

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

MARGOT FLINN, CAROL JOHNSON,)
STASYS NEIMANAS, BARBARA REGARD,)
HENRY REGARD, and STEPHEN WEILAND,)

Case No. 24-cv-4269

Plaintiffs,)

UNITED STATES OF AMERICA,)

Plaintiff-Intervenor.)

V.)

Hon. John F. Kness, District Judge

CITY OF EVANSTON,
Defendant.

COMPLAINT IN INTERVENTION OF THE UNITED STATES OF AMERICA

The United States of America brings this Complaint in Intervention to halt and remedy the City of Evanston's ongoing violations of the Equal Protection Clause of the Fourteenth Amendment and the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*, and alleges as follows:

INTRODUCTION

1. Since 2021, and continuing to the present, the City of Evanston, Illinois (“Evanston” or “the City”) has maintained and implemented a racially discriminatory program in which it has offered and distributed unrestricted cash payments and financial assistance for purchasing, constructing, improving, repairing, or maintaining housing in the City, exclusively to current or former black residents who lived in the City as adults between 1919 and 1969, and to

their children, grand-children, and great-grand-children.¹ The City offers and provides these payments and financial assistance, which total \$25,000, to all black persons or their descendants who meet these requirements, regardless of where or how long they or their ancestor lived in the City during this time and regardless of whether they or their ancestor were the victims of racial discrimination by the City. And the City offers and provides these benefits solely to eligible black residents and their descendants. Persons of other races, including ones who were victims of unlawful racial discrimination by the City between 1919 and 1969, are not eligible for any payments or financial assistance under the City’s program; neither are their descendants.

2. “[T]he Constitution almost never permits [a government] to discriminate on the basis of race. Such discrimination triggers strict scrutiny. . . .” *Louisiana v. Callais*, 146 S. Ct. 1131, 1152 (2026). And the compelling interests that justify race-based government actions are “rare for a reason. Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Students for Fair Admissions, Inc. v. Presidents and Fellows of Harvard Coll. (SFFA)*, 600 U.S. 181, 207 (2023) (citations and quotations omitted).

3. One compelling interest that potentially justifies race-based government actions is “remediating specific, identified instances of past discrimination that violated the Constitution or a statute.” *SFFA*, 600 U.S. at 207 (citations omitted). To satisfy strict scrutiny, however, a race-based effort to remedy past discrimination must satisfy two conditions. “First, . . . the [government] must identify the specific instance of past discrimination that it aims to remediate and, in light of that specification, must determine the precise scope of the injury it seeks to remedy Second, after

¹ Resolution 37-R-21 (Mar. 22, 2021), Dkt. 20-1 at 6-18; Resolution 27-R-23 (Mar. 27, 2023), Dkt. 20-1 at 59-60. All citations to documents filed on the Court’s docket in case 1:24-cv-4269 are citations to the pages on the ECF header.

identifying the specific instance of discrimination, the [government] that makes the racial distinction must have . . . a strong basis in evidence to conclude that its remedial action is necessary.” *Callais*, 146 S. Ct. at 1152-53 (citations and quotations omitted). The government has no compelling interest “in generally remediating past discrimination in a particular industry or region or the effects of societal discrimination.” *Id.* at 1153 (citations and quotation marks omitted).

4. The City’s racially discriminatory program is not narrowly tailored to remedy specific identified instances of past discrimination that violated the Constitution or a statute. Each of the two resolutions authorizing the City’s program contains boilerplate statements that “acknowledge[] the harm caused to Black/African-American Evanston residents due to discriminatory housing policies and practices and inaction on the part of the City.”² The City’s resolutions, however, do not contain any findings of “specific, identified instances,” *SFFA*, 600 U.S. at 207, of such unlawful housing discrimination that occurred in the City between 1919 and 1969 that the City seeks to remediate. Nor do these resolutions identify “the precise scope of the injury it seeks to remedy” or any “strong basis in evidence to conclude that its remedial action is necessary.” *Callais*, 146 S. Ct. at 1153 (internal alterations omitted). And the program is not tailored to compensate the victims of such discrimination or their descendants. Applicants are not required to allege that they are, or their ancestors were, victims of racial discrimination. The initial resolution creating the City’s program makes clear the City’s purpose is to increase, in general, the quality of housing, the homeownership rate, and the intergenerational equity of “Black/African American Evanston residents,” regardless of their individual experiences in Evanston or that of their ancestors.³ Even where existing racial inequities in housing were caused in part by past

² Resolution 37-R-21, Dkt. 20-1 at 6; Resolution 27 R-23, Dkt. 20-1 at 59.

³ Resolution 37-R-21, Dkt. 20-1 at 7.

discrimination, there is no compelling interest in “generally remediating . . . the effects of societal discrimination.” *Callais*, 146 S. Ct. at 1153 (citations and quotation marks omitted).

5. Evanston has chosen to distribute substantial benefits to persons solely because of their race or the race of their ancestors. It has not taken any steps to tailor those benefits to the harms those persons may have suffered. Through its actions, Evanston has violated the Equal Protection Clause and the Fair Housing Act.

