

HEARING
BEFORE THE
UNITED STATES
COMMISSION ON CIVIL RIGHTS

HEARING HELD
IN
WASHINGTON, D.C.
June 14-17, 1971

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MEMBERS OF THE COMMISSION

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*Retained in Commission files.

**Balance of information retained in Commission files.

***This information had not been received by the Commission at the time the transcript went to press.

UNITED STATES COMMISSION ON CIVIL RIGHTS

MONDAY, JUNE 14, 1971

The U.S. Commission on Civil Rights met at 9 a.m. in the Auditorium, Department of Agriculture South Building, Washington, D.C., Stephen Horn, Vice Chairman of the Commission, presiding.

PRESENT: Stephen Horn, Vice Chairman; Frankie M. Freeman, Commissioner; Robert S. Rankin, Commissioner; Maurice B. Mitchell, Commissioner; Manuel Ruiz, Jr., Commissioner. Also present: Howard A. Glickstein, Staff Director; John H. Powell, Jr., General Counsel.

PROCEEDINGS

VICE CHAIRMAN HORN. This hearing of the United States Commission on Civil Rights will please come to order.

I would first like to swear the clerk and the reporter.

(Whereupon, Mr. James Garriss and Mr. David Silverstone were sworn in as Clerks and Mr. Joe C. McLaughlin was sworn in as Reporter.)

VICE CHAIRMAN HORN. Ladies and gentlemen, I am Stephen Horn, Vice Chairman of this Commission and President of California State College, Long Beach, California.

On behalf of the Commission, I welcome you to this hearing and take this occasion to introduce the other Commission members and members of our staff.

Reverend Theodore M. Hesburgh, President of Notre Dame University and Chairman of the Commission, is receiving an honorary degree today at Yale University. He will be with us either later this evening or tomorrow.

Below me, beginning at my right, are four other members of the Commission. The first is Mrs. Frankie M. Freeman, an attorney from St. Louis, Missouri.

Next to her is Dr. Maurice B. Mitchell, Chancellor of the University of Denver, Denver, Colorado.

Next is the most senior Commission member, next to Father Hesburgh, Dr. Robert S. Rankin, Professor Emeritus at Duke University, Durham, North Carolina, who has been on the Commission since the Eisenhower Administration.

And last is Mr. Manuel Ruiz, Jr., an attorney from Los Angeles, California.

Immediately to my right is Mr. Howard A. Glickstein, the Staff Director of the Commission. Next to Mr. Glickstein is our General Counsel, Mr. John H. Powell, Jr. Next to Mr. Powell is Miss Leda Rothman, a staff attorney, and then Mr. David Hunter and Mr. Peter Gross, both Assistant General Counsels.

The hearing is being held under the authority of the Civil Rights Act of 1957, as amended. As required by law, notice of the hearing was published in the Federal Register on May 6, 1971. A copy of this notice will be introduced into the record as Exhibit No. 1.

(Whereupon, the document referred to was marked Exhibit No. 1 and received in evidence.)

VICE CHAIRMAN HORN. The Commission on Civil Rights is an independent, bipartisan agency of the United States Government established by Congress in 1957. Its duties are the following:

1. To investigate sworn allegations that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin;
2. To study and collect information regarding legal developments which constitute a denial of equal protection of the laws under the Constitution in such fields as voting, education, housing, employment, the use of public facilities, transportation, or in the administration of justice;
3. To appraise Federal laws and policies with respect to the equal protection of the laws;
4. To serve as a national clearinghouse for information with respect to denials of equal protection of the laws because of race, color, religion, or national origin; and finally,
5. To investigate sworn allegations of vote fraud in Federal elections.

Under the law, the Commission is required to submit reports to the President and the Congress containing both its findings and the recommendations for corrective legislation or executive action. To enable the Commission to fulfill its duties, the Congress has empowered the Commission to hold hearings and issue subpoenas for the attendance of witnesses and for the production of documents.

I can most clearly explain the functions and limitations of this Commission by quoting from a decision of the United States Supreme Court early in the Commission's history:

"This Commission does not adjudicate; it does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. Nor does it indict, punish, or impose any legal sanctions. It does not make determinations depriving anyone of life, liberty, or property.

"In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may subsequently be used as the basis for legal or executive action."

In carrying out its legislative mandate, the Commission has made detailed studies in the fields of voting, public education, housing,

employment, public facilities, and the administration of justice. To augment our studies in these areas, we have held public hearings in Alabama, Arizona, California, the District of Columbia, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Tennessee, and Texas.

In such hearings, our goal is to compile a solid body of knowledge which will be subjected to a thoroughgoing study and analysis to develop recommendations for actions that will help assure equality of opportunity for all Americans.

At this point I would like to have Commissioner Ruiz, a member of the bar, read the rules of the Commission as a matter of record. Mr. Ruiz.

COMMISSIONER RUIZ. Thank you, Mr. Chairman.

I should like to emphasize that the observations which I am about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions of the rules. The rules themselves should be consulted for a fuller understanding. Commission staff members will be available during the course of these hearings to answer any questions which may arise.

With the exception of members of the Cabinet and heads of other Federal agencies, all of the persons scheduled to appear to testify who live or work in the Washington, D.C. metropolitan area have been subpoenaed by the Commission. All of the testimony which the Commission will receive at these public sessions will be under oath and will be transcribed verbatim by the official reporter. Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of cost. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing or his testimony. Such requests will be granted only to make the transcript conform to testimony as presented in the hearing.

All witnesses are entitled to be accompanied and advised by counsel. Counsel may subject his client to reasonable examination. He may also make objections on the record and argue briefly the basis for such objections. If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any person, that person or his counsel may submit written questions which, in the discretion of the Commission, may be put to the witness.

Persons subpoenaed to the public session may request that witnesses be subpoenaed on their behalf. All requests for subpoenas must be in writing and must be supported by a showing of the general relevance and materiality of the evidence sought. In addition, all witnesses have a right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules.

Witnesses at Commission hearings are protected by the provision of Title 18, U.S.C., Section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings.

Copies of the rules which govern these hearings may be secured dur-

ing the recess from a member of the Commission's staff. Persons who have been subpoenaed have already been given copies of these rules.

Finally, it may be pointed out that these rules were drafted with the intent of insuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done this in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at these hearings. Thank you very much, Mr. Chairman.

VICE CHAIRMAN HORN. Thank you, Commissioner Ruiz.

This hearing is concerned with the bearing of Federal programs, policies, and priorities upon the problem of racial polarization within the Nation's metropolitan areas. Our central cities are becoming increasingly minority and poor, while the areas that surround them are disproportionately white and affluent. Mounting racial division, in combination with the alarming and growing gap between the needs and resources of our central cities, comprises the gravest domestic problem our Nation faces.

For over a year and a half, the United States Commission on Civil Rights has devoted a substantial part of its resources to studying the problem of racial division in our metropolitan areas. The Commission has sought to evaluate the causes, the consequences, and the remedies for such polarization.

The Commission's studies have included major hearings in St. Louis and in Baltimore. These hearings examined in considerable detail the causes and effects of racial polarization in those two metropolitan areas. In addition, in a number of States the Commission's State Advisory Committees—which are composed of concerned private citizens—have examined the problem of racial polarization in other metropolitan areas. The Commission has engaged in a variety of additional study activities on this problem, including the examination of specific Federal programs and policies.

Based on these hearings and studies, the Commission has reached a number of conclusions. Because of their relevance to the present hearing, I would like to summarize briefly four of these conclusions.

The first conclusion is that racial polarization in our metropolitan areas is severe and is growing.

During the decade from 1960 to 1970, the white population of our central cities decreased by 1.9 million people, while the black population was increasing by 2.8 million people. I will not burden you with the dry statistics which reflect this pattern in the individual metropolitan areas we have studied.

But it, of course, is true that the division between suburbs and central cities is in significant part an economic one—with the poorer people concentrated in the central cities. In many metropolitan areas, there is a great need for more low- and moderate-income housing in suburbia. As the population of our metropolitan areas grows, this need also will increase.

At the same time, it is essential to remember that polarization by color is much more pronounced—and serious—than is polarization by income, that it is mainly the minority poor that have been shut out of suburbia.

For example, the 1970 census shows that, in metropolitan areas of one million or more residents, 54 percent of white persons earning less than \$4,000 per year live in suburbia, while 69 percent of white families earning more than \$10,000 a year live in suburbia.

The comparative figures for black families, however, show that only 14 percent of black persons (as against 54 percent for white) earning less than \$4,000 per year live in suburbia, and 23 percent of black persons (as against 69 percent for whites) earning more than \$10,000 a year live in suburbia.

The Commission has heard vivid testimony about the worsening plight of central city residents—of poverty, overcrowding, inadequate public services, poor schools, and inadequate and overpriced housing.

The Commission's investigations, therefore, have confirmed the basic conclusion reported by the Kerner Commission in 1968 that "our Nation is moving toward two societies, one black, one white—separate and unequal."

The second of the Commission's conclusions is that this great racial polarization is the product of racial discrimination.

It is not by accident that a disproportionate number of minority persons have been relegated to life in the congested misery characteristic of our central cities.

The Commission has found that racial exclusion was basic to the formation of large areas of suburbia. During the period when much of what now constitutes the Nation's metropolitan areas was built, racial exclusion was expressly endorsed and implemented by Federal and many State and local governments, as well as by all components of the private sector. We also have found that more subtle forms of racial discrimination—for example, the practice of racial "steering" by real estate brokers—remain prevalent today.

Once racially segregated patterns of residence have been established, they are difficult to break; the white suburb created by overt discrimination continues to perpetuate itself today. Those minority persons who, like many whites, prefer the living environment of suburbia to that of the central cities, must run the gauntlet of exclusionary practices and pressures. In addition, many minority persons—as other persons traditionally have done—prefer to reside where a substantial number of their own group reside. Because much of suburbia is all-white, they are forced to choose between this preference, on the one hand, and the living environment of suburbia on the other.

True freedom of choice of residence does not exist in these circumstances.

The third conclusion of the Commission is that a vital element in combating racial polarization within metropolitan areas is an active, affirmative program to open up housing opportunities for minority persons in suburbia.

It must be emphasized that increased access to suburbia is only one part of the solution for racial polarization and our other urban ills. Revitalization of the central cities and allocation of adequate resources for needed public services also are matters of the highest priority.

By the same token, however, neither freedom of choice of residence for individual minority families, nor solution for the many problems of our central cities, is possible without an effective strategy for promoting access to the suburbs.

Suburban access strategies must seek to increase the supply of low- and moderate-income housing where needed to relieve the enormous pressure on central cities of unmet housing needs, and to help lessen the fiscal burdens and worsening living conditions associated with the concentration of poor persons in the central cities. Suburban jurisdictions, which freely reap the benefits associated with metropolitan areas, should also be expected to share fairly in the problems faced by those metropolitan areas. It is essential to the solution of such problems that they do so.

Moreover, since minority family incomes are heavily concentrated in the low-to moderate-income range, it follows that the development of low-to moderate-income housing in suburbia is essential if existing exclusionary patterns are to be remedied.

The need for low- and moderate-income housing in suburbia also is evidenced by the growing gap between job opportunities and housing in these areas. Not only have many jobs moved from central cities to suburbs, but most new employment opportunities are arising there. The lack of low-to moderate-income housing in these areas has become a problem for many employers, and hinders the balanced development of suburbia. More significantly, the inadequate supply of such housing in suburbia perpetuates the present exclusion of minority persons from equal access to the growing employment opportunities located in suburbia.

The fourth principal conclusion of the Commission is that the Federal Government has a major role to play in carrying out such suburban access programs and policies.

For several decades, Federal funds and programs have helped develop, and continue to help develop, metropolitan areas characterized by racial polarization. Federal funds and programs will continue to have this effect until a deliberate decision is made to reverse this process.

As the record of performance attests, suburban jurisdictions—acting individually—lack incentives to share the burdens of the central cities. It is clear that a much greater leadership role must be assumed by higher governments—Federal, State, and regional—if the suburban access problem is to be solved.

This does not mean that the Federal or State governments are to impose some preconceived “best plan” on each metropolitan area. Rather, the need is to bring into being the programs, institutions (such as effective mechanisms for regional planning), and ground rules which are necessary to reverse the present process of polarization.

The principal focus of this hearing is on the role of Federal policies

and programs as they relate to the needs of suburban access. The hearing also will include, however, testimony on many other aspects of the suburban access problem. The significance of the problems we will be dealing with in the next few days was brought again to public attention by the President's message on Federal Policies Relative to Equal Housing Opportunities released on Friday, June 11. Many of the questions raised by his message will be discussed here.

The hearing will continue until Thursday, June 17, and during that time we will hear testimony from more than 50 witnesses. We will hear from Cabinet officials, such as Secretaries Romney and Volpe and Attorney General Mitchell, as well as other Federal officials whose responsibilities are pertinent to housing, local government officials, experts in the field of housing and planning, representatives of the real estate industry, representatives from several of the Commission's State Advisory Commissions, and private citizens who have experienced in a very real sense the lack of access to suburban housing opportunities.

Our hearing will begin each day at 9 o'clock in the morning and continue until approximately 5:30 o'clock in the afternoon. We will end the hearing on Thursday at noon.

Our schedule for this morning begins with a discussion of the Miami Valley, Ohio Regional Housing Plan. Following that we will take a 15-minute break and resume with testimony from the Bureau of the Census. Our final witnesses for the morning will be a panel of persons who are familiar with the problems of housing opportunities in the Washington, D. C. metropolitan area. We will adjourn for lunch at approximately 12:50 p.m. and resume this afternoon at 2:05 p.m.

The first witness today will be from the Dayton, Ohio metropolitan area. We will begin our testimony with Mr. Dale Bertsch, who is the executive director of the Miami Valley Regional Planning Commission.

If Mr. Bertsch will come forward, we will be glad to swear him in, and the other individuals on the panel, Mr. Ben Ankney, councilman, of Kettering, Ohio, two other residents of Kettering, Helen Washington and Mr. Fritz Hawkins, and Virginia Kamke.

(Whereupon, Mr. Dale F. Bertsch, Mr. Ben Ankney, Mrs. Helen Washington, Mrs. Virginia Kamke, and Mr. W. Fritz Hawkins were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. DALE F. BERTSCH, EXECUTIVE DIRECTOR,
MIAMI VALLEY REGIONAL PLANNING COMMISSION,
DAYTON, OHIO; BEN ANKNEY, COUNCILMAN, KETTERING, OHIO;
MRS. HELEN WASHINGTON, KETTERING, OHIO;
MRS. VIRGINIA KAMKE, KETTERING, OHIO;
AND MR. W. FRITZ HAWKINS, DAYTON, OHIO**

VICE CHAIRMAN HORN. Please be seated. Let me just say, Mr. Bertsch, before you start, the pattern of questioning will be that the factual basis will be laid down in a series of questions by either the General Counsel or the Assistant General Counsel concerned, after

which the Commissioners will in sort of rotating order ask questions, and the General Counsel, Staff Director, and the Chairman will conclude the questioning.

Mr. Powell, our General Counsel, will begin the questioning.

MR. POWELL. Mr. Chairman, my initial questions will be propounded to Mr. Bertsch, and then I will pursue questioning the other witnesses on this panel.

Mr. Bertsch, would you please state your name, address, and occupation for the record?

MR. BERTSCH. My name is Dale Bertsch. I am the executive director of the Miami Valley Regional Planning Commission, 44 South Ludlow, Dayton, Ohio.

MR. POWELL. Who serves on the Miami Valley Regional Planning Commission and what does the commission do?

MR. BERTSCH. The commission consists of 42 representatives from local government either appointed by their local—in every case appointed by their local constituency, and they either are elected to their local constituency and in turn appointed or they are responsible thereto.

At the present time, 37 of the 42 in their own right are elected to local government and then in turn appointed to our board.

MR. POWELL. Please describe for us the Miami Valley Region in terms of geographic area and population.

MR. BERTSCH. The region consists of five counties, four of which are the Dayton SMSA—or Standard Metropolitan Statistical Area, approximately 2,500 square miles, Dayton at the hub.

The map over my right shoulder here portrays the location with the center county in the lower part of the map being Montgomery County and the county in which Dayton is located.

(See map, p. 000.)

The actual population data is included in material which I have made available to the Commission. The general population is roughly 900,000 as of 1970. The central county's population consists of approximately 600,000. Dayton, about 243,000. So, roughly, we are talking about 900,000, two-thirds of which reside within the central urbanized county, approximately a quarter of which reside within the central city, Dayton.

MR. POWELL. Would you describe the racial composition of the population?

MR. BERTSCH. Approximately 10 percent of the population is black for the region. Approximately 12 percent, or about 83,000, of the central county are black. And about 30 percent, or about 74,000, of the central city, Dayton, are black. These figures also are in an attachment in the material submitted to the Commission.

MR. POWELL. Mr. Bertsch, what is the Dayton Plan and what factors were considered in its development?

MR. BERTSCH. The Dayton Plan is actually a document which resulted from the housing program which the Regional Planning Commission within our area is developing, and what we attempted to

do is begin a process of evaluation of all of the factors, or the many factors, which relate to housing, and not only the factors related to low- and moderate-income or to racial ghettoization, but the total housing market, the total misuse of land on a large scale, and everything else involved, and an attempt to identify need within our region, the need in terms of housing by breakdown and by geographic area, and all of the problems that are involved.

The actual plan itself, at least the portion which appears to have been unique, was the development of a system whereby a fair share or an equal share system was developed for scattering low- and moderate-income housing opportunity throughout the region.

It was felt by the commission in the development of this particular plan that the housing disparities within the region had to be attacked on a total regional basis.

A great many factors were identified. A few were contained within the formula. All of the factors, however, are considered in actually carrying out the allocation process.

MR. POWELL. Mr. Chairman, at this time I would like to introduce for the record a summary of the Dayton Housing Plan.

VICE CHAIRMAN HORN. Without objection, it will be entered into the record.

(Whereupon, the document referred to was marked Exhibit No. 2 and received in evidence.)

MR. POWELL. Mr. Bertsch, would you please describe the needs and problems which gave rise to the plan and relate them specifically to the existing economic and racial residence patterns in the region?

MR. BERTSCH. The major problems that confronted us when we began the housing program within the region probably could be narrowed down to seven major categories, some of which the program which has been adopted by the region addresses itself to, some which lie ahead, and some which are going to be very difficult probably ever to get at.

Housing supply was probably the No. 1. We had a very, very low vacancy rate within our region—1.6 I believe it was—at the time we began the program. There is definitely a measurable scarcity of low-income housing opportunity, and you can't really separate—When you talk low-income housing opportunity you are talking a racial situation because the predominant low-income category in our particular region are blacks.

There was a good deal of demolition occurring within the central city because of the expressway programs and urban renewal, and the replacement activity was not keeping pace with that.

And there was very little aggressive leadership in broadening out or eating into this housing supply.

The second major area is housing demand. We had better than 53,000 people when we began the program—53,000 households, that is—who earned less than \$5,000 a year. We had over 1,200 people on the public housing waiting lists. The list now has been expanded to over 3,000. And the need for elderly housing is constantly being increased.

The third area would be finance problems. Costs are extremely high. Many families can't qualify for either the home ownership program because of bad credit risks or things of this nature.

Quality, qualitative aspects, would be another major problem. We have got over 35,000 identified substandard dwellings within the region. There is very little room for innovative design because of cost limitations. And the mass transit program certainly has not really gotten off the ground within our region, being one of those marginal areas in order to broaden out the potential housing density patterns that would be necessary.

Organization and administration would be a fifth major problem area. When we began, there was no real regional plan. The city of Dayton was attacking its problems, but that was piecemeal basically because of the effect on the region. There was no agency there for coordination. There was no regional strategy. And there was no technical assistance to the people in need of housing.

The sixth major area was one of data.

And the seventh one was community acceptance.

And here it's the whole mystique of what low- and moderate-income people and what minority groups do to housing values. And maybe more importantly is the whole problem of low- and moderate-income housing opportunity or housing projects being so identifiable to those groups—talking about “projectitis”—tend to be very identifiable within the region.

Our whole plan is aimed at opening opportunity without regard to race, recognizing that there are those unique circumstances that work against minority groups and especially the minority poor.

MR. POWELL. You mentioned that part of the plan involved getting every jurisdiction to have a fair share or equal share of the housing needs. Was there a device used in that connection? Were there goals set for each region?

MR. BERTSCH. We did develop a series of goals and policies over a 2-year program working with local business leaders and governmental leaders and citizens and attempted also to develop a series of policies to carry out or attempt to strive toward those goals.

The initial policy package is aimed primarily at expanding low- and moderate-income new housing opportunity though, and we are preparing at this time a report on rehabilitation. And I need to emphasize that it is an ongoing program.

As a part of this whole package, we developed a data base, obviously, in order to truly understand the situation ourselves and developed a strategy for a public information program and for developing an educational base about the problem for those in government and out of government.

And we developed a formula to allocate in an acceptable manner, or in a manner acceptable to those people who were in a position of making the decision as to whether or not this distribution system would be acceptable.

MR. POWELL. Would you describe the technique employed in

presenting the plan first to your commissioners and then to the public?

MR. BERTSCH. Well, the technique goes back over a 2-year period. It involved a great deal of education. The chamber of commerce in our area and some of the business leaders who were at that time involved in the NAB program began to work and pull the people together, technical people that is, and people interested in expanding housing opportunity, in very unofficial sessions, breakfast sessions, dinner sessions, things of this nature.

We began a series also of workshops or programs aimed at raising the understanding, the level of understanding, of the elected officials and the administrators.

In turn, this whole thing was aimed through the development in 1969 of a housing workshop and aimed itself in July of 1970 at a public hearing before the Regional Planning Commission, at which time we had a slide presentation describing the problem. We had a slide presentation or kind of a "chalk talk" describing the need and describing the plan itself.

The chairman at that time, Tom Cloud, who in his own right is an elected official within our region, then decided to appoint an ad hoc committee of commissioners to obtain reaction.

We scheduled two more public hearings before the Regional Planning Commission in August and September. September was aimed as the target date for a decision.

The ad hoc committee of the commission itself was charged with the responsibility of taking the staff recommendation and all feedback and coming up with a recommendation.

And we were further charged with sponsoring and responding to hearings throughout the region in all jurisdictions and before any group that would hear it.

And we began on then a 60-day journey across the region carrying forth the same presentations that we made before the Regional Planning Commission itself.

MR. POWELL. Would you describe the reaction of the white suburbanites to the plan?

MR. BERTSCH. Well, the reaction initially was—There was very little reaction in the first 2 or 3 weeks, in fact in the first month. And it was almost as though disbelief—Or there was almost a case of: "Let them develop it because it's really not going to make a whole lot of difference."

The chairman made rather a—well, a scathing comment at the August Regional Planning Commission meeting indicating that the commission did intend to see this plan implemented, it intended to use any powers that it had available to carry it out, and that people better be concerned.

At that time also there were released a number of statements from HUD aimed at showing that there was the intent to implement and expand housing opportunity and the possibility even of placing priority on certain types of Federal funds which we by the way are the review agency for within our metropolitan area.

The next 30 days the reaction was considerably different. It ranged all the way from ridicule to outright hostility. Crowds ranged anywhere in the first month between five and maybe 25. The second month the crowds ranged anywhere between about 40 and 300.

The result was some communities having to hold two and three hearings.'

A good deal of ridicule was thrown at the elected officials. Most of it I think was aimed at us—and us coming into their community attempting to solve their problem, or what they didn't consider to be their problem but rather a central city problem. So a great deal of our effort was one of educational effort.

MR. POWELL. What was the reaction of the black community?

MR. BERTSCH. The reaction of the black community—well, the black suburban community didn't differ a whole lot from the white suburban community. There was a general feeling in some of the area immediately outside of the central city where the blacks have expanded into the suburbs or a suburb—rather restricted growth—of disliking low- and moderate-income people as much as the white suburbs. Obviously, it was not in the same racial tones.

The reaction of the central city blacks was one of support, recognizing that we were attempting to solve the problem, but one of conditional support until the definition or the term "scatteration" was defined. Because there was a certain amount of fear on those individuals who are attempting to pull themselves together that scatteration implied involuntary scatteration.

Once the byword of opportunity was emphasized and understood, we received full support from the Model Cities and full support from I would say most black leaders within the central city.

MR. POWELL. After this period of public presentation, did your commissioners eventually approve the plan?

MR. BERTSCH. The plan was approved with some modifications to the staff recommendations, primarily minor modifications, no modifications within the quota system. One recommendation was dropped completely.

And on a roll call vote the initial vote was 26 to 0. The members who were not present at that hearing were polled, and their votes made a part of the record, and at the present time the vote stands 42 to 0.

MR. POWELL. That is just fantastic. In view of all of the opposition from the white community, to what do you attribute the unanimous vote of the commissioners in favor of the goals of the plan?

MR. BERTSCH. Well, there are a number of reasons I think. One, I like to think, because it's right. I think more importantly though a great deal of the fear that had been faced by suburban elected officials had been that the first suburb to open up would in essence become the relief valve for the central city. Once we made it very clear that the intention of the plan was to open the entire region up and have the quota not only become a goal for opening a particular subdivision up but also in turn become a method by which we can begin to slow down housing activity within that particular suburb until the other suburbs

have begun to meet their responsibility, there was a great deal more support for the concept.

Basically, it also provided some numerical understanding of impact of what quantity we were talking about in particular suburbs.

We also emphasized that the scatteration or the allocation philosophy was not only one of scattering within the planning units but also one of scattering within that planning unit.

I think also, very honestly, that there was a certain number of votes that were cast with the idea that—with the full recognition that we really have no legislative power and that the ultimate decision would be left up to the local community anyway.

And I think that the overwhelming response in light of some of the hearings though— We have to say that it took some very “gutsy” elected officials.

MR. POWELL. Could you describe for us the Office of Management and Budget Circular A-95, review and comment process, and let us know what role it plays in the development of the Dayton plan?

MR. BERTSCH. The A-95 process is an outgrowth of section 204 of the 1966 Demonstration Cities Act. It is really a sophistication of that. A-95 basically takes certain types of Federal grants-in-aid, certain types of Federal programs, and stipulates that they have to go through two clearinghouses, one a State clearinghouse, and secondly a metropolitan clearinghouse. In our particular region we are that metropolitan clearinghouse.

As such, we are given 30 days to review and comment—not approve, not veto, but review and comment—upon Federal aid applications which fall into the applicable categories, at the conceptual stage or an early warning type stage, and also supposedly prior to financial commitment.

And in that process we are able then to encourage the applying agency, whether it be public or quasi-public, to become cognizant of evolving regional policies and plans and to somehow be assured that those applications are consistent with those policies and plans.

Our thinking all along has been—and the commission in essence is evolving some rather detailed policies at the present time in light of some changing things—to use the A-95 review power or review process—and I think that it can be a power—as a vehicle for encouraging applying agencies to meet their responsibility, their regional responsibility, in regard to all plans, including housing.

We would hope that as this strategy evolves that in turn our comments might have some effect on the potential income from the Federal grant process to the particular planning unit involved, and as such it could be used as a device to encourage implementation.

MR. POWELL. Mr. Chairman, at this time I would like to introduce into the record a copy of Circular A-95.

VICE CHAIRMAN HORN. Without objection, it will be added to the record.

(Whereupon, the document referred to was marked Exhibit No. 3 and received in evidence.)

MR. POWELL. Mr. Bertsch, does Circular A-95 require you to comment on a proposed project's effect on racial and economic residence patterns in the region?

MR. BERTSCH. Specifically it does not. That is Equal Opportunity's responsibility within the particular Federal agency. Through the relationships that we have developed with the HUD office within our region, we do stipulate within the record that type of comment.

MR. POWELL. Would such a requirement be helpful to you?

MR. BERTSCH. Very.

MR. POWELL. Mr. Bertsch, in terms of the prospects for success of the Dayton Plan, why would it be helpful to you?

MR. BERTSCH. Well, we would certainly be in a position of being able to outline very specifically to the applying agency any apparent disparities that might evolve statistically and hope that they could draw some of the same conclusions that we would.

At the present time a great deal of the pressure for bringing these types of facts and the interpretation of these type of facts lie with us at our region.

I might point out too that our whole plan is not couched in nor do we feel that it is based completely on that type of a need. We are talking about for early implementation and for that type of encouragement to prevail it certainly would be extremely helpful.

MR. POWELL. Would such a requirement help the political problems of the commissioners?

MR. BERTSCH. I think that it could help. Not being an elected official, I don't know that I could make that type of a judgment. It certainly might not—it might not—help those on the next level up though.

MR. POWELL. All right. Turning now to the other members of the panel and beginning with the person closest to the rostrum, would each of you please state your name, address, and occupation for the record?

MRS. WASHINGTON. My name is Helen Washington. I am an administrative secretary for the YMCA.

MR. POWELL. And your address?

MRS. WASHINGTON. My address is 2005 Foxhall Court in Kettering, Ohio.

MRS. KAMKE. My name is Mrs. Virginia Kamke. My address is 2216 Culver Avenue, Kettering, Ohio. My occupation—I am a registered nurse, unemployed, and I am a housewife and a mother.

MR. HAWKINS. My name is Fritz Hawkins. I am employed by the Ohio Bell Telephone Company. My residence is 2905 Oak Ridge Drive, Dayton, Ohio.

MR. ANKNEY. My name is Ben Ankney. I am a schoolteacher and an elected councilman for the city of Kettering. I live at 503 Peach Orchard in Kettering. I live at 503 Peach Orchard in Kettering.

MR. POWELL. Mrs. Washington, Mrs. Kamke, and Mr. Ankney, how long have each of you lived in Kettering?

MRS. WASHINGTON. I have lived in Kettering since 1966.

MR. POWELL. Mrs. Kamke?

MRS. KAMKE. I have lived in Kettering since 1965.

MR. ANKNEY. I have lived in Kettering since 1959.

MR. POWELL. Mrs. Kamke, where is Kettering located in relation to Dayton?

MRS. KAMKE. Kettering borders Dayton, sort of in a "U" shape. It borders Dayton.

MR. POWELL. What is the population of Kettering, Mrs. Kamke?

MRS. KAMKE. I believe approximately 70,000 people.

MR. POWELL. Are there many black families living in Kettering?

MRS. KAMKE. I don't think so. I would say there's probably anywhere between seven and 14 black families but I don't know.

MR. POWELL. Have you been active, Mrs. Kamke, in attempts to integrate Kettering?

MRS. KAMKE. Yes, to some degree.

MR. POWELL. What is the price range of housing in Kettering, Mrs. Kamke?

MRS. KAMKE. I would say that it probably starts around \$17,000 or \$18,000 and goes up to high limits.

MR. POWELL. Isn't that well within the economic means of many black persons in the region?

