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Publication Date
1976-04-01

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Institute of Urban & Regional Development
University of California, Berkeley

Reprint No. 138

Reprinted from: "California Management Review"
27 (Spring 1976): 86-95.

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Central-City Housing Conservation: A Mortgage Insurance Approach

Urban development and government housing policy in the United States have arrived at a point of change and decision. After thirty years of programs intended to address housing needs by stimulating new construction, issues of maintenance and conservation of the existing housing stock are increasingly coming to occupy center stage at national, state, and local policy levels. This article urges that this shift in focus is important and necessary.

The authors do not imply that support for new housing construction will cease to be a major component of government housing policy, however. New conservation-oriented programs are now emerging which will provide a major supplement to new construction in the decades ahead. Section 223(f) of the National Housing Act, added in 1974, may be the most important instrumentality of the new approach.

Outer Cities: The Suburban Strategy

A prototype central city-suburban pattern has emerged since World War II: burgeoning population growth and increasing affluence in the suburbs; concentrations of the poor and ethnic minorities in central cities; a massive exodus of business and jobs to the suburbs; high rates of central-city unemployment and "subemployment," especially for nonwhites. The extraordinary growth of the suburbs stemmed from many factors—the urge of city residents to escape increasing central-city problems of poverty, racial impaction, crime, and neighborhood deterioration; the persistent antiurban bias of American ideology; the traditional aspiration of every American family to own its own home and plot of land; the emergence to dominance of the automobile; and rapid population growth. A pattern of concentrated central-city poverty, encircled by self-protective and often hostile suburbs, has resulted and recurs in metropolitan areas across the country.

Whatever its deeper social origins, this pattern has received important support from federal programs and laws that have stimulated production of new tract housing and encouraged the move to the suburbs. Tax incentives for home ownership, which encouraged suburban production, amounted to $9.2 billion in fiscal year 1974, as compared to a total of $2.38 billion in federal budget outlays for all directly subsidized housing programs,[1] thus constituting by far the largest federal housing subsidy program. FHA mortgage insurance, by enabling institutional lenders to offer buyers long-term mortgage loans, has provided the financing mechanism essential to mass marketing of tract houses. As of December 31, 1972, FHA's basic single-family unsubsidized mortgage insurance program covered more than $103 billion in outstanding loans,[2] primarily for suburban subdivision houses. HUD's water and sewer programs and the massively funded Federal Aid Highway Program provided further stimuli that have helped shape metropolitan growth patterns. As urbanologist Lewis Mumford perceived when the highway legislation was enacted in 1957:

> When the American people, through their Congress, voted a little while ago for a twenty-six billion dollar highway program, the most charitable thing to assume about this action is that they hadn't the faintest notion of what they were doing. Within the next fifteen years they will doubtless find out; but by that time it will be too late to correct all the damage to our cities and our countryside, not least to the efficient organization of industry and transportation, that this ill conceived and preposterously unbalanced program will have wrought.[3]

The first Nixon administration's "suburban strategy" elected to accelerate these growth processes by bypassing urban centers and their problems to concentrate on maximum housing production in the suburbs. The strategy included continuation or expansion of the policies and programs noted above, deemphasis of central-city programs, and a series of suburb-oriented initiatives.

The suburban strategy derived from several independent bases. Whereas central cities had voted heavily Democratic, the suburbs had provided the administration's most important political support. Upon the recommendation of the Douglas Commission and the Kaiser Committee,[4] Congress had included in the 1968 Housing Act an annual production goal of 2.6 million housing units.[5] Developers prefer to build in the suburbs, where land acquisition is relatively cheap, aggregate building systems can be employed, minority hiring regulations are less effective, and social problems can be kept at a distance.

