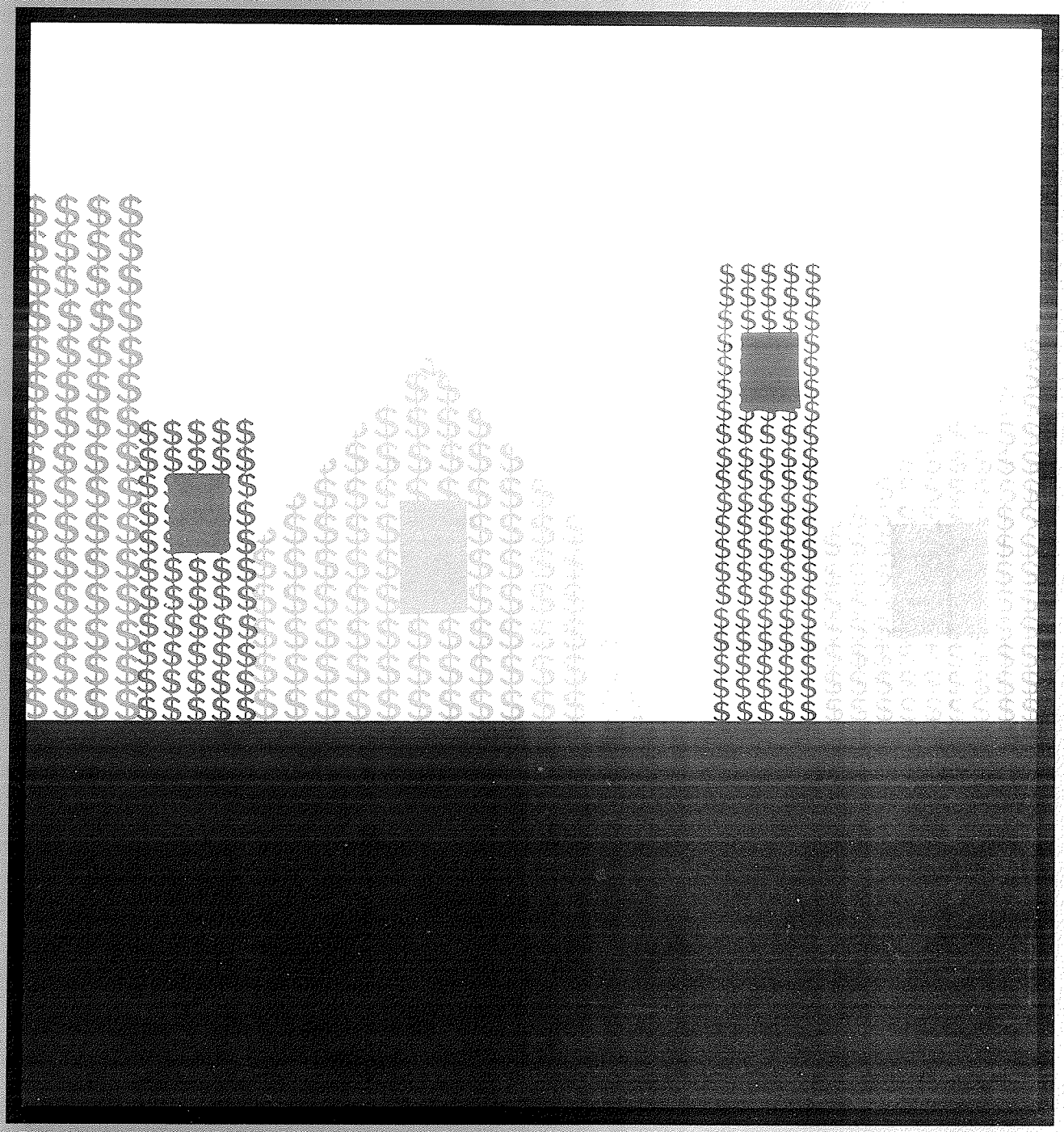
Reinvestment and Housing Equality in Michigan

LOCAL DECISIONS AND FEDERAL FUNDS

A Consultation



Papers presented at a consultation sponsored by the Michigan Advisory Committee to the United States Commission on Civil Rights, Detroit, Michigan, July 9-10, 1979. These papers will be submitted to the Commission for its consideration. [illegible] recommendations should be attributed to individual authors and not to the Commission or its Advisory Committees.

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FEDERAL FUNDS

A Consultation

—Sponsored by the Michigan Advisory Committee
to the United States Commission on Civil Rights

ATTRIBUTION:

Information and recommendations contained in these papers are to be attributed to the individual authors and do not necessarily reflect either the positions or policies of the U.S. Commission on Civil Rights or its State Advisory Committee. This collection of papers will be submitted to the Commissioners for their consideration.

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LETTER OF TRANSMITTAL

Michigan Advisory Committee to the
U.S. Commission on Civil Rights
September 1980

MEMBERS OF THE COMMISSION

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The Michigan Advisory Committee to the U.S. Commission on Civil Rights, purusant to its responsibility to advise the Commission on civil rights developments in the State, submits this report of the proceedings of a consultation on housing equality in Michigan.

The Advisory Committee has in previous years studied and reported on several topics related to civil rights and housing.

The interaction of Federal funding with local decisions in developing and implementing programs represents an important background in the pursuit of equality in housing opportunities. New trends in housing assistance and community development also present new challenges to civil rights and housing. The Michigan Advisory Committee believed that these and related developments deserved a closer look, where Advisory Committee members and those familiar with the issues could examine the status of the quest for equality in changing housing policy and practices.

To provide this closer examination, the Advisory Committee conducted a 2-day consultation on civil rights and housing, encompassing both national and State concerns. The proceedings of that consultation are presented in this report.

The consultation emphasized some areas as particularly significant to the present and future of housing equality: availability of mortgages and home improvement loans, the new categorical grants for community development, and the process of middle class return to the central cities that some have called "gentrification."

The Michigan Advisory Committee plans to follow up these significant areas with detailed studies and investigation, and will report to you the results of its efforts, with appropriate recommendations.

At this time we present to you this report, requesting that you consider it and share widely its contents with people who can have an impact on the equality of housing for all.

Sincerely,

Jo-Ann Terry, Chair
Michigan Advisory Committee

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ACKNOWLEDGMENTS

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The consultation was an assignment of Isidro Lucas, deputy regional director, with assistance from Gregory D. Squires, research writer, and Ruthanne DeWolfe, regional attorney. Support was provided by Mary K. Davis, Ada L. Williams, and Delores Miller. The project was carried out under the overall supervision of Clark G. Roberts, regional director.

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Introduction

The Michigan Advisory Committee to the U.S. Commission on Civil Rights has been concerned for a long time with the issue of housing equality in the State.

As an expression of this concern, the Committee conducted a 3-year project of research and factfinding efforts and submitted three volumes of results to the Commission: *Civil Rights and the Housing and Community Development Act of 1974: Volume I: Livonia* (June 1975); *Volume II: A Comparison with Model Cities* (June 1976); *Volume III: The Chippewa People of Sault Ste. Marie* (Nov. 1976).

In addition, the Committee carries out informal monitoring of the efforts by the appropriate enforcement agencies to implement the civil rights provisions of the grant-making legislation in housing. The results of this monitoring are presented on an ad hoc basis either to the Commission for further advisory action, or to the agenices themselves for enforcement action.

The formal reports have been followed up in dialog with grant-making and enforcement agencies, and State and local authorities, to monitor the level and kinds of implementation of the recommendations put forward by the Committee and the Commission.

A central recurring issue in these efforts to seek equality in housing programs, is the interfacing of the various jurisdictions involved: the federal government as a funding agent, and the state and local authorities as program agents to plan and implement provisions of the legislation that makes the monies available.

In fact, Volume I and III of the Michigan Committee study mentioned above, dealt specifically with this issue as it relates to implementation of the Community Development Block Grants (CDBG) in given communities, particularly the elements of the Housing and Community Development Act (HCDA) legislation and regulations that pertain to nondiscrimination and equality of opportunity.

Volume II compared HCDA with its predecessor, the Model Cities programs (Demonstration Cities and Community Development Act of 1966, 42 U.S.C. §§3301–3374 (1976). In tracing the legislative history of both pieces of legislation, the underlying philosophical trend was readily apparant. The federal government was pulling away from categorical programs, with direct federal determination of priorities in needs and progams typical of the social policy legislation of the sixties, and moving towards a strong emphasis on local determination and decisions, both in planning and in implementation.

This trend was also evident in areas of legislation other than housing. Most of the social or economic assistance programs in the 70s were basically "formula" grant allocations, at times with few if any programmatic directives for specific programs (for instance, the Comprehensive Employment and Training Act of 1973, 29 U.S.C. §§8801–992 (1976).

Most of this legislation retained non-discrimination provisions. All of them fell also under the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d–2000d–6 (1976).

A concern of the Michigan Advisory Committee, in this context, continues to be the effectiveness of the civil rights enforcement agencies, particularly the Department of Housing and Urban Development (HUD) in securing implementation of non-

discriminatory provisions. This constant concern remains as circumstances under which housing and community development program functions vary; the local authorities have acquired experience in the administration of programs and now they approach non-discrimination in many ways. Also, municipal authorities are directly responsible to the residents of the local community, and reflect the feelings and will of those communities. In the fact of this increased complexity, the original approach by HUD of monitoring effect or performance of programs, rather than examining the application itself and the equality aspects of the proposal as presented, needs to be re-examined.

On the other hand, new legislation has been enacted (Neighborhood Strategy Areas, Urban Development Action Grants) that preserves the local latitude in selection, planning and implementation of programs, but targets assistance to geographical or categorical areas defined at the federal level. The programs under this new legislation are discretionary, and there is competition among cities within a general eligibility determination. Provisions for equality and non-discrimination in an application need not be the only conditions for grant-making decision, but can be construed as elements in determining competitive advantage. The resulting civil rights enforcement activities can become more sophisticated, as impact on benefits for the more vulnerable populations can be specified and assessed better on each proposal through pre-award review.

Promotion of equality in housing opportunities appears to the Michigan Advisory Committee as a complex set of tasks and programs today, with demands upon local and state authorities as well as upon HUD. Further-more, developments in the housing patterns, even indirectly connected with federal programs, need to be examined in a civil rights and equality context. For instance, the new phenomenon that has been called "gentrification," the renewal and re-population by middle class of formerly run-down housing areas, is going to have an impact on the poor and minority residents of those areas. This movement back to the central cities may be spurred by non-governmental forces, such as costs and quality of life, and limitations on energy availability. In many cases, however, governmental actions stimulate this movement: the floating of non-taxable bonds by municipalities for mortgages for middle income families; the provision of infrastructures and utilization of municipal eminent domain rights for neighborhood or area renovation, etc. In such cases, not only the general impact of housing patterns on minorities but also the differential impact of governmental action on minorities has to be considered. These new developments in housing may impact on "traditional" exclusionary practices. Limiting access of minorities to gentrified areas, for instance, may conflict with Title VIII of the basic nondiscrimination provisions of the Civil Rights Act of 1968, the Fair Housing Act (42 U.S.C. §§3601-3631 (1976).

Other practices currently in operation also may conflict with Title VIII. For example, the "integration maintenance" activities of some municipalities for the sake of preventing re-segregation in housing and maintaining racial balance, may restrict access by minorities.

Finally, there are provisions of "traditional" non-discrimiation requirements, the enforcement of which may be difficult and require special approaches, such as the "redlining" phenomenon in mortgages and insurance (Insurance Redlining: Fact Not Fiction, U.S. Commission on Civil Rights, February 1979). There are also tools that can be used to detect and gauge discrimination in the housing market, specifically the mortgage practices of financial institutions. These tools include the Home Mortgage Disclosure Act and the Community Reinvestment Act. To what extent these tools can be used and have been has not been documented yet.

In its concern for housing equality, and in the face of these complexities, the Michigan Advisory Committee decided in September 1978 that there was a need for wide-range exploration of current problems and developments, a restatement of the "state of the art" in housing equality. As the Committee planned to continue its involvement in housing, it sought to provide for itself and the general public this type of comprehensive overview. For this purpose, the Michigan Advisory Committee convoked a consultation, under the title, "Reinvestment and Housing Equality in Michigan: Federal Funding and Local Decisions." This document is a report on that consulation.

To structure in some way this overview, three major areas of concern were defined: 1) "Traditional" Discriminatory Activities in Housing; 2) Suburban Homogeneity and Economic Exclusion, and 3) Gentrification and Dislocation. A panel of presentors offered statements in each areas, and this breakdown has been carried out into the format of

this report. The format of the consultation, unlike that of a fact-finding meeting, or hearing, revolved around presentations by experts selected by the Committee and commissioned to offer prepared statements. Discussion followed each major group of presentations, first among the experts, then between experts and Committee members, and finally with the general public. The consultation took place on July 9–10, 1979, at the Detroit Plaza Hotel, Renaissance Center, Detroit, Michigan.

This report then, provides in general the papers presented by the experts, as offered (and modified) in writing. Where the specific presentor did not offer a written statement, an edited version of the transcript of his/her oral statement has been provided. Edited versions are also used to summarize the discussions that followed each group of presentations.

CHAPTER 1

"Traditional" Discriminatory Activities In Housing

The issue here is access to housing on a nondiscriminatory basis. This access is a matter of Federal and State law as well as many local ordinances. Effectiveness of the enforcement of this legislation and even change in public mores has lead many to believe that discrimination in housing access against minorities and women has all but disappeared. To other observers, such exclusionary practices are still quite present, and take the form of steering, redlining in mortgages and insurance, and location of public housing in ways that foster segregation.

This session included a presentation from a representative of HUD who detailed the non-discrimination enforcement activities of the Department. Other speakers examined various current discrimination problems.

Federal Enforcement of the Fair Housing Act

By Kenneth Holbert

U.S. Department of Housing and Urban Development*

For the last 10 years, we at HUD have had a really fabulous opportunity, and that is to take a new civil rights law, the Federal Fair Housing Law, and to convert it to administrative procedures which would operate successfully with a statute that was imcomplete. The Congress, in 1968, passed what some of us refer to as half a statute. It provided for investigative authority, very clearly, but then it tailed off into a voluntary kind of conciliation activity which gave to the Secretary of the Department no authority to command a response. It did, however, provide, in Section 812, for private litigation in the federal courts or in the appropriate state courts, for individuals whose rights had been denied under the statute.

We've taken what we were provided, and established a basic system for notice, response, investigation and conciliation. Because of the nature of the staff and the various secretaries and their attitudes toward discrimination, we have used the statute in the most creative fashion available.

We now approach a second decade of the Federal Fair Housing Law and we propose a number of actions which I would share with you this morning.

Key among the actions is the emphasis on the need to complete the work which the Congress initiated in the '68 Act, and that is to provide enforcement authority to HUD so that the Secretary of theDepartment might not only receive and investigate complaints, but issue orders both preliminary and final which would require observance of the statute. . . .

An Assistant Regional Administrator for Fair Housing and Equal Opportunity [Robert Tucker, now a lawyer in private practice in Chicago] had the view in 1968 that the principal purpose that HUD might seek to achieve was to conduct meaningful investigations and turn the reports over to private attorneys who might then litigate the matters. I had a slightly different view, I thought that we could use the conciliation process effectively, but I have never forgotten his emphasis on the role of the private attorney in connection with the statute.

In that vein, then, we pursued a course of investigation development which emphasized quality investigations, complete investigations, so that the conciliator would have, as a foundation, a document which would command the interest of the respondent because the facts would be so clear that whether we had enforcement authority or not, the respondent would be willing to resolve the complaint. And, we've been successful in that approach, never forgetting, however, that the enforcement authority in the existing federal law is in the hands of the complainant.

Now, in that regard, we have for several years conducted seminars for private attorneys on the proper means of enforcing, through court action, the federal statute. We have also, for several years, conducted training or seminars for state and local enforcement bodies to share with them such knowl-

* Mr. Holbert made his presentation orally. Edited excerpts of the transcript of his remarks are provided here.

edge as we had acquired and to assist them in the development of their regulations and procedures. We developed a regulation called "The Substantial Equivalency Regulation," which is Part 115 of the Federal series, and under that regulation we granted tentative recognition to states and began the referral process in 1968. We interrupted our referrals in 1975 because we felt that the states, in most instances, did not have the resources to properly process the complaints that they received. We resumed recognition in 1977 and '78 and we currently have recognized 22 states and the District of Columbia as being substantially equivalent. Among those states, of course, is the State of Michigan, and the State of Michigan was among the first to, not only respond to the recognition, but to sign a Memorandum of Understanding with the Secretary of HUD and we do make referrals to the State of Michigan. . . .

There are many ways to address. . .[the issue of] traditional forms of discrimination. . . .Discrimination in housing is a local matter. The intervention of the federal government and state governments is partly in response to the lack of intervention or response at the local level.

We had a conference in Washington one day of private attorneys and one of them, in his effort to explain to us why there was a need for federal regulations interpreting the Fair Housing Law, said very simply, 'You're the cop, and you should be able to tell people in advance what constitutes a violation of the law.' And, in response to that, we are currently developing regulations which address our interpretations of the federal law, hopefully as guidance to state and local officials and private individuals who are charged with the administration of fair housing laws, or who would establish laws which define what constitutes a violation of the Federal Fair Housing Law.

Secretary Harris prepared, in response to the current statement by the United States Civil Rights Commission with respect to the various deficiencies which have been identified in connection with the administration of that law, her views and her program with respect to the future.† In her letter, she indicated that the first priority is the enactment of the amendments to the Fair Housing Law to give HUD cease-and-desist authority. Former Secretary Carla Hills testified in support of bills which were then in the Congress. Mrs. Harris has twice testified and the Department has been very actively involved in supporting the legislation now before the Congress.

Secondly, she indicated in her letter, that she proposed a total reorganization of the leadership and structure of the HUD Fair Housing Organization and, in that connection, she has provided additional staff and additional resources. Our Current Assistant Secretary, Mr. Sterling Tucker, has been provided two deputies to assist him. One, Mr. Weldon Lathan, is the General Deputy and acting as the Director of Compliance, covering both Title VIII and Title VI. The other, Mr. Peter Kaplan, has the responsibility for strengthening our field organization and providing proper support to the people who serve in our regions and in our area offices such as the area office here in Detroit.

In addition, she has given support to and urged that the substantive regulations which have been under development be pushed forward and moved into the federal register for consideration. These regulations cover, in their proposed form, areas such as redlining, broker conduct, financing, advertising and related areas. In addition, the regulations will reestablish HUD's leadership of fair housing enforcement in government and provide a basis for renewed efforts by other agencies. The Agriculture Department, for example, will receive special attention—and that, too, is a different issue which I hope to have time to return to.

As far as our complaint processing procedures, she has recommended and we are installing a new rapid complaint process. The theory can be stated very simply, and I remember a former colleague who said to me that, 'You know, it's unfortunate that it takes so long to respond to a complaint.' It was her theory that if we did not move any faster than we were, that we might be better off to simply send an apology and a check rather than conducting investigations. The nature of fair housing actions is such that if you don't address the problem, you don't get the house and the remedy which you might later achieve has little significant value at least in the stream of activity which the individual commences when he or she sets out to purchase a home. . . .If you cannot address the problem as a part of the normal search for housing and have the matter addressed in terms that the individual seeks, which is the house or the apartment, then the response by

† The Federal Fair Housing Enforcement Effort, U.S. Commission on Civil Rights, March 1979. Ms. Harris' letter of Mar. 2, 1979 in response, is being distributed with the report as an addendum, in an enclosure format.

way of a conciliation agreement or an order from a court does not have the same meaning that the individual who sought the housing would recognize. It's like when you go into a car dealer and the particular model is not available, then they'll take you out into the lot and you can walk back and forth and find a comparable model and drive away having signed the necessary papers and pledged your future income in the process.

With respect to another aspect, however, of complaint processing, the Secretary has also set in motion a new systemic investigation unit, drawing for the first time upon the Office of the General Counsel to work with the investigators at the point that the case or complaints arise. The theory is simply: if an attorney, an intake person and skilled investigators can work together, then the case can be pursued properly and addressed in a form which will be of value either to the Justice Department or to a private attorney, if conciliation does not work.

Finally, the Secretary has approached the relationships with other federal agencies in a new light. Back in 1969, we started the process of contacting and dealing with the programmatic areas that our sister departments and agencies are charged with. We focused on the federal financial regulatory agencies because they have such a close relationship with lenders—savings and loans, and banks—who make mortgage loans available. I can say that considerable progress has been made in this area, both through the efforts of HUD and through the efforts of private litigants who have sued the federal financial regulatory agencies and drawn from them consent decrees in the case of three of them, and efforts which grew out of the lawsuit resulted in a new structure at the fourth, that is the Federal Reserve.

The private fair housing organizations have been, from my vantage point, the most creative and active participants in the enforcement of the Federal Fair Housing Law because again they are local. The activity which they are engaged in is designed to address local problems. They have drawn upon private funding, essentially, their own efforts to secure the necessary financing and staff, but the creativity with which they have pursued the enforcement of. . .state, local and federal fair housing laws has been most impressive. . . .[T]he local fair housing groups have been at the very heart of all of the efforts in the fair housing area.

The Secretary has, this year, decided that the informal arrangements that we have enjoyed with private groups can be formalized without getting into contract law. A new concept, one which is called a cooperative agreement, between HUD and the local fair housing groups will be mounted, which will permit them an active role in the enforcement of the federal law which would allow both for limited funding to the local groups, but more importantly a close working relationship between the local group and HUD. And, from my vantage point, that is perhaps the most interesting and perhaps the most significant new initiative which the Secretary has agreed to and there is much more to be said in this area and Mr. Schermer may wish to comment further.

In addition. . .we have always sought to provide. . .technical assistance to state and local groups; but this year, in our budget, after many years of effort, there is a line item in the HUD budget for funding for state and local official enforcement groups. . . .[In the past, and in relationship to "substantial equivalency programs" there has been some skepticism on the part of state and local government groups, which had enforcement powers, with the leadership role that HUD could assume, lacking enforcement authority. While the Department looked at its lack of enforcement power as transitory, cooperation with local and state groups has proven useful in encouraging state and local legislation, as well as a streamlining of procedures.]

With the assistance program, if the Congress agrees,. . .we are asking for $3.7 million which would be available for allocation to states and to local agencies with fair housing laws. Our thought there is to strengthen the capacity of the states to administer their own laws, to develop with them improved data capabilities and, of course, to engage in training of their staffs and those who work with them.

The overall picture of fair housing, as we observe it, is one of considerable optimism. Optimism because of the actions by the Secretary of this department in strongly supporting the enactment of the Edwards-Drinnan bills, and, as she said here in Detroit on the night that she addressed the NAACP annual conference, there ought to be a significant outcry and structured support for the enactment of the completion of the Federal Fair Housing Law. . . .

. . .The volume of cases which all of us, state and federal alike, receive as it relates to the incidence of discrimination is quite low. There is yet a lack of belief on the part of the average person who encounters discrimination that anything of real assistance can be done by either the federal government or the state or local organizations in terms of the completion of a market transaction.

That, I think, is the key aspect to fair housing. The individual who seeks housing, who seeks a loan is engaged in a simple market transaction. The intervention of discrimination prevents the completion of that occurrence. As has been demonstrated over and over again, most instances of discrimination are not known to the individual who is the victim. In those instances where there is awareness, there is a hard decision to be made by the individual, and that is whether the individual wishes to expose himself or herself as being a victim. I would not equate this situation to the experience of a rape victim, but there is, at least psychologically, an element of self-identification which is difficult for the individual to address, to decide upon.

In the marketplace, if you cannot purchase an item which is on the market, it seems to be a part of the American psyche that you, in some way, wish to explain to yourself and you would rather explain to yourself why you didn't complete that market transaction. . . .[I]t is a very difficult personal decision for an individual to reach, to in effect proclaim, even under the strictures of silence or non-disclosure, that they, in an American society, are unable to complete a transaction. And, I think that issue is the one which has to be addressed.

Must it always be the responsibility of the victim to proclaim that the law is not being enforced? That is the current system. New approaches, particularly those of some of the financial regulatory agencies, may alter it in part. The provisions of the Edwards-Drinan Bill which would give the Secretary the authority to initiate a charge may be a partial answer. But, to conclude, I think that the combined efforts of federal, state, local and private organizations to end discrimination ought to be focused on a form of relief, and that is to relieve the individual from proclaiming that the law does not exist as far as that individual is concerned.

Steering: Realtors as Gatekeepers

By George Schermer

Private Consultant

The topic assigned to me in a communication signed by by JoAnn Terry and Isidro Lucas appears at the head of this paper. I hasten to inform you that I shall not limit my remarks to the phenomenon of steering and I shall identify many factors in adddition to Realtors as the gatekeepers of racial practices and patterns in the housing market.

I'm sure that the persons who phrased the topic were thinking of real estate brokers, agents, and others engaged in the marketing of housing in a more generic sense when they used the term Realtors. I have no desire to belabor the point. The term Realtor was coined and copyrighted many years ago by the National Association of Realtors (NAR) to identify bona fide, paid-up members of the NAR. You may be a licensed real estate broker or agent but you are not a Realtor unless you are an NAR member. I point this out, not for your edification, but to reassure my Realtor friends that I'm sufficiently informed and sophisticated to know this.

I feel constrained to add that we should guard against over- simplification. The operators of the real estate market function as gatekeepers, to be sure. But the combination of forces which collectively sustain the dual housing market is extremely complex. If our concern is to assure a truly open housing market, to guarantee equality and freedom of choice in the market and to encourage mobility for blacks and other minorities, we must go much farther than simply stereotyping and flogging the real estate brokers and agents.

The First Premise—The Fact of Discrimination

I presume that the reason you invited me to participated in the Consultation is that in the eyes of some folks at least I ought to know better than anyone else in the United States where there is, indeed, discrimination in the housing market. After all, I was the overall manager of what has been called the Housing Market Practices Survey which quickly fell victim to the acronym "HMPS." As you know, that survey was conducted by the National Committee Against Discrimination in Housing under contract with the U.S. Department of Housing and Urban Development (HUD). The Survey was conducted in forty metropolitan areas in the United States. Detroit and Saginaw were among the forty areas.

A major objective was to measure the extent to which discriminatory practices prevailed in the United States. Of greater interest to me were the specifications for testing a series of 33 variables to determine whether the incidence of discrimination in the market place could be correlated with such factors as the existence or non-existence of a state fair housing law, the activities of local private groups in support of fair housing such as testing and litigation, income status of black population relative to whites, rate of growth of general population, and rate of growth of black population relative to white.

The NCDH contract called for organizing and conducting the audits in the 40 sites, collecting the data, having it key punched and entered onto computer tapes, and delivering the entire package to

HUD. HUD retained to itself the full responsibility for analyzing the data and interpreting the results.

In April of 1978, HUD issued a preliminary report. Briefly stated, the findings confirmed what everybody knew to be the fact before the survey was undertaken. *There was, indeed, discrimination in the housing market.* The report was not only preliminary—it was cursory. It reported only on the data as to availability of housing and such matters as courtesy and only on a national and regional scale. There was no data on steering; nothing related to the variables that were being tested. There was no site specific data.

The HUD report was so stated as to imply that housing discrimination was found to exist at a much higher level than generally assumed. Discrimination was found to have occurred 29 percent of the time on rental tests and 21.5 percent of the time on sales tests. My own reaction to the data was that it reflected a much lower level of discrimination than I would have assumed. If only 21.5 percent of the brokers were found to be discriminating, then it could be said that 78.5 percent were not. The HUD report said that an incidence of 21 percent discrimination has a devastating impact upon the perspective and behavior of the minority homeseeker. It pointed out that if a black homebuyer were to visit as many as foud real estate brokers he or she would have a 62 percent chance of being confronted with discrimination at least once. That prospect, the report said, would discourage the majority of black homeseekers from probing the market at all. As of the moment this paper is being written HUD has not yet issued its first formal report on the test data. The draft of the formal report has been in a state of near readiness for some time. Both Mr. Holmgren, Executive Director of NCDH and I were asked to review and comment on the draft, which we have done. I am not authorized to reveal the data as it is presented in the upcoming report before it is released by HUD. The formal report is voluminous; it goes into considerable detail concerning methodology. There are many more tables.*

However, it tells us no more than the preliminary report did. *It tells us that there is discrimination.* As a result of further, refined analysis the report incidence of discrimination is slightly lower than what appeared in the preliminary report. There is still no data on steering. There are still no correlations for the several variables being tested.

The report does not tell us whether there is less or more discrimination in states that have fair housing laws than in states that do not. It does not tell us whether an active local fair housing center makes a difference or not. It does not tell us whether there is less or more discrimination in areas where the housing market is tight as compared with those where there is a housing surplus.

Some Personal Observations Concerning the Survey

What I've said in these opening remarks covers the essence of all the conclusions HUD has come to from the HMPS to date. When you eventually see the report you will be impressed with the descriptions of the methodology and if you are a professional statistician you will be intrigued by many of the tables. You will not learn much more about the incidence and nature of discriminatory market practices than what I've just told you.

Until recently, I've refrained from commenting extensively on the data we collected until HUD itself had issued its formal report. Because so much time has transpired and because the report that HUD is about to publish tells us so little that we didn't know before the Survey was begun I believe that I can legitimately share a few observations that are strictly my own. They are based upon my experience with the Project, the observations I was able to make as I supervised the routine check of the returns before transferring them to the data processor and the narrative reports of our auditors, coordinators, and supervisors.

Because our audits were conducted almost simultaneously in all 40 sites I could not have visited all of them while the audits were in progress. However, I managed to visit two or three in each of five of the six regional areas while the audits were in progress and I sat in on a number of debriefing sessions. I was in daily communication with all six of the regional coordinators and no day passed that two or three local supervisors did not call in for information or to resolve some problems. As the audit reports flowed into my office from the 40 sites, I had ten graduate students checking the returns for completeness and to resolve whatever discrepancies appeared. This

* The report, *Measuring Racial Discrimination in American Housing Markets: The Housing Market Practices Survey,* HUD's Evaluation Division, Office of Policy Development and Research, was published in late summer 1979, with a publication date of April 1979 (editor's note).

eyeballing process could not be called analysis but it did not leave me with a number of observations.

I share these personal observations with you now but I must emphasize that they are not based upon tabulations of the data and I am not presenting them as official findings from the Survey.

FIRST: In my opinion, a substantial proportion of those test units that HUD has put into the column that was labeled "equal treatment" in the preliminary report and will be labeled "no difference" in the latter report would be better labeled "inconclusive". HUD is rightly counting only those audit reports that conclusively reflect a difference of treatment as indicators of discrimination. But the testing technique lacks precision in detecting discrimination, especially in its more subtle forms. Except in rare instances, each real estate or rental office was tested only once. It was expected that a significant proportion of the tests would be inconclusive rather than clearly indicating either differential treatment or genuine absence of discrimination. If the "inconclusives" were separated from the "no difference" column and dropped entirely from the total count the relative level of discrimination would be registered at a higher level. I am doubtful that this distinction can be made by computer. Manual analysis by competent, objective persons familiar with real estate practice is probably necessary.

SECOND: In HUD's analysis a varying proportion of the tests in each area showed unequal treatment favoring blacks over whites. HUD appropriately states that differential treatment can result from factors other than motivation to discriminate on the basis of race. For example, the white auditor may have been interviewed by an agent who tends to treat all customers rather discourteously. The black tester may have been interviewed by a different, more gracious agent. The test result might show that the black received the more favorable treatment. To eliminate factors of that type as much as possible from influencing the results HUD has subtracted "black favored" from "white favored" to arrived at a net figure for discrimination.

The proportion of "black favored" is much highere for sales housing than for rental. This has not surprised me at all. There is little opportunity for steering in rental housing. There is much less opportunity for finessing discrimination on rentals. If the rental agent wishes to avoid renting to a black applicant, the techniques of avoidance tend to be transparent. On the other hand, a great many brokers are as anxious to make sales to black prospects as to whites. There is less motivation to refuse service. There is the hope of earning a commission while steering the prospect away from exclusively white areas. Also, there will be opportunities to turn the customer off farther down the road. If and when the steering data becomes available, I predict that the "black favored" figures will be substantially reduced.

THIRD: I mistrust the system of analysis which must necessarily be pursued when the data processing is done by computer. A manual processing of the data might produce quite different results. For example, Dr. Juliet Saltman of Kent State University served as one of our six regional coordinators. Dr. Saltman was the first in the nation to develop and perfect the auditing or testing process to a technique that could be considered scientific. Dr. Saltzman requested each of the eight supervisors under her direction to tabulate their findings on the tests in their respective areas and to report the results to her. She has done her own analysis of the results for her region which have been published in the January issue of the Annals. In her analysis the "inconclusive" returns are separated out. In Nashville, for example, she reports that out of 30 rentals tests, 10 reflected discrimination, 6 were inconclusive, and 16 showed no evidence of discrimination. Of 38 sales tests, 21 indicated discrimination, 9 were inconclusive, and 8 showed no evidence of discrimination. Her method of calculation would register a 41 percent level of discrimination in rentals and 72 percent on sales. HUD's method would have registered 33 percent on rentals. We cannot tell what HUD's method would have shown on sales because Dr. Saltman's figures take steering into account while HUD's calculations to date do not. For Canton, Ohio, her results show an 83 percent level of discrimination for rentals and 96 percent for sales.

I concede that Dr. Saltman's figures are based upon what were probably rather subjective judgments of the audit supervisors. I am not asserting that her results are anymore devoid of error than those produced by HUD. What I would like to see done is to have a qualified person or group conduct a separate analysis of the HMPS test returns and to compare them with the HUD product.

FOURTH: The original concept of the form the survey should take required that the market as a whole should be sampled. In other words, we set out to measure how much discrimination would occur in

the entire supply of housing that would be on the market on any given day or week. Our method of sampling was to pursue a predetermined set of procedures for randomly selecting from "for rent" and "for sales" ads appearing in the classified pages in the local metropolitan press. To illustrate: In a given area, we were to conduct 50 tests of sales housing. On the weekend preceding the beginning of our audit the metropolitan press carried approximately 1,000 ads for houses for sale. In essence, we selected every 20th ad although the selection was, in fact, made through a set of random numbers selected by computer. I have no criticism of the manner in which that part of the sampling was done.

However, by following this approach we were testing not only in the exclusively white suburbs but in that part of the market which everyone knew was already open to blacks and often was being affirmatively marketed to blacks. Thus, we were spending a lot of our resources in measuring how much of the total supply would be available to blacks rather than zeroing onto those parts of the market where discrimination would be most predictable. If our sample could have been much larger, I would concede that our approach was the right one. Given the fact that our sample was so thin I'm afraid that we missed an opportunity to chart the dual character of the market.

FIFTH: One of the variables we were expecting to test was whether a state fair housing law made a difference. HUD has not run that data through but I'm prepared to venture a prediction. There may be some difference for those few states where a state fair housing agency is quite vigorously enforcing the law. However, if we compare the overall results for those states that have laws with those that don't we'll see no difference at all.

SIXTH: A second variable we were expecting to test was whether a well organized local fair housing center actively engaged in testing and litigation makes a difference. Again, HUD has not processed the data. When and if there *is* a report, I have a hunch that we will see that such a group *does* make a difference.

SEVENTH: Even though I believe that the analytical methodology pursued by HUD understates the incidence of discrimination by about half, I still think that the Survey shows that the housing market is more open than I would have believed to be the case three years ago before I became involved in the Survey. The market is not wide open by any means but it is no longer tightly closed either. Conditions vary from one metropolitan area to another and from one community to another in any given metropolitan area. However, I am persuaded that outright racial bias in the housing market is on the decline and has been significantly reduced in the ten years since Title VIII was adopted. A strongly motivated black family, economically competitive has a much better chance of finding and obtaining the house of its choice than was the case a few years ago.

This is not to say that I expect to see significant change in racial residential patterns in the forseeable future. The persistence of such patterns, however, will be due to a combination of factors of which discriminatory practices will continue to be one, but one of declining importance in relation to the others.

The above concludes my remarks with reference to the findings of the HMPS Project to date. The balance of the paper is based upon information from other resources and upon my own experience and observations.

The Dual Market and Integration Maintenance

Your phrasing of the topic assigned to me with the emphasis upon *steering* and your request that I comment upon the Bellwood decision recently handed down by the U.S. Supreme Court leads me to believe that you expect me to dwell to some extent upon the growing controversy over what is being called "integration maintenance." There is little controversy these days about either the moral or legal aspects of discriminatory market practices. Blacks and whites, liberals and conservatives, civil rights advocates, real estate operators in general, and the NAR in particular are in substantial agreement on the principle that no one should be denied access to a dwelling that is on the market solely because of one's race, color, national origin, religion, or sex.

We are far from agreement on how much should be done either under government auspices or by voluntary, private organizations to regulate the market for the purposes of affirmatively promoting integration or of maintaining racial balance in racially inclusive neighborhoods. Prohibiting discriminatory practices is one thing, trying to "manage" integration and racial inclusiveness is another. The issues involved in maintaining integration present many of the same type of legal and political

dilemmas that have arisen in connection with busing to achieve integration in the schools or conducting affirmative action programs to bring about greater equality in employment.

In approaching this issue I shall start with some observations concerning the dual market and the various factors that sustain and reinforce it.

The dual market exists—it is especially evident not only in the contrast between the central city areas of black concentration and the substantially white suburbs, but in the marked formation and expansion of black enclaves in the suburbs. Several studies in recent years indicate that there has been substantial movement of central city blacks to the suburbs in the past two decades or so, especially during the seventies. This information has caused some observers to conclude that there is a significant trend toward more integrated residential patterns. A closer look at the data indicates that while there is some reduction in exclusively white patterns the greater part of the suburban migration of blacks is resulting in resegregation. Obviously, there are powerful forces at work that continue to reinforce the dual market.

We need not argue about the role of the real estate operators in engineering the dual market and the segregation patterns in the past. We should not forget, however, that government itself played a major role through its own housing finance programs or that all but a small minority of whites expected real estate brokers to function exactly as they did. Any broker who became involved in a transfer of a property to a black family was automatically branded as a "block buster," an unethical person who was concerned only for making a fast buck.

This mind set on the part of the white majority forced the real estate operators to polarize into two groups; those that generally refused to market properties to blacks and those who made such transaction a specialty. For many years, I found myself at odds with friends who considered themselves liberal supporters of equal rights for minorities. They believed that blacks should have the same access to the housing market as whites but they considered the broker who handled transfers of property to blacks to be an unprincipaled person. My own view was that while many of the so-called block busters were persons I did not like very much—they were performing an essential service. Without them blacks would not have obtained any shelter at all. Further, they represent only the reverse side of the so-called legitimate operators. The broker who refused to handle transfers to blacks automatically made the professional block buster essential.

It is not my purpose here to plead the innocence of the real estate industry past or present. I do grow impatient with those who confuse the simplistic stereotyping of a group such as the real estate operators with problem solving. We need to develop much greater precision in identifying exactly who plays particular roles and why those roles are played as they are.