MRS. KAMKE. I feel it is.

MR. POWELL. To what do you attribute the relative disparity of relatively few numbers of blacks in Kettering?

MRS. KAMKE. I feel that there is a pattern of racial discrimination throughout the suburban area.

MR. POWELL. Mrs. Washington, you say you have lived in Kettering since 1966. Where did you live before moving to Kettering?

MRS. WASHINGTON. In West Dayton.

MR. POWELL. What was the racial composition, Mrs. Washington, of the population in Kettering when you first moved there?

MRS. WASHINGTON. They had four families who were renting there, but we were the first black family to buy in Kettering.

MR. POWELL. Why did you decide to move to the suburbs, Mrs. Washington?

MRS. WASHINGTON. After looking at several residences for sale, we found that the area that most of the Realtors tried to direct us to was an area that was becoming another black ghetto, the Upper Dayton View.

MR. POWELL. Did you have any trouble buying your home?

MRS. WASHINGTON. We didn't have any trouble as far as finding a Realtor, a Realtor to show us a home, and we didn't have any trouble with a seller, but as far as being able to finance our home, in spite of the fact that we had purchased property three times through the same financial institution, our home is now financed through a lending institution in Detroit, Michigan.

MR. POWELL. You weren't able to get local financing?

MRS. WASHINGTON. We were not.

MR. POWELL. To what would you attribute that?

MRS. WASHINGTON. I think it was a racial pattern. Somehow I get the idea that it is an unwritten law not to be the first finance company to put a black family into an all-white neighborhood.

MR. POWELL. Once you moved into Kettering, Mrs. Washington, what was the reaction of your neighbors?

MRS. WASHINGTON. I found my neighbors both naive and pathetic. For instance, three or four of the little neighbor's children were playing on my patio, and one of them decided to go into the house, and when she came back she could hardly suppress a grin, and her statement was: "I saw three beds."

And I couldn't imagine why she was so surprised. I asked her what did she say. She said: "I saw three beds in her house." So I asked her what did she think we slept on, that of course we sleep in beds the same as her parents.

MR. POWELL. Tell me—you have lived there 5 years—have you now been accepted by your white neighbors?

MRS. WASHINGTON. Well, I have been very active. I serve on the Kettering Board of Community Relations and I have worked with many neighborhoods, suburban neighborhoods, Valbrook, Oakwood, and other neighborhoods, trying to help educate the whites in that area that we are human beings, we have a common goal.

And I find some of them very willing to listen. They find that they actually need the education, that our goals are the same as theirs, we're really not interested in social involvement with them. When we find people that we like or they like us, we do have exchange of social activities.

But I think they are pretty— They realize now that our move was not for a social exchange, intermarriage, or anything else other than just a freedom of choice to live and buy where we wanted to.

MR. POWELL. Why do you think so few black families have moved to Kettering?

MRS. WASHINGTON. Well, No. 1, the Realtors usually try to show you someplace else, and, No. 2, I think they would have trouble, maybe not at this point— Since they found out that interest money will be paid to out-of-city or out-of-State finance companies, I think that they are a little more willing now to finance.

But at the time that we moved there they would not finance any Negro families in that area. So I think it's mostly attributed to the fact that Realtors are not showing property in that area and finance companies are not willing to finance property in that area.

MR. POWELL. When you say Realtors are not showing property in that area, you mean Realtors are not showing property to black prospective buyers?

MRS. WASHINGTON. Correct.

MR. POWELL. Mr. Hawkins, you indicated earlier that you live in West Dayton. Where is your office located?

MR. HAWKINS. My office is located in Kettering, Ohio.

MR. POWELL. In Kettering?

MR. HAWKINS. Yes.

MR. POWELL. Have you ever tried to move to Kettering, Mr. Hawkins?

MR. HAWKINS. Yes, I have. At one time I attempted to purchase a home in Kettering. The home was listed for \$33,000. On finding out that I was black, the price was raised to \$37,500. So I was being penalized \$4,500 for being black.

MR. POWELL. Did you file a complaint?

MR. HAWKINS. I did not.

MR. POWELL. Why not?

MR. HAWKINS. First of all, complaints take a long time to go through the courts. I wanted a home then. So I couldn't wait.

MR. POWELL. Do many black people work in Kettering?

MR. HAWKINS. Absolutely.

MR. POWELL. What kind of jobs do they have?

MR. HAWKINS. Well, let me say this. We have a defense electronics plant there. Thirty percent of it is black people—30 percent out of I'd say a total work force of about 4,000. Then there are others in some of the scattered companies throughout the area there, the telephone company being one, the Frigidaire Corporation being another.

For the most part these jobs go from—a limited number, of course, being professional people. Others, of course, is the unskilled labor force.

MR. POWELL. Where do the majority of the black people who work in Kettering live?

MR. HAWKINS. Dayton, Xenia, and Yellow Springs, Ohio.

MR. POWELL. Would you describe West Dayton for us?

MR. HAWKINS. Yes. West Dayton is the area where 95 percent of the nonwhite population live. Thirty percent of Dayton's total population is black. Here is to be found a complex of racial isolation which includes economic exploitation, commercial failure, crumbling buildings, depleted municipal services, high unemployment rates, social disorders, human frustration, despair, and last, absentee landlords.

Now, the 1966 disturbances began there, and to show you how completely isolated and restricted and contained this area happens to be, I was on my way home from work the particular morning that the disorders began. The police merely blocked Third Street—Third Street separates West Dayton from East Dayton and the business community. So the only thing that is necessary to keep the black people on the reservation is to block Third Street, First Street, and the Salem Street bridges.

MR. POWELL. You mentioned that there are black people working in Kettering. Are there other employment opportunities for minority persons in Kettering?

MR. HAWKINS. Very few that I would know of, but they are expanding because so many of the businesses are moving to Kettering, and, of course, the suburbs in the outskirts of Dayton metropolitan area.

MR. POWELL. When business moves to suburbs like Kettering, do you think that they have an obligation to see to it that there are housing opportunities for their potential employees?

MR. HAWKINS. Yes. Business does have this sort of an obligation.

First let me say this. Business should let the communities know that their decisions to locate will be determined by the community's receptiveness to all of its employees.

There was a large company moved from the Dayton area some 6 or 7 years ago. It moved to Columbus, Indiana. It wasn't able to take any of its black employees there because they weren't able to relocate them there.

MR. POWELL. Thank you.

Mr. Ankney, in addition to being a schoolteacher, do you hold elective office?

MR. ANKNEY. Yes.

MR. POWELL. What elective office do you hold?

MR. ANKNEY. I am a councilman for the city of Kettering elected from one of four districts. There are seven councilmen, four elected from districts.

MR. POWELL. How long have you been a member of the Kettering City Council?

MR. ANKNEY. This is my eighth year. Seven and a half years.

MR. POWELL. Has the Kettering City Council passed a fair housing law?

MR. ANKNEY. Yes.

MR. POWELL. Has the law been effective in opening up the community?

MR. ANKNEY. There's no signs of that, no. I would judge in many respects there are fewer blacks there now than there were before the law was passed.

MR. POWELL. Mrs. Kamke, in your work in attempting to integrate Kettering, have you found that law to be effective?

MRS. KAMKE. I don't think it's effective.

MR. POWELL. Did you attempt to do anything about it?

MRS. KAMKE. After the law was passed and I had spoken at a city council meeting and met with no response, I wrote to the Chicago office of HUD to complain about the law and the limitations that it put upon people seeking housing in Kettering and— Did you want me to go on with what happened?

MR. POWELL. Yes.

MRS. KAMKE. This was in October of 1969. The law was passed in September of 1969. I received a letter back from the HUD office saying that they would investigate my complaint and advise me of the action that they might take and that an investigator would call upon me to verify my complaint.

I heard nothing more about that until June of 1970—by that time I thought, of course, that I had been forgotten—when an investigator called me from Chicago and said that she would be in town to talk with the Kettering city officials and would like to meet with me about my complaint. So she came to speak to me about that.

And in my original letter I had heard that there would be a possibility—it was sort of rumored—that Miami Valley Regional Planning,

since it was reviewing applications for Federal monies—there might be a possibility that Federal monies could be held up if a community was not doing all it could to integrate.

So I asked her how much money Kettering had applied for in funding, and at that time it was \$67,000 for park money. At that time the investigator told me that she felt for a city the size of Kettering \$67,000 was not very much money and it wasn't much of a handle on a community that size, but that she would see what they could do.

I heard nothing more from HUD after that time. In November I first heard in the papers that Kettering had—that park money for Kettering had been held up because of a complaint. After that I wrote to HUD three times, sending them additional information, mostly clippings from newspaper articles, and in my third letter asking them to advise me of the status of the money holdup, and this sort of thing, what was going on.

And I never heard from them, but shortly after my letter went out I read in the newspaper that Kettering received its money, which at that time then was up to about \$93,000. But I was never advised of the action.

MR. POWELL. You mentioned earlier that you thought the fair housing law was ineffective. What's wrong with the law? What makes it ineffective?

MRS. KAMKE. Under the limitations I felt that first of all there is no order—there is nothing to tell people that they have to advertise in the newspapers or anything. And I feel that this encourages secret deals that minority people are not able to know about and to take advantage of.

In comparison to the 1866 act which prohibits discrimination in all real estate, our law has limitations on, you know, if a certain number of people—or if the owner lives in the apartment, or things like that, that I feel are discriminatory.

There is an entrapment clause. I don't know what it means, but it's something about entrapping, and it's very unclear, and I don't think too many people would understand what it meant. But what it means to me is that I'm afraid to follow after someone who feels that they have been discriminated against.

MR. POWELL. Mr. Ankney, would you care to comment on that?

MR. ANKNEY. Yes. I don't agree with Mrs. Kamke that the law is ineffective because of the weaknesses in the law. I think it is a very good equal opportunity law. It does not only deal with housing, it deals with employment and education in regards to race or religion or national ancestry. It covers a wide area. It does have a penalty.

And in regard to the entrapment clause, it is our understanding by our lawyer that it is not the kind of entrapment that she is referring to. It is perfectly legal under this law to follow up and find out whether or not a house will be rented or sold to a white rather than Negro. That is not what is involved in this entrapment clause that she is referring to.

I don't think the law, though it could be stronger since it does have a few restrictions as to four-family or less apartments which the owner

lives in— it allows discrimination in that area. That is, I think the greatest weakness in the law.

And we had a meeting in Kettering sponsored by our community relations board in which some 200 people attended, and in which the question was: "Why haven't black people moved to Kettering?" And, of course, there are some of these reasons mentioned here—Realtors showing houses, loan institutions refusing loans or making it difficult to get loans, the change in the price of the house.

However, our community relations board has not received one complaint in 2½ years.

There was another answer—and I think it is a very serious one and important one—that came up in this meeting when a young black woman stood up and says: "We're not coming to Kettering. You don't want us, and we don't want you. We're going to stay on the reservation."

I think there is a growing polarization in the last 2 years that is dangerous and serious and I don't think that it is entirely in the area of whites but also blacks who are withdrawing from the efforts, and the crusading effort that Mrs. Washington represented I think a few years ago is no longer there. They're not coming. They fear they won't be made welcome.

And yet individually I know of two couples who were made very welcome in Kettering, almost driven out of their home by visitors who were trying to make them welcome. I know others somewhat harassed.

MR. POWELL. Mr. Ankney, turning now to the Dayton Plan, what has been—

VICE CHAIRMAN HORN. Counsel, would you secure a copy of that fair housing ordinance that has been mentioned several times and insert it at this point in the record?

MR. POWELL. Yes, we will. Let the record note that the fair housing ordinance will be inserted in the record at this point. We have a copy of it, Mr. Chairman.

(Whereupon, the document referred to was marked Exhibit No. 4 and received in evidence.)

MR. POWELL. Mr. Ankney, turning now to the Dayton Plan, what has been the reaction of your constituents to that plan?

MR. ANKNEY. Really we have had no great reaction from the constituents as far as I know, but the council—we meet regularly, and we have discussed this. We have read the material, the plan as it came out. And the council, like all legislative bodies, is divided.

I think it is interesting in that the assumption this plan was accepted. I might read you what our council adopted—a resolution, which was watered down from two other resolutions which included the words "moderate- and low-income housing."

This resolution reads: "All governments in the Dayton metropolitan area, including the city of Kettering, have an obligation to assist in the Nation's effort to provide adequate housing for all American families. As its part in attaining this objective the city of Kettering will cooperate with private entrepreneurs and public bodies who propose to locate

in Kettering, provided such developments are consistent with existing zoning requirements and are in keeping with sound community planning principles.”

This, however, is not maybe as weak as it might appear, since I must point out—and I think all of you must know—that zoning requirements can be changed. However, that generally brings the burden eventually right to council where a political decision has to be made.

MR. POWELL. Were there objections expressed by your constituents to the Dayton Plan?

MR. ANKNEY. A few—

MR. POWELL. Would you describe some of them for us?

MR. ANKNEY. To my knowledge. Oh, the ones I'm going to give you came largely from council, which they indicate are reflecting their constituents.

The first one most often raised is it will lower the property values in a neighborhood where any public housing goes in.

And second that it would place an economic burden on the schools—the idea that the low-income, moderate-income people who move into these housing will not pay adequate taxes to support the education of their children.

And third the idea that it will lower the educational standards in the schools.

MR. POWELL. Those are the expressed objections. Do you believe that there are unexpressed objections?

MR. ANKNEY. Yes.

MR. POWELL. What would they be?

MR. ANKNEY. Well, I believe the thing that lies in the background of members of the council and of many citizens is that low- and moderate-income housing will bring in blacks. They don't tend to use this at the beginning. It's rarely referred to.

It's rather odd in our society that today we are openly stating we will accept racial integration but we're stating we will not accept economic integration. We won't accept our poor white brothers but we are legally required and we generally say we will accept our black brothers. Obviously, this isn't true.

MR. POWELL. Mr. Ankney, what has been your position on the Dayton Plan?

MR. ANKNEY. I am in favor of it though I don't suggest that our council will accept it, especially the quota that is mentioned there. I am sure that our council will attempt to reduce that quota if indeed it accepts any at all.

MR. POWELL. Do you have to stand for election again this fall?

MR. ANKNEY. Yes.

MR. POWELL. What effect do you think your position on the Dayton Plan is going to have on your chances for reelection?

MR. ANKNEY. Well, I have been told I can't be reelected. One councilman offered to bet me \$10 I can't be reelected, but I don't think it has so much to do with this particular plan as it has to do with the open housing law and a modification of that more recently.

MR. POWELL. Mr. Hawkins, have you been active in the NAACP?

MR. HAWKINS. I have been active in the NAACP.

MR. POWELL. What is the position of the NAACP on the Dayton Plan?

MR. HAWKINS. The NAACP enthusiastically endorsed the Dayton Plan.

MR. POWELL. Mrs. Washington, do you think the Dayton Plan will work? What do you think of the Dayton Plan?

MRS. WASHINGTON. I think the Dayton Plan is a marvelous idea because it will scatter the blacks throughout not only Kettering but throughout the county, and once integration has been obtained throughout the county and there will be no place for the whites to run, I feel that we will have a more stabilized community, and a stabilized community can work toward certain goals and will be able to be more successful in obtaining a goal if it is a stabilized community than it would if it is a fluctuating community.

MR. POWELL. Mrs. Kamke, what is your view of the Dayton Plan?

MRS. KAMKE. I would have to agree with Mrs. Washington that it sounds great on paper. I feel that if it's to get off the ground we need greater leadership on both the national and local level, and personally I would like to see my councilmen stop telling me that their own racism belongs to me and their constituents, which I think often happens. I don't think the people of Kettering are as racially prejudiced as sometimes our council would reflect.

I feel that restrictive zoning may stand in the way of it. The recent Supreme Court decision on allowing proposals for low- and moderate-income housing to go on public referendum may defeat the plan.* And I feel that if the Miami Valley Regional Planning Commission loses its power to review applications for Federal monies and comment on this, I feel that this may also defeat the plan.

MR. POWELL. Mrs. Kamke, are there any black children in the elementary schools in Kettering?

MRS. KAMKE. I don't know. I would say that there may be probably not more than 25 black children in Kettering, but I don't have definite figures.

MR. POWELL. Do you have any children, Mrs. Kamke?

MRS. KAMKE. Yes, I have two girls.

MR. POWELL. Do you think it's important for them to have integrated education?

MRS. KAMKE. Yes, very important.

MR. POWELL. Why?

MRS. KAMKE. I want my children to grow up realistically, and the world is getting smaller, and when they grow up they are going to have to get along with people of all races, and they are going to have to get along with people of all different economic and cultural backgrounds, and I don't want my children to grow up in a world with barricades and race wars and economic wars. I want them to be prepared for the world

*James v. Valtierra (1971).

they are going to have to live in.

MR. POWELL. In view of the nonexistence of black children in Kettering, where do you send your children to school?

MRS. KAMKE. I send them to kindergarten in Kettering because I don't have a choice. But then my oldest little girl then attended last year an integrated school in Dayton, a private school which is approximately 75 percent black.

MR. POWELL. Do you think the Dayton Plan if it worked would help bring about integrated education in Kettering?

MRS. KAMKE. I hope so.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. All right. We will move to the Commissioners. Mrs. Freeman, would you like to begin the questioning?

COMMISSIONER FREEMAN. I suppose I would direct this question to any of the panel. With respect to Kettering, about what percentage of the homes in Kettering have FHA-insured mortgages? Do you know?

MR. BERTSCH. No.

MR. ANKNEY. I am unable to answer that, but a good number.

COMMISSIONER FREEMAN. A good number of them have FHA—

MR. ANKNEY. Yes.

COMMISSIONER FREEMAN. Are there any subdivisions in Kettering where there are FHA-insured mortgages?

MR. ANKNEY. I am sure there are.

COMMISSIONER FREEMAN. Could you tell us if those subdivisions were constructed since 1962?

MR. ANKNEY. I'm not sure. I think so. Oak Creek. Yes.

COMMISSIONER FREEMAN. Mr. Bertsch?

MR. BERTSCH. Kettering was within the last 2 or 3 years noted as being the fastest growing city in the State of Ohio. It didn't exist right after the war, and it is fast approaching 80,000 now. There has been a great deal of subdivision activity. In fact, it's reaching the point where Kettering is aggressively looking for land to annex. The land is getting filled up so fast.

I have no way of judging the percentage of FHA activity, but in the price range of the houses that you are talking about I would say FHA loans would be available within virtually all of that—all of the new activity area. Some of it is apartment activity. And some of those have been insured under the FHA programs.

There are no FHA low- and moderate-income housing projects within Kettering, however, either 235, 236, or other categorical FHA low- and moderate-income programs, presently.

COMMISSIONER FREEMAN. My question is directed to the FHA insured units because this includes and contemplates a Federal program, and this Commission is, of course, concerned about the practices of HUD in this regard where Kettering, according to the report which we have, has 69,000, about 70,000 of the population and 136 black families. And if you have a significant number of FHA homes there, then what you are describing is a situation where the exclusion is sustained by the Federal Government, and, of course, this is of concern to us. I

have no more questions. Thank you.

VICE CHAIRMAN HORN. Dr. Mitchell?

COMMISSIONER MITCHELL. No questions.

VICE CHAIRMAN HORN. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Bertsch, is your plan unique? Do you think so or not? Are there other plans like it in the United States?

MR. BERTSCH. I am told it is unique. On the basis of the mail and phone calls, I would judge that as a strategy, as far as we have taken it, it is unique.

I think it's important that we recognize that it is only the first step. There is measurable activity, but it's a plan at this point.

COMMISSIONER RANKIN. Do you think the plan would work in other areas?

MR. BERTSCH. This question comes up a great many times, and I think that we feel that it is extremely important that—in fact, it's one of the requests that we made to HUD, one of six, in January of this year that we would like to see it be a requirement that all metropolitan regions within this Nation be required to adopt a strategy, not necessarily our plan because our plan certainly is going to have to be modified considerably as ours goes along, and certainly circumstances are going to differ in the larger metropolitan areas and the larger regions.

But we feel that in light of the housing element being required as a part of comprehensive planning, in light of the flow of Federal funds that are being demanded and the shortage of those funds available, that there should be some method of placing considerable priority on the evolution of strategies which aggressively attack solutions or attach solutions toward these very obvious and well documented problems.

COMMISSIONER RANKIN. Are blacks continuing to migrate into the Miami Valley today?

MR. BERTSCH. I would judge that migration is continuing as it has. I have no real figures on that. The major migration into our region is Appalachian whites, not blacks.

COMMISSIONER RANKIN. I happen to be one. Are they desirable or not?

MR. BERTSCH. They are more difficult to place than blacks.

COMMISSIONER RANKIN. So they really give you a problem then? Is that it?

MR. BERTSCH. I won't necessarily say that they give us a problem. There are a great many restraints that are class-oriented that legislation has in the past attacked with regard to race. At least we have laws on the book. On relocating, for example, from urban renewal projects within the central city, it is much easier to relocate a black family than it is an Appalachian white.

COMMISSIONER RANKIN. Do civil rights rules and laws apply to them as well as to blacks?

MR. BERTSCH. We certainly think so.

COMMISSIONER RANKIN. And you do so? You apply them equally? Is that right? You try to in your plan?

MR. BERTSCH. Yes.

COMMISSIONER RANKIN. Okay.

MR. BERTSCH. Well, our plan makes no mention of race nor no mention of the Federal Government nor no mention of force.

COMMISSIONER RANKIN. Just one more question. Mr. Hawkins, you mentioned you attempted to move into Kettering. Is that right?

MR. HAWKINS. I attempted to purchase a home.

COMMISSIONER RANKIN. Did you hear the testimony here today that blacks today do not desire to move into Kettering, that they prefer not to? Do you agree with that testimony that was given?

MR. HAWKINS. I can't say that I agree with that statement, because there are so many blacks that can afford good, decent, safe housing, new housing, housing for which their income would enable them to pay for comfortably, would love to move from their ghetto entrapment into areas that would provide schools for their children, that would enable them to also become those in the upper strata, middle income.

The schools that are located in our area, they are inferior. Even if they had superior staff they would still be the type of schools in which the child couldn't very well achieve because his aspirations and his values, and so forth, would be dimmed by the very fact that he is looking at, walking with, associated with all these things that come as a result of being in the ghetto.

They would move, but not in the numbers that the whites actually think they would be. It wouldn't be a general exodus at all. Because some of us like to remain with our own. But there's others would like to go to the suburbs.

COMMISSIONER RANKIN. That's all, Mr. Chairman.

VICE CHAIRMAN HORN. Thank you. Commissioner Ruiz?

COMMISSIONER RUIZ. Mr. Bertsch, I'd like to know why industry is developing in the direction of Kettering. Is there any specific reason?

MR. BERTSCH. Well, actually, industry from the standpoint of manufacturing industry is not developing in Kettering *per se*. There is a great deal of commercial development. The major industrial developments that occurred in Kettering occurred in the past decade and are certainly expanding—some of the GM facilities, and DESI, Defense Electronics, which was mentioned.

I think it's probably a case of industry wanting to take advantage of what at least at the time of relocation was cheaper taxes. I think it's a case of wanting to obtain the suburban image. I think it's a case of a great many factors that most of us who work in the planning field don't generally consider to be a part of the decisionmaking process—maybe move the facility closer to where the country club is or closer to where the executives live.

COMMISSIONER RUIZ. Well, is the planning of such nature that that area has been zoned for businesses?

MR. BERTSCH. There is vacant land for industrial development presently in Kettering. Zoning in Kettering for—well, the councilman would have to judge there. I would say that any large clean industry that would care to move to Kettering would get its zoning rather quickly.

MR. ANKNEY. We are very enthused about getting industry. We have not been getting industry, however. We have had great increase in business, commerce of all types.

COMMISSIONER RUIZ. This is principally commercial and commerce that's going in that direction?

MR. ANKNEY. Yes.

COMMISSIONER RUIZ. Mr. Hawkins mentioned the fact that there was a plant that left Dayton and moved to Columbus, Indiana. What type of work was being done by that plant? Was it some sort of a Government contracting, industrial enterprise?

MR. HAWKINS. It manufactured electrical motors. The company I speak of was Master Electric.

COMMISSIONER RUIZ. Did they do Government work or was it strictly private?

MR. HAWKINS. I wouldn't be able to answer that.

COMMISSIONER RUIZ. Now, where is industry located around Dayton—that is to say, factories, medium industry, heavy industry? Is it away from Kettering or in that direction?

MR. ANKNEY. Well, there is an industrial developed area that is a separate city from Kettering called Moraine which originally was part of the Kettering incorporation effort but withdrew, and it has been what you might call the industrial area of Kettering. So it's in a separate city.

We also note a lot of industry is moving further south along the superhighways toward the south. Miamisburg, West Carrollton are doing very well in attracting industry, while Kettering can't attract industry I feel because our land values are too high and beginning to be congested and access to the superhighways.

COMMISSIONER RUIZ. Now, this industry that is developing further south. With respect to the employment pool, there is no access from Dayton, is there? It's a little too far?

MR. ANKNEY. Well, it's a very short drive on the superhighways even from the west side. I wouldn't say much more than 10 minutes.

COMMISSIONER RUIZ. With relation to that particular industrial zone or area, is that located in a predominantly white or all-white neighborhood?

MR. ANKNEY. Predominantly white.

COMMISSIONER RUIZ. Predominantly white?

MR. ANKNEY. Yes.

COMMISSIONER RUIZ. By "predominantly" do you mean 95 percent?

MR. ANKNEY. At least.

COMMISSIONER RUIZ. And the 5 percent that is nonwhite, has that always lived there or is that going into that area now?

MR. ANKNEY. I couldn't answer that question.

COMMISSIONER RUIZ. Can anyone answer that question?

MR. BERTSCH. I would judge that Moraine's population would be closer to about 98 percent, and I would judge that those who were nonwhite did not move there within the last decade. It was either through annexation or—

COMMISSIONER RUIZ. They had always been there? The 2 percent have always been there?

MR. BERTSCH. Yes.

COMMISSIONER RUIZ. So there is no new entries going in there?

MR. BERTSCH. If we are talking about Moraine.

COMMISSIONER RUIZ. Yes. I am spreading this around a little bit because I am trying to get a population movement if I can from you.

MR. BERTSCH. I enclosed in the material which I presented to the Commission a [population] breakdown by county and by city of the 1960, 1970 and the nonwhite 1960, 1970, which indicates the disparity in—

COMMISSIONER RUIZ. In any event, the black population, let us say, in Dayton is not going further south to where these areas are developing by way of residence and by way of living? Is that correct?

MR. HAWKINS. That is correct.

MR. ANKNEY. I might say as a Kettering councilman, probably the best opportunity in that direction is in Kettering where we have made an effort to pass an open housing law and to have a community relations board to enforce it. This has not been done to the same extent as you go further south.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Bertsch, to oversimplify a bit, as I understand the theory behind the Dayton Plan, it is that the solution of economic, employment, educational, and housing problems in our country cannot be left to individual cities or counties but really requires a regional approach. Would that be correct?

MR. BERTSCH. Yes, we feel it requires a regional strategy and a national commitment.

MR. GLICKSTEIN. You mentioned Circular A-95. To clarify a bit, what that is all about, as I understand it, that is a directive from the Office of Management and Budget that has been issued pursuant to authority of the President which requires that before Federal assistance is granted by a Federal agency the applications for Federal assistance be reviewed by some type of a regional group such as the Miami Valley Commission. Is that correct?

MR. BERTSCH. That is correct, providing those grants fall on the lists of the A-95.

MR. GLICKSTEIN. That is a pretty extensive list though, isn't it?

MR. BERTSCH. Yes.

MR. GLICKSTEIN. It covers most of the significant housing programs?

MR. BERTSCH. Twenty-five housing programs were just added as of April 1. Since this is the first grouping of non-Government type of grants, we are only at this point given 15 days to review those applications and only at the point of financial feasibility rather than at project stage.

We are in the process now of evolving in consort with HUD and FHA a series of both official and unofficial guidelines to attempt to see how

we can best use A-95.

MR. GLICKSTEIN. As I understand it also, A-95 sets out the various factors that are considered in the review process. For example, one of the factors is whether the particular request affects outdoor recreation or open space or the concern for high standards of design. Is that correct? Are these among the factors that would be considered?

MR. BERTSCH. Yes. There are a series of general type factors which are stipulated within the circular itself. It is pretty well left up to the applicable clearinghouse—for example, the MVRPC in our particular area—to stipulate the ground rules, so to speak, for our use of that guideline.

MR. GLICKSTEIN. But as I understand Circular A-95, it doesn't require your commission to comment on the Civil rights implications of the request for assistance. It would not, for example, require you to indicate whether the particular application would foster the dispersal of low- and moderate-income housing?

MR. BERTSCH. That is true. That is not a requirement. This does not preclude, however, an agency such as ours from making it one of its review rules. The difference I guess is where the leadership is stemming from.

MR. GLICKSTEIN. But you might make that one of your review rules, but if you commented adversely, for example, it would still be possible for the Federal assistance to be granted? Isn't that correct?

MR. BERTSCH. That is correct. All we do is comment.

MR. GLICKSTEIN. Do you think that it would strengthen the review procedure if the comments were more than just comments, if the Federal agencies were required to do something more than just read them and file them?

MR. BERTSCH. The answer is obviously yes to your question. But I think that I need to state also that our experience has been that if an agency like our own can aggressively pursue a strategy, we are getting a fantastic amount of support from the agencies with which we deal.

MR. GLICKSTEIN. The Federal agencies?

MR. BERTSCH. The Federal agencies—and State.

The difficulty that we find, however, is that basically if we aggressively implement our strategy—my commission's strategy, it's the elected officials' now, not mine—we find ourselves in many cases merely facing the possibility of turning down Federal aid for our area which in turn might very well funnel itself into a region which hasn't even faced its responsibility in the development of a strategy of their own.

In essence, it can very easily and might very easily become a millstone about our region's neck.

We feel that the existing Federal policy should in essence become a requirement and be aggressively implemented. If that be the case, as we interpret it—and we may be interpreting it extremely liberally—we would read into that then that all regions would have to evaluate themselves in the manner that we did. All regions would have to evolve a strategy reflecting the problems within their region. And all regions

would have to then on the basis of how effective that strategy was compete for the limited categorical and other types of grants that are available.

MR. GLICKSTEIN. This requirement you would recommend be a Federal requirement written into Circular A-95?

MR. BERTSCH. I don't know that it needs to be necessarily written into A-95, because I can look across the country and see A-95 being used virtually as a rubber-stamp by many agencies. I am saying build it in somehow to some type of an aggressive program, no matter what nomenclature you hang it on.