Socioeconomic theoretical underpinnings for the suburban strategy were provided by the intellectual community,[6] which had largely written off the cities as beyond salvation. Civil rights organizations representing primarily upwardly mobile blacks joined forces with the administration and the developers by failing to press for coordinate emphasis on central-city programs, thus in effect ignoring the needs of blacks and other ethnic minorities who lack the economic resources or, in many cases, the desire to leave their center-city communities for alien suburban turf.[7] Finally, the emphasis on suburban production was consonant with the philosophy and objectives of HUD's top administrators in the first Nixon administration. Secretary George Romney, coming from a background of American Motors, was more at home with production goals than with social-welfare approaches such as Model Cities,[8] though morally committed to integrationist approaches. Eugene Gulledge, HUD's former FHA Commissioner, had been a homebuilder for twenty-five years before joining the department.

Suburban housing production levels reached new highs during the late sixties and early seventies.[9] Construction and mortgage money was plentiful, as was demand for suburban units, reflecting the several motivations underlying the population shift to the suburbs. HUD's shallow subsidy (moderate income) programs produced over 800,000 new units from 1961 through 1972.

In recent years, the suburban strategy has come to face growing troubles and resistance. Rapidly rising costs and a recession economy have combined to limit new construction. Concurrently, suburban opposition to further development, particularly subsidized housing, has intensified. From Forest Hills in Queens to rural Bedford and Greenburg in Westchester County, from Black Jack, Missouri, to San Jose, California,

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suburbs have become increasingly adamant against accepting low-income housing.

The suburbs have problems of their own: inefficient sprawl; high property taxation; juvenile delinquency and other crime and drug problems, which are not confined to the inner city; rising housing costs at all income levels; traffic snarls on commuting thoroughfares; balkanized and self-defeating governmental jurisdictions.[10] On the importance of keeping out the poor, particularly ethnic minorities, a virtual consensus exists. The poor would bring with them the very problems suburbanites left the city to escape—crowding, increased crime levels, environmental decay, the fear of which has now emerged as a full-blown no-growth movement in suburbs across the country. The taxes paid by low-income families would not begin to cover the add-on service cost burdens, particularly for education and welfare, that these families' presence would impose.[11]

To avoid these results suburbs have come to employ a diverse assortment of exclusionary devices: zoning controls, subdivision exactions, local government purchase of developable land, staged growth, refusals to extend city services, and denials of local approvals required for public housing production. Although occasionally countermanded by court orders following prolonged litigation, these strategies have by and large achieved their exclusionary purposes.[12]

Central Cities: Benign Neglect

For the central cities the suburban strategists prescribed a diet of benign neglect, confident that time would heal all wounds or, alternatively, that the problems of central cities were beyond human solution. As early as 1963, Daniel Moynihan and Nathan Glazer had argued that cities no longer function, or are capable of functioning, as staging grounds for immigrants[13] —a prophecy which became in some measure self-fulfilling in consequence of Moynihan's later role in policy formulation.[14] Moynihan's subsequent infamous prescription of "benign neglect"[15] has proved, however, no answer for the urban poor, whose numbers have increased and whose situation has not improved. In practice, writing off the cities has meant unenthusiastic perpetuation of programs that have failed to come to grips with the problems of urban poverty and neighborhood decline.

Housing markets, in central cities and elsewhere, rely primarily on the phenomenon of filtration.[16] But, in central city areas undergoing ethnic and socioeconomic composition change, the filtering process has been severely undercut by rising operating costs. The cost of money, particularly in areas "redlined" by conventional lending sources, has been high for many years. Property taxes, which are a direct tax on housing and which operate regressively to impose the heaviest relative burden on those least able to pay, have constantly escalated, as have maintenance and operating costs, reflecting both the general pattern of inflation and the effects of increased tensions and hostilities between landlords and tenants. Low-income tenants, who may spend so great a portion of their income for rent that the remainder is barely adequate to cover the cost of food, clothing, and other necessities, see themselves as exploited by landlords.[17]

These pressures have been especially powerful and difficult to deal with under the conditions of rapid neighborhood transition that have characterized central cities over the past twenty years. As more affluent middle- or low-middle-class families moved to the suburbs to be replaced by low-income families, the conventional filtering process has failed to work. As a result, the real value of properties, as measured by potential rentals or sales price, often fell precipitously while mortgage indebtedness tended to remain at prior levels, causing owners to disinvest or sell out to others who would disinvest. (Disinvestment means curtailing the only areas of cost within the owner's control—repairs, maintenance, and operations.) Whenever a decision is made to defer a repair, further deterioration, greater future costs, and increased tenant hostility become inevitable, and the vicious cycle is perpetuated.