I will illustrate my point by citing the following observations which are based in part upon research reports that have crossed my desk and in part upon personal experience:

(a) A significant proportion of the real estate brokers rarely, if ever, discriminate against blacks or steer them. There is no need to. By virtue of the locations of their offices, they simply do not have black clients or prospects. They do not have listings to which they could steer blacks. If an occasional black prospect comes to the office such a broker may refuse service or seek to mislead or misdirect the prospect which would constitute discrimination. More likely, he may take the view that "lookers" may be testers and that there is minimal risk in exercising courtesy and treating the prospect as a bona fide customer. A high percentage of the persons visiting a brokers office do not put in a contract in any event.

(b) A second group of brokers are so located that they receive listings from both exclusively white areas and black, transitional or relatively stable integrated areas. Both black and white prospects visit their offices. There is ample opportunity and considerable incentive to steer. Insofar as white or black customers "self steer" by voluntarily requesting particular neighborhoods (and this is common) there is no violation of law in accommodating their wishes. There may be an occasional customer who is sufficiently motivated and sophisticated to resist steering. If the broker or agent is overt in his/her steering effort he/she is running the risk of being the object of a complaint. Brokers who steer requlary and persistently are highly vulnerable to testing. A local fair housing group can be quite effective in policing such activity.

There is a third group of brokers who specialize in the transfer of properties from white to black. They may be a significant factor in what is perceived as the steering mechanism of the market as a whole but they are not themselves necessarily steering. Their listings consist almost exclusively of properties in transitional or racially inclusive neighborhoods. They have nothing else to show. They affirmatively market to blacks. They probably avoid seeking white customers. They may not be technically in violation of the law unless they are so aggressive and overt in their solicitation of listings in inclusive or transitional neighborhoods that they open themselves to charges of violating the so-called "anti-blockbusting" clause of Title VIII (Sec. 804(e)).

In this connection it should be noted that a very high proportion of both black and white homeseekers "self steer" by (a) selecting the brokers who specialize in handling properties in transitional areas of (b) expressing preferences concerning the particular neighborhood where they would like to live. There is no technical violation of the law if a black homeseeker goes to the office of a broker who has a number of listings in a transitional neighborhood and specifically expresses an interest in purchasing in that neighborhood.

What I'm trying to state here is that while the market as a whole functions to steer blacks to one set of neighborhoods and whites to others we do not necessarily have violations of the law by particular persons or firms. Even when violations do occur it is difficult to assemble the evidence that will stand up in court.

In other words, the law can be quite effective in protecting the rights of persons who are prepared to assert those rights. It is much less effective in protecting the interests of whites who are prone to panic or of blacks who in effect invite steering by patronizing brokers who specialize in properties and a process that extends and reinforces residential segregation.

Exercising Choice, The Right to be Segregated?

There is little argument any longer about the rightness of laws to protect the exercise of choice. If a black homeseeker decides that he or she wants to live in a choice neighborhood in Dearborn and makes an offer on a house that is on the market there, the law requires that that person's right to purchase and occupy the property be protected. I suspect there would be some whites in Dearborn who would favor the exercise of illegal measures to prevent the transaction but the larger Detroit area community and blacks in general would ask that the purchaser be given the full protection of the law.

The same principle applies, of course, to the exercise of the right of a black person to purchase a home or rent an apartment in a neighborhood that is already fully integrated but is at the point of becoming predominantly black.

It is at this point that we run into the dilemna of residents of such communities as Oak Park, Park Forest, Calumet Park, Bellwood, and Park Forest South in Illinois, all suburbs of Chicago, or of Cleveland Heights and Shaker Heights as suburban communities in the Cleveland area. Whites in those communities say they welcomed their first black neighbors. Those whites and many of their black neighbors say that they value the integrated character of their neighborhood and want to preserve and stabilize the racial balance that has been achieved.

Maintaining racial balance is difficult unless local conditions and circumstances are such that demand from both whites and blacks is relatively balanced. That happens, but it is rare. In the case of the several communities mentioned above, a number of real estate brokers, white and black, (not necessarily Realtors and not necessarily all or even a majority of local brokers) are doing all they can to exploit the situation. If they prevail, it is highly likely than many of the areas will become predominantly black communities. The respective communities mentioned have been experimenting with various devices for controlling occupancy patterns and maintaining racial balance. Nearly all are municipal jurisdictions which enables them to take measures that have the force of law or can be supported by public resources or both.

Shaker Heights is an example. Shaker Heights public school system has long enjoyed a reputation for superiority. The population is generally middle class. Part of the community is wealthy. Only one neighborhood would be considered working class (not poor) and that has become all black. The high quality of the school system makes the community highly attractive to middle class child rearing white families and is a major factor in preventing white flight. But the quality of the schools is exactly the reason why middle class and upwardly mobile

working class black families will sacrafice and pay a premium to obtain housing in the Heights.

Because one neighborhood became predominantly black, the Shaker Heights school system has, in effect, abolished school district boundaries available to all. The result is one of maintaining racial balance throughout the system.

The municipality supports a housing office which functions as a referral and counseling service to homeseekers and in many respects as a real estate agency. It encourages local home owners who are contemplating selling their homes to list with it first, giving it an opportunity to find a prospective buyer before the house is put on the market. Once the buyer has been found the house (with buyer) is listed with a real estate firm which handles the transaction. Needless to say, much more effort is being expended to find white buyers than black ones.

Thus far, Shaker Heights has been quite successful in maintaining its pattern of integration in the middle income neighborhoods. Older, less expensive, working class houses have become largely black occupied. The large homes of the wealthy are all or nearly all white occupied. The program enjoys strong support from both the white and black middle class home owners. There have been complaints from the black residents of the less affluent neighborhoods that the city has not worked as hard to maintain integration in their areas and that the quality of city services deteriorated as the proportion of white residents declined. (I doubt that the latter charge can be sustained.)

There can be little doubt that blacks from the outside, wishing to move into Shaker Heights are not accorded treatment equal to prospective white purchasers. In spite of this, the underlying trend in recent years has been in the direction of a rising black population and declining white. This trend may slow down or be reversed as economic and energy problems bear increasingly upon the choices people make in deciding where they want to live.

In the case of Shaker Heights there is unquestionably pressure from some real estate brokers to accelerate the movement of blacks into the community. The greater pressure, however, is exerted by demographics. The white population is aging. Each year the relative proportion of black children in the lower grades increases. The people who put their houses up for sale are the white couples who are past the child rearing age. Standing at the city line, so to speak, are upwardly mobile, younger black child rearing families who want their children to have the advantages of an education in Shaker Heights' schools.

We can't hold real estate brokers responsible for these demographic facts.

The greater Chicago area is currently the scene of rather forthright innovative efforts by suburban jurisdiction to promote "integration maintenance." Several of the jurisdictions have been mentioned above. City councils have adopted fair housing ordinances that go far beyond Title VIII in that they seek to promote integration rather than simply prohibit unequal treatment. The ordinances seek to regulate or forbid the posting of "for sale" or "for rent" signs, to bar solicitation of listings by real estate brokers, to require registration of brokers, and in one case, of owners who wish to sell.

Oak Park debated but did not adopt a municipally ordained system of quotas. Several of the jurisdictions support housing centers which engage in prepurchases counseling of homeseekers to encourage whites to "buy into" integrated blocks and to persuade blacks to shop for houses in predominantly white areas. Nearly all are attempting, by one means or another, to promote "affirmative marketing" in the interests of maintaining integration.

For my information on what is happening in these Chicago suburbs I am relying heavily upon the May and June issues of the *Chicago Reporter,* a highly responsible and reliable "monthly information service on racial issues in Metropolitan Chicago." I am taking that publication's word that none of the ordinances impose mandatory requirements upon prospective buyers or renters or upon brokers or agents that would be in violation of Title VIII. There can be no question, however, that a number of municipalities are supporting voluntary programs that would set limits upon the proportion of blacks that could live in an integrated neighborhood. Thus far, there has been no effort to restrict the proportion of whites in such situations.

The real estate industry, particularly the NAR, has challenged these municipal programs as going too far, to be unconstitutional, and in violation of Title VIII. Organizations seeking to stabilize racially inclusive neighborhoods generally applaud them. In the Chicago area, it appears that the Leadership Council for Metropolitan Open Communities and several other fair housing groups support the programs in principle although they may be critical of some specific activities. The National Committee

Against Discrimination in Housing is sympathetic but is reserving judgment concerning the line of demarcation between protecting individual choice on the one hand and on the other, limiting choice in the interest of maintaining integration.

It would be erroneous to suggest that the black community is either supporting or opposing these programs. Certainly, a substantial number of black residents of integrated communities are supportive of efforts to keep them that way. On the other hand, black brokers, some local black civil rights groups, and others are vehement in their opposition, charging that such activities infringe upon the rights of individual blacks and constitute efforts by whites to "manage" blacks.

Supporters of the program insist they are not attempting to limit the exercise of choice by individuals, black or white, but to regulate the activities of those real estate brokers and speculators who specialize in the exploitation of neighborhoods which have welcomed black residents, have striven to remain open, and inclusive and could do so if left alone.

The Bellwood Decision

Much interest is being expressed in the recent Supreme Court decision on what is called the Bellwood case. Technically, the only issue that has been decided thus far is one of standing to sue. The case must still be tried on its merits. The question was whether the city of Bellwood and a group of persons either living within certain affected neighborhoods in Bellwood or in the vicinity, who are not in a position to charge that they were the direct objects of discrimination, nevertheless have standing to sue brokers and others on the grounds that their (the brokers') activities are unlawful under Title VIII and are injurious to the community.

This issue was comparable to but an extension of the issues that came before the Court in the Trafficante case. Both the Trafficante decision and the Bellwood decision are of tremendous importance to groups concerned for fair housing enforcement because they substantially broaden the base of those who have standing to sue. It means that community groups and municipalities can get into the act. The burden of enforcing the law does not fall solely upon the shoulders of the victims.

Whether the litigants in the Bellwood suit can win their case on the merits remains to be seen.

Factors Governing Choice

We will not have adequately considered this subject until we give some thought to the factors which govern the choices exercised by blacks and white householders in selecting a neighborhood on the one hand or electing to move away from a neighborhood on the other. This is a complex subject and I can only touch upon it briefly.

About ten years ago I conducted a survery of about twenty stable racially inclusive neighborhoods in various parts of the country. The purpose was to determine whether such neighborhoods became integrated and stable as a result of a design and effort by local residents or were simply the product of a happy combination of circumstances. The results were published in pamphlet form by the Potomac Institute under the title *Housing Guide to Equal Opportunity* which was not entirely descriptive of the subject matter.

The survey was not designed to provide a statistically valid sampling of opinions. I undertook to interview informed persons, neighborhood leaders, school officials, a few retail store managers, etc. On the basis of those interviews I came to the following conclusions:

- The neighborhoods that showed considerable stability as well as racially inclusive occupancy patterns all possessed certain qualities that made them uniquely desirable in one way or another. Convenience of location plus quality accommodations were the factors that were common to several of the neighborhoods. The people who were moving into the areas and the people who remained there cited those factors frequently.
- Race or the fact of racial inclusiveness was rarely cited as a primary factor for living in the neighborhood. However, a significant number cited the openess, inclusiveness, a diversity as *added* advantages.
- A substantial number of whites said that they saw neither benefit nor disadvantage in having black neighbors. Race was simply not an important issue for them.
- A somewhat larger proportion of the black residents said they believed their children would benefit from living in a racially inclusive neighborhood.
- Neighborhood associations appeared to contribute to stability provided they were primarily committed to preserving and improving the quality of life in the neighborhood with integration

maintenance an important but not the sole objective.

- Generally, the neighborhoods were middle class with both blacks and whites sharing approximately the same values.

A more recent and more pertinent survey is reported in the January, 1979 issue of the Annals.† The study was conducted in the Detroit area in 1976 by three people at the University of Michigan. The abstract is quoted verbatim as follows:

> ABSTRACT: This paper reports findings from a 1976 study of the causes of racial residential segregation in the Detroit metropolis. One of the reasons for the persistence of high levels of segregation is white ignorance of the changing values of other whites. If all whites—especially real estate dealers and lenders—recognized the willingness of most whites to accept black neighbors, to remain in racially mixed areas and even to consider purchasing homes in neighborhoods which have black residents, the pattern of whites fleeing when blacks enter their neighborhood might be altered. Blacks overwhelmingly prefer mixed neighborhoods but are somewhat reluctant to move into a neighborhood where they would be the only black family because they fear the hostile reactions of whites. Blacks may also be ignorant of the changing racial attitudes of whites and may overestimate the difficulties which would arise if they entered a white neighborhood.

The most revealing aspect of the report was the response of whites and blacks to a series of cards. Each card depicted a block of 15 houses. Houses in varying numbers were represented as black (i.e., black occupied) or white (i.e., white occupied). On each card the center house was labeled "your house." As whites were interviewed they were shown cards indicating an all white block, a block with one black family, other blocks with more houses occupied by blacks, etc. The same was done with black interviewers except the first card showed an all black block and then a succession of cards with fewer blacks and more whites until only "your house" is black occupied.

Whites were asked to indicate how they would feel about remaining in the block if (a) only one black family moved in, (b) if three or four moved in, (c) if the majority became black. Seventy-six percent of the whites would remain "comfortable" with one black family, and 50 percent would remain comfortable if one-fourth of their neighbors were black. Only 44 percent would be comfortable if one-third of the neighborhood became black and only 26 percent if the blacks became a majority.

Only 17 percent of the blacks would consider an all black neighborhood as a first or second choice and only five percent would choose to be the first black family in an all white block. Eighty-three percent would prefer a neighborhood that was evenly balanced.

These results dramatize the problems that lie ahead if we hope to achieve resident integration on a large scale. There is considerable evidence that a high proportion of the black homeseekers would elect to live in a racially balanced neighborhood but that only a very small percentage would elect to be the pioneer black family in an all white neighborhood. Whites, on the other hand, are not too concerned about having black neighbors providing whites remain a majority. Blacks become especially interested in living in neighborhoods which have been integrated to about that point at which whites become uncomfortable. Obviously, maintaining racial balance in a neighborhood is a delicate matter, highly vulnerable to the disturbance which might be created by a few fairly aggresive real estate brokers.

The Demographics of Older Neighborhoods

As mentioned earlier, certain demographic factors exert additional pressure upon many racial inclusive neighborhoods. A neighborhood that has been established for many years and has been all white usually has an older white population. The blacks who move in are usually younger. For the first few years the differences are not especially noticeable. In time it will be noted that the lower grades in the public schools are becoming more and more black even though the overall school population remains predominantly white. Year by year this change affects the succeeding grades. Young white families in search of homes will tend to avoid those neighborhoods where it appears that their children will be in the minority in the local schools.

Prospective Changes

Our nation is entering into a different kind of era. The birth rate has fallen off. There are many more

† *Barriers to Racial Integration of Neighborhoods: The Detroit Case* by Reynolds, Farley, Suzanne Bianchi, and Diane Colasanto.

households of singles and childless couples. A decline in the demand for single family houses in the suburbs appears predictable. Fuel shortages, inflation, and a slowing economy all suggest that we may be entering an era of reduced mobility. The return to the central city is a visible phenomenon in many metropolitan areas although the Detroit area may not follow that trend. I do not have a crystal ball. I'm only pointing to the possibility that the trends of the recent decades may be reversed in the 1980's.

Indication for Action

In the early part of this paper I stated that discriminatory practices in the housing market appear to be declining and that the possibility of an economically competitive, reasonably motivated black family obtaining a house of its choice is considerably greater today than was the case five or ten years ago. In spite of that I do not foresee significant changes in residential patterns. I rather expect to see continued racial segregation. The law can be effective in supporting those blacks who are firm about getting the house of their choice. It is not very effective in controlling or regulating the many other factors which cause whites to flee as the proportion of blacks increases, and it does not induce more than a few blacks to probe the large market. Moving into all white neighborhoods is not high on the agenda for most blacks.

One area that I think should be carefully explored is that of somehow inducing developers of new housing to market much more affirmatively among blacks. In every case I know of, blacks have responded to affirmative marketing. Columbia, Maryland is a prime example but there are many others. The results show that blacks are not reluctant to be among the first residents of a new community or a new subdivision if the sales forced directs the advertising and its promotional techniques toward them in the same manner and to the same intensity as it does toward whites.

In Conclusion

The many services which collectively constitute the housing market—brokers, agents, property owners, property managers, rental agents, and lending institutions—have indeed, through the decades, served as the instruments for limiting housing choices for blacks and other minorities and creating and reinforcing the dual market. However, they were doing so primarily because the larger consuming public and for many years the federal, state, and local governments expected them to function in precisely the manner they did.

Today the picture is much more confused. The white public is much less of one mind on the issue. The *principle* of equal housing opportunity now enjoys rather substantial public support. The force of law is on the side of the right of any person to have equal access to any housing that is on the market. A majority of whites no longer have objections to having some black neighbors. However, a majority of whites still become panicky and will attempt to escape if they find themselves a racial minority.

Blacks do not share precisely equivalent feelings but it is clear that except for a courageous, pioneering few, most blacks, given a choice, will elect not to be the first to integrate a neighborhood. Rather they tend to search for homes where a degree of racial balance has been established. These two sets of behavior patterns practically insure that racially balanced neighborhoods will become all or predominantly black in time. Insofar as black homeseekers are competitive economically and are strongly motivated to search for homes outside of the predominantly black or transitional areas they stand a good chance of getting a home of their choice. In any event, they will contribute mightily to more rigorous enforcement of the law. However, it is unfair to place the burden of enforcing the law upon the shoulders of the black homeseekers. Whites have an equal responsibility to (a) affirmatively welcome black neighbors and to resist the impulse to flee when the ratio of blacks increase and (b) to themselves seek for housing in areas where they can contribute most to assuring racial balance. Finally, in addition to maintaining a strong posture on the enforcement of the fair housing laws, we need to develop the policies, techniques, and incentives for affirmatively marketing houses in a manner that will promote racial inclusiveness.

Redlining: Credit Allocation and Equal Opportunity

By Ben Davis, Director

Housing Division, New Detroit, Inc.*

From direct experience, and in relationship to the integration maintenance efforts already mentioned by previous speakers, and the "gentrification" process that will be the object of a later presentation, it appears to me that the city of Detroit is experiencing a return of the white and the middle class to the city. The issue of displacement appears to loom larger as a consequence of revitalization of neighborhoods in addition to the prospects for increased availability of mortgage and insurance coverages for those areas of the city where this process is occurring. In these neighborhoods where a transition may be happening, there are concerns with the differential availability of home improvement loans and insurance to current residents, and reportedly in some neighborhoods, the resort by real estate professionals to "traditional" steering in the case of people seeking to enter those neighborhoods. These problems are worth considering by this Advisory Committee and this Consultation.

In the general area of mortgage and insurance availability, New Detroit, Inc. has been involved closely with and is a member of the state-wide Coalition on Redlining and Neighborhoods.

> There's been some success as it relates to the matter of mortgages and home improvement loans. Legislation was enacted in this state and was signed by the governor back in November of 1977, called Public Act 135, and there's been a regulatory arm established in the Financial Institutions Bureau of the State Department of Commerce, which has the responsibility for administering Public Act 135.
>
> It would be my own personal assessment at this point that Public Act 135 seems to be working, perhaps not as well as some of us expected.

The issue that was addressed by this legislation was not solved by the mere enactment of this legislation. Several federally chartered savings and loans associations have contended that federal statutes preempt the state legislation in the matter, and the Savings and Loan League is now in federal court contending that the federal statutes are more stringent in terms of equality of lending, and the state law should not apply to federally chartered financial institutions.

This "wrinkle" in the administration of Michigan Public Act 135 has had an effect also on the implementation of Proposition C, that allowed public funds to be deposited in savings and loans institutions and credit unions. Some municipalities, specifically Detroit, are withholding action in this matter until they ascertain whether Proposition C can be used as a lever to demand lending equality by those financial institutions.

It is important also to mention the process utilized to seek enactment of Public Act 135: it involved participation of the state-wide Coalition, members of the legislature, and members of the financial institutions themselves.

* Mr. Davis presented his statement orally. An edited version is presented here, with occasional verbatim quotations from the transcript.

Members of the Coalition raised the concern that because this Public Act 135 was enacted into law, there not be a lull in the vigilance of the Coalition:

> Currently, there is a bill that's under consideration in the legislature, on insurance, House Bill I believe it's 4453, which pretty much contains similar elements of the availability of insurance, cost effective regulation etc. in which it appears that the insurance companies are continuing their efforts to try and thwart the implementation or the enactment of this kind of legislation. And, certainly I think all of us are aware that even though there is the availability of mortgage loans and home improvement loans, that without the availability of insurance then one can question just how effective Public Act 135 can be. So, one of the most critical agenda items that the coalition has at this point is attempting to address the whole matter of insurance availability, and there have been some statements made that, in the current legislative year, that there is going to be some form of essential insurance reform legislation enacted.

Negotiations have occurred between members of the Coalition, legislators and insurance representatives during all of 1978 and this year, but there has been no success as yet.

Local Approaches to Reinvestment

At the state level, the Michigan State Housing Development Authority is implementing a number of programs, called Housing Improvement Program - Neighborhood Improvement Program, in which loans can be made available to homeowners in specific neighborhoods to upgrade their properties in those neighborhoods (see Mr. Howard Miles' presentation in the following chapter).

In Detroit there is the Detroit Mortgage Plan, a voluntary agreement between lenders and the city, in which a seven-member review committee reviews complaints, by loan applicants. The committee is made up of three lender representatives (out of the 17 lender members voluntarily participating in the Plan), three public members and one government representative. All seven are appointed by the Mayor of Detroit.

The committee reviews complaints from loan applicants who feel their mortgage or home improvement loan applications were rejected because of the location of the property. During the first year of operation of the Detroit Mortgage Plan, about 41 appeals were received, and in the majority of the cases the committee either concurred with the initial lender's decision, or found that the appellant did not pursue the matter.

In investigating the large numbers of no follow-through on the part of the person making the appeal, we found that it was incumbent upon this person to secure the credit report. As we judged that this requirement constituted another burden on the complainant, we were able for a short time to arrange for the credit reporting agency to provide the committee with the credit report of the complainant. This procedure had to be stopped when legal counsel for the credit reporting agency advised them they could be subject to adverse legal action action by following this procedure. As it stands now, the requirement that the complainant obtain the credit report is a hindrance in the follow-through on complaints.

Another possible source of lack of follow-through may be the time lapse. It should also be noted that in several cases, when the committee contacted the complainant, either the original lender had reviewed and reversed the initial denial decision, or the complainant had been able to secure the loan from another lender.

One other area that New Detroit Inc., is involved in is the Neighborhood Housing Services program. This is basically a rehabilitation program, and we are just about to make the first loan related to this program. The Neighborhood Housing Services Program operates in the area around the University of Detroit. New Detroit Inc., is now negotiating with insurance companies in Detroit to persuade them to come together in a consortium and make insurance available on a preferential basis in that neighborhood.

Gautreaux and American Apartheid

By Alexander Polikoff, Executive Director

Business and Professional People for the Public Interest, Chicago

It is helpful to view the Gautreaux litigation—now almost thirteen years old—as consisting of three different lawsuits.

Gautreaux case number one was to halt the practice of concentrating public housing in the most impoverished sections of the inner city. In recent years we have come to recognize that building new subsidized housing in a neighborhood already overburdened with poverty families may simply hasten neighborhood deterioration. But it was not always thus, as the twenty-year (from 1949 to 1969) pattern of concentrating public housing in black neighborhood in Chicago illustrates.

Espousing what has since become conventional wisdom, the first Gautreaux case was a complete success. The Chicago Housing Authority's site location practices were stopped cold by a judgment order entered in 1969. Perhaps the most unique testimonial to the soundness of Gautreaux case number one was a paragraph in the 1971 annual report of CHA which described the judgment order as a "positive policy," and said there was a need for low-income housing in many areas of the City, not just in black neighborhoods. Along with the *Shannon* case the decision also had a national impact: HUD promulgated site selection regulations that precluded a continuation elsewhere of the "build-them-where-they-are-most-needed" approach.

Gautreaux case number two, begun after the entry of the 1969 order, sought to require future subsidized housing actually to be built predominantly in non-traditional areas in the City. The theory was that, over time, such a construction pattern would redress the locational imbalance of the past and provide Gautreaux families with true choice as to the racial composition of the neighborhoods in which they wished to live. Therefore the judgment order against CHA prohibited the building of new public housing in black neighborhoods unless new public housing was simultaneously—and in larger quantities—built in white neighborhoods.

Gautreaux case number two has now lasted for ten years and can fairly be termed a failure. Because of political resistence, rising land costs, continued courtroom battling and other factors, including the reality that the city had substantitally filled up in the quarter century following World War II and residentially zoned vacant land in outlying white neighborhoods was nearly gone, the effort to promote a scattered site public housing program in Chicago produced only 117 new apartments in a decade. Very recently a new mayor, who does not carry the worn baggage of diehard opposition to scattered public housing, has engineered a hopeful new initiative. A court order, entered by agreement on May 18, 1979, calls for 800 units of new public housing for families to be split evenly between black and white neighborhoods all over the City. (The new apartments are to be in existing, privately-owned building to be purchased and rehabilitated by CHA as well as in buildings to be newly constructed by it.) But this recent order, hopeful though it is, amounts only to a development plan; it remains to be seen whether the plan will be implemented.

Thus, one result of Gautreaux case number two has been to deny badly needed new housing to black neighborhoods. I will comment later on this highly controversial consequence of the Gautreaux litigation.

The third and final Gautreaux case is an attempt to require Chicago's housing problems to be addressed on a metropolitan-wide basis—that is, to require Chicago's suburbs to provide some of the subsidized housing needed by city ghetto dwellers. Perhaps it is too early to call third Gautreaux case either a success or a failure. There have been some small achievements, but the future does not look particularly bright. One of the achievements, in April, 1976, was to get the U.S. Supreme Court to declare that, notwithstanding *Milliken v. Bradley* (the school desegregation case that barred a metropolitan-wide remedy for Detroit's segregated schools), it was legally permissible for a court to require HUD—which by now had been adjudicated equally responsibility with CHA for Chicago's public housing segregation—to try to remedy that segregation by taking metropolitan-wide action. Another of the achievements was to make an agreement with HUD, following the Supreme Court decision, to use the Section 8 existing housing program for Gautreaux families on a metropolitan-wide basis. Under this experimental program, called the Gautreaux Demonstration Program, more than 600 public housing families have been enabled to move to new neighborhood, over 500 of them to predominantly white, middle class suburban communities.

But future prospects are uncertain. Six hundred is a tiny number in relation to need. Yet the small number of available apartments in the private market precludes any substantial increase in the rate of about 20 families per month at which housing choice is being afforded to Gautreaux families. And the scarcity of apartments with three or more bedrooms has made it virtually impossible to satisfy the needs of the larger families who make up the bulk of the Gautreaux class. Moreover, even the continuation of this small effort is in doubt. Incomprehensibly, HUD appears now to be taking the position that the Gautreaux Demonstration Program costs too much (a one-time program administration cost of about $650 per family above the cost of the normal Section 8 program) and threaten to discontinue the program this fall. The plaintiffs have just gone back to court over that issue. Moreover, the constraints of *Milliken* against interfering with the "prerogatives" of "innocent" suburban jurisdictions survived the Supreme Court's Gautreaux decisions; no way has yet been found to bypass *Milliken* and require suburban municipalities to house their fair share of inner-city poverty and minority families. Other metropolitan approaches to central city residential segregation all require HUD's cooperation and so far as my experience with this HUD administration is concerned, it is long on fair housing talk and terribly short on action. Even within the context of HUD's adjudicated liability in the Gautreaux case, and the license for metropolitan innovation given it by the Supreme Court, it has been impossible to get HUD to take any initiative. Metropolitan housing programs for inner city families are difficult enough to implement under the best of circumstances, let along when HUD's posture can most charitably be described as spineless. Probably I am being much too optimistic when I describe future prospects for Gautreaux case number three as uncertain.

This brief overview of the three faces of Gautreaux omits much detail in recognition of the familiarity many of you already have with the case and with the Gautreaux Demonstration Program. Those who wish more historical information about the case may find it in an appendix called "Waiting for Gautreaux" to my book, *Housing the Poor: The Case for Heroism* (Ballinger Publishing Company, 1978), which in a dozen pages reviews the case from its inception. For those who wish more information about the Gautreaux Demonstration Program, I recommend an article, "Cabrini Green to Willow Creek," which appeared in the June, 1977 issue of *Chicago* magazine and which has been reprinted by (and presumably is available from) HUD.

Against the background of this overview I would like to venture a few observations about the three Gautreaux cases and the broader effort of which it is a part—the struggle to provide poverty, largely minority, families with housing opportunites in communities, both in the central city and in the surrounding metropolitan area, that are not racially impacted or already overburdened with poverty families. Let us begin with a little history which, although familiar, is worth recalling.

In the post-World War II years large numbers of Americans, many of them minorities, left rural areas for major metropolitan centers, while at the same time, and also in large numbers, working and middle class white families were departing the cities for the

burgeoning suburbs. As early as the middle 50's one observer described the developing situation this way:

> The white and non-white citizens of the United States are being sorted out in a new pattern of segregation. In each of the major urban centers the story is the same: the better off white families are moving out of the central cities into the suburbs; the ranks of the poor who remain are being swelled by Negroes from the South. This trend threatens to transform the cities into slums, largely inhabited by Negroes, ringed about with predominantly white suburbs.

That sorting out process continued throughout the 50's and 60's and into the 70's with most unhappy consequences.

By 1968, in the aftermath of widespread urban rioting, the Kerner Commission announced its grim view that the Nation was moving toward two societies, one black and one white, separate and unequal.

The following year the National Commission on Violence, headed by Milton Eisenhower, said that absent significant policy changes we might eventually see central city business districts deserted after working hours, high-rise buildings guarded as fortified cells for upper income populations, more urban residents buying guns, continuation of the middle class retreat to racially and economically segregated suburbs and, between the unsafe, deteriorating central city on the one hand and the relatively safe and more prosperous suburbs on the other, deepening hatred and divison.

In 1972, testifying in the Gautreaux case, urbanologist Philip Hauser said that within a generation there would literally not be enough white neighborhoods life in Chicago to permit the Gautreaux decree to be implemented within the city boundaries.

In 1973 the Advisory Commission on Inter-Governmental Relations, a moderate, prestigious and cautious group, described the condition of many American metropolitan areas as one of near-apartheid.

Last year, jumping half a decade now, urban pundits and newspaper editorial writers marked the tenth anniversary of the Kerner Report. A *New York Times* editorial was representative. It observed that in some ways the report was obsolete. Hispanic-Americans, barely mentioned by the Kerner Commission, had joined blacks among the "unequals." Some blacks, now distinctly middle class, had joined the whites who were "separate." Class might well be on its way to supplanting race as the American dilemma.

As the editorial also pointed out, however, in other ways the Kerner Report remained unhappily current. Notwithstanding some progress—for example, 700,000 black families were approaching income parity with comparably white families—black income still averaged less than 60% of white. Unemployment among blacks and Hispanic-Americans had doubled—tripled among black teenagers. The non-working poor, the underclass, remained in the grip of deteriorating inner cities from which the middle class had largely fled, and in which opportunity steadily diminished as factories with their low-skilled jobs decamped to the suburbs. Meanwhile, escape routes remained blocked by a flawed housing delivery system and suburban zoning barriers against low-income housing. Most of the inner-city poor could not follow the jobs to the suburbs and gain access to the newer middle class communities where schools were better and crime rates lower.

Today one could simply reprint the *Times* editorial, perhaps with an added measure of intensity. In the past year teenage unemployment has worsened, black income is dropping further behind that of white, low-income housing in decent neighborhoods is even harder to find, and so on.

One newer development, not discussed in the *Times* editorial, deserves mention—the "gentrification" of some city neighborhoods. An old pattern is repeating itself in a new form. As in urban renewal days a few city neighborhoods are being upgraded by private and public rehabilitators, but the poor (frequently minority) residents are being displaced and relocated or pushed out by rising land values and rents. A few more fenced off enclaves may be created than the Eisenhower Commission had predicted. But the result will be the same as it always has been—homogeneous neighborhoods, a polite way of saying racial and economic segregation.

There was a compulsion, the *Times* said, to mark the anniversary of the Kerner Report because white America was then finally striving to speak for an underclass whose poverty was unrelieved and whose routes of escape were blocked. But, it asked, ten years later who in established white scoiety was speaking for the inner-city poor? "We hear the

echoes of the Kerner Report now because they reverberate against a background of silence."

Not quite. The editorial overstated to a degree. The intervening ten years—now eleven—witnessed George Romney's explicit (though quickly aborted) federal "open communities" policy. They have seen Congressional enactments in the Housing and Community Development Act of 1974 which speak of the need to deconcentrate the inner-city poor. They have seen federal and state judicial decisions striving to come to grips with racial and economic residential segregation. They have seen the states begin to regulate land use and promote mixed-income housing and adopt fair share plans. And so on. These developments are not the equivalent of silence. There has been, indeed, a noisy ferment in the field.

Yet the *Times* was essentially right. All these efforts to deal with racial and economic apartheid have been most notable for their lack of success. *Jones v. Mayer* and the 1968 Fair Housing Law were major symbolic commitments to non-discriminatory housing, but the impact of the case and the statute have largely been confined to small numbers of blacks rich enough to buy or rent increasingly expensive suburban houses or apartments. Although, beginning in the late 1960's, federal programs for housing the poor were increasingly subjected to federal court orders requiring them to implement the new fair housing policy, the decisions have been mostly ineffective because court orders are poor instruments for building housing and because the federal programs do not work without the concurrence of local governments who have preferred to forego federal housing dollars rather than permit minorities and the poor to gain access to white middle class and working class communities.

Efforts to address the apartheid issue at the state and local government level have similarly been unencouraging. In New York, for example, as you all know, a state law that gave a state agency the authority to override local zoning to promote fair housing objectives was amended to delete precisely that crucial power. In Virginia another approach was struck down by the courts: a county ordinance requiring that 15% of the dwelling units in private housing developments be offered at low rentals to low-income families was held to be unconstitutional.

Private litigation is another form of attack on the apartheid problem. Many suits to modify or eliminate local zoning and other land-use barriers to low-income housing in suburban areas have been brought all across the country. The cumulative effect of this litigation has been to bring about a slow modification of local land use law. A number of courts have struck down exclusionary barriers to low-income housing, and some few have even held that local government has an affirmative obligation to plan for the *inclusion* of low- and moderate-income housing. For example, in one New Jersey case the court said that the city should undertake a study of the housing needs not only of low- and moderate-income persons already living and working in the city but of those likely to do so in the future, and that upon completion of that study it should develop an affirmative program to satisfy the determined housing needs.

The reality, however, is that the effect of this litigation on housing, as distinguished from doctrine, has been limited. The court decisions have not affected the demographic pattern in any metropolitan areas in a significant way. Much of the litigation relates to individual parcels of land and produces at best a small number of additional housing units after years of courtroom battling. Some of the litigation is more comprehensive and deals, for example, with country-wide zoning ordinances. Here, however, controlled growth ordinances have dampened the enthusiasm of the litigators. Under such ordinances, planning and implementation of plans for low-income housing may be stretched out almost indefinitely. Thus, even where a litigation victory on a country-wide basis is achieved, the likelihood that short-run changes will result is slim.

Clouding all of these efforts is the overhanging reality that private industry has long since been priced out of the low-income housing market by rising land and building costs, and that there is virtually no possibility that private industry can supply low-income housing without a governmental subsidy—whatever federal, state or local law may otherwise be. In order words, even in the absence of excessive or discriminatory government control over land use, most lower income families would nevertheless find new housing beyond their reach. An introduction to a book on *Mount Laurel* says that it would be a mistake to overestimate the significance of zoning reform: "[A]bsent substantial public intervention in the production and distribution of housing, the achievements of *Mount Laurel* will remain largely symbolic." Yet the subsidy programs—and this brings us back to *Gautreaux* —have

not been used to break down the apartheid barriers. CHA's performance in Chicago is not unlike that of most big city housing authorities. The Section 8 program has largely repeated the familiar residential segregation pattern. Even in Chicago, where the Gautreaux decree should be a help, HUD continues to act like a paper tiger; a recent courtroom effort to get HUD to enforce the pious sounding deconcentration rhetoric of the Housing and Community Development Act of 1974 for the benefit of Gautreaux families was a resounding failure.

Thus, the reality is that despite all the efforts of the last eleven years (and of the years before that) residential apartheid persists in this country; and it persists, notwithstanding some small modifications, in virtually its traditional intensity.

It is true that that situation is not uniformly viewed as the end of the world. As thoughtful an observer as Nathan Glazer has opined that, although the prospect of residential apartheid at one time appeared "disastrous," growing black economic capacity may enable our metropolitan areas to avoid self-destructive confrontations. Others, for example Anthony Henry of the National Tenants Organization, have espoused black cities, or at least cores of cities, as a means to black political and economic power, and ultimately, perhaps, to the only valid basis for a coming together of black and white society—interaction between groups that have become true equals.

Still others, however, remain skeptical and worried. They hold with the economist John Kain that only when the city loses its monopoly on minority poverty will it have a chance. They fear that the scenario we are continuing to witnesses is in fact the one described by the Kerner Commission, and that unless public policies—including pre-eminently policies having to do with where minority families in poverty are enabled to live—bring to an end the continuing concentration of the most impoverished and dependent segments of our population into central city ghettos, the conditions of failure and hopelessness that lead to disorder and social disorganization will continue to compound.

Those are slightly fancy words, and such semantics sometimes make us forget real-life facts. A few years ago a university professor summarized some of the Chicago facts as follows: 64% of *all* the metropolitan area unemployed lived in the central city. 75% of all metropolitan area families below the poverty line lived there too, along with 76% of the Spanish-speaking persons, 85% of welfare recipients, and 90% of all metropolitan area blacks. (The figures do not, of course, reflect racial and economic segregation within the city and *within* the suburbs.)

At the other end of the scale, only 29% of metropolitan area families who earned over $25,000 a year lived in Chicago, and only 25% of white school-aged children.

During the 1960's Chicago lost half a million whites and gained a third of a million blacks; lost 229,000 jobs and gained 290,000 welfare recipients; lost 140,000 private housing units and gained 19,000 public housing units. During the same decade, Chicago's suburbs gained 800,000 whites and 500,000 jobs.

I haven't brought the statistics down to date, but I will be surprised if the 1980 census does't show a worsening of every one.

Statistics of this sort can be rattled off for many of our major metropolitan areas. The cost to the nation in terms of disassociation of jobs from residences, impact on educational opportunities, deterioration of the social order in the inner city, and the like, is astronomical but can perhaps be measured. The cost of the deeepening confrontation between the separate parts of a divided America cannot be measured, but it nonetheless threatens the viability of the kind of society we have known.