MR. GLICKSTEIN. What if Circular A-95 said that all requests for Federal assistance had to be reviewed by the clearinghouse counsel in terms of whether it was consistent with the policy of providing low-and moderate-income housing on a nondiscriminatory basis and unless that requirement were met there would be no Federal assistance forthcoming?

MR. BERTSCH. That would be extremely helpful.

MR. GLICKSTEIN. That would remove the millstone that you said would be around the neck of an aggressive commission such as yours in competing for funds against some other region.

MR. BERTSCH. Yes.

MR. GLICKSTEIN. And if that were a requirement, metropolitan areas throughout the country such as Dayton would be in a position, I gather you believe, to solve some of the acute housing problems and employment problems we have today?

MR. BERTSCH. We would at least be in a position of being able to test the plan and its concepts within a more realistic framework. We have no guarantee, for example, that the plan is going to work.

MR. GLICKSTEIN. Also, to clarify another point you have come up with a plan but the various communities, the various municipalities that make up the Miami Valley Region, will not necessarily have to accept what the plan proposes. Is that correct?

MR. BERTSCH. That is correct. The particular officials on the Commission who represent the 42 constituent governments within the region voted in favor of the plan and they in turn are evaluating the plan's impact and the applicability for modification within their particular jurisdiction.

This does not mean necessarily that they will have to adopt, implement, or approve projects within their particular local jurisdiction.

MR. GLICKSTEIN. We heard some testimony a little while ago that one of the fears that suburbanites have about having low- and moderate-income housing built in their communities is that it is going to increase the tax burden. Do you think that it might be made more palatable if the Federal Government had some sort of a program to subsidize communities, add to their taxes or revenues when low-and moderate-income housing was built in the communities?

As you know, we do have a program today that provides funds to communities that educate military children or children of Federal employees—inpacted aid program.

MR. BERTSCH. As I understand it, in the last session of Congress the families of low- and moderate-income were added to that bill, but there was no appropriation made. That definitely would be helpful. There are a number of other things also that could equally be helpful.

At the present time there is a tremendous need to expand not only the low- and moderate-income housing from the standpoint of the various FHA programs which in their own right do pay taxes and in most cases can very easily be placed in the suburbs once the mystique or the stigma of these things somehow being public housing can somehow either through education or indoctrination be relieved, but this does not set off the problem of dispersal of public housing. At the present time the public housing opportunity within our region is strictly within the city of Dayton, and the county commissioners recently have approved a request for 1,100 units in the unincorporated portion of the county, 100 of which are under construction.

But that still leaves all of the political subdivisions other than Dayton within, for example, Montgomery County. At the present time they pay 10 percent of the sheltered rents in lieu of taxes. This, in our particular region, amounts to about 17 percent of what they would normally pay in tax.

Now, we would like to see something which would be a direct payment to the local government which would pay the full load of what public housing would normally pay in taxes. This would certainly be a big step forward in the area of public housing.

We would also like to be able to see considerable expansion of the public housing lease programs to the point where some of the cost differentials that are involved not only in public housing lease but in some of the FHA programs would more realistically reflect the higher costs that you are going to have to face in suburban locations and somehow develop a writeoff, either a land writeoff program or something of this nature which would keep the rents down when you had a high cost.

At the present time when FHA programs move to the suburbs they are primarily faced with two things. They either look for cheap land, which many times means marginal land, or they look for somebody to write down the cost of the land, or, secondly, they pay high costs for land and they cut corners on construction, which plays right into the suburbans' philosophy that this kind of housing, whatever that is, is cheaper and is not as attractive.

I think there are some premiums that we are going to have to pay in a housing program like ours—what we call facilitators—that are going to have to be anticipated and are going to have to be pursued aggressively in order to make sure that those fears that suburbanites and central city people have—because opportunity certainly is not broad within the central city—are in essence set aside and broadened out to the point that ultimately they maybe can be dispelled.

MR. GLICKSTEIN. Mr. Bertsch, some of your fellow panelists spoke about the attitudes of the people in the Miami Valley Region. Is there any component of the plan that deals with educating people or getting at these attitudinal problems, correcting stereotypes?

MR. BERTSCH. We have an ongoing educational program as a part of the total plan package. Very specifically, from an attitudinal standpoint during the passage of the plan we were funded by HUD through a special study grant—what we called the housing impact study. That housing impact study has since been completed, carried out by Gruen and Gruen Associates, consultants from San Francisco, for us and for the housing authority, in which the attitudes of various elected officials, certain suburban communities, and potential users of housing of this nature were evaluated and obtained and quantified on the basis of whether they would vary depending upon the type of assurances that could be made.

In other words, if, for example, you could somehow guarantee that property values were not going to fall, if you could guarantee that they were going to be attractive, if you could guarantee there wasn't going to be an impacting of the school system, and these type of things.

The results of that study are available, a summary of which is a part of the documents which I made a part of the package for the Commission. And the rest will be published later this fall.

As of last week, HUD has approved a second special study to pursue that particular project called a facilitators' study, in which we will attempt to monitor those types of facilitators and the way that they affect property value in projects that will be being put into the suburbs. So a long answer, but yes.

MR. GLICKSTEIN. Mr. Ankney, may I ask you one question, please? You read us the resolution that was adopted by the Kettering Council endorsing the plan, and you I believe indicated that you still had another step to take, another significant step, on voting on whether to go ahead with the plan as promulgated.

Do you think if there were a Federal requirement of some sort that before the Miami Valley Region, the entire area, received any sort of Federal assistance there had to be an acceptable plan that did provide for low- and moderate-income housing on a nondiscriminatory basis, that that would have an effect on the way your fellow councilmen would vote?

MR. ANKNEY. Yes. However, I must point out that it's touch and go right now. We might very well accept this whole program, but it would be a very close split vote in the council. Following the next election I don't know how that would go.

However, there is no doubt that as politicians, if I might call myself that, it is a little easier to lay the blame off for something that seems to be unpopular on someone else, like the Federal Government, or like the President lays it off on the Supreme Court now.

MR. GLICKSTEIN. Thank you, Mr. Chairman.

Mr. Bertsch has provided us with some additional documents that I think would be useful to introduce into the record. May they be introduced, please?

VICE CHAIRMAN HORN. Yes. Without objection they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibit No. 5

and received in evidence.)

VICE CHAIRMAN HORN. Mr. Powell, any further questions?

MR. POWELL. No, Mr. Chairman.

VICE CHAIRMAN HORN. Do any of the Commissioners have any further questions?

(No response.)

Let me just ask a few concluding questions here if I might, Mr. Bertsch, some of which might have been touched on.

You mentioned that the chairman of your group had obviously shown a lot of will power and political courage and leadership in terms of getting this plan implemented and adopted. I wondered if you would like to review what was the media, the newspaper support for the plan in the region? How helpful were the media and the newspapers in editorializing in favor of the plan? Was there much opposition to the plan?

MR. BERTSCH. The news media without qualification was wholeheartedly supportive. Without the positive press that we had, especially from the two metropolitan dailies, it would have been an extremely difficult task both to provide the education and also to make sure that people were aware that it was a very crucial issue.

Comment has been made that other than the Near East situation last summer the regional housing plan had more press coverage than any other topic. I think that we can say that for the suburban papers, also. And it is a continuing type of effort.

VICE CHAIRMAN HORN. We discussed mass transit a little bit. I wonder could you review how feasible is mass transit in this region at all or various options to mass transit, such as cars with radios picking up people, and so forth, to get workers to the plant and to get some sort of egress and ingress in the surrounding area?

MR. BERTSCH. Mass transit at this particular point in our region is like it is in so many of the medium sized metropolitan areas. We find that the service is being cut off. Money is being lost on the bus services.

There are two studies which have been funded by HUD or by DOT which are exploring the alternatives, the feasibility of various types of alternatives, all the way from the dial-a-bus type of program which you refer to to the actual development of a seldom-used railroad spur that runs the entire length of the southern corridor through Kettering, Centerville, and in turn some of the other older corridors, as to possibly it being used as a mass transit vehicle.

The particular study that we are talking about at this particular point in time is about three-quarters, maybe four-fifths completed and runs from center city down through Kettering.

Model Cities have developed a system of their own, dial-a-bus, which if carried out and proved feasible will provide a better method of mobility to the residents, for example, of the ghetto.

But on the present system of mass transit within our region it depends on the farebox. And I think that obviously the black community, low-income people, can't carry their weight there. And shortly we will be having to face some type of subsidy in order to provide adequate transportation.

We tend to feel that by broadening housing opportunity, mobility in terms of where a person lives might very well be an acceptable alternative to not mass transit *per se* but at least to such massive scales of mass transportation, and likewise to some of the school problems which our region faces like every other region in the Nation.

There is another factor, too, and that is the whole question of major tax revision that has to be faced, which has a tremendous effect on the cost of housing and on mass transportation and the whole question of mobility as we recognize it.

Our housing plan is one feather in a big bird, and to make that bird fly there's an awful lot of additional things that need to come.

VICE CHAIRMAN HORN. You mentioned in response to a question by Commissioner Rankin that it was more difficult to place Appalachian whites than blacks and that many restraints on housing mobility you felt were class-oriented. I wonder if you could elaborate on some of the cultural factors involved in the movement of Appalachian whites and blacks into housing of a similar or higher economic level in the predominantly majority and middle class, upper middle class areas.

What are some of the factors that cause these fears of Appalachian whites, let's say?

MR. BERTSCH. The tendency within our region at any rate—and I don't know—at least within urban areas it tends to be true, as far as my knowledge is concerned, the black tends to be an urban person. They know how to live within an urban situation. The Appalachian whites, at least as they come into our region, face a different series of problems.

The same with the Spanish speaking people that come into the Darke County area within our region. The migrant workers. It's a problem of education. It's a problem of attempting to develop a higher and more sophisticated system of social service delivery systems.

This whole program that I referred to called the facilitators' program, the aspect of the FHA program 237, the training programs for those people who will occupy low- and moderate-income housing which has never had funds appropriated for it, these types of programs along with marshaling somehow and focusing within a single strategy not only housing opportunity but evaluating and developing a sharper delivery system for the required services, these are all aspects that have to be considered.

I think from the standpoint also of the Appalachian white in the groups that we have worked with within the East Dayton community, there is a tremendous family pride which tends to reject to a great extent relocation monies, to reject almost assistance of any kind as being welfare.

If there would be some way that we could overnight change the titles of some of these programs I think that the image and the acceptance of some of the programs might be found to be more helpful to the people to which they are aimed.

VICE CHAIRMAN HORN. I wonder if any of the other members of the panel or you, Mr. Bertsch, might care to comment as to what role the educational system in this area has played in discussing some of these

questions and perhaps dealing openly with the differences in cultural values and backgrounds that both Appalachian whites, members of the black minority, and so on face, and that the majority culture faces. Is there any program underway in this area to get this into the school system?

MR. ANKNEY. Yes, I think most of the schools in the area are moving more rapidly into black studies of all kinds and the whole problem of cultural differences particularly with regard to the blacks. It is steadily increasing. In my 30 years in schoolteaching it has grown rapidly in the last few years.

VICE CHAIRMAN HORN. Do you know if there have been institutes for teachers and special training and programs to deal with some of these problems?

MR. ANKNEY. Yes, definitely.

VICE CHAIRMAN HORN. I notice in the recent statement the President made the following comment:

"In public discussions of fair housing or open housing, however, another issue has often become confused with that of racial discrimination. This is sometimes referred to as economic integration. Frequently it arises in debates over whether subsidized low-rent public housing should be placed in the suburbs as a means of moving poor people out of the inner city, and if so where, to what extent, and by what means."

I take it, Mr. Bertsch, as I understand the thrust of your plan, this is a decision by the politically responsible individuals in this area that if you are going to have indeed fair housing, open housing, that you need to have some sort of economic integration as well in terms of options for that housing spread throughout the area? Is that a correct interpretation of the thrust of your statement?

MR. BERTSCH. I would think conditionally it would be. It is certainly a strategy that was developed locally. I don't know that integration as a goal *per se* is a keystone to the whole plan as much as it is unhindered opportunity for movement.

If integration is a result of that freedom of choice, fine. But we think that we can prove within our region that there are strains which are being placed on people who would like to execute that choice where they are not being given the opportunity, and they don't happen to be black.

So we are saying that there need to be programs which provide for some type of a bonus system for those municipalities that do provide that opportunity. I have not had the opportunity to read the complete text of the President's statement. If in essence by the statement as I understand it he is talking about the placement of priorities for those communities that aggressively develop strategies or develop programs, that there will be some bonuses forthcoming versus penalties—

VICE CHAIRMAN HORN. You would feel your group would deserve the bonus?

MR. BERTSCH. I would feel that our plan would qualify, and I would like to see that philosophy aggressively pursued.

VICE CHAIRMAN HORN. Let me ask you: Of the municipalities in

your various county region, how many of them have restrictions on lot size of, say, 1 acre and above? Do many of them?

MR. BERTSCH. None. The zoning ordinances within our region have lots that range up to let's say 2 acres, but in every political subdivision within our five-county area there also is a range of lot sizes down from there, and in every case the zoning ordinances provide for multiple family structures.

It is not zoning so much that is a restraint within our area as it is the consistent or inaccurate or arbitrary administration thereof.

We find that many times a rezoning application will be treated differently if it is for a luxury apartment than if it is for a 236 project. In other words, there are other factors that are weighed when there are low- and moderate-income or minority people involved.

There are some subdivisions within our region which we feel do not provide a small enough single family lot in order to make, for example, the 235 single family homeownership program work. And we are aiming portions of our programs at attempting to eliminate or, at least, alleviate those situations.

VICE CHAIRMAN HORN. Do you have any feeling as to an appropriate political vehicle above the local zoning board that might be in order to reconcile this problem so the citizen would have the right to appeal on such a zoning issue especially when 235 housing or low-income, multifamily housing is involved?

MR. BERTSCH. We had a recommendation within the plan as it was adopted last October to the commission, staff recommendation, that State law be amended to allow for an override, much akin to the New York provision. That became the focus, that aspect of our plan became the focus, of many within the public hearings and, as a result, that particular portion of the plan as a policy to be pursued in conjunction with the State was eliminated. We might very well reach the point where that would be a very desirable thing to have.

VICE CHAIRMAN HORN. Are there any further questions of any member of the panel?

COMMISSIONER RUIZ. I just have one more question.

VICE CHAIRMAN HORN. Commissioner Ruiz.

COMMISSIONER RUIZ. As to the Spanish speaking inhabitants, are they permanent residents or do they simply go by there?

MR. BERTSCH. We annually have coming to the agricultural portions of our region a great number of Spanish speaking people who are in their own right migrants and moving with the particular agricultural economy that they are following.

We have found that a great number of these people decide to stay and are gainfully employed as residents of the region or in turn come back and stay.

Two years ago there was a program developed by one of our commissioners in Darke County which addressed itself to education, addressed itself to legal rights and housing opportunity. From that developed housing opportunity for 15 families.

COMMISSIONER RUIZ. Do they live in any particular location?

MR. BERTSCH. I would say from a migrant standpoint the major migrant worker influx is in Preble and Darke Counties. There is no identifiable Spanish speaking ghetto within our region.

COMMISSIONER RUIZ. No more questions.

VICE CHAIRMAN HORN. Thank you very much, ladies and gentlemen. We are deeply grateful for your appearance here this morning. As I think is usual in both hearings of this Commission and congressional and other legislative hearings, you find when you talk to the people that are on the firing line at the grass roots, a certain amount of common sense shows through.

We commend you for your efforts, and we thank you for sharing this information and background with us.

The Commission will now stand in recess for 15 minutes, after which we will hear Mr. Brown, the Director of the Bureau of the Census.

VICE CHAIRMAN HORN. Will Mr. George H. Brown, the Director of the Bureau of the Census, and Conrad Taeuber please come to the witness stand?

(Whereupon, Mr. George H. Brown and Dr. Conrad Taeuber were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. GEORGE H. BROWN, DIRECTOR,
BUREAU OF THE CENSUS, AND DR. CONRAD TAEUBER,
ASSOCIATE DIRECTOR, BUREAU OF THE CENSUS, WASHINGTON, D.C.**

VICE CHAIRMAN HORN. Please be seated. Mr. Powell?

MR. POWELL. Mr. Chairman, at our request the Bureau of the Census has prepared a statement describing the population changes in the last decade. We also have some charts which have been prepared in connection with these changes. At this time I would like to have these exhibits entered into the record.

VICE CHAIRMAN HORN. Without objection, they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibit No. 6 and received in evidence.)

VICE CHAIRMAN HORN. Let me ask you, Mr. Powell, was that chart of the Dayton Plan area also inserted in the record?

MR. POWELL. Yes.

VICE CHAIRMAN HORN. All right. If it wasn't, I would like it inserted at the beginning of that testimony.

MR. POWELL. Yes, it will be.

VICE CHAIRMAN HORN. Okay.

MR. POWELL. Will each of you please state your name and title?

MR. BROWN. I am George H. Brown, Director of the Bureau of the Census, Department of Commerce.

MR. TAEUBER. Conrad Taeuber, Associate Director of the Bureau of the Census, Department of Commerce.

MR. POWELL. We would like to first consider how the Nation's metropolitan areas, particularly those of 500,000 or more, have changed in the last decade with respect to racial residential patterns. These metropolitan areas have had a substantial increase in population during the last 10 years? Is that correct?

MR. BROWN. Yes, that is correct.

MR. POWELL. What has this increase been?

MR. BROWN. The increase for metropolitan areas taken as a total has been higher than the national average, and my recollection is that the increase is around—what, 17 percent?

MR. TAEUBER. Yes.

MR. BROWN. The Nation as a whole increased about 13 percent. The rate of increase in the metropolitan areas as a total was higher, and my recollection is it's in that neighborhood. We can give you the precise figure.

MR. POWELL. Turning to Item 5 of Table 1, is it correct that the increase has been about 14 million? The increase for metropolitan areas of 500,000 or more has been about 14 million?

MR. BROWN. If you sum the items in Item 5 of Table 1, I am sure it will come out to about 14 million in total.

MR. POWELL. Now, continuing to focus on the increase in metropolitan areas of 500,000 or more, how much of this increase has been white population?

MR. BROWN. If you take the metropolitan areas as a whole, as opposed to the separation between central city and suburbs, there is an increase of about 11 million.

MR. POWELL. About 11 million?

MR. BROWN. Yes, about 11 million.

MR. POWELL. How much of this increase has been of the black population?

MR. BROWN. Black population has increased about 3.5 million.

MR. POWELL. During this decade, still talking about metropolitan areas of 500,000 or more, how did the number of whites in central cities change?

MR. BROWN. Within the central city portion of the metropolitan areas, the numbers of white people decreased during the decade.

MR. POWELL. By about how many?

MR. BROWN. By about 2 million.

MR. POWELL. And how did the number of whites in the suburban areas change?

MR. BROWN. The number of whites in the suburban rings increased about 12.5 million.

MR. POWELL. And with respect to the black population, how is the increase divided between central city and suburb?

MR. BROWN. Well, in the case of the Negro population, there was an increase of 2.8 million in the central cities and an increase of approximately 750,000 in the suburban rings.

MR. POWELL. Does the chart show this?

MR. BROWN. Yes. These figures are indicated in the chart that is on display.

MR. POWELL. Mr. Brown, Dr. Taeuber, looking at this in another way, what percentage of central city residents in 1960 were white?

MR. BROWN. In 1960, 80 percent of the residents of the central city were white.

MR. POWELL. What percentage of these central cities were black?

MR. BROWN. In 1960 it was 18 percent.

MR. POWELL. Is this information shown in the chart that is now up?

MR. BROWN. Yes. That is the information on the chart. It was developed from a table in our submission.

MR. POWELL. Turning now to the present picture, how has this changed in 1970? What percentage of the central cities are now white?

MR. BROWN. In 1970 the percentage of white in the central city is down to 74 percent from the 1960 level of 80 percent.

MR. POWELL. And what percentage of the central cities are now black?

MR. BROWN. In 1970 in the central cities of these metropolitan areas of 500,000 and over it was over 23 percent, almost 24 percent, up from 18 percent in 1960.

MR. POWELL. So that the decline was 6.6 percentage points for whites and an increase of 5.4 percentage points for blacks? Is that correct?

MR. BROWN. Yes, sir.

MR. POWELL. Now, looking at the suburbs, what percentage of suburbanites were white in 1960?

MR. BROWN. In 1960, about 96 percent of the suburbs were white.

MR. POWELL. What percentage of the suburbs were black in 1960?

MR. BROWN. 4.2 percent in 1960.

MR. POWELL. Turning now to the present picture, have these percentages changed to any appreciable degree during the last 10 years?

MR. BROWN. There has been a very slight increase in the percentage black, going from 4.2 to 4.5. Since this is a census, those percentage changes can be taken as significant measures.

MR. POWELL. This information is shown on the charts?

MR. BROWN. Yes, that information is shown on the exhibit.

MR. POWELL. The difference between 100 percent, 94.3 and 4.5, does that relate to other races?

MR. BROWN. Yes, it does.

MR. POWELL. Now, Mr. Brown, Dr. Taeuber, if we look at these changes in still another way, if blacks were represented in the suburban increase to the same extent as they are represented in the metropolitan population, what percentage of the suburban increase would be of blacks?

MR. BROWN. Well, in 1960 18 percent of the population in the center city was black. And if the proportions migrating to the suburbs were the same for Negro and white, you would expect 18 percent of the people migrating from the central city to the suburbs to be black.

MR. POWELL. Well, what was the actual rate of participation, black participation, in the suburban increase?

MR. BROWN. It is 9 percent as shown in the exhibit. On the other hand, if you take it from the point of view of the percentage of the blacks who were in the suburbs in 1960, which was about 4 percent, as against the 96 percent or 95 percent for white, if the immigration had preserved the proportions that were in the suburbs in 1960, it would be 5 percent as compared to the 9 percent.

MR. POWELL. But the suburban increase doesn't reflect the percentage of blacks in the metropolitan area as a whole?

MR. BROWN. No, and the percent Negro that was in the center city was higher than the percent that was Negro among those who migrated to the suburbs in the sixties.

MR. POWELL. And less than the percentage of blacks within the metropolitan area taken as a whole?

MR. BROWN. Yes.

MR. POWELL. Looking at the blacks in suburbs, of which you say there has been an increase of a little over 750,000, do you have any information about where these people are living in the suburbs, these black people who have moved to the suburbs in the last 10 years?

MR. BROWN. We are just beginning to get this information. This comes from the census tract analysis and calls for the full detail by census tract. We have published materials for two cities so far and are in the process of going through the balance of the cities, and I would expect, Dr. Taeuber, we will have census tract data which will show race by census tract within the next several months. Is that correct?

MR. TAEUBER. Yes, we will.

MR. BROWN. But as of right now we do not have that.

MR. POWELL. To what extent would you say that the black increase in the suburbs is a spillover from central cities, just an increase over the city line into the suburbs? Is there any indication that black increase is a reflection of that phenomenon?

MR. BROWN. We only have data for the two cities that I have mentioned, and my own feelings are that we should wait until we have the additional information before we at the Bureau try to draw any conclusions with respect to the particular point that you are talking about.

I think it's quite appropriate, of course, to look at such evidence as does exist, but you should recognize that it represents only two out of hundreds of cities.

MR. POWELL. What are the two cities that you have looked at?

MR. BROWN. Washington, D.C. and Cleveland, Ohio.

MR. POWELL. Does your analysis of these cities show that blacks are living in integrated situations or are they concentrated in racial ghettos in the suburbs?

MR. BROWN. I have not examined the information in that depth for those two cities. We have that under analysis right now and would be pleased to submit the information that we have along with an analysis, but I would prefer to take a little time to study that particular point.

We had planned to wait until we had more cities to work with rather

than to execute this analysis for just these two cities. However, we do have the information and will be very happy to supply it.

MR. POWELL. When you obtain more detailed information, would you provide the Commission with that information?

MR. BROWN. We would be very pleased to do so.

(This information appears on p. 1095.)

MR. POWELL. Mr. Brown, Dr. Taeuber, it is often said that lower income accounts for the extent to which blacks live in central cities rather than in suburbia. How adequate an explanation is this?

MR. BROWN. Well, the tabulations that we submitted and which I see are now on the exhibit indicate that the percentage of Negroes living in the central city goes down slightly as incomes rise but, as you can see, for families less than \$4,000 there's 85.5 percent who live in the central city in SMSA's of about one million or more.

When the income goes to \$4,000 to \$10,000, that drops to 82.5. And for persons with more than \$10,000 it is 76.8.

If you take a look for the white population, you will find that for incomes less than \$4,000 it is 46.4 percent who live in the central city, which compares to the 85.5 for the Negro population. As you rise in the income scale, \$4,000 to \$10,000, that drops to 41.6 for the white population compared to 82.5. And for \$10,000 and more, to 31 percent among white families compared to the 77 percent among black families.

MR. POWELL. So there are more people of the white population earning under \$4,000 living in the suburbs than blacks who earn over \$10,000 living in the suburbs? Is that correct?

MR. BROWN. That is correct.

MR. POWELL. In discussing the segregation of blacks it is sometimes pointed out that other ethnic or minority groups have lived in segregated ghettos when they first arrived in the large cities. Later, however, members of these groups have moved quite freely, some staying in ethnic neighborhoods, others moving throughout the metropolitan area. Are blacks following this pattern?

MR. BROWN. I am not in a position to comment on that. Dr. Taeuber, I don't know, are you familiar with studies that have been made of this phenomenon for other groups?

MR. TAEUBER. No, we have very little information for individual groups, but obviously from these figures at the present time blacks have not moved to the suburbs to anything like the extent to which we have found this for the descendants of the earlier immigrants.

MR. POWELL. Since economics doesn't completely explain it, it must be due to some other factors, wouldn't you say?

MR. TAEUBER. That could well be.

MR. POWELL. Turning now to the future, let's consider what metropolitan areas will look like 10 or 15 years from now. The substantial black increase in metropolitan areas has been to a great extent the result of migration of blacks from the South to the North and from rural areas to urban ones? Is that correct?

MR. BROWN. It has been partly due to that. It has also been very substantially due to the natural increase—that is, excess of births over

deaths—among families who are in the central cities or in the suburbs.

MR. POWELL. Can we expect this phenomenon to continue?

MR. BROWN. This is a judgment factor, and I would think that the members of the Commission probably are in the best position to make that judgment. I think our contribution should be to spell out as clearly as we can for you the history up through 1970. The projection of trends is, of course, a professional kind of judgment. But I would think there are many people who are able to make those projections.

I think that we should concentrate our attention on the trends through 1970 and let the members of the Commission and the experts they may call on make the projections through the next 10 years or so.

MR. POWELL. Looking at the concentration of blacks in the cities, even without migration, wouldn't you say that the black population would rise by virtue of the excess of births over deaths?

MR. BROWN. If past patterns continue there is no question but what the percentage of black people in the central city will rise because there has been an excess of births over deaths.

As we pointed out in our testimony, the age group of the Negro population in the central city is concentrated in the younger or child-bearing age groups, and that factor would indicate that there should be continued increase in population. We can also predict with certainty that there will be a continued excess of births over deaths among the black population or Negro population in the central cities.

Whether they will stay in the central city or whether they will migrate to the suburbs or elsewhere is a matter that I do not care to make any prediction on except to just say that past trends have not been that way.

MR. POWELL. Are there Federal policy questions which have a bearing on the future distribution of the population within our metropolitan areas?

MR. BROWN. This is a matter of discussion and debate and, I think, in general, yes. But what policies, to what degree, is a matter of discussion, and I am sure there are people who will bring this information before the Commission.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Thank you very much, Mr. Powell. Commissioner Ruiz, do you have any questions you would like to ask at this time?

COMMISSIONER RUIZ. Do you have any census tracts on the boards with relation to Spanish surnamed persons residing either in New York or Los Angeles?

MR. BROWN. I don't think so.

MR. TAEUBER. We have not completed the tabulation of any of that material from the 1970 census. We will have, once the census tract materials are fully tabulated, information for the persons of Puerto Rican origin and those of Mexican American origin. We also will identify the Spanish surname group, and we will identify persons of other Spanish origin—the Cuban population, for example.

COMMISSIONER RUIZ. How long do you anticipate it may take for

you to get the first work out along that line?

MR. TAEUBER. For the States in which these people are particularly numerous—namely, California and New York—it will be very late this year or early next year before that is completed.

COMMISSIONER RUIZ. Thank you.

MR. BROWN. The work is progressing right now, and it is a matter of getting the publication through the system to complete the analysis of the forms to do the processing. But the plans are already there and the work is in process and will be coming out for some States before the end of the year.

But, as Dr. Taeuber said, our current estimate of the completion of the total tabulations, with particular reference to the Spanish speaking people, will go into the early months of next year before finally completed for the United States, and the very large States are the ones that as a rule come late in our tabulation schedules.

COMMISSIONER RUIZ. You are not leaving that toward the end? I mean you are working right along with respect to the overall program?

MR. BROWN. Yes, sir. And all the arrangements have been made, and all the plans have been set in place, and it is purely a matter of just the calendar time to complete the plan that has already been developed and is in existence.

And, as Dr. Taeuber says, it will not only be Spanish surnames but it will also take advantage of the other questions that were in the 1970 census that will enable us to separate out Mexican ancestry, Spanish speaking people, Puerto Rican, and the other various groups of Spanish speaking peoples.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Brown, these charts have shown the trend of the migration of Negroes or blacks toward the central city. Could that trend change just as rapidly the other way in the next two decades? I know you hate to say anything about the future, but in your experience with statistics, they can change the other way, can they not, due to outside influences and other things?

MR. BROWN. Yes, changes can take place. Ordinarily in social statistics there is a momentum or continuity of trends. But it is always possible for changes to take place.

For example, you will notice in the migration among the white people from South to North there was change in the last 20 or 30 years from a net outmigration of white people from South to North to a net immigration of white people from North to South. So change can take place.

Now, that was signaled by slowing down in the rate of outmigration and then a crossover to a pickup to a net immigration.

COMMISSIONER RANKIN. You would then consider it possible that living in central cities might again be made attractive to white people due to how handy it is to live there, how easy it is to get to work, and all that? Could living in a large city be made attractive again to white people?

MR. BROWN. Of course, this is a matter to—

COMMISSIONER RANKIN. I understand.

MR. BROWN. —to take into consideration among a number of people. I would say it is possible. The question is how probable. And I'm sure this is what the Commission will be working at.

COMMISSIONER RANKIN. Okay.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mr. Brown, I'm interested in the difference between homeownership and rental status for both categories of people in the suburbs and the city over these past few decade years. Do you notice anything significant?

MR. BROWN. In the materials we supplied the Commission we pointed out that there had been a slight rise in homeownership among the Negro people living in the central cities and in the suburbs. In the case of the white population in these metropolitan areas there was very little change, slight rise in the central city as I recall and a slight decrease in the suburbs.