In hard-core central-city areas, poverty, crime, unemployment and subemployment, undermaintenance of buildings to the point of abandonment, and general neighborhood decline are concentrated and intense. A recent newspaper series describing conditions in the South Bronx reports 40 percent of the 400,000 residents are on welfare; 30 percent of the employables are unemployed; there are 20,000 drug addicts and 9,500 gang members; 20 percent of the houses are without water and 50 percent without heat half of the time.[18]

Much of the housing stock in areas like the South Bronx has deteriorated below minimum standards of human habitability, as defined by local housing, health, and safety codes.[19] Buildings are commonly rat-infested; stairs and handrails are broken; furnaces don't function, wiring is hazardous; roofs leak. Many structurally sound housing units have been abandoned, reflecting both the social crisis of these areas and the collapse of investor confidence as increasing costs and management difficulties have outstripped rent returns and profits.

Past federal programs designed to address these disorders have proved inadequate and even counterproductive. Billions of federal dollars have been spent on grandiose downtown renewal schemes, profitable to local commercial interests but irrelevant to the issues of urban decay.[20] The Model Cities[21] program, which attempted a comprehensive attack on poverty in hard-core slum neighborhoods, suffered the consequences of ambivalent administration support: uncertainties of direction and goals, diffusion of management responsibility and insufficiency of resources relative to the program's objectives. Model Cities' assumptions—that hard-core poverty areas need a multifaceted approach which includes jobs, training, child care, housing, mass transportation, improved sanitation, crime prevention, and better schools; that local planning capable of coordinating the various governmental categorical programs is essential; that categorical programs must be supplemented with flexible supplemental funds; and that residents must be meaningfully involved in rebuilding their communities and improving their individual conditions—remain valid for any future efforts to grapple with the problems of poverty areas.

The Conservation Strategy

Most of the existing apartment stock in the inner cities and older suburban areas (especially in the central and northeastern United States) that is less than fifty years old was built during the boom of the 1920s or from the late 1950s onward. While many of these buildings have deteriorated as a result of the factors discussed previously, a significant portion, located in neighborhoods still relatively stable and attractive, continue to offer substantial and good quality housing at rents that cannot be duplicated through new construction without massive subsidy. A viable housing strategy must emphasize the conservation and rebuilding of this housing stock and the neighborhoods in which it is found. Significant evidence exists that the need for this emphasis is now coming to be recognized by state and local governments across the country.[22]

Mortgage insurance: a vital component of a housing conservation strategy. Traditionally, building owners have obtained funds to repair, paint, and generally upgrade units, and to periodically recoup infested capital, by refinancing residential properties approximately every ten years. Financing has been provided by institutional lenders: banks, savings and loan companies, and credit unions. As a result of declining values and increased lending risks, institutional lenders no longer supply this financing in large parts of most cities. Owners find themselves unable to obtain medium-term, moderate-interest-rate loans for repairs and improvements.

The effect of withdrawal of conventional lending for the sale or refinancing of buildings is catastrophic. In the words of one professional, it represents the "death knell for a neighborhood." It marks the point at which the expectations of owners shift from stability to failure. Maintenance and stabilization efforts give way to capital withdrawal, in an effort to salvage as much as possible of sunk investment, before property values have irrevocably declined. This commonly means milking the buildings, defaulting on mortgage payments, withholding real estate taxes. The result is immediately accelerating deterioration and, ultimately, destruction of the property.