Compounding the problem—and again Gautreaux is an illustration—the failure of our efforts to produce new housing on the new locational pattern our statutes and regulations and cases seem to require leads once again to the old cry: "Put the housing where it is needed." That is, in neighborhoods where the poor already live. Never mind that there the schools are worst, the crime the most, the gap between needs and public services the greatest, the low-skilled jobs gone (or going) to the suburbs. Never mind that Chicago's share of poor families is already nearly double its proportion of the metropolitan area population. Since the suburbs won't take the housing, and neither will outlying and gentrifying city neighborhoods, built it where at least it *can be* built.

Last year the only suburban location proposed for new public housing by the Cook County Housing Authority was the largely black, very poor of Phoenix. In Chicago the only new construction by CHA in recent years has been concentrated in one struggling neighborhood. Private developers proposing to build housing in the city under the Section

8 program focus almost exclusively on heavily minority, largely poor neighborhoods.

The pressures to repeat the old pattern come from many sources. The City fears that white families would flee if housing for poor families—even low-rise, scattered-site housing—were built in their communities. Developers want to make money, and there is less hassle when subsidized housing is proposed in poor black neighborhoods than in middle class white ones. Poor families need shelter and, though polls show that many would move to better neighborhoods if they could, they are understandably inclined to take what they can get.

HUD Secretary Patricia Harris has said, "I am not going to increase segregation in order to build new housing." But HUD is always under pressure to show production. At the end of each fiscal year the pressure to build—somewhere, anywhere—becomes intense. Recently Representative Cardiss Collins, whose district is heavily black and poor, proposed legislation to gut the Gautreaux judgment order which has stood as virtually the only barrier to a renewal of old segregationist practices.

What will happen is anybody's guess. Court orders still prevent a return to the ghetto-only locations of old. Yet the political and legal barriers against housing the poor in nontraditional neighborhoods remain in place while demands to meet the unsatisfied housing needs of poor families grow more insistent.

Will the defenses against repeating our past mistakes hold firm? Will we finally shift the pressure to where it belongs—on public officials and communities whose actions can bring about new residential patterns? Or will we succumb to the political and economic realities of life, as they are termed, and allow the housing we provide for poor families to resume the locational patterns of the past?

I have tried to state the issue fairly but I am not neutral. It seems to me that what is ultimately at stake—both in the Gautreaux controversy and in the larger public policy debate it mirrors—is the kind of society we will bequeath to the next generation. From that point of view we must come to grips with American apartheid. We must insist on new shelter *and* racial and economic deconcentration, though new shelter will be provided more slowly because of that insistence. As we build new housing in the suburbs, some of it must go to those inner-city poverty families who wish to move there. As we rebuild city neighborhoods, some low-income housing must be provided cheek-by-jowl with middle and upper-income apartments so that we wo not repeat the old urban renewal pattern of wholesale displacement of minorities and the poor. The nation simply cannot afford the path of least resistance: to once again allow federal housing programs, in the words of the Kerner Report, "to concentrate the most impoverished and dependent segments of the population into the central-city ghettos where there is already a ccitical gap between the needs of the population and the public resources to deal with them."

Nor should we assume that minorities will uniformly decline, notwithstanding great sacrifice, to take the longer view. In the Gautreaux case itself one of the major black organizations once said that the refusal of CHA and the City to build housing under the court decree was intended to deprive blacks of housing until it hurt so badly that it would force blacks to submit to racism in the name of expediency. But, the statement went on,

> Now is not the time for black leadership to knuckle under and cave in to racism. . .not the time for black mothers and fathers to have to gain say to their children that the geographical boundaries of your development have been predetermined by your blackness and your poverty.

One of the Gautreaux plaintiffs puts the same point succinctly: "I may not live to see it but my grandchildren will, and that's enough for me."

DISCUSSION

After the formal presentations, discussion occurred in three contexts: among the panel members themselves; questions and answers between the panel and the Advisory Committee members; and questions from the public in attendance. The salient points in this discussion are reported here, with particular focus on issues or thoughts not formally expressed in the presentations, rather than on identifying individual views and/or the course of discussion.

One relevant issue is *gentrification:* the process whereby a neighborhood sees its housing stock renovated, and its inhabitants changing from poor (often minorities) to middle or affluent class (often nonminorities). This is a highly visible phenomenon, widely reported in the press. In total volume, however, data show that gentrification is happening in very few cases at the present time, with some exceptions such as Washington, D.C. (see below, Dr. Sherer's presentation). The trend is worth monitoring, for it has the potential for growth. In large scale, gentrification would change accepted housing and social trends, and would adversely affect minorities and the poor. In gentrification, economic gain prospects outweight reluctance to integrated housing. In those cases observed, it is for the most part young couples or singles, buying in a decayed area, and riding the tide of capital gains. By the time school age children would prompt them to secure good schools, for example, capital gains would allow these couples to send their children to private schools if they do not trust the public system.

Underlying this and other housing issues is the fact that housing is basically a private enterprise affair. Public and/or assisted housing has been and will be a minimal percentage of all the housing units.

Private enterprise continues to build housing (the new Green Way Plaza development outside of Houston, for example), but the poor, many of them minorities cannot gain "clear title" to housing because of economic and/or race discrimination issues.

As the government at all levels enforces nondiscrimination legislation, it has at the same time provided some housing, either through new building programs, or through rent subsides that rely heavily on the goodwill of landlords. Is the solution to this problem the creation of new housing developments for the "non-competitive," the poor?

In any event, HUD must continue to combine enforcement efforts with incentives and persuasion to make available housing for the poor. Public or government-assisted housing will always represent a small portion of all the available housing.

An argument can be made that there is no such thing as fully private, unsubsidized housing. Public improvements, tax incentives, etc. can be said to subsidize almost all housing.

Of the limited housing that in a narrow sense is openly considered subsidized, extreme care needs to be taken in securing equality across racial lines. In placing public housing units, alternatives are to place them in all-white communities, in all-black communities, or in integrated communities. To date, however, most public housing is placed in black communities. Whites have the widest choice in securing housing. To the extent that blacks prefer living in black neighborhoods (while having options) they

also have ample choice of housing. The least choice is for those who prefer integrated housing. Given the limited resources available for public or publicly assisted housing, there should be a policy to foster choices of integrated contexts and neighborhoods.

In Michigan, as well as in the other states where there is branch banking, an important phenomenon takes place. Banks may obtain their deposits from the minority communities, but to what extend do they invest that money in those minority communities (see below, Mr. Steiner's presentation). New Detroit has not looked into this problem area. Given its prestige and composition, New Detroit should consider exploring and providing leadership in this issue. So should the Michigan Advisory Committee. The Community Reinvestment Act and the Home Morgage Disclosure Act provide adequate tools for this effort.

All members of the panel expressed agreement that a local fair housing group is a critical variable in monitoring and in securing fair housing in a given community. In assessing what makes an effective local fair housing group, reference was made to the work just completed by Mr. Schermer, "Guide to Fair Housing Enforcement," soon to be published by the National Committee Against Discrimination in Housing. An effective local fair housing group will have to be vocal and tightly organized (the public consciousness today is more concerned with other problems such as energy). Another key to success is the ability to obtain enough money to hire professional staff that can do the necessary homework on the issues. HUD is currently launching a demonstration program in support of this type of effort. It will be limited to ten cities to start with, and grants will be made in amounts of abount $20,000 each in support to these local fair housing groups.

As for the basic data to use in organizing fair housing efforts, HUD through its area and regional offices has the information and will make it available to interested parties (members of the audience disputed the effectiveness of this source of information).

CHAPTER 2

Suburban Homogeneity And Economic Exclusion

Suburbs often are non-minority, while central city residents are often minority. Race and economic conditions are in fact inter-related. Suburbs and other municipalities set housing standards through zoning and other ordinances that limit access to them by minorities and women. The authority to govern municipalities rests with the elected local officials. There are however, both federal assistance and accompanying federal standards that also have to be considered.

To what extent exclusion is not just economic but racial must be examined. The potential and the requirements of federal interfacing with local decisions through the various programs and regulations also is relevant. Finally, the relationships of state, local, and federal housing activities are appropriate subjects for the consultation. This session included theoretical constructs, analysis of legislation and program planning, and also case histories of programs and regulations in the practice of municipal politics.

The Flight to the Suburbs and Back: Who Benefits and Why

By Thomas Angotti, Ph. D.

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In a June 3, 1978, article in the *Amsterdam News,* the HUD-financed program designed to relocate Blacks from Chicago throughout the suburban Chicago area was called "an ultimate solution of Black BANTUSTAN Communities [sic] for the surplus Black population." The experimental program, under the Leadership Council for Metropolitan Open Communities, a private group, involves the use of Section 8 federal rent subsidies to place Black families from Chicago in scattered rental housing in the suburbs. The program was inspired by the United States Supreme Court rulings in the Gautreaux cases, which mandated the location of public housing in the suburbs in order to facilitate racial integration.

While the potential for the conscious dispersion of Black communities by public authorities under the guise of racial integration, and the consequent breaking up of central city Black neighborhoods, may be cause for alarm, it is, however, far from becoming a significant phenomenon or a reality. In fact, the Chicago experiment involves an average of only 21 families per month.[1]

The reality—which is almost too obvious to bear reiteration—is that by and large at the national level the dispersal of central city minority communities has not occurred and is not occurring, neither through the private market's urban removal nor by means of public policy; neither through the "invisible hand" of the "filtering" process nor the conscious employment of public resources and controls. Furthermore, despite the notable examples of displacement of minority communities through the process of private market housing rehabilitation, often called "gentrification," there has as yet been no major shift in the tendencies that have characterized the post-war urban process in this country: that is, segregation and resegregation of minority communities in the central cities, and the movement of whites to the suburbs.

In 1976, 57 percent of the Black population in the country still resided in central cities, about the same as the figure for 1970. Fully 77% of the Black population lived in metropolitan areas, a slight increase from 74% in 1970. The small change indicates in-migration from rural and non-metropolitan areas and a very minimal outward expansion from Black neighborhoods at the periphery of some central cores—at the annual rate nationwide of only about one-half of one percent of the Black central city population. In 1976, there was a net loss of 40,000 people nationwide, hardly a major change. We should also note that between 1970 and 1976, the rate at which Black households moved declined to

[1] Jitu Weusi, "Poor Blacks to Suburbs: Has Mass Removal Begun?" AMSTERDAM NEWS, June 3, 1978.

about one-fifth of the 1970 level, indicating a dramatic loss of housing opportunities.[2]

All of the major public efforts to disperse central city minorities and integrate the suburbs have been seriously bogged down. The Arlington Heights decision helped put to rest any serious efforts to accomplish integration through the use of public housing. The New Communities program is closing out, with the one major project providing housing for Blacks (Soul City, North Carolina) still at the stage it was ten years ago. Where classical exclusionary zoning techniques, such as large-lot zoning, have been thwarted by legal action, new devices such as "growth control management" and "environmental protection" have taken over. While lawyers and local officials haggle over "fair share" plans, the myriad exclusionary barriers remain virtually intact, and new low-cost housing is still not available to Blacks and other minorities. Even in states where courts have taken progressive stands against exclusionary local ordinances, such as New Jersey and California, little progress has been made in actually getting low-cost housing built. Housing allocation plans aimed at scattering low- and moderate-income housing throughout the metropolis, which were initiated in over 25 areas around the country since 1970, have proven to be largely unimplementable due to program cutbacks, the weakening of federal regulatory mechanisms (like the A-95 review process) through the introduction of revenue sharing in 1974, and the unwillingness of local governments to abandon the narrow interests of local property owners.[3]

At the same time, therefore, that minorities continue to be concentrated in the central cities, the exodus of whites to the suburbs continues, even though it has considerably slowed since 1973 and may even be coming to a halt in the major metropolitan areas of the Northeast and Midwest. This recent slowdown is due primarily to the general economic crisis that has increased the cost of money and at the same time decreased its availability to the mortgage market. Mortgate interest rates have, therefore, climbed drastically into the double digits ever since the 1973 bust.

The average cost of a new home is now almost double the 1973 figure, or close to $70,000.[4] Over the last two years, new home construction has fallen below two million units per year, a situation considered critical by the home building industry. And since three-fourths of the new units are single family dwellings offered for sale, most are far beyond the ability of low-income and minority families to afford.

This situation of skyrocketing costs is due both to the rising interest rates and the dramatic increase in land costs in the suburbs. Land costs now account for 25% of new home costs, as opposed to 11% in 1949.[5] Major contributing factors to this increase of land costs for developed parcels are the heightened competition for land as an investment, restrictive land use and environmental regulations, and a drop in primary infrastructure development (highways, sewer collectors, water mains). All of these factors raise the cost of developed land relative to undeveloped land, as well as raising the cost of new developed land in absolute terms.

The situation with rental housing is even worse, since the opportunities for mobility for minorities have generally been greater in rental housing than in owner-occupied housing. In 1976, 56% of minorities were tenants, as opposed to 32% of whites; needless to say, most of the rental housing tends to be concentrated in the central cities, and the vast majority of the minority households in the central cities tend to be renters. It is also clear that minorities are still basically restricted to the rental market in the search for housing.[6]

Between 1972 and 1975, multi-family housing starts declined from 917,000 to 208,000 per year, and the market has only minimally recovered since then, levelling off at the current rate of about 500,000 units. This drop in rental housing construction by itself might not be so critical, since multi-family housing tends to get built for the middle and upper income ranges and the traditional "filtering" process

[2] Statistically, mobility is measured in terms of the number of recent moves by household heads. The 1976 data in this and following sections is from the United States Census Bureau, Department of Commerce, ANNUAL HOUSING SURVEY, 1976. Some words of caution regarding the data: 1) in the first place, the census figures notoriously undercount minorities; and 2) there are wide variations between the demographic changes in the stagnating Northeastern and Midwestern cities and the rapidly growing cities in the Southwest.

[3] Ernest Erber, HOUSING ALLOCATION PLANS: A NATIONAL OVERVIEW. National Committee Against Discrimination in Housing, Washington, D.C., May, 1974.

[4] "Real Estate: A Time to Beware," FORBES. June 11, 1979. Pp. 53-61.

[5] See James Carberry, "Land Plays Rising Role, Labor a Reduced One. . .," WALL STREET JOURNAL. October 11, 1978.

[6] Between 1970 and 1976, there was actually a slight increase in the proportion of Black households who were owner-occupiers, from 42 to 44%. About half of the absolute increase was due to additional home ownership in central cities. See also, "Renters Face Apartment Shortage," DOLLARS & SENSE. No. 46, April, 1979. PP. 12, 13, 19. United States Census Bureau, ANNUAL HOUSING SURVEY. 1976.

has hardly ever worked for minorities and the low-income sectors, to whom new housing often fails to "trickle down." But when you couple this with the lack of subsidized housing and the speculative abandonment and gentrification in central cities, the situation becomes critical. The rental market in big central cities is getting tighter and tighter. And what this all adds up to for low-income families is that many more people are forced to pay higher rents. Thus, almost half of all renter households now pay more than 25% of their incomes in rents, compared to 13% of owner-occupiers.[7]

The dwindling opportunities for low-income households are further exacerbated when it comes to minorities, as there is no indication that the historical patterns of discrimination in renting have been affected in any major way by the fair housing efforts since the 1968 national legislation. For example, a 1978 HUD-financed study based on 3,264 tests in 40 cities concluded that 75% of Blacks were discriminated against in seeking apartments.[8] Thus, racism in the real estate industry limits not only the availability of suburban rental housing to minorities, but also limits access to *urban* housing in many neighborhoods. We might also note the controversial study by the Harvard–MIT Joint Center for Urban Studies which claims that bank redlining is also primarily a question of the race of individual applicants. This conclusion, which obviously squares with reality, only makes sense if one takes into account the glaring fact that most minority loan applicants and potential applicants live in segregated areas, so that ultimately redlining is associated with geographically specific racial discrimination.[9]

To summarize then, the general post-war trend of the concentration of minorities in central cities and whites in the suburbs still holds today. In addition, a larger proportion of the central city population comes from minority groups. For example, in 1975, 25.2% of the population living in central cities across the country was Black, up from 22.2% in 1979 and 17.6% in 1960. This national figure, of course, obscures the even larger proportion of minorities in many of the major cities. (51.4% in Atlanta, 72.4% in Washington, D.C., 56.% in Newark, 44.5% in Detroit, 34.4% in Chicago, 34.4% in Philadelphia.)[10]

This pattern of racial imbalance is also highly correlated with growing income imbalances between central city and suburban populations. Thus, in 1976, the median family income in the central cities was 82% of the suburban median, while in 1970, the proportion was only 87%.[11]

But as we all know, things are never static. This situation could, of course, be changing. Indeed, there is a great deal of talk now about the end of the flight to the suburbs and a reversal of the trend back to the city. Is this fact or fiction? If it has not occurred up to now in any significant way, are we witnessing the beginning of a major structural change in this country's urban demographic pattern? Is the "middle class,"[12] and more specifically the suburban white population, moving back to the city, and will minorities consequently be forced out into the suburbs?

Is the "Middle Class"Moving Back to the Cities?

In the first place, while the move to the suburbs has ebbed, it has not stopped. In 1976, there was a net loss of 746,000 people nationally from all central cities.[13] Now it is quite probable that this has gone down even further in the last couple of years, and that in the next couple of years there may be a virtual halt in the process. This has already occurred in many major metropolitan areas. It is clearly offset by the exceptional cases of booming suburban development such as, for example, San Antonio and Brownsville, Texas. At this point, until the returns are in from the 1980 Census, we can only make some rough speculations, but it is clear that in general where suburbanization has already slowed to a standstill, it is likely to stagnate, with only gradual increases in suburban population over the long-run future rather than any dramatic reversal in migration.

Clear indicators of a long-run change in migration patterns are: increasing energy costs, increasing land and housing costs, and the decline in interstate highway and suburban water and sewer projects.

[7] United States Census Bureau. ANNUAL HOUSING SURVEY, 1976.
[8] See James L. Hecht, "Apartment-Hunting, in Black and White," NEW YORK TIMES. May 11, 1978.
[9] See "Loan Bias Linked to Race MoreThan Area," NEW YORK TIMES. December 8, 1978. Also, David W. Bartelt. INSTITUTIONAL RACISM IN THE RENTAL HOUSING MARKET. A paper prepared for the 1977 Symposium on Institutional Racism/Sexism. April 28–30, 1977, U.C.L.A.
[10] The data for individual cities is from the 1970 Census and is undoubtedly underestimated in each case.
[11] United States Census Bureau. ANNUAL HOUSING SURVEY. 1976.
[12] Throughout the text, the term "middle class" is used to refer to upper income professional, managerial, and service workers as well as small entrepreneurs. Therefore, it is not used in its strictly scientific sense whereby it reflects not only income differentials but the relationship to the means of production.
[13] United States Census Bureau, ANNUAL HOUSING SURVEY. 1976.

These long-run trends and national policy shifts are reinforced by suburban exclusionary policies that have successfully resisted legal challenges and thwarted the token federal attempts to build or promote low-cost housing in the suburbs. However, one cannot ignore the fact that, in spite of the so-called gas crisis, the private automobile will have to be relied on as the primary means of transportation at least in the near future, given the absence of any other serious alternative. And as long as we have the private automobile, suburban areas will continue to be viable, even if more expensive, environments.

But if the tide flowing to the suburbs is ebbing, can we not also say there is, or will be, a reversal of the trend and a return to the central cities? This is certainly a question not only of fact—is it occurring?—but also of policy—should it be encouraged?

The fact is that the move back to the cities is both myth and reality, but with a lot more myth than reality at this point. The reality is that there are scores of neighborhoods in the nation's major cities that are in rapid transition from a predominately minority working class population to a mostly white upper income population. Only part of this new population—as yet no one really knows what proportion—comes from the suburbs.[14] At the neighborhood level, this process of transition is normally accompanied by rehabilitation of existing housing units rather than new construction, conversion from rental to owner-occupied housing, a decrease in the average household size, removal of the elderly population and an influx of young people, and a change from integrated or minority population base to a more homogenous racial pattern. The neighborhoods in which this process is occuring are almost always located within ready access of the central business core, have relatively good public transportation service, and structurally sound and perhaps even historically valuable housing. Unlike the neighborhood upgrading in more periphal neighborhoods where home ownership predominates (both before and after the process of rehabilitation), the end result in just about every case is the displacement of the working class and minority communities.

This process is not new. It is the age-old market process of "succession and invasion" whereby old working class neighborhoods near the center of the city, due to their location and access to the highest-valued land in the metropolis, become ripe for renewal at a certain point in time (after they go through a previous cycle of short-run decline in value). Then they are redeveloped for the highest return on investment capital. Minority communities are especially vulnerable to this process due to the historic patterns of racism which thwart recourse and remedies via the executive and judicial branches of government and the formal instruments of political power.

In the fifties and sixties, this process of redevelopment was a large-scale phenomenon that transformed the hearts of many older cities with the aid of the federal urban renewal and interstate highway programs. In past generations, it has resulted in the removal of entire minority communities from, for example, Society Hill in Philadelphia, Georgetown in Washington, D.C., and New York City's Upper West Side—to name only a few. Today it is happening in Boston's South End, Washington's Adams-Morgan, Brooklyn's Fort Greene and Park Slope, San Francisco's Mission, Philadelphia's Spring Garden, and countless other neighborhoods around the country.

A recent Urban Coalition study found displacement occurring in half of the 65 neighborhoods they surveyed in 44 major cities.[15] The MIT Center for Community Economic Development examined 105 neighborhoods in 30 cities and found displacement occuring in about 45% of them.[16] While both of these studies found that in most cases the transition process involved a racial as well as income change in the population, it is clear that the process also may occur without any significant racial change. Thus, the Urban Coalition found that 37% of the neighborhoods surveyed showed no substantial change in racial composition (this is true, for example, in many Washington, D.C. neighborhoods).

The process of redevelopment begins with rising property values and the pursuit of profit. This

[14] There is no reliable data even at the local level indicating the proportion of movers into central cities who come from suburbs. A recent survey by the Rutgers University Center for Urban Policy Research in New York City claimed that only 30% of the people converting commercial lofts to apartments had moved from outside the city. Impressions garnered from other cities would seem to substantiate the proposition that most of the gentrifiers are local movers.

[15] A HUD study released in February, 1979 claimed that less than 100–200 households a year were victims of displacement in most large cities. Such a gross underestimation can only be attributed to official ignorance or purposeful neglect, or both. See Robert Reinhold, "U.S. Housing Study Finds Displacement of Poor in Slums Is Minimal," NEW YORK TIMES. February 14, 1979.

[16] Philip Clay, "Neighborhood Revitalization and Community Development: the Experience and the Promise," CENTER FOR COMMUNITY ECONOMIC DEVELOPMENT NEWSLETTER. August–October, 1978, pp. 1–8.

presents landlords, investors and real estate speculators with opportunities to realize dramatic gains in their equity—and in dynamic central city neighborhoods values can easily increase tenfold in two years. Ultimately, realization of the increased value depends upon the ability to rent over a relatively long period of time to a high-income tenantry, or to subdivide property and sell off the equity to owner-occupiers. Banks in particular favor home ownership conversion and investment in rapidly rising real estate, even if some of them lose out in the short-run speculative gambles they may have taken with the pre-development slum properties (These losses, taken as a whole, pale with respect to gains, considering that most of the pre-development neighborhoods had been subject to bank disinvestment—especially by commercial banks, which are now in the forefront of new development).

Low-income tenants have no place in this profit-making scheme, especially in the absence of readily available rent subsidies, because they can't pay high rents or take out a mortgage. In most situations, race becomes a ready equivalent for unprofitable investment in the minds of the realtors, landlords and banks; thus, racism becomes a determining force, regardless of whether it is practiced consciously or not. Through various legal and illegal means, the tenants are then removed and left to fend for themselves. And with the throttling of the new housing market, and the historical bars on renting outside of minority communities, this means, of course, that those being removed are being packed into an ever more overcrowded housing stock in central city neighborhoods.

There are other forms of displacement. In many northeastern cities, large-scale housing abandonment has annihilated entire neighborhoods without leaving anything in their place (for the time being). Probably the most dramatic example is the South Bronx in New York, where over 150,000 dwelling units have been lost in the last decade to the process of landlord abandonment and bank disinvestment. The South Bronx was once an integrated working class neighborhood with sound rental housing; today, according to one city official, its 650 acres of vacant land make it "the hottest piece of urban real estate in the country."

Another form of displacement is condominium conversion. At the national level, about 350,000 rental units are being converted each year to condominia. In Chicago, where conversion has reached feverish proportions there were 16,500 conversions in 1977, making for a total of 68,000 in the metropolitan area. Between 1973 and 1978, there was a net loss of 23,000 rental units and a net gain of 45,000 single family dwellings.[17] In New York City, conversion to ownership-type cooperatives has been booming, with rehabilitated units running in the neighborhood of $100,000 each. The effect of this kind of conversion on low-income tenants, of course, is almost inevitable displacement, since making a down payment and carrying a mortgage on recently renovated units are usually beyond the financial capabilities of even the average family budget.

In summary, displacement is occurring in various forms. But a word of caution lest we draw conclusions too hastily. According to a recent study by the Urban Land Institute, only about 50,000 dwelling units—less than one percent of the central housing stock—are rehabilitated each year.[18] Even allowing for some probable underestimation, a broad review of the national scene still indicates that by and large the gentrification move—whether spearheaded by suburban refugees or not—is still a very limited phenomenon occurring only in selected neighborhoods.

While housing rehabilitation is proceeding apace, however, the real action in central city real estate is large-scale office construction. Unlike the housing market, which is dominated by small- and medium-sized developers, the larger investors and developers are clearly putting their money into downtown office building. After a half decade of stagnation starting in 1973, new downtown office building has once again picked up, in what Forbes magazine calls "the biggest realty boom in U.S. history."[19] According to a recent study by the Real Estate Research Corporation of 25 major downtown areas, the general trend in central business districts is toward continued growth rather than stagnation. While the only new housing being built in the central cities is superluxury units like Dearborn Park in Chicago and Battery Park City in New York, the lion's share

[17] Bob Tamarkin, "Condomania in Chicago," FORBES. November 13, 1978. Pp. 54ff.

[18] The problem in measuring this phenomenon is one of definitions, since "rehabilitation" can mean anything from light renovation involving cosmetic changes to gut rehabilitation. Also, building permit data often does not reflect actual rehabilitation activity. The actual figure is probably closer to 150,000 units nationally.

[19] "Real Estate: A Time to Beware, *op. cit.*

of land development is clearly in commercial areas. The relatively high short-run return on capital is the main attraction in a period of severe economic crisis and unpredictable long-run inflationary tendencies. This type of investment is readily assisted by tax breaks (such as Section J-51 of the New York City municipal code that gives out 20-year abatements for hotels and Section 240 which gives out exemptions on commercial property), direct subsidies, (such as the Urban Development Action Grants), and land write downs (through industrial and commercial redevelopment authorities).

In the long run, this new upturn in the old post-war trend is bound to have a significant impact on the availability of and demand for central city housing. In the first place, the demand for housing near the central core for white-collar, middle income employees will continue to increase. In the absence of new construction—in the central city but also in the suburbs—greater pressure will be placed on the existing rental stock where, not coincidentally, the working class and minority population occupy relatively sound housing near the downtown centers. With increasing fuel costs making long-distance commuting less attractive, central city dwellings will become increasingly attractive. In addition—and this is perhaps one of the most important and least understood phenomena on the horizon—the rapidly changing household composition of the middle-income strata, and to some extent the entire population, is bound to result in the multiplication of the demand for central city housing.

Concretely, the clear trend towards a dramatic increase in single-person households and smaller households in general will lead to growth in the demand for central city housing above and beyond any new in-migration that might occur. In 1940, the average household size in the nation was 3.67 persons; in 1970, it was 3.14 and by 1976, it was 2.89. While minority households have been relatively stable in size, the most dramatic change has occurred among the white population.[20]

Ultimately one of the most significant factors to alter the structure of the urban housing market over the last several years has been the massive entrance of women into the labor force as a result of a decline in real family income (today almost half of all women work). This factor is, of course, interrelated with the trends, which started decades ago, of declining birth rate, increased divorce rate, later marriage, and cohabitation instead of marriage. Thus, the divorce rate has doubled in the past 15 years. In 1976, over 40% of women 20–24 years of age were single in comparison to 33% in 1960. The number of unmarried couples doubled from 1970 to 1978. And the U.S. Census Bureau predicts that the birth rate of 2.1 births per adult woman will hold steady until the year 2000.[21]

What all of this amounts to in the central city is an ideal situation for owners of rental real estate who are operating in a market with a large stock of old dwellings having a relatively large number of rooms per unit. Not only can landlords and banks make neat profits by rehabilitating, subdividing and writing new mortgages, but quick-profit operators will be out to make the overnight killing through shoddy renovations. One major obstacle is, of course, the people living in the old housing. But when landlords write the leases, rents are not controlled or regulated, and city officials are bankrolled by real estate operators—which is more the rule than the exception—the people can be eventually removed. If all else fails, arson can become a quick remedy, and profitable to boot.[22]

With the drop in suburban housing construction, and the unrelenting exclusion of multi-family housing from many suburbs, only a limited proportion of the newer smaller households will be able to locate outside the central cities. While the proportion of new home buyers who are single or childless couples is growing, however, about 55% are still "traditional" nuclear families with children. Clearly, with new jobs in the central city, and other positive factors such as mass transportation, housing in the core will become somewhat more desirable.

One of the most obvious and important consequences of the changes in household composition is the decline in the number of households with school-age children, as well as a decline overall in the relative proportion of school-age children to the total population. This is already happening in many suburbs. But will the households without children pay the property taxes to support expensive subur-

[20] Sylvia Lewis, "More and More People are Saying, 'I want to be Alone,'" PLANNING, Volume 44, No. 8, pp. 28–32.

[21] See William Alonso. THE POPULATION FACTOR AND URBAN STRUCTURE. Harvard University Center for Population Studies, School of Public Health. Working Paper No. 102, August, 1977.

[22] See Mark Zanger, "Symphony Road Will Burn Again," REAL PAPER. April 12, 1977. Also, Gelvin Stevenson. FIRE INSURANCE: ITS NATURE AND DYNAMICS. United States Department of Commerce, National Fire Prevention and Control Administration. October, 1978.

ban school systems with large excess capacity? Or will Proposition 13-type measures or statewide tax reforms relieve the burden? Will these households seek out and pay the price for suburban amenities that were once sought after "for the kids?" Or will the higher cost of central city living ultimately be outweighed by rising costs of suburban living? These are all questions that have yet to be answered, and for which there are now no sure prognostications.

The Myth

Displacement of minority and working class people is a reality, and is likely to become more of a reality for more people. The movement of the "middle class"—mostly white but also Black—back to the cities, or within the cities into formerly minority neighborhoods, is a reality. It is likely to become more of a reality for more people. But it is also a myth.

It is a myth in the sense of an *ideological* weapon used to promote the material benefit of the ruling forces and strata. At the present time, it is clearly more a myth than reality. When, for example, the front pages of Sunday newspapers boldly acclaim the brave brownstoners and hearty loft converters, they usually fail to mention the meager numbers involved in such enterprises, much less talk about the people who have been preceded and displaced by the new urban "heroes." In fact, they pose the myth of the middle class return in absolute terms, as the *only* solution to urban problems. Thus, one expert wrote in the *New York Times.*, ". . .to preserve New York or any other city, urban life must be made infinitely more attractive to the middle class family."[23]

The myth of the middle class return is the flip side of the policies of "benign neglect" and "planned shrinkage," for its logical implication is that those in the way of this "progress" should retreat and make way for the new urban "renaissance," and if they are encouraged to do so through public policies, that is all well and good. Displacement, it is assumed, is an inevitable result of the urban "revival." The myth is therefore used to justify abandonment of aid to central city minority communities and the use of public money to be thrown at the feet of the apocalyptic forces descending on white houses from suburbia bearing savings and loans. The myth buttresses both the actions and inactions of policymakers that reinforce the trends leading to displacement.

As a whole public actions tend to reinforce rather than abate displacement. They are part of the problem, not part of the solution. The token programs undertaken in the name of preserving central city neighborhoods are more often than not used to strengthen neighborhoods that are not under the severest pressure. For example, Section 312 rehabilitation loans, which provide 3% mortgages, are essentially geared to single-family areas with owner-occupiers; the allocation at the national level is a mere $400 million. (Baltimore and Chicago have energetic local programs along this same line.) Neighborhood Strategy Areas tend to be basically stable and peripheral, as opposed to the central neighborhoods that received funding under Model Cities and the Community Action programs. Community Development Block Grant funds are notorious for being diverted to projects favoring better-served neighborhoods and city-wide programs instead of low-income communities. The one major housing program that might potentially be used to prevent displacement is Section 8 rent subsidy, and here the limitations on funding are severe. The national allocation for Section 8 (350,000 units) would not even be sufficient to provide housing for the ill-housed families in New York City. However, rarely if ever have Section 8 funds been used in a systematic way on a large enough scale even in one neighborhood to prevent displacement. At best, Section 8 and other subsidy programs provide a token number of low-income units that embellish the new "middle class" neighborhood with window dressing and rationalize rather than stop the process of people removal.

Whatever damage public action might do, however, the dominant characteristic of public policy is inaction and non-intervention in the urban rental housing market, which basically fosters displacement. Thus, non-compliance with local building and health codes by landlords is often left unchecked until tenants are forced out of housing slated by the owners for rehabilitation. Eviction of tenants often proceeds with impunity and the tacit approval of local officials. And finally, subdivision and rehabilitation of new units may occur without sufficient guarantees of health and building standards.

[23] Howard K. Bell, "A Plan to Lure Middle Class Back Into City," NEW YORK TIMES. November 14, 1976.

Minority communities, largely made up of rental units, not only pay the price of non-intervention, but are usually by-passed when it comes to the "benefits" of non-intervention. Thus, in New York City's Soho and Chelsea districts, tens of thousands of apartment units were made from converted commercial lofts almost entirely in violation of the city's building and zoning codes. The administration has turned the other way and allowed the illegal conversions, while at the same time the State provides tax breaks to the converters under the theory that they are helping to bring the middle class back to the city. Illegal condominium and cooperative conversions are likewise prevalent.

While local authorities countenance and even encourage this illegal activity by mostly white, upper-income property owners, such "flexibility" is generally unavailable to minorities. For example, HUD and the city administration have resorted to the use of police to evict hundreds of Black families squatting in formerly boarded-up, HUD-foreclosed properties in North Philadelphia. Lawbreaking is, therefore, a class privilege, not a widely distributed public good.[24]

The myth of the middle class return is in effect one of the more recent in the vast arsenal of ideological instruments designed to divide and conquer the various participants in a system based on profit that fails to provide "a decent home for every American." Minorities are often led to believe that the white middle class is the cause of displacement rather than an instrument in a whole economic and political process. Whites are led to believe that urban problems are caused by minorities and that they, the middle class, are truly the stimulus to renewal—rather than an instrument for, and secondary beneficiary of, profitable redevelopment. Among minority groups, divisions based on the protection of territory and turf often prevent common action. And within minority groups, class divisions—primarily between middle class and working class—may often supercede the unity based on a common experience with discrimination and racism.

Thus, the myth of the middle class is part of a larger ideology that serves to divide people who ultimately have common interests and obscure the reality of a city governed by property relations and profit rather than social interest and need. In this city, Blacks and other minorities, far from being part of a surplus population, as the *Amsterdam News* article referred to at the beginning implies, are an integral and necessary part of a system that depends on their exploitation for profit, their segregation and isolation from other groups and strata, the maintenance of hostility and suspicion between middle class and working class, and between whites and minorities.

[24] Stephen Franklin, "The Ousted Squatters: Where Can They Go," PHILADELPHIA BULLETIN. December 25, 1977.

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Exclusionary Land Use and Fair Housing

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The post-World War II period marked the burgeoning of suburban communities that were characterized by their racial homogeneity. Discrimination prevented racial minorities from enjoying the benefits of homeownership that were eagerly seized by white families, most of modest income, who took advantage of the low downpayment/low interest mortgages that were insured by FHA or guaranteed by VA. The same was true of moderately priced rental units, usually garden apartment, constructed outside the cities to meet the pent-up housing demand built up during the war years. Only one percent of the new units that were FHA-insured or VA guaranteed were occupied by minorities and the evidence shows that these units were available only in segregated neighborhoods. For low income families who could not secure housing without assistance, public housing was the only resource and very few localities outside the central cities established local housing authorities, thus effectively precluding poor families from residence.

Three decades later, segregation by race and income continues to mark the distinctions between central cities and their suburban neighbors. During the last decade, however, there has been a discernible, albeit not significant, shift in black migration patterns.

In February, 1979 the Department of Housing and Urban Development (HUD) released a report on "Recent Suburbanization of Blacks: How Much, Who and Where?" Using annual housing surveys conducted by the U.S. Census Bureau since the mid-seventies, and compared to earlier census data, the author studied 19 metropolitan areas. The statistics showed that while there has been an increase in the rate of black migration from central cities to suburbs, it has increased little since 1970 and in any event remains well below that of whites. "White city outmigration rates are still double those of blacks." The survey further found that the "blacks who have moved to the suburbs are above average in education and income." Four conclusions are drawn by the author:

1. Because it can be assumed that higher-income, better-educated blacks "are less constrained in moving where they prefer to live" black suburbanization represents the exercise of choice.
2. The migration trends for blacks by income and education "suggests strongly that the remaining black-white disparties reflect residual barriers to equal access rather than decreasing black desires for suburban residence."
3. "The increasing disparities by income since 1970 suggest that lower-income blacks are finding the high cost of suburban housing more of a barrier than previously."
4. The widening difference between upper and lower-income blacks and whites in suburban selection warns that segregation by income may be increasing.

Lastly, the author notes that this study does not indicate where blacks have moved within the subur-

ban areas. Has this migration taken place within defined minority neighborhoods or have blacks secured housing throughout the community?

This recent report underscores the lack of mobility for low-income blacks and the continuing dual housing market. It cites the cost of suburban housing as a barrier. But what are the factors that contribute to these housing costs? Are they merely the market forces of supply and demand or local action or inaction that obstructs housing at reasonable costs, or a combination of both? What factors are operating to preclude the provision of governmentally-assisted housing designed for lower-income families? To what extend is the paucity of housing for lower-income families a means of excluding minorities from residence?

Undoubtedly, while the discriminatory practices and policies that established white suburban communities persist, other reasons have been advanced in recent years for excluding lower-income families—minority and non-minority. "Many communities. . .are responding to the reality of fiscal strain and environmental degradation. Unfortunately, whether the intent is exclusionary or not, the impact is the same."[1] Laws, regulations and processes in effect for many years and instituted before fair housing laws were passed, are now being applied to close the doors to newcomers—specifically the less affluent and members of minority groups.