JURISDICTION

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

7. The United States is authorized to intervene in this action under 42 U.S.C. § 2000h-2. The Acting Attorney General of the United States has certified this case is of public importance. U.S. Mot. To Intervene, Ex. 1.

8. The United States is further authorized to bring this action to enforce the Fair Housing Act. 42 U.S.C. § 3614(a).

9. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391(b) because: (1) the City resides in this judicial district; and (2) a substantial part of the events or omissions giving rise to the claims of the United States have occurred in this judicial district.

PARTIES

10. Based on information and belief, the United States incorporates Paragraphs 3-8 of Plaintiffs’ Complaint (Dkt. 1) regarding the plaintiffs to this action.

11. Plaintiff-Intervenor is the United States.

12. Defendant City of Evanston is a general-purpose municipal government located in Cook County, Illinois. It is a home rule unit, as defined in the 1970 Illinois Constitution.

THE CITY'S UNLAWFUL PRACTICES

I. The City Adopted a Race-Based Program Even After It Was Warned That the Program Was Likely Unconstitutional

13. On or about March 22, 2021, the City adopted a resolution authorizing the “Local Reparations Restorative Housing Program” (“the Program”).⁴

14. Under the Program, applicants who qualified as an “Ancestor” or a “Direct Descendant” would receive \$25,000. An “Ancestor” is a black person who resided in the City as an adult at any time between 1919 and 1969. A “Direct Descendant” is a child, grand-child, or great grand-child of an “Ancestor.”⁵

15. Eligibility as an “Ancestor” or “Direct Descendant” under the Program is limited based on race. Only persons who are black, or whose “Ancestor” was black, qualify to receive payments as an “Ancestor” or a “Direct Descendant,” respectively.

16. The stated purposes of the Program are explicitly based on race, viz., “revitalizing, preserving, and stabilizing Black/African American owner-occupied homes in Evanston, increasing homeownership and building the wealth of Black/African-American residents, building intergenerational equity amongst Black/African-American residents, improving the retention rate of Black/African-American homeowners in the City of Evanston.”⁶

17. While the City was considering whether to establish the Program, former White House Counsel C. Boyden Gray submitted a detailed legal analysis to Evanston explaining that the Program would provide benefits based on race and would be unconstitutional under Supreme Court

⁴ Resolution 37-R-21, Dkt. 20-1 at 6.

⁵ *Id.* at 11-12, 15.

⁶ *Id.* at 11.

precedent. Among other things, the letter pointed out that the Program was not supported by “the kind of specific evidence necessary to justify the imposition of a . . . racially discriminatory policy.” The letter also noted that the City “had failed to give more than perfunctory consideration to race-neutral considerations such as upzoning, loosening restrictive zoning practices” or providing “income-based housing assistance to achieve greater financial equality regardless of the race of the applicant.”⁷ The City nevertheless adopted the Program without making changes to address the legal objections identified in the analysis.

II. The City Has Distributed and Continues to Distribute Millions of Dollars Through the Program Based on Race

18. Following the establishment of the Program, the City accepted applications from September 21, 2021, through November 5, 2021, from persons who alleged they qualified as an “Ancestor” or as a “Direct Descendant.”⁸

19. As initially established, the Program offered applicants a choice to use the funds they received to: (a) purchase a primary home in Evanston; (b) make home improvements to an existing primary residence in the City; or (c) pay down the mortgage for a primary residence in the City.⁹

20. On or about March 27, 2023, the City amended the Program to add an option by which eligible applicants could choose to receive an unrestricted cash payment. Persons who elect

⁷ Letter from C. Boyden Gray, on behalf of the Project on Fair Representation, to the City of Evanston, at 2-4 (Mar. 18, 2021), *available at* <https://perma.cc/XF37-QMLA>.

⁸ Affidavit of Audrey Thompson (Thompson Aff.), Dkt. 13-1 at 2; City of Evanston Local Reparations: Restorative Housing Program Eligibility Application, Ancestor Application Draft, Dkt. 20-1 at 20-26; City of Evanston Local Reparations: Restorative Housing Program Eligibility Application, Direct Descendant, Dkt. 20-1 at 27-42.

⁹ Resolution 37-R-21, Dkt. 20-1 at 15-18.

to receive an unrestricted cash payment are not required to use it for housing related expenses in Evanston or to provide any account of how they use the funds.¹⁰ During the City's discussion of this amendment, the City's Corporation Counsel stated that while "the Restorative Housing Program aimed to keep residents or bring residents back to Evanston, with the cash benefit that is no longer part of the equation."¹¹ Corporation Counsel also stated that "they do not have the research to show that a cash benefit would be a narrowly tailored remedy for those harmed."¹²

21. Payments made to applicants through the Program are funded through receipts from the City's Municipal Cannabis Retailer Occupation Tax.¹³

22. By January 11, 2024, the City made determinations as to which applicants were eligible. It subsequently began distributing payments to eligible applicants.¹⁴

23. The City has identified and paid at least 141 applicants who qualified as an "Ancestor."¹⁵ These payments totaled \$3.525 million.

¹⁰ Resolution, 27-R-23, Dkt. 21 at 59; City of Evanston, Minutes, Reparations Committee (Apr. 6, 2023), Dkt. 21 at 52.