National information does not exist on the extent of unavailability of conventional financing for existing multifamily housing. The evidence is clear, however, that in many inner-city neighborhoods across the country, mortgages are virtually unobtainable for large numbers of oider buildings occupied by middle- and moderate-income, ethnically mixed or minority tenants. Most of these buildings are structurally sound, often superior in construction and amenities. But without periodic capital infusions they inevitably deteriorate and fail.

The Housing and Community Development Act of 1974, while it did not purport to define a national urban growth strategy, significantly did amend the declared National Housing Goal to require:

> a greater effort ... to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation and improvement in housing management and maintenance, in conjunction with the provision of adequate municipal services.

To that end, new section 223(f)[23] of the act authorized HUD to insure mortgages executed in connection with the purchase or refinancing of existing multifamily housing, thus providing the statutory and program basis for provision of funds through the private institutional capital market, both to finance deferred maintenance and to rationalize the capital structure of existing buildings. As HUD's implementing Handbook explains, Section 223(f):

> marks the first time in which FHA mortgage insurance is authorized for existing multifamily projects without a requirement for substantial rehabilitation. Infusion of new FHA insured financing to existing rental projects, either to transfer ownership or refinance outstanding indebtedness, is intended to assist in the conservation of existing housing resources. This can achieve the same role in multifamily housing long played by FHA insurance in the existing home market. It provides access to financing for the large stock of existing structures. The sound preservation, ownership and transfer of these properties depends in good part on the availability of credit on reasonable terms. The program helps owners maintain properties in good condition by providing financing to cover costs of repairs and deferred maintenances, and may, by providing government insurance, reduce interest, and amortization costs and thus reduce upward pressures on rents. The program also is expected to contribute to development of a national capital market for financing existing projects, thereby supporting the long term market for such housing through strengthening the confidence of owners in the liquidity of their investments. This program is expected to help conserve the national housing stock, and to do so on an actuarially sound basis, a course considered far preferable and far less costly than permitting disinvestment to take place and permitting excessive new construction.[24]

The HUD 223(f) regulations establish three important new programs: (1) a Special Eligibility Program, for projects in which construction had commenced prior to June 30, 1974, and will have been completed prior to June 30, 1976; (2) a General Eligibility Program, for projects completed at least three years prior to the date of filing of application; and (3) a program for older, declining urban areas.

Special Eligibility. The Special Eligibility Program is designed to provide mortgage insurance to assist construction lenders and builders in securing long-term financing for new construction, in an effort to aid industry efforts to gradually work through the more than $400 million of projects in financial difficulty owing to the current severe recession in housing.

Its purposes are thus separate and distinct from the housing and neighborhood conservation concerns emphasized in this article. Although not envisioned by the congressional sponsors of Section 223(f),[25] the Special Eligibility Program received their subsequent endorsement as an innovative and constructive initiative. If administered on a carefully controlled and low-cost basis, Section 223(f) may provide a cost-effective mechanism useful in permitting REITS and other lenders to work through their marketing-liquidity problems.[26]

General Eligibility. The purposes underlying the General Eligibility Program are far reaching and of great importance. As noted earlier, owners of older apartment buildings in cities across the country are finding it difficult or impossible to obtain reasonable term mortgages. Where refinancing is not available, owners tend to withdraw capital by undermaintaining properties in order to increase cash flow, a process which soon destroys buildings and ruins neighborhoods. FHA mortgage insurance issued pursuant to the General Eligibility Program can provide access to refinancing for a substantial proportion of this growing stock.

The success or failure of the Section 223(f) approach will depend upon its capacity to overcome the present negative psychology of building owners, to permit and persuade them to again view their properties as sound investments worth maintaining and conserving. To that end, HUD regulations envision its use:

- To encourage owners to upgrade their buildings to a good standard of quality, by ensuring that repairs and deferred maintenance can be financed and will be accomplished both at the time of refinancing and, through required replacement reserves, on an ongoing basis.
- To reduce interest and amortization costs and thus improve cash flows by means of substituting conventional longer-term financing for non-institutional financing, which involves second or

purchase money mortgages at short terms and high interest rates.