At the same time, the national commitment for fair housing, the legal obligation to administer federal housing and community development activities affirmatively to fulfill this national commitment and the goal of the Housing and Community Development Act (HCD Act) for the spatial deconcentration of lower-income families, demand the elimination of barriers to the provision of adequate housing and free housing choice for these segments of the population.

The barriers to achievement of these goals are varied. The costs of land, labor, materials and money have driven housing prices up to a point where more and more families are unable to purchase or rent housing without some form of assistance. Some of these costs are attributable to local land use policies[2] and processing requirements. Large lot zoning, prohibitions against multi-family dwellings, square footage and setback provisions, passing costs of infrastructure to the developer who passes it on to the consumer, overlong and duplicative procedures for securing necessary permits, execessive, obsolete or unncesssary construction and material standards inflate costs. "The problem is not so much a shortage of raw land but a shortage of serviced sites. . ."[3] There are also matters within the control of local jurisdictions. The ever-rising costs of financing, insurance, maintenance, utility and property taxes further reduce the the number of families who can afford the housing. In turn, governmental programs that offer housing assistance are also more costly per unit. Consequently, governmental appropriations, dollar for dollar, are supporting many fewer units than they could in prior years.

While these cost factors and existing laws have been used in many communities as a means of perpetuating their exclusive and homogeneous character, other, more direct, methods have been invoked. Slow growth or no growth plans, water and sewer moratoria, dedication of land for parks and open space operate to stem if not halt the flow of newcomers. The adverse consequences of preventing the development of suitable land for housing low-income families falls more heavily on minorities and female-headed households who make up a disproportionate part of the lower-income population—and particularly minorities, who have been denied access in the past because of discrimination. In addition, the local jurisdictions that together comprise a metropolitan area are interdependent and integral parts of that larger community. Planning and action now takes place in the context of standard metropolitan statistical areas, regions and are even statewide. Communities, as much as they may want to, cannot insulate themselves by closing the gates.

While low cost housing has been successfully barred by local governments through a variety of actions, the focus here is on the application of land

[1] Final Report of the Task Force on Housing Costs, U.S. Dept. of Housing and Urban Development, May 1978, p. 14.

[2] "A recent report by Advance Mortgage Corporation notes that one-third of the major metropolitan markets in the United States will suffer a severe shortage of developable lots in 1978. In the Chicago area, it is predicted that a dearth of improved lots will raise the price of developable sites by 20 percent this year alone." *Id.* at 17. Many local zoning ordinances severely restrict the variety of housing within their community's boundaries. A recent report by an American Bar Association commission notes that in the New York metropolitan area 99.2 percent of the undeveloped land zoned for residential use is restricted to single-family housing. In Connecticut, the ABA report observes, more than half of all vacant land zoned for residential use is for minimum lots of one to two acres. Such restrictions make the development of housing for low and moderate-income families very difficult if not prohibitive and also contribute to excess costs for middle-income residents." *Id.* at 17, 18.

[3] *Id.* at p. 8.

use laws and decisions. Refusals to establish public housing authorities, to sign cooperation agreements or give other approval to projects as required for all federally-subsidized housing before 1968, succeeded in confining low-income families in central cities, segregated by race and income. This will not be discussed although they continue to inhibit the supply of low cost housing.

The Housing and Urban Development Act of 1968[4] introduced two new housing assistance programs that were distinctive in that they did not carry the usual local approval burden.[5] An eligible private developer or non-profit sponsor could secure land for rehabilitation to be leased or sold to low-income families without having to secure the consent of the local governing body. It is the advent of these programs, in combination with the passage of the Fair Housing Act in 1968, that brought land use practices into conflict with efforts to provide housing under these programs. The restraints could be in the form of an existing zoning scheme that prohibited the development of units that could be provided within the economic limits of the program, for example, multi-family or townhouse structure. The developer or sponsor would then be required to seek a variance to enable the project to go forward. Or, the restraint could be initiated after a project had been proposed in order to bring it to a halt.[6] Other devices that were applied to keep out the poor include water and sewer moratoria and denial of water and sewer hook ups.

As noted earlier, in most metropolitan areas, minorities make up a disporportionate part of the lower-income population. In addition they are most often confined to segregated neighborhoods within central cities. Therefore, the refusal to provide low-income housing has direct, adverse impact on minorities and restricts their mobility. What is the legal basis, then, for challenging the kinds of practices and policies described above that bar the provision of housing for lower-income minority and female-headed households?

At this time, actions alleging discrimination against persons based on wealth are not likely to prevail.[7] While wealth has been deemed suspect in some instances (voting and criminal justice)[8], it has never been a basis for a finding of discrimination in housing. In *Valtierra,* the Supreme Court found that the requirement for referendum approval for any low-rent housing project was not limited to projects that will be occupied by a racial minority. The Court concluded that "the record here could not support any claim that a law seemingly neutral on its face is in fact aimed 'at a racial minority.'" The Court ignored the fact that the constitutional provision was not neutral on its face in that it expressly placed a burden on, and singled out, the poor. Nonetheless, the Court did not consider the classification suspect and therefore was not subject to strict scrutiny. *Valtierra* in effect not only rejected wealth as a suspect class with respect to housing (housing has never been held a fundamental right), it also rejected the premise that discrimination against the poor is proof of discrimination based on race or color.

The majority of lower court decisions have followed *Valtierra* and held that economic discrimination is not a violation of the Constitution. It would not be prudent, therefore, to assail barriers to low cost housing on economic grounds alone, albeit in most metropolitan areas of the country, the exclusion of low cost housing has substantial adverse impact on minorities. As a result, the issue confronted by litigators and the courts has centered on the standard of proof necessary to support a finding of racial discrimination.

The difficulties in formulating such a standard stem from the inherent nature of the cases brought:

1. They involve laws or practices neutral on their face, many having been instituted well before low-income housing was considered threatening.

2. There are other factors such as the environment and fiscal strain that undergird land use decisons.

3. Today, only hermits or fools would overtly give race as a reason for opposing a housing project. "As overtly bigoted behavior has become more

[4] Housing and Urban Development Act of 1968, Title VIII, P.L. 90-448, 42 U.S.C. §§3601 *et seq.* (1970 & Supp. V 1975).

[5] National Housing Act of 1934, §235, 236, P.L. 73-49, as amended by Housing and Urban Development Act of 1968, 12 U.S.C. §1715z, §1715z-1 (1970).

[6] *U.S.* v. *City of Black Jack,* 508 F.2d 1179 (8th Cir., 1974), cert. denied, 422 U.S. 1042 (1975), (Held: Black Jack's rezoning of land to block construction in violation of the Fair Housing Act).

[7] *James* v. *Valtierra,* 402 U.S. 137, 91 S.Ct. 1331, 28 L.Ed. 678 (1971). See also *United Farmworkers of Florida Housing* v. *City of Delray Beach,* 493 F.2d 799 at 808 (5th Cir., 1974). "For while the law with regard to decent housing or with regard to classifications based on wealth may still be in flux, it cannot now be doubted that under our Constitution, distinctions in treatment based on race are inherently suspect."

[8] *Griffin* v. *Illinois,* 351 U.S. 802 (1959). *Harper* v. *Virginia Board of Elections,* 383 U.S. 663 (1966). *McDonald* v. *Board of Elections* , 394 U.S. 802 (1969).

unfashionable, evidence of intent has become harder to find."[9]

4. In the case of governmental decisions or referenda, the courts are reluctant to inquire into the motivation of the law-makers or voters.

The easiest standard to meet, of course, would be a mere statistical showing that the denial of housing has a disparate impact on minorities, that is, no need to show purpose or intent. While several courts have used the terms "impact" and "effect", they have also relied on purpose and intent, as well as a substantial body of evidence in addition to bare statistics, to support a finding of racial discrimination.[10] Thus, one of the major issues that the courts have been struggling with is the standard of proof required under the Constitution and Title VIII and what evidence would support a finding.

This dilemma over purpose or effect was further beclouded by the Supreme Court decision in *Washington v. Davis* [11] in which it drew a distinction between the standards of proof required under the Fourteenth Amendment and under a statute. A finding of discrimination under the Constitution requires a showing of purpose, the Court ruled. The housing discrimination cases filed subsequent to the enactment of the Fair Housing law in 1968 that challenged land use decisions as discriminatory did not distinguish between standards of proof required under the Constitution or under the statute. Plaintiff's typically alleged violations under both the Fourteenth Amendment and Title VIII and the courts applied a single standard with no indication that any such question was presented. While the principal ground for finding discrimination in the earlier cases of *Dailey v. City of Lawton* [12], and *Kennedy Park Homes* [13] was proof of purpose or intent, the courts also noted that regardless of discriminatory intent, the effect of the municipalities' actions was discriminatory.

Later decisions handed down in the mid-seventies did not rely on a showing of purpose, but accepted proof that the effect or impact of the challenged action was discriminatory under either the Constitution or Title VIII. In an action brought under Title VIII, the Eighth Circuit clearly spoke to effect:

> To establish a prima facie case of racial discrimination, the plaintiff need prove no more than that the conduct of the defendant actually or predictably results in racial discrimination;in order words, that it has a discriminatory effect, *U.S. v. City of Black Jack,* 508 F.2d 1179, at p. 1184, 1185.

The plaintiff, therefore, need make no showing whatsoever that the action resulting in discrimination was racially motivated. The Court cited in support of this conclusion *Kennedy Park Homes* and *Dailey v. City of Lawton* where both purpose and effect were relied on in determining that there had been a violation under both Title VIII and the Constitution. In fact, in a footnote, the court in *Black Jack* agrees with the U.S. Government that "the ordinance ought to be enjoined because it was enacted for the purpose of excluding blacks," and observes that "improper purpose may be shown circumstantially," but continues: "Nevertheless, we do not base our conclusion. . .on a finding that there was an improper purpose." Going even further, the Court declared that "Effect, and not motivation, is the touchstone. . ." Even where effect was the articulated standard, the cases cited by the courts as authority for this proposition either relied on a showing of intent or purpose, or stressed evidence that would support a finding of intent or purpose.

The Supreme Court refused to review those decisons for which *certiorari* had been requested[14] and the issue of standard of proof where a municipality's exercise of its land use authority is challenged as discriminatory remained unsettled until the Court granted *certiorari* in the *Arlington Hts* case in 1977.[15]

Plaintiffs alleged that the refusal to rezone a 15-zone parcel of land from single-family classification was discriminatory and violated the Fourteenth Amendment and the Fair Housing Act. The defendants prevailed in the District Court where the defendants were found to be motivated by a desire "to protect property values and the integrity of the Village's zoning plan."[16] They were neither motivated by discrimination based on race or low income.

[9] *Metropolitan Housing Development Corp. v. Village of Arlington Heights,* 558 F.2d 1283 (1977).

[10] *Kennedy Park Homes Assn.* v. *City of Lackawanna,* 436 F.2d 108 (2d Cir., 1979), *cert. denied.* 401 U.S. 1010 (1971); *City of Black Jack,* 508 F.2d 1179; *Delray Beach,* 493 F.2d 799; *Resident Advisory Board v. Rizzo,* 564, F.2d 126 (3rd Cir., 1977), *cert. denied.*

[11] *Washington* v. *Davis,* 426 U.S. 229, 96 S.C.t. 2040, 48 L.Ed. 2d 597 (1976).

[12] *Dailey* v. *City of Lawton,* 425 F.2d 1037 (10th Cir., 1970).

[13] *Kennedy Park Homes Assn.,* 436 F.2d 108.

[14] *City of Black Jack,* 508 F.2d 1179. *Kennedy Park Homes,* 436 F.2d 108; *Citizens Committee for Farraday Woods* v. *Lindsay,* 507 F.2d 1065 (2d Cir., 1974); *Mahaley* v. *Cuyahoga Metropolitan Housing Authority,* 355 F.Supp. 1245 (N.D. Ohio, 1973).

[15] *Arlington Heights,* 588 F.2d 1283.

[16] *Arlington Heights,* 373 F.Supp at 211.

Further, the District Court concluded that a racially discriminatory effect did not flow from the refusal to rezone. The Court of Appeals reversed, but did not overturn the lower court's finding that the Village was not motivated by racial considerations. Rather, the Court ruled that regardless of motivation, if an alleged discriminatory effect exists, the challenged conduct violates the Equal Protection Clause unless the Village can justify it by showing a "compelling interest." Proof of effect, the Court also ruled cannot be based on racial disparity alone. Citing *Kennedy Park Homes,* the Court said that the "Village's refusal to rezone 'must be assessed not only on its immediate objective but on its historical context and ultimate effect.'"[17] The plaintiff met this burden and the Court concluded that the Village did not meet its burden by demonstrating a compelling state interest under the Fourteenth Amendment. Although plaintiffs also alleged a violation of Title VIII, the Court's decision did not discuss or base its finding on the statute.

The Supreme Court granted *certiorari* and, relying on its decision in *Washington v. Davis,* held that racially disproportionate impact alone will not support a finding of a constitutional violation. In a variation of the *Black Jack* Court language, Justice Powell noted: "Disproportionate impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination."[18] Proof of racially discriminatory intent or purpose is required to sustain a claim of constitutional violation. But the Court, recognizing the difficulties in establishing such purpose or intent, offered guidance on what facts and evidence would be considered relevant to showing intent or purpose.

First, the plaintiff is not required to show that the "challenged action rested solely on racially discriminatory purposes." Observing that lawmakers are influenced by many considerations, Justice Powell cautions that "racial discrimination is not just another competing consideration." Where it is one of the motivating factors for the action, "judicial deference is no longer justified."[19]

How then does one prove that discrimination was a motivating factor? The Court suggested broadly that both circumstantial and direct evidence is relevant and may include the following lines of inquiry which, the Court said is not an "exhaustive" list:

1. Facts on disparate racial impact as an "important starting point";
2. Demonstration of a "clear pattern, unexplainable on grounds other than race [that] emerges from the effect of the state action. . ." (But the Court cautions that such "clear patterns" that would make proof relatively easy are rare);
3. "Historical background of the decision. . .particularly if it reveals a series of official actions taken for invidious pruposes;
4. "Departures from the normal procedural sequence. . . .";
5. Substantive departures from traditional or accepted interpretations, "particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached;
6. Legislative or administrative history "especially where there are contemporary statements by members of the decision-making body, minutes or reports.

The Court then applied these standards to the facts of *Arlington Heights* and concluded with the District Court and Court of Appeals that the record did not support a finding of discriminatory purpose. While plaintiffs rested their claim on the discriminatory effect of the refusal to rezone, the Supreme Court observed that "both courts below understood that at least part of their function was to examine the purpose underlying the decision."[20]

The Court held, therefore, that plaintiffs had failed to carry the burden of showing discriminatory purpose and the Court of Appeals finding of discriminatory effect "is without independent constitutional significance."

Because the Appeals Court had not decided the statutory question, the case was remanded for further consideration of that issue.

Thus at first reading, it appeared that the Supreme Court had imposed an insurmountable burden on plaintiffs seeking a constitutional remedy, when, in fact, the Court suggested that a combination of conditions, starting with disparate impact, may establish discrimination as a motivating factor in a decision. The thin line between purpose and effect may well be less distinct than suggested under previous lower court decisions. (An observation

[17] *Arlington Heights,* 517 F.2d at 413.
[18] *Arlington Heights,* 429 U.S. at 242.
[19] *Id.* at 265.
[20] *Id.* at 268.

made by Justice Stevens in his concurrence in *Washington v. Davis.*[21])

What, then, is the standard of proof under Title VIII? The Court of Appeals issued its opinion in *Arlington Heights* [22] after remand in light on the Supreme Court's decisions in *Arlington Heights* and *Washington v. Davis.* "The Supreme Court's decision does not require us to change our previous conclusion that the Village's action had a racially discriminatory effect." Nonetheless, the Court did qualify its initial holding: "We therefore hold that at least *under some circumstances* a violation of Section 3604(a) can be established by a showing of discriminatory effect without a showing of discriminatory intent." (Emphasis added). Further, "we refuse to conclude that every action which provides discriminatory effect is illegal."[23]

The Court interprets Section 3604(a) of the Fair Housing Act to cover the refusal to rezone as an act that makes a dwelling unavailable "because of race." This last phrase does not connote intent but applies "whenever the natural and forseeable consequence of [an] act is to discriminate between races, regardless of intent."[24]

Clearly, the Court views the standards under Title VIII as less restrictive than those set out by the Supreme Court under the Constitution. Title VIII must be broadly construed and close cases must be decided "in favor of integrated housing."[25]

Although the Court lists the factors to be considered in determining whether relief should be granted, it also acknowledges that "the courts must used their discretion in deciding whether, given the particular circumstances of each case, relief should be granted under the statute."[26]

These standards were articulated by the Court:

1. How strong is the plaintiff's showing of discriminatory effect? There are two manifestations of effect: (a) "Greater adverse impact on one racial group than on another; (b) effect on the community—it perpetuates segregation and prevents interracial association.

2. Some evidence of discriminatory intent though not enough to satisfy the constitutional standard of *Washington* v. *Davis* is included but the Court states this this criterion is the least important. . . ."[27]

3. What is the defendant's interest in taking the action complained of?

4. "Does the plaintiff seek to compel the defendant to affiramtively provide housing for members of minority groups or merely restrain the defendant from interfering with individual property owners who wish to provide such housing?" What is the nature of the relief requested?[28]

"The courts ought to be more reluctant to grant relief when the plaintiff seeks to compel the defendant to construct integrated housing or take affirmative steps to ensure that integrated housing is built than when the plaintiff is attempting to build integrated housing on his own land and merely seeks to enjoin the defendant from interfering with that construction. To require a defendant to appropriate money, utilize his land for a particular purpose or take other affirmative steps toward integrated housing is a massive judicial intrusion on private autonomy. By contrast, the courts are far more willing to prohibit even unintentional action by the state which interferes with an individual's plan to use his own land." This factor favors plaintiffs.

The Court concluded that this was a "close case." Two factors worked against plaintiffs: defendant was acting purusuant to legitimate authority and there was no evidence of intentional discrimination. The factor operating strongly in plaintiff's favor was the relief requested to permit the plaintiff to proceed, i.e., removal of the barriers to the development of privately-owned land for integrated housing.

The question turned on the discriminatory effect of the refusal to rezone; because the District Court did not resolve the question of the availability of suitable alternative sites, impact cannot be measured.

If the District Court resolves this issue in favor of plaintiff, the Courts of Appeals directed that the

[21] *Washington* v. *Davis,* 426 U.S. 229 (Stevens concurrence at 254).
[22] *Arlington Heights,* 558 F.2d 1283.
[23] *Id.* at 1290.
[24] *Id.* at 1283.
[25] *Id.* at 1294. See also *Trafficante* v. *Metropolitan Life Ins. Co.,* 409 U.S. 205, 93 S.Ct. 364, 34 L.Ed. 2D (1972); *Laufman* v. *Oakley Bldg. & Loan Co.,* 408 F. Suppp. 489 (S.D. Ohio, 1976)l *Otero* v. *New York City Housing Authority,* 484 F.2d 1122 (2d Cir., 1973).
[26] *Arlington Heights,* 558 F.2d at 1290.
[27] The Court in discussing intent as the basis for finding a violation in one sense weakens even the Supreme Court's standards. It refers to partial evidence of intent, i.e., where there are several grounds for arriving at a specific decision, only one of which suggests discriminatory motivation. In comparing *Black Jack* the Court finds the evidence stronger in that case and observes that: "if the goal of most of the residents of Black Jack was to protect the local property values rather than to exclude black people, it would be unfair to substantailly distinguish between Black Jack and Arlington Heights." The Supreme Court, however, said that discriminatory purpose need not be the sole or dominant monitoring factor by decisonmakers. *Id.* at 1292.
[28] *Id.* at 1293.

Villages' zoning powers must give way to the Fair Housing Act.

Two other opinions have been handed down since the Supreme Court's decision in *Arlington Heights.* In *Resident Advisory Board* [29] the Court of Appeals distinguished *Arlington Heights* and concluded that under the criteria established by the Supreme Court, "'invidious purpose' can be gleaned through an inquiry which weighs a number of factors." The major distinction the Court stressed was the fact that the "City changed its stance from passive support. . . to active opposition" to the project after local demonstrations. (In *Arlington Heights,* the city was refusing to change the existing zoning classification).

With respect to the actions by the Philadelphia Public Housing Authority and Redevelopment Land Agency, the Court found that they violated Title VIII as well on the grounds that their actions had a discriminatory effect.

Here again the distinction between purpose and effect is blurred. Although the Court rested the Title VIII violation on effect it had already determined that these same acts were racially motivated and unlawful under the Consitution. Further, the Court adopted the views of the Arlington Heights Courts when it agreed that "the mere showing of a racially discriminatory effect does not. . .necessarily constitute a violation."[30] The Court then speculated on the influence these recent Supreme Court decisions would have on litigation in the fair housing area.

". . .[G]iven the increased burden of proof which *Washington* v. *Davis* and *Arlington Heights* now place upon equal protection claimants we suspect that Title VIII will unboubtedly appear as a more attractive route to nondiscriminatory housing, as litigants become increasingly aware that Title VIII rights may be enforced even without direct evidence of discriminatory intent."[31]

The Court proceeded to ease the defendant's burden as well when it rejected the rule that a defendant must show a compelling governmental interest in order to prevail over a plaintiff who has presented a *prima facie* case showing discriminatory effect. According to the Court, the burden consists of "establishing justification for acts resulting in discriminatory effects." "Rough measures" for determining the adequacy of the justification are:

> A justification must serve, in theory and practice, legitimate, bona fide interest of the. . .defendant, and the defendant must show that no alternative course of action could be adopted that would enable that interest to be served with less discriminatory impact.[32]

Finally, the plaintiff was successful because the Court refused to accept threats of violence as a justification for the deprivation of civil rights.[33]

Thus, on one hand, *Resident Advisory Board* upheld the lighter burden for establishing a *prima facie* case of discrimination under Title VIII but, on the other hand, relieved the defendant of the burden of meeting the stricter test of " compelling interest."

With respect to the Title VIII provisions directing the Secretary of the Department of Housing and Urban Development (HUD) to act affirmatively to promote the national fair housing objective the Court commented that inasmuch as HUD did not appeal the adverse decision, it "obviously recogniz[ed] its affirmative duty (to exercise its best efforts to have the project constructed)."[34] At the same time, the Court saw no need to decide whether this statutory provision applied to local governmental entities.

Thus far, one other Court has followed the *Arlington Heights* criteria, and added a fifth element related to relief. The District Court in *Irby v. Eastown Township* [35] ruled that the plaintiff must show that the grant of relief "will make integrated housing a reality and not just a possibility."

The Supreme Court has denied *certiorari* in *Resident Advisory Board, Arlington Heights* and *Skilken* [36] (request for *certiorari* had been granted, vacated and remanded for further consideration in view of the Court's decision in *Arlington Heights)* and so there is still no dispositive opinon on the standards for finding a violation under Title VIII. Because on remand, the Sixth Circuit in *Skilken* (a case with facts similar to *Resident Advisory Board),* reaffirmed its finding of no discrimination without opinion, the conflict among the three circuits leaves Title VIII standards in limbo.

[29] *Residents Advisory Board,* 564 F.2d 126.
[30] *Id.* at 149.
[31] *Id.* at 146.
[32] *Id.* at 149.
[33] *Id.* at 149.
[34] *Id.* at 146.
[35] *Irby v. Easttown Township,* E.O.H. Rep. (P-H) 15,231 (E.D. Pa. 1977).
[36] *Joseph Skilken & Co.* v. *City of Toledo,* 558 F.2d 350 (6th Cir., 1977); *Residents Advisory Board,* 564 F.2d 126; *Arlington Heights,* 558 F.2d 1283.

What can be concluded is that litigating plaintiffs must carry a heavy burden if they are to prove to the satisfaction of the courts that local governments are applying laws, regulations and procedures that though neutral on their face, have discriminatory impact sufficient to constitute a violation of Title VIII. Further, the relief sought is a major consideration in each of the decisions. Clearly, the courts are concerned about fashioning a remedy that goes beyond requiring a governmental body to refrain from taking a particular action to ordering it to take action that requires the expenditures of funds, enactment of legislation or other affirmative action.

In cases where plaintiffs have prevailed there has been a clear showing that in blocking or otherwise denying housing intended for lower-income persons, a substantial portion of those who would be denied the benefits of that housing were members of minority groups. Further, the neighborhood or community in which the housing was to be located was overwhelming white or rigidly segregated as a resulted of past discrimination. The most recent decisions discussed above nonetheless appear to relegate these factors to "the starting point" status of the Supreme Court's analysis of "intent" in *Washington v. Davis* and *Arlington Heights.* All agree that not "every action which provides discriminatory effect is illegal."[37]

Thus, neither naked statistics nor additional evidence of disparate impact will necessarily serve to shift the burden to the defending governmental agency.

In *Arlington Heights,* described by the Court in its decision as a "close case," the strongest point for plaintiff was in the relief granted. Defendant had only to remove an obstruction to enable the private owner and sponsor to proceed.

With respect to disparate impact, the Court held that the plaintiff did not show that the action had "greater adverse impact on one racial group than on another."[38]; and the Court could make no determination on whether the refusal to rezone would perpetuate the all-white character of the municipality because the District Court had not made a finding of fact that there were no suitable alternative sites. (Upon remand to the District Court, a consent agreement was entered into by the parties providing for housing on an alternative site).

A third element—defendant's authority to act—would rarely be helpful to the plaintiff as indeed it was not in *Arlington Heights.* No case in this area has yet turned on a local government's acting beyond the scope of its authority in the sense it is apparently used here. Zoning laws, water and sewer moratoria, issuance of building and hook up permits and all land use prerogatives are within the purview of local governments. It is when that authority is applied in a discrimnatory manner that the action becomes unlawful.

As for "intent" the Court found this element was unsubstantiated and, in any event, it deemed it the least important factor. Nonetheless, at another point in its decision, the Court did comment that intent is persuasive in buttressing a plea for equitable relief.

On the basis of these decisions, challenges to land use decisions that have a discriminatory effect will require a substanital amount of fact-gathering, analyses and advice and counsel from experts in a variety of areas not only for the preparation of the case itself, but in responding to defenses based on environmental, fiscal and planning arguments. The more subtle the discriminatory action and the more sophisticated the defense, the greater the need for historical research, statistical analyses and ingenuity in shaping requests for relief. As the foregoing analysis suggests, the burden on plaintiffs has not been significantly relieved. The difference between the terms "purpose" and "effect" may be merely a semantic difference. At best, there is now some guidance from the Supreme Court on the standards of proof for establishing "intent."

These constraints, however, do not apply to the Federal goverment's obligations with respect to the implementation of its housing and community development programs.

A major piece of legislation affecting the ability of localities to continue to exclude lower-income minority families was passed in 1974. The enactment of the Housing and Community Development Act (HCD Act)[39] for the first time, provided a basis for evaluating and assisting in meeting the housing needs of communities within the context of the larger metropolitan area. Congress set as objectives the establishment of viable neighborhoods and the spatial deconcentration of lower-income families. A means for achieving this goal is the requirement that applicants for federal funds estimate the number of

[37] *Arlington Heights,* 558 F. 2d at 1290.
[38] *Id.* at 1291.
[39] *Housing and Community Development Act of 1974,* P.L. 93-383, 42 U.S.C. §5300 *et seq.* (Supp. V, 1975).

lower-income families "expected to reside" in the community and to provide some housing to meet the need.[40] Another support for examining needs beyond the narrow self-interests of each locality is the requirement that the applicant's plans be consistent with areawide or regional plans. In theory, at least, exclusionary communities could no longer use federal funds for community development activities without regard for the housing needs of lower-income families living within the larger community—or, as George Romney termed it, the real city.

The implications for expanding housing opportunities for minorities is evident. The Constitutional and statutory civil rights mandates attach to every aspect of federal activity.[41] HUD has issued regulations implementing the HCD Act that have implications for assuring access to minorities and women. For example, HUD's regulations caution recipient localities that their failure to provide housing on a nondiscriminatory basis in accordance with their commitments cannot be justified on the basis of matters within their control.[42] Impediments within the control of the locality such as unsuitable zoning classifications, bars to permitting water and sewer hook ups must be removed. If cooperation agreements are required, they should be executed. Part of the duty of recipient communities according to HUD regulations is to operate its programs without discrimination and to take affirmative steps to undo the effects of past discrimination.[43] Sites must be available for low-cost housing that will promote equal access to minorities and female-headed households. Affirmative marketing programs must be developed and implemented to assure minorities and women the opportunity to apply for and secure the units. If localities do not comply, HUD can apply sanctions beginning with conditioning payments on specific action by recipient, reducing or cutting off of funds and possibly the recapture of funds already granted.

As the judicial decisions urge, the real remedy is the production of units for the victims of discrimination. HUD has another source of authority that could be effective, particularly in exclusionary communities, to assure that dwellings will be provided. Section 8, "Lower-Income Housing Assistance", Title II of the HCD Act, authorizes the Secretary of HUD to provide this form of assistance where there is no public housing agency or where an existing agency is unable to implement the program.[44] If the locality resists because of the race of the potential occupants, the Justice Department can institute a civil action pursuant to Title VIII. Certainly, the resources of the U.S. government are greater than those available to the low-income victims.

Another source of housing is that which is federally-owned but for which the federal government has no further need.[45] Once declared surplus, the law permits the dispostion of suitable housing or land on which housing can be constructed to govermental housing agencies such as local public housing authorities or to non-profit sponsors who will utilize federal housing programs for lower-income families. As military installations are closed or partially abandoned, large numbers of habitable dwellings come available. Unfortunately, with few exceptions, these units have been sold to private entrepreneurs despite the presence in the area of needy families living in substandard units. HUD should exercise its authority under the Federal Surplus Property Act to assure that this instant housing is used for needy families. An amendment in 1977 permits the Secretary to override local opposition to federally-assisted housing thus removing an oft-cited obstacle to the program.

Fair housing amendment bills are presently pending in Congress. H.R. 2540 and S. 506 are identical and give HUD authority to enforce Title VIII including the issuance of "cease and desist" orders. The Attorney General's authority is extended to bring suits referred by the Secretary and is not restricted to pattern or practice violations. The bill also liberalizes the recovery of attorney's fees for prevailing aggrieved parties. These additional mechanism would be important supports to removing exclusionary land use practices.

[40] *Id.* at §5304 (Housing and Community Development Act was amended in 1978. Tying the expected to reside formulation to existing and planned employment opportunities).

[41] Civil Rights Act of 1964, Title VI, 42 U.S.C. §2000d-2000d—4; Civil Rights Act of 1968, Title VIII, *Supra* ; Executive Order 11063,33 C.F.R. 652 (1959–63); Fifth and Fourteenth Amendments; Housing and Community Development Act of 1974; *supra,* §5309.

[42] 24 C.F.R. 570.306(a)(3),(b)(3.) See also HUD Handbook 6503.1 Chapter 7 3a (March 29, 1979). "When recipients have not made substantial progress toward providing the units in established numerical housing goals, the Area Office must determine whether lack of progress was due to factors beyond the control of the recipient or whether there were actions within the control of the recipient which, had they been taken, could have resulted in the provision of housing assistance. Actions typically within the control of the recipient are the preparatory actions of removal of zoning impediments, designation of specific sites for new construction, solicitation of private developers, CDBG expeditures for site acquistion or extension of utilities to sites, formation of a PHA, other actions set forth in 24 C.F.R. 570.306 of the regulations. . . ."

[43] 24 C.F.R. 570.601.

[44] 42 U.S.C. 1437 (f).

[45] Federal Surplus Property Act, 40 U.S.C.A. §484b (West, 1979).

Particularly overdue are regulations or guidelines that define and interpret the practices and policies that constitute violations of Title VIII. The courts look for guidance to expert agencies, in this case HUD, and would no doubt place considerable reliance on the agency's analyses. Explicit standards that would clarify what evidence would support a finding of discriminatory effect would be invaluable now that the majority of courts appear to agree that actions that have a discriminatory effect are violations of Title VIII. Certainly, before the Supreme Court decides to resolve the issue, HUD should develop and publish for comment its requirements.

As other factors, principally environmental and economic, increase in urgency[46] and a balancing of interests is sought, it is imperative that the right to equal housing opportunity assured under the Constitution and Title VIII not be negotiated away.

[46] "This problem is likely to get worse, not better. Fiscal problems of local government as well as higher environmental standards will continue to restrain the expansion of sewage treatment capacity and other infrastructure vital for opening up developable sites. Local governments are dependent on federal matching funds for the construction of sewage treatment facilities, but the source of such moneys is finite and the need is great. Furthermore, the Environmental Protection Agency (EPA) is placing restrictions on the extent to which the Federal Government will fund sewage treatment capacity beyond existing needs, a factor which could further inhibit supply. Moratoria on new sewer connections put a premium on lots with hookups. In Montgomery County, Maryland, where a moratorium covering large areas of the county existed for several years, a quarter-acre lot with a hookup would sell today for more than $40,000. In the early seventies, before the moratorium, it would have brought $10,000–$12,000.

"In addition to the problem of the overall supply of developable land, there is the specific problem of finding desirable sites for higher density housing which could be developed for families of low, moderate and middle income." Final Report on the Task Force on Housing Costs at p. 17.

Low Income Housing and Neighborhood Resistance

By Dorothy Conrad

Former Mayor

Birmingham, Alabama

Introduction

The story of low and moderate income housing in Birmingham and its defeat is complicated. I have chosen a format that I hope will enable the reader to follow the events that led to the defeat of the housing and the removal from office of those elected officials that gave their support to the plan.

The highlights have been listed in chronoligical order, many hearings and meetings have been omitted. The document would be too long and repetitious.

I have included a brief description of the city and its form of government so that you can better understand certain events.

The City

The City of Birmingham is a few miles north of Detroit. The major crossroads are Maple (15 Mile Road) and Woodward Avenue. The land area of the city is approximately four and one-half square miles. The school district is much larger and includes all or part of other communities. The reference to Birmingham often includes the school district. The City population is about twenty-five thousand. Birmingham is a small city; not a series of residential subdivisions. There is a downtown, very definite neighborhoods, a library, two golf courses, an arena, parks and a small lake. The City has a diverse housing stock, ranging from modest to grand, with a mix of single family to various types of multiple.

The buildable land is about 98 percent developed. A good deal of speculation has taken place in some neighborhoods which led the past elected officials to enact several ordinances to protect neighborhoods.

The historic district ordinance, a housing and maintenance ordinance, the licensing of rental units, along with low interest loans and some grants from HUD had a positive effect on the neighborhoods. A negative result from this action has been a displacement of some people, primarily lower income people. Although labeled affluent, the people are working people. There is a feeling of having "arrived", by some of the residents, when you buy a house here. All of Birmingham's residents are not affluent. The number of young and old who cannot afford to stay or move in grows each year. Housing costs are high (rent or buy). Birmingham has a large percent of senior residents, many having lived here most of their lives. There is also a large number of people who transfer here, stay a few years and move on.

The City takes great pride in being the first all-white community to pass an open housing ordinance. This ordinance was approved by the voters in April 1968.

Local Government

Birmingham has a city manager form of government. The elected body is made up of seven commissioners elected at large for three year terms on a rotating basis. The Commission selects from

among its ranks a mayor and mayor pro-tem the week following the spring election each year. The mayor chairs all commission meetings and in his or her absence the mayor pro-tem assumes that role. The functions of the mayor are spelled out in the city charter and are much the same as in most small communities. The city manager carries out the decisions made by the elected commission. Meetings are held every Monday night.

Housing History

The Commission's awareness of a need for subsidized senior housing began in 1969 when Commissioner David Breck suggested the city explore the feasibility of low income senior citizen housing. This suggestion led to the formation of a citizen committee, a professionally-done survey and finally in January 4, 1973, the establishment of a City Housing Commission. Land for construction of senior housing had been and was the problem facing the Commissions. In the summer of 1973 the school board advertised for bids for a parcel of land containing a closed school and located in downtown Birmingham. This site, though small, would be ideal for senior housing. With financial help from Jacobson's Stores, Inc., the City purchased the site.

Pursuit of funding at that time was a dead end; money was not available through any source the Housing Commission explored. Cities and developers were waiting in line for release of funds.

October, having been informed funds were going to be released, the City advertised for proposals for senior housing. Eight bids were received and at a series of *public* hearings reviewed and discussed. The City Commission, the Housing Commission, the Administration and the public were all involved in the review process.

Of the eight proposals received, seven would use federal and/or state subsidies. The eighth proposal was not for low and moderate income people.

The City entered into a contract with HUD for the services of one of its employees. The City needed an expert to aid in securing federal funds and the development of a housing plan. The grants administrator (city title) worked with the City Commission and the Housing Commission to develop programs and obtain funding to carry the programs out. In the year and a half this employee was with the City a very successful rehab program and a section 8 rent program for existing units was carried out. This program was the housing assistance plan (HAP) for the City.

Baldwin House Corporation was selected as the developer for senior housing. Baldwin House is a local non-profit group consisting of a board of directors from four Birmingham churches. The board retained a professional team to assist in the development of the housing. They planned to use MSHDA (Michigan State Housing Development Authority) funding for construction of the building with rent assistance coming from HUD's section 8 program.

The voters approved the sale of the City land for senior housing. The ballot wording granted sole discretion to the City Commission to carry out a plan. Mailings and public meetings advised the public of the design of the building, the developers and finance method. The MSHDA/HUD method of finance did not bring protest cries about federal/state interference.

The City and Baldwin House signed a one year contract. Baldwin proceeded with an application for funds through MSHDA. Baldwin House notified the City, funding was assured but MSHDA was hinting at a requirement for new construction family housing to provide a balanced housing program for the City. Members of the City Commission, the Housing Commission and Baldwin House met in Lansing to hear this new requirement. There was nothing in writing to us as yet and although we explained the current housing program going on in Birmingham and our strong belief that we had a balanced program, MSHDA was adament.

MSHDA was invited to tour the City which had no land for such a development and they did take a tour.

Official word was received from MSHDA stating that family housing over and above our current housing efforts would be required if they were to provide construction funds for the senior housing. Mayor Conrad read a statement at a regular Monday meeting outlining the requirement and asked the Commission to authorized a public hearing to notify the public of the new requirement.

A public hearing was held. The meeting was well attended; the program was fully discussed with two representatives from MSHDA fielding many of the questions. It was at this meeting that scattered site rehab owned by Baldwin House was discussed. MSHDA indicated they would agree to this method of providing family housing.

The crowd was concerned but not angry, and only Commissioner Robert Kelly predicted dire things happening to the City if family housing became a reality. A second hearing was held two weeks later, the attendance was small. After a few weeks of ironing out the proposal, the majority of the Commission determined a family housing program consisting of scattered site rehabs could be a plus for the City. The Housing Commission already had a list of names of local families who needed housing and urged that we go ahead.