¹¹ Minutes, Reparations Committee (Apr. 6, 2023), Dkt. 21 at 53.

¹² *Id.*

¹³ Resolution, 126-R-19 (Nov. 14, 2019), *available at* <https://perma.cc/2TS7-2KR7>; Resolution, 64-R-22 (Aug. 8, 2022), *available at* <https://perma.cc/QEW6-R3ZS>.

¹⁴ *See* Defendant City of Evanston's Answer and Defenses to the Complaint (Answer), Dkt. 42 at 7; Memorandum from Tasheik Kerr, Assistant to the City Manager, to the Members of the Reparations Committee (Sept. 5, 2024), Dkt. 20-1 at 62-66.

¹⁵ Chicago Tribune, Evanston has paid out just over \$5 Million (Sept. 14, 2024), Dkt. 20-1 at 123-24.

24. The City has also identified at least 454 applicants who qualified as a “Direct Descendant.” Evanston has begun paying those persons, subject to the availability of funds, based on the order of a random distribution number generated by the City.¹⁶

25. To date, the City has distributed well over \$5 million to applicants who qualified as an “Ancestor” or a “Direct Descendant.” The City made such payments in the form of unrestricted cash payments as well as through the other methods of financial assistance available under the Program. Such financial assistance has included payments for mortgage assistance and home repairs and renovations. Absent relief from this Court, the City will continue to distribute millions of dollars in unrestricted cash payments or financial assistance for the purchase, improvement, repair or maintenance of housing on a racially discriminatory basis. In fact, paying \$25,000 in cash or financial assistance to each of the 454 applicants who have qualified as a “Direct Descendant” under the Program’s racially discriminatory criteria would total more than \$11 million.¹⁷

26. The Program also provides for potential payments to persons who do not qualify as an “Ancestor” or a “Direct Descendant,” provided they demonstrate that they “experienced housing discrimination due to the City’s policies/practices after 1969.” To be eligible for this program, applicants must provide a “proof of race.” This provision, however, does not change the race-based nature of the City’s Program. Even assuming that the City intends to administer this part of the program in a race-neutral manner, applications from persons who allege they were victims of discrimination after 1969 may not be reviewed, approved, and funded until all eligible applicants who qualified as an “Ancestor” or a “Direct Descendant” have been compensated. Thus, the very

¹⁶ See Answer, Dkt. 42 at 7-8.

¹⁷ See Dkt. 20-1 at 123-24; Memorandum from Tasheik Kerr, Assistant to the City Manager, to City of Evanston Reparations Committee (Sept. 5, 2024), Dkt. 20-1 at 62-63.

operation of this part of the program depends on the completion of the unquestionably race-based components. In other words, any potential victims of post-1969 discrimination must wait until millions of dollars have been distributed based on race to almost 600 persons before even having the opportunity to seek compensation.¹⁸

III. The City Has Not Made Findings Sufficient to Establish That Its Racially Discriminatory Program is Narrowly Tailored to Remediate Specific Identified Instances of Discrimination

27. None of the City resolutions authorizing or otherwise relating to the Program contains any findings of “specific, identified instances of past discrimination that violated the Constitution or a statute” that the City is attempting to remediate. None identifies “the precise scope of the injury” caused by these instances of discrimination that it seeks to remedy. And none points to any “strong basis in evidence to conclude” that the Program’s race-based action is necessary. *Callais*, 146 S. Ct. at 1152. Rather, the resolutions include nothing more than boilerplate statements that “recognize[]” or “acknowledge[]” past alleged discrimination or ongoing unspecified racial disparities. They contain virtually no information about what the alleged discriminatory acts or policies were, during what years the discriminatory acts occurred, the policies that were in effect, or the scope of the injury caused by these acts or policies. The resolutions do not attempt to tie any remedial programs to specific instances or identifiable victims of past discrimination and instead focus on race alone.¹⁹

¹⁸ See Resolution R-37-21, Dkt. 20-1 at 11-12; Restorative Housing Program Eligibility Application, Dkt. 20-1 at 20-42.

¹⁹ See Resolution 37-R-21, Dkt. 20-1 at 6-7; Resolution 27 R-23, Dkt. 20-1 at 59-60; Resolution 58-R-19 (June 5, 2019), available at <https://perma.cc/PTQ9-J5M7>; Resolution 126-R-19, *supra* n.13; Resolution, 64-R-22, *supra* n.13.