However, of course, the level of homeownership among the Negro people was below the level of homeownership for the white people in both the central city and in the suburbs.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Brown, while you declined to make any predictions or trends, I would like to ask if the Bureau of the Census has in the past or going back to the 1960 census, did you make any reports concerning or predictions based upon the 1960 census of the manpower goals for the 1970's in terms of employment? Does the census make any predictions based upon census data on other subjects?

MR. BROWN. Yes. We do make what we call projections, which are somewhat different from a prediction. A projection simply says that if the past trends continue the way they have and changing at the rate that they are changing, then, if that is so, we do the arithmetic which will say how the particular statistics will look 10 years from now.

But this then raises the question as to will it continue or won't it? And that becomes the prediction.

COMMISSIONER FREEMAN. Well, I would like to ask you would you then make a projection on the basis of what your 1970 census has indicated as to—

MR. BROWN. We have already done this.

COMMISSIONER FREEMAN. Would you state then what your projection would be of the 1980 population of the suburban metropolitan areas as to race?

MR. BROWN. Well, if you project the trends that have been identified for the last several decades, including 1960 to 1970, a projection would indicate three things:

We would expect the metropolitan areas as a total to grow faster, slightly faster, than the total U.S. The rate of growth, difference between metropolitan and U.S., is steadily narrowing, but we would still expect it to grow.

We would expect the suburban ring to grow much more rapidly than

the central cities. This would be the projection.

We would expect the percentage of Negro people living in the central city to rise because it has been rising for the last several decades, and the projections would say that.

And then the percentage of Negro people in the suburbs on a projection basis would remain relatively constant, rising, but rising from, say, the 4.5 percent basis that we are talking about to possibly 4.6 or 4.7.

Now, that is just a projection. That is not a prediction of what will happen.

COMMISSIONER FREEMAN. Standing still or moving backward?

MR. BROWN. Well, generally, our projection is simply to say what took place between 1960 and 1970 and compare that change with the change that took place between 1950 and 1960, and then to extrapolate for 1960 or 1970. The projection would just simply say: If those things continue the way they have for the last 20 or 30 years, then the next 10 years would look this way. But that says "if" and that is why I called it a projection rather than a prediction.

COMMISSIONER FREEMAN. Thank you.

MR. BROWN. We are happy to do that arithmetic.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I don't have any questions.

VICE CHAIRMAN HORN. Mr. Brown, I'd like to ask you have you ever projected beyond the next 10 years taking the past population trends as the base?

MR. BROWN. Yes, we have population projections that have gone through the year 2000, for example.

VICE CHAIRMAN HORN. Well, this leads to the only question I want to ask. I would appreciate having the Bureau of the Census furnish for the record, based on the current situation in suburbia and the central city, along the lines that Commissioner Freeman asked, a projection of population for the year 2020, 50 years from now, assuming that there is no further access to the suburbs for Negroes than there has been at the present time.

Is it possible that this can be done in terms of established statistical procedures? I'd like to know what the population of this country is going to look like in 2020—whites, blacks, suburbs, central city, based on the birth rate statistics in particular.

MR. BROWN. To take a 50-year period ahead is extremely risky. You can put the arithmetic through. We have done a good deal of work on the next 15 years, which we think is a much better basis for extending projections or extrapolations of past trends.

VICE CHAIRMAN HORN. That gets us to 1985.

MR. BROWN. 1985.

VICE CHAIRMAN HORN. Can we get us to the year 2000?

MR. BROWN. Yes, we have reluctantly gone to the year 2000, and, as you can see, the arithmetic can just be carried on, but you have to begin to make a large number of assumptions, —

VICE CHAIRMAN HORN. Yes.

MR. BROWN. —particularly with respect to unchanging fertility rates, unchanging social situations, and they to us become so unrealistic that we are very hesitant about even doing the arithmetic on request.

VICE CHAIRMAN HORN. Well, I know there is a great difficulty, and a lot of fallacies can get built in. But I think what I'd like to illustrate is if you assume no movement—and obviously we are all hopeful there will be movement—

MR. BROWN. That's right.

VICE CHAIRMAN HORN. —between central city and suburbs for both whites and blacks at differing economic levels—but if you assume the status quo I'd like to see the shocking figure of what this country would look like really in the year 2000, if you will. I'll chop 20 years off the request. That's 30 years from now. If that could be furnished for the record, I would appreciate it.

(The information referred to appears as Exhibit No. 57.)

If there are no further questions, I want to thank you gentlemen both for the excellent full statement which you have given us as well as your response to these questions and the charts which the Bureau of the Census has prepared.

We are indeed grateful for this insight. Thank you very much.

Will Mr. Roy Littlejohn, the Chairman of the Washington, D. C. State Advisory Committee to the United States Commission on Civil Rights please come forward?

(Whereupon, Mr. Roy Littlejohn was sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. ROY LITTLEJOHN, CHAIRMAN,
WASHINGTON, D.C. STATE ADVISORY COMMITTEE TO
THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

VICE CHAIRMAN HORN. Please be seated.

We are glad to welcome you here, Roy. You are a former member of this group—at one time an Assistant General Counsel of the Commission. We are delighted to have another Assistant General Counsel, Mr. David Hunter, begin the questioning.

MR. HUNTER. Mr. Littlejohn, could you please state your name, address, and position for the record?

MR. LITTLEJOHN. Yes. My name is Roy Littlejohn. I live at 7223 - 16th Street, N. W. I am president of Roy Littlejohn Associates.

MR. HUNTER. You have a position with the State Advisory Committee—

MR. LITTLEJOHN. Yes, I am Chairman of the D. C. Advisory Committee to the U.S. Commission on Civil Rights.

MR. HUNTER. Since the Commission is holding this hearing in Washington, D. C., we thought we should take some time to look at what is going on in the Washington Metropolitan Area. As a start for doing that, could you explain to us briefly in what respects this metropolitan area is similar to others and, perhaps more importantly, in

what respects this metropolitan area is different from other areas?

MR. LITTLEJOHN. Yes. But before I address that question, I would like to thank the Commission for affording us this opportunity to appear before you and to share with you our views about our problems in the District of Columbia.

With that in mind, we would like to indicate that our problems in the District of Columbia in many respects are not unique. Washington, D. C., like most major cities in the Nation today, is plagued with a multiplicity of problems. It is experiencing a critical housing shortage, especially for low- and middle-income families. It is experiencing a serious problem of crime, spiraling welfare costs, and numerous problems associated with the administration of our public schools.

Importantly, with the dramatic need to deal with these problems, the District faces severe financial problems because of a declining tax base and an inability to impose a nonresident income tax.

Washington is similar to most other major cities in that the central city is losing jobs to the suburbs. Not only are private firms relocating in the suburbs, many Federal agencies are moving to the suburbs as well.

With the movement of the Navy Department to Northern Virginia, the District suffered its first absolute loss of Federal jobs, and with the loss of jobs there is a loss of income to the city. And if housing and facilities for low-income families are not provided in the suburbs, then the District of Columbia is forced to provide these services even though it does not have income being derived therefrom.

I must state that the single most important factor which distinguishes the District of Columbia from other major cities is not its per capita income or the extent of its social dysfunctioning or any other such indicators. Rather, the District of Columbia is clearly distinguishable on the basis of its inability to deal with its internal problems.

Washington, D. C. is a Federal city. It is America's last colony. And more than that, it is an island surrounded by political jurisdictions that view the District and its predominantly black population with fear and disdain.

These jurisdictions also have important economic, social, and political interests that are often in conflict with the best interests of the residents of the District of Columbia.

To state the proposition differently, we are a colonized people in the District of Columbia where even the illusion of power is often missing from important segments of our lives. Even though we now have the right to vote for President, Vice President, a nonvoting Delegate to Congress, and a school board, we are still denied the right to vote for mayor, members of the city council, and other important positions.

Major decisions affecting our lives are still being made by congressional committees who have never had our interests as their first concern. This situation will not change until we obtain home rule.

Washington is different from most other large urban centers in that it has already become majority black. To many observers this is the main reason why we have not been granted home rule. Washington is

simply the forerunner of a pattern that is being followed in Gary, Atlanta, Newark, and many other cities where the majority of black population is already increasing and where there will be shortly a majority.

This pattern of black immigration to cities and white flight to the suburbs has been developing for some time. In Washington some black families financially able to do so have been moving to some suburban areas but, according to the 1970 census, the black suburban population is still less than 8 percent.

It was estimated that the District population would reach 800,000 by the 1970 census. As it turns out, however, the population declined to 756,510.

I believe, sir, that these are some of the similarities and problems and differences in problems as we view the Washington situation and compare it with other metropolitan areas.

MR. HUNTER. Thank you, Mr. Littlejohn.

Could you now describe for us the activities of the D. C. SAC that relate to the subject of our hearing this morning?

MR. LITTLEJOHN. Yes. The D. C. Advisory Committee conducted an investigation last year of the movement of Federal facilities to the Washington suburbs. In this inquiry we especially focused on the HEW move to Rockville, Maryland, affecting some 5,000 employees, and the Navy Department move to Northern Virginia, involving approximately 12,000 employees. We also received information concerning the moves of the Atomic Energy Commission, the National Bureau of Standards, and an attempted Labor Department move.

I would like to present a copy of the report of the D. C. Advisory Committee to you at this time for inclusion in the record.

MR. HUNTER. Mr. Chairman, could that be included in the record?

VICE CHAIRMAN HORN. Without objection, it will be inserted in the record at this point.

MR. HUNTER. Thank you.

(Whereupon, the document referred to was marked Exhibit No. 7 and received in evidence.)

MR. LITTLEJOHN. I must add that this document has not been released to the public. We hope to have the final version of the report reproduced and available for general distribution in a few weeks.

Our most significant finding we believe is that even though there is civil rights legislation, an Executive order, and agency regulations requiring that consideration be given to the availability of low- and moderate-income housing, adequate transportation, and a positive economic and social influence, moves took place without adequately considering these factors.

We further found that the employees affected by these moves were not consulted prior to the decision to move. Nor were the interests of the lower grade and minority employees adequately considered.

As a result of these moves, the number of minority employees in the new facilities tended to decline.

We learned that there is substantial office space to be leased in the

District of Columbia, and, importantly, there are large areas in the District that could be developed for use as Federal office space. In spite of these facts, Federal agencies have apparently chosen to relocate in the suburbs.

We were told by the black residents of suburban Maryland and Northern Virginia that housing for low- or moderate-income families in the suburbs was almost nonexistent and that discrimination is still widespread and the atmosphere is unfriendly.

Other findings include:

The percentage of blacks in the suburbs has remained constant and in some cases the percentage has declined, despite the dramatic increase in suburban population.

Federal housing programs have served to reinforce the pattern of segregation.

The District Government, though directly affected by such moves, is not consulted and is powerless to protect its citizens.

Based on these findings, the D. C. Advisory Committee recommends:

1. An immediate moratorium should be put into effect on the movement of all Federal installations and facilities to the Maryland and Virginia suburbs until the following steps have been taken:

(a) The Federal Government should develop a clearly defined and uniformly enforced policy with regard to the movement of Federal facilities, which includes obtaining guarantees from the surrounding jurisdictions that adequate housing for low- and moderate-income employees and the transportation and community services that they would normally require will be provided on a nondiscriminatory basis and at a reasonable cost.

(b) When a move is contemplated, employees should be informed as soon as possible and the issue should be a mandatory subject for collective bargaining between the agency and its employee organization.

(c) Hearings must be held which will give all parties an opportunity either to oppose the move or to present testimony or evidence concerning the move before it is approved.

2. The Federal Government should establish a centralized unit with representation from agencies with responsibility for locating facilities in the Washington Metropolitan Area to coordinate all matters relating to agency movement.

3. The District of Columbia should establish an office of Federal agency movement within the District of Columbia government to deal with the issue of job site locations within the District and to establish working relationships with the Federal agencies employing its citizens and providing income to the city.

4. The General Services Administration, which has the responsibility for acquiring space for many governmental agencies, should enforce more vigorously its own policies with respect to locating sites in areas with housing for low- and moderate-income employees.

Mr. Chairman, members of the Commission, we realize that even if

all of our recommendations are favorably considered by the appropriate governmental units, the quality of life of the majority of blacks in the District of Columbia will not be substantially improved. This is the case because the question of improving the quality of life of D. C. residents is infinitely more complex than devising stopgap means and measures to cause the Federal Government to address the housing needs of its employees in any contemplated move.

A consideration of this point requires that we address fundamental questions about the acquisition and retention of economic and political power. Some of these questions with which this Committee has struggled are:

One, how does a people constituting approximately 11 percent of the total population—that's nationwide—and distinguished by color, in a society that is racist, achieve an equitable position in the body politic?

A second question is: Is it realistic to expect that such a minority group can achieve equitable treatment absent having elected representatives from that group participating in the decisionmaking processes at all levels of government?

A third and final question is: Assuming that the answer to the above question must be in the affirmative, shouldn't the primary focus of the strategy for civil rights in the 1970's be on enhancing and facilitating the building of actual or potential power bases so as to assure a more equitable position in the body politic?

We submit that a consideration of these questions will put our recommendation in proper focus and context.

MR. HUNTER. Thank you.

VICE CHAIRMAN HORN. Thank you, Mr. Littlejohn.

If the other members of the panel will come forward, we will hold the questioning by the members of the Commission until after the conclusion of that panel.

Will Mr. Gibson, Mr. Grier, Mr. Harvey, and Mr. Scott please come forward?

(Whereupon, Mr. James Gibson, Mr. George Grier, Mr. James Harvey, and Mr. James Scott were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. JAMES GIBSON, PRESIDENT, METROPOLITAN WASHINGTON PLANNING AND HOUSING ASSOCIATION, INC.; MR. GEORGE GRIER, SENIOR ASSOCIATE, WASHINGTON CENTER FOR METROPOLITAN STUDIES; MR. JAMES HARVEY, EXECUTIVE DIRECTOR, HOUSING OPPORTUNITIES COUNCIL OF METROPOLITAN WASHINGTON; AND MR. JAMES SCOTT, EXECUTIVE DIRECTOR, WASHINGTON SUBURBAN INSTITUTE, WASHINGTON, D.C.

(Mr. Scott's prepared Statement appears on p. 1589.)

VICE CHAIRMAN HORN. Thank you. Please be seated.

MR. HUNTER. Would each of you, please, with the exception of Mr. Littlejohn, state your name, address, and position in your organization for the record? Mr. Harvey?

MR. HARVEY. I'm James H. Harvey, executive director of the Housing Opportunities Council of Metropolitan Washington. We are located at 711 - 14th Street, N. W.

MR. HUNTER. Mr. Grier?

MR. GRIER. I am George Grier. I am senior associate of the Washington Center for Metropolitan Studies, located at 1717 Massachusetts Avenue, N. W.

MR. HUNTER. Mr. Gibson?

MR. GIBSON. I am James O. Gibson, the president of the Metropolitan Washington Planning and Housing Association, which is located at 1225 K Street, N. W.

MR. HUNTER. Mr. Scott?

MR. SCOTT. I am James M. Scott, executive director of the Washington Suburban Institute, 3928 Old Lee Highway, Fairfax, Virginia.

MR. HUNTER. Thank you. We would like to start with a consideration of the demographic patterns in the metropolitan area, the racial patterns, and the changes that have taken place in the last 10 years. We have a map that Mr. Grier brought showing that, if that could be put up.

MR. GRIER. May I help get that out here?

MR. HUNTER. Yes.

(See maps pp. 568-70.)

VICE CHAIRMAN HORN. Do you want to use this microphone and speak to illustrate it or what?

MR. GRIER. Yes, sir, if I can just get my notes.

There are some rather dramatic changes that have occurred in the racial patterns of Metropolitan Washington during the past 10 years. As the testimony of the Census Bureau officials earlier indicated, this does not appear to be typical of metropolitan areas nationally.

Nevertheless, we believe that Washington can be, and perhaps is, a forerunner of population patterns which may begin to show up in other metropolitan areas across the Nation.

In 1960 Metropolitan Washington showed a phenomenon that we called the "white doughnut"—with a heavy black concentration in the center, a heavily white suburban ring, and then on the outskirts of the metropolitan area again higher black concentrations which were remnants of the old plantation pattern of development which had dominated this area until about the time of the Civil War. And these black families were still resident out there and were largely farmers on land on which they had formerly been slaves.

But every place that suburban development had gone, the blacks had been outnumbered by the whites to the point where those areas became whiter.

What happened between 1960 and 1970 is in our view very dramatic and also very important. What happened was essentially that black population began moving outward generally in small percentages to most of the suburban ring inside the Capital Beltway.

Now, the Capital Beltway is a circumferential highway which completely surrounds the District of Columbia and is shown by this line on

this map.

Inside the Capital Beltway, a very substantial degree of desegregation occurred with black families moving into most areas of the suburbs, but inside the beltway.

Outside the beltway, however, the black proportion in many cases decreased.

Now, without the overlay, you can see the increase, and you can see how closely it parallels the route of the beltway or is bounded by the route of the beltway.

And when we overlay this celluloid over it, we see the areas of decrease in black proportion.

You can see now that the white doughnut has moved out further and is now out here on the outskirts of the metropolitan area. But blacks are moving quite broadly into the inner-ring suburbs, and they include many of our most prosperous suburbs. There are substantial increases in black population in Montgomery County.

However, I would like to make clear that most of the increase in black population in suburbia has occurred in Prince George's County, this area to the east of the District, and slightly less than half of the black population in the suburbs now lives in Prince George's County.

MR. HUNTER. Thank you, Mr. Grier.

If we could turn now to Mr. Harvey, could you discuss for us perhaps why the black population is moving in some directions and not others? Why is the larger concentration in suburbia in Prince George's County and not in some of the other counties of the metropolitan area?

MR. HARVEY. I think for three reasons, three principal reasons.

One, in Prince George's County you have had a black population that has been located there for a long period of time. You have a couple of all-black towns or communities in Prince George's County. So as those communities tended to increase, they tended to attract more blacks to that particular area.

Secondly, what we find in our program efforts is that there has been some definite steering of blacks to that particular area—that is, steering on the part of the real estate community, that says: "We are willing to sell or rent to blacks in that particular area." Also, I think because of the amount of growth that has taken place in Prince George's County and the price of housing is perhaps within the means of a number of black families who are seeking housing in the suburban areas.

MR. HUNTER. As far as the steering is concerned, is advertising of real estate a part of that problem?

MR. HARVEY. Well, we have found that some developments that were insured by FHA were advertised in such a way to definitely attract black buyers. That is, they used black models in their advertising and we haven't found the use of black models in advertising with other kinds of real estate.

And upon further investigation, we found that the salespeople at these developments were specifically discouraging whites from buying and they would tell whites that they had other developments in which they thought that they would be happy.

So that we found that advertising is a great part of the marketing of real estate and if this is racially slanted, then the results are segregated communities.

MR. HUNTER. Thank you.

Mr. Grier described for us this doughnut-like process that we have going on where part of the metropolitan area, most of the suburban area, is part of a white doughnut, while we have the center part which is increasingly black. I would like to consider now the role that the Federal Government has in creating that situation.

Mr. Gibson, could you discuss for us what effect this has on the displacement of Federal facilities?

MR. GIBSON. Yes, Mr. Hunter. As Mr. Littlejohn pointed out in discussing some of the recommendations of the SAC and some of the information which they have been dealing with, since about 1963 about 87 percent of Federal Government office operational expansion has gone into the suburbs rather than into the central city.

When I was on the Planning Commission, the National Capital Planning Commission, a few years ago, I introduced a resolution which was adopted by the Planning Commission which required that in its consideration of projects, Federal projects, around the region, which is its responsibility, and the planning and placement of those projects, that it should add to the kinds of considerations it was making factors related to race and income.

No project of the Federal Government is permitted to go into a jurisdiction in this metropolitan region if that project imposes a traffic load which the surrounding streets and road networks cannot handle.

It is reviewed for its design, for its traffic impact.

It is reviewed for the kinds of materials which shall go into the exteriors of the facilities and buildings.

And it is reviewed in any number of ways.

Until very recently there was no policy at the National Capital Planning Commission which required that employment-generating facilities going into the suburbs should be reviewed with regard to the access of housing which correlated with the income and racial mixture of the staffs which were being moved to those areas.

We found in the early preliminary examinations related to that kind of questioning on the part of the Planning Commission that there was a strong correlation, and I think the Civil Rights Commission a few years ago published a study which showed that there was a strong correlation between moves from the central city by Federal agencies and ultimate loss of jobs by nonwhite workers because of the, on one hand, lack of access to adequate public transportation and, on the other, the lack of housing within economic reach which was free of racial discrimination in their merchandising and rental patterns.

So that that sort of framework has been operative here.

The policies have been passed by the Planning Commission which would at least add that amount of discerning review to the Federal Government moves. But the kind of implementation, the follow-through on that kind of policy, remains a difficulty as I will discuss in a

moment.

But, at any rate, Mr. Hunter, I think it should be instructive to note that there was 87 percent of Federal expansion moved to the suburbs rather than in the District of Columbia.

Until March of 1970, the District of Columbia had led all the jurisdictions in this region in the amount of federally leased space, with some 6.6 million square feet. However, with the move of the Navy employees to Crystal City, Virginia, it jumped to the top with 7.34 million square feet of leased space.

Most of the Virginia concentration is in Arlington County, with some 27,000 Federal employees, principally in the Rosslyn and Jefferson Davis corridors.

Maryland trails the three jurisdictions with 3.7 million square feet of office space, almost all of which is in Montgomery County.

Now, taking those figures or that citation and going back to Mr. Grier's map, you might notice that while black migration to the suburbs is going east, the Federal migration of jobs is going west along with the white population.

I think that this sort of policy, this dichotomy of Federal policy articulated on one level and Federal implementation specifically applied where the Federal presence has its greatest concentration in the Nation and where through the National Capital Planning Commission and other mechanisms the Federal presence has a jurisdictional authority in effect, I think we can see that the Federal Government is not exempt from the kinds of participation—and collusion if you will—in the factors which have institutionally reflected racial discrimination even to this day.

MR. HUNTER. We will come back to this later, Mr. Gibson.

If we can turn now to another Federal activity, Mr. Grier, what effect has the highway program in the metropolitan area, the beltway and other roads, had on the economic development of the metropolitan area?

(See maps pp. 568-72.)

MR. GRIER. If I may use this microphone again, one of the things that we are noting in some studies that we are conducting right now at the Washington Center is that the beltway is creating a whole series of alternative downtowns—we have identified at least a dozen of them—principally at interesections of the beltway with major radial highways.

There is, for example, the Tysons Corner area over here, and there is the Montgomery Mall area up here, and then there are several on the Prince George's County side as well.

But the most thriving of them seem to be in this area here where there has been less black migration.

Now, to give you an idea of the size of these new downtowns, the Tysons Corner Shopping Center has 100 stores, parking space for 6,000 cars, is at this time believed to be the largest enclosed shopping mall in the United States. There are several larger ones in construction—but at the present time. It is a huge monster of a building with literally thousands of jobs in addition to shopping opportunities.

Around the Tysons Corner Shopping Center are developing a complex of research and development firms offering a great variety of employment opportunities, mainly highly technical, but a lot of service jobs, too.

And now beginning to develop are high-rise apartment houses.

So that a whole new town is, in effect, being created at this beltway interchange. And this is happening at a number of the beltway interchanges. We believe that this is transforming the development patterns of this metropolitan area from a pattern which formerly had a single nucleus in downtown Washington to one which is now multinuclear and has at least a dozen downtowns which are competing with downtown Washington for business and jobs.

Now, downtown Washington, of course, is near where most of the black population lives, and, in effect, what is happening is that the beltway and the associated commercial and industrial and residential development is draining resources away from the largely black District of Columbia and will increasingly do so over the next decade.

MR. HUNTER. Thank you.

If we can turn now to yet another Federal activity, Mr. Harvey, could you comment on the pattern of location of federally subsidized housing in the metropolitan area and how that affects the racial residential patterns in the metropolitan area?

MR. HARVEY. I wonder if I could get that map?

MR. HUNTER. There is a map that will be brought out now.

(See map, p. 572.)

MR. HARVEY. What we did was to get a listing of all of the federally assisted housing that was being built in the metropolitan area and to plot its location on the map in order to determine whether or not the location was in fact perpetuating segregated patterns or whether it was offering additional housing opportunities for the families who needed that kind of housing.

And, as you will see, most of the housing is concentrated in Northeast Washington or the eastern part of Washington there.

Now, this includes the public housing, the rent-subsidized housing, and the interest-subsidized housing, the 235 and 236 programs. And you find as you look out even outside of the District of Columbia and near the beltway that Mr. Grier pointed out that there is very little housing and virtually none when you get outside of the beltway.

So our contention is that because of the policies of HUD and the Federal Government in the site selection of these housing units that they are in fact perpetuating a segregated pattern.

And we also find that this housing is being placed in communities and areas that are already lacking sufficient services to that particular community.

So we find that this is again heaping the poor with the poor and the black with the black and without providing the adequate services that are needed.

MR. HUNTER. Thank you.

We have now considered how three Federal agencies really are con-

cerned with the development of metropolitan areas and how this affects racial patterns—General Services Administration, the Department of Transportation, and HUD. Mr. Scott, in your study of Fairfax County and your experience there, can you describe other ways in which the Federal Government was involved in the development of housing and how this affects racial patterns?

MR. SCOTT. I think the most significant point that can be made as far as our investigations in Fairfax County specifically are concerned is that with respect to housing, employment, transportation, the Federal Government has consistently reinforced those local patterns of discrimination and segregation that have prevailed over the years.

This is particularly true in employment as the Federal Government moves out and its employment patterns are slightly better or as good as the suburban jurisdictions.

It happens in the land development process where the Federal Government in the acquisition of land and the use of land for Federal installations either reinforces or simply refuses to exert its power to change the patterns of suburban development to provide equal opportunity in housing.

This can be seen in the development of Dulles Airport, for instance, and the use of other Federal facilities.

It came to our clear recognition I think in 1967 and 1968 when the black servicemen were returning and unable to find housing.

The pattern continues in Fairfax County where there is virtually no black presence in the land development process. The Federal Government has in its housing programs done nothing as far as we can tell to remedy that situation. And as Mr. Harvey has suggested, as a matter of fact, the very large percentage of the federally subsidized housing that has been constructed in Fairfax County has been constructed in already black communities, further impacting, further concentrating, low- and moderate- income families in black communities.

MR. HUNTER. Thank you.

Mr. Chairman, could we introduce into the record the various maps that we have been looking at during this presentation?

VICE CHAIRMAN HORN. Without objection, the exhibits that we have been viewing during this presentation will be inserted at the appropriate point preceding the commentary that related to them.

Mr. Hunter. Thank you.

(Whereupon, the documents referred to were marked Exhibit No. 8 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Mitchell, do you have any questions?

COMMISSIONER MITCHELL. Mr. Grier, you commented on shopping areas and the location of them. I am assuming you would not object—or you would see as reasonable and generally logical the dispersion of the high-density shopping and business area of a city, assuming there were also dispersed housing opportunities and jobs?

MR. GRIER. Oh, yes, sir. Yes, sir. The concern is only with the fact

that housing available to the great majority of the black population is not being provided in close proximity to these same areas.

COMMISSIONER MITCHELL. Mr. Littlejohn, you suggested a program for Federal moves that would require a variety of things—discussion in advance with employees, possibly collective bargaining of a sort, and a variety of other things. Would you assume that it would be proper for the Government to require similar policies from Federal contractors not only in Washington but anywhere else in the country?

MR. LITTLEJOHN. Definitely. I believe that the Federal Government has a responsibility to use its Federal presence in this regard, and certainly a Federal contractor with substantial Federal funds ought to be able to provide some housing as well.

COMMISSIONER MITCHELL. So the program you are talking about is not just District of Columbia to District of Columbia suburbs? It would apply to any Federal contractor—whether it's McDonnell-Douglas in St. Louis or anywhere else—who would not be permitted to make a move out of an inner-city, following your theory, unless he had first settled his hash with his employees and with some other considerations that were satisfactory to Federal civil rights programs? Is that correct?

MR. LITTLEJOHN. That is correct.

COMMISSIONER MITCHELL. Mr. Gibson, you have talked about the migration of the jobs out of Washington. In fact, all of you have in a way. Do you believe that that movement of jobs is deliberate? Do you think that the Navy Department is racist and is moving jobs out to the west to get away from the blacks who have moved to the east? Or do you believe that there is some colossal stupidity involved here, or some combination of both?

MR. GIBSON. It's definitely a combination of both. It is definitely a combination of overt racism on the part of certain aspects of the decisionmaking that is being made. It is obviously a matter of momentous stupidity because it is setting up a situation which will redound to the disbenefit of that entire region, including the Federal Government.

And also it is a matter of the lack of the understanding that the impact of an administrative decision in an agency can disbalance a region in very serious ways.

And there has not been sufficient review in social and economic terms of the regional impact of administrative decisions within the agencies, and this is I think the primary culpability that I would find with regard to the Federal Government.

I do think, on the other hand, that, as we have found in the press recently, some definite criminal collusion plays a part with regard to this kind of move, because the leasing patterns— You see, it's now possible or we find that most of the moves of the Federal Government recently have occurred not through construction of Federal facilities but through leasing facilities, and much of the building that has gone on both within this city in the Northwest corridor or the Northwest sector of this city as well as outside in the Montgomery and Northern Virginia areas where the building has gone on in large measure— It is possible for the builders and the developers to undertake those large-

scale operations because they have commitments of Federal leasing.

Some of that involves in my view obviously and necessarily criminal collusion.

In addition to that, I think that part of the stupidity that you allude to and which I concur exists within this complex is reflected in the fact that such instrumentalities as the National Capital Planning Commission still do not infuse social and economic reviews of the kind that have impact of this sort in the scrutiny which they apply to Federal moves around this region.

I think that the fact that the District of Columbia which has so many needs because of these changing demographic factors— You see, I don't think that it's bad to have suburbs. I don't think that we should lament the existence of the suburbs. I also don't think that it's unnatural that a certain amount of retail and other sorts of activities would follow those settlement patterns.

But I do think that it is criminal and I do think that it is racist and I do think that it is stupid to think that a central city must go down the drain because there has been a rearrangement of settlement patterns to accommodate growth.

I think that it's criminal and racist to have discriminatory patterns which concentrate high dependent populations in one jurisdiction and permit other people to run across jurisdictional barriers that protect them from the property taxation and other kinds of taxation which should go to afford through public policy and through public services the needs of the bottom rung of our ladder.

We shouldn't have a bottom rung of a ladder here if public policy is appropriate.