MSHDA agreed to give the City credit for the housing program (rehab and section 8) currently in effect. The credit was 25 units. Baldwin House would be required to provide 50 family units.

By a vote of 5-2 the Commission authorized Baldwin House to proceed with its application for funding for 152 units of senior housing and 50 units scattered site family housing. Only one of the two negative votes was against the proposal. Commissioner Ring felt that management should be split. That left Commissioner Kelly as the one dissenter.

At almost every meeting thereafter Kelly made a speech or remarks about the housing program and the dire effect on the City. He attacked Baldwin House continually, e.g., they were amateurs, this was a social experiment, the City would be ruined, he would have to move, HUD would control the City, MSHDA would take over, Birmingham residents wouldn't be able to get in. He claimed we held secret meetings and planned things and left him out, etc.

We later learned he not only was making all of these comments at our regular meetings but to every organization and individual who would lend an ear all over the City. Opposition was growing but it was not brought to the Commission.

MSHDA gave Baldwin House approval and a promise of seed money. The contract with the City, due to expire in December of 1977, would have to be extended before funds could be made available. We were also advised that the *only* available funds for senior housing in southeast Michigan was being held for Birmingham, and if we did not act to keep the funding secure we would lose it. New funding could be a long way off.

The Campaign

A weekend blitz in a few areas of the City urged residents to attend a Monday night rally to be followed by a march to the City Commission. The subject: family housing. The rally was held at a school close to City Hall. The leader, a young woman who called herself Nancy Elby (not her real name), advised the group on the housing plan and its social implications.

Social change was the prevailing message. The group was advised the City Commission had failed to keep them informed; in fact was guilty of hiding information. The speaker stated that she had been unable to obtain information on the program. Race was not mentioned, but it was very much implied.

The group arrived at City Hall and the Commission set aside regular business to answer questions, to explain the program and assure the people that the program was a good one. The many safeguards in the contract were outlined. Ms. Elby, spokesperson for the group, stated the group wanted to vote on low income housing; and a petition drive was underway. A man in the audience, Robert Cobb, spoke to the Commission and the audience. He said he was involved in senior housing. It was his business, and he knew of many ways to fund that wouldn't involve any family housing.

The Commission was prepared that night to extend the Baldwin House contract but postpone any action for three weeks. During that time we would explore Mr. Cobb's ideas, meet with MSHDA again to see if they would remove the family housing requirement, and do more research.

All of this was done, Mr. Cobb's ideas were a dead end; we had looked at them all before. (We later learned he managed MSHDA/HUD housing and was a partner to the man who would receive Birmingham's money, for a development in another community, if we let the contract lapse. This information was not supplied by Mr. Cobb, and it was not made public).

The opposition used the three weeks well; a petition drive to put the issue of low income housing on the ballot and terminate the contract gained support. Neighborhood meetings were held, misleading literature blanketed the City, false information was burning up the phone lines. A large rally was held with one of the major speakers being Commissioner Kelly. A distorted housing plan was presented. People were worked into a fever pitch hearing what the supporting Commissioners, the social architects with their eyes on higher public office, especially Mayor Conrad, were doing or going to do to ruin the City. The format, *fear,* and it

worked well. By the evenings end " *recall, recall* " could be heard through the hall.

At no time during this three week period were the Baldwin House Board, the Housing Commission or the pro-housing City Commissioners invited to or asked to participate in any of these meetings.

The public statements by this group were simply they wanted to vote on low income housing; they supported senior housing. The termination of the contract was downplayed; many signers of the petition claimed they were unaware of that provision. How could they gather so much steam and support in such a short time? A small local newspaper called the Birmingham Patriot, struggling to make a go of their paper, jumped on the bandwagon. The supporting Commissioners were negatively portrayed; Kelly and Elby became heros along with other housing opponents in the community. The housing plan MSHDA/HUD was distorted. This paper was delivered to every house in the City week after week free of charge. The regular local newspaper, the Birmingham Eccentric, reported both sides and tried very hard to fairly report the news. The metro papers also carried stories, but only one paper went to every home. It became the voice of the opposition.

A large angry crowd appeared at the Commission meeting. Ms. Elby was their spokesperson, and they demanded the contract with Baldwin House be allowed to expire and the issue of low income housing be placed on a ballot. Petitions with this demand were presented. Explaining that the funding would be gone if we did not renew the contract, Mayor Conrad offered a compromise which would extend the contract for two months but remove the family housing provision. The Commission by a 5–1 vote accepted the compromise. (Commissioner Watt was absent but had dictated a letter to the Commission expressing her support for keeping funding options open.) The Commission directed the Housing Commission to continue to explore other funding and determine if the family housing requirement could be altered. The oppsotion was not happy. They wanted the contract terminated. Ms. Elby announced they would not compromise.

People Who Care About Birmingham was formed. Their plan was to head off the recall and educate the people of Birmingham on the housing plan. They put good literature together for distribution, set up a hot line and a speakers bureau. Meetings were organized to educate the public. The opposition refused to appear at the same time as the supporters. The usual format was for the support people to speak. Then they were told to leave, and the opposition moved in to speak. No one was allowed to question Nancy Elby, and Commissioner Kelly became the main speaker for the opposition.

Throughout all of this, the opposition maintained that they had a plan to provide the senior housing, a tax increase would not be needed, and MSHDA or HUD would not be involved. The plan was never unveiled.

Officials from MSHDA were invited to the City to answer any and all questions regarding the housing plan. A team of three MSHDA people along with the City Commission and the Housing Commission fielded questions for about three hours at a public meeting. The text of this meeting was transcribed by the City Clerk and made available to the public. The opposition took bits and pieces of this document and used it to their advantage.

Opposition continued, and in early 1978 the City Commission determined they would put the housing issue on the April 1978 ballot. Input was requested from the opposition for ballot proposals they had *no* suggestions. People Who Care offered several. It was finally determined two proposals would go to the voters. The Baldwin House proposal and a City bond proposal. The contract with Baldwin House was extended to May to keep the MSHDA funding available. The local bonding proposal, which some of the opposition had claimed to support, received a "no" vote from Kelly.

The recall effort was intensified, even though the opposition group claimed they only wanted an opportunity to vote on the housing. Many people signed the recall petitions because they were told it was only to force the Commission to put the housing issue on the ballot. The petitions were filed after the Commission had voted to place the housing question on the April 1978 ballot. The County Clerk determined the three commissioners up for re-election would not face a recall; the April election would determine their fate. The other three would face recall May 8, 1978. Kelly was not a target for recall.

The Housing Commission released its just completed update on senior housing needs. The information taken from people who had signed up for senior housing (over 900 names were on this list) indicated there was substantial interest and need. The time between the decision to place the questions on the ballot and the April election was spent trying to

educate the public, promote the housing, and now trying to re-elect the three men (Ring, Underwood and Staples). The housing opponents had their candidates and their opposition to both ballot proposals.

In April 1978 both ballot proposals were defeated and the supporting commissioners lost their seats to three leaders of the housing opposition. Robert T. Kelly became mayor by a 4-3 vote. (the three new commissioners and his vote made up the four). Conrad, Watt and Dropieski were recalled. At a special election to fill the vacancies created by the recall, three more opponents to the housing plan were elected.

Aftermath

Birmingham lost their Community Development (CD) and 312 funds, not solely on the outcome of the election but because the present commission refused to provide any kind of plan for low and moderate income housing. This action has not really bothered the Commission. Despite their derogatory remarks about MSHDA and its staff during the campaign, they applied for and received rehab money from MSHDA.

A blue ribbon committee, appointed by Mayor Kelly, stated in their October 1978 report to the City Commission the following, "If the City of Birmingham is to provide senior citizen housing for low income people the only feasible alternative appears to be through the use of federal and/or state subsidies."

Those "fine dedicated" citizens who held meetings and circulated petitions against the housing plan but promised support for senior housing; some are now elected officials, others have left town, and a few show up at commission meetings to "boo" anyone still pushing for a housing plan.

The City Commission has done nothing to provide a plan for senior housing that would meet the needs of lower income people and has become very annoyed by the activities of a new pro housing group, P.R.I.D.E. (People Rallying In Defense of Equality).

P.R.I.D.E. believes decent housing is a moral issue and organized when it became obvious the City Commission had no intentions of pursuing their campaign promises for senior housing. Many of the People Who Care group have joined P.R.I.D.E., but there are new people—people who have decided they were deceived by opponents to the past housing plan. P.R.I.D.E. has been subjected to many of the same tactics employed to cast doubts on the character of the past housing supporters.

The senior citizens who wanted housing; some have had to leave Birmingham. Many have been so intimidated by the wrath towards people who need help they will not speak up—someone will have to speak for them. Some have joined P.R.I.D.E. Baldwin House and the churches have pulled back. A few dedicated ministers, willing to endure the wrath directed at the churches by opponents of the housing plan, have joined P.R.I.D.E.

The much needed indepth study of senior needs, the present Commissioners campaigned for: it it was too expensive and a senior group was asked to include a few housing questions in a survey they were doing. The Commission has not held a public discussion on the findings of that survey. They will have to be pushed to do so.

Birmingham has a wonderful plan to handle its residents who need housing assistance—pretend they don't exist. The needy are forced to go to a community that does provide housing assistance or has lower housing costs.

Summary

The housing plan negotiated for Birmingham contained every practical safeguard against problems a city can attach to a housing plan. The concerns, the housekeeping, and maintenance, expressed by the citizens were considered by the City Commission and the Housing Commission. The contract between Baldwin House and the City contained provisions to deal with these concerns. The city's ordinances would apply to the Baldwin Housing. Birmingham residents would receive priority in tenant selection. Baldwin House and the City would work as partners to provide the best possible housing. There is no other housing in the City with the safeguards this housing would have.

How was the City manipulated into rejecting the housing plans? The major elements employed by the opposition were:

1. Destroy the credibility of the negotiators, supporters and builders.
2. Find a constant vehicle to deliver the message (workers, media).
3. Promote confusion.
4. Promote fear.
5. Assure the community there were other solutions.

Each neighborhood and group was handled differently. Listed below are some of the concerns expressed by people in the community and the responses stated or suggested by the housing opponents.

Q: Are there minority quotas?
A: Yes—the number is unknown, and you know those government agencies, they are always changing the rules; it could end up being all of the housing.
Q: What is the definition of a resident?
A: There are no guidelines—people who work here are considered residents by HUD's rules. We do have a large number of domestics.
Q: Where will the family housing be located?
A: Probably in the areas of the City with the more modest homes, probably whole blocks. You know they won't stop at fifty houses. HUD is always changing their minds; we could end up with five hundred HUD houses.
Q: Will we have local control?
A: MSHDA can take over at any time they are not satisfied with the operation.
Q: What kind of families will be eligible for the family housing?
A: People displaced by urban renewal and other government actions. Welfare and ADC recipients; people who have not earned their way.
Q: Why is family housing required?
A: The government is trying to inflict social change. This program is a social experiment.
Q: My name is on a list at City Hall for senior housing. Will I be considered?
A: Maybe. First the minority and displaced persons will be taken care of.
Q: Minorities don't bother me. I want to know if the needy senior citizens and families in Birmingham will be given priority.
A: There is no guarantee.
Q: Will taxes be increased to cover the costs of the Baldwin proposals?
A: There is no guarantee. Costs are going up. Someone will have to make up the difference between current expense allowances and future expenses. The government has a way of changing programs and funding allocations.
Q: Is there another way to fund the senior housing and provide quality housing for low income senior residents?
A: Certainly. Birmingham has the know how and ability to take care of its own. The City Commission has refused to explore other means. We have a plan.
Q: Will the housing be maintained?
A: Look what HUD has done to Detroit.
Q: Will this affect property values?
A: Yes. They will go down. When you have those kinds of people in a neighborhood, values go down.
Q: I like a city financed housing plan. Will the one on the ballot work?
A: It is too costly. Experts have advised a less costly plan is possible.
Q: Is there a need for family housing in Birmingham?
A: No demonstrated or documented need.
Q: Is there really a need for senior housing?
A: The City has not done a current study to determine what the needs are. We need an indepth study by a non-involved agency to determine the needs.
Q: How will those families brought into the community fit into Birmingham?
A: They won't [and a variety of reasons were given on how this would be cruel for poor families].
Q: I'm confused. I support senior housing but I don't know how to vote.
A: Everyone is confused. We need to wipe the slate clean and start all over. We have a plan.

The list could go on; as concerns were raised, the supporters answered in a straight forward manner. For every problem resolved five new ones would be tossed out. There seemed to be no way to keep ahead. In the end confusion and fear won, and the housing opponents claimed the majority ruled—the majority was right—democracy had won. (Over 50 percent of the registered voters did not vote).

[Examples of some of the material distributed throughout the campaign by both sides are available at the Commission's Regional Office, Chicago, Illinois.]

Comments

Did democracy win in Birmingham? Is "the majority rules, the majority is right" the measure for determining the system works? What happened to representative government? Who speaks for the minority? The noble words at the base of the Statue of Liberty do not seem to apply in this situation; they certainly do not apply to the attitudes promoted by the housing opponents.

The tactics employed by the housing opponents parallel the tactics employed by Senator Joe McCarthy. The political ambitions of one elected official acted as a magnet for a lot of people with a variety of reasons for jumping on the bandwagon. The housing issue provided a common ground for people to vent their negative feelings.

There is a mood in the country today that threatens to undo social gains that were made during the sixties. Middle income and upper middle income people are frustrated, believing they are being asked to bear the burden for all of society's ills. These feelings were encouraged by the opposition. The end result: the defeat of a good housing plan and the elimination of elected officials that dared to remind them of human needs.

Was the total negative vote racial?—No—but I believe the leaders played on people's racial fears. The number of people drawn into this group grew as confusing data was distributed by the opposition.

The efforts by the supporting elected officials, People Who Care, the Birmingham-Bloomfield League of Women Voters and the Birmingham Eccentric to tell the true facts and promote positive reactions were buried in a constantly increasing campaign to promote fear and confusion.

The housing supporters were portrayed as a bunch of social do-gooders gambling with the community's assets, the life's work of many residents. The integrity of these "social architects" was questionable. The opposition hinted at deals, secret meetings, and hidden information. The City would be *ruined* and there was no demonstrated need for such housing.

The fact that the community had applauded the past performance of these same elected officials didn't seem to matter. Commissioner Kelly was portrayed as the only elected official who cared about the people and the City.

The supporters armed with the facts and a firm determination not to sling mud were buried in the mud by an opposition campaign that was well organized and beautifully executed. The facts, the truth didn't stand a chance. The opposition won on all counts.

I believe this campaign had among its leaders and supporters people who really did not care one way or the other about housing in Birmingham. Their interests were beyond such an issue. If it were possible, the key people in the opposition should be asked to explore their views in a format that would allow the supporters to also participate. The opposition has never been required to air their position in the accepted process of debate. For all their claims of "The Democratic Process" they never practiced it in their campaign.

The future of low and moderate income housing, outside of central cities, looks doubtful. The past practices of confining the needy to certain areas will continue. Strong organized opposition worked in Birmingham; it will work elsewhre.

Agencies charged with furthering housing opportunities will have to do more than be nice people willing to answer questions. The threat of taking away funds or the actual action of fund removal becomes a questionable action when a different division or other agency gives it back.

Very few local elected officials will endure the wrath and torment heaped on the Birmingham Commissioners. The pay scale of five dollars a week isn't the inducement. Six Birmingham elected officials, supported by many caring people, tried to speak for the minority, but it wasn't enough. I am proud to have served with people who put human needs above their own political ambitions.

I hope the story and my comments on low and moderate income housing and its defeat in Birmingham, will aid in the development of housing plans and policies to further housing opportunities for all of America's people.

Block Grants: Promise and Problems

By Paul Bloyd

National Citizens Monitoring Project

Working Group for Community Development Reform,
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The National Citizens Monitoring Project on CDBG, for which I work as a field coordinator, has not yet analyzed its findings for the first year of the project. Therefore, this paper represents personal impressions from field work and partial data review.

For those who may not be acquainted with the Project, a brief explanation may be in order. It is sponsored by the Working Group for CD Reform, a coalition of national groups interested in CD as a resource for low/moderate income people. The Working Group is committed to influencing program reform through a combination of local group activities and national alliances reflecting the needs and interests of these groups and their low/moderate constituency. Through a grant from the Community Services Administration, the project provides subcontracts to twenty one urban jurisdictions throughout the country, and to the League of Women Voters which has 15 additional sites. Research, data compilation, technical assistance, and organizing for current, local impact are the major components of the project. A first annual report is planned for September. Additional material about the Project will be available to those attending the Consultation.

The Context of the Block Grant Program

At the risk of repeating what may be truisms for most or all of you, it is difficult to provide an overview of CDBG without at least mentioning the fact that it was born out of the swing of the national pendulum from federal to local control after the spawning of the categorical programs of the sixties. The CDBG Legislation was a key feature of the New Federalism of the Nixon years, along with General Revenue Sharing. Model Cities, water and sewer, and a number of other community/housing programs were folded into the Housing and Community Development Act of 1974 which provided relatively unrestricted entitlement grants to urban jurisdictions. The floor debates and Conference Committee Report are extremely revealing in pointing up the degree of polarization and tradeoffs that took place between those who pretty much wanted to turn the money over to the jurisdictions on terms that provided no accountability at all, and those on the other side who feared the total loss of any sense of priorities and focussing that would come from the "no strings" approach. The claims of excessive red tape and the arguments against bureaucrats telling local officials what to do proved most alluring.

What resulted was an amalgam of ambiguous, contradictory statements of goals, priorities, directives, and requirements. Added to the legislative confusion has been the fact that the battle over national priorities versus local control has continued each year since the first enactment and is reflected in the Amendments and constantly charging regulations. Thus, while the Act and regs contain a widerange of eligible activities, they also call for

"principally benefiting low and moderate income persons." And while there is a firm requirement for a housing assistance plan, use of CD funds themselves for housing construction is severely limited. Perhaps the epitome of the Act's schizophrenia is the Brown Amendment, which sought to remove any priority for low/moderate benefit. This effort resulted in beautifully circular language the first part of which, stating that the priority does not apply, is negated by the second part which stipulates that the removal of the priority is conditioned by that part of the Act which requires principal benefit.!

The Promise of the Program: Potential Positives

Under CDBG, there is a greatly increased opportunity for decentralized decision-making which can involve health local interaction by community interests, including neighborhood and public interest entities. The variations among communities around the country can be accommodated in fine-tuned fashion under the huge flexibility of CCBG. A fascinating array of unique local approaches to community problems has developed, some useful and effective, others not. From street lights, streets and curbing, drainage facilities, and land clearance, through housing rehab-community centers, and downtown malls to public (social) services, many of which are carryovers from model cities programs, each community designs a program with a minimum of federal do's and don'ts. If neighborhood, minority, and moderate/low income people were in a strong position politically, and if there were a national consensus that needs should be met fairly and equally, the decentralized approach would provide an excellent setting for communal decision-making. The fact that needy people scarcely can stand their ground in the local communities, and that there is not a consensus on equal treatment, makes this flexibility a mixed blessing.

One of the more unexpected positive results of the CD legislation is the requirement, for the first time, that all applicants prepare statements of housing needs and goals and that the proposed activities of their CD program be related to these Housing Assistance Plan (HAP) statements. This requirement provides an excellent record from which to compile a national inventory of housing needs and to monitor the extent to which those needs are being met. Although there is discouragingly widespread evidence that the HAP statements are being haphazardly prepared and not seriously applied, the opportunity remains, locally and nationally, to use the information to press for meeting the most urgent needs for housing—renter and large family needs in particular, and minority needs within the various categories.

An additional promise of the CD program, particularly as spelled out in the 1978 amendments, is the opportunity for private non profit agencies and neighborhood groups to operate housing and service programs. Within the broad flexibility described above, a large number of groups around the country have used CD funding to demonstrate their effectiveness as program operators. In addition to being closer to the communities served than city agencies usually are, and therefore an effective alternative to city-run programs, the groups have been able to use the program operation as a base for expanding neighborhood influence over other issues important to their constituencies.

While removing many of the former categorial grant restrictions, the CD Act has produced regulations which do retain a number of opportunities for positive influence. The requirements for citizen participation, benefit, affirmative action, and HAP implementation, among others, make it worthwhile to use the regulations and to learn how to do so.

Process Issues in CD

1. Diminished Federal role. HUD officials at every level have shown themselves painfully conscious of the dimished federal role that came out of the CD legislative compromise and, perhaps equally important, the whole tone of anti-Washington, anti-bureaucrat sentiment in the country during the seventies. One of the major frustrations for persons and groups trying to secure compliance in the interest of effective programs is the extreme reticence of HUD to intervent—or to act in any way that might appear to put them in an adversary position with the jurisdictions receiving funds. Given the fact that local government has historically not been known as a champion of poor and minority needs, there are clear negative implications in HUD's reticence to intervene. It is common for HUD to refer a complainant back to the local jurisdiction for resolutionof an issue, and equally common for HUD staff to "monitor" only by means of contacts with city halls and county court houses, ignoring the wealth of intelligence about the relative effectiveness of the program on the part of commu-

nity people who see the program, or lack of it, close up. Finally, the lack of HUD staff available for monitoring has meant, in many instances, that a major jurisdiction with significant funding will undergo little or no serious field inspection for years at a time.

2. **Performance monitoring.** From the outset of the CDGB program, an emphasis was placed on performance monitoring, with limited frontend review. HUD is given a maximum of 75 days to review an application, after which time, in the absence of action on HUD's part, the application is automatically approved. Further, HUD's rejection, in whole or in part, can be based only on grounds that the application is either "plainly inconsistent" with generally known facts, "plainly inappropriate" in applying program to known needs, or otherwise fails to meet requirements of the law. Though some latitude is evident in the latter, the intent by Congress was clear: HUD is not to delve too deeply into the local prerogatives of the applicant and is discouraged from reattaching those strings that were pulled off in 1974. However, since the program began, HUD has shown an inability to monitor effectively, and has depended heavily on citizens for effective monitoring. But the dependence on citizens has not been reflected in HUD's responses to individuals and groups who have raised issues and to their need for access to information. In addition, HUD's reaction to problems brought to its attention does not reveal a serious concern about the performance end of the cycle. The current struggle over HUD's proposed change in the Grantee Performance Report is a good example of an apparent lack of interest in effective performance monitoring. The GPR is the primary document for HUD and local citizens to determine the extent of a jurisdiction's achievement of goals. Deficient in many respects, frequently poorly prepared, and often confusing, it does contain some significant categories of information on program performance. The proposed change, under the guise of "simplification" (fewer on performance—i.e., relationship to objectives, persons actually benefiting, low income benefit, housing assistance specifics, and minority identification in beneficiaries and contracts.

The cycle of starting with superficial initial application review in deference to performance monitoring and ending with ineffective achievement of the latter has been described as "circular assurance of ineffectiveness"—if you don't look closely at the application, and fail to observe program operation and achievement closely, as Congress mandated, you are unlikely to have a well-run program.

3. **The Application—paper improvement.** It is clear that, in the course of five years, jurisdictions are much better at preparing applications than they were in the early years, thus permitting Robert Embry, Assistant Secretary of HUD for Community Development and Planning, to claim that there has been a $700 million increase in benefit to low and moderate income persons. It is also therefore more difficult to find glaring abuses in the application and thereby involve HUD in positive intervention. On the other hand, there is little evidence to suggest equal improvement in program *operations.* This paper improvements, therefore, makes it all the more important for community groups to look closely at projects and activities, and highlights the abuses as they occur. We must push for responsible performance and programs directed to the needs that exist, and not get overly immersed in paper compliance.

4. **Citizen participation—useful but limited.** The requirements for hearings and for citizen involvement at all stages of the program, from planning through evaluation are an improvement over the original legislation, being much more specific about what must be included in the required local citizen participation plan. The extent to which information must be available and the complaint/response mechanism are additional helps for those seeking a role in CD influence. Unfortunately, as with the elaborate Model Cities participation structures of the past, citizen participation has been viewed more often than not as a pro forma requirement rather than an important opportunity to develop a people-oriented program. A major percentage of cp plans are deficient, equally high numbers are not followed, and HUD's oversight has been marginal. One of the major jurisdictions in the midwest had its cp plan characterized by a HUD official as "grossly deficient" in January 1979, following a complaint by a citizen groups several months earlier. Still, in July 1979, no formal action to change the plan has been carried out. Since there are no penalities for noncompliance, except the obligation to correct deficiences when they are pointed out, there is little incentive for a jurisdiction to take the initiative in this area. It is worth repeating, however, that the basic requirements for citizen participation have provided very important platforms for groups to

achieve impacts that have been otherwise impossible.

5. Maintenance of effort—erosion of intended dollar impact. Various forms of the Propsition 13 phenomenon have hit most jurisdictions, leading to tax-cutting, budget-reducing actions by local public officials. In this setting, the Cd grant, with its boasted flexibility, can be compared to a bag of money waiting to be grabbed. Street paving and lighting, curbs, sewers, police and fire service, code inspection, land clearance, are just some of the more common activities that are increasingly being shifted in local ledgers from the locally-funded budget to the CD side. These items frequently constitute large percentages of the CD grant, thus diluting the special attention intended to be paid to needs outside local budgets for low and moderate income and minority needs, especially housing and social services. Once the CD budget begins to pay for routine local services, its special function will increasingly be lost and the expectations of people from it will diminish as well.

6. The Draw-down problem—programs not implemented. There remain a surprising number of programs in many cities that continue to spend funds remaining from years II and III—1975 and 1976. Draw-down rates vary widely, frequently in the 30–60 percent range, with an imbalance of very high expenditure in administration and low expenditure in housing and other project activities. In addition to the fact that needs have gone unmet all these years even though the money was there to meet them, there is an irretrievable loss because inflation makes those dollars worth less each year they sit in the treasury. HUD has generally accepted the casual claim that the drawdown rates are the result of the difficulty of starting up complex programs.

7. Implications of increasing number of entitlement jurisdiction. Compared to the categorical and competitive programs of the sixties, CDBG is spread much more thinly and evenly around the country. The formula by which CD funds are distributed assures all jurisdictions of 50,000 population a basic grant that might otherwise go for targeted needs in fewer locations. Urban counties of 200,000 or more are also entitlement jurisdictions.

Program issues

1. Benefit. CD funds can be used for three broad purposes—activities to benefit low and moderate income persons, prevention or elimination of slums and blight, and meeting of urgent needs. While benefit activities are required to be the principal use, the nine ways in which allocation may be claimed for this category provide a wide degree of latitude. Activities in a census tract consisting of majority low/mod persons, for instance, may be "deemed" as 100 percent benefit, even though low/mod persons constitute only 51 percent of that census tract. It appears that the overwhelming majority of applications in Year V are having no trouble in meeting the 75 percent benefit test, thereby avoiding a more in-depth application review. It is common, in fact, for jurisdictions to be able to apply the flexible formula so successfully that many of them are claiming 95 to 98 percent benefit to low/moderate income persons in their calculations. It is clear from this outcome of the struggle to require 75 percent benefit that approaches to determine *performance* benefit as opposed to "deemed" benefit are most important.

2. HAP Performance. There are two major problems with the operation of this promising device. The first is that applicants do not take its preparation seriously, so that frequently one finds no one office or staff person able or willing to take responsibility for its preparation, but rather that it constitutes a compilation of data from two or more divisions within city government. In the same fashion, the numbers are commonly "backed in", i.e., plugged in to meet the formula of proportionality and percentage of need. On the performance side, the GPR reports on achievement of housing goals have shown serious skewing of production in favor of elderly and homeowners to the detriment of renters and large families, usually with negative implications for minorities in these categories. There is also a serious question about the credibility of the statistics, with jurisdictions counting a housing unit when it is "committed" through written HUD agreements or contracts, even though in some cases high percentages of such "committed units" never see the light of day. To add to the inflated claims, jurisdictions are known to add that same committed unit to their results upon its completion—double counting. As one more example of the questionable production claims in HAP performance, I was told recently of a midwestern jurisdiction that was found by one of our contract monitors to be including in their claimed units in the "rehabbed housing" HAP category a number of telephone counseling contacts. The HUD Area office reaction was most casual in this case. Beyond the questions of disproportion and

credibility, the record of net housing production is extremely low in comparison with need, especially in new construction. The Section 8 subsidy program is grossly underfunded to meet the demand, public housing is continually being rejected as an alternative, and many of the rehab loan programs are designed to cream creditworthy applicants from the larger universe of need.

Finally, the HAP requirement that the applicant must show commitments to take specific actions leading to increased housing has not been effectively enforced. This section may well be one of the single major points of inquiry and intervention by citizen groups interested in expanded housing production and opportunities.

3. **Fair housing programs.** There is specific authoritization for fair housing activities in CD, and some groups have successfully taken advantage of the opportunity provided. The HAP requirement above can be interpreted to encourage such programs. As with the balance of housing activity, however, fair housing fundings in CD are minimal to non-existent in most jurisdictions.

4. **Displacement/relocation.** There is increasing evidence confirming that CD-funded activities in rehab, in infrastructure investment, and in support of economic and commercial development, are resulting in net reduction of housing units available to low and moderate income persons, either through sheer loss of units or through rent increases that force residents out. Congress took note of this problem in the 1978 Amendments, requiring HUD to do a study and report on the finding by January 1979. At that date, an interim statement by HUD suggested the problem was not serious and promised further studies. As with the disproportionate housing production noted in the HAP section, it has also been shown in the area of displacement/relocation that minorities have been hit the hardest. Activities during the past year in St. Louis and in Detroit seem to confirm both the displacement effect of CD, and the particular burden for minorities.

5. **Economic development and jobs.** Economic development is an increasingly prominent CD activity and has been justified as providing jobs and business opportunities for city residents. As indicated in the challenge by the Detroit Coalition on CDBG Monitoring, there is rarely the kind of documented, legal commitments for permanent, living-wage jobs that there should be when millions of CD dollars are committed to downtown commercial ventures. There are also questions about the net jobs created when one takes into account the negative effect of business developments on their unsuccessful competitors, i.e., hotels, shopping malls, and industrial plants.

Further, the access by minority contractors to CD-funded ventures, economic development or otherwise, rarely if ever represents their population in the community. A very recent administrative complaint on a CD application from a city with a high percentage of blacks challenges its approval, among other reasons, on the grounds that *no* minority contractors were involved in over $15 million of work, and that slightly more than one-tenth of one percent of sub-contracts went to non-whites.

One of the surprising shortages of information in the CDBG program is the lack of data on the number of jobs generated by CD, and who gets them, including the types of jobs by wage and kind of work; permanent versus temporary; numbers of jobs after taking into account job *losses* created by CD; resident, minority, and low/mod participation in jobs created. There is growing recognition of the jobs issue and the use of Section III of the 1968 Housing Act as well as Executive Orders 11246 and 11373 as a means of making some inroads toward capturing more of the jobs available.

6. **Low income versus moderate.** While the regulations, as a result of specific lobbying efforts, do call for special attention to the needs of low income persons "given the relative nature and severity of their need", no effort has been made to enforce this provision. One may frequently find that an analysis of benefits targeted for low as opposed to moderate shows 5 to 25 percent of the total. This shortfall is related to the issues of over-emphasis on homeowners, rehab as opposed to new construction, broadly available public services and physical development activities.

Future Prospects

For those committed to reform on the issues summarized in this paper, it can be expected that the future will continue to be one of vigilance and struggle. The major current examples of this likelihood are the recency of the unsuccessful effort to remove "principal benefit" as a priority, talk of removing the HAP requirement, and the proposal to "streamline" the GPR. Each session of Congress, each proposed amendment to regulations, and each

internal HUD procedural change, is affected by the context of local control, anti-regulations, and lack of commitment to the basic needs of the poorest citizens of the country.

Some have questioned how long CDBG will last in the light of the budget-balancing preoccupation in Congress and in the Carter administration. It is significant that in spite of these problems, the Administration has called for slight increases in CD for Fiscal 1980 and that there has been no serious attempt to reduce the proposal. The program is popular with local government executives and is unlikely to face serious cutbacks. Its use for economic development also brings the influencial backing of business and labor interests.

It is also expected that the program will increasingly expand its economic development emphasis. The recent increase of funds for Urban Development Action Grants is a sign of this direction, as is the percentage of city applications that designate commercial and industrial development activities as major CD projects. As this happens, it will be increasingly important for community groups to investigate these proposals as they relate to the hard core needs of their own constituencies, both in terms of what they get out of them, and also what is left un-addressed as CD resources move away from direct, neighborhood-oriented housing and related social service activities.

Given the issues described, and the likelihood that the pressures will intensify, it is important that we recognize the danger of being diverted into unproductive arguments encouraged by the surface complexity of CDBG. It will be easy to get caught on a treadmill of bickering over interpretations of the regulations or whether or not there has been paper compliance, without regard for the outcome of the debate in the communities where the need exists. A West Coast advocacy group representative recently came into the Project office to consult about the group's findings of technical violations by the city and lack of HUD enforcement and monitoring. The main issue seemed to be that the CD activity in mind was clearly a low-priority project for meeting needs. We were discouraged to find however, that the group seemed to have no interest in changing the priorities or instituting effective alternative programs, but rather was preoccupied with its success in showing up the city and HUD. Worst of all, there had been no effort to establish what a genuine statement of low/mod program priorities might look like. Within the context of regulatory compliance, community groups will have to keep their eyes on the main objective of securing effective programs and seeing to it that they are carried out promptly—performance monitoring.

While there are many negatives and discouragements in the short history of CDBG, a number of which have been cursorily introduced in this presentation, there is also a record of qualified successes by effectively organized, knowledgeable constituency groups, locally and nationally. There is also a growing network of interested groups that share information and perspectives on the most effective ways to achieve victories, both in monitoring and in program operation. The Citizens Monitoring Project, National Peoples Action, A.C.O.R.N., the Housing Law Project, and the National Economic Development Law Project are some examples, and within each there are varying degrees of participation by public interest, civil rights, and community-based indigenous groups. The number and quality of administrative complaints is encouraging, as are the instances of effective negotiation resulting from them, the effectiveness of local and national organizing to put pressure on local jurisdictions.

A major challenge for such groups is the need to continue to broaden the coalitions of community, public interest, civil rights, and legal services representation in the CD struggle. Too often, it is still the case that a local effort, while well-intended and marginally successfully, suffers from the lack of perspective, strength, and talent that is available through a full combination of these elements working together. It is rare and will become more so in the eighties, for any one approach—technical research and monitoring, direct action, legal complaints, persuasion, or information and education, to be effective in the face of reduced interest by government at all levels, by the courts, and even by the general public, in targeted benefits for constituencies represented by this Advisory Commission or other low/moderate income representatives.

The broadening of city-wide, regional and national coalitions in turn, can only be effective in meeting its intended goal to the extent that it maintains and increases its sensitivity to the basic needs and preferences of local residents in neighborhoods. In this regard, the emphasis on decentralization in the CD legislation is an imperative building block for us, though not for the purpose envisioned by the authors of the legislation or its local government

supporters. The administrative and legal victories in the CD area are always somewhat hollow, if not frequently pointless, when they lack a base of support, involvement, understanding, and direction, from the communities they are intended to benefit. Beyond the need to sharpen our strategic effectiveness, this strenthening of our ties to the indigenous communities is perhaps our single largest challenge.

Local, State, and Federal Housing Activities—Confusion or Cooperation?

By Howard Miles*

Michigan State Housing Development Authority

Michigan State Housing Development Authority, Home Improvement Loan Program—Summary

The Michigan State Housing Development Authority (MSHDA) was created by the State Legislature in 1966 for the purpose of providing sound, safe and sanitary housing for Michigan residents with low and moderate incomes. The existing housing supply which is more than 20 years old is the backbone of the housing stock in Michigan and must be preserved. Preservation of some of the units can be accomplished by means of low interest home improvement loans, home improvement deferred payment loans and grants through the MSHDA's Home Improvement Loan Program (HIP).

When the Authority began implementation of the loan program in July 1978, it established the following goals:

1. To make loan funds available to low and moderate income homeowners for the purpose of improving the quality of their existing residential properties.
2. To maximize the participation of local public and private entities in program administration and delivery of home improvement funds.
3. To encourage improvement of deteriorated and substandard housing in rural and urban areas to make it more habitable and less hazardous to health and safety.
4. To encourage the stabilization and upgrading of existing neighborhoods having low and moderately priced housing.

The first commitment period began with seventeen (17) lenders participating in the program. As of December, there were twenty-four (24) participating lenders committed to originate $3,600,000 in loans. As of December 15, 360 loans totalling $1.6 million had been made. The average income of the borrowers was $10,500, with an average interest rate of 4.40 percent and an average term of 10 years, 4 months.

All loans made under this program are to be insured under the HUD-FHA Title I Insurance Program.

Lenders who participate in the MSHDA loan improvement program must hold a valid Title I Property Improvement Loan Contract of Insurance issued by the U.S. Department of Housing and Urban Development (HUD) and complete a Note Purchase Commitment Application and Agreement and file it with the Michigan State Housing Development Authority. Lenders who do not presently hold the insurance contract with HUD may file an application for approval and they may file an application and agreement with the Authority, pending approval of the insurance contract application. The Authority staff can assist lenders in filing both applications.

The following sections provide a convenient summary of the general loan eligibility requirements,

* Mr. Miles offered a written summary of the program he works with, the Home Improvement Loan Program-Neighborhood Improvement Program of the State Housing Development Authority. The summary is reproduced here. Mr. Miles oral comments, edited, are presented after the summary.

eligible improvements, terms and conditions of the improvement loans, and the general steps in processing the loans.

A. General Loan Eligibility Requirements

1. Applicants must be the fee owner, a purchaser under a land contract, or a member/shareholder of a non-profit housing corporation which member/shareholder has a proprietary interest in the residential structure. Occupancy by the applicant is not required.
2. Applicants for Home Improvement Loan Program loans must be persons or families (including non-related individual adults) who are residents of Michigan and have an adjusted annual gross income of less than $14,000. The adjusted annual gross income is gross income minus $750 per member of the household, including head of household.
3. Interest rates (simple interest) range from 1 to 7 percent, based upon the adjusted annual gross income, as follows: $0.00 to %5,999 (1 percent); $6,000 to $7,999 (3 percent); $8,000 to $8,999 (4 percent); $9,000 to $9,999 (5 percent); $10,000 to $11,999 (6 percent); $12,000 to $13,000 (7 percent).
4. Applicants must be a reasonable credit risk, with a reasonable ability to pay the loan obligation, as determined by the local lending institution. Lenders are to utilize normal and prudent underwriting standards.
5. Generally, properties must be 20 years of age or older. However, properties in need of repair to correct damage resulting from a natural disaster, or to correct items that are hazardous to health and safety, or for items directly related to energy conservation may be eligible regardless of age.
6. Properties must not be in violation of applicable zoning ordinances or other land use guidelines.
7. Eligible properties shall be used primarily for residential purposes and shall contain no more than four (4) separate dwelling units. Mobile homes and trailers are not eligible.
8. MSHDA funds shall be used to finance only new improvements to existing structures, and shall not be used for refinancing an existing mortgage or debt, nor for the completion of an unfinished structure.
9. Improvements shall be completed within six (6) months from the date the Note of the loan is signed and funds are disbursed.