- To ensure the availability of financing for the ultimate resale of insured buildings, thereby encouraging owners to view their properties as viable long-term investments.
- To develop an orderly, national capital market for financing and refinancing existing multifamily housing, thus tapping the resources of insurance companies, pension funds, and other institutional purchasers interested in secondary mortgage investments.

The program's purpose, in short, is to help conserve a major portion of the national housing stock, a resource that can be depleted far more rapidly and disastrously by disinvestment than it can ever be replaced.

The Section 223(f) General Eligibility Program has the potential to provide an unsubsidized underpinning program for local improvement efforts designed to make coordinated use of all available support and programs. It is not limited by statutory area and program restrictions. As with the FHA's major unsubsidized home mortgage programs, insurance will be written on an actuarially sound basis, thus requiring little or no public subsidy. In contrast to the below-market-interest-rate programs, it is not dependent upon appropriations. Like the FHA and VA market-interest-rate programs that financed the development of the suburbs, it thus has the potential for considerable outreach and program effect. As one experienced HUD official recently put it, "It may be the most important thing HUD could do."

Older, declining areas program. In older central-city areas, the need for federal intervention in the mortgage market to upgrade and preserve existing housing stock is most critical. The importance of preserving this housing stock has been recognized by researchers, financial institutions, Congress, and executive agencies at all levels of government. Recently, many state and local governments have organized new administrative units to undertake concentrated neighborhood stabilization and housing rehabilitation programs. These recognitions and the urgency of conserving existing units argue strongly for an active Section 223(f) program in older declining areas. Important negative factors, however, enter into the balance. The operational, administrative, and cost problems of neighborhood preservation, even in older but still viable areas, are frustrating and severe.

This dilemma, which underlies policy formulation for older declining urban areas, was recognized throughout the legislative development of Section 223(f). The congressional decision was that the regulation's authority should be used in those areas, but that it must be administered in a manner sensitive to the special problems they represent.[28]

Properties in older, declining areas that meet the underwriting estandards established for the General or Special Eligibility Program are eligible under present regulations. Few buildings in those areas will, however, meet these requirements.[29] HUD presently has under consideration proposals to identify an initially limited number of localities where ongoing programs with the capability for successful performance exist. These programs might be invited to develop applications for utilization of the older, declining area authority, in conjunction with other available federal supports and state and local government assistance. HUD would closely monitor and evaluate operations in these areas.

Properties that fail to meet the criteria of the General or Special Eligibility Program, but that are within target areas specifically approved for older declining area activity, could be eligible under liberalized standards upon endorsement by an approved local operating entity. Concurrently with this initiative HUD would undertake to develop capability to provide a housing rehabilitation and neighborhood conservation research center, information clearinghouse, and training facility. If successful, these efforts could, over time, provide the knowledge, experience, and personnel for the expansion of neighborhood conservation activities to all older areas capable of responding to such an approach.

The original concept underlying Section 223(f) would seek to take advantage of the financial leverage of the FHA insurance mechanism to break the present pattern of short-term non-institutional financing at very high interest rates, with its consequent high monthly debt-servicing costs, which occurs in older declining urban areas. Short-term financing would be replaced by FHA-insured, longer-term loans at unsubsidized but institutional interest rates, thus facilitating an influx of private capital to finance broad-scale building repairs and improvements. In this model, the program would make mortgage insurance available to older properties to generate an increment for repair and modest rehabilitation.[30]

