

DOCUMENT RESUME

00547 - [A0590805]

[Civil Litigations Concerning the Section 236 Housing Program].
OGC-77-9; B-115398. December 23, 1976. 2 pp.

Report to the Congress; by Elmer B. Staats, Comptroller General.

Contact: Office of the General Counsel.

Budget Function: Miscellaneous: Impoundment Control Act of 1974
(1005).

Organization Concerned: Department of Housing and Urban
Development.

Congressional Relevance: Congress.

Authority: Department of HUD--Independent Agencies Appropriation
Act for FY 1977 (P.L. 94-378). National Housing Act.

Impoundment Control Act of 1974. Underwood et. al v. Hills,
Civil Action 76-0469, DCDC.

Several civil litigations concerning the section 236 Housing Program are traced. In July 1976, GAO notified Congress of its intention to institute a civil action to require release of the budget authority for making operating subsidy payments under section 236 of the National Housing Act. A revision in Public Law 94-378 authorized HUD to disperse the budget authority involved in this rescission to other housing programs. In a class action suit, on behalf of all section 236 project tenants, the district court ordered HUD to make operating subsidy payments. Most recently the U.S. Supreme Court ordered a stay on the district court's order, and the U.S. Court of Appeals enjoined HUD from allocating the moneys in the section 236 reserve account to fund programs other than the operating subsidy program. Findings/Conclusions: GAO concluded that there no longer exists an impoundment of the section 236 reserve funds. The budget authority is being withheld pursuant to court orders and not as a result of executive branch action. For this reason, GAC did not file suit in this case. (SW)

00547



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

December 23, 1976

B-115398

To the President of the Senate and the
Speaker of the House of Representatives

On April 20, 1976, we notified the Congress of an unreported rescission proposal of Department of Housing and Urban Development (HUD) budget authority available for making operating subsidy payments under section 236 of the National Housing Act. This rescission should have been, but was not, reported by the President to the Congress pursuant to the provisions of the Impoundment Control Act of 1974.

Subsequently, on July 7, 1976, we reported that, although the Congress had not acted favorably on the rescission proposal within the 45-day period prescribed by the Act and the budget authority was required to be made available for obligation, it had not been made available. Accordingly, our letter of July 7 notified the Congress of our intention to institute a civil action to require the release of the budget authority.

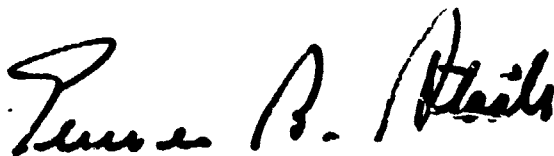
The July 7 letter noted that a provision then under consideration for inclusion in the Department of Housing and Urban Development-Independent Agencies Appropriation Act for Fiscal Year 1977, if enacted, would authorize HUD to disperse the budget authority involved in this rescission to other housing programs. This provision was enacted in Pub. L. 94-378, August 9, 1976. Subsequently, we were told informally that HUD planned to release the funds to the housing payments account and to utilize the funds thereunder, thus terminating the impoundment.

As was indicated in our prior letters to the Congress, a number of lawsuits have been initiated by individuals seeking to compel HUD's implementation of the operating subsidy program. In one of these cases, Underwood, et al., v. Hills, Civil Action 76-0469, DCDC, a class action on behalf of all section 236 project tenants, the district court ordered, inter alia, HUD to make operating subsidy payments.

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Since enactment of the Fiscal Year 1977 appropriation and the district court's order in underwood, the courts have considered further the section 236 lawsuits. On October 18, 1976, the Supreme Court of the United States ordered a stay of the district court's order in Underwood. And on October 22, 1976, the United States Court of Appeals for the District of Columbia Circuit enjoined HUD from allocating the moneys in the section 236 reserve account to fund programs other than the operating subsidy program as the Department had planned to do pursuant to the Fiscal Year 1977 appropriation.

After examining the progress of the various civil litigations concerning the section 236 program, we conclude that there no longer exists an impoundment of the section 236 reserve funds--the budget authority is being withheld pursuant to court orders and not as a result of executive branch action. For this reason, we do not plan to file suit in this case.

A handwritten signature in black ink, appearing to read "James B. Heath". The signature is written in a cursive, flowing style.

Comptroller General
of the United States