

City sued for paying hundreds of Black residents \$25,000 in reparations

Judicial Watch's lawsuit uses the same argument that the Supreme Court accepted in the bid to end affirmative action programs.



By [Emmanuel Felton](#)

June 4, 2024 at 9:47 a.m. EDT

Evanston, a Chicago suburb, has been credited with launching [the country's first government-funded reparations program](#) for Black Americans. It has paid out nearly \$5 million to 193 of the town's Black residents over the past two years.

But now a conservative advocacy group has filed a class-action lawsuit to kill the program, arguing that it discriminates against the suburb's non-Black residents.

The lawsuit is part of a wave of cases spurred on the [Supreme Court's 2023 decision](#) striking down affirmative action in college admissions. Conservative groups have since targeted [diversity fellowships](#) and waged a legal battle to force the federal Minority Business Development Agency to [open up to White business owners](#).

"This program redistributes tax dollars based on race," said Tom Fitton, president of Judicial Watch, the group that filed the lawsuit against Evanston. "That's just a brazen violation of the law."

Evanston "will vehemently defend" its reparations program, said Cynthia Vargas, the city's communications and engagement manager. She declined to comment on the specifics of the lawsuit, which was filed in federal court at the end of May.

Reparations advocates worry that the lawsuit could derail a national effort to compensate Black Americans for the lingering effects of hundreds of years of discrimination.

“This lawsuit is part of a larger movement to challenge race-conscious programs in all aspects of society,” said Jason Schwartz, a lawyer with Gibson, Dunn & Crutcher who is representing the Fearless Fund, a venture capital firm that provides grants to Black female entrepreneurs, against a similar lawsuit. On Monday, a U.S. Court of Appeals for the 11th Circuit panel ruled that the Atlanta-based venture capital firm should be temporarily blocked from issuing grants reserved for businesses owned by Black women, saying that doing so would probably discriminate against business owners of other races.

In recent years, more than a dozen states and cities, including New York and Boston, have begun studying the possibility of offering reparations to their Black residents. California lawmakers are considering legislation to establish a state agency to oversee potential reparations programs.

Now eyes are back on Evanston, which helped launch the national movement, said Kamilah Moore, chair of California’s Reparations Task Force.

“What happens in this case will definitely have an effect on what kind of programs we see rolling out” in other communities, Moore said.

Judicial Watch’s lawsuit, which was filed on behalf of six non-Black residents of the city, argues that the program’s “race-based eligibility requirement” violates the 14th Amendment.

The amendment was written to guarantee the rights of the millions of formerly enslaved Black Americans after the Civil War. In recent years, conservative lawyers and judges have used it to strike down programs that they say unfairly advantage Black Americans and other minorities.

That argument got a boost last June, when the Supreme Court’s conservative majority struck down affirmative action in college admissions.

The court’s decision closed the door on race-based reparations programs, said Horace Cooper, a former constitutional law professor and the chairman of Project 21, which champions conservative approaches to the issues facing Black Americans.

The decision made clear that just as the government is barred from discriminating against a person based on their race, it also cannot reward people on the basis of their race, Cooper said. “You can have a program that only gives money to people under 30, or you can have a program that only gives money to people in wheelchairs,” he said. “But when you use race, the court has looked on that with a great deal of suspicion.”

Opponents of reparations have also argued that there’s no way to compensate the descendants of enslaved people fairly and that it’s unfair to require citizens who have no family ties to slavery or were not involved in racist government policies to pay for the misdeeds of others.

Evanston’s \$20 million program is open to Black people who either lived in the city or whose direct ancestors lived there between 1919 and 1969. During that period, Evanston officials have acknowledged, it enforced discriminatory housing policies that deprived Black residents of opportunities to build wealth.

Initially, those who qualified for the reparations program received a \$25,000 grant to buy or repair a home. But last year, city officials expanded the program to include an option for \$25,000 cash payments.

Hundreds of people remain on the waiting list.

Since the launch of Evanston's program, Robin Rue Simmons, who championed reparations while city alderman, has toured the country touting it and worked with community activists in more than two dozen cities to replicate it. The effort is also the subject of a documentary, "The Big Payback," that premiered at the Tribeca Film Festival.

Rue Simmons did not respond to requests for comment.

Judicial Watch's lawsuit is about defending the United States' "colorblind Constitution," said Fitton, the group's president.

According to the lawsuit, Evanston's program is biased against the city's non-Black residents and should be limited to people who can prove they experienced discrimination in the city. About 60 percent of Evanston's residents are White, and 17 percent are Black. Hispanic and Asian residents both make up just less than 10 percent of the population.

Reparations advocates in other parts of the country have anticipated these types of legal challenges.

When Providence, R.I., launched its \$10 million reparations program in 2022, city officials said they structured it to avoid a legal challenge. Black and Native American residents qualify automatically, but the city also established a separate income criteria that could include about half its White residents.

Last year, the California Reparations Task Force proposed as much as \$800 billion in reparations but said it should be limited to the descendants of free and enslaved Black people who were in the United States prior to 1900. That type of lineage-based approach would exclude Black residents whose families immigrated to the United States in more recent years, making it more likely to survive a legal challenge, supporters have said.

"The Supreme Court affirmative action decision came down the same exact day of the task force's last hearing," said Moore, who chaired the California panel. "I said at that hearing, this would have been a somber day if we had used a race-based eligibility, but with our approach, I really do believe that we live to fight another day."