For example, a $3,000 five-year loan at 10 percent interest could support a principal of $5,230 without increasing monthly debt-service payments if the debt were refinanced over a term of ten years at 8.5 percent interest. The longer term would be based on projections as to the number of years the specific property would be lived in, rent-producing, and therefore able to support a mortgage. A total of $2,230 would thereby be made available for repairs and housing improvements. That amount would be sufficient to finance moderate, but critical, repairs and improvements affecting the habitability of many units potentially capable of providing good and livable housing.[31]

In stable low-income areas the refinancing increment model should prove valid and workable. But neighborhoods undergoing or threatened by the type of succession and deterioration described previously present a more difficult problem. The principal motivation of drastic disinvestment by owners in such areas is exactly the sudden loss of market value that coincides with the massive transition from one income level to another. Once that transition has occurred, the market value of properties will have irrevocably declined.

Analyses of changes in value in neighborhoods undergoing change show a typical pattern in which prices may even increase during the first wave of change, especially if housing is being opened to minority groups formerly excluded on the basis of race. Many of these first entrants are middle- and moderate-income families who would later lose much of their investment as property values collapse following the inward movement of a substantial number of families of much lower income.

For the holders of debt on properties in such areas, the prospect is bleak. Buildings that have been capitalized on the basis of earlier high levels of effective income can no longer justify that level of value. Yet the debt is long-term and the market too weak to encourage sale through foreclosure. Thus, in a legal sense, the holder of secured debt becomes the real party in interest in respect of the property.

Institutions with heavy investments in these areas have attempted to stave off crisis by ameliorative measures such as suspension of principal payments or reduction on interest payments alone. The interest-only payments amount effectively to conversion of an amortized mortgage into one with a balloon payment. The owner may be able to meet his monthly payments, but he is still faced with the ultimate fact that the outstanding debt on his property is likely to be so large as to wipe out any equity that he may have on resale. The mortgage will never be paid off. The incentive to disinvest through undermaintenance is inevitable. Should the bank be lax, the owner may have more time in which to recoup his equity, leaving the bank with a shell of a building and the city with delinquent taxes.

If this type of situation is to be stabilized, a substantial and painful readjustment of values is essential. Only if debt can be written down to a level commensurate with the new, reduced market value of the building can the owner be given an incentive to maintain it as a long-term investment. Issuance of mortgage insurance may provide the most important opportunity for such readjustment. Institutions that have very large stakes in urban neighborhoods face the unpleasant options of either writing down their loans to the point where the buildings are financially viable or quite conceivably having to write them off totally. Given the effects on owners' incentive structures of retaining overhanging mortgages in amounts exceeding the value of the secured properties, unless this excess value is wrung out there is no possibility that neighborhood stabilization can be achieved and the disinvestment process halted in these transition situations.

The loss of value during neighborhood transition has implications for all government housing programs. If other major programs now being emphasized or in prospect, such as Section 8 Leasing[32] and housing allowances, in which subsidies are established in accordance with "market rents," fail to take account of the fall in value that accompanies a real shift in neighborhood income levels, their effect will be to perpetuate existing obsolete debt structures. By impeding essential reconstruction of the financial structure of the buildings affected, they will temporarily serve to prop up assisted buildings, but at great subsidy cost and with little ultimate gain. Their high per-unit cost pattern will make it impossible to reach sufficient buildings to reverse neighborhood trends. Their positive effect on assisted buildings will thus last only so long as the subsidy continues.

The design of a functional Section 223(f) program for older, declining areas must address these considerations. A sufficient prospect of program success would require, at a minimum: (1) an effective local operating entity—experienced, competent, and adequately funded; (2) sufficiently viable target areas; (3) realistic rehabilitation standards; (4) adequate assurances of future continued maintenance, such as periodic inspection of the property, establishment of necessary reserves for the accomplishment of repairs and replacements, and adequate legal mechanisms to compel compliance; and (5) meaningful commitments of local government support. The latter would entail allocations of Section 8 authority in support of the neighborhood effort, coordination of other federal housing programs, and utilization of community development block grant funds and local resources to upgrade public services in respect to not only physical improvements such as street repairs, sewers, lighting, and tree planting, but also such services as public transportation, police and fire protection, sanitation, child care facilities, drug rehabilitation centers, libraries, and parks.[33]