28. The City’s website includes a report entitled “Evanston Policies and Practices Directly Affecting the African American Community” (“the Report”). The latest copy of the Report on the City’s website is labeled a “working document” that was last updated on November 21, 2021. It does not appear that the Report was ever formally adopted by the City through a resolution or comparable legislative action. The Report states only that it was created “at the request of City of Evanston Staff.”²⁰

29. The Report does not make findings of any specific identified instances of past discrimination that violated the Constitution or a statute that occurred in the City of Evanston. It does not identify the scope of the injury caused by these acts or policies. Nor does it address what remedy might be appropriate. Rather, the Report states that it is intended to “present evidence and factual information *related to* historic and contemporary instances where the City of Evanston *might have* facilitated, participated in, enacted, or stood neutral in the wakes of acts of discriminatory practices in all *aspects of engagement* with the Evanston Black community.” The Report states that its intention “is to *compile*, in one cohesive document, published facts from various sources, works, studies, surveys, articles, recordings, policies, and resources *that are available for public consumption*.” The Report further states that “the authors remain neutral and take no responsibility regarding the end use of this document and the information contained within the document. In addition, the authors do not take any positions other than fulfilling the fact-finding assignment as requested by the City of Evanston.” The authors also state that “[t]his report is in progress and will have periodical updates when new information presents itself.”²¹

²⁰ See Morris (Dino) Robinson, Jr. and Jenny Thompson, *Evanston Policies and Practices Directly Affecting the African American Community*, at 3 (Working Document, Nov. 2021), available at <https://perma.cc/E3GM-AFCJ>.

²¹ *Id.* at 3 (emphases added).

30. The Program is not tailored to the facts relating to housing and zoning policies that are discussed in the Report. The Report identifies actions that the City may have carried out or been involved with at various times between approximately 1920 and 1949 to restrict housing opportunities for black residents of Evanston to a concentrated area of the City and to condemn housing occupied by black residents. The Report suggests these actions, coupled with private discrimination by realtors and lenders and through restrictive covenants, resulted in overcrowding, excessive rents, and other adverse housing conditions for residents living in the areas where black residents were segregated.²² The Program, however, does not restrict compensation to black residents who allege that they were subjected to unlawful housing discrimination, who lived in the City during the time period identified in the Report (approximately 1920 to 1949) when the practices occurred, who lived in the areas where black residents were segregated, or whose homes were condemned. Under the Program, being black and having lived in the City as an adult between 1919 and 1969 are sufficient to qualify a person to receive a payment as an “Ancestor” and for their children, grandchildren, and great-grandchildren to receive a payment as a “Descendant.”

31. The Program does not provide any opportunities for compensation for residents of other races who may have lived in the area where black residents were segregated and suffered adverse housing consequences as a result. For example, non-black Hispanic or Jewish persons, or other non-black persons, who were married to a black person during this time period and who allege they had to live in the racially segregated area of Evanston because of the race of their spouse would not be eligible for any compensation as an “Ancestor,” but their spouse or former spouse would qualify automatically because of his or her race.

²² *Id.* at 30-55.

32. By providing unrestricted cash payments and housing-related financial assistance through the Program solely to current or former black residents and their descendants, but not offering or distributing those benefits to other Evanston residents or descendants, the City has denied persons the opportunity to receive tangible City benefits or services because of race, and has caused harm to such persons.

33. Although the City has not accepted any applications for the Program since November 5, 2021, none of the resolutions authorizing the Program have been rescinded and nothing in the text of these resolutions limits the City's ability to restart accepting applications at any time.

34. The actions of the City, as described in this Complaint, were intentional, willful, and taken with reckless disregard for the rights of other persons.

IV. The City Refused to Cooperate with the United States' Investigation

35. In March 2026, the United States informed the City that it had opened an investigation into the Program under the Equal Protection Clause and the Fair Housing Act. The United States requested that the City provide information and documents related to the Program, including information about how it operated, what evidence the City had compiled of the housing discrimination it was intended to remedy, and why the City believed its Program complied with the Equal Protection Clause and the Fair Housing Act.

36. Other than referring the United States to its website, the City declined to provide any additional information or documents to the United States.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION: VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE U.S. CONSTITUTION, AMENDMENT XIV

37. The United States re-pleads the preceding paragraphs and incorporates them herein by reference.

38. Section 1 of the Fourteenth Amendment provides, *inter alia*, that States shall not “deny to any person within its jurisdiction the equal protection of the laws.”

39. Through its actions as alleged above, the City has granted and denied its residents and former residents, and their descendants, financial benefits, and the opportunity to compete for those benefits, because of race. And these race-based actions are not narrowly tailored to serve a compelling governmental interest.

40. Through these actions, the City has denied persons the equal protection of the laws, in violation of the Equal Protection Clause of the Fourteenth Amendment.

SECOND CAUSE OF ACTION: VIOLATION OF THE FAIR HOUSING ACT

41. The United States repleads the preceding paragraphs and incorporates them herein by reference.

42. The Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*, makes it unlawful, *inter alia*, for any person or entity whose business includes engaging in residential real estate-related transactions—which is defined to include providing financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling—to discriminate against any person because of race or color in making available, or in the terms or conditions of, a residential real estate-related transaction. 42 U.S.C. § 3605.

43. Through its Program, the City is a person or entity whose business includes engaging in residential real estate financial assistance within the meaning of 42 U.S.C. § 3605. Specifically, through the Program, the City provides financial assistance for purchasing,

constructing, improving, repairing or maintaining dwellings, within the meaning of 42 U.S.C. §§ 3602(b) and 3605.

44. Through its actions as alleged in this Complaint, the City has discriminated because of race or color in making available, and in the terms and conditions of, residential real estate-related transactions, in violation of the Fair Housing Act, 42 U.S.C. § 3605.