Eligible Improvements

1. Residential Properties may be improved in order to comply with state, county, or municipal health, housing building, fire prevention and housing maintenance codes or other public standards applicable to housing.
2. Improvements may also be made which substantially protect or improve the basic livability or utility of the property. These improvements may take the form of permanent general improvements; however, to insure that loans will be used for basic and necessary items and not for luxury items, the definition of permanent general improvements is as follows:
   a. Permanent general improvements shall include needed additions, alterations, renovations, or repairs upon real property in connection with existing structures which substantially protect or improve the basic livability or utility of the property. Improvements and additions which are removable or by their character necessarily temporary, are not eligible.
   b. Improvements shall not include materials or fixtures of a type or quality which exceeds that customarily used in the locality for properties of the same general type as the property to be improved.
   c. Landscaping, patios, decks, and fences are not eligible.
3. All work or construction completed with Home Improvement Program funds must be in compliance with all applicable building and housing codes and standards; however, no application for improvements to owner-occupied housing shall be denied solely because the improvements will not place such housing in full compliance with all such codes and standards.
4. Improvements such as insulation, storm windows, and all other Energy Conservation related items are strongly encouraged.
5. MSHDA funds may be used for permanent installations of individual septic systems and the drilling of a well together with the necessary pumping equipment and piping to serve the structure. Installations must be in compliance with local, state, and federal environmental and sanitary standards. In the case of septic systems, connection to a public or private sewage system must not be economically feasible. These improvements, although physically removed from

the structure, are eligible if they are on the property occupied by the structure.

6. MSHDA funds shall not be used for the financing or payment of assessments for public improvements.

7. All construction or work performed under contract shall be in compliance with MSHDA Improvement Certificate, including the warranty on workmanship and materials.

8. In all cases, loans and improvements must be eligible under HUD/FHA Title I requirements as described or referred to in the HUD Handbook 4700.1, Title I Property Improvement Loan Operating Handbook; and/or FHA Regulations, FHA 1060.2, Property Improvement Loan Insurance, Title 24, Chapter 11, Subchapter B, Part 201, Subpart A, Code of Federal Regulations.

Terms and Conditions of Improvement Loans

1. The maximum principal loan amounts, exclusive of finance charges, are:
   a. $15,000 for properties with one (1) dwelling unit.
   b. $5,000 per dwelling unit for properties with two (2) to four (4) individual dwelling units.
2. Loans with principal amounts under $5,000 are not normally required to be secured.
Loans with principal amounts over $5,000 will require a mortgage to be recorded on the property being improved.
3. The maximum term of the loan shall be fifteen (15) years for a single dwelling unit and twelve (12) years on a dwelling with two to four units.
4. There shall be no repayment penalities, and the loans are generally paid in full upon sale of the property.
5. The simple annual rate of interest is to be charged on each loan.
6. At the time of application, conventional financing for the proposed improvement must not otherwise be available from private lenders with equivalent terms and conditions.
7. All loans must be "direct loans" as defined by FHA Title I requlations, specifically where all contracts and arrangements for the loan are made by the borrowers. Dealer-Contractor loans are not eligible.
8. Before the Note (loan) is signed, the applicant shall also complete and sign a certificate stating:
   a. The type and extent of the proposed improvements.
   b. That the improvements to be financed by the loan shall be completed within six (6) months.
   c. That each contractor shall specify the work to be completed by him and shall sign a warranty on workmanship and materials.
   d. That MSHDA or an authorized representative shall have the right to inspect the property at any time, upon giving due notice to the occupant(s).
9. There is a $15 minimum monthly payment on all loans.
10. Failure to use the loan funds for the specified home improvements is a federal criminal offense, punishable by a fine up to $5,000 and/or imprisonment up to two (2) years.

General steps for MSHDA/Title I Loans

Homeowner Applicant

1. Visit a local lender participating in loan program.
2. If eligible, determine specific improvements desired.
3. Complete Credit Application (FHA Form Fh–1).
4. Complete Improvements Certificate.
5. Have Contractors (if any) sign Improvement Certificate for warranty on work and materials.
6. Sign Note and receive loan funds.
7. Make monthly payments.
8. Have work completed within six (6) months.

Lending Institution

1. Explain eligibility and program procedures to applicant.
2. Credit check and income verification.
3. Verify that applicant and improvements conform to MSHDA and FHA guidelines.
4. Prepare Note form.
5. Send Note Submission Package to MSHDA for purchase.
6. Receive Note proceeds and origination fee from MSHDA.

As of this date, July 1979, this program includes 107 participating lending institutions, with commitments of over $24 million. The average income of the borrowers under this program is $9,600 a year.

The average loan is for $4,500, and the average term is 10.3 years.

The Program (HIP–NIP) is now established. To arrive at this point, is an example of "Confusion or Cooperation" or rather "Confusion and Cooperation." With this program, the preparatory work—legislation, regulations, start-up—was done in close cooperation between the state, and the lending instutitions. At the implementation, first the federal S & L's sued the state because they felt they should be excluded from state-mandated programs; then the federally chartered banks followed the same course.

Confusion occurs before cooperation almost routinely, even if the entire program, such as redlining legislation, has been prepared in concurrence from the beginning with the appropriate institutions.

Confusion occurs also between federal and state guidelines. In the case of Birmingham, Michigan, just mentioned, there were conflicting requirements, and lack of coordination between HUD and MSHDA.

With our HIP–NIP program, now fully established, we have $24 million committed, and only $19 million available produced by the extant bond issues. MSHDA would issue further bonds, but now the Congress is examining whether to prohibit such issuances of tax free bonds by housing authorities for single-family residences.

Confusion is also present in HUD programs themselves, where several of them may apply to the same town or project, and coordinating them all is very difficult.

Our current program needs further refinements, allowing for temporary financial difficulties, and expanding to other types of home ownership and home improvement.

DISCUSSION

The problem with various federal housing programs is that they are geared to home-ownership, and do not deal with the problems of the poor, who are for the most part renters. Section 8, rent subsidy, can truly be called a landlord subsidy, it certainly is not a tenant subsidy. Federal programs, such as Urban Development Action Grants (UDAG), will foster tenant displacement, as they affect the land values and therefore the rental prices, and cause displacement. (The Michigan State Housing Development Authority's (MSHDA) HIP–NIP program, aimed at the single-family or two-to-four housing unit owner, would not foster displacement and, therefore, cannot be called a landlord subsidy).

A major criticism of Community Development Block Grants (CDBG) is that they have produced very little if any new housing. In fact, CDBG regulations almost prohibit the use of the money for new housing units.

And yet, even if CDBG do not directly fund new housing units, municipalities must agree to a Housing Assistance Plan, must develop housing for their elderly, the poor, the displaced.

There is the problem, that when a community refuses to develop and/or implement a Housing Assistance Plan, or in any other way to supply housing assistance to its poor, there is no effective enforcement of law. A prime example are the provisions related to housing for the "expected to reside."

So it may come to pass that those communities end up with no poor in their midst, because all poor have been effectively barred from residing there. This is more likely to occur in suburban communities.

The problem is almost insoluble. From the viewpoint of litigation, some States—New Jersey for instance—have had their constitution interpreted to require that the needs of low income people in the area of housing be provided for. In States that have such legislation on the books, litigation is possible to challenge municipalities' authority to impose zoning or sewer hook-up limitations that bar entry of the poor into those communities.

Also, many of those poor and displaced are minorities or women heads of household. They are protected by the Fair Housing Act. The current debate in Congress, to give HUD authority for cease and desist orders and other enforcement powers is relevant in this context; the more Congress strengthens the Fair Housing Act, the more likely those poor and displaced will be protected.

Local communities, in their interaction with State and federal governments will look upon the issues of housing assistance as a challenge to local control. And local jurisdictional areas, such as zoning, will be used as tools in meeting that challenge. In Grand Rapids for instance, the city refused to re-zone land for 150 assisted housing units. When State or federal agencies seek to intervene, the city will utilize its influence with legislators at the proper levels, to avoid any unfavorable decision by those agencies.

The term "gentrification" is found offensive by some. It has ideological implications, and implies value judgments both in the sense of favoring the process for the benefit of the city, and also assuming its inevitability in cities today. The term was

originated—it seems—in London, where this displacement-physical renewal of neighborhoods first was identified with the term.

Whatever the term used, the phenomenon—the scope of which is still unknown—is reflected upon minorities and the poor as displacement. The Community Development Act, regardless of the national impact of the problem, has in itself the means to alleviate this displacement and attendant social and economic problems at the local level. Unfortunately, the trend among some pressure groups is to minimize or ignore the social and economic aspects of the Community Development Act, and instead emphasize the brick-and-mortar aspects of community development.

The concept of "expected to reside" has been debated at length, including among this Advisory Committee in the case of the City of Livonia. In defining the term, the legislation tied it to the employment opportunities in the community. That type of description gives room for a "bedroom" suburban community to reject Housing Assistance Plans because there are no jobs in that community, while just across the city line there is another municipality with an industrial park, factories, etc., where workers commute 20 or 3 miles to their jobs. Alternatively, "expected to reside" can be clarified in terms of distance to the workplace, without consideration for the city boundaries. The issue of "expected to reside" is of particular concern to suburban communities. It "brings out the worst" of those communities, who fear the influx of those people they consider strangers to them, and undesirable. And the fact that the "expected to reside" requirements may be computed on the specific basis of work opportunities does not alleviate those fears. (Although carried to the extreme, such basis for "expected to reside" could imply work permits for people before they move into the community.)

The fact is that this issue has not been solved by HUD, and the 1979 applications for CDBG from cities leave empty the space for the number of "expected to reside." It is a question of "changing people's hearts and minds?"

From the presentations and discussion, a fair assessment of the prospects for housing opportunities for the poor and the minorities, would come out to be pessimistic. The major positive aspects are represented by the work of housing community groups—such as ACORN, newly established in Detroit—and others who either monitor the implementation of Community Development Block Grants programs, or establish housing cooperatives—such as in Washington, D.C. It is true that there seems to be an identifiable trend to regressive, less socially minded attitudes in the public. And opposition to housing assistance and other similar initiatives is well organized and effective. Community groups need also to organize in an effective manner. There may be Community Services Administration or HUD funds for this type of group. In Detroit, Michigan, the Coalition for Block Grant Compliance, has shown a great deal of sophistication and effectiveness in lodging administrative complaints to secure the implementation of the CDBG programs on an equal basis. Such work can be shown as an example to others in the country. The Working Group for Community Development Reform would like to provide assistance to similar groups, through sharing of experiences and clearinghouse efforts.

A specific area of concern in making assisted housing available is the operation of Section 8 funds. In Detroit, some of the funds available for this program have been used as bail out for existing 236 or 221–D–3 projects. There seems to be a formula to determine to what extent Section 8 monies may be used for this bailout purposes. But if that formula exists, it has not been made widely available to the public, so there is no knowledge of the extent of this practice. A resulting fact is that statistics on the number of housing units made available by HUD programs get confused, as units may be counted under the various, different programs.

The entire area of housing, and making it available to minorities and the poor, may be a manifestation of a deeper problem in American society: that of private property, and the psychological effects that discrimination on the basis of race produces in the minds of those who are its victims. Local communities, in setting themselves aside and above the problems of people who may be living next door, in the neighboring municipalities, are utilizing private property rights in a manner that is psychologically as well as economically damaging to racial minorities. Some social activits would contend that private property, and lack thereof, may be in contradiction to American democratic ideals. . . .

Considering that many social problems—energy, housing—can be defined as economic problems, would it not be more practical to declare that poverty—as well as race, sex, etc. is an area of

prohibited discrimination, and in fact make the poor a "protected" class? This type of identification is made in practice, as poor people are rejected in a community which is afraid of them.

The problem may be both economic and political. Our system of government is politically based on property for taxes and other revenues to carry out public services. So political decisions are made to protect property rights, while in fact, the right to decent housing is basic and universal. And the fact is that private market forces do not build housing for the poor. And it is the defense of those private market forces that feed the fears of homeowners to lead them to reject subsidized housing.

This line of though has two basic drawbacks. First, it is hard enough to enforce in court equality of opportunities against discrimination on the basis of race, sex. etc. Discrimination on the basis of economic standing just would not be a convincing argument in court. The second is that, whatever housing is built and made available to any group in society, comes from the private sector in overwhelming numbers. The alternative of massive government intervention to produce housing units has not worked in the past and will not work in the future. Reliance on private market forces is mandatory.

The effectiveness of private, community based organizations to produce and/or renovate housing and make it available to low-income people is demonstrated by successful groups, such as Jubilee Housing in Washington, D.C., the Voice of Calvary in Jackson, Michigan and the Housing Corporation in Detroit. These groups, through private contributions and on occasion with public funds, have been able to purchase and renovate both single and multiple-family units to make them available to residents of areas that were deteriorating. State and federal governments can look at those effective programs for examples of how the scarce public monies available for assisted housing can be best utilized. In the case of Michigan, MSHDA has been urged to go more substantially into the multiple-unit rehabilitation program. The Michigan Legislature has considered this change in MSHDA, and it is possible that in the future it will take place. The legislative authority is already there.

Section 8 housing, in a context such as Birmingham, could be used profitably to make available low-income housing for the poor, in that this program can be carried out quietly and effectively. It was run that way in Birmingham until the publicity glared upon it, and it is now almost extinct. However, even in the best of circumstances, in a town such as Birmingham, where rents are high, the total potential of Section 8 programs is quite limited.

Another example of need for housing assistance and enforcement of fair housing requirements is Clinton Township. This is an area subdivided in 1919, primarily for black families, as they could not acquire housing anywhere else in the Township. Today, in trying to bring new housing into the area, and improve the housing stock to keep the area residential, the neighborhood is faced with zoning restrictions, as well as sewer limitations imposed upon the area, and not present in other subdivisions, etc.

CHAPTER 3

Gentrification And Dislocation

Current trends in housing and the cities include the phenomenon that has been termed "gentrification," the movement of more affluent people into decaying neighborhoods. With this influx, a large portion of the housing stock in those areas is rehabilitated and upgraded. Prices of housing rise substantially.

The immediate consequence of this movement is the displacement of the poor who were living in those decaying areas, and can no longer afford them either as renters or owners. Often minorities as well as female-headed households and the elderly suffer the brunt of displacement. Gentrification has been widely publicized. In this session, the extent and proportions of this trend are examined.

There are underlying issues in the entire phenomenon, some of the most salient being the credit mechanisms that foster or hamper stability in neighborhoods (and regulatory authority to seek equality of access to this credit); and federal and local programs and funding aimed at upgrading neighborhoods or securing credit at favorable rates to stabilize the cities. Among those programs, this session examines UDAG at the federal level, parallel initiatives at the local level, and municipalities' own mortgage-generating programs through tax-exempt bond issues.

Urban Development Action Grants And Inner-City Development

by Greg LeRoy

National Training & Information Center, Chicago, Illinois

Members of the Michigan Advisory Committee, fellow panelists and guests, thank you for the opportunity to update you today on the Urban Development Action Grants program and Inner-City Development.

I was a little surprised when I first saw that my presentation was scheduled as part of a session dealing generally with gentrification and dislocation. But actually, it is quite appropriate. There are people in Detroit, St. Louis, Knoxville, Salem, Massachusetts, Cincinatti, and Hammond who say that "U-D-A-G" may as well stand for "Urban Displacement And Gentrification."

Background

UDAG was created by Congressional amendment under Section 110 of the 1977 Community Development Act. The program was allocated $400 million a year for 1978, 1979, and 1980, making it the single largest new urban aid program started under the Carter administration. Congress is currently debating whether to increase the 1980 allocation to $675 million.

UDAG regulations state that the program's purpose is:

> to assist distressed cities and distressed urban counties. . .for economic revitalization in communities with population outmigration, or a stagnating or declining tax base, and for reclamation of neighborhoods, having excessive housing abandonment or deterioration.

The key buzz work associated with UDAG is "leverage." UDAGs are supposed to leverage private investment which otherwise would not occur.

UDAG regulations also state that "assistance will be made available so as to achieve a reasonable balance for the program as a whole among projects that are designed to primarily restore deteriorated neighborhoods; to reclaim for industrial purposes underutilization real property; and to renew commercial employment centers." This regulation has been the source of some controversy which I will discuss.

Three-quarters of UDAG funds are earmarked for cities over 50,000 population; one-fourth to go to small cities. Large-city awards are announced at the beginning of each calendar quarter. Small-city awards are made a month later. Applications are formally submitted three months prior to the awards.

To briefly distinguish Action Grants from Block Grants, the Action Grant program is a competition of cities submitting applications for narrowly defined and geographically limited projects. UDAG applications must spell out in detail exactly what activities will be supported by the UDAG and what form of assistance the UDAG will provide for each activity.

There are no formulas for the distribution of UDAG funds among cities or states or regions. Perhaps as a reaction to widespread criticism of low drawdown rates in the Block Grant program, HUD named the program "Action Grants." And HUD has

consistently stressed its desire for UDAG to get things moving quickly in revitalizing cities.

For example, HUD now says that it insists all private commitments to a UDAG project must be legally bound within six months of the UDAG approval. Failure to obtain binding private commitments will result in UDAG approvals being cancelled. This has already happened to projects in Cleveland, Kankakee, Illinois, and Atlanta.

Unlike the programs of the Economic Development Administration (EDA), UDAG grants may not include technical assistance, planing or development expenses (small cities may use up to 3 percent for planning and development) and an emphasis is placed upon keeping administrative costs below 5 percent. Hence, the emphasis on tangible, visible results—"Action Grants."

Like the activities of the EDA, UDAG is limited to distressed areas. To qualify for UDAG funds, a large city must meet three of six stress criteria set by HUD. These criteria include age of housing, per capita income, population lag or decline, unemployment, job lag or decline and poverty. Cities may also qualify if they meet two stress criteria and demonstrate a third "unique stress factor." Approximately 312 large cities qualify for UDAG, as well as about 1,800 small cities. Congress is currently considering an amendment to the program—"pockets of poverty," which would make more cities eligible. Sponsored by Senator Tower of Texas, the amendment is a reaction to the fact that the stress criteria favor older cities in the Northeast and Midwest. However, the amendment would require that cities qualifying under pockets of poverty place their UDAG projects in the poverty pockets.

Both in its targeting to distressed cities and its flexibility in the forms of aid it may give, UDAG resembles the EDA. In fact, as the program began, HUD Assistant Secretary Embry stated that overall economic plans developed for EDA projects will be acceptable as Action Grants. Thus, Action Grants became another piece of the competition between HUD and the Department of Commerce that centered on which bureaucracy would control the proposed National Development Bank.

Compared to Neighborhood Strategy Area Designation, UDAGs encompass much small geographic areas and include much more specific project activities with a much more rapid schedule.

UDAG greatly resembles Urban Renewal. Both involved specific geographic areas targeted for redevelopment. Many UDAGs are used for inner-city land acquisition, demolition, and site improvements to increase the value of private developments.

In passing the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Congress recognized the two program's similarities. The new law substituted UDAG for Urban Renewal as an authorized investment for savings and loan associations, setting a limit of 5 percent on assets that a savings and loan may loan to a UDAG project. However, unlike Urban Renewal, the new law also allows UDAGs to be owned outright by a savings and loan, up to 2 percent of the institution's assets.

UDAG also resembles Urban Renewal with its lack of benefit test for low- and moderate-income people. Unlike Block Grants, which must be law principally benefit low- and moderate-income people, UDAG funds have no benefit allocation requirements. Only when a UDAG goes to relocate an industrial or commercial facility within its original metropolitan area is HUD required to assess the impact on low- and moderate-income people presently employed.

UDAG projects must be consistent with the city's overall Block Grant application. And a city must prove reasonable performance on Housing Assistance and Equal Opportunity. On this basis, Philadelphia has been declared ineligible for UDAG, and Toledo, Norwalk (Connecticut), Chelsea (Massachusetts), Pasadena, Boston and St. Louis UDAGs have been challenged.

UDAGs in Michigan

Prior to last week's awards, cities in Michigan had been approved for sixteen UDAG proposals totalling $32,567,677. Five of these were for Detroit, including $1.2 million for an industrial relocation and expansion project, $155,000 for a minority auto dealership, $5.06 million for a parking garage in the Washington Boulevard project, $3.5 million for community center in the General Motors housing rehab project, and $175,000 for a riverfront restaurant near the Renaissance Center.

The award to the auto dealer has been criticized as probably ineligible by both the National Commission on Neighborhoods and the General Accounting Office on the basis of insufficient leveraging and small benefit. In fact, the grant was approved despite a HUD area office review which said that the project was "technically ineligible" for UDAG funding.

The $3.5 million UDAG for the community center near General Motors headquarters threatens to displace hundreds of low- and moderate-income and minority residents. An administrative complaint filed by the New Center Neighbors United/ACORN calls for relocation assistance and subsidized housing to minimize displacement and reduce the hardship placed on current residents. Neighborhood Strategy Area designation in suggested as a way to bring Block Grant funds to the area for relocation benefits. And firm Section 8 commitments are sought. The Detroit New Center UDAG threatens to touch off large scale gentrification in other neighboring low- and moderate-income areas. While a second administrative complaint has been filed, HUD is withholding funds until firm commitments are made on the subsidized housing needs.

Pontiac has received a $4 million UDAG for a parking garage which is the base for the Pontiac Plan downtown project. A Pontiac citizens group failed to gather enough signatures to force a referendum on the city's issue of revenue bonds for the project. The city's use of a consultant to help win the UDAG also caused some criticism.

Saginaw received a $1.5 million UDAG for a loan for hotel construction. Repayment of the loan will go for downtown residential development.

Flint has received a $6.5 million UDAG for a Hyatt hotel. The project provides for a nonprofit housing corporation (Flint Neighborhood Improvement and Preservation Project) and a minority entrepreneurs association (Flint Business Development Corporation) to be equity partners in the hotel. They will profit from their equity investment and from the repayment of the UDAG construction loan.

Muskegon won a $2.024 million UDAG for a downtown hotel. A nonprofit group (the Muskegon Business League) will build the hotel. And proceeds from the land and garage leases will go to the Minority Advisory Board for other development activities.

Grand Rapids received two UDAG awards in April. A $536,000 award will assist in an industrial relocation and transfer project. And a $3.06 million UDAG goes for a two-hotel, office building, garage project downtown.

Eight large cities in Michigan are eligible for UDAG funds but have not received any. They are Battle Creek, Bay City, Dearborn, Jackson, East Lansing, Kalamazoo, Lansing, and Muskegon Heights.

Six small cities in Michigan have received seven UDAGs totalling $4,867,000. They are Dowagiac, Bad Axe, Benton Harbor, Hazel Park, Coldwater, and Ionia. Benton Harbon has recieved two UDAGs for over $2 million, including a riverside hotel project.

First Year National Impact

Through five rounds of large city awards and three rounds of small-city awards, commercial projects have dominated the UDAG program, getting 54.6 percent of the funding (including over 30 percent of total funding going to hotel projects). Industrial projects got 29 percent of the funds, and neighborhoods only 16.4 percent. This would appear to be a violation of the "reasonable balance" regulation.

Since hardly any UDAG projects have yet broken ground and none have been completed, the increases in tax bases created by UDAG have not yet been felt. HUD projects large increases in tax revenues, but the Department's projections are questionable. The General Accounting Office examined seventeen successful UDAG applications and found that tax benefits had been overestimated in at least thirteen cases. (May 23, 1979, GAO report to the House Subcommittee on Intergovernmental Relations and Human Resources.)

HUD's claims about job creation must also be taken with a grain of salt. The same GAO report found that at least eleven of the seventeen applications overstated the jobs created. In fact, for the fifteen projects in which the GAO could make precise determinations, it found that the application overstated jobs created by a whopping 155 percent!

The same report also found that in nine of the projects, the amount of private funds being leveraged had been overstated. In fact, the report said, four of those UDAG awards actually leveraged nothing. The projects would have occured anyway and needed no help from UDAG.

One point I would like to emphasize is that the program has also had trouble living up to its "Action Grant" name. Another GAO report at the end of March (CED 79-64) found that of the first 154 grants announced (through August 2, 1978) only 13 had been formally agreed upon by HUD and the recipient cities. Eight months after the first round applications were filed, only one project out of fifty

had drawn down funds. Thus, Action Grants are plagued with slow drawdowns like Block Grants. These delays can only endanger the projects' changes of being successfully completed at all.

Here in Detroit and in many other cities, the issue of displacement has been raised by UDAG awards. Sometimes the gentrifying effects of the project are immediate as here in Detroit. Sometimes they are indirect as in Hammond where a UDAG will help reclaim downtown railroad yards for townhouses and may set off displacement in existing neighborhoods bordering the project site.

Early in the UDAG program, a government source was quoted as saying, "Bob Embry and Dick Flemming are convinced that the salvation of the city lies in building up the central business district and bring in the middle class, and they see Action Grants as a way to do it."

I think this raises serious questions about the use of unemployment, poverty and housing statistics of the people who live in the cities now as bait for UDAG money which will be used to bring people in from the suburbs.

The question is: Will UDAG projects like hotels, office buildings, and "new towns in-town" benefit the people who live in the city? Or will they benefit the people who work in the city but commute to the suburbs at night? The racial implications are obvious.

Currently, many people who are being displaced by UDAG projects are not eligible for Federal Relocation Assistance. This is because it is frequently the private money in the project which actually acquires residential properties while the UDAG may construct public improvements, like the community center here in Detroit.

There will be hearings soon on a proposed Senate Bill to widen the Relocation Assistance program to cover such cases. While such a law may benefit many people, it would also appear to simply make it easier for future UDAG projects to displace more inner-city residents. I find it curious that the bill is sponsored by Senator James Sasser of Tennessee. It is widely reported that Senator Sasser lobbied vigorously for a UDAG in Knoxville which threatens to displace over 1,300 jobs and 150 households. However, the Knoxville project is currently bogged down for lack of relocation monies.

The lack of rigid competitive standards in the UDAG program has opened the program to widespread criticism. Specifically, the critics have pointed out that UDAG gives wide discretionary powers to Secretary Patricia Harris and her Assistant Secretary, Robert Embry.

The March GAO report revealed that Harris and Embry keep no written records of how they make their final decisions about which projects are approved. Everything is oral at the top of the decision-making process. The myriad of distress factors, rankings, leveraging ratios, and employment figures associated with UDAG projects makes it easy for HUD officials to pull a few figures out showing why a project was so attractive. But Harris and Embry failed to meet their 60-day deadline in May to respond to the GAO report, and as of this writing, they have still not responded. The GAO called for a rigorous, well-documented system of record-keeping at the central UDAG office. It also found the UDAG staff to be too small and poorly trained.

This looseness in the central UDAG office has reinforced criticisms of the program as being easily manipulated for political considerations. This issue has been raised in the cases of Knoxville and Johnstown, Pennsylvania. My own examination of the UDAG files indicates that many projects have been vigorously supported by members of Congress on behalf of certain mayors.

Little has been made of the fact that during the first four rounds of big-city UDAGs, Embry's home town of Baltimore received more money than any other city in the country. Included was a $10 million hotel UDAG despite the fact that in 1977, Baltimore's hotel occupancy rate was 16 percentage points below the national average.

UDAGs and Hotels

Perhaps the most controversial use of UDAG assistance has been to commercial projects which include hotels. These projects really focus on the key issues of "leveraging" and minority benefit.

First of all, it must be made clear that the start of the UDAG program coincided with a strong upsurge in this country's hotel business. A comprehensive study of 800 hotels and motels by Harris, Kerr, Forster and Company details this upsurge. ("Trends in the Hotel-Motel Business, 1978 Edition")

The study found that between 1975 and 1977, hotel occupancy rates rose 5 percent to 69.4 percent, a nine-year high. Coupled with higher room rates, this produced a whopping 39.4 percent hike in income per room ($2,085 to $2,862) after property taxes and insurance. Only seven percent of all hotels

reported any drop in room revenues in 1977. Room revenue, as a proportion of total hotel revenues, jumped to an all-time high of 57 percent.

This boom singnaled the demand for a new wave of hotel construction, especially by the urban hotel chains, which were enjoying the largest gains. So the hotel business was booming and along came UDAG to drop over $200 million extra in the pot (twice what neighborhoods got).

Insurance companies are the largest source of financial backing for hotels in the United States. For example, Prudential owns several Hyatt hotels and contracts for the management services. A researcher for the Harvard–MIT Joint Center for Urban Studies interviewed executives of three insurance companies involved in UDAG hotel projects. Two of the executives told him that the UDAG funding was "completely irrelevant" to their decision on whether to finance the project. The third executive was more candid. He called the UDAG funding the "gravy" in the deal.

Given these facts about the hotel industry and the testimony of the insurance executives, I can only conclude that many hotel projects do not meet the program requirements for "leveraging" of private investments and do not therefore actually contribute to the revitalization of inner-city areas.

The use of federal monies to subsidize luxury overnight accomodations is a bitter irony for people in dozens of cities where neighborhood housing assistance programs are failing so miserably.

Another UDAG criteria is permanent employment. In Congressional testimony just before the first UDAG awards, Secretary Harris was questioned about the propriety of using tax money to support luxury hotels. She responded:

> The critics are wrong. Hotels are the best employers of low- and moderate-income and unskilled people I can think of. It is possible to start as a dishwasher and end up as a chef.

A close examination of hotel employment statistics contradicts Mrs. Harris' testimony.

A May 1978, survey of hotel workers in six UDAG hotel cities by the Bureau of Labor Statistics reveals an average weely wage of $119. This is only about half of the average weekly earnings for all private industry workers ($212).

Hotel jobs are not very permanent, either. Fewer than half of all hotel workers keep the job over a year. A longitudinal study of hotel workers in Boston found that people who kept hotel jobs actually earned 25 percent less than people who quit hotel work after a year. Less than a fifth of United States hotel workers belong to labor unions.

While the Fint and Muskegon hotel projects are laudable for their minority participation provisions, they are unusual in this respect. Few other hotel projects include such programs. The White House has given wide publicity to a hotel UDAG project in San Antonio which includes a profit sharing parntership with a Mexican-American community development corporation. Nothing is mentioned, however, of the organizing effort which was required of the Mexican-American group to demand and win a direct share of the project's benefits. More typically, minority partners only receive future mortgage payments from UDAG loans over twenty or thirty years. We must then consider inflation and the fact that hardly any of these mortgages have been executed yet. The actual benefit of these minority participation programs is thus indirect at best and certain to be drastically reduced by rising costs.

"Reasonable Balance" and the Case for Neighborhood UDAG Projects

The regulation requiring a "reasonable balance" between neighborhood, commercial and industrial projects has been the source of considerable controversy raised by community organizations. Instead of getting a thrid of UDAG funding to date, neighborhoods have only gotten a sixth. As I have outlines, commercial projects have predominated.

Neighborhood leaders feared this would happen when they read the UDAG regulations and saw how loose they are. They were outraged when nearly half of the first-round funding went to hotel projects.

The National Commission on Neighborhoods reviewed HUD's breakdown of the second-round big-city awards. It found that HUD had misclassified seven awards totalling almost $12 million as "neighborhood" projects when in fact they were not. In its first-year working paper on UDAG, HUD admits that over half of the funds have gone to commercial projects, but it claims that a third went to neighborhoods with industrial projects getting slighted.

Of course, HUD has never defined the word "neighborhood." In a letter to Neighborhoods Com-

mission Chairperson Joseph Timilty, Secretary Harris said:

> Neighborhood projects include all projects (commercial, industrial, or residential) which are located in neighborhoods or projects which have as their primary purpose the construction of new residential units or the rehabilitation of existing units.

This definition would appear to make the neighborhood category a catchall.

Timilty had written to Harris: "The Commission does not define a project which accelerates the process of gentrification as a neighborhood project."

Assistant Secretary Embry also responded by writing a letter to mayors asking them to submit more neighborhood proposals. However, as recently as last month in negotiations with leaders of National People's Action Embry said that he still does not receive enough neighborhood UDAG proposals. More than a year ago, in negotiations with Secretary Harris, National People's Action leaders raised the need for technical assistance to neighborhood groups to develop their own UDAG proposals. HUD has finally, in fjust the last few weeks, executed a one-year contract with K.S. Sweet Associates of Philadelphia for this purpose. This assistance is especially crucial considering the detailed marketing, planning, and negotiating activities necessary to prepare a UDAG proposal.

To most neighborhood people, UDAG is another remote government program involving lots of consultants, bureaucrats, developers and politicians—with only pro forma citizen participation. They see UDAG like they see Block Grants or Urban Renewal—questionable benefits for low- and moderate-income people, slow drawdowns, massive displacement and big subsidies and tax breaks for wealthy corporations.

HUD often uses the phrase "unique opportunity" to describe UDAG projects.

I would like to conclude my presentation this morning by showing how community-based neighborhood UDAG projects present a unique opportunity for inner-city development that will benefit the people of the city.

Regarding taxes, HUD's own figures for the first two rounds of big-city awards indicate that neighborhood projects contribute four times more to the city tax base than do commerical and industrial projects. (The effective tax rate on increased value of neighborhood projects was 9.3 percent, compared to 2.1 percent for commercial projects and 2.3 percent for industrial projects.) Many commercial and industrial projects include tax abatements.

I have already questioned the validity of hotel jobs as a source of permanent employment. I think the same kinds of questions can be raised about occupations like department store clerk or parking garage attendant. Those are dead-end, high-turnover jobs.

But a UDAG project to rehabilitate older housing and commercial strips, paired perhaps with CETA training for low- and moderate-income and minority residents of the area, presents a unique opportunity for skills training and career development in much better-paying jobs. This would also help to combat the chronic problem of minorities being excluded from building trades opportunities.

Such projects also present a unique opportunity to do some real "leveraging" of private investment. To date, cities have failed to use an excellent federal law which enables them to easily identify where UDAG money might really leverage private funds. It is the Home Mortgage Disclosure Act (HMDA). This law requires every federally-regulated bank and savings institution to disclose by census tract how many and why type of residential real estate loans it makes each year. It has been the experience of neighborhood groups using this data that neighborhoods that are not getting much mortgage credit also suffer declining business areas.

In 1978, the National Training and Information Center completed a national survey. We asked cities: Have you ever used HMDA data to help determine where you should allocate your Block Grant funds? The answer? Nobody used the data. My research to date indicates that the same is true for Action Grants.

Frankly, this is a little puzzling. Here is a simple, rational, empirical method of determining where money is not going (and thus where UDAG funds could really help leverage private investment)—but nobody is using it. The use of the disclosure law is also conspicuously absent from the UDAG regulations.

To combat disinvestment, these community groups have used disclosure data along with the new Community Reinvestment Act (CRA) to approach lending institutions and win the loans they need to keep their neighborhoods vital. And now, community groups in Connecticut, Illinois, and Iowa are

working to put UDAG together with HMDA and CRA to leverage even more housing improvements and jobs into the neighborhoods.

Only a precious few UDAG awards to date have gone for low- and moderate-income housing. Even fewer have been developed by grassroots neighborhood groups. But if Secretary Harris mandated that a third of UDAG funds go to the rehabilitation of existing low- and moderate-income neighborhoods, UDAG could become the federal lever for our sorely needed national rehabilitation industry. As I hope I have shown, it would also mean true leveraging, permanent employment, and a revitalized tax base—which is what UDAG is all about.

Thank you.

The Community Reinvestment Act: Its Potential Impact on Minority Homeseekers

By Frank E. Steiner

Executive Director

Michigan Committee on Law and Housing, Inc.

The Community Reinvestment Act (CRA), which is Title VIII of the Housing and Community Development Act of 1977, is the latest in a series of national laws designed to improve the availability of credit services on a fair and equal basis. However, it also has a broader significance as part of national housing laws. It is significant that the CRA is a part of the Housing and Community Development Act (HCDA). The legislative history of the HCDA, prior to the enactment of the CRA through the 1977 housing amendments, had already made clear where the Congress stands on the relationship which ought to exist between private and public expenditures in the field of housing and community development. That is, the Congress has said that the primary role in maintaining and revitalizing our communities should be occupied by the private sector. Consistent with this perspective, the Congress has indicated that the main function of federal community development dollars should be to improve the climate for private sector investment in our communities—not to substitute for the lack of such investment, nor for the lack of a maintenance of effort by local communities with funds raised through local governmental authority.

However, the fact that the passage of CRA was achieved is testimony to the realities we continue to face regarding the actual relationship between governmental ad private community development investment. The data indicate that this relationship is still (and many would say, increasingly) one of substitution of public dollars—when they can be found—for private dollars which cannot be found any longer in many urban and some rural areas. Moreover, the lack of private investment in most central cities, particularly for residential purposes, has had an additional impact upon local revenues. In turn, this has helped to frustrate the purpose of Congress in federal community development in still another way. That is, as local tax revenue from local sources decline, the pressure is increasingly felt by local officials to use federal funds as a substittue for local funds and effort. In the City of Detroit, for instance, it appears that 100 percent of the city's demolition budget is funded from community development block grant funds, including city demolition occurring in middle and upper income areas. This is inspite of the Congressional requirement that block grant funds be spent principally to benefit low and moderate income persons. The city has even certified to HUD that *all* of its $21.1 million in block grant funds budgeted for demolition between 1979 and 1982 will principally benefit low and moderate income persons.

In other words, we have a situation in major cities in which some areas are regarded as best for private funding, some best for public funding, some unable to receive any significant investment, and the cities

themselves becoming more fiscally endangered because of overall lack of private investment—in residental and small business activities. Both directly—through a shortage of residental credit—and indirectly, through a fall-off in city services, the groups which suffer the most from this pattern of private disinvestment are minorities, female headed households, the young, the old, and the handicapped. Whether the CRA can be a significant tool, as intended by Congress, to change this pattern permanently, remains to be seen. This Act is only recently beginning to be effectively used by some organizations across the nation, and the results of their efforts will help answer this question. The remainder of this paper will discuss the background and purposes of the CRA, the findings of the Michigan Committee on Law and Housing regarding lender performance under CRA and related civil rights laws, and the prospects—pro and con—for CRA being an effective tool to permanently end the destructive pattern of private disinvestment in the United States.

What Does the Community Reinvestment Act Require?

From a legislative point of view, the CRA can be seen as part of a statutory blueprint for the permanent revitalization of our communities. It could help put an end to the cycles of boom and bust, discrimination and exploitation we have experienced for several decades in the field of community development. It is the part of the blueprint which addresses specifically the obligations of federally regulated financial institutions and the agrencies which regulate them. On the obligations of the financial institutions, the CRA makes explicit that such institutions have a responsibiiluty to meet *both* the deposit and credit needs of the local comunities in which type are chartered to do business. It does this by further defining an age-old banking term: "convenience and needs." Section 802(a)(1) of the Act reiterates that:

> Regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business.