Conclusions

The need for effective national policy to foster housing conservation as well as production is manifest. Single-focus programs such as housing allowances are likely to be too costly on a large scale and too subject to operational and legal constraints and inhibitions resulting from uncertainty of funding. A strategy that allows local areas to initiate and develop conservation programs that are suited to local conditions will have the best chance of working. Such a strategy will require resources and institutional support. In part, community development revenue sharing may come to provide the former. For the latter, mortgage insurance, whether under Section 223(f) or state programs, could be an important element.

ACKNOWLEDGMENTS: The analysis given here reflects in part the work of the authors in developing recommendations to the Department of Housing and Urban Development, FHA-HPMC, for regulations to implement Section 223(f) of the National Housing Act following Phillips' earlier work on this topic. The authors gratefully acknowledge the research assistance of Michael A. Agelasto, II, Analyst, Congressional Research Service, Library of Congress.

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2. *1972 HUD Statistical Yearbook*, Table 158, at 166 (1974).

3. L. Mumford, *The Highway and the City* 244 (1st ed. 1963).

4. National Commission on Urban Problems (the Douglas Commission), *Building the American City*, H.R. Doc. 91-34, 91st Cong., 1st Sess. 35 (1969) at 180, recommended the production of 2 to 2.5 million units annually. The report of the President's Commission on Urban Housing (the Kaiser Commission), *A Decent Home* 39-45 (1968) at 40, called for a total of 2.6 million new and rehabilitated units each year.

5. 42 U.S.C. § 1441a (1971).

6. For example, Banfield asserted that urban problems are primarily cultural and not to be resolved except when the lower class adopts a working-, middle-, or upper-class ethic. E. Banfield, *The Unheavenly City* (1970).

7. A recent review of the data and available studies found no basis to conclude that low-income, low-skilled blacks are better off in the suburbs than in central cities

with regard to public services or employment opportunities. B. Harrison, *Urban Economic Development: Suburbanization, Minority Opportunity and the Condition of the Central City* (1974).

8. The Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. §§ 3301 *et. seq.*

9. Total housing production in 1971 surpassed the 2-million-unit mark and more than doubled 1961 production levels. HUD, *Housing in the Seventies,* Table 2, at 4-4.

10. See J. Bollens and H. Schmandt, *The Metropolis –Its People, Politics and Economic Life* (1965); R. Wood, *1400 Governments* (1961).

11. Numerous cost/revenue studies illustrate that the costs of providing services for new, moderate-income subdivisions exceed the revenues generated. This is attributed to the fact that educational expenses must be obtained, in part, from property taxes. Other costs are generally covered. See *Associated Homebuilders of the Greater East Bay, Inc., Growth Cost–Revenue Studies* (1972).

12. See Urban Land Institute, *Fair Housing and Exclusionary Land Use: Historical Overview, Summary of Litigation and a Comment with Research Bibliography* (1974).

13. D. Moynihan and N. Glazer, *Beyond The Melting Pot–The Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City* (1963).

14. Moynihan was the President's Assistant for Urban Affairs from 1969 to 1972. *Who's Who in Government,* 1972–73, 361 (1972).

15. " 'Benign Neglect' on Race Is Proposed by Moynihan," *New York Times* (1 March 1960).

16. "Housing filters down in quality, and, as it does, it filters down through the spectrum of household incomes moving from the richer to the poorer. . . . When a person buys a new house it usually means he moves out of an older one. One move leads to another. A species of musical chairs game ensues as people circulate or filter through housing. The rules of this game are the laws of housing market dynamics." D. Mandelker & R. Montgomery (eds.), *Housing in America* 226 (1973).