45. Under 42 U.S.C. §3614(a), the City's conduct constitutes:

- a. A pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, and
- b. A denial to a group of persons of rights granted by Fair Housing Act that raises an issue of general public importance.

46. Persons injured by the City's conduct are "aggrieved persons" as defined in 42 U.S.C. § 3602(i).

PRAYER FOR RELIEF

WHEREFORE, the United States requests that the Court enter an Order that:

- a. Declares that the City's use of race or color as an eligibility requirement for participation in the Program violates the Equal Protection Clause of the Fourteenth Amendment and the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
- b. Enjoins the City, its agents, employees, and all other persons in active concert or participation with them, from:
 - i. continuing to administer the Program in a manner that unlawfully denies equal protection to persons because of race or color, in violation of the Equal Protection Clause of the Fourteenth Amendment;

- ii. continuing to administer the program in a manner that discriminates because of race or color in making available, or in the terms or conditions of, residential real estate transactions, in violation of the Fair Housing Act;
 - iii. failing or refusing to take all affirmative steps necessary to ensure the Program, to the extent the City continues to operate it, complies with the Equal Protection Clause of the Fourteenth Amendment and the Fair Housing Act;
- c. Awards monetary damages to each person aggrieved by the City's discriminatory conduct, under 42 U.S.C. § 3614(d)(1)(B);
- d. Assesses civil penalties against the City to vindicate the public interest under 42 U.S.C. § 3614(d)(1)(C); and
- e. Awards such additional relief as the interests of justice may require.

Dated: June 16, 2026

Respectfully submitted,

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MARGOT FLINN, CAROL JOHNSON,
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CITY OF EVANSTON,

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Case No. 24-cv-4269

Hon. John F. Kness, District Judge

CERTIFICATE OF THE ACTING ATTORNEY GENERAL UNDER 42 U.S.C. § 2000h-2

I, Todd Blanche, Acting Attorney General of the United States, pursuant to 42 U.S.C.
§ 2000h-2, hereby certify that the case of *Flinn v. City of Evanston*, No. 24-cv-4269 (N.D. Ill.), is
a case of general public importance.

Signed this 8th day of June, 2026, at Washington, D.C.

Todd Blanche
TODD BLANCHE

Acting Attorney General of the United States

**IN THE UNITED STATES DISTRICT COURT
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MARGOT FLINN, CAROL JOHNSON,
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Plaintiffs,)

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Hon. John F. Kness, District Judge

CITY OF EVANSTON,
Defendant.

UNITED STATES' MOTION TO INTERVENE

The United States of America (“United States”) respectfully moves under Federal Rule of Civil Procedure (“Rule”) 24 to intervene in this action and to file the attached Complaint in Intervention.

As grounds for its Motion to Intervene, the United States asserts the following, which is alleged in the United States' proposed Complaint in Intervention and set forth more fully in the accompanying memorandum of law:

1. Since 2021, and continuing to the present, the City of Evanston, Illinois (“Evanston” or “the City”) has maintained and implemented its “Local Reparations Restorative Housing Program” (the “Program”), a racially discriminatory program in which it has offered and distributed unrestricted cash payments, and financial assistance for purchasing, constructing, improving, repairing, or maintaining housing in the City, exclusively to current or former black

residents who lived in the City as adults between 1919 and 1969, and to their children, grandchildren, and great-grand-children.¹

2. The City offers and provides these payments and financial assistance, which total \$25,000, to all black persons or their descendants who meet these requirements, regardless of where or how long they or their ancestor lived in the City during this time and regardless of whether they or their ancestor were the victims of racial discrimination by the City. And the City offers and provides these benefits solely to eligible black residents and their descendants. Persons of other races, including ones who were victims of unlawful racial discrimination by the City between 1919 and 1969, are not eligible for any payments or financial assistance under the Program, and neither are their descendants.

3. “[T]he Constitution almost never permits [a government] to discriminate on the basis of race. Such discrimination triggers strict scrutiny...” *Louisiana v. Callais*, 146 S. Ct. 1131, 1152 (2026). The City’s racially discriminatory program is not narrowly tailored to remediating specific, identified instances of past discrimination that violated the Constitution or a statute, and through its actions, the City has violated the Equal Protection Clause and the Fair Housing Act.

4. In 2024, Plaintiffs filed suit under 42 U.S.C. § 1983 alleging that the Program violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. This March, the Court denied the City’s Motion to Dismiss, and the City filed its Answer on May 8, 2026. *See* Case No. 1:24-cv-4269, at Dkt. 37, 42.

5. The United States’ proposed Complaint in Intervention names the City of Evanston as a defendant and alleges that the Program violates the Equal Protection Clause. The United States’

¹ Resolution 37-R-21 (Mar. 22, 2021), Dkt. 20-1 at 6-18; Resolution 27-R-23 (Mar. 27, 2023), Dkt. 20-1 at 59-60. All citations to documents filed on the Court’s docket in Case No. 1:24-cv-4269 are citations to the pages on the ECF header.

proposed Complaint in Intervention also alleges that the Program violates the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*

6. Rule 24(a)(1) provides that, “[o]n timely motion, the court must permit anyone to intervene who . . . is given an unconditional right to intervene by a federal statute.”