The Act then elaborates the key term: "The convenience and needs of communities include the need for credit services as well as deposit services."

Then, using language which can ultimately make CRA an effective tool, the Act goes on to describe the nature of the obligation to serve credit needs:

> Regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

The meaning which is and will be attributed to the terms "affirmative and continuing" in this passage of the Act appears to be one of the two critical issues for the future impact of this law. For the moment it is important to note that the Congressional statement regarding financial institutions' affirmative obligation to help meet community credit needs is listed as a "finding"—in fact, a finding regarding laws already on the books—not as a new or different statutory requirement.

Indeed, it was the then-Federal Reserve Board Chairman Arthur Burns' argument against the CRA in 1977 Senate hearings that the regulatory agencies already had sufficient authority to consider whether financial institutions were meeting community credit needs, and that they were in fact doing so as part of their "convenience and needs" supervisory responsibilities. Senator William Promire, the bill's sponsor, argued forcefully that the regulators had considered almost exclusively the *deposit* rather than credit needs of local communities, and primarily for the purpose of restricting competition among financial instutitions, when ruling on bank and savings and loan applications for charters, mergers, branches, and relocations. The CRA was offered as a necessary counterbalancing obligation on the regulatory agencies themselves, to help offset this and the many other benefits bestowed by the federal governmenta upon financial institutions. Proxmire outlined some of these other benefits in his opening statement at hearings on the CRA in March 1977:

> The government limits the entry of other potential competitors into [an institution's] geographical area if such entry would unduly jeopardize existing financial institutions. The government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interests on demand deposits. The government provides deposit insurance through the FDIC and the FSLIC with a financial backup from the U.S. Treasury. The government also provides ready access to low cost credit

through the Federal Reserve Banks or the Federal Home Loan Banks.

It appears that at least two general standards are implied by the terms "continuing and affirmative." Lending institutions must show again and again, rather than on a one time or intermittent basis, that they are helping to meet community credit needs. They must also show that their role in helping to meet such needs is active rather than passive—that they are truly acting "affirmatively". As Senator Proximire noted in his opening statement in 1977 CRA hearings:

> The problem, of course, is that for every [energetic banker who reinvests] there are dozens of bankers who are either too lazy or too greddy to see the loan demand in their own communities. Demand in our economy is not a passive, fixed thing. It is manipulated and promoted. If a banker is willing to get out of the office he will find it. This bill would encourage him to do so.

The other critical issue in CRA stems from the purpose of the Act, stated in Section 802(b):

> It is the purpose of this [Act] to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

Since enactment of the CRA in 1977, the meaning of the term "encourage" has been an important question. It is becoming more so, now, after final CRA regulations became effective in February 1979, but largely because of the extremely general sense in which the term is currently being used by the four regulatory agencies. The Act itself provides two aspects of the meaning of "encourage," only one of which is even relatively specific. Under Section 804 of the Act the regulators are required, in connection with their examinations of financial instutions, to:

> (1) assess the institutions' record of meeting the credit needs of its entire community, including low-and moderate-income neighborhoods, consistent with the safe and sound operation of such instituion; and
>
> (2) take such record into account in [the agency's] evaluation of an application for a deposit facility by such institution.

"Deposit facility" is defined by the Act to cover nearly all important regulated structural changes:

> (a) charters for a national bank or federal savings and loan association;
>
> (b) deposit insurance for a newly chartered state bank, savings bank, savings and loan association or similar institutions;
>
> (c) establishment of new branch offices, including remote fund transfer facilities of individual institutions;
>
> (d) relocations of home offices and branch officers;
>
> (e) merger with, or acquisition of, a regulated financial institution; and
>
> (f) acquisition of shares in, or the assets of, financial institutions by bank and savings and loan holding companies.

Thus, the Act requires the regulatory agencies to both assess the performance of lending institutions in meeting community credit needs, and to take such assessments into account when ruling upon the institutions' applications for structural changes. All of which is to "encourage" the institutions to *help* meet community credit needs. Obviously we see no clear statutory standards regarding the types of credit needs, minimal levels of performance in quantifiable terms for the lenders (such as proportion of a local bank's deposits which should be reinvested in the local community), specific triggers in the law for denials of applications, and so forth. In this sense, the CRA is a preamble to law yet to be written. That law is being written now—in the regulations, bank examination guidelines and procedures of the regulators, reulators' responses to the accumulating list of CRA challenges by community organizations to lender applications, and in the courts when such administrative response are appealed.

While it is not possible here to discuss in detail the regulations and CRA examination guidelines, their main strengths and weaknesses deserve mentioning. The four federal financial superviory agencies issues joint CRA regulations in November 1978 after a series of public hearings across the nation and the

issuance of proposed regulations earlier. They became effective in February 1979 and, in many ways, represent a "least common denominator" approach to the major differences in philosophy which have existed among these agencies. The major national advocacy organizations supporting the CRA were disappointed with the regulations, and the lenders continued their ongoing disappointment about the CRA's existence.

The regulations cover six areas:

- Delineation of the institution's local community.
- Required and suggest components of the institutions'
- Community Reinvestment Act Statement.
- Each institution's file of CRA comments received.
- The required CRA Public Notice.
- Assessing the record of performance.
- Effect on applications.

Each institution must prepare maps showing its entire local community, using any of three methods: existing boundaries such as an SMSA or a county, its effective lending territory (where a substantial portion of its loans are made, plus all other areas equidistant from its offices), or "any other reasonably delineated local area." Whichever method is used must not lead to the exclusion of low and moderate income areas. In surveying the first round of CRA statements from more than 12 Detroit area institutions, MCLH has found that, with only a few exceptions, all major institutions have delineated the three county (Wayne, Oakland, Macomb) area as their local communities. This has the disadvantages of being overly braod and of justifying heavy investments in some outlying portions, but it does comply with the prohibition against excluding lower income areas such as certain parts of Detroit and some suburbs. However, we found at least one lender which clearly violated this rule, in our opinion. Michigan National Bank of Oakland, one of 18 subsidiaries of a more than $5 billion bank holding company, created two local communities in Oakland COunty, neither of which included a single low and moderate income census tract according to census data, and which conveniently omit the entire city of Pontiac. Upon examining the institution's pattern of loans by census tract under the Home Mortgage Disclosure Act of 1975, we also found that less than 39 percent of this bank's mortgage loans between 1976 and 1978 were actually made within their delineated local communities.

This example of "gerrymandering" of an institution's CRA local community is one of many issues raised in MCLH's June 25 challenge before the Federal Reserve Board of Governors to Michigan National Corporation's proposed acquisition of the Litchfield State Savings Bank in Hillsdale County. We have also found that the problem of lack of correspondence between institution's delineated communities and actual lending patterns is a problem common to virtually all institutions, and point out a weakness in the CRA regulations. Table 1 shows that, for eleven Detroit area institutions, less than two percent of their mortgage and home improvement lending in 1977 occurred in Detroit's 211 low and moderate income census tracts. Nearly all of these institutions included the tri-country area as their local communities under CRA, and yet, with few exceptions, none of their lending patterns correspond to this claims. The CRA regulations would be stronger, and the institutions' CRA maps and statements would be more useful to citizens and regulators, if the institutions were required to produce two maps—one delineating their intended local community, as currently required, and one showing where a substantial portion of their loans are actually being made. As it stands now, the CRA delinated communities are no more a guide to actual practice than a broken speedometer is to the actual speed of a car.

The same weakness is evident in the regulations' required contents of each instititution's CRA Statement, one of which is required for each of the institution's local communities. The institutions are required to include in these statement the delineation of the local community, a list of types of credit it is prepared to extend within the local community, and a copy of the CRA Notice explaining the Act and procedures for filing comments under CRA. Additionally, the regulations *encourage* the institutions to include in their statements descriptions of current efforts to help meet community credit needs (including special programs), periodic reports of its record in helping to meet these needs, and descriptions of its efforts to ascertain community credit needs. We have found that approximately a third of the Detroit area institutions are including in their statement information which is encouraged but not required to be included, and that even this information is often disorganized and incomplete. We have seen no

TABLE 1

Distribution of Home Lending Activity*
Eleven Detroit Lending Institutions (b)
January 1, – December 31, 1977

Loan Category	211 Low and Moderate Income Census Tracts in the City of Detroit**/@			All Other Areas		
	#	$	%	#	$	%
Conventional Mortgages Originated	404	$11,638,083	0.9%	36,904	$1,268,598,824	99.1%
Home Improvement Loans	2,020	$ 7,557,362	12.2%	13,185	$ 54,583,750	87.8%
Sub-total	2,424	$19,195,445	1.4%	50,089	$1,323,182,574	98.6%
Government Insured Mortgages	19	$ 200,957	0.1%	4,705	$ 144,159,045	99.9%
Total Loans	2,443	$19,396,402	1.3%	54,794	$1,467,341,619	98.7%

* Based on analysis of data available from the lending institution under the Home Mortgage Disclosure Act, 12 U.S.C. 2801, *et. seq.*, Michigan Committee on Law and Housing, March 1979.

** Includes all Detroit census tracts reported in 1970 U.S. Census with median family incomes less than $9,694 (i.e., less than 80 percent of the 1970 median family income for the Detroit Standard Metropolitan Statistical Area.)

(b) Detroit Bank and Trust, Manufacturers National Bank of Detroit, Bank of the Commonwealth, First Federal Savings and Loan Association of Detroit, Standard Federal Savings and Loan Association, Michigan National Bank of Detroit, City National Bank of Detroit, National Bank of Detroit, American Federal Savings and Loan Association, Colonial Federal Savings and Loan Association, and Detroit Federal Savings and Loan Association.

@ Does not give the institutions credit for loans reported by ZIP Code rather than Census Tract.

This table originally appeared in: *The Community Reinvestment Act: New Hope for Detroit's Neighborhoods,* a publication of the Michigan Committee on Law and Housing, 23 E. Adams Ave., Detroit, MI 48226; March 1979; page 28.

evidence in any CRA statements of systematic efforts to ascertain a variety of community credit needs, beginning with the need for conventional mortgage credit. Generally, the CRA statements, which are required to be publicly available in all bank offices, have turned out to be public relations pieces (done in advertising format in one or two pages) or obviously "for the file" pieces including only the minimum required information. The regulations also required each institutions to maintain a file of all signed. written comments received during the past two years relating to CRA or the institution's efforts to meet community credit needs, plus the lender's responses to any such comments, and the CRA statements in effect during that time period. In meetings recently between the regulatory agency and community organizations, much has been made of the fact that bank examiners are not finding anything in the institution's CRA files. The response of the advocacy organizations has included several points:

- the regulators themselves have not publicized the CRA and the procedures for comment;
- the regulations do not guarantee what kind of response (if any) either the institution or the regulators will make to comments filed;
- the filing of comments by average citizens can in no way be a substitute for rigorous examination of lenders' performance by the regulators, using all of the many tools that only they have.

Advocacy organizations across the nation have recently made a number of recommendations to the four regulators for improved agency action under CRA, including a guarantee that any person filing a written comment for an institution's CRA file, and asking to meet personally with a federal bank examiner during that institution's next examination, will in fact receive such an opportunity for a meeting. While John Heimann, Comptroller of the Currency, has verbally agreed to such a rule in the case of examinations conducted by his agency, we are still awaiting a response from the other regulators and from the interagency council on examinations.

Regarding the requirement that the standard CRA Public Notice be posted conspicuously in each branch, MCLH found in its February survey of 200 facilities in Detroit that only 64 percent of the branches had the notices even on the premises. Of those that did, only 79 percent had it visibly posted, for an effective compliance rate of 51 percent.

The regulations also commit the regulators to consider several factors in their assessments of the institution's performance in meeting community credit needs:

- the CRA Statement,
- comments in the CRA file,
- any comments received directly by the regulator,
- 12 individual factors to be covered in examinations:

1. efforts to ascertain credit needs, including communication with community groups;
2. extent of marketing and special programs to inform the community of its credit services;
3. extent of participation of the institution's board of directors in CRA policies and performance;
4. practices intended to discourage applicants for the types of credit set forth in the CRA statement;
5. geographic distribution of the institution's credit applications, extensions, and denials;
6. evidence of discriminatory or other illegal credit practices;
7. record of opening, closing, and servicing offices;
8. participation in local community development and redevelopment programs;
9. origination and purchase of mortgage loans, rehab loans, small business or small farm loans within the local community;
10. participation in government insured, guaranteed, or subsidized loan programs;
11. institution's ability to meet various credit needs in light of its condition, size, and other factors; and
12. other factors bearing upon the extent to which the institutions is helping to meet community credit needs of its entire community.

For one important reason, at least, the importance of this list of examination factors is presently unclear. That reason is that it is the policy of all four regulatory agencies that no bank examination, nor any part of a bank examination, can be made public. Under the Freedom of Information Act bank examinations are explicitly exempted from disclosure, even though that act was written before the CRA and the establishment of virtually a separate CRA examination procedures and staff capacity within the regulatory institutions. It is our understanding that, for each CRA examination, the examiner produces a written narrative covering the results of the exami-

nations, presumably based upon the 12 examination factors, the CRA statement, and the content of the institutions CRA file. At the present time, however, there is literally no way to know what is happening during these examinations in specific terms. This fact further clouds the effectiveness of CRA today, and add additional problem to the task of publicizing the Act and urging citizens and their organizations to begin using the CRA files on a regular basis. It also raises the issue of how well federal bank examiners are performing, even under the CRA regulations as they are presently written. We at MCLH, which is the organization in southeastern Michigan most actively monitoring compliance, know of not a single community leader, organization, or public official who has been called, visited, or otherwise consulted by a federal bank examiner regarding CRA-related issues. No other organization in other parts of the country conducting similar work has, to our knowledge, encountered a federal examiner in the field. The regulator's present response to the request that CRA examination narratives and ratings (given on a scale of 1 to 5) be made public is that "doing so would destroy the integrity of the examination process" and, specifically, "would make the individual examiners less likely to be open and candid in their assessments of the institutions." Such a response might be meaningful if we had any way of knowing just *how* candid these examiners are being. Informally some lender staff persons in the Detroit area have indicated that the CRA examinations were conducted with a very casual attitude and little or no critical feedback to the institutions. Additionally, there is reason to suspect that the new and different examination responsibilities imposed by CRA are not meeting with universal enthusiasm among the examiners and their supervisors throughout the nation. While this is perhaps to be expected in the early stages, there is a clear need on the part of the Congress and the public to know just what is happening within these agencies regarding enforcement of the CRA.

Since the regulatory agencies are all organized on regional bases, the question of actual performance during the examination process would be a logical subject of inquiry for the U.S. Commission on Civil Rights and/or its State Advisory Committees. Combined with selective analyses of individual institutions' performance by Commission staff, efforts by the Commission could have an invaluable effect on the CRA in terms of speeding up the time it is taking to achieve a more aggressive posture on the part of the regulatory agencies.

In terms of the Commission's mandate, I would also like to share with you some highly disturbing findings based on loan data disclosed under the Home Mortgage Disclosure Act from institutions in south-eastern Michigan. First of all, the pattern of virtually no loan activity in lower income areas identified in the MCLH March 1979 report from the year 1977 is continuing as we analyze disclosure statements for 1976 and 1978. For instance, Table 2 shows the distribution of home lending activity for eight subsidiary institutions of the Michigan National Corporation for the period of 1976 through 1978. In this analysis we examined loans made in low and moderate income census tracts throughout the three county area, not just within the City of Detroit, and found that, taken together, these eight banks made less than three percent of their loans in lower income areas. The lowest rate of lending was for conventional mortgages (0.5 percent of all conventional loans made in lower income areas), and the highest rate was for home improvement loans (9 percent in lower income areas). However, even the pattern of distribution of home improvement lending indicates a bias away from older, lower income areas—contrary to what one would expect given the condition of housing stock in these areas.

While we have not yet completed systematic studies of loan demand in these areas, available data indicate that there is active demand which is currently being served by mortgage companies, and through land contracts, cash sales, and mortgages assumptions. In other words, there already is a ballgame being played in these areas—but the banks and savings and loan associations are, generally not players yet.

Perhaps even more disturbing is a clear pattern of disproportionate lending in *middle income census tracts* related to race. In the three county area we have ranked all census tracts having between 80 percent and 120 percent of the area's median family income according to the 1970 percentage of black population within each tract. This yields a total of 584 middle income tracts, 434 of which had no black population in 1970 and 150 of which had between one and 100 percent black population. Secondly, we have noted the number of total households, and the number of owner occupied, as opposed to renter occupied, households for each tract and the groups of tracts. Thus, we are able, to some extent to

TABLE 2

Distribution of Home Lending Activity*
Michigan National Corporation
Eight Subsidiaries Located in the Detroit, S.M.S.A., for the period January 1, 1976–December 31, 1978

Loan Category	All Low and Moderate Income Census Tracts in the S.M.S.A.**			All Other Areas		
	#	$	%	#	$	%
Conventional Mortgages Originated	17	$ 410,556	0.5%	1,910	$ 82,005,909	99.5%
Home Improvement Loans	820	$3,238,016	8.96%	8,005	$ 32,917,166	91.04%
Sub-total	837	$3,648,572	3.08%	9,915	$114,923,075	96.92%
Government Insured Mortgages	11	$ 116,075	5.03%	325	$ 2,193,361	94.97%
Multi-Family Mortgages	1	$ 12,000	0.36%	5	$ 3,298,264	99.64%
Conventional Purchases	0	$ 0	0.00%	65	$ 238,641	100.00%
Total Loans	849	$3,660,572	2.94%	10,310	$120,653,341	97.06%

*Based on analysis of data available from the lending institution under the Home Mortgage Disclosure Act, 12 U.S.C. 2801, *et. seq.*, Michigan Committee on Law and Housig, March 1979.
**Includes all Detroit S.M.S.A. tracts reported in 1970 U.S. Census with median family incomes less than $9,694 (i.e., less than 80 percent of the 1970 median family income for the Detroit Standard Metropolitan Statistical Area.)

control both for income (by selecting middle income tracts) and for number of households, in examining any relationship which may exist between racial composition of an area and number of loans made.

In the two institutions we have analyzed so far using this methodology, the results have been moderately astounding. First, as Tables 3 and 4 show, the number of loans per tract for Michigan National Corporation and for American Federal Savings and Loan Association decreases as the percentages of the tract's population which is black increases. (See column F on both tables) For Michigan National, all whites tracts received 1.44 loans on the average, while tracts having 90 to 100 percent black population received 0.50 loans on the average—only 35 percent of the rate in all white areas. The same pattern, though slightly less pronounced, appears when we count loans under per thousand households—total and owner occupied. (see columns, H,I,K, and L) Between the two institutions examined, the pattern of bias toward all white tracts is much more pronounced for American Federal Savings and Loan. Thus, tracts having 90 to 100 percent black population had a lending rate per 1,000 owner occupied households which was only six percent of the lending rate in all white tracts. What is particularly strange about our findings is that it appears that it takes very few blacks to produce a situation in which a census tract receives significantly fewer loans. In the case of Michigan National, 50 loans were made in the 61 middle income tracts having one to 9.9 percent balck population, for a rate of 0.82 loans per tract—already down to 57 percent of the rate in all white tracts (1.44 loans per tract; this calculation not shown on Table 3, but derivable from the information presented therein). Similarly, American Federal made 527 loans in these same 61 tracts, for a rate of 8.64 loans per tracts, which is 77 percent of the institution's rate in all white tracts.

In other words, our data appear to indicate that the presence of only a small black population in a neighborhood is associated with a significant drop in number of loans made, when controlled for income and household number. Part of this apparent lack of a more continuous pattern of decrease in lending related to race may be accounted for by the fact that a number of the tracts shown to have only a few minority residents in the 1970 census may have much larger numbers by 1976–78, and that some of the tracts we have classifed as all white may have some black population by this time period, so that there would be more continuity in the decline in loans related to the size of the black population. But, assuming that there is not complete continuity—that there is in fact some kind of immediate fall-off in lending as soon as only a few blacks reside in an area as the data seem to show—two important issues are raised here which requires serious examination:

1. What are the factors in the lending institution itself which explain the overall decline of loan activity as black population increases (policies, services in branches, terms, rates, etc.); and
2. What additional mechanisms are operating to produce both the overall pattern as well as the fall-off in lending initially.

In the latter case, we should examine the relationship which exists between real estate agents and sources of financing—are black purchasers being steered away from depository lending institutions toward mortgage companies or land contract purchases? Do black real estate agents have less access than white agents to sources of home financing at banks and savings and loan associations? Are lending institutions favoring a "stable" of real estate practitioners with whom they have previously dealth, and making it somehow more difficult for agents of blacks purchasers to gain access to sources of financing which have operated in specific areas for whites?

Finally, are there mechanism through which home purchase by *all* persons in an areas—black or white—are immediately affected in terms of financing shortly after minorities have begun to move into an area?

In Michigan, additional information on mortgage applications and denials is now starting to become available under the requirements of the state mortgage practices law, Public Act 135 of 1977, and these data may help tell to what extent the change in lending based on race stems from factors in the application process as opposed to pre-application factors such as choice of method of financing. In the meantime, the basic finding of disparate patterns of lending related to race seems clear, and MCLH has made this an issue in its current challenge regarding Michigan National Corporation before the Federal Reserve Board of Governers, and plans to do so regarding American Federal Savings and Loan before the Federal Home Loan Bank Board. In both cases we are charging that the data indicate a strong possibility that there are violations of Title VIII of

TABLE 3

Analysis of Lending Patterns in Middle Income Census Tracts in the Michigan Counties of Wayne, Oakland, and Macomb For Eight Subsidiary Banks of the Michigan National Corporation By Percentage of Black Population and Number of Owner Occupied and Total Households by Tract For Conventional and Government Insured Loan Originations on 1 to 4 Unit Dwellings

I. Pattern Analysis

Black Percentage of 1970 Population	# of Tracts	# of Households		# of Loans	Loans Per Tract	% of White Rate	Loans Per 1,000 Households					
							Total Households			Owner Households		
		Total	Owner				Rate	% of White Rate	Deficiency	Rate	% of White Rate	Deficiency
0%	434	596,598	482,953	629	1.44	100%	1.05	100%	—	1.30	100%	—
1–100%	150	187,721	139,989	114	0.76	53%	0.61	58%	83	0.81	62%	68
10–100%	89	109,247	81,915	64	0.71	49%	0.59	56%	51	0.78	60%	42
20–100%	72	88,911	66,403	50	0.69	48%	0.56	53%	43	0.75	58%	36
30–100%	60	72,974	55,284	43	0.71	49%	0.59	56%	34	0.78	60%	29
40–100%	52	66,612	50,585	39	0.75	52%	0.59	56%	31	0.77	59%	27
50–100%	49	63,306	47,846	37	0.75	52%	0.58	55%	29	0.77	59%	25
60–100%	43	55,703	42,059	30	0.69	48%	0.54	51%	28	0.71	55%	25
70–100%	34	45,415	33,562	19	0.55	38%	0.42	40%	29	0.57	44%	25
80–100%	24	31,566	22,812	10	0.41	28%	0.32	30%	23	0.44	34%	20
90–100%	16	20,428	14,072	8	0.50	35%	0.39	37%	13	0.57	44%	10
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)

Sources: 1970 Census of Population, and data provided pursuant to the Home Mortgage Disclosure Act of 1975, from the following subsidiary banks of the Michigan National Corporation for the time periods indicated: MN Banks of Detroit, Dearborn, Oakland, Macomb, and West Metro, for 1-1-76 through 12-31-78; MN Bank - North Metro for 1-1-77 through 12-31-78; and MN Banks Farmington and Sterling Heights for 1-1-78 through 12-31-78. The West Oakland subsidiary has failed to provide the data requested, as did the North Metro subsidiary for the period prior to 1977. Data for the Farmington and Sterling Heights subsidiaries are assumed to be complete, since these are recently created institutions. Part II of this table lists the middle income census tracts used in this analysis.

Table prepared by staff and volunteers of the Michigan Committee on Law and Housing, Inc., 23 East Adams Ave., Detroit, MI 48226. Revised July 5, 1979.

TABLE 4

Analysis of Lending Patterns in Middle Income Census Tracts in the Michigan Counties of Wayne, Oakland, and Macomb For American Federal Savings and Loan Association By Percentage of Black Population and Number of Owner Occupied and Total Households by Tract For Conventional and Government Insured Loan Originations on 1 to 4 Unit Dwellings

I. Pattern Analysis

Black Percentage of 1970 Population	# of Tracts	# of Households		# of Loans	Loans Per Tract	% of White Rate	Loans Per 1,000 Households					
							Total Households			Owner Households		
		Total	Owner				Rate	% of White Rate	Deficiency	Rate	% of White Rate	Deficiency
0%	434	596,598	482,953	4,839	11.15	100%	8.11	100%	—	10.02	100%	—
1–100%	150	187,721	139,989	764	5.09	46%	4.07	50%	758	5.50	55%	639
10–100%	89	109,247	81,915	237	2.66	24%	2.17	27%	649	2.89	29%	584
20–100%	72	88,911	66,403	180	2.50	23%	2.02	25%	541	2.71	27%	485
30–100%	60	72,974	55,284	142	2.37	21%	1.95	24%	450	2.57	26%	412
40–100%	52	66,612	50,585	128	2.46	22%	1.92	24%	412	2.53	25%	379
50–100%	49	63,306	47,846	117	2.39	22%	1.85	23%	396	2.45	24%	362
60–100%	43	55,703	42,059	102	2.37	21%	1.83	23%	350	2.43	24%	319
70–100%	34	45,415	33,562	70	2.06	19%	1.54	19%	298	2.09	21%	266
80–100%	24	31,566	22,812	36	1.50	14%	1.14	14%	220	1.58	16%	193
90–100%	16	20,428	14,072	8	0.50	5%	0.39	5%	158	0.57	6%	133
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)

Sources: 1970 Census of Population, and data provided pursuant to the Home Mortgage Disclosure Act of 1975, by American Federal Savings and Loan Association, for the period January 1, 1976, through December 31, 1978. Part II of this table lists the middle income census tracts used in this analysis.

Analysis and table prepared by staff and volunteers of the Michigan Committee on Law and Housing, Inc., 23 East Adams Avenue, Detroit, Michigan 48226. July 5, 1979.

the Civil Rights Act of 1968 and of the Equal Credit Opportunity Act. If the regulators find such violations, they have at their disposal a wide range of powers which can be used, including cease and desist authority, ordering an institution to undertake specific affirmative actions, removal of an institution's officers, and even stronger remedies. As the U.S. Commission on Civil Rights has recently reported, however, these agencies have taken little or no enforcement actions to date under the Fair Housing Act and, in fact, claim to have received very few complaints of discrimination in lending.

This fact brings us back to the questions of effectively using the Community Reinvestment Act to aid minority homeseekers and others who are experiencing injury from private lending institutions. As you have seen, the problem is not in documenting the disparate patterns of lending based on both race and income. If anything, the only problem in documenting such patterns is in finding any institutions which is *not* engaging in some kind of discriminatory lending activity based on one or both of these factors. Again, the problem lies in the development of clear and strong rules for the enforcement of both CRA and Title VIII with respect to lending institutions, and seeing that such rules are effectively used. To date, the Federal Home Loan Bank Board is the only one of the four regulators which has Title VIII regulations currently in force. The Comptroller of the Currency has recently proposed such regulations.

Regarding the effective use of these laws and regulations, it is indicative of our situation that at the Comptroller of the Currency, for instance, there is only one person currently analyzing bank lending patterns for their racial impact—covering all national banks regulated by the Comptroller. It is clear, then, that some source of independent, professional, research and advocacy must be brought to bear now upon the issue of CRA and Title VIII compliance by financial institutions. Some community-based organizations, such as MCLH and similar groups, can do some of this work, but will probably never be able to do it on the scale required to significantly either change lenders' practices, or force the regulators to assume greater responsibility. One possible source of resources for such work is municipal governments using their community development or other special-use funds to either conduct such research inhouse or to contract it out to existing qualified organizations. There are, of course, constraints on city governments because of the dependency of local government on some financial institutions, but if these governments actually pursue the important issues they will enjoy the protections of Title VIII with respect to any retaliatory actions they suffer.

If we are not able to "gear up" to, in effect, enforce anti-redlining laws ourselves—as citizens and local officials—we will be in the position of having to fight for the very existence of these laws on the books in the future. For instance, the national organizations which represent banks and savings institutions have been mobilized for some time to try to prevent the extension of the Home Mortgage Disclosure Act beyond its 1980 sunset date. I can only say that without the data provided under this law, there would have been on CRA, nor any state and local anti-redlining laws passed since 1975, and certainly no comparable source of data on where and how lending institutions are extending home credit.

In conclusion, both CRA and Title VIII's provisions with respect to financial institutions offer the possibility of greatly improved credit services to minority homeseekers and other citizens suffering from current patterns of disinvestment. We must all address the question of how can enough resources and expertise be trained on these legal authorities to realize their potential. These anti-redlining laws bring us "full circle" from where many of us started—with the question of *publicly* funded community development programs. But in making this circle we are now encompassing literally thousands of times the amount of dollars potentially available for community development and improvement, as we were under governmentally-financed programs alone. MCLH and other organizations involved in these issues at the community level look forward to the Michigan Advisory Committee and the Commission participating in attempts to help these laws realize their full potential.

Should Municipalities Subsidize Housing for Middle Income Families?

By Richard Simmons, Jr.

Deputy Mayor

City of Detroit

Introduction

My remarks this morning on the question "Should Municipalities Subsidize Housing for Middle Income Families?" will focus on three basic issues:

- the role government has played, and should play, in housing subsidies,
- the use of mortgage revenue bonds as a means for municipalities to provide housing assistance, and
- the competition between cities and suburbs for mortgage money.

Let me begin with an overview of the role government has played in subsidized housing, directing your attention to how government both created and prompted the competitive situation between city and suburb.

I also want to explain some of the more basic issues involved in housing finance, and the impact of financing mechanisms on the political and social environment. This is fundamental to any understanding of the possible ramifications of subsidizing middle income housing.

Historical Context: Government Role in Housing

The issue of housing in the United States reaches far beyond the question of adequate shelter. Housing is regarded as the cornerstone of social stability and economic equilibrium. It has become the basic symbol of an individual's position in society, and represents the most significant capital investment in nearly every family's life.

The status of housing is well summarized in James Baldwin's statement:

> . . .housing is no abstract social and political problem but is, instead, the reflection of a man's personality. If a man has to identify with a rat-infested hovel, his sense of personal inadequacy and inferiority, already aggravated by job discrimination and other forms of humiliation, is reinforced by the physical reality around him.
>
> If his home is clean and decent and even in some way beautiful, his sense of self is stronger. His house is a concrete symbol of what a person is worth in today's society.

The whole housing question, therefore, is a matter of considerable government concern. When homes were, for the first time in American history, threatened on a massive scale, the Federal Government was quick to sense both the long and short term ramifications of such a disaster.

In 1933, the Federal Government took its first step in what up until then had been a matter of purely private concern. The Depression of the 1930's spurred the first Public Housing Act and the creation of the Federal Housing Agency to ensure a

national housing industry by guaranteeing home loans.

The first Federal Government steps coincide with a housing situation that, in many sub-communities of Detroit, had gone from bad to worse. Here, housing was overcrowded and, all too often, poorly built. The tripling of Detroit's population in the two decades after World War I created the desperate demand for housing that caused this situation.

The Detroit housing situation became even more pressed during World War II as larger numbers of workers came to the war plants in and around Detroit. This time, however, the workers came from the South and included large numbers of blacks. While there was a noticeable black population in Detroit before this, a major increase in the overall percentage occurred during the War.

At the close of the War, funds and energies previously restricted to the War effort were diverted partially into housing and urban growth. In Detroit, and other major cities, this resulted in a rapid increase in the pace of residential construction in the suburbs.

The housing directives from the Federal Government aided and encouraged this historical process. The 1949 Urban Renewal Act served to reduce housing stock in Detroit. Over a ten year period, large scale urban renewal projects and the construction of freeways removed 22,000 housing units and 80,000 people. The push of the working class whites into the surrounding areas was aided by the first Housing Subsidy Act of 1954. Through the years, over 80 percent of the housing that this Act subsidized was built in the suburbs.

The white residents who were the initial beneficiaries of the 1930 federal housing programs were again the beneficiaries of these later federal programs. There were few non-white participants in the public housing programs of the 1930's. By the time minorities started to move into Detroit, the funds for public housing were decreased in favor of subsidized housing which, as I have already mentioned, was heavily biased toward suburban construction.

The State's involvement in housing has had a similar net effect on the housing situation. In 1968, State Housing Authorities were created to enable subsidized money flow directly from the State, by selling tax exempt bonds. In the past, State agencies have financed multi-family housing for people with low and moderate incomes. In recent years, however, they have shifted their efforts to include an expanded effort in single-family housing, much of it in suburban areas and much of it aimed at middle-income families. According to the Urban Institute in 1978, 62 percent of the new State tax exempt bond issues were for single family housing, up from 26 percent in 1975.

From this brief history of government involvement in the housing arena in Detroit, it should be evident as to who the winners and the losers in this game have been.

Detroit's Housing Situation

As a result of the historical process I have just outlined, Detroit has been a net loser. The unequal distribution of financial resources has resulted in a new population loss and an undervalued housing market in Detroit.

There has been an uneven distribution of population growth between Detroit and its suburbs which has been generally characterized by a population loss in Detroit between 1960 and 1979 compared to a positive growth rate in the suburbs. Furthermore, there is an increase in the dissimilarity in the population characteristics of Detroit and its suburbs.

While in 1960 the black population was almost 30 percent in Detroit and 15 percent in the metropolitan area, the rate today is close to 50 percent and 20 percent respectively. The black population in Detroit is over 700,000 and less than 150,000 in all suburbs combined. Put differently, 91 percent of the metropolitan area's black population lives in Detroit. Incidentally, most of the black population residing in the suburbs live in the ghettoized urbs immediately adjacent to the core city.

The diference in housing values in Detroit and the suburbs is also dramatic. The average value of a single family unit is more than 50 percent higher in the suburbs than in Detroit: $45,000 vs. $26,000 respectively. This difference in housing values, however, does not reflect a true supply and demand situation, based on the concept of "willingness of buyer" and "willingness of seller." In fact, it more nearly reflects the whole redlining and mortgage availability issue in Detroit. Private lending institutions will often appraise City housing at a value far lower than the seller is willing to sell for and the buyer willing to pay. Thus, the value of housing in Detroit is more a function of the size of mortgages that can be obtained from lenders than of true market value.

Government Role in Housing Subsidies

Government can play a significant role in subidizing housing costs. However, there is a widely spread misunderstanding about federal subsidy programs. These programs do provide much needed housing at prices that could simply not be met by private market actions.

But it is important to keep in mind two critical factors in planning for the use of such subsidies. First, the funds available for subsidized housing are very limited and are dispensed nationally. Less than 20,000 subsidized units have been built in Detroit since 1970.

Secondly, to be eligible to take advantage of the various subsidy programs, the ranges of income limitations and family size requirements applied to the various forms of subsidy leave major gaps for which no assistance is available.

According to the report of the President's Committee on Urban Housing:

> Congress has often unwittingly undermined the feasibility of these programs by imposing income limits for eligibility which are too low given the maximum subsidy provided. If only a small subsidy is provided, but eligibility is restricted to poor families, the programs will not work and private sponsors will refuse to use it.
>
> The Congressional motivation for imposing low limits for eligibility is apparently to make sure that the most needy families receive priority. This is indeed a worthy goal. But lowering eligibility limits without at the same time increasing the depth of the subsidy, in effect, squeezes the life of the programs by narrowing the effective target population.

There are also gaps in the distribution of housing subsidies in relation to family income. Some income levels are excluded from eligibility for any subsidy program. The existence of these gaps reveals the failure of the subsidy programs to meet the housing needs of a large range of low income families, and the overall inadequacy of the programs. Furthermore, it should be noted that during the 1960-1970 period, HUD allocated three times the Detroit number of interest subsidized units to the suburbs.

There are two roles for the government to play in the housing subsidy arena. One is the area of finance costs associated with development and rehabilitation. The other is in the area of housing operating costs.

Obviously, new housing costs more than old housing, and all other things being equal, rehabilitated housing costs more than housing which has not been improved. Subsidies can be applied to new or fully rehabilitated housing to offset higher financing charges. For example, in a new house, market rate financing on a $40,000 unit would cost about $380 per month. With a typical interest subsidy, the payment could be reduced to about $185 per month. As opposed to housing financing costs, however, housing operating costs is another area where government subsidy can be of value.

Operating costs include payment of mortgage principal, interest, taxes, management, operating reserve, utilities, liability and damage insurance, and maintenance of buildings and grounds. Taken together, these items represent the total monthly payment for shelter.

Of these costs, the two items of greater importance for cost reduction are mortgage interest and taxes. In a typical household monthly operating budget, mortgage interest payments will comprise 40 percent of the amount budgeted for housing; taxes, 20 percent.

Government subsidies could effectively reduce these monthly costs without any deterioration in the equality of environment such as might be associated with reduction in any of the other costs. Reduction in the other areas could be accomplished only by a reduction in the actual operations of the development, thus causing reductions in the quality of its environment.

The greatest potential for lowering housing costs lies in reducing or eliminating the interst paid on the mortgage. Access to low interst loans is a major factor in providing housing for low income families and is currently the most popular method of government subsidy.

A special comment needs to be made about the long-run effects of recent federal housing subsidy programs. First, the federal government has failed to increase the flow of subsidy funds at the same rate as general inflation and housing costs. The result is that essentially the same amount of housing is being built as was the case before subsidies were introduced, and the cost of the new housing is higher than it was before subsidies were introduced.

Secondly, the two basic tools of the Federal Housing Agency, mortgage interest subsidies and

mortgages insurance, have failed to provide the aid to the housing market that they were supposed to. In addition, their benefits have not accured to those for whom the programs were designed: the home buyer. They have benefited, rather, the speculators, real estate brokers, sellers, and financial institutions.

The theoretical base behind government interest subsidy and insurance is that it is supposed to provide housing at a lower cost than would be the case under higher interest rates. The home buyer would thus benefit. However, some analysts argue that the real subsidy by these programs is to those financial institutions who lend money for mortgages. They are still paid the full interest rate for their mortgages and the mortgages are insured against default as well. They are, therefore, the prime beneficiaries of these types of programs.

Both the home buyer and the government were net losers as a result of the high rate of defaults that ensured during the operation of the program.

The reason that the federal housing subsidy program has not lived up to its expectations in Detroit, and why it has benefited the "wrong" people can be attributed partially to the lack of FHA experience with land contracts—one of the primary inner-city housing finance mechanisms.