17. See *Report of the National Commission on Civil Disorders,* pp. 470-72.

18. See M. Tolchin, "The South Bronx, A Jungle Stalked by Fear, Seized by Rage," *New York Times,* (15 January, 1973), the first of a four-part series. The series appeared January 15-18.

19. Courts have used housing codes as prima facie evidence in enforcement of warranties of habitability. See Javins v. First National Realty Corp., 428 F.2d 1071 (D.C. Cir. 1970), cert. denied, 400 U.S. 925 (1970); Green v. Superior Court, 10 C.3d 616; 111 *Cal. Reporter* 704, 517 P.2d 1168 (1974).

20. See H. Wolman, *Politics of Federal Housing* (1971); D. Berman, *Urban Renewal–Bonanza of the Real Estate Business* (1969); W. Lilley, III, "Washington Pressures–Home Builder's Lobbying Skills Result in Successes, Good-Guy Image," *Nat'l.J.Rep.* (27 February 1971) p. 431; C. Hartman, *Yerba Buena, Land Grab and Community Resistance in San Francisco* (1974).

21. See The Demonstration Cities and Development Act of 1966, 42 U.S.C. §§3301 *et seq.*

22. Local governments, in particular, have begun to pay unprecedented attention to housing conservation, allocating revenue sharing money in significant amounts for this purpose and establishing new organizational vehicles to undertake programs. See *Community Development Block Grant Program, A Provisional Report,* HUD, 1974; and *Neighborhood Preservation: A Catalog of Local Programs,* HUD, 1975.

23. Added by Section 311 of the Housing and Community Development Act of 1974.

24. HUD Handbook 4565.1, Mortgage Insurance for the Purchase or Refinancing of Existing Multi-Family Housing Projects–Section 223(f), September 1975, 1-1.

25. See statement by Senator Robert Taft, Jr., co-author of Section 223(f), February 19, 1975, *Congressional Record.*

26. The program may have considerable capacity to increase lender and sponsor liquidity, especially for real estate investment trusts (REIT's) that specialized in development and construction during the early 1970s. According to data submitted to HUD by the National Association of Real Estate Investment Trusts, REIT's, specializing in construction lending have $15 billion invested in short-term mortgages, of which almost $6 billion is in nonearning status, and this figure is growing. By 1974 the stability of many of the REIT's and the associated banks was being seriously questioned, and this concern has continued to grow.

27. GNMA participation will facilitate this objective.

28. The Senate Committee Report put the matter most plainly as follows: "The Committee is concerned that in the absence of a refinancing program for declining neighborhoods which is defined explicitly in the statute, HUD might not risk carrying out such a program. Section 401(h) and Section 501(k) should provide

clear indication that while Congress is aware of the particular problems likely to be encountered in declining neighborhoods, it believes that FHA guarantees for refinancing can play an important role in preserving them. However, the Committee does expect the Secretary to take all precautions necessary to protect his interest in the transactions insured pursuant to these provisions."

29. While not expressly prohibited, except in neighborhoods where the appraiser would normally recommend insurance under Section 223(e), use of the Section 223(f) authority in older, declining urban areas will be unlikely given the underwriting requirements established, particularly Handbook paragraphs 5-10 defining estimated remaining economic life, and 1-4.i limiting allowable repairs to 15 percent of the final estimate of the value of the property after repair.

30. See Phillips and Bryson, "Refinancing: A First Step Towards a Realistic Housing Program for the Poor," *George Washington Law Review*, Vol. 39 (1971), p. 835.

31. See W. Grigsby, L. Rosenburg, M. Stegman, and J. Taylor, *Housing and Poverty* (1971).

32. Section 201(a) of the 1974 Housing Act, 42 U.S.C. §1437b.

33. For a more complete statement of the supportive actions by neighborhood organizations, unions, contractors, and all levels of government necessary for conservation approaches to function, see Phillips and Agelasto, "Housing and Central Cities: The Conservation Approach," *Ecology Law Quarterly*, Vol. 4 (1975), p. 797.