7. Section 902 of the Civil Rights Act of 1964, as amended, grants the United States an unconditional right to intervene in cases seeking relief from the alleged denial of equal protection of the laws under the Fourteenth Amendment to the United States Constitution on account of race, if the Attorney General certifies that the case is of general public importance. 42 U.S.C. § 2000h-2.

8. The Acting Attorney General has certified this is a case of general public importance. That Certificate of the Acting Attorney General is attached as Exhibit 1.

9. When intervening under Section 902, the United States may seek more or different relief than the plaintiffs. *See Spangler v. United States*, 415 F.2d 1242, 1244 (9th Cir. 1969) (holding that the United States as intervenor is “not limit[ed] . . . to the relief asked for by the plaintiff” and collecting cases).

10. The United States may also intervene under Rule 24(a)(2), which provides for intervention by right to “anyone” who “claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately protect that interest.” Fed. R. Civ. P. 24(a)(2). The United States meets the requirements of Rule 24(a)(2).

11. Alternatively, Rule 24(b) provides for permissive intervention upon a timely motion when a potential party “has a claim or defense that shares with the main action a common question

of law or fact,” and when intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” The United States has satisfied the requirements for permissive intervention here.

12. The United States’ Complaint in Intervention is attached as Exhibit 2.

13. Counsel for the United States has conferred with Counsel for Plaintiffs who advise that they do not oppose intervention by the United States. Counsel for the United States has also conferred with counsel for the City of Evanston who does not consent to the United States’ Motion to Intervene. The City and United States have agreed to a proposed briefing schedule, filed separately on the docket by the United States. *See* Statement Setting Forth Agreed Briefing Schedule, Dkt. 51.

The United States respectfully requests this Court grants its Motion to Intervene in this action.

Dated: June 16, 2026

Respectfully submitted,

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States of America

CERTIFICATE OF SERVICE

I certify that on June 16, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a Notice of Electronic Filing to all counsel of record.

/s/ Timothy J. Moran

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

MARGOT FLINN, CAROL JOHNSON,)
STASYS NEIMANAS, BARBARA REGARD,)
HENRY REGARD, and STEPHEN WEILAND,) Case No. 24-cv-4269
)
Plaintiffs,)
)
v.) Hon. John F. Kness, District Judge
)
CITY OF EVANSTON,)
Defendant.)
)

**MEMORANDUM OF LAW IN SUPPORT OF UNITED STATES’
MOTION TO INTERVENE**

INTRODUCTION

The United States of America (“United States”) respectfully moves under Federal Rule of Civil Procedure (“Rule”) 24 to intervene in this action and to file the attached Complaint in Intervention. The United States brings this Complaint in Intervention to halt and remedy the City of Evanston’s ongoing violations of the Equal Protection Clause of the Fourteenth Amendment and the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.* Because this is a case challenging the defendant’s program under the Equal Protection Clause, the United States has an unconditional right to intervene under Section 902 of the Civil Rights Act of 1964 (“Section 902”). Fed. R. Civ. P. 24(a); 42 U.S.C. § 2000h-2.

BACKGROUND

Since 2021, the City of Evanston, Illinois (“Evanston” or “the City”) has maintained and implemented its “Local Reparations Restorative Housing Program” (the “Program”), a racially discriminatory program in which it has offered and distributed unrestricted cash payments, and

financial assistance for purchasing, constructing, improving, repairing, or maintaining housing in the City, exclusively to current or former black residents who lived in the City as adults between 1919 and 1969, and to their children, grand-children, and great-grand-children.¹ The City offers and provides these payments and financial assistance only to black persons or their descendants who meet these requirements, regardless of where or how long they or their ancestor lived in the City during this time and regardless of whether they or their ancestor were the victims of racial discrimination by the City. Persons of other races, including ones who were victims of unlawful racial discrimination by the City between 1919 and 1969, are not eligible for any payments or financial assistance under the City's program, and neither are their descendants.

The United States' proposed Complaint in Intervention alleges that, through its actions, the City has violated the Equal Protection Clause and the Fair Housing Act. The United States has a statutory right to intervene in this case under Rule 24(a)(1) and Section 902. Section 902 grants the United States an unconditional right to intervene in cases seeking relief from the alleged denial of equal protection of the laws under the Fourteenth Amendment on account of race if the Attorney General certifies that the case is one of general public importance. 42 U.S.C. § 2000h-2. The Acting Attorney General has made that certification. *See* U.S. Mot. to Intervene, Ex. 1. The Court must grant the United States' Motion to Intervene. *See* Fed. R. Civ. P. 24(a)(1). The United States also has a right to intervene under Rule 24(a)(2). In the alternative, the United States meets the standard for permissive intervention. *See* Fed. R. Civ. P. 24(b)(1)(B).

In 2024, Plaintiffs filed suit under 42 U.S.C. § 1983 alleging that the City's Program violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. In

¹ Resolution 37-R-21 (Mar. 22, 2021), Dkt. 20-1 at 6-18; Resolution 27-R-23 (Mar. 27, 2023), Dkt. 20-1 at 59-60. All citations to documents filed on the Court's docket in Case No. 1:24-cv-4269 are citations to the pages on the ECF header.