But we certainly should not let citizens run behind barriers of artificial jurisdictions to escape from the responsibilities which we have as a Nation to the persons who are at the bottom of our ladder. Because they are systemically there. They have been placed there by circumstances not always under their individual control.

So that stupidity, racism, all these things are mixed up in here.

I find, Mr. Commissioner, for instance, that I do not know how to understand a renegeing on the part of President Nixon, a very explicit renegeing. When I resigned from the National Capital Planning Commission along with Chairman Hammer, we resigned in 1969 because we felt that the nature of the job which had to be done by that Planning Commission, regional on the one hand with regard to guiding the Federal presence, regional and local in terms of preserving the amenities of the monumental and ceremonial city, and also local with regard to guiding the development of this jurisdiction with its impacting problems because of all the things that we are talking about— We asked the President and we received an explicit commitment from the President in writing that he would reorganize the National Capital Planning Commission so that there would be local planning authorities placed within the hands of this local jurisdiction.

We are at a time when we are beginning the development of a sub-way network, the largest single network ever built in the world at one

time. It will have fantastic implications in this region for economic development, for alleviating the problems of the underemployed and the unemployed in this area, for all kinds of arrangements that could help us across the problems and that could represent some of those intervening trends that could offset the straight-line projections that Dr. Taeuber and Dr. Brown were discussing earlier.

So that we have to have the fine-grained attention to the movements that are being made. We need to provide in very good quality the local public services, because it's human development which is also going to help us answer some of the problems we have now.

We got an explicit commitment from the President to infuse into the District of Columbia or to give, which is his authority, to the District of Columbia a planning capacity and to recommend to the Congress that it would make those moves necessary to supplement his initiative.

And what we have found is that he has reneged on that. He has not moved. And it is correlated to the fact that as long as development and jobs are moving west with the white concentrations—and that starts with Southwest Washington as well as Northwest Washington and on out into Montgomery County and into Arlington and Northern Virginia—and when we see that there is no initiative from private industry being taken in the eastern part of this city, then it requires public policy and planning moves which would put incentives there, which would weigh priorities or make private development have to face local public priorities.

This is why we need that fine-grained planning control. And yet if we get that, it's going to stop the kind of private industrial initiatives and Government agency participation in leasing programs that makes for the continued development of office and commercial space in the western sector of this city.

Therefore, it will redound to the disbenefit of the current speculator-developer-GSA kinds of patterns of activity.

Now, I believe that the President after his commitment had many representations from persons who are in our Board of Trade and our Federal City Council because they do not think that it's wise to have public policy begin to apply within the District of Columbia in such ways as to spread economic development and to cut out the low-income dormitories that we have made of our minority areas here to put your economic development within them.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Following up on that question, is that a letter you wrote the President, Mr. Gibson, or what?

MR. GIBSON. At the time that I resigned from the Planning Commission along with Philip Hammer who was Chairman, we wrote to the President. We had also negotiated with Mr. Moynihan. It was not, you see, just a shot in the dark. We had negotiated. We had gotten an explicit commitment. There had been discussions between Mr. Moynihan and the President and between us and Mr. Moynihan.

And then we received a letter from the President, both of us, which did explicitly state this.

VICÉ CHAIRMAN HORN. Would you furnish both your letter and the answer for the record? I would like it inserted at this point.

I would like the staff to ask the Office of Management and Budget for their comments on it as to the feasibility of the policy one way or the other as the Administration sees it.

Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Gibson, you mentioned this action was criminal. Can you give me the law, the criminal law, that was broken by these people? Why haven't they been indicted if it's criminal?

MR. GIBSON. Mr. Commissioner, I think the question of why they haven't been indicted if it's criminal is as much concern to me as it is to you. I was asked whether I believed that criminality was involved and I stated that I did believe so, sir. I also have—

COMMISSIONER RANKIN. Can you point to the law?

MR. GIBSON. I beg your pardon, sir?

COMMISSIONER RANKIN. Can you point to the law, the criminal law, that is broken by these men? I'm interested—

MR. GIBSON. It depends on how you would read it. There are Executive orders and equal opportunity laws—

COMMISSIONER RANKIN. You use that term loosely. It's rather an indictment, don't you see, to say—

MR. GIBSON. Yes, sir. It's an indictment. And I think if you want us to pursue this in a straight line, I would be happy to do so. I don't think, however, that your question right now I can answer. That does not mean it's not answerable.

COMMISSIONER RANKIN. Mr. Littlejohn, you mentioned that you were unable to solve your own problems in Washington. Is it because you don't have the opportunity or are they questions that just can't be solved?

MR. LITTLEJOHN. There are many reasons why we can't solve our own problems. Basically it's because we don't have the power.

COMMISSIONER RANKIN. Can you tell me a city that is solving its own problems now?

MR. LITTLEJOHN. There is a difference, I think, a substantial difference, between the situation that we found ourselves in in the District of Columbia where we don't even have an opportunity to try, as opposed to some other jurisdictions that have tried and failed.

COMMISSIONER RANKIN. You want to try and fail? Is that it?

MR. LITTLEJOHN. No. We think that given home rule, given an opportunity to come to grips with our problems, that we can resolve many of them.

COMMISSIONER RANKIN. I know. I used to believe in home rule, too. But as I study home rule and see instances of it, these problems are so difficult they are nearly impossible to solve. It can be alleviated and we can do better, but some problems are very difficult and, therefore, when you say these problems are unique to Washington, I don't know whether they are. I think all cities have the same problems.

Yes, Mr. Gibson?

MR. GIBSON. Mr. Commissioner, I think you have hit a very impor-

tant point. I think that there is a feeling around the country both in terms of black people and white people that we have reached a point of incapacity to deal with these problems to some extent and that we are helpless in the face of forces that we don't understand and can't control.

Well, sir, I think that that's true in terms of the feeling. I do not think that it's true in terms of the fact.

I think that one of the important things about home rule and that it should be permitted to work not just here but across the country— There are State proscriptions against local option and home rule across the country. And home rule is not a bona fide matter in very many places. But at any rate, sir— And therefore elected governments don't necessarily represent true home rule.

But I believe, if I may sketch it generally, part of the problem and maybe the basis of the problem which we have which has forced us to a point of breakdown is that we are a multiracial, multiethnic, multicultural society, and yet our institutions have never admitted that. Our education has not admitted it heretofore. And we have a record of policy, we have a record of practices, we have built institutions which presume we are uniraical and which therefore wipe people out if they are different from that presumption.

And it's because nonwhites are concentrating in certain jurisdictions now that they can redesign institutions that serve people to fit their priorities.

COMMISSIONER RANKIN. Mr. Gibson, what if the Navy Department had moved to Prince George's County? Do you think the whites would have a legitimate gripe in a situation like that?

MR. GIBSON. You see, it's not the specific move of the Navy. It's the pattern of moves which represents 87 percent over the past decade. I will not get stuck on answering the specific Navy thing. Navy fits a pattern.

COMMISSIONER RANKIN. Any agency, if it moves out toward Arlington rather than toward Prince George's County—

MR. GIBSON. I think there should be moves. I think there should be diffusion of Federal presence throughout the region. I think it would be negative to have all Federal activity in this region impacted in Washington. We couldn't have residential and other functions in the city.

On the other hand, I think that the patterns and practices and policies guiding that movement should be reviewed in other ways than it has been previously.

COMMISSIONER RANKIN. In other words, when Mr. Littlejohn said, "Objecting to movement", we don't object to movement necessarily outside. It might be beneficial if the proper rules and regulations regarding movement are set up—

MR. GIBSON. That's right.

COMMISSIONER RANKIN. Isn't that the point?

MR. GIBSON. Yes, sir. And we have been in court—my association. We have been in court against the Navy, against HEW, against several other specific operations. And we always sought to have them do cer-

tain things—not not to move—but we wanted the moves enjoined if they were not accompanied by certain pertinent factors.

MR. LITTLEJOHN. Dr. Rankin, if I may, you raised the question whether or not our situation in Washington, D. C. was so unique that we cannot deal with it. I'd like to pursue that if I may for just one second.

In the first instance, in our opening statement we indicated that many of our problems in the District of Columbia are similar to problems of other metropolitan areas. However, I think the fact that we are a Federal city, the fact that we are not able to handle our own money, we are not able to raise our own resources, we are not able to handle our budgets, and we are not able to deal with many of the problems that cities of this size are able to address, puts us at a distinct disadvantage.

What we are talking about now is having the Washington, D. C. population become a fully enfranchised population so that we can address these problems.

COMMISSIONER RANKIN. Okay.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Gibson or Mr. Littlejohn, you indicated certain Federal agencies that had moved, and I believe, Mr. Gibson, you said that about 27,000 Federal employees are involved in the move to Virginia and probably an additional number to Maryland. Is that correct?

MR. GIBSON. There's now approximately 27,000 employees in Arlington as a result of fairly recent Federal moves. There are not that many in Montgomery County because the proportion is higher in Arlington.

COMMISSIONER FREEMAN. Do you have an estimate of the number of those employees that would have income of maybe \$6,000 or less?

MR. GIBSON. We do have that information, Mrs. Freeman, but I don't have it with me.

COMMISSIONER FREEMAN. Mr. Littlejohn, do you have it?

MR. LITTLEJOHN. I don't have it with me. We do have the information.

COMMISSIONER FREEMAN. Could you make an estimate about it? Would it be about one-third? One-fourth? Or—

MR. GIBSON. I'd say about 80 percent would be closer to the reality.

COMMISSIONER FREEMAN. Eighty percent?

MR. GIBSON. Under what figure was it?

COMMISSIONER FREEMAN. I said \$6,000.

MR. GIBSON. I'd say substantially more than 50 percent I would imagine, if you take the broad agency situation, because a number of these are very low wage employees, including GS-1's, 2's, 3's. A substantial proportion of agencies are composed of people like that. The professional people, maybe 40, 45 percent.

COMMISSIONER FREEMAN. At what point of income would a person be considered to be in need of federally assisted housing of one form or another?

MR. GIBSON. It depends on what departure you take. If we take the standards promulgated by the Department of Labor which show that a moderate income for a family of four in this country is somewhere above \$9,000 and in this region very close to \$10,000, then it would depend on whether one would expect to have subsidy policies correlated to helping people achieve moderate levels of income and therefore subsidize persons according to the standards as promulgated in that way by the Department of Labor, or whether you would choose some other sort of factor.

I would imagine we ought to conform it to our concept of moderate-income standard.

COMMISSIONER FREEMAN. On that concept then, about half of the employees would have a need for this kind of housing?

MR. GIBSON. I think this is especially true, Mrs. Commissioner, when we do not have public health or do not have health facilities and people can be wiped out by major illness in a lot of respects.

There are a number of factors which families have to contend with, and housing is only one. They have very slim margins and balances in terms of keeping stability. If something unbalances that, such as, for instance, the tremendous cost of higher education, what do they do?

I think it depends on whether you want people, you know, scuffling for survival or we want our population to sort of reflect the image that we have of ourselves.

COMMISSIONER FREEMAN. I think it is generally recognized that the movement of an installation to a community is an economic benefit to the entire community. And with that in mind, I would like to know if you will comment on the statement by the President on Federal policies relative to equal housing opportunity in which it said: "This Administration will not attempt to impose federally assisted housing upon any community."

MR. GIBSON. Yes. I was surprised at the coverage. It was not exactly news.

The President indulged, as I think the National Urban Coalition termed it, in an 8,000-word essay on the difficulties of public administration. And I think that is about the only way one can read it unless you did want to go on and assume that the President was speaking to a political constituency which wanted to hear what he had to say in very explicit terms and that it had some correlation in his mind to where he thinks the votes are in 1972.

Now, that is one way to look at it. On the other hand, I think that I agree with the National Urban Coalition that he confuses the difficulty of that office with some other matters.

We have standards and criteria and rules and law in this country, and I believe, you see, that a Nation of laws and a President who is interested in law and order might bring another kind of configuration in terms of the discharge of the responsibilities about the difficult matters such as race that are his responsibility.

I think he has not been fulfilling those responsibilities. I think he has sold out for political opportunism. And I think that this statement on

housing is in a strong traditional mold that conforms to the Carswell nomination, to his earlier statements on school desegregation which have already been overturned by the Civil Rights Commission, to his moves with regard to I think a number of other matters.

It's a pattern that has been described by some people as a "Southern strategy".

COMMISSIONER FREEMAN. Mr. Littlejohn, could you comment on the communities to which these installations have moved, the extent to which those communities have housing available for low- or moderate-income persons, and the extent to which they are available to black persons?

MR. LITTLEJOHN. Much of the testimony that we received during our open meeting indicated that the housing that the low grade black employees could afford to pay was almost nonexistent. This was in all of the areas to which the Federal Government had moved.

This indicates to us that throughout the region not enough attention had been given to the housing needs of those persons who would have to move in order to retain their jobs.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. I have no questions.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I'd like to ask Mr. Harvey a question. You showed us a map indicating where federally assisted housing had been located in the D. C. Metropolitan Area. Apparently your map doesn't include FHA mortgage insurance assistance, that type of assistance, does it?

MR. HARVEY. No, it doesn't, not under the normal tract development or individual houses. It does not include that. This is primarily the subsidized housing, though I would agree that the FHA-insured is a subsidized program that a lot of people enjoy.

MR. GLICKSTEIN. Where would you think a lot of that housing would be located?

MR. HARVEY. Primarily in the—well, in all three counties, Fairfax, Montgomery, and Prince George's County where you had these huge tract developments that occurred after World War II and really back in the early 1960's.

MR. GLICKSTEIN. But there would be a lot of it in the areas that are nonwhite? Isn't that correct?

MR. HARVEY. Yes. Oh, yes. It would be really difficult to plot that kind of housing. It would include a very substantial proportion of the housing if we included that.

MR. GLICKSTEIN. Presumably, one of the reasons that housing is largely nonwhite, that is federally assisted housing through FHA loans, is because of factors of past discrimination?

MR. HARVEY. Yes, that's true.

MR. GLICKSTEIN. The President in his housing statement the other day did say that one of the policies of the Federal Government was going to be to correct the effects of past discrimination. In that event, there might be a lot of work that needs to be done in those largely now

white areas of the counties here to do that.

MR. HARVEY. Well, I found a number of things very interesting in that 15-page document, in that you read a statement such as that and then you read a little further along where that would be, in effect, taken away.

As an example, even though he says that he will not force any subsidized housing on any community, there was nothing of encouragement as offering any kind of incentive as an example.

We were interested in applying the "carrot and stick" approach, but you find none of this. It was more of a neutral position, a position where it justifies what they are already doing, Number One. And, secondly, it would give comfort to those communities who object to it, who raise barriers.

I think his statement definitely is along those lines. I would think also that this concept of economic integration—It's really not new, you know, particularly to the black community. We have found we have been forced to live in economically integrated areas all along.

Back in my own situation—it may have been an honor—but to live in the same block with a doctor, and we were on welfare. So if that's not economic integration, I don't know what is.

MR. GLICKSTEIN. I have no further questions.

VICE CHAIRMAN HORN. I'd like to ask Mr. Harvey. I notice in the President's housing message he says this: "With more applications than it can fund"—and referring to HUD's role as an approver rather than a site selector—"HUD must select those for funding which it determines most fully satisfy the purposes of the enabling legislation."

Would you say that that would seem to imply that given the large competition of the various applications nationwide that presumably the President is suggesting to HUD, that those that do meet certain of these civil rights considerations that we have discussed in this hearing, some of you gentlemen are discussing, ought to be applications that get the nod before those applications that do not meet those criteria?

MR. HARVEY. Well, if you want to make a positive interpretation of that, I would say yes.

VICE CHAIRMAN HORN. In other words, one can make a positive interpretation of the statement?

MR. HARVEY. Yes, you could. But I think there are several questions whether it's going to be affirmatively applied or not.

VICE CHAIRMAN HORN. That's why the Commission is meeting, and we hope to get into the processes of each agency and the bureaucracy involved to see if it will be affirmatively applied.

Now let me ask you this. One thing that intrigues me in looking at these charts, as one who lived here for 12 years, is the high percentage of black migration into Prince George's County. And the statement was made I believe by Mr. Gibson that the Federal migration of jobs was west while the black migration was to the east.

And I wondered with reference to Northwest Washington west of Rock Creek Park, which is a physical and also a social barrier when you look at the demography of it, what is the relative cost of housing in

Northwest Washington west of Rock Creek Park versus Prince George's County and what explains the fact that black families have not moved into Northwest Washington west of the park as easily as they have moved into Prince George's County, especially since this is a Federal enclave and jurisdiction as opposed to a county in the State of Maryland which is historically a Mason-Dixon State.

Has anybody got any information?

MR. GRIER. I can comment in part on that, Commissioner. The number of blacks that moved into the area west of the park in the District is surprisingly small. The increase I think is, if I can find it here, from only 1,498 in 1960 to 2,874 in 1970, which is a fraction of the migration out to Prince George's.

There's still only 6 percent black in the areas west of the park. Now, the price structure west of the park is certainly predominantly high. There's a lot of very high priced housing out there.

VICE CHAIRMAN HORN. And by "high" we mean roughly \$30,000 and above I would assume?

MR. GRIER. \$30,000 and above, and mostly above. A lot of housing is \$50,000 and above now. So that it is a high cost area.

Most of the housing over here in Prince George's is in the neighborhood of \$25,000 to \$35,000, increasingly up to \$40,000, so that it is somewhat lower, although it is still, as most housing in this area, quite high priced.

So the price is partially an explanation but only partly an explanation because there are substantial areas of Arlington where housing is priced at levels well below levels that are predominant out here in Prince George's which have received virtually no or much smaller black influx. And I would have to say that probably, therefore, wherever you see an area which has not shared in this migration to the extent that P.G. has, you have to ask some questions about whether policies are being applied on the part of the real estate industry to exclude blacks.

I think that probably this is true in substantial parts of the areas west of the park today. So right within the District we are having violation of not only the Federal act but also of the local fair housing ordinance, and I think it is also true, very widely true, in jurisdictions like Arlington.

VICE CHAIRMAN HORN. You mentioned the local fair housing ordinance. This was enacted by the D.C. City Council?

MR. GRIER. Yes, sir.

VICE CHAIRMAN HORN. Administered by an agency under Mayor Washington?

MR. GRIER. Yes, sir.

VICE CHAIRMAN HORN. Why isn't that law being enforced?

MR. GRIER. Well, I think it is being enforced to the extent of the Commission's ability. But Mr. Harvey may be able to comment more on the enforcement.

I'd say, however, that it is probably only through enforcement that blacks are getting over here whereas in Prince George's County they are

being actively encouraged to go there by the real estate industry turning over whole areas which were formerly white to black in a very short period of time and taking the pressure off the rest of these other areas.

So there are interacting policies in the real estate industry. On the one hand they encourage many blacks to move in this direction, and on the other hand a discouragement of movement in this direction generally, both west of the park and in the western suburbs, and the two interlock so that the encouragement here helps to take the pressure off the areas over here.

And I think that is definitely an interacting pattern on the part of the real estate industry throughout the area.

VICE CHAIRMAN HORN. Thank you very much, Mr. Grier. I would like to have inserted in the record at this point, since it has been referred to several times, the statement by the President on Federal policies relative to equal housing opportunity, dated June 11, 1971.

Without objection, it will be inserted at this point in the record.

(Whereupon, the document referred to was marked Exhibit No. 9 and received in evidence.)

VICE CHAIRMAN HORN. Ladies and gentlemen, that concludes the morning session. We will reassemble here at 2:05 p.m., when we will begin a discussion of housing in Montgomery County, Maryland.

(Whereupon, at 12:55 p.m., the hearing was recessed, to be reconvened at 2:05 p.m., this date.)

VICE CHAIRMAN HORN. The afternoon session of the United States Commission on Civil Rights will begin.

We are going to reverse the panels this afternoon. Will Mr. Chapman and Mrs. Garrott please step forward?

(Whereupon, Mr. Troy L. Chapman and Mrs. Idamae Garrott were sworn by the Vice Chairman and testified as follows:)

MONDAY AFTERNOON SESSION

JUNE 14, 1971

TESTIMONY OF MR. TROY L. CHAPMAN, EXECUTIVE DIRECTOR, MONTGOMERY COUNTY HOUSING AUTHORITY, AND MRS. IDAMAE GARROTT, PRESIDENT, MONTGOMERY COUNTY COUNCIL

(Mrs. Garrott's prepared Statement appears on p. 1004.)

(A map of Montgomery County appears on p. 611.)

VICE CHAIRMAN HORN. Please be seated. Mr. Powell will begin the questioning.

MR. POWELL. Would you each please state your name and position?

MR. CHAPMAN. My name is Troy L. Chapman. I am currently director of the Montgomery County Housing Authority. However, I have resigned from that position effective as of June 30, 1971 and will assume the position as of July 1, 1971 as executive director of the Housing and Redevelopment Agency for Wilmington, Delaware.

MR. POWELL. Mrs. Garrott?

MRS. GARROTT. I am Idamae Garrott, president of the Montgomery County Council, Montgomery County, Maryland.

MR. POWELL. Mr. Chapman, how long have you held the position that you are in now?

MR. CHAPMAN. As of June 30 I will have been the director of the Montgomery County Housing Authority for a period of 2 years.

MR. POWELL. Mrs. Garrott, how long have you been president of the Montgomery County Council?

MRS. GARROTT. I have been president of the council since December 8, 1970.

MR. POWELL. Mr. Chapman, would you describe briefly the functions of the housing authority?

MR. CHAPMAN. The functions of the housing authority of Montgomery County are basically I would say threefold. The first function is to plan and develop low-cost housing within Montgomery County. Secondly, to occupy those units. Thirdly, to provide services to tenants.

The housing authority basically is involved in three programs—leased housing under Section 23, housing for the elderly which can generally be direct acquisition, and Turnkey Housing which is purchased from developers for those who do qualify.

MR. POWELL. Mr. Chapman, how many units does the housing authority currently have under its control?

MR. CHAPMAN. The housing authority currently has under its control approximately—I say “approximately” because this is a flexible figure—700 units of low-income housing.

MR. POWELL. Mr. Chapman, what is the present population of Montgomery County?

MR. CHAPMAN. I would estimate—again this is an estimate on my part—I would estimate the population of the county is approximately 500,000.

MR. POWELL. Mrs. Garrott, what is the housing situation for low- and moderate-income people in the county?

MRS. GARROTT. The county council feels that there is a very serious problem in providing housing for low- and moderate-income people in Montgomery County. Our government has had a study made, a copy of which I have brought here today—perhaps you might want to enter it into the record—an analysis of the Montgomery County housing stock.

This was made for the department of community development in our county, and it showed some things that our council thinks are very significant.

The median sales price for all housing sold in Montgomery County in

1969 was \$37,500. However, the median price for new housing in the county was \$41,342.

The same report shows that in 1969 there were only four new homes sold in the county for under \$25,000 and that only 29 percent of the used housing sales in the county were under \$25,000.

So we do feel that we have a serious problem in regard to low- and moderate-income housing.

MR. POWELL. Mr. Chairman, with your permission, I would like to have that report entered into the record at this time.

VICE CHAIRMAN HORN. Without objection, it will be inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 10 and received in evidence.)

MR. POWELL. Mr. Chapman, do you agree with Mrs. Garrott's evaluation? Would you have anything to add?

MR. CHAPMAN. No, I don't. I agree with it wholeheartedly. The housing situation in Montgomery County right now is critical.

MR. POWELL. How many families in Montgomery County, Mr. Chapman, would you say are in need of public housing?

MR. CHAPMAN. That is a very hard question to answer. I can give you an answer based upon the 1960 census and information that has been provided by various governmental agencies to, for example, the council of Governments. We estimate that there are approximately 10,000 families in the county who either qualify through the fact of their income and secondly through the fact of substandard housing.

We can identify either through our waiting list or through the records of the department of environmental health, for example, 2,500 families who are identifiable bodies who are in need of limited-income housing as of today.

MR. POWELL. So while there are 600 people actually in public housing—600 families, that is—there are actually 10,000 families or approaching 10,000 families in need of such housing?

MR. CHAPMAN. Again this is an estimate based upon the 1960 census. It could be higher; it could be lower. I don't have the latest figures. But we estimate—I have been estimating for the last 2 years—that there are approximately 10,000 families who are living in substandard housing in the county today who perhaps do qualify for limited-income housing.

MR. POWELL. Mr. Chapman, what percentage of Montgomery County is black?

MR. CHAPMAN. Again I would have to estimate. I would say approximately 5 percent or less.

MR. POWELL. What percentage of those in public housing are black, Mr. Chapman?

MR. CHAPMAN. Approximately 60 percent.

MR. POWELL. Are the black residents of the county dispersed throughout the county or are they concentrated in certain areas, Mr. Chapman?

MR. CHAPMAN. I would say that the black residents of Montgomery

County are generally concentrated in ghettos which have existed historically in the county. There are pockets of black neighborhoods within Montgomery County—for example, Tobeytown, Wheaton Lane, other areas where you will find a concentration of black families.

Now, these normally are not very large, but they are concentrated in small enclaves.

MR. POWELL. Mr. Chapman, in choosing sites for the location of public housing, do you attempt to disperse such housing throughout the county?

MR. CHAPMAN. The philosophy and intent of the Montgomery County Housing Authority has been, with the consent of the Montgomery County Council, to indeed disperse public housing throughout the county to achieve several things:

One is to guarantee that there will not be an intentional ghetto created by public housing.

Secondly, to guarantee that each community begins to bear its share of the need for limited-income housing.

And, thirdly, to guarantee that there aren't any architectural barriers.

MR. POWELL. In implementing this policy, do you encounter any opposition from public officials or from the public at large?

MR. CHAPMAN. No, I would say that the Montgomery County Council and the public officials in Montgomery County have most certainly given their wholehearted endorsement to, one, the policies of the Montgomery County Housing Authority and, two, have not only given their endorsement but have also put their pocketbook where their mouth is and given the housing authority a grant.

However, I would say that the housing authority has in many instances gotten a great deal of opposition from the people in whose community the public housing is going to be located.

Normally the people within that community will state that they too believe in dispersal of public housing—however, not in their community.

Secondly, it's my feeling that the people within the communities where sometimes we are going to build public housing activate their civic associations where perhaps they haven't existed before. I must say that we have probably activated more civic associations than any other agency in that county.

MR. POWELL. In what terms is this opposition expressed, where it is expressed?

MR. CHAPMAN. Oh, I think the terms are couched in various terms which I have some feeling about personally. I think that the first thing people talk about is the question of economic integration. I think the President raised that question last week. I don't agree with it. I don't think you can build public housing without some degree of economic integration. But that question is raised constantly.

Second question that is raised is the sociability and the cultural level of the people who are going to be moved in not being compatible with the cultural level of the families who are living there.

The third argument, getting back to economics again, is that the property values in the surrounding community will, of course, be diminished. This is not true.

I think underlying all three of these reasons is a fourth reason. I think that fourth reason is quite clear, blatant racism.

MR. POWELL. Mrs. Garrott, you stated earlier that the low- and moderate-income housing situation in the county is seriously inadequate. As a member of the county council, do you have any proposals to eliminate that situation?

MRS. GARROTT. Yes. Our council is very much concerned. We think it's very necessary to solve the problems of our low- and moderate-income families; to provide public housing where it is needed; and to provide moderate-income housing so that our firemen, our teachers, our young people can find homes.

Our council started off by adopting goals and objectives. One of our goals and objectives was balanced supply of housing. And I might read to you very briefly what we said our goal was.

We said in our goals and objectives:

"Balanced Supply. We are concerned about the crisis in housing, particularly at the moderate-income level. For a county such as ours to be viable, vigorous, and livable, we must provide a variety of housing styles and costs to meet the desires and needs of our people. We must make it possible for our citizens to be able to live and work in the same county, to reduce the time and distance for travel, and to raise their children in a proper environment.

"Equally important is the need for such housing to accommodate the variety of employees of the growing business and industrial base within the county."

And then in our same document on guides, goals, we said:

"Action. We will examine all possible methods to increase the housing supply, including modifications to zoning ordinances and related regulations, negotiations with developers, the possible establishment of nonprofit development corporations and procedures to reduce land and development costs.

"We will seek the advice of business and industry and concerned organizations and individuals in forwarding these concepts."

So in carrying out our goals and objectives we are doing a number of things. First of all, we are having drafted for us amendments to our zoning ordinance. These amendments to our zoning ordinance would require a minimum amount of low- and middle-income housing in all new subdivisions and in all new multifamily developments.

Our aim here is to avoid concentration. Our council believes very strongly that we must not create any ghettos, any new slums, but that instead we must disperse low- and moderate-income housing around the whole county, and we feel that the zoning ordinance is a very good tool to do this.

Another approach that our council is considering is to offer a bonus in additional floor area to the developer in exchange for providing additional floor area. This is sort of a carrot type thing, an incentive system.

And again we are working to have this kind of thing incorporated in our zoning ordinance.

We also have under consideration a proposal that in each residential subdivision a certain portion of the site be designed to accommodate smaller homes. We have had I think in our county a circumstance whereby so many of the homes that are built have two and a half baths, a family room, a rec room, and so on, and many of our people with lower- and moderate-incomes cannot afford such—what shall we call them?—“Cadillacs” of houses.

And so we would propose that in each residential subdivision a certain portion be designed to accommodate smaller homes, perhaps on smaller lots, and at slightly higher density than would be permitted in the rest of the subdivision.

Now, these would be implemented primarily through our zoning ordinance and through our subdivision regulations.

In addition, we believe that it is necessary to create a county housing corporation with the power to buy and sell and lease and manage moderately priced dwelling units. Because one of the problems, very frankly, is that you can have housing that is built and sold as moderate priced housing and then market forces could drive that price up so if there is resale the resale would take it out of the reach of moderate-income families.

So we think that this housing corporation might be a very necessary thing to have in the county.

We also have our staff, our county attorney's office, working on a mobile home zone. In our zoning ordinance today we have provision for trailer parks but really in very unsuitable places, in industrial zones and out in our 2-acre zones.

What we want to do is to have a mobile home zone so that we could have subdivisions with finished streets and sidewalks and all the amenities that you would find in any other subdivision, but instead of having expensive housing we would have mobile homes.

And a last thing—well, I shouldn't say “last” because there are many things we are working on. But another thing that we are working on is a planned unit development zone. Our county does not have this very fine technique, and we are trying to work up a planned unit development zone which would make it possible to have more low- and moderate-income housing.

And then we are considering buying land ourselves. We are working currently to buy land owned by the University of Maryland—their experimental farm. We have already made available monies for purchase of land for a college and school sites. And we expect and hope to buy the rest of that land for housing.

MR. POWELL. Mrs. Garrott, is it likely that the provisions that you have mentioned will be enacted by the county council?