In order to anlayze this sitution further, let me direct your attention to the illustrations contained in the handouts you have before you. Robert Lambrecht of the Mortgage Bankers Association explains the issues involved very clearly. Lambrecht Illustration I shows the difference between land contract financing prior to 1968 and the FHA terms offered after this date.

In order to further understand the differences between an FHA mortgage and land contracts, let us analyze the effect of each type of financing for a seller who wishes to net $10,000 after a sale of his home.

Please refer to Illustration II. Here, the seller by using FHA-insured financing, would have realized his net cash of $10,000, offered his house on the market for less and offered the buyer lower monthly costs.

However, let us assume the buyer was willing to pay $120 per month prior to 1968 and is still willing to pay $120 per month, as presented in Illustration III.

As a result of this situation, the seller can offer the buyer the same monthly payment, yet sel his home for $17,140 rather that $12,000 as in Illustration II, and reap a $5,140 profit over what he expected.

This is, in fact, exactly what happened in Detroit as sellers realized unexpected profits and fled from the City. Thus, the benefits of the FHA's entry into inner-city financing helped the seller, inflated prices, and did not benefit the buyer. Obviously, the government had hoped the benefit of lower interest rates and a longer term would accrue to the buyer as shown in Illustration II.

Speculators, real estate brokers, and homeowners who were familiar with the land contract business saw a bonanza and took advantage. These activities have been adequately explained by government, and news sources and a detailed review of them, is not the purpose of this presentation.

Land contracts usually were not recorded in the Register of Deeds Office prior to 1968, and were not public records as FHA insured mortgages are. Thus, FHA appraisers who had no previous experience in these inner-city areas used other applications in their office which, as shown in Illustration III, were $17,140 rather than $12,000.

Mortgages lenders also were not familiar with inner-city values, having had no experience in the area. Lenders have traditionally relied upon FHA appraisals. However, the incorrect appraisal techniques applied by FHA in certain areas of the City and the decline in values because of social reasons created a difficult situation for lenders.

To pursue this illustration a step further, it becomes evident in Illustrations IV and V what the problem in Detroit has been over the past several years. Equity build-up is vital with regards to the resale of a house. Yet, as Illustrations IV and V point out, there is a lack of equity build-up. The cause of so many houses being conveyed to HUD is obviously a lack of equity by the seller. The reasons included unemployment, divorce, illness, etc., but the cause is the same: lack of equity.

This is not to say that HUD shouldn't make loans available. Rather, HUD can and should make loans available to all people in the City. However, the remaining useful life of the individual house and area should be carefully considered. Thus, we would have areas where 10 years mortgages are available and others where 20 year mortgages are available. If this had been done, Illustration VI shows how HUD could have helped people improve their housing: By reducing the mortgage to 11 years rather than 30 years as previously done, we would have given the

buyer an opportunity to buy the same house for $10,500 with less indebtedness.

FHA insurance which makes possible insured loans with low down payment, was granted on over 42,000 homes in Detroit. Under the process as described by Mr. Lambrecht, it is evident why such a substantial portion of these homes were returned to FHA by default.

Mortgage Revenue Bonds

Despite the inequities and failures of government housing programs, it is still well recognized that something must be done to bolster the housing market in central cities.

If it were possible to persuade the private lending institutions to participate constructively in the rebuilding of our residential communities, there would be far greater possibilities for the alleviation of central city housing problems, and restructuring of the local housing industry. However, as it stands, the whole financial resource issue involved in the housing market necessitates the use of public financing mechanisms such as mortgages backed by tax exempt revenue bonds.

The use of tax exempt revenue bonds can increase the amount of mortgage monies available to home buyers in a specific place, and at a lower rate of interest. The use of this kind of financing mechanism is attractive because the revenue bonds are collateral specific, and hence do not need to be backed by the full faith and credit of the city. It also offers local government a control mechanism over the geographic location and income range to be served. Very simply, mortgage bonds secure for housing investment the cost savings associated with tax exemption.

The process works as follows: a municipality or other local government unit issues long term tax exempt bonds. The proceeds are used to finance mortgages through local lending institutions. Mortgages issues under the program are originated and serviced by the lender institution. An associated commercial bank makes interest and principal payments to bondholders, drawing upon funds generated from the mortgage payments. The sponsoring governmental unit has no involvement in the operation of the program. It merely lends its authority for tax exempt purposes and establishes guidelines regarding the mortgage recipients.

In addition, local authorities typically have specific or targeted development objectives in mind. A clear statement of public development goals frequently is required by state law, since the bonds are issued under state laws authorizing tax exempt bonds for development purposes.

In Chicago, where the first bond program took place, the program was explained as an effort to attract low and middle-income homeowners in the city. Eligible borrowers under the Chicago program were defined as those with a family income under $40,000. Units had to be purchased within the City of Chicago, single-family homes and two-to-six unit multi-family units which were the borrower's principal residence were eligible for mortgages under the program.

Because of the tax exemption, Chicago was able to market its $100 million issue with the low interest rate of about 7 percent, thus enabling it to charge an interest of about 8 percent, about 2 percent below the market rate.

In Denver, the program has a more focused development purpose. Mortgage eligibility is restricted to single-family homes and two-to-four-unit dwellings within a 40-block section of the city which has been targeted for redevelopment. Mortgages are available for households in the $12,000 to $20,000 range. The city expects the home purchasers to generate subsequent investment in upgrading of homes in the area. It is projecting some $10 million of private investment, which would yield $328,000 in annual property tax revenue.

Despite some of the more apparent advantages of the mortgage revenue bond program, such as the ability of localities to tailor programs to their own specifications and the self-administering nature of the program, they do have some potentially problematical aspects.

For example, some analysts argue that on the local and state level, mortgage revenue bonds could force up the interest rates on municipal bonds and thus restrict the ability of localities to finance their more traditional capital expenditures.

Another criticism, this time on the federal level, comes from the U.S. Treasury Department which has estimated that each billion dollars of new tax exempt, single family housing bonds issued will cost about $22.5 million in foregone federal tax revenue each for the life of the bonds. If the use of state and local single-family bond issues increases as projected, the revenue loss from these bonds could be $340 million in 1980, and between $1.6 and $2.4 billion in 1984. Viewed in the total context of the total federal

LAMBRECHT ILLUSTRATION I

	Land Contract	FHA Mortgage
Discount	15 to 35%	4 to 6%
Interest rate	6%	7 1/2%
Effective interest rate	9 to 22%	8 to 8 1/4%
Term	11 years, 4 mos.	30 years

LAMBRECHT ILLUSTRATION II

	Land Contract	FHA Mortgage
Cash to seller	$10,000	$10,000
Discount	20%	5%
Asking price for house	$12,000	$10,500
Interest rate on note	6%	7 1/2%
Term	11 years, 4 mos.	30 years
Monthly cost to buyer	$120	$73
Total cost to buyer	$16,320	$26,280

LAMBRECHT ILLUSTRATION III

	Land Contract	FHA Mortgage
Buyers monthly payment	$120	$120
Interest rate	6%	7 1/2%
Term	11 years, 4 mos.	30 years
Amount of mortgage buyer can assume	$12,000	$17,140

LAMBRECHT ILLUSTRATION IV

	Land Contract	FHA Mortgage
Buyers cost of house	$12,000	$17,140
Buyers monthly payment	$120	$120
Term	11 years, 4 mos.	30 years
Amount repaid–3rd year	$2,520	$514
Amount repaid–5th year	$4,440	$926
Amount repaid–7th year	$6,600	$1,405

LAMBRECHT ILLUSTRATION V

	Land Contract	FHA Mortgage
Buyers cost of home	$12,000	$17,140
Real estate commission, 6%	$720	$1,028
Discount	$2,000	$857
3rd year position of seller	($200)	($1,371)
5th year position	$1,720	($959)
7th year position	$3,880	($480)

LAMBRECHT ILLUSTRATION VI

	Land Contract	FHA Mortgage
Cash to seller (Illus. II)	$10,000	$10,000
Discount	20%	5%
Asking price	$12,000	$10,500
Term	11 years, 4 mos.	11 years
Interest rate	6%	7 1/2%
Monthly cost to buyer	$120	$117
3rd year indebtedness	$9,480	$8,431
5th year indebtedness	$7,512	$6,772
7th year indebtedness	$5,292	$4,840

budget, however, this is a relatively insignificant amount.

A third criticism is that mortgage revenue bonds could also have an effect on the traditional mortgage market due to the displacement it will cause in private mortgage lending. Mortgage interest rates initially will be pushed down due to the diminished demand for private mortgage funds. The fall in the mortgage rates, however, will make lenders divert funds and decrease their mortgage holdings.

In time, therefore, the initial decline in mortgage rates will begin to reverse itself as an excess demand for mortgage appears. According to the Urban Institute, within 18 months the mortgage rate could be expected to stabilize.

When all is said and done, the use of mortgage revenue bonds, if carefully planned, can be an extremely important new tool to aid cities in their redevelopment efforts. Its effect, of course, will depend on how the specific program is designed. Although the Chicago plan was intended to help low and moderate-income families afford decent housing, its income limit was $40,000 and there was no mortgage limit. Application of the general rule of thumb that monthly payments should not exceed 20 percent of net income, suggests that mortgages in Chicago could run as high as $110,000.

A comparison of the income levels of home buyers under the Chicago mortgage bond plan, with the incomes of conventional buyers in Chicago, reveals relatively little difference in income levels. The Chicago plan provides more loans for people in the lowest income bracket (under $15,000), but otherwise, the distributions are similar.

Under the Chicago plan, the median income is about $19,900, compared to $19,600 for current conventionally financed buyers. Both are well above the median for all Chicago households. About $12,000. The $40,000 income limitation excludes only about 10 percent of Chicago buyers.

Another possible drawback in the use of mortgage revenue bonds is that they may not accomplish the desired redistribution of higher-income households throughout the metropolitan area. If the central city is successful in attracting high-income households by means of the subsidized interest rate, then the suburbs which have lost these higher city bonds, and thus stem the loss of desirable population. This defensive move in the long run could result in no net change in the geographic distribution of high-income households between cities and suburbs.

This suggests that, as state and federal legislators draft legislation governing the use of mortgage revenue bonds, care should be taken to ensure their benefits accrue to the appropriate target population.

Conclusion

In closing, let me say that in Detroit, as in most cities today, housing costs are soaring and high interest rates are blocking thousands of low and middle income families out of the housing market. Clearly, some decisive action should be taken.

Although the issuance of mortgage revenue bonds by local government is currently not allowed in Michigan, we know that they constitute an increasing share of the municipal bond market. And, as I mentioned earlier, this could have the effect of causing a rise in the overall interest rates for municipal bond issues.

There is also concern in some quarters that tax-exempt revenue mortgage bonds could affect the ability of existing state housing authorities to market their issues.

I believe that the most workable solution to all of the various problems I have discussed today would be a two-pronged approach.

First, I would urge you to join the effort sponsored by the U.S. Conference of Mayors to ensure that federal legislation regarding tax-exempt mortgage revenue bonds targets their benefits on families and areas which need housing most. This will allow qualifying communities to use them in a flexible manner, consistent with local housing plans, to expand local tax bases, and attract a range of income groups back to declining or distressed areas.

It will also allow State and local housing departments to continue to work closely together to accomplish their common goal of increasing home ownership opportunities for families in those areas which are most in need.

Secondly, I would call your attention to the existing HUD 802 program which provides repayment guarantees and interest subsidies for *taxable* bonds which are issued to finance home ownership. Up until now, this program has had only a very low level of funding, but an increase now would enable cities to decrease home ownership costs to investors and to the Federal Treasury, as well, without diluting the municipal market.

For decades, America has subsidized homeownership. Unfortunately, most of these subsidy programs have encouraged families to move from our cities to

the suburbs. I believe that the time has now come to reverse that trend. And local governments should use the full range of mechanisms available to help restore residential vitality to America's cities.

Displacement and the Urban Partnership—the Human Factor

By Jacqueline Scherer

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The question that I was asked to deal with today is what can be done to help those poor persons displaced by the returning middle class in urban areas. Before we can answer this question, we must determine who are the displaced and the displacers. Trying to answer this question will take us on an intellectual journey that may appear to range far from housing. I would like to share this journey with you, however, because it suggests some unusual conclusions in dealing with the problem to be addressed.[1]

Displacement: Process

We use the term displacement to refer to those people who must relocate because their housing is being changed. Most displacement occurs because land is needed for other purposes and homes are destroyed. In the case of regentrification, the houses remain but are rehabilitated into more attractive or profitable properties. Think for a moment about this word, displacement. One of the most important legacies of both the Civil Rights Movement and the Womens' Liberation Movement is an awareness and consciousness of the values implicit in words. Our terms are not inanimate and objective thoughts, but they are loaded with emotional and value connotations. Displacement literally means the opposite of being placed—to displace implies moving from a niche or location where one had been fixed. In a fascinating study of housing, Perin has explored the strong tie between housing and the concept of place in American culture.[2] She notes that the home owner is considered more reliable and dependable because he/she is *in* place, is anchored more firmly to that place, and is therefore more stable than the renter. A home is viewed as the individual's "safe" place or private locus. Displacement, then is a highly emotional term, especially for those groups who have no resources to seek another place. We use other emotional terms, such as revitalization, in a positive way, as if the process of improving and investing in place will bring back life and purpose to things. These emotional terms related to housing are not juxtaposed with the "hard" language of capitalism, along side terms such as investment, competition, resources and cost benefit. Today, we may add another overlay of meaning to the discussion by

[1] The author is indebted to Shae Howell, Department of Urban Affairs, Oakland University, for her comments.

[2] Constance Perin, *Everything in its Place: Social Order and Land Use in America.* Princeton University Press, 1977.

incorporating the language of "civil rights" as a component, suggesting moral duties, justice and law.

It is important to recognize the shades of meaning and language employed in discussion because displacement is an emotional issue obscured by lack of information and often treated in a very simplistic manner. My journey involved reading the scanty research literature on the subject; and I was disturbed by the lack of information, the narrow design of questions asked and the need for a broader perspective in which to frame questions. Most of the research on displacement has almost been done as an afterthought in the studies of revitalization process.[3] As with many housing studies, the concentration on housing is seldom put in context and seldom related to economic, social and historical movements that are taking place simultaneously and influencing housing decisions at all levels.

Such research is difficult to undertake for several reasons: methodological tools are weak, it is expensive and time-consuming, and the traditional experimental modes of investigation are not effective. In the case of displacement, good research involves tracing persons who have been displaced over a period of several years. Although people who have few resources and who need help can often be traced by contacts with social service agencies, many of those displaced do not use these services. Relying on requests for help magnifies the distress dimensions of displacement and distorts the scattered evidence suggesting that some people may actually find better housing after displacement.

If we are to examine displacement rationally and systematically, we need a great deal more information than currently exists on the subject. On the other hand, I am not optimistic that such information can be obtained at a feasible cost.

After two decades of decrying the negative aspects of the middle class shift to the suburbs, urban scholars are only now recognizing that this exodus freed considerable housing in cities for the new urban migrants, and contributed, in no small way, to an increase in living standards for many. On the other hand, we realize that when housing stock is upgraded, the poor are pushed out of the market, often with no other alternatives available. There is also some evidence that healthy and viable neighborhood social structures can be permanently destroyed by dislocation, whether it be through urban renewal bulldozers, highway construction or housing improvement.

To speak generally of displacement is also hazardous. The effects of displacement are related to both the extent and range of revitalization efforts. Several studies suggest that the revitalization process consists of stages: the initial revitalization of a few units followed by more comprehensive efforts that are eventually fused into more organized and politically viable movements.[4] The problems of displacement at one moment are distinctively different from those at another, and there is considerable variation between revitalization programs. Moreover, revitalization may refer to restoring six units in an historical section of the city (regentrification), or to rebuilding fifteen city blocks.

The rate of displacement is also important. Recent publicity given to Washington, D.C. has been dramatic because the rate of change has been much faster than in other cities. If we assume that those displaced seek housing close to existing neighborhoods (and most studies support this), then the extent and rate of housing change is very significant in determining displacement activity.

Displacement is not a new phenomena. We can be sure that people were forced to leave their homes so that the great cathedrals of the world could be built, or ancient highways—or for that matter, such massive structures as the Renaissance Center. Estimates of displacement for urban renewal projects indicate that these public ventures destroyed 425,000 units, nearly all of which were low-income housing. Less than 125,000 new units were built to replace these, and at least half of the replacements were high priced.[5] Even today the greatest amount of displacement likely to occur in urban areas is not caused by private reinvestment by homeowners, but by dislocation through institutional development. The growth of universities, hospitals, social service agencies and other organizations, blessed by governmental assistance, is far more significant in terms of the number of people affected than through regentrification. A major difference between the two as noted by the National Urban Coalition is that privately financed urban improvements seldom have a sharp

[3] Howard J. Sumka, "Displacement in Revitalizing Neighborhoods: A Review and Research Strategy," *Occasional Papers in Housing and Community Affairs,* 1978. Published by Department of Housing and Urban Development (HUD).

[4] *Displacement: A Report of the National Urban Coalition.* (July 1978).

[5] *Evolution of the Role of the Federal Government in Housing and Community Development,* Committee on Banking, Currency and Housing, 94th Congress (October 1975), U.S. Government Printing Office, Washington, D.C., p. 26.

beginning; the process is a gradual one of change, so that considerable activity takes place unnoticed and unrecognized.[6] As a result, problems of displacement are often not given sufficient attention.

Displacement: Problem

There is a strong possibility that in lieu of solid evidence and research, displacement, as a problem, has been distorted because of high media visibility. The media are naturally attracted to stories of neighborhood revitalization and have paid a disproportionate amount of attention to some kinds of displacement. There is also enthusiasm on the part of urban leaders in highlighting the revitalization of urban areas as signs of progress (Note the language!) in "fighting urban decay and decline." The plain fact is that compared to new building, restoration in urban areas involves fewer dollars and is more limited. Furthermore, as urban geographer Brian Berry states, the trend toward counter-urbanization—away from cities and metropolitan regions as a whole—is well documented and continues to grow in strength.[7] Moreover, policymakers seldom distinguish between development and restoration in terms of scale, populations affected, and the effect upon cities. As a result, the "problem" of displacement is not at all clear.

It is unlikely that the trends toward decentralization of population away from central cities will be reversed. The major cities of the United States are less dense today than a decade ago; and the urban sprawl, so characteristic of our landscape, may be slowed but probably not eliminated. Major restoration of homes in central cities is likely to be restricted to those areas that have unique factors, such as historical areas of interest, special amenities, i.e. lakes or rivers, or access to jobs, as in Washington, D.C. Most observers believe that the possibilities for major rehabilitation throughout older industrial cities is slight, although individual neighborhoods may seem more suitable. Regentrification—the process of renewal through home restoration by individual owners—often takes place side by side with redevelopment. The difference is that the private, small investor seeks small units of solid housing stock whereas the larger investor is more likely to build anew on tracts or parcels of land.

These comments do not mean that displacement is not a problem. Rather, they are to remind us that there are many dimensions to the problem that should be kept in perspective. The most confusing aspect of displacement is relating a specific housing concern to the general problems of poverty. Poor people need jobs, transportation, health care, education and a host of other resources, in addition to housing. One could argue that if poor people had the other resources, they could almost resolve their other housing concerns. The reality is that private reinvestment is not likely to resolve the concerns of poor people. Moreover, it is misleading to argue that the revitalization process causes poverty; it may aggravate the problems of poverty but is seldom the direct cause of poverty. Since some displacement literature relies upon rhetoric to link revitalization efforts with the distress of the poor who must relocate, the tendency to *blame* housing renewal for poverty is perpetuated. Although poverty and displacement exist side by side, they are different phenomena and respond to different market forces.

Displacement: Who is affected?

It is generally assumed that poor families suffer the most from displacement. Like many other assumptions, we are not certain that this is so. We can divide those displaced into two categories: owners and renters. Because of the legal ties in home ownership, we know more about the first group. There are two major dangers to homeowners in revitalization. First, he/she may sell too soon and not realize the increased profit in his home when the neighborhood housing value is increased. This happens often when eager real estate agents enter into the revitalization process. The second danger is that if the owner stays put, he/she may not be able to pay taxes when the increased value of property is determined.[8]

In terms of social policy, there are mechanisms already on the books that could deal with these issues if properly used. Low cost loans and other rehabilitation assistance can be used to improve homes. Controls on real estate speculators can be instituted; circuit breaker tax plans can provide some relief from increased taxes; and other forms of assistance can be made available to the homeowner.

[6] Op. cit., National Urban Coalition Report.

[7] Brian Berry, "The Counterurbanization Process: Urban America Since 1970," in *Urbanization and Counterurbanization*, ed Brian Berry, Urban Affairs Annual Review, vol. II (Sage: 1976.

[8] Op. cit., National Urban Coalition Report.

The problems of renters are more complex. Given inflation and poverty, replacing a rental unit at the same price as any existing at the present time is almost impossible. Revitalization affects rent in two ways: first, by reducing the number of available units and thereby creating a scarce product; and secondly, by raising rents throughout the area as values are increased. Renting is a unique industry. Some estimate that almost ninety per cent of the total number of rental units in the United States are owned by individuals and not be corporations or partnerships. In a Newark study of slumlords, for example, it was found that the worst offenders were heirs who lived nearby but did not want to invest any money in deterioriating property. The result is that rental property is most resistent to change; experiments with rent control, subsidies and other forms of assistance to the poor often have not achieved equity. Enforcement of provisions has been very difficult.

The three groups of poor people most likely to be affected by displacement are single parent families, the elderly and unemployed males. In some studies it was found that these were the same groups originally displaced under older urban renewal programs.[9]

The elderly present an interesting case. Social policies to assist this group have been successful, but still the problem of housing is greater than the resources available. Of the 3.2 million people now living in 1.2 million public housing units, forty-eight per cent are elderly. Another 3.2 million people live in subsidized, privately owned apartments. Of this number, thirty-five per cent are elderly. In spite of this, there still are 2.3 million elderly living in unsatisfactory homes. Need is compounded because this population cannot increase its economic resources through earnings.

Female headed households disturbed through displacement are also important. The problems of this segment of the population are so numerous that even if by some magic wand housing concerns could be effectively resolved, the issues of day care jobs, health care and other important areas of life remain. Although several policies are designed to ameliorate the distress of displacement, such as housing subsidies, policies that give renters the right to be the first to return to rejuvenated facilities, and relocation assistance to other available stock, the fact is that housing for poor families is inadequate and resources devoted to this problem are miniscule in relation to need.

The displaced generally remain in the same geographic area, often moving several times as revitalization expands. Once again, however, our information is scanty and incomplete.

Displacement: The Displacers

There is more information available about the characteristics of those who undertake revitalization. This group is almost always white-collar, more affluent than those they displace and often young.[10] The reasons for their return to the city are many: access to work, housing values, and in some cases, a genuine commitment to the development of urban life. Once again, however, we must guard against media "truth." The long term trend toward decentralization or suburbanization remains the most powerful housing trend in the United States for both blacks and whites. True, upwardly mobile blacks move our, usually after a ten to twenty year gap; but they do move out. Another media myth—the return of the retired couple to the central city—has not been substantiated by research. There is little hard data to document the numbers of displacers or the details of their backgrounds.

It is interesting to note that three separate studies conducted by General Electric, The Brookings Institute and the Bureau of Labor Statistics, indicate that average housing expenditures depend on family size and the age of the head of the household. The fraction of income spent on housing is roughly the same across all social classes. After World War II this declined significantly, allowing most families to enjoy more discretionary income.[11] Today, there has been a steady increase in the per cent of family income spent on housing due to inflation and rising market costs. As a result, older homes represent more value for the equivalent investment in new homes and are viewed as attractive opportunities for middle class professionals. It is this group who form the heart of the "regentrification" process in many central cities. But another group that is not as visable consists of blue-collar workers who already possess the essential skills to improve housing.[12] Some observers believe this group is primarily concerned with improving their own home as a family project,

[9] Op. cit., Sumka.
[10] Op. cit., National Urban Coalition Report.
[11] Albert Rees, "Low-Wage Workers in Metropolitan Labor Markets," in *The Future of the Metropolis: People, Jobs, Income*, ed. Eli Ginsberg (Olympus Publishing Company, 1974), pp. 134–144.
[12] Op. cit., National Urban Coalition Report.

whereas others believe that renovating and selling housing has become a form of supplemental income for the skilled blue-collar worker.

Displacement: Who wins—who loses?

It is not immediately clear who wins and who loses in the displacement process because all society is affected in some way. One interesting attempt to calculate the cost-benefits of revitalization by Sumka is presented in the appendix chart.[13] This shows that the issue is much more complex than a simple trade-off of one improved house versus one displaced unit.

The complexity and inter-relationships between housing and other facets of the economy are too often overlooked. For example, home ownership became a reality for most Americans

> only as the trolley, the commuter railroad and the automobile successively accelerated the mobility of the upper middle class. And they became homeowners only in the aftermath of New Deal legislation that established the self-amortizing long-term insured mortgage. . . .[14]

This, in turn, made housing stock available in the city for the new waves of migrants from the farms. The roots of migration have to be located in the radical transformation of our economy from an agricultural society to an industrial one. Urbanization and industrialization took place on a massive scale at the turn of the century, but between 1930 and 1950 almost twenty-five per cent of the American population shifted from rural to urban areas. Today we are undergoing a similar transformation from an industrial society to a service-oriented society, in which the decline in manufacturing jobs has been dramatic. Moreover, estimates of the 1980 census predict that less than thirty per cent of the work force will be engaged in manufacturing and four per cent in agriculture. The implications of this new economic transformation for housing cannot be overlooked. According to Eli Ginsberg:

> The imbalances in our large cities between the capabilities of those who seek jobs and the jobs that are available, between the location of the available jobs and where people live, between the pulling and hauling of different interest groups and the need for a consensus to assure the continuing viability of the metropolis, between the demands placed on local government and the financial resources and other powers which are primarily in the hands of federal and state governments—these and other tension points lie at the core of the urban dilemma.[15]

We are experiencing Z.P.G. on a large scale, and not only in families. By zero population growth, I am referring to cities that have remained at the same scale for several years. For example, Pittsburgh has the same metropolitan population in 1970 as in 1980.[16] However, Pittsburgh is still a vital and important city area. The opposite growth need not be decline; it can also be development, often by substituting sevice activities for industrial growth.

Many central cities experienced Z.P.G. For the last few years, the so called "blackening" of the central cities has slowed to a trickle. Just as other population groups have gradually moved to the other rings of the city, and then to the suburbs, so black middle class populations have also pushed outward. Examples of cities that have smaller black populations now than a decade ago are Cincinnati, Clevelend, Pittsburgh and St. Louis. As a result, urban population densities continue to decline. The implication of low urban density for service delivery and transportation must then be examined with housing and labor trends.

This brings into focus the importance of transportation. Already most expressways reflect the two-way traffic of city dwellers driving to the suburbs to work as well as suburban dwellers driving into the city to work. More than likely suburban dwellers drive to other suburbs to work. The suburbanization of industry began before World War II but was delayed by the war. Many industrial plants located on the outer suburban fringes are now twenty to twenty-five years old and may be considered obsolete in the next decade. It is unlikely that they will return to the cities but probably will move further out.[17] On the other hand, smaller industrial sites in cities may attract less sophisticated industry that can utilize unskilled workers. Such workers are to be found either in inner cities or small towns that have been economically depressed.[18] The journey to work

[13] Op. cit., Sumka.
[14] Martin Meyer, *The Builders: Houses, People, Neighborhoods, Governments, Money* (R. Norton Co., 1978), p. 9.
[15] Eli Ginsberg, "Introduction," in *The Future of the Metropolis: People, Jobs, Icome,* cited above.
[16] Karl E. Taeuber, "Social and Demographic Trends: Focus on Race," in *The Future of the Metropolis: People, Jobs, Income,* cited above.
[17] The reasons for further movement outside the close suburban ring are similar to those used in the initial move from central cities: cheaper land, the relocation of the working population outside of the central city, tax benefits, and access to good transportation routes on interstate highways.
[18] Op. cit., Rees.

will continue to play a key role in housing just as revitalization activities both reflect and affect jobs.

Recent studies suggest black males are more likely to be driving to industrial jobs in the suburbs and white females to service jobs in the city.[19] The important point is that transportation remains a critical element in providing access to jobs.

Displacement: The Urban Partnership

So often the problems of urban areas are expressed in terms of "urban" problems, as if the city itself causes the difficulties. In fact, what we have are people problems—generally poor people who need resources. As I have suggested, the concern of many interested in displacement is misplaced to the degree that displacement is perceived as only a threat to the tenuous lives of poor people. Those locked into poverty need jobs, transportation and opportunities that often transcend the need for housing.

At this conference we have talked a good deal about an urban partnership that involves federal, state and local government and private enterprise working together to improve urban life. Such a partnership can work because there is a consensus about the values of urban living and shared beliefs among all partners. It is clear that in this partnership, reinvestment, revitalization, gentrification and renaissance are solid terms reflecting important goals.

A genuine urban partnership, however, would also have to include spokespersons from neighborhoods and service organizations who would introduce other terms into the discussion. The new vocabulary would include terms such as displacement, jobs and access to work. Unfortunately, it is no more certain that both vocabularies can exist together than it is clear that economically integrated housing units can exist together. The language of property value and investment traditionally is uncomfortable when used with words such as desegregation and income mixing. Nor is displacement a comfortable word.

Most members of the partnership have little interest in enlarging either membership or vocabulary. In summation, the issue is one of will rather than means. One place to begin is with the implementation of the goals of our existing housing policy. As stated in the regulations of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the purpose of the legislation is to establish the standards of treating displaced persons "fairly, consistently and equitably so that such persons will not suffer disproportionate injuries as a result of project designed for the benefit of the public as a whole."[20] To enforce existing policies and to strengthen programs that can achieve this end must be the goal of all of us concerned with improving the quality of life. Displacement need not be a roadblock in redevelopment, but an opportunity for creating new resources for rich and poor alike.

[19] Thomas Sowell, "Minorities and the City," in *The Future of the Metropolis: People, Jobs, Income*, cited above.

[20] "Uniform Relocation Assistance and Real Property Acquisition," *Federal Register*. Subpart A, General Section 42/1, 44, no. 104 (Tuesday, May 29, 1979), 30954.

POTENTIAL EFFECTS OF NEIGHBORHOOD REVITALIZATION

Unit of Analysis	Potential Costs	Potential Benefits	Indeterminate Effects
Individual Households			
A. Remaining Neighborhood Residents	Increased housing costs —Owners: Increased taxes —Renters: Increased rent Subjection to pressures to move through harassment by real estate brokers or landlords Increased costs for locally sold goods and services Loss of ties with former residents and neighborhood social institutions	Equity appreciation for homeowners Improved municipal services Improved physical environment Improved quality of local goods and services Improved availability of mortgage and home improvement credit Increased availability of hazard insurance	Change in characteristics of neighborhood population
B. Former Neighborhood Residents	Moving costs Loss of old social and institutional ties Trauma of forced move, especially renters	Homeowner recapture of equity appreciation	Change in characteristics of housing (size, cost, quality) Change in physical characteristics of neighborhood Change in accessibility to public and private services and employment Change in social environment

Unit of Analysis	Potential Costs	Potential Benefits	Indeterminate Effects
C. New Neighborhood Residents	Physical danger due to conflict with remaining residents Risk of equity loss if neighborhood does not stabilize	Proximity of employment Proximity to cultural amenities of city Lower housing costs Homeowner equity accumulation Sense of accomplishment	Change in social and institutional ties
D. Residents of Recipient Neighborhoods	Increased cost for housing due to greater competition		Change in characteristics of neighborhood population
Central City	Cost of improved services demanded by new residents	Increased tax base (property, sales, income) Increased employment —Real estate and building sectors —Other service sectors Decrease in costs of services required by low-income population	

Unit of Analysis	Potential Costs	Potential Benefits	Indeterminate Effects
Suburban Fringe	Increased service needs of low-income populations		
	Reduction in tax base (property, sales, income)		
	Loss of employment in real estate and building sector		
The Nation	Subsidy for residents wishing to remain in area	Revitalization of central cities	
	Relocation assistance	Conservation of existing housing stock and capital infrastructure	
		Conservation of energy	
		Conservation of land	
		Restoration of local fiscal balance	

Howard J. Sumka, "Displacement in Revitalizing Neighborhoods: A Review and Research Strategy", *Occasional Papers in Housing and Community Affairs,* 1978. Published by HUD.

DISCUSSION

In enforcing CRA regulations and housing equality requirements for federal grants, a recurring pattern is the "conditional" approval given by the compliance reviewers. This conditional approval is used not only in financial institutions, but also with city governments and their CDBG plans, and others. It is part of an "escalating list" of sanctions for non-compliance with equality requirements. The principle of a scale of sanctions may be appropriate, but the fact is that there has been only one actual denial to a financial institution, so the scale of sanctions approach turns into a non-enforcement patter in practice.

The Home Mortgage Disclosure Act, referred to in the body of the papers, is to expire in June 1980. Financial institutions would prefer that it not be renewed.

Pittsburg has a project worth studying, in that it combines a UDAG with a municipal bond issue, for mortgages targeted to four neighborhoods in the city where home mortgage credit is difficult or unavailable. The combination of both programs and its targeting can prove quite successful.

On the issue of municipal bonds for single family mortgages: It is the same approach taken by State Housing Authorities to promote construction of multiple-family housing at moderate prices. By using the tax-exempt bond funds, general costs of housing decrease. Several problems may be associated with this approach:

- In the largest example, Chicago, beneficiaries of the lower mortgages have been non-minorities, and middle-class people buying brownstone and/or condominiums.
- If this approach is expanded (Michigan is contemplating legislation to make it legal in the state for municipalities to issue these mortgage bonds), the point might be reached where so many cities in the state and the country will be offering these bonds, that the process will affect traditional municipal bonds everywhere, for firehouses and the like.
- As the number of municipal mortgage bonds increase, there is a decrease in federal taxes collected ($22 million in federal taxes for every $1 billion in bonds issued). In fact, this process may substitute public funds for the equality in private investment that is contemplated in Title VIII, CRA and HMDA. This financing of disinvestment is substituted for enforcement of the legislation.

In the case of Chicago—the first major city to use this municipal mortgage bonds—there was a report by the city's advisory committee on the first round of such mortgages. The municipal and financial authorities involved had stated the program was not necessarily for the poor but for the middle class. In fact, the upper limit for applicant's income was $40,000. It may have produced displacement of renters and the poor, as loan applications for condominium buyers were a very large proportion of the total applications. Geographically, the lakeshore areas accounted for about 52% of all the mortgages, while minority neighborhoods were almost unrepresented. Another expressed purpose of

the issuance—the attracting of suburban residents back to the city—was only partially accomplished: about 11% of the applications were from suburbanites moving into the city. On the other hand, some suburbs also offered their own municipal mortgage bond programs, so in the long run, if this type of financing is expanded, the "return" effect intended will be further minimized.

The balance sought in UDAG's by municipalities and found lacking by the presentors, may not be attributed to discrimination against minorities, particularly in cities like Gary, Indiana, and Detroit, Michigan, where minorities control the city government. It is possible that emphasis on commercial or industrial development is a first step, planned to spur further investment and the later upgrading of neighborhoods. It is hoped that such will be the case.

In any event, the issue remains of the use of public monies for leverage of private funds. In Detroit, the three UDAG's downtown projects (Fisher's Riverfront Development; Cadillac Square Mall and Hudson's new store) are showing a public to private ratio of 1-to-1, which does not represent substantial leveraging.

In the effort to attract private monies, public funds are used to the point that private investors wait until all infrastructures are in, and thus reduce to the minimum their private efforts. The process becomes a self-fulfilling prophecy. In some other areas—such as Grand Rapids—the claims for private fund leverage seem quite difficult to substantiate in the case of commercial UDAGs. The increased availability of public funds may in fact make private funds unneeded. Some development projects already existing have been designated as UDAG's, and have substituted UDAG funds for private capital.

Stricter enforcement of CRA's requirements may forestall this process. And in the issue of balance between commercial, industrial and neighborhood projects, where the need is felt by the city to upgrade commercial areas so that neighborhood upgrading improvement may take place, perhaps the solution is increased technical assistance, and neighborhood group involvement in the overall plan. As it is, the complexity of UDAG development makes this program more useful to the larger financial interests. And any plan must secure financial as well as job commitments from the major investment institutions.

This relationship between major banks and cities, where municipalities must secure working relationships for city financing of bonds, notes and other obligations, makes this type of negotiation quite delicate. Municipalities, however, could exercise their own financial leverage, through the appropriate use of pension funds, and similar investments.

A different set of circumstances surround the UDAG projects for industrial development or redevelopment. If they create jobs, for the most part, those jobs are taken by city residents. Little is achieved in terms of "return to the city" impact.

The projects may prevent jobs from leaving the city, and that in itself may filter down the line and affect neighborhoods.

The price in public monies paid for this retention or luring of industry to the city is difficult to measure. Industries may request tax abatements to stay. But they have no commitments in turn to remain, even after taking advantage of those abatements. That was the case with the GM plant moving from Detroit to Livonia. To secure the signoff from Detroit necessary to obtain the tax abatement, GM promised to retain the Detroit facilities. Seven months later, GM announced the relocation of that plant's operation to New Jersey.

In discussing housing and housing programs' equality, the housing needs of the handicapped must be considered:

- Displacement for the handicapped occurs as a consequence of the injury or illness, as the environment lacks proper access for the handicapped person.
- In this and other contexts, the attainment of equality by the handicapped is hampered by problems in housing, closely related to problems in jobs, transportation, etc.
- As far as government housing programs or initiatives, often they are done along traditional lines, without regard for the specific needs or characteristics of the handicapped. The result is further segregation and isolation of the handicapped. Even so, housing programs related to the handicapped are very few.
- With reference to the mentally handicapped, UDAG will cause displacement, and possibly reinstitutionalization, as settling out of these handicapped has often occurred in decaying neighborhoods. As those neighborhoods are upgraded, the mentally handicapped are displaced.
- The Block Grant program requires certification that any structure imporved with CDBG funds will be made barrier-free. At times, the

implementation of this requirement, as it relates for instance to sidewalk access and others, is inadequate. The city of Detroit has never had a line project under CDBG specifically to create barrier-free environments. This type of initiative—which could include specific construction, monitoring of other projects, technical assistance, etc.—will occur only through pressure of groups promoting the civil rights of the handicapped.

Compliance with equality requirements for UDAGs may be more strictly enforced than that for other housing programs such as CDBG. While the requirements themselves are not specific enough, they include general compliance with the municipality's Housing Assistance Plan, Section 8, etc. Essentially, what makes UDAG requirement enforcement more strict is the fact that unlike CDBG, UDAGs are a discretionary program, where there is competition among municipalities, rather than entitlement allocation.

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