March, the Court denied the City's Motion to Dismiss, No. 1:24-cv-04269, Dkt. 37 (N.D. Ill. Mar. 27, 2026), and the City filed its Answer on May 8, 2026, *id.*, Dkt. 42.

The United States' proposed Complaint in Intervention names the City of Evanston as a defendant and alleges that the City's Program violates the Equal Protection Clause. The United States' proposed Complaint in Intervention also alleges that the City's Program violates the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*

THE UNITED STATES HAS A RIGHT TO INTERVENE UNDER RULE 24(a)(1)

The United States' Motion to Intervene should be granted under Rule 24(a)(1) because the United States satisfies the requirements for intervention as of right by statute. Under Rule 24(a)(1), “[o]n timely motion, the court must permit anyone to intervene who . . . is given an unconditional right to intervene by a federal statute.”

Here, the United States has an unconditional statutory right to intervene under Section 902, as amended, which provides:

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

42 U.S.C. § 2000h-2.

This statute entitles the United States to intervene in equal protection cases. *See, e.g., Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258 (2009) (acknowledging Section 902 allows the Attorney General to intervene in private equal protection suits); *Air Lines Steward & Stewardesses Ass’n, Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 103 n.2 (7th Cir. 1972) (the Attorney General can intervene as of right in equal protection suits); *Carter v. Sch. Bd. of W.*

Feliciano Par., 569 F. Supp. 568, 571 (M.D. La. 1983) (concluding that the United States’ Motion to Intervene filed under Section 902 “must be granted and it is”). Here, the United States alleges the City’s Program discriminates on the basis of race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The Attorney General has certified this case is of public importance. U.S. Mot. to Intervene, Ex. 1.

When intervening under Section 902, the United States may seek more or different relief than the plaintiffs. *See Spangler v. United States*, 415 F.2d 1242, 1244 (9th Cir. 1969) (holding that the United States as intervenor is “not limit[ed] . . . to the relief asked for by the plaintiff” and collecting cases); *Coffey v. State Educ. Fin. Comm’n*, 296 F. Supp. 1389, 1390 (S.D. Miss. 1969) (Section 902 intervention allowing the United States to seek independent relief against the defendant State). The United States has independent jurisdiction to bring a claim under the Fair Housing Act and has included that claim in the proposed Complaint in Intervention. *See* 42 U.S.C. § 3614(a); *Kennedy Park Homes Ass’n v. City of Lackawanna*, 318 F. Supp. 669, 671-72 (W.D.N.Y. 1970) (allowing the United States to intervene under Section 902 in a case that also included claims under the Fair Housing Act where the United States’ allegations were “substantially the same as those in the plaintiffs’ complaint,” even though the relief asked for by the United States was broader than the relief sought by the plaintiffs).

The United States’ motion is also timely. “In evaluating timeliness, [the Seventh Circuit] look[s] to four considerations: (1) the length of time the intervenor knew or should have known of his interest in the case; (2) the prejudice caused to the original parties by the delay; (3) the prejudice to the intervenor if the motion is denied; and (4) any other unusual circumstances.” *Cook Cnty. v. Texas*, 37 F.4th 1335, 1341 (7th Cir. 2022). Regarding the first prong, while this lawsuit was filed two years ago, the Court’s decision on Defendants’ Motion to Dismiss was

handed down less than three months ago. Dkt. 37. Given that one of the grounds for the (now-denied) Motion to Dismiss was Plaintiffs' lack of standing, it was not unreasonable for the United States to wait until the Court adjudicated whether it even had jurisdiction to hear the claim. *See Skolnick v. Bd. of Comm'rs of Cook Cnty.*, 435 F.2d 361, 364 (7th Cir. 1970) (“[L]ack of standing is a fatal jurisdictional defect....”). Furthermore, “the passage of time itself is not the only factor,” nor indeed even the most important one. *Nissei Sangyo Am., Ltd. v. United States*, 31 F.3d 435, 439 (7th Cir. 1994). “[R]ather the ‘most important consideration in deciding whether a motion for intervention is untimely is whether the delay in moving for intervention will prejudice the existing parties to the case.’” *Id.* (quoting 7C Charles Alan Wright, et al., *Federal Practice and Procedure: Civil 2d* § 1916 (1986)).

As to the other factors, they all favor the conclusion that the motion is timely. As the Seventh Circuit explained, “[t]he purpose of the timeliness requirement is to prevent a tardy intervenor from derailing a lawsuit within sight of the terminal.” *Sokaogon Chippewa Cmty. v. Babbitt*, 214 F.3d 941, 949 (7th Cir. 2000). Of course, this suit is nowhere near “the terminal” because discovery has not begun, and even Rule 26 disclosures have not yet been made. Indeed, the City filed its Answer, Dkt. 42, barely a month ago. Moreover, the parties are now engaged in briefing on a motion to bifurcate discovery, and that briefing will not be complete for another month. Dkt. 47. Under these circumstances, no delay or prejudice would result from the United States' participation. As another court within this district held, where “the parties [we]re presently briefing ... motions for summary judgment” (presumably after the close of discovery), a motion to intervene was “not untimely.” *Smith v. Bd. of Election Comm'rs for City of Chicago*, 103 F.R.D. 161, 163 (N.D. Ill. 1984). *See also Select Retrieval, LLC v. ABT Elecs.*, No. 11 C 03752, 2013 WL 6576861, at *1 (N.D. Ill. Dec. 13, 2013) (finding no prejudice to existing

