' broad equitable power to provide effective remedies for official segregation. In this case the Court distinguishes *Milliken* and paves the way for a remedial decree directing the Department of Housing and Urban Development to utilize its full statutory power to foster housing projects in white areas of the greater Chicago metropolitan area. I join the Court's opinion except insofar as it appears to reaffirm the decision in *Milliken*.

THE WHITE HOUSE

WASHINGTON

May 21, 1976

MEMORANDUM FOR DAVE GERGEN

FROM: LYNN MAY

SUBJECT: Housing Recovery in California

The following should be incorporated into the Presidential remarks for California:

"In the past year, housing has improve dramatically, as has the economy in general. Housing in the West, and in California in particular, has improved more than the national average. Over the past year, starts in the West have risen by about 75 percent, from 200,000 on an annual rate in the first quarter of 1975 to 349,000 in the first quarter in 1976.

In California itself, building permits nearly doubled in the last year, rising from 21,900 in the first quarter of 1975 to 43,200 in the first quarter of 1976. In some parts of the State, the increases have been still more dramatic; permits have quadrupled in San Jose, and more than doubled in San Diego and in Orange County.

cc: Jim Cannon
Jim Cavanaugh
Bob Orben

Housing

6/31/76

THE WHITE HOUSE

WASHINGTON

REQUEST

May 28, 1976

MEMORANDUM FOR JIM CANNON

FROM: LYNN MAY

SUBJECT: State of the Construction Industry

On the attached memo, you asked the status of the construction industry in the current economic recovery. According to HUD economists, the overall picture of the construction industry nationwide is still below that of 1973-1974, but they attribute it primarily to the near completion of the Alaska pipeline (the largest recent single construction project in the country) and the residual impact of the recession on non-housing construction.

Although there is no breakdown of housing employment figures in the general construction statistics put out by BLS, HUD estimates that housing employment, comprising 1/4 to 1/3 of all construction industry employment, has improved dramatically recently, particularly on the basis of the rapid growth of housing starts since January. I have asked HUD and the Department of Commerce to supply me with their monthly figures on housing starts and housing employment estimates. If you wish to receive these figures, I'd be glad to furnish them to you.

Attachment

THE WHITE HOUSE

WASHINGTON

May 21, 1976

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cc: Jim Cannon
Jim Cavanaugh
Bob Orben