MRS. GARROTT. It's my belief that they will be enacted by the county council. Our whole council is very cohesive on this. We believe very strongly that we must rise to the challenge presented in our county.

There is indeed a housing crisis shown by the Sieminski report which I have given you and by many other studies which we have made. And it is my belief that before this year is out most of these will be enacted into law.

MR. POWELL. In implementing these proposals, once enacted, do you anticipate encountering public opposition?

MRS. GARROTT. I don't believe so. I think that people in our county realize that there is a serious situation, that this does affect them and their children, their families, that it affects our fine police system and our firemen and our teachers. And I think that there is a lot of public support for doing something about the housing crisis.

I think that the fear is that there will be concentration, clumping together. But we are not going to clump together. We have devised these plans of ours with extreme care to avoid clumping, to avoid concentration, and I think so long as we insist upon dispersal and have devised the tools which make dispersal inevitable, then I don't think we are going to have the opposition.

MR. POWELL. Mr. Chapman, do you feel that the enactment of proposals such as those outlined by Mrs. Garrott would serve to improve the low- and moderate-income housing situation in the county?

MR. CHAPMAN. I think that the proposals as proposed by the Montgomery County Council and just voiced by Mrs. Garrott will probably be a model of low- and moderate-income housing for this country.

It is very hard for me to emphasize how important and how far-reaching and how innovative what Mrs. Garrott just talked about happens to be. If these proposals are indeed enacted—what we're talking about is the ability to provide limited-income housing and moderate-income housing without creating intentional ghettos.

What we're talking about is every developer that begins to build within Montgomery County within reason—for example, within a transit impact zone—would be building a rainbow of housing for people from various economic backgrounds.

If you do this, what you're talking about is, one, the doing away with the intentional ghetto, with the social pathology.

Secondly, you're talking then about economic integration of housing which is palatable to all the people who live in Montgomery County and most certainly the community.

And, thirdly, I think you're beginning to put the weight of responsibility for the development of low- and moderate-housing back on the shoulders of the independent builder and developer where it perhaps belongs.

But I think these are far-reaching proposals.

MR. POWELL. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Rankin, do you have any questions to ask?

COMMISSIONER RANKIN. Mrs. Garrott, does the council consider low-cost housing as a tax asset or a tax liability when you take into

consideration schools and health and the other activities you're engaged in?

MRS. GARROTT. We feel that it can be an asset to the county in that we do have many fine industries in Montgomery County particularly along our 70-S corridor. We have such firms as IBM, Fairchild-Hiller, Kodak. I can go on and on and name many, many fine firms.

I have met either with the presidents or top management people in those firms and they have said to me really with considerable bitterness—and I don't blame them perhaps for being bitter—that if they had known that the housing situation would be so bad for low- and moderate-income people that indeed they would not have brought their firms to Montgomery County.

Now, these firms have added a great deal to our county. We have many people with very top jobs who are in the county today because those firms are there. And these firms have increased our tax base a great deal.

But what, in effect, we have done is to take the cream and we have not provided the needs for their lower-echelon employees. And I don't think we are going to be able to continue to do this because many of these people said to me: "We're telling businesses of our type to stay out of the county."

So I'm not sure that it's possible always to balance out the cost for the schools and all the public services versus all the benefits from having a firm like IBM in our county.

But I do believe that our citizens do like firms like IBM in the county.

COMMISSIONER RANKIN. These remarks would apply to mobile home camps and areas, do you think, or not?

MRS. GARROTT. The mobile home subdivisions would, we visualize, provide a full spectrum of housing for the lower-echelon people who work in these industries which we consider are so splendid.

Now, we don't believe that all industry adds to our tax balance. We know that there are some industries that could come into Montgomery County that would run a fiscal deficit, and it may be really that some of the housing might run a fiscal deficit.

I personally would like to advance the idea with the Federal Government of having, shall we say, a payment very similar to the payment for impacted aid for education which would go to communities which have housing under a certain value.

I'm not prepared to say what that cutoff value should be, but perhaps it should go to communities all over the United States that have housing under \$18,000 and there would be a payment to assist with taxes.

COMMISSIONER RANKIN. Just one last question. I used to be on a city council myself. How do you keep undesirable business out?

MRS. GARROTT. I don't think that you just say: "I am going to keep undesirable business out."

COMMISSIONER RANKIN. You commented on the high type of your—

MRS. GARROTT. That's right. But we do have various requirements

in our industrial park zone which a lot of undesirable business perhaps could not meet, you know. We have various requirements for abatement of noise and all kinds of desirable things. And I think undesirable business perhaps could not meet some of those requirements.

COMMISSIONER RANKIN. You like this way of keeping them out? Is that right? By setting up high requirements they can't meet?

MRS. GARROTT. Well, I wouldn't say that. I would say that a lot of our businesses are in Montgomery County because we have had a chamber of commerce and we have had an economic development commission and a department of economic development which has tried to attract desirable industry. We have used really I would say the positive approach more than the negative approach.

COMMISSIONER RANKIN. That's all, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. No questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mrs. Garrott, did you say or did I hear you say anything about whether any of the Federal institutions, the Federal Government as an employer, has moved into Montgomery County in any serious numbers in recent years?

MRS. GARROTT. Yes, we have a good many Federal installations. We have the Atomic Energy Commission, the Bureau of Standards, the National Institutes of Health, NIMH, Bethesda Naval Hospital, NOL, all kinds of Federal institutions in the county.

COMMISSIONER MITCHELL. Have they done anything to provide housing for low-income employees?

MRS. GARROTT. They really have not.

COMMISSIONER MITCHELL. Do you think there should be some obligation specifically on the Federal Government when it establishes an enterprise of that kind?

MRS. GARROTT. I do feel that perhaps, rather than that, there should be a Federal payment in lieu of taxes. This is the approach that I would like to see.

COMMISSIONER MITCHELL. That would leave it to the county or to—

MRS. GARROTT. That's right.

COMMISSIONER MITCHELL. —your commission to decide where and what kind of housing you wanted?

MRS. GARROTT. That's right.

COMMISSIONER MITCHELL. What percentage of the people in Montgomery County would you say work in the District of Columbia?

MRS. GARROTT. I have seen figures. There is a very fine book that came out about 2 years ago prepared for the Metropolitan Washington Council of Governments by Hammer, Green and Silar called "The Economy of Metropolitan Washington". I'm not sure that I remember the figures out of the book. It seems to me it was 30 percent, but I could be off. I see so many figures I don't always remember them.

COMMISSIONER MITCHELL. Assuming it was one out of three, I just went outside while the lunch break was on and counted the cars parked in the alley here, and although that may be the upper crust of the

Department of Agriculture, there were nine Maryland cars and seven Virginia cars and one District of Columbia car. So you really apparently have quite a few Montgomery County residents working here.

Now, in order to provide parking places for those cars and policemen and all sorts of other amenities for Montgomery County people in the District, should you be paying any special, making any special, contribution to the District of Columbia? Should the people who work here from Montgomery County consider that they should contribute something?

MRS. GARROTT. Our council did take a position on the so-called reciprocal income tax, this present council. The prior council on which I also served took a position a number of years ago on the commuter tax. We are opposed to the tax and I'll tell you our line of thinking.

We believe first of all that our residents who work in the District do make a contribution through sales tax and gasoline tax and many other forms of taxes.

Secondly, we do believe that as income tax payers we pay a substantial amount to the Federal Government and we believe that since Washington, D.C. is the Nation's Capital that all of the United States is responsible for its upkeep.

We also believe that our central cities have great problems today. Many of our taxpayers—all of our taxpayers really—are making a big contribution to the city of Baltimore, which is the big central city in our State. And we feel that it's impossible for a suburban county really to make tremendous contributions to central cities.

So we feel that the Federal Government has responsibilities towards the central cities to try to restore them to a good position. We are certainly sensitive to the problems of our central city, but we would like to help meet those problems as Federal taxpayers.

COMMISSIONER MITCHELL. I, of course, live in Denver, and I don't get as much use out of the District of Columbia as people who live in Montgomery County, so I would assume that that really is not totally relevant.

But the other thing I did want to ask you is what do you see the transportation situation here doing to the future relationships between the District of Columbia and your county?

MRS. GARROTT. We think that the building of Metro, which we very enthusiastically support and into which we are pouring a lot of our tax dollars— We feel that the building of Metro is going to be very helpful in bringing about better coordination between the central city and the suburbs.

COMMISSIONER MITCHELL. You would encourage real penetration of high-intensity transportation, mass transportation systems, into Montgomery County and back into the District?

MRS. GARROTT. That's right. We have adopted a plan which was adopted by the Washington Metropolitan Area Transit Authority which would bring transit out to Rockville which is, of course, our county seat, but we would like very much to see the extension of that onto our corridor cities, Gaithersburg and Germantown, but that will,

of course, take time because it's very expensive.

I should add, Mr. Mitchell, that the majority of the people in Montgomery County who live in Montgomery County work in Montgomery County.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Chapman, you indicated that you have about 700 units of low-income housing and that the population of Montgomery County is about 5 percent or less, which would be about 30,000 black persons. Is that right?

MR. CHAPMAN. That's correct.

COMMISSIONER FREEMAN. Now, will you tell us in what kind of housing? Is it rental or—

MR. CHAPMAN. Mrs. Freeman, we provide several kinds of housing for our limited-income families. First of all, we do have leased housing. We have approximately 190-some units of leased housing. A lot of the leased housing we have is somewhat old. A lot of it is marginal in the sense that they are the cheapest units that we could possibly pick up in Montgomery County, because that's all the Federal Government allows us.

Montgomery County is a wealthy county. To find a three-bedroom unit that leases for \$165 is fairly impossible.

Secondly, the housing authority has acquired some high-rise units through direct acquisition. These are houses for our elderly.

And then we have a great deal of housing, several 50-unit projects, plus some scattered sites, that the housing authority has contracted to be built for it and which we now occupy, which is Turnkey 3, which is a homeownership program.

But providing limited-income housing in Montgomery County right now is a fairly hard job.

COMMISSIONER FREEMAN. On the basis of these figures you would have a gap between the supply and the need of about 10,000 homes?

MR. CHAPMAN. Ma'am, we have just gotten one drop in the bucket so far. We haven't begun to meet the real need.

COMMISSIONER FREEMAN. Mrs. Garrott indicated that IBM and Fairchild's officials had indicated that if they had known of this deficiency that there might have been some question about whether they would have relocated there and then mentioned also that the chamber of commerce and economic development commission were sort of responsible for going out and recruiting business.

And I suppose that I would be right in assuming that when the chamber of commerce and the economic development commission go out that they hold out to these businesses certain things that are attractive or certain reasons why they should come there. Is that correct?

MRS. GARROTT. Yes, I think it is.

COMMISSIONER FREEMAN. What I would like to know is have you indicated to the chamber of commerce and the economic development commission the inclusion in their package of the requirement that—of

the fact that they will look to their own community to provide the housing before they will go out and ask for industry or the Federal agencies to relocate there?

MRS. GARROTT. I would say that the chamber of commerce has played a very fine role in educating everybody on the need for more low- and moderate-income housing. I was first elected to the council in November 1966. I had not been in office very long when the president of the Montgomery County Chamber of Commerce asked me to meet with him and other people from the chamber, and they stated that they wanted to talk to me about the need for more moderate-priced housing in the county.

It was out of these conversations with the Montgomery County Chamber of Commerce that there grew a resolution which I cosponsored setting up a middle-income housing commission which did accomplish some things.

For example, it provided for a tertiary road system, and it worked to get a choice program going, and a number of things of that sort that were helpful that did grow out of that. But it was the chamber really that originally pointed out to me the needs, and I think they have played a very fine role.

COMMISSIONER FREEMAN. What I would like to know is how many houses for moderate- or low-income families have been constructed as a result of this policy that you have described.

MR. CHAPMAN. Mrs. Freeman, my concern is that— The Montgomery County Council has given the Montgomery County Housing Authority carte blanche to build as many units as we possibly can within the county. Right now we have a 1,500 unit— I'm sorry. We have just entered our third 600 unit contract with the county. My concern is that the housing authority has been unable to do this for several reasons.

First of all, because of the high cost of land in the county and the need for rezoning and that sort of thing which the county council is now working on.

But even beyond that there is another issue, and that is the issue of the Department of Housing and Urban Development that virtually makes it impossible to begin to make creative uses of the programs that they have.

We're still operating programs as if they were existing in 1939. I have to operate a housing authority in one of the wealthiest counties in the country as if it was existing in the inner-city with the inner-city land cost. We, of course, have social service problems, but this hasn't been funded even though it was recommended in the 1968 Housing Act.

I think we need to look closer to home, and that is the bureaucracy in Washington, to really begin to discover why more houses in some instances haven't been built in Montgomery County.

COMMISSIONER FREEMAN. Are you saying then that the local housing authority has the programs under reservation, businesses are willing to have it, that the county council has approved it, and the Federal agency is the stalemate?

MR. CHAPMAN. Well, for example, I right now have a reservation in — My last reservation of 500 units to build limited-income housing in Montgomery County has been used up. We have had a reservation in for 600 additional units which we need desperately now. That reservation has been in at HUD for at least the last 6 to 9 months.

We have had other proposals that we have had into the Department of Housing and Urban Development that just take just as long to respond to.

And by the time we get a response, in many instances the land is gone, the developer has made other deals, what have you.

In addition, we also have been trying to marry public housing to 235 and 236 programs. We have discovered that many people in FHA don't even know what a 235 and 236 program is, much less Turnkey 3.

MRS. GARROTT. I could add to that. The prior council when it came in office was very determined to rehouse people in a little pocket of poverty in our county called Tobeytown. We were told by the housing authority— We really staffed the housing authority quite well in the department of community development, and we said: "We want the job done and we are willing to pay the money to have the job done." And we were told that we would have the people in Tobeytown, 20-some families, rehoused by Christmas 1967. And then we were told that they would be in by Easter 1968.

And the building of those homes still has not started. And I have called in the head of our department of community development repeatedly and I have said: "What's the trouble? You know, we have given you the money. We have said push it. We're very concerned."

And there has been some trouble in the last year or so over the builder. But before that, according to the head of our department of community development, so much of the hangup lay in what he called bureaucratic red tape involving the Federal Government.

COMMISSIONER FREEMAN. What do you think should be done as far as the Federal Government is concerned—with HUD?

MR. CHAPMAN. I think Mr. Romney right now is undergoing a reorganization where we will have area offices. I have been told that those area offices will be able to respond directly to applications and directly to requests from local housing authorities and from local governmental jurisdictions.

If that is true—and I'm still waiting to find out because I have yet to see a bureaucracy that actually, you know, makes the bureaucracy work better—if that is true, it will go a long way toward making my job most certainly easier.

But I think that that might begin to get at the issues. You have to have someone at HUD that can make a general response to a request without running it through regional offices, through central offices, back to regional offices, and then in some instances having the Secretary himself respond.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I have no questions.

VICE CHAIRMAN HORN. Mr. Chapman, let me just get a little elaboration on that last point because I think it's significant.

In hearings in St. Louis and Baltimore this Commission has gone into the processes of HUD and how approvals are granted or not granted for various types of housing. I think what you have just said is certainly a major point to be underscored. In other words, you would claim that if HUD could decentralize some of these decisions down where the action is so that you could get your hands on the guy that you needed the approval from, perhaps this process would be speeded along and this country would get the houses it needs to meet its 1949, if you will, housing commitment?

MR. CHAPMAN. I think you're absolutely right. The kinds of people that I deal with at HUD—I'm not talking about the Assistant Regional Administrator or the Regional Administrator—I'm talking about the people that are my field reps that come out from HUD to take a look at what is going on—these are basically interns or a year out of school who begin to interpret to those of us who have been in this business for quite a while what we are about.

We have to be careful that we don't step on their toes or else you might wind up with nothing. And the bureaucracy itself—If there is anything within a piece of paper that begins to bother someone, that's new, creative, innovative, maybe a little "out there" somewhere and it might perhaps do a little better job, it's impossible to get anybody to sign off on it. No one will assume the responsibility for it.

And even when you're doing something that is within the legislative rules and regulations as well as the administrative rules and regulations, it still takes a long time to get a response, and time is money when you're in this business.

VICE CHAIRMAN HORN. Let's just take specifically those 600 units you mentioned that have sat around now waiting for a decision one way or the other for between 6 and 9 months. What type of housing was that again?

MR. CHAPMAN. What we are talking about now is acquisition under Turnkey 1 or Turnkey 2.

VICE CHAIRMAN HORN. Is it land acquisition?

MR. CHAPMAN. No, this is to make a deal with the developer. The housing authority would advertise and we'd say something to the effect: "The Housing Authority of Montgomery County is interested in purchasing 50 units of townhouses in a given area or another area. Anyone that would be interested in presenting us with a proposal to do that, if it's within the cost limits defined by HUD, we will most certainly be glad to entertain such a proposal." But we can't do that until we have a reservation. That reservation says that the Federal Government will reserve for us X amount of money to be able to sign a contract eventually with that developer or with that builder.

VICE CHAIRMAN HORN. I see. So this is a matter of actual cash outlay by HUD if they made that commitment to you?

MR. CHAPMAN. That is correct.

VICE CHAIRMAN HORN. Do you have any knowledge whether or not

this is due to a lack of appropriations for this program by Congress?

MR. CHAPMAN. I have been trying to discover that. I called the regional office. The regional office stated that it was under consideration, but, you know, 6 months has gone by. I finally called central office in HUD, and the central office in HUD explained that perhaps there might not be any money around.

I go back to the regional office and I tell them: "Hey, fellows, I heard from your guys down in Washington there might not be any money around. Have you heard that?"

They weren't sure. You go around and around. You really never know.

I know that there is some money in the regional offices. I know there is probably a fight going on by LPA's and LHA's to pick up that money.

All I want to be able to do is to be able to plan for the next 6 months. I would like to know where I stand. I would like to know whether we're going to have any units or not.

VICE CHAIRMAN HORN. Well, I think Counsel might use this project as an example and ask Mr. Romney when he appears before us just what the status of this and similar projects is and the actual time lag between filing of a request and decisionmaking at one level or the other.

Let me ask you, Mrs. Garrott: I noticed you said that as a member of the county council when the question of a commuter tax came up relating to your residents who go into the central city and back, presumably they pay sales taxes, although it would be hard to find how many they pay as they flee in and out in the morning and the afternoon. And they certainly do get liquor at cheaper prices in the District of Columbia than they do in Montgomery County.

I'm just curious. If you were a member of the League of Voters and not a member of the county council in Montgomery County, would you take the same position?

MRS. GARROTT. I think so. Because I really believe strongly that all our central cities should be assisted from the Federal level. I think that it is impossible to expect suburban areas to bail out the central cities. I think massive infusions of money are needed in all our central cities.

VICE CHAIRMAN HORN. Yes, but haven't you also said, Mrs. Garrott, that not only should the Federal Government aid the central cities, but you are advocating here today an in lieu tax proposal to aid one of the richest counties in the United States, which is Montgomery County?

May I ask why the residents of the United States through the Federal tax system should aid Montgomery County in providing low- and moderate-income housing to attract industry which pays the tax bills in Montgomery County? You know, as a Californian, I am curious why I have to pay for your low- and moderate-income housing.

MRS. GARROTT. Let's separate two things. I have suggested first of all that there be a Federal payment in lieu of taxes everywhere in the United States where there are Federal installations. And this would be worked out in such a formula that it would be very helpful to Washing-

ton. It would be helpful to many other areas. Because as a local public official I do believe that when land is taken off the tax rolls by the Federal Government there should be a payment in place of that.

The second proposal that I have made is that everywhere in the United States wherever there are housing units that sell for X number of dollars and less, that there be a Federal payment towards making up the fiscal deficit. And this would help every central city including D.C. and including Maryland's central city, Baltimore, and all the other cities all over the United States and many of the rural villages in this county which have a lot of housing where people are sunk in poverty.

So I believe this would not only assist Montgomery but it would assist a great many people, and it's just a way that I feel that housing where there is a fiscal deficit becomes more palatable.

VICE CHAIRMAN HORN. Does the county government have a group that actively goes out and solicits manufacturers and firms to come to Montgomery County or is that left to the Montgomery County Chamber of Commerce?

MRS. GARROTT. We did have a department made up of one person who went out and actively solicited.

VICE CHAIRMAN HORN. Do you still have that?

MRS. GARROTT. We still have that department but the person who was in charge of it is no longer there and we are recruiting another person, but we're going to increase the department. There will be two people in it. However, a proposal was made by our economic development commission and by our chambers of commerce that a new type of organization be set up partially funded by the county, partially funded by the chambers of commerce, which together would solicit and that our county department of economic development really do sort of statistical and research work.

VICE CHAIRMAN HORN. Might you suggest when you do staff that department and also to the chamber of commerce with whom you have contact that maybe they ought to tell businessmen that there are really hardly any houses for moderate- and low-income people in Montgomery County, in the interest of, say, truth in advertising or something?

Let me ask you one more question. I believe Silver Spring is still unincorporated, isn't it?

MRS. GARROTT. Yes, it is.

VICE CHAIRMAN HORN. This is the largest unincorporated city in the United States I believe.

MRS. GARROTT. Most of our places in Montgomery County are not incorporated. Bethesda is not incorporated either, or Wheaton, although we do have incorporated communities such as Rockville, Takoma Park, Gaithersburg.

VICE CHAIRMAN HORN. So this means essentially the county would adopt the building codes, does it?

MRS. GARROTT. That's right.

VICE CHAIRMAN HORN. May I ask do you feel—and I'd like also Mr. Chapman's response—if there's any problem in terms of the construction of moderate- and low-income houses based on the rigidity perhaps

of the building code? You mentioned the problems of dealing in the '30's. Some have argued, for example, that because of labor unions and other craft hangovers that there is very little opportunity for modular type housing because of some restrictive building codes.

MRS. GARROTT. There is no problem whatever in our county. I took this matter up with our county attorney more than a year ago. At that time there was the need for changing our electrical code. And we did so through passing of a bill last year.

Just Saturday I had the pleasure of going to a site near Etchison in our county where we are having modular homes built. This is a cooperative enterprise. The housing authority is playing a role in this. These modular houses are selling for \$23,500. They will be available for homeownership. And they are, I think, proof that we do not have any problems with our building code. But our county attorney has told us that we do not have this rigidity in our building code.

VICE CHAIRMAN HORN. Go ahead, Mr. Chapman.

MR. CHAPMAN. I was just going to say the idea that— The county, by the way, does have a good building code now. But the idea that through the construction of modular or prefab houses we would reduce building costs in this day and age really isn't true until we can aggregate a market.

I, when I first came on board in Montgomery County, was extremely interested in new building techniques. As a matter of fact, the houses that Mrs. Garrott alludes to, we're the second people in the country to build them. It's that new a technique.

But unless we can really put together a market for them, it doesn't reduce our cost. It's just as cheap to build a stick-built house unless you can really put together an aggregated market.

VICE CHAIRMAN HORN. Let's take that last modular development. What percent of the total housing price will land cost be in that development? Do you have a rough idea?

MR. CHAPMAN. The modular itself was \$6,000, \$500 delivered, so we're talking about \$6,500 for the modular, about, I would say, \$3,000, \$4,000 for the site improvements, and the rest would be land costs. I would say fully about a third of the cost is in the land.

VICE CHAIRMAN HORN. Well, you said those were selling for what again?

MR. CHAPMAN. \$22,000, \$23,000.

VICE CHAIRMAN HORN. So that's really half would be land cost?

MR. CHAPMAN. I could be off a little on my figures. I would say it's closer to one-third.

VICE CHAIRMAN HORN. Closer to a third? Very well. Are there any further questions? Mr. Powell? Mr. Glickstein?

(No response.)

Fine. We thank you very much for joining with us today. If you wouldn't mind remaining through the next witnesses, since we had to reverse the panels there might be a need should something come up to recall you. But we do appreciate your taking the time to come here and we thank you for the evidence that you have given us.

Will Mrs. Thomas and Mrs. Lancaster please come forward?
 (Whereupon, Mrs. Beulah Louise Thomas and Mrs. Margaret Lancaster were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MRS. MARGARET LANCASTER, TAKOMA PARK,
 MARYLAND, AND MRS. BEULAH LOUISE THOMAS,
 SILVER SPRING, MARYLAND**

VICE CHAIRMAN HORN. Please be seated. Mr. Powell?

MR. POWELL. Beginning with Mrs. Thomas, who is closest to me, would you each please state your name and address?

MRS. THOMAS. Beulah Louise Thomas, 543 University Boulevard, East, Silver Spring.

MR. POWELL. Mrs. Lancaster?

MRS. LANCASTER. Margaret Lancaster, 7402 Hancock Avenue, Takoma Park, Maryland.

MR. POWELL. Mrs. Thomas, with whom do you live?

MRS. THOMAS. My husband and four children.

MR. POWELL. And are you employed?

MRS. THOMAS. No.

MR. POWELL. Is your husband employed?

MRS. THOMAS. Yes.

MR. POWELL. What does he do and where is he employed?

MRS. THOMAS. He's a custodian at Eastern Junior High in Silver Spring.

MR. POWELL. How much does he earn?

MRS. THOMAS. How much does he earn? Well, his bring-home pay is \$154.

MR. POWELL. \$154?

MRS. THOMAS. Every 2 weeks.

MR. POWELL. Every 2 weeks? In addition to your husband's income, does your family receive any other financial assistance?

MRS. THOMAS. No.

MR. POWELL. Mrs. Thomas, how long have you and your husband lived in Montgomery County?

MRS. THOMAS. All of our lives.

MR. POWELL. I beg your pardon?

MRS. THOMAS. All of our lives.

MR. POWELL. All of your lives? Mrs. Thomas, are you living in public housing now?

MRS. THOMAS. Yes.

MR. POWELL. How much do you pay for that housing?

MRS. THOMAS. \$69 a month.

MR. POWELL. Is that a single family home?

MRS. THOMAS. Yes.

MR. POWELL. In addition to the \$69 a month you pay for rent, do you also pay utilities?

MRS. THOMAS. Yes.

MR. POWELL. And how much does that come to?

MRS. THOMAS. Well, I can give you an estimate.

MR. POWELL. All right.

MRS. THOMAS. About 120-some dollars a month.

MR. POWELL. About \$122 a month?

MRS. THOMAS. In the winter.

MR. POWELL. Does that include the rent or is that in addition to rent?

MRS. THOMAS. Addition. No, that's with the rent. I'm sorry.

MR. POWELL. With the rent? All right. Mrs. Thomas, is there anything wrong with your house from the point of view of health and sanitary conditions?

MRS. THOMAS. Yes.

MR. POWELL. Would you describe that for us, please?

MRS. THOMAS. Well, we have rats and roaches and termites.

MR. POWELL. And how long have you lived in your present house?

MRS. THOMAS. Fourteen months.

MR. POWELL. Have these conditions been reported to the housing authority?

MRS. THOMAS. Yes.

MR. POWELL. And what has been their response?

MRS. THOMAS. Well, they did send the exterminator over about 4 months ago, and that's it.

MR. POWELL. Did they take care of these conditions for you? When the exterminator came did the conditions improve?

MRS. THOMAS. No.

MR. POWELL. When improvements are made in your home, Mrs. Thomas, do you make them or does the landlord do it for you?

MRS. THOMAS. The housing authority does it, some of it.

MR. POWELL. Do you have to make some improvements yourself?

MRS. THOMAS. Yes, we did.

MR. POWELL. And when you make those improvements, you have to pay for them?

MRS. THOMAS. Yes, we did.

MR. POWELL. Did you live in public housing before your present house, Mrs. Thomas?

MRS. THOMAS. Yes.

MR. POWELL. Was the condition of that housing also substandard?

MRS. THOMAS. Similar to it.

MR. POWELL. Mrs. Thomas, did the housing authority help you find your present house?

MRS. THOMAS. Yes.

MR. POWELL. Before you moved in, did they inspect that house?

MRS. THOMAS. Well, it was supposed to be inspected.

MR. POWELL. And was it your understanding that it would be in good condition when you moved in?

MRS. THOMAS. Yes.

MR. POWELL. Was it in good condition when you moved in?

MRS. THOMAS. No.

MR. POWELL. Would you describe the condition it was in when you

moved in?

MRS. THOMAS. Well, when we moved in, before we could move in, my husband had to disinfect the place and wash it and it wasn't painted. It was whitewashed but it wasn't painted. And it wasn't clean.

MR. POWELL. Would you and your husband like to stay in Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Have you attempted to find better housing in Montgomery County?

MRS. THOMAS. No, because we want to stay here.

MR. POWELL. Well, have you attempted—

MRS. THOMAS. Oh, we looked around for houses on our own, yes.

MR. POWELL. In Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Have you been able to find such housing?

MRS. THOMAS. No.

MR. POWELL. Do you want to stay in Montgomery County?

MRS. THOMAS. Yes.

MR. POWELL. Why?

Mrs. Thomas. Because we've been here all of our lives, just want to stay here I guess.

MR. POWELL. I see. Thank you. Mrs. Lancaster, with whom do you live?

MRS. LANCASTER. My husband, nine children, and my grandson.

MR. POWELL. Are you employed?

MRS. LANCASTER. No, I'm not.

MR. POWELL. Is your husband employed?

MRS. LANCASTER. Yes.

MR. POWELL. Where is he employed and what does he do?

MRS. LANCASTER. He works for Lester Paresky Management, Inc. He's a maintenance mechanic.

MR. POWELL. How much does he earn?

MRS. LANCASTER. He brings home \$113 a week.

MR. POWELL. In addition to your husband's wages, do you receive any other financial assistance?

MRS. LANCASTER. We receive AFDC from social service department in Rockville.

MR. POWELL. How long have you and your husband lived in Montgomery County, Mrs. Lancaster?

MRS. LANCASTER. All of our lives.

MR. POWELL. You were raised in the northern part of the county, were you not?

MRS. LANCASTER. True.

MR. POWELL. Did there come a time when you moved to the southern part of the county?

MRS. LANCASTER. Yes. We were living in my grandfather's house. Because of the age of the house it was impossible for us to fix it up without completely doing a remodeling job which we couldn't afford, so we had to find someplace else to go.

MR. POWELL. And when did you move to the southern part of the county?

MRS. LANCASTER. In 1968.

MR. POWELL. In 1968 when you moved to this part of the county, to the southern part of the county, did you apply for public housing at that time?

MRS. LANCASTER. Not at that particular time because I was active in the civic association in Sandy Spring, and through a League of Women Voters member they gave us like, you know, fair housing here—names of fair housing people and people to get in contact with for those that didn't have adequate housing. And the name that they gave us was the Emergency Homes, and I contacted them in January of 1967.

MR. POWELL. Since being in the southern part of the county, have you ever had occasion to apply for public housing?

MRS. LANCASTER. Yes, I did.

MR. POWELL. And what was your experience? Were you able to get public housing after applying?

MRS. LANCASTER. After a year and about 6 months they found us a house which my husband was not satisfied with and we didn't take it.

MR. POWELL. What was the housing that you actually found in 1967 or 1968 when you first came to the county? What was that like?

MRS. LANCASTER. It was poor. It was not a tight house. In the winter utilities went up to \$78, \$80 a month just for heat. And the doors in the basement were off the garage. The door leading into the basement had to be chinked up in the wintertime to keep out the cold. And we had windows that were missing and had to call to be replaced.

MR. POWELL. How long did you live there?

MRS. LANCASTER. We lived there for 4 years.

MR. POWELL. When you became dissatisfied with that housing, what did you do to find a better house?

MRS. LANCASTER. We looked. We looked all over in Montgomery County to try and find a house that would house our children and ourselves which was impossible on the rent that we could afford to pay.

MR. POWELL. How did you eventually find the house you are in now?

MRS. LANCASTER. Through my social worker, and Mrs. Elizabeth Scull. She found a house, bought it, and is now renting it to us.

MR. POWELL. How long have you been living there?

MRS. LANCASTER. We have been living there now for a year and 6 months.

MR. POWELL. A year and 6 months?

MRS. LANCASTER. Yes.

MR. POWELL. Do you pay rent on your present home?

MRS. LANCASTER. Yes, we do.

MR. POWELL. And you are not living presently in public housing, are you?

MRS. LANCASTER. No.

MR. POWELL. How much do you pay per month?

MRS. LANCASTER. \$125.

MR. POWELL. Mrs. Lancaster, you are chairman of the Montgomery County Welfare Rights Organization, are you not?

MRS. LANCASTER. Yes, I am.

MR. POWELL. Through this position and your other personal experiences, have you become familiar with the housing needs of low-income people in the county?

MRS. LANCASTER. Yes.

MR. POWELL. Would you please describe the problems that poor people have in finding appropriate low-income housing in the county?

MRS. LANCASTER. Well, first of all, when you move or want to move into a better house, you automatically feel that you would like to live somewhere in the suburbs if you have children, or in the country if you have children—that is, if you have adequate transportation. And if you look for a place, say, out in the suburbs, in Wheaton or some place like this, they don't want you because either you're black, you're poor, and they feel you're going to run the standards of the neighborhood down, that when you move in you are not going to keep your property as well kept as theirs.

They feel that most of these houses have a type of luxury attached to them and they feel that a poor person is not supposed to have a luxury, which is just the simple things in life that everybody should have. They feel that a garbage disposal or a dishwasher if it's in a house is too much for a poor person to have.

If they can go and wash their dishes in a dishwasher, put their garbage into a garbage disposal, why can't we have the same things?

Mr. Powell. Thank you. I have no further questions, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mrs. Lancaster, you were talking about the problems of poor people in Montgomery County in finding housing. Could you tell us whether the poor black people have it harder than the poor white people or not?

MRS. LANCASTER. No, I wouldn't say they have it any harder. I think when it really comes down to it and you want to move into an exclusive white neighborhood, they don't want a poor white person because they feel that this will show exactly what they are doing to the poor people, and if they have some of their own, they are ready to turn them down. I think when it comes to it they would accept a black before they accept a white.

COMMISSIONER FREEMAN. You are paying \$125 a month rent?

MRS. LANCASTER. Yes.

COMMISSIONER FREEMAN. What are you getting for this?

MRS. LANCASTER. Pardon?

COMMISSIONER FREEMAN. What are you getting? How large— Is it a house?

MRS. LANCASTER. We have a 12-room house.

COMMISSIONER FREEMAN. Twelve-room house. How many houses are available for rent in the neighborhood at that rental?

MRS. LANCASTER. Where I live?

COMMISSIONER FREEMAN. Yes.

MRS. LANCASTER. None. You can't find a house for \$125 a month with four or five bedrooms. It's impossible.

COMMISSIONER FREEMAN. You have had occasion to be looking for apartments and houses. Mrs. Thomas, what has your experience been in terms of trying to find houses? Have you found that there has been a larger number of apartments or houses available to black persons than white persons in Montgomery County at the monthly rental that you are paying?

MRS. THOMAS. At the rent I'm paying now?

COMMISSIONER FREEMAN. Yes.

MRS. THOMAS. No, not too many.

COMMISSIONER FREEMAN. So that in this area there are just no rental houses for poor families, be they black or white?

MRS. THOMAS. Not at the rent you can pay.

COMMISSIONER FREEMAN. I believe your income, annual income, is about \$4,000, and you, Mrs. Lancaster, the income is about \$5,800.

MRS. LANCASTER. That's right.

COMMISSIONER FREEMAN. Have you tried to find out from any of the Federal agencies whether there would be any homes available for sale for you to purchase?

MRS. LANCASTER. No, because after we got this house we rented with option to buy.

COMMISSIONER FREEMAN. You are already under the lease-purchase program?

MRS. LANCASTER. There was no need to ask or go to Federal housing. When we were looking there were not any four-and five-bedroom houses which would be under the housing code of Montgomery County for a family of my size. When we were looking they did not have them.

COMMISSIONER FREEMAN. Would you say that your housing is better or worse than some of the other poor people who live in Montgomery County?

MRS. LANCASTER. I would say it's better than some people that live in the county—some of the people that I know that live in Montgomery County.

COMMISSIONER FREEMAN. The others are worse off than you?

MRS. LANCASTER. I think so. Some of them. Not all of them.

COMMISSIONER FREEMAN. Thank you.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. No questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No questions.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. No questions.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. No questions.

VICE CHAIRMAN HORN. Let me ask you, Mrs. Thomas, Mrs. Lancaster: Sometimes we have found in going around the country that in various neighborhoods where there is lower-income housing there seems to

be a failure of either county or city services such as garbage collection, certain other things that make life fairly palatable. Do you find that there is any difficulty in terms of the municipal or county services that you are receiving in your respective housing?

MRS. LANCASTER. No, I haven't since I have been in Takoma Park — I haven't found any problem with this except when we first moved onto Hancock Avenue we'd have our trash from one week to the next. But when I started complaining about it, when they found that I wasn't going to let it go, then they started and they are picking up my trash as they should.

VICE CHAIRMAN HORN. Mrs. Thomas?

MRS. THOMAS. When we first moved in they wouldn't pick it up, and we kept complaining, and now they do it regular.

VICE CHAIRMAN HORN. So you do have at least certain garbage collection, sanitation services that are working?

MRS. THOMAS. Right.

VICE CHAIRMAN HORN. How would you describe the general appearance of the neighborhood in which your houses, one private and one public I take it, are located? Generally in terms of the streets, are they littered or what? What is the general appearance of the neighborhood?

MRS. LANCASTER. The neighborhood where I live is very clean and I guess mainly because they have mostly apartment buildings there and I am pretty much surrounded by the apartment buildings. But it's a clean neighborhood. The streets are clean.

VICE CHAIRMAN HORN. Mrs. Thomas?

MRS. THOMAS. Well, we live right on the side of the boulevard which is near the road, and there's nothing there but houses all the way up. This is a pretty well kept neighborhood—from one end up, that is.

VICE CHAIRMAN HORN. So in terms of street cleaning by the municipality or the county, that seems to be maintained and also the neighborhood generally has kept up its own houses in this area?

MRS. THOMAS. Yes.

VICE CHAIRMAN HORN. Thank you very much. Any further questions by anybody?

(No response.)

Well, we appreciate so much your coming down here today. Thank you again.

Do the previous witnesses have any comments they would like to make at this time having heard from the two residents of Montgomery County? If so, we'd be glad to hear any further statements or any questions of the previous witnesses.

They could submit it for the record if they'd like after reviewing it.

We will now have the panel on the Commission hearings in St. Louis, Missouri and Baltimore, Maryland. Mr. George C. Bradley, Assistant General Counsel of the United States Commission on Civil Rights, and Peter W. Gross, Assistant General Counsel of the Commission, will present two brief papers.

(Whereupon, Mr. George C. Bradley and Mr. Peter W. Gross were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. GEORGE C. BRADLEY, ASSISTANT GENERAL
COUNSEL, AND MR. PETER W. GROSS, ASSISTANT GENERAL
COUNSEL, UNITED STATES COMMISSION ON CIVIL RIGHTS,
WASHINGTON, D. C.

VICE CHAIRMAN HORN. Please be seated. Mr. Hunter will proceed to question you.

MR. HUNTER. Thank you, Mr. Chairman. Before we begin, there are a couple of items I would like to introduce into the record.

Mr. Scott of the Washington Suburban Institute who testified this morning left with me a statement which he would like submitted. I'd like to introduce that into the record.

VICE CHAIRMAN HORN. Without objection, that will be inserted in the record at the point at which Mr. Scott's discussion took place.

MR. HUNTER. Thank you.

And if the map of Montgomery County, which we have been watching, could be introduced into the record—

VICE CHAIRMAN HORN. Yes. Why don't we as a general policy have the exhibits that will be introduced put at the appropriate place in the record.

MR. HUNTER. Yes, we will do that.

And we also now have a map of the Baltimore Metropolitan Area and of the St. Louis Metropolitan Area which I'd like to introduce.

VICE CHAIRMAN HORN. Both exhibits will be inserted at this point. (Whereupon, the documents referred to were marked Exhibits No. 11-14 and received in evidence.)

MR. HUNTER. Thank you.

Would you please state your name and your position for the record?

MR. BRADLEY. George Bradley, Assistant General Counsel.

MR. GROSS. I'm Peter Gross, also Assistant General Counsel.

MR. HUNTER. That's with the U. S. Commission on Civil Rights?

MR. BRADLEY. Yes.

MR. GROSS. Yes.

MR. HUNTER. Mr. Bradley, did you participate in the preparation of the Commission's hearing in St. Louis County and did you attend that hearing which was held January 14 to 17, 1970?

MR. BRADLEY. Yes, I did.

MR. HUNTER. Could you summarize for us what took place at that hearing, what the Commission saw and heard?

MR. BRADLEY. Yes. The St. Louis Metropolitan Area is rapidly becoming two communities, one poor and largely black, the other affluent and largely white. The racial division of the St. Louis Metropolitan Area was documented by the Commission in January of 1970.

The city of St. Louis over the last 20 years lost over 180,000 inhabitants, most of whom were white. St. Louis County in the same 20 years had an increase of over 700,000 persons, mostly white. Although in the last several years there has been some increase in the number of black persons moving into St. Louis County, this movement does not indicate that the black population is being dispersed. In fact, the reverse is true.

The black population has been moving into an area adjacent to the city of St. Louis, particularly in a corridor northwest of the city, indicating that the black population was merely spilling over the city line into the county.

A movement of even greater concern to the Commission related to jobs moving from the central city to suburban areas. While the St. Louis Metropolitan Area has experienced an overall employment growth in recent years, the growth of employment opportunities has been confined largely to St. Louis County. Between 1951 and 1967, the number of jobs in St. Louis County increased five times, while the number of jobs in the city declined by over 20 percent.

In this period of time there was an increase of more than 170,000 new jobs in the county, while in the city there was a decline of over 80,000 jobs.

The movement of white people and jobs from the city of St. Louis to parts of St. Louis County, largely inaccessible to minority persons, was, the Commission found, not accidental. The presence of the Federal Government was everywhere. In some cases the Federal Government failed to take corrective action.

For example, the Air Force awarded a large contract to the McDonnell-Douglas Corporation, the largest employer in the St. Louis area, employing over 33,000 persons. The contract to build airplanes could eventually total over \$7 billion. Notwithstanding such a huge contract, no preaward compliance review was conducted by the Federal Government to determine whether the county had an affirmative action plan in compliance with Executive Order 11246 which requires equal opportunity by Federal contractors.

In fact, the affirmative action plan did not comply with the Executive order.

In the case of McDonnell-Douglas, the fault of the Federal Government was one of omission, in that Federal regulations promulgated by OFCC to carry out Executive Order 11246 had not been carried out.

The Commission also heard testimony indicating that some Federal agencies were guilty of more than omissions but were actually conducting their programs in a way which contributed to the concentration of poor black persons in certain areas of Metropolitan St. Louis.

For example, the urban renewal program enabled the city of Olivette, Missouri to displace most of its black citizens. An area that once had well over 100 black persons had less than 10 black persons at the time of the Commission hearings.

Most of the residents of this area were forced to move back into predominantly black areas of the county or even into the inner-city.

The purchase of this land and the removal of its black residents was paid for with Federal funds.

Except for 150 units of public housing in the all-black city of Kinloch, no public housing was located in St. Louis County. Kinloch was the only municipality in St. Louis County to even have a public housing authority.

While the unincorporated section of St. Louis County does operate a

public housing authority, in January 1970, after 14 years of existence, it had yet to build its first unit of housing.

Thus, HUD has permitted the various jurisdictions in St. Louis County to benefit from its programs on a selective basis, rejecting programs for the poor such as public housing for low-income families, but utilizing programs benefiting middle-and upper-income families such as the system of mortgage insurance for home purchase, property improvement loans, and urban renewal.

Since 79 percent of real estate transactions are handled by real estate agents, their role in maintaining a separate housing market for black families is great. The Commission heard testimony of allegedly widespread discriminatory practices by real estate brokers in the St. Louis Metropolitan Area.

A fair housing group visited 15 different real estate companies and received the same general treatment at all of them. If the visitors were white, they were directed to all-white areas in the county and on some occasions were even told derogatory things about certain integrated or "changing" areas.

If the visitors were black and asked for the same priced housing as the white person, they were directed only to certain integrated, "changing", or all-black neighborhoods.

One of the real estate dealers allegedly engaging in such practices testified that over 90 percent of his sales were financed by FHA and VA.

In summary, the Commission found that in the St. Louis Metropolitan Area, employment opportunities are moving from the city to the suburbs, but the minority community remains entrapped in an expanding ghetto.

While there has been some significant black movement into the suburbs, this has not been because of racial integration but because the ghetto has reached the county line and moved across it.

The Commission heard witness after witness describe not what the Federal Government is doing to alleviate the situation but how the Federal Government directly contributes to the problem.

MR. HUNTER. Thank you, Mr. Bradley.

Mr. Gross, did you participate in the preparation for the Commission's hearing in Baltimore County and did you attend that hearing which was held August 17-19, 1970?

MR. GROSS. I did.

MR. HUNTER. Could you summarize that hearing for us, please?

MR. GROSS. Yes. The Baltimore Metropolitan Area is made up of Baltimore City and five surrounding counties. The Commission's hearing, however, focused on the city together with one of those five counties, Baltimore County, which virtually encircles the city.

The contrast between Baltimore City and Baltimore County, which is sometimes referred to as the "golden horseshoe," in many ways typifies the contrast between suburbia and central cities throughout the Nation. The backdrop is growing racial polarization between the two.

In 1950, Baltimore County was 6 percent black. Ten years later, it is

3.5 percent black. And in the decade to date that percentage has declined even further.

Over that same 20-year period, the black percentage of the population in the city has grown from 24 percent to almost half.

Increasingly poor and black, Baltimore City has serious housing problems. With 11,000 public housing units, the city has 3,000 families on the waiting list and estimates that the actual need is vastly greater.

In Baltimore County, on the other hand, there is no public housing, and each year a number of Baltimore County residents apply for public housing in the city.

Baltimore City expenditures for social services in 1970 were more than \$100 per capita. In the same period, per capita expenditure for social services in the county was \$7.80.

The property tax rate in the city is 55 percent more than in Baltimore County.

As in St. Louis, the movement of firms out of the city of Baltimore, together with the failure of job growth in the city to match that of the county, was found to contribute to high unemployment rates in the city among black workers. In some predominantly black census tracts, unemployment was found to range as high as 27 percent.

The Commission found that there were many forces which have created and which continue to create this racial and economic polarization. One factor has been the displacement of blacks from residence in the county. Demolition to make way for renewal and for highway construction combined with the lack of other low-cost housing in the county forced many low-income black families into the city.

A significant contributing cause was the zoning of black residential areas in the county for industry or business.

In addition to the effects of planning and zoning, another cause of racial polarization has been the dual housing market. While there is a serious lack of low- to moderate-income housing in Baltimore County, at the same time it is also true that over the past several decades there have been many thousands of blacks who could have afforded to purchase housing in the county. Discriminatory exclusion of blacks from residence in much of the county was overt in the 1950's.

While discrimination in the following decade was more subtle, it was scarcely less effective. We found that traditions of racial separation and exclusion have become deeply engrained.

One striking aspect of racial polarization which the Commission noted was the pervasiveness of the sense of fear and of separation. Individual homeowners, like individual neighborhoods within the county, seemed to stand in isolation always fearful that the problems of the city, often understood to be the problems of the poor and the black, would overtake them. Such fears, the Commission found, seem to be reflected in the perceptions and the actions of the Baltimore County government as well.

Federal statutes and regulations place principal reliance for sound and orderly development of the Baltimore Metropolitan Area upon the Metropolitan Regional Planning Council. This Regional Planning

Council, like similar planning and review agencies in other metropolitan areas, is comprised of representatives of each of the metropolitan area jurisdictions under the State. Under Federal regulations, the Regional Planning Council is responsible for reviewing federally assisted project proposals to assure that they are consistent with the sound and orderly development of the metropolitan area.

The Regional Planning Council appears to have done a good job of diagnosing the problem of racial polarization and inequality faced by the Baltimore Metropolitan Area. One of its reports states:

"In the Baltimore region, the low income Negro population is the group most severely affected by the current housing shortage. A victim of both racial and economic discrimination, the Negro has little choice but to locate in the inner city where much of the housing stock is old and in substandard condition."

However, the Regional Planning Council has generated no meaningful plans for solving these problems, and even were it to do so, there is no mechanism to which it can turn for implementation.

So it is, then, that despite Federal laws, regulations, and policies to the contrary, Federal funds administered by the Department of Housing and Urban Development, the Department of Transportation, and by numerous other Federal agencies continue to subsidize the development of a burgeoning Baltimore County, while racial polarization between the city and the suburbs mounts.

MR. HUNTER. Thank you.

VICE CHAIRMAN HORN. Mr. Gross, would you define either now or for the permanent record in parentheses on page 2 of your statement what you mean by social services? What are the governmental categories of expenditures you have included there?

MR. GROSS. I will be sure that is included in the record, if that is satisfactory.

VICE CHAIRMAN HORN. All right.

VICE CHAIRMAN HORN. Any further questions? Commissioner Mitchell?

COMMISSIONER MITCHELL. I'd like to ask this question of each of you or both of you, assuming you are equally familiar with the St. Louis and the Baltimore hearings. In both cases you are testifying, summarizing the findings of those meetings in such a manner as to indicate that it is a failure of various Federal agencies, bureaus, regulations, or the enforcement thereof, either through failure to seek compliance in accordance with Executive regulations, failure to make highway funds available in accordance with the intent of the law, failure to provide housing in accordance with the intent of the law.

Over and over again you turn to the Federal Government as a failure or to identify failures that have contributed to the disastrous situations in both of these cities.

It has been said of the Commission that it is not looking at the bright side of things, that it is accentuating the negative and failing to find the positive. In summary, as you think of both of these hearings and summaries you have just made, would you say the Commission is being

unduly severe in its criticism of the Federal Government with respect to civil rights conditions and the circumstances relating to them in either or both of these cities or areas or suburban regions surrounding the cities?

MR. BRADLEY. I don't think so. I think when you look at what is happening in St. Louis—I am most familiar with what is taking place in St. Louis—the laws and programs which are in existence I think could go a long way toward alleviating those situations. And yet these laws, these programs are not having the impact that they were intended for, but, on the contrary, in case after case we find just the opposite happening, that urban renewal, for example, is being used not to improve an area and to provide economic resources and upgrade an area, but as strictly to move black people out of an area.

I think the Federal Government does bear very large responsibility for what is happening, and what is needed is not additional Federal laws. What is needed is enforcing what we already have. I think that's what we generally found.

MR. GROSS. Yes. If I could just add briefly, I think that given two facts— One is that Federal funds have done so much to develop the suburban areas of our country. And, two, that that suburban development is done in such a way as to wreak tremendous social costs principally on the portion of our population, the poor and minorities, least able to pay that cost. This shocking condition could be accepted only if there were no alternative and if there were no remedy.

I think the question that those two facts raise is: Are there things that the Federal Government could be doing to avoid these consequences?

My own view is that the answer to that is a clear yes—that the laissez faire policy is simply unacceptable. And, of course, that's to a great extent what this hearing is addressed to.

COMMISSIONER MITCHELL. Thank you.

VICE CHAIRMAN HORN. Thank you. Any further questions?

COMMISSIONER RUIZ. Yes. Are the facts upon which you base your résumé of conditions in St. Louis and in Baltimore matters of special reports filed with the Commission and distributed? Have the matters involved been reduced to transcript form?

MR. BRADLEY. Yes, we have transcripts of both of the Commission hearings.

COMMISSIONER RUIZ. So that if anyone wishes to check upon your conclusions, those are matters that are available for public record? Is that correct?

MR. BRADLEY. Yes. The Commission has the transcripts.

COMMISSIONER RUIZ. And they are available to anyone who may desire them with good cause?

MR. BRADLEY. Yes.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Thank you very much, gentlemen.

Will the next panel, Mr. Smith, the Chairman of the Maryland State Advisory Committee of the Commission, and Rev. Richard Ellerbrake,

the Chairman of the Missouri State Advisory Committee, please come forward?

(Whereupon, Mr. Wofford Smith and Rev. Richard Ellerbrake were sworn by the Vice Chairman and testified as follows:)

**TESTIMONY OF MR. WOFFORD SMITH, ACTING CHAIRMAN,
MARYLAND STATE ADVISORY COMMITTEE, COLLEGE PARK,
MARYLAND AND REV. RICHARD ELLERBRAKE, CHAIRMAN,
MISSOURI STATE ADVISORY COMMITTEE, TO THE U. S.
COMMISSION ON CIVIL RIGHTS, ST. LOUIS, MISSOURI**

VICE CHAIRMAN HORN. Please be seated.

MR. HUNTER. Will both of you please state your name and position with the State Advisory Committees for the record?

REV. ELLERBRAKE. My name is Richard P. Ellerbrake. I am Chairman of the Missouri State Advisory Committee to the United States Commission on Civil Rights.

MR. SMITH. My name is Wofford K. Smith. I am Acting Chairman, Maryland State Advisory Committee, United States Commission on Civil Rights.

MR. HUNTER. Mr. Ellerbrake, how long have you been with the Missouri State Advisory Committee?

REV. ELLERBRAKE. Since 1962.

MR. HUNTER. Mr. Smith, how long have you served with the Maryland SAC?

MR. SMITH. Since 1965.

MR. HUNTER. With the Maryland SAC since 1965?

MR. SMITH. 1965.

MR. HUNTER. Thank you. Mr. Ellerbrake, if we can look at the situation in St. Louis. Since the Commission's hearing was held has the role of employers in promoting opportunities for minorities in suburban housing improved?

REV. ELLERBRAKE. Not significantly, no.

MR. HUNTER. Mr. Bradley in his testimony I believe mentioned the McDonnell Douglas Corporation. Could you bring us up to date briefly on what developments there have been with that since the Commission's hearing?

REV. ELLERBRAKE. Let me say that there are many of us in St. Louis who think back with much appreciation to the 1970 January hearing of this Commission, particularly, if I might say so, to Commissioner Mitchell's comments at that time and the media's response to that which fruited in our judgment in a great flurry of activity on the part of McDonnell Douglas and also on the part of the Federal Government in taking some belated action to insure that the company was indeed in compliance—and in fact it was not.

Since that time, however, there has been some improvement made—not, obviously, as much as we would like to see—but certain concrete steps have been taken on the part of McDonnell Douglas which was picked out at that time.

And I might just summarize several of those:

One, McDonnell Douglas has greatly strengthened its housing office and has as a result of that hearing a year ago, year and a half ago, taken some significant affirmative action in making sure that housing which is available to its employees is available on a nondiscriminatory basis.

Now, we don't think they have done as much as they might do, but they have at least circularized rather broadly those who are on their housing lists, sent out a letter, made those individuals send back a signed statement saying that they will not discriminate in housing. This we feel is a good thing.

They have taken some persons off of the approved list because they have not been willing to so indicate.

Beyond that, McDonnell Douglas also was instrumental—we felt rather badly that it was so quiet at first—in making some \$30,000 available as seed money for the moderate-income housing project in Black Jack.

MR. HUNTER. Could you tell us more about the status of that project?

REV. ELLERBRAKE. About Black Jack?

MR. HUNTER. Yes. Very briefly, please.

REV. ELLERBRAKE. Well, we have been hoping for a long time that Father Hesburgh's letter to the Attorney General would result in the Attorney General's entering the case on behalf of Black Jack. And if the timing is approximately accurate, around this time I think that the Attorney General and Secretary Romney are having a press conference. If they are doing the right thing, the Attorney General is going to enter the Black Jack case. But until that happens, of course, the thing is somewhat at a standstill at this point.

We do feel in Missouri that there are already enough people of moderate-income living in the Black Jack area that it's certainly not reasonable to take the approach, even if one were to accept the logic, which I would not, that you can separate racial from economic discrimination and thus allow a continuation of no action in Black Jack on economic grounds.

They already have people of that economic level living there.

MR. HUNTER. Thank you. If I could turn to Mr. Smith for just a minute, Mr. Gross in his description of the Baltimore hearing mentioned the fear that the people in Baltimore County have, fear of problems of the city. He says this is often understood to be problems of the poor and the black.

Then he continues that this fear seems to be reflected in the perceptions and actions of the Baltimore County government as well.

Do you think that is an accurate description and has that changed since the Commission's hearing?

MR. SMITH. Yes, I think it is an accurate description because we held a followup open meeting in January, following up the Commission's open hearing of last August, and there seems to be a great fear of a false stereotype that the officials and other community leaders seem to have concerning, for instance, public housing. They keep referring to them as built-in ghettos, as red brick architectural monstrosities, and

various things like this.

And then they express fears of undesirable people coming into their community and changing the standards, property values being lowered, and things of this nature.

And I think it came out in the Commission's hearing in August from the HUD officials' testimony about the sort of public housing that is now available in the Government programs that this simply isn't so.

There is another kind of fear, too. Not only do the people who are the affluent whites and who are in charge of the Government and the people of influence in the county fear an influx of poor and poor blacks mainly from the city, but also the few blacks that do live in Baltimore County also exist under a specter of fear.

In our meeting on January 5, time after time they would testify that they were afraid of what the white people might do to them if they were to try to reach out from their enclaves or to complain about the poor public services that the county is giving them and things of this nature. And we found this was a different kind of fear that also needs to be dealt with.

MR. HUNTER. Has the government of Baltimore County taken any action concerning public housing or leased housing recently?

MR. SMITH. Yes, they have—a minimal thing. Just recently an act was passed by the county council in which they— After having been requested by the city of Baltimore to have a leased program from the city, they denied this, but they did apply to HUD for a leased housing arrangement under the 1937 Act—I think it's Section 23 of the 1937 Public Housing Act of the United States—for a limited leased housing program.

That has been passed by the council, has now been approved by the State, and is now awaiting approval by HUD, which should be forthcoming.

Incidentally, we find that there are 1,700, approximately, people on the welfare rolls who would be eligible to apply for these but there are only going to be something less than 500 units under this arrangement so it's only a token thing. Other than that, there is no public housing—

MR. HUNTER. Do you have an opinion as to why they passed this resolution for Section 23 leased housing?

MR. SMITH. I certainly do.

MR. HUNTER. Could you give that to us, please?

MR. SMITH. Sure. HUD again has done two things. For a number of months HUD has not granted certain water and sewage subsidies to the county, and then HUD also says behind the August Commission hearings that they were going to come into Baltimore County and reevaluate the county's housing program and policies in light of what the Commission found in August, and then as a result of this I think this is the sort of pressure that caused the council to take this much minimal action concerning the leased housing program under that act.

And the reason they took that act is because they wanted something that they could do locally, because Dale Anderson, who is the county executive, and Mr. Francis Barrett, who is the county council chair-

man, have repeatedly and publicly stated that they will not allow public housing to come into Baltimore County.

MR. HUNTER. Do you think there is a real shift here? Will we actually see sort of public housing in Baltimore County?

MR. SMITH. Well, a token. Only what they have to do under pressure—unless they change, make a radical departure from their previous postures.

MR. HUNTER. Thank you. Mr. Chairman, I have no further questions of these witnesses.

VICE CHAIRMAN HORN. Do any of the Commissioners have any questions? Mrs. Freeman?

COMMISSIONER FREEMAN. I have no questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. No.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. When did you last see the McDonnell Douglas affirmative action plan?

REV. ELLERBRAKE. The State Advisory Committee has never seen the McDonnell Douglas affirmative action plan.

COMMISSIONER RUIZ. How do you know there have been improvements on it?

REV. ELLERBRAKE. We have heard from the staff of the Commission on Civil Rights, who has had apparently some access to it, and we have also recently, as recently as 4 weeks ago, had an open meeting in St. Louis to hear from some of those who were present at the January 1970 hearing.

At that open meeting, McDonnell Douglas presented to us facts which indicate that their relative numbers, for instance, of minority employees have increased. This is the substance of the source of our information.

I might say, Commissioner Ruiz, too, because we didn't touch on it, that with regard to McDonnell Douglas and the housing aspect one has to note that there has been really no improvement at all in the metropolitan St. Louis area with regard to the availability of moderate-income housing.

I wouldn't want to mislead the Commission into thinking that the McDonnell Douglas improvement is significant in terms of the overall picture. It is not. That area that you see on the map continues to be divided black and white, rich and poor. And unless something happens, it's going to get worse, not better.

COMMISSIONER RUIZ. What do you suggest with respect to McDonnell Douglas as to what should be done?

REV. ELLERBRAKE. Well, one thing comes to mind certainly. We heard testimony 4 weeks ago that in order to evaluate the degree of compliance the Office of Federal Contract Compliance had three individuals who, on a part-time basis over 3 weeks, made the review. Now, it seems to me when we are talking about literally multibillion dollar

contracts in aggregate that we could do with a little more intensive investigation.

McDonnell Douglas has invited members of your State Committee to come out and visit. Obviously, on a part-time basis for an hour here, an hour there, we are not going to be able to do that kind of a job.

The Federal Government has to make a commitment to serious contract evaluation in order to insure on a continuing basis that McDonnell Douglas remains in contract, in my judgment.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. You might give them 30 days to comply or ask them to take over Lockheed.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. I have no questions.

VICE CHAIRMAN HORN. Let me ask you, gentlemen: When we held our hearings in St. Louis and Baltimore, obviously there was substantial press and media coverage of those hearings. What sort of followup has been done by the media and the press on the problems that we focused on in both cities?