parties where “no discovery has taken place”); *ABS Glob., Inc. v. Inguran, LLC*, No. 14-CV-503-WMC, 2015 WL 1486647, at *2 (W.D. Wis. Mar. 31, 2015) (finding no prejudice to litigants and permitting intervention where, though discovery had begun, the litigation was “still in its relatively early stages, with dispositive motions months away and discovery ongoing.”); *Canterino v. Wilson*, 538 F. Supp. 62, 64 (W.D. Ky. 1982) (finding intervention pursuant to Section 902 was proper and timely, even as “the time for discovery is rapidly coming to a close” and “the motion to intervene was made less than six weeks before trial,” and stating that the “participation of the United States will aid in the just resolution of the issues in the intervening complaint, without substantial prejudice to the ability of the defendants to present their case”). The United States meets the requirements for intervention as of right under Rule 24(a)(1).

THE UNITED STATES HAS A RIGHT TO INTERVENE UNDER RULE 24(a)(2)

The United States also has a right to intervene under Rule 24(a)(2), which provides that, “on timely motion, the court must permit anyone to intervene who”:

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately protect that interest.

Fed. R. Civ. P. 24(a)(2).

As discussed above, the United States’ motion is timely. The United States also meets the remaining requirements of Rule 24(a)(2): an interest in the subject matter of the action, potential impairment of that interest by the disposition of the action, and a lack of adequate representation of the interest by the existing parties in the action. *State v. City of Chicago*, 912 F.3d 979, 985 (7th Cir. 2019).

First, the United States has an interest where its laws are violated. The United States' Complaint in Intervention alleges that the City's Program violates the Equal Protection Clause and the Fair Housing Act. *See* Complaint in Intervention, Ex. 2 to Mot. to Intervene. Numerous courts have found that the Attorney General's sovereign interest in enforcing the Fourteenth Amendment is strong enough to support Article III standing, which exceeds what Rule 24(a)(2) requires. *See United States v. City of Jackson*, 318 F.2d 1, 14-17 (5th Cir. 1963) (citing *In re Debs*, 158 U.S. 564, 584-86 (1895)); *United States v. Idaho*, 623 F. Supp. 3d 1096, 1107 (D. Idaho 2022) ("[T]he United States' sovereign interests are harmed when its laws are violated."). And Congress has charged the Attorney General with enforcement of the Fair Housing Act. *See, e.g.*, 42 U.S.C. § 3614 (Enforcement by Attorney General). The United States therefore has an interest in this litigation.

Next, the United States' ability to protect its legal interests would be impaired absent intervention. Because Plaintiffs' and the United States' complaints raise common questions of law and fact in challenging the City Program, the outcome of this case, including potential appeals for existing parties, implicates *stare decisis* concerns that warrant the United States' intervention. *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 573 (7th Cir. 2009) (citing *Atlantis Dev. Corp. v. U.S.*, 379 F.2d 818, 828-29 (5th Cir. 1967)). As such, intervention is necessary to protect the United States' substantial interest in this litigation.

Finally, the existing parties in this case cannot adequately represent the United States' sovereign interest in ensuring enforcement of fundamental rights under the Constitution. "[T]he United States has an interest in enforcing federal law that is independent of any claims of private citizens." *United States v. E. Baton Rouge Sch. Dist.*, 594 F.2d 56, 58 (5th Cir. 1979); *see also EEOC v. Pemco Aeroplex*, 383 F.3d 1280, 1291 (11th Cir. 2004) ("Quite simply, it is so unusual to

find privity between a governmental agency and private plaintiffs because governmental agencies have statutory duties, responsibilities, and interests that are far broader than the discrete interests of a private party.”). Thus, “[a]ggravated individuals ... lack the required ‘identity of interests’ with government agencies.” *Acosta v. Idaho Falls Sch. Dist. No. 91*, 291 F. Supp.3d 1162, 1168 (D. Idaho 2017). As such, there is no “adequate representation” under Rule 24(a)(2) between the existing parties and the United States. The United States meets the requirements of Rule 24(a)(2).

THE UNITED STATES MEETS THE STANDARD FOR PERMISSIVE INTERVENTION

In the alternative, the Court should permit the United States to intervene in this litigation because the requirements for permissive intervention under Rule 24(b)(1)(B) are met here. First, the United States’ putative claims share “common question[s] of law and fact” with the existing Plaintiffs’ claims. *See* Fed. R. Civ. P. 24(b)(1)(B). Both the Plaintiffs and the United States claim violations of the Equal Protection Clause of the Fourteenth Amendment and challenge the Program’s race-based eligibility requirements. Second, because the United States’ motion is timely, intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” *Id.* at (b)(3).

The United States respectfully requests this Court grants its Motion to Intervene in this action.

Dated: June 16, 2026

Respectfully submitted,

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