MR. SMITH. Dr. Horn, I think a great deal has been done in the Baltimore area. I think the hearing itself, of course, as you pointed out, did create a stir. And it created it not only among the press but among certain private groups, poor blacks mainly, to activate themselves and to get involved with the government process in Baltimore County and Baltimore City as well.

And this generated quite a bit of interest, and the press has been very good at responding to this, and it has been an active, live issue ever since.

We had substantial public interest in our open hearing January 5, and then it kind of made the county council a little bit angry when we issued our report, and then they in turn kind of flew off the handle, and this created even more public interest, and I think a great deal of public interest now exists concerning the problem that didn't exist before.

And while I may be sounding negative, it really isn't negative. I think it's a positive thing. Because a lot of people in my opinion have not been dealing with the problem simply because they didn't know the problem exists. And when things like this happen, when activist groups get to work, when the Commission comes in, and when your State Committee has open hearings, and when the county council gets all upset because the water is being rippled a little bit, then people begin to look about them.

As they drive down the expressway they begin to look out the window of the car and see some of the conditions that exist.

And so I think a great deal of positive interest on the part of the community is resulting, and we hope that because of this that more support will be given to this kind of thing, because the politicians aren't going to act unless they feel the people want them to do something. And so if the people respond in this way to the minimal actions even, then maybe the politicians will act more and more and more to solve these problems.

VICE CHAIRMAN HORN. Reverend Ellerbrake, what is the media response in St. Louis?

REV. ELLERBRAKE. Well, we may not be able to save St. Louis. I'm not entirely optimistic. But let me say that without the media there won't be a chance. Because I think the kinds of things that Reverend Smith has been talking about certainly we could echo in St. Louis.

VICE CHAIRMAN HORN. Have they done special stories on the Black Jack case and others?

REV. ELLERBRAKE. They have followed rather closely the housing. Yes, sir. Particularly Black Jack and McDonnell Douglas they have followed.

There is also I think the fact that the media is present. At the most recent open hearing, for example, Olivette, which never really hit the papers, was discussed. And here it became apparent that HUD some time back promised 24 units to Olivette. The current Director of HUD apparently knew nothing about it. But in the presence of open meeting, open hearing, and the media, the matter was brought to public attention. And if things happen as they should, Olivette will get that project going forthwith.

VICE CHAIRMAN HORN. Is that the Regional Director of HUD you're talking about?

REV. ELLERBRAKE. That's correct, yes. Lack of communication with HUD apparently was rather abysmal.

COMMISSIONER RUIZ. Mr. Chairman, I would like to ask our General Counsel a question if I may. Are affirmative action plans top secret? Who can get the affirmative action plans?

May affirmative action plans be procured by labor unions, by groups within Government-funded-and-assisted programs?

Is there some law that says that this can't be disseminated in some fashion so interested people may know about just what the affirmative action plan definitively consists of?

VICE CHAIRMAN HORN. Let me ask our former General Counsel and current Staff Director to answer that question.

MR. GLICKSTEIN. As I understand the position of the Department of Defense, with whom the McDonnell Douglas affirmative action plan has been filed, they regard affirmative action plans as confidential documents that frequently contain trade secrets that aren't within the ambits of the Freedom of Information Act and do not have to be disclosed to the general public.

COMMISSIONER RUIZ. Is that a unilateral determination or is there some law that says an affirmative action plan that may not be technical but simply sets forth policy and matters that have to be done with respect to equal opportunity is a trade secret?

MR. GLICKSTEIN. There is no law that says that.

VICE CHAIRMAN HORN. Wait a minute. Let me get this.

MR. GLICKSTEIN. There is no law that says that affirmative action plans are confidential. In other words, it's interpretation of the Department of Defense.

VICE CHAIRMAN HORN. It's interpretation of the Department of

Defense, despite the Freedom of Information Act I take it?

MR. GLICKSTEIN. That's correct.

VICE CHAIRMAN HORN. Have we asked the Department of Defense to cite the particular statute or administrative regulation by which they invoke this authority?

MR. GLICKSTEIN. As I recall, they merely said that it comes within the exceptions of the Freedom of Information Act, but we can check that for you.

VICE CHAIRMAN HORN. Well, let's furnish at this point in the record the answer of the Department of Defense as to what they are basing that denial on.

I can understand, the same as with Department of Labor BLS statistics or census statistics, that in some cases you would reveal the internal workings of the company to the extent that it would not be damaging to a confidential relationship and to the freedom with which companies report this information, but I think Commissioner Ruiz has raised an interesting point as to perhaps getting maybe all of the plan minus that particularly sensitive information of employment categories or—

COMMISSIONER RUIZ. I think if affirmative action plans were generally dispersed among interested people, a great deal could be done, and I think that this Commission should go into that in a very specific manner and find out whether this is just a general unilateral determination upon the part of the contractor or whether in fact it is as a matter of law considered a trade secret.

VICE CHAIRMAN HORN. Thank you very much, gentlemen, for your testimony. The work of both you and your colleagues on the State Advisory Committees has been essential and helpful to this Commission, and I think the country, over the years. We are deeply grateful for your interest and activities.

Let me add before concluding this portion of the hearing that we have had the assistance from time to time today of three staff attorneys, Leona Yurden, Michael Smith, and Steve Brown, and we're grateful for this help from our very able General Counsel's staff.

At this point the Commission will recess until 10 minutes after 4, at which time we will begin the portion of the hearing dealing with the State Advisory Committee activities in Boston, Massachusetts; Milwaukee, Wisconsin; and Phoenix, Arizona Metropolitan Areas.

VICE CHAIRMAN HORN. Will Mr. Segal, Mr. Julian, Mr. Warren, and Mrs. Madrid please come forward?

(Whereupon, Mr. Robert E. Segal, Mr. Percy Julian, Mr. Morrison F. Warren, and Mrs. Rita Madrid were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. ROBERT E. SEGAL, CHAIRMAN, MASSACHUSETTS STATE ADVISORY COMMITTEE, BOSTON, MASSACHUSETTS; MR. PERCY JULIAN, CHAIRMAN, WISCONSIN STATE ADVISORY COMMITTEE, MADISON, WISCONSIN; AND MR. MORRISON F. WARREN AND MRS. RITA MADRID, ACTING CO-CHAIRMEN, ARIZONA STATE ADVISORY COMMITTEE, PHOENIX, ARIZONA

VICE CHAIRMAN HORN. Please be seated. Mr. Hunter?

MR. HUNTER. Thank you. Would each of you please state your name, address, and position for the record, starting with Mrs. Madrid?

MRS. MADRID. Rita Madrid from 12 West Harwell, Phoenix, Arizona, housewife, and I am Acting Co-Chairman for the SAC, Phoenix.

MR. HUNTER. In Arizona?

MRS. MADRID. Yes.

MR. HUNTER. Thank you. Mr. Warren?

MR. WARREN. My name is Morrison F. Warren. I am an Acting Co-Chairman of the SAC in Phoenix, professor at Arizona State University. I live at 2131 East Violet Drive in Phoenix.

MR. HUNTER. Thank you. Mr. Segal?

MR. SEGAL. My name is Robert E. Segal. I am the Chairman of the State Advisory Committee in Massachusetts.

MR. JULIAN. And my name is Percy Julian. I am an attorney, and I am the Chairman of the Wisconsin State Advisory Committee, and I am from Madison, Wisconsin.

MR. HUNTER. Thank you.

If we could start by looking at the Boston Metropolitan Area, Mr. Segal, what involvement has the Massachusetts State Advisory Committee had with the problem of suburban access in the Boston area?

MR. SEGAL. We have been painfully aware of the fact that the experience of Route 128, which is our golden circumferential, industrial and beauty spot route, about 15 miles north and west of Boston, will probably be repeated with Route 495 which is 35 miles north and west of Boston.

(See map, p. 614.)

MR. HUNTER. Excuse me. To get some perspective on the location of these roads, we see Route 128 on that map, but I believe Route 495, which you said is 35 miles away from the city, is so far out that it wasn't included on our map of the metropolitan area?

MR. SEGAL. Yes.

MR. HUNTER. Is that the situation?

MR. SEGAL. It runs quite a distance out, heading way up toward Lawrence and Lowell and down around fairly close to Worcester, Marlborough, in that area. It makes quite an arc, tremendous stretch.

MR. HUNTER. Your Advisory Committee held an open meeting where the effects of these roads were considered?

MR. SEGAL. Our Advisory Committee held an open meeting in 1970, June 1970, in cooperation with the Massachusetts Commission Against Discrimination, and we tried to meet in those cities that had less than 1 percent black population. Those communities weren't very hard to

find. We left out Cambridge and we left out Medford which are traditionally old cities with some more black population because of history. But we did hold hearings in various parts of the belt zone.

MR. HUNTER. What has been the effect of the circumferential highways, Route 495 and Route 128, on the growth of the metropolitan area?

MR. SEGAL. Well, we have had a tremendous amount of industry come in and a lot of residential development. We have had a great deal of movement of manufacturing units from the city of Boston out into the suburban areas. Route 128 has been known as the new electronics range. However, I regret to report right now that the unemployment along that area is so tremendous that we had an indication in the Boston Globe just before I came up here that some 10,000 engineers and other scientific people have been laid off.

There have been five suicides there of these people in higher-income brackets lately. And if the engineers and the scientists are laid off, you can imagine what is happening to the production people at a lower-income level.

But by and large over the years there was a tremendous growth in industry out there.

I would like to cite the testimony that was given by Mr. J. Kinney O'Rourke before our Committee. Mr. O'Rourke represents the Boston Economic Development and Industrial Commission. And in a survey of 309 Boston firms, 40 percent indicated that they had either decided or were seriously considering moving, thus producing a potential loss to Boston of up to 11,500 manufacturing jobs. And those jobs represent 40 percent of all jobs currently occupied by minorities and paying more than \$5,000 a year.

This is one illustration of the exodus of manufacturing plants out of an area where people in the black ghetto might have had access to these jobs.

MR. HUNTER. Were these roads that have brought about such great development in the metropolitan area financed by the Federal Government?

MR. SEGAL. They certainly were financed in part by the Federal Government. I'm not prepared to say precisely what percentage. I don't happen to know. But they could never have been built without the muscle of the Federal Government.

MR. HUNTER. These employers that have moved to these areas around the beltways, have very many of them been Federal contractors or subcontractors?

MR. SEGAL. The employers?

MR. HUNTER. Yes.

MR. SEGAL. Some, yes.

MR. HUNTER. Is the type of work they have been doing the kind of work that is often done by Federal contractors for the Federal Government? Or is that hard to say?

MR. SEGAL. That's pretty hard for me to say.

MR. HUNTER. Do many minority group members live in the outer

suburbs which the outer beltway is opening up?

MR. SEGAL. If you find minority group members, we would like very much to know about them. Minority group members insofar as Massachusetts is concerned are pretty much concentrated not only in Boston but in one section of Boston, Roxbury, where I believe perhaps 85 to 90 percent of all the blacks who live in the Bay State live, in the Roxbury area.

MR. HUNTER. Are the communities located around the outer beltway doing anything about this situation?

MR. SEGAL. The communities?

MR. HUNTER. Yes.

MR. SEGAL. I think you would have to divide that into two parts. First, we would have to take the industries, and we have indication after indication that there was a great deal of interest in trying to get new industry, but insofar as trying to promote equality of opportunity, despite the fact that Massachusetts was one of the first States in the union to give us an FEPC, there was little indication that the industry was working very hard to spread the idea of acceptance of equality of opportunity.

Insofar as the town fathers are concerned—and I think that this might be one unique point or distinctive point about Massachusetts—let me say that the parochialism of the communities goes so deep, the insularism, the determination to try to take care of that community right where it is and not think of what is going on in the adjacent towns—this goes so deep that it is terribly hard to break through and get any kind of a regional concern either for housing for low-income people or for employment on an equal opportunity basis.

MR. HUNTER. When the companies move into these outer suburbs, do you know whether they sometimes discuss housing problems with the communities in which they are moving?

MR. SEGAL. If they do, it seems to be almost a top secret—we doubt it very much. The people who live in these communities, by and large, get rigid because they are afraid their schools are going to be flooded with minority group people and that their own kids will be crowded out.

I would say that there is a much greater concern about getting land with the help of Government for conservation, getting land for parks, further recreational facilities, this sort of thing, than there is any real consideration for the needs of those lucky minority group people who may be able to penetrate the rigid walls of suburbia and get in.

MR. HUNTER. Thank you. Let's turn now to the Milwaukee area. Mr. Julian, can you tell us to what extent blacks have been able to move into the suburban areas around Milwaukee?

MR. JULIAN. Well, our State Committee found that to almost no extent. If one were to ask a pointblank question: "Are black people able to move into the suburbs of Milwaukee?"—which you can see on your map on the chart to your far left—the answer is: "Definitely not."

If one takes a look, for example, at the 1970 census, it listed Milwaukee as the second most segregated suburban area in the Nation, and

the Mayor of Milwaukee when he appeared before the State Committee confirmed this fact himself.

More recent census statistics show that the imbalance is really even worse than even initially announced. Earlier figures, for example, disclosed that only 0.2 percent of blacks lived in suburbia. It has since been learned that 945 black persons live outside the city of Milwaukee. But of those 945, only 433 live in households. The remaining 522 actually reside in hospitals, schools which may be attached to correctional institutions, correctional institutions themselves, or in servants' quarters.

MR. HUNTER. Do you think this is a matter of free choice or is there something else operating here?

MR. JULIAN. No, I do not think it is a matter of free choice. I think that there are a number of factors which contribute to the absence of nonwhites.

For example, the high cost of homes and high minimum requirements for lot and house size. The perceived hostility of neighbors. The attractive prices on homes sold in the city's north side which continues to change rapidly from white to black. And, finally, a dual real estate market.

Let me say something about that. For example, one Realtor who was interviewed by a member of our staff estimated that only three of the more than 40 Realtors on his staff are willing to show nonwhite-customers houses in all-white neighborhoods.

That's an example of some of the difficulties that account for the lack of blacks in the suburbs.

COMMISSIONER MITCHELL. Mr. Chairman, can I get a definition of the suburbs of Milwaukee?

(See map, p. 615.)

MR. JULIAN. The black line that is to the left of the map where you see Wauwatosa, West Allis, that's the end point of the city of Milwaukee, and so, so suburban Milwaukee we could catch that as Wauwatosa, West Allis, Whitefish Bay which is one of the dots to the far right, Shorewood, Fox Point, St. Francis, Cudahy. Those are suburban areas.

MR. HUNTER. If we could look at possible solutions to deal with the problems that you mentioned for us, we heard this morning about the Miami Valley Regional Plan for housing which sets goals for each community in the metropolitan areas as far as low- and moderate-income housing is concerned. Is this sort of solution possible in the Milwaukee Metropolitan Area?

MR. JULIAN. It would be possible I think if we could get cooperation of the various governmental units, and that so far has been unobtainable. We think that there are a number of reasons for the failure of getting blacks to the suburbs, but the largest single reason I think is the failure of various governmental units to cooperate with one another.

The city of Milwaukee has said that it isn't going to do—that it doesn't feel that it should do any more until the suburbs move. The suburbs say: "Well, we need the help of other people." And I think that a metropolitan developmental corporation having multicounty jurisdiction for providing housing for low-income persons is seriously

needed.

And I think that without some impetus from Federal, State, or regional level of government, the current situation is not going to change.

The 26 suburbs surrounding Milwaukee County continue to ignore the problem, continue to ignore the issue of inaccessibility.

Eighteen months ago Milwaukee County initiated a housing program, but only four houses, all of them in the 235 category, have been built, and all of them within the city of Milwaukee.

The county board passed a resolution saying to the suburbs: "Accept your fair share of low-income housing." And not one of the suburbs have yet responded.

The county is trying to build houses in West Allis, 235 homes, and is meeting with all sorts of resistance, zoning problems and things like that.

And now, for example, the city of Wauwatosa, which appears on your map, recently rezoned land which was intended for Section 235 use. And it now has minimum requirements exceeding the limits of the 235 program. Thus, not even 235 can be built which certainly I don't consider low-income housing.

MR. HUNTER. Thank you. If we could look now at the Phoenix Metropolitan Area, Mrs. Madrid, I believe that the Arizona State Advisory Committee recently held an open meeting on housing opportunities in the Phoenix area. Is that correct?

MRS. MADRID. Right. We held meetings May 14 and 15 and some of the subjects brought up there were suburban access, the role, functions, and activities of the State and city of Phoenix Human Relations Departments, local citizen panels to discuss the problems of Chicanos and blacks that relate to education and community organization, and the 1990 Phoenix plan was brought into this.

MR. HUNTER. We have looked at metropolitan areas of Baltimore, Boston, St. Louis. These are older metropolitan areas, while Phoenix is a new and growing area. What has happened to the population in the city of Phoenix and what has happened to the area the size of the city of Phoenix in the last 10 or 20 years?

MRS. MADRID. Well, in the last 20 years— In 1950 they had 106,000. By 1960 that had gone up to 434,000, which almost tripled. And in 1970 they have 600,000.

As far as mileage, square mileage, in 1950 it was 17. In 1960 they had extended to 187, and by 1970 they have it extended to 195 square miles.

MR. HUNTER. One interesting thing about Phoenix we have been told in the past, is the arrangement of school districts. Mr. Warren, could you explain that for us?

MR. WARREN. Yes. Phoenix has a total of 12 elementary school districts, and the external limits of these school districts comprise or are coterminous with the Union High School District. These school districts grew up somewhat uniquely in view of transportation in the Phoenix area.

Each local incorporated area would build its own school. And then as

Phoenix began to grow, the Phoenix area began to grow, the schools became larger, the school districts became larger, and we currently now have 12 elementary school districts and one Union High School District.

MR. HUNTER. These school districts have their separate tax bases, do they?

MR. WARREN. Separate tax base, their own school boards, and they are autonomous, all receiving funds from the State, and a so-called qualitative program, a foundation program, translated into X number of dollars from the local county.

Theoretically, all students in the elementary schools in the Phoenix area are financed relatively equally. A local school district, however, has within its franchise to tax its local citizens to provide a more qualitative program if they see fit.

MR. HUNTER. Is there much segregation within the schools in the Phoenix area between these districts?

MR. WARREN. Yes, there is. Actually in the Phoenix area, of the 115-plus census tracts, roughly 85 percent of black people are concentrated in roughly nine of these census tracts. Three of these tracts are in South Phoenix where roughly 40 percent of blacks probably live within three census tracts.

Now, generally, this is true for Mexican Americans, also. The schools in the core area, the Phoenix elementary schools, which is the largest school district in the Phoenix area— It has a total of roughly 20 schools, and blacks and Mexican Americans are the predominant group in five of these schools.

Now, there is a sprinkling of black students and Chicano students in the other 11 school districts. In fact, of the school districts, the Wilson School District near the airport, if you're familiar with that area, a Murphy School District which is west of the Phoenix Elementary No. 6, the Roosevelt School District which is south of the Phoenix area, south of the Salt River, are the schools where blacks and Chicano students are primarily concentrated.

MR. HUNTER. Does the location of public housing have any effect on the segregated situation in the schools?

MR. WARREN. I think it's a very significant variable. Actually, we have I think roughly seven public housing units, a total of 1,500 occupants. I would suspect 45 percent black, 35 percent Chicano, 20 percent white. All of these public housing units are housed in the same school district.

There were attempts through the years of the public housing authority to distribute these units throughout the city. Local school patrons fought the plan. And because blacks only constitute 4.5 percent of the population and Chicanos roughly 12 percent, they have never been a politically viable group and, therefore, have not meaningfully been involved in the decisionmaking process.

So there are many people who are saying in the city of Phoenix now that in those very significant decisions that are made about where people live, the kinds of work that people do, where freeways will be

located, etc., etc., that certain areas of the community, primarily South Phoenix, ostensibly are being programmed for failure, not because a group of people are getting together and making this decision but because the black, the Chicano, and the poor are not involved meaningfully in the decision, and so cumulatively they get the short end of the stick.

MR. HUNTER. Do you know whether the school districts in Phoenix receive any Federal financial assistance?

MR. WARREN. Certainly. The Phoenix Elementary School District No. 1, Roosevelt School District, Wilson School District, Murphy School District, I would suspect all are recipients of Title I monies. The Union High School District certainly is a recipient of Title I monies.

MR. HUNTER. Thank you. Mrs. Madrid, how would you compare the freedom of Chicanos to live where they choose in the Phoenix area with that of blacks?

MRS. MADRID. Well, I would have to make two comparisons—first, the professional Chicanos and the poor. The professionals I believe would have a much easier time moving into North Phoenix than the black professionals. And I say this because of an incident that happened 2 years ago with a Dr. Lang who is black.

He moved into North Phoenix, and he had all kinds of opposition. He was harassed. He was even hurt in the process of protecting his property.

And we have a sprinkling of Chicano professionals that do live there and this hasn't happened. So I think that they are accepted.

MR. HUNTER. Do these Chicano professionals tend to lose their identity with the Chicano community when they move into the middle class and upper middle Anglo areas?

MRS. MADRID. They do. You never see them at any of the Chicano gatherings, or if there are any problems that we meet to discuss you never see any of the professional people there that have moved away.

MR. HUNTER. What about the situation for lower-income Chicanos? Do they have much choice about where they live?

MRS. MADRID. No, I believe that the lower-income Chicanos, because of the money situation, they have to stay in South Phoenix or the public housing.

MR. HUNTER. Thank you.

Mr. Chairman, I'd like to introduce as exhibits the three maps that we have of these metropolitan areas.

VICE CHAIRMAN HORN. Without objection, they will be inserted at this point.

(Whereupon, the documents referred to were marked Exhibits No. 15-17 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. I have no questions.

VICE CHAIRMAN HORN. Commissioner Freeman?

COMMISSIONER FREEMAN. Mrs. Madrid, I notice on the map of Phoenix and vicinity that there are two Indian reservations. Do you

have information concerning the conditions of the Indians with respect to the housing or the schools—you or Mr. Warren?

MR. WARREN. Yes, we have the Gila Indian Reservation and the Salt River Indian Reservation particularly. I am a professor at Arizona State University, and we have a department of Indian education. I would suspect you are aware of the fact that there is a great turmoil in the Indian communities now presently as to who will control the schools and what will be the nature of the curricula in the schools.

In Phoenix we have the poverty project that is known as Leadership and Education for the Advancement of Phoenix—in short, “LEAP”—and it has been very concerned about the education of the urban Indians primarily.

I am not thoroughly familiar with the unique legal interaction between the public schools and the Indian reservations. However, I do know that there is a large Indian school located in Phoenix and there are some public schools on the Indian reservations.

COMMISSIONER FREEMAN. Do you have any information concerning the housing that is available to Indians either on the Indian reservations or in the city of Phoenix for those who are not living on the reservation?

MR. WARREN. Well, I can say categorically that it is over 90 percent dilapidated and deteriorated. It is a very bad situation.

COMMISSIONER FREEMAN. Is this true both on the Indian reservations and also within the city of Phoenix?

MR. WARREN. And within the city. That is true.

COMMISSIONER FREEMAN. Among the three minorities, black, Chicano, and Indian, how would you assess the living conditions in terms of the availability of housing? How would you rate them?

MR. WARREN. On a qualitative scale I would suspect that blacks generally have been more aggressive in utilizing the mechanisms for upward mobility primarily because there were three public school systems really in Phoenix through the years, one white, one black, and one brown. The teachers and the administrators in the black schools were black. The teachers and administrators in the Chicano schools were white. The teachers and administrators in the white schools were white.

And I think because of the fact that blacks did not have an opportunity through the years to move into the suburbs, blacks upon graduating from college would return to the black community, and through the years they felt a deeper commitment to the black community and to try and improve it.

Now, I say that to say that I think by and large even though at least 90 percent of the housing of blacks in the community could be classed as dilapidated and deteriorating, I would still suspect that generally the norm, the median housing for Chicanos is worse in the barrios, and Indians on the lower end of the scale.

COMMISSIONER FREEMAN. Mrs. Madrid, do you have anything to add?

MR. WARREN. Mrs. Madrid may not agree with that. She can speak

for herself.

MRS. MADRID. No, I do agree. But I think he has said just about everything as far as housing for the three minority groups.

COMMISSIONER FREEMAN. Thank you. I have no further questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Segal, you mentioned industry moving out of Boston into the suburbs, about 40 percent. Is that correct?

MR. SEGAL. That was one estimate out of city hall in Boston, but there have been other indices of movement.

COMMISSIONER RANKIN. You don't blame them, do you?

MR. SEGAL. For moving out?

COMMISSIONER RANKIN. For moving out.

MR. SEGAL. Oh, no.

COMMISSIONER RANKIN. And you don't blame the United States Government for helping build 495 and the beltline roads, do you?

MR. SEGAL. As long as the United States Government comes through on some of what I think are its obligations to try to see to it that as industry locates out there, there is lower-middle and low-income housing.

COMMISSIONER RANKIN. And the roads weren't built to keep the blacks inside the city and whites outside? They both have access to the roads? Am I correct?

MR. SEGAL. Those that have cars have access.

COMMISSIONER RANKIN. Well, most people have cars today. I just drove in from Georgetown, and I believe everybody in Washington has two cars.

MR. SEGAL. Well, it has been estimated up our way that it costs about \$1,500 to get any kind of car together that can take you out to these high-speed roads.

COMMISSIONER RANKIN. Well, I'm trying to find out who to blame for this situation. Is it the people in the suburbs? Is that where you're going to put the major part of your blame in the treatment of minority races?

MR. SEGAL. I blame greed. I blame greed along the line, the people who simply will not recognize that you cannot forever keep a group A, group B, group C compressed in a very narrow area.

Boston is a very small city physically. It's extremely small.

COMMISSIONER RANKIN. Well, these people who keep these barriers up, they are highly educated people, most of them, aren't they? I mean relatively speaking? Aren't they?

MR. SEGAL. Well, sir, I happen to recall that a high percentage of Hitler's storm troops were highly educated. A number of them had Ph.D.s. I find no correlation necessarily.

COMMISSIONER RANKIN. They go to church on Sunday too, don't they?

MR. SEGAL. I imagine a great number of them do.

COMMISSIONER RANKIN. So religion and education don't have anything to do with it then? Is that correct? On their ideas of brotherhood of man? It doesn't improve the treatment of minorities?

MR. SEGAL. The way individuals treat minorities it seems to me cuts across all of these elements. Some people who are extremely irreligious can treat minorities very well. I believe Mr. Ingersoll was a good example of this. And some people who are highly religious can do that. But I don't think that necessarily is a criterion. It's what you do with your religion, it seems to me, that counts.

COMMISSIONER RANKIN. That's right. A few years ago we held a voting hearing down in Louisiana, and at that time in order to vote you had to be vouched for by two citizens. And nobody but whites were allowed to vote.

And this black girl came in to her pastor and said: "Well, I'm going to get to vote."

"Why?"

"Because I have two friends of mine who are going to vouch for me. They are Christians."

And the minister said: "When voting is concerned, Christianity goes out the window."

And she never got to vote, by the way.

Now, I find the same thing is true up in Boston. So we shouldn't be the whipping boy down South. The same situation exists up in your area.

MR. SEGAL. I hope I didn't give that indication. Recently the town of Lexington, which is in your history books, one of the seedbeds of the American Revolution, not only voted against low-income housing when some of the fair housing people wanted to go along on that, but it also, alas, kept Mr. Carey and other veterans who had come back from Vietnam off the Lexington Green. It wouldn't let them sleep there one lousy night because of the attitudes of the town fathers of Lexington.

COMMISSIONER RANKIN. That was my point.

Mr. Julian, also, we Southerners should repeal all of our laws on segregation and then go up to Milwaukee and learn how to do it? Is that the basis of your testimony?

MR. JULIAN. I think that is a fair basis of my testimony. Milwaukee is the second most segregated suburban area.

COMMISSIONER RANKIN. Which is the first, by the way? Which is the first? I'm ignorant.

MR. JULIAN. I think you'd have to ask the Department of the Census. They would be better qualified to answer that than I.

COMMISSIONER RANKIN. All you know is that your town is second? Is that it?

MR. JULIAN. I know that the mayor of Milwaukee sat before us and said in his testimony that the census figures showed that Milwaukee was the second most segregated area in the country, and I know that I have seen the census figures that bear that out.

COMMISSIONER RANKIN. And, in your estimate, did he say it with pride or with shame?

MR. JULIAN. I think he said it plainly.

If I can pick up for a moment on your question as to where you lay the blame for the problems, I think the blame lies on all of us. I think the

blame lies on the failure of the American people really to be committed to the idea of equality for all, and only when we are committed, from the President of the United States right on down to the chairman of the county board in Milwaukee County, only when all of us are committed will things change, and not before that.

COMMISSIONER RANKIN. Well, I was interested in and I suggested maybe our religion would make us realize the importance of brotherhood of man. Maybe education would. The third is we could resort to law. Isn't that right?

MR. JULIAN. I think so. But we haven't—

COMMISSIONER RANKIN. None of them—

MR. JULIAN. We have a law. You know, we have a housing law now which says you can't discriminate in housing. And yet in the county of Milwaukee we can't get people to accept their fair share of low-income housing. They don't want to have anything to do with the problem. They want all the black people to stay in the central city. And the central cities are starving to death. They can't even support themselves now.

So we have a very great problem. And I think only when we get a commitment, a real commitment, that we so far don't have, for change, only then will we have change.

COMMISSIONER RANKIN. Thank you, Mr. Chairman.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. What is the black population of Phoenix, Mr. Warren?

MR. WARREN. 4.5 percent of 600,000. Roughly 25,000.

COMMISSIONER RUIZ. 25,000? What is the Chicano population?

MR. WARREN. Well, Chicanos have been classed as white on the census but—

COMMISSIONER RUIZ. Spanish surnames.

MR. WARREN. Spanish surnames, roughly 12 percent.

COMMISSIONER RUIZ. About 50,000? 60,000?

MR. WARREN. Right.

COMMISSIONER RUIZ. Mrs. Madrid, what is this *Valle del Sol* Coalition and what groups make it?

Mrs. Madrid. They are about 12 Mexican American organizations that comprise *Valle del Sol* Coalition, and they have joined forces together and made this.

COMMISSIONER RUIZ. Now, do I understand your testimony that although there are 69,000 Mexican Americans and 25,000 blacks that the blacks have been able to get more upward mobility by reason of aggressiveness?

Mrs. MADRID. Right. They have—

MR. WARREN. For one reason or another. We think aggressiveness is probably one of the variables.

COMMISSIONER RUIZ. Well, that's the word you used.

MR. WARREN. I say as one of the variables, yes.

COMMISSIONER RUIZ. And by more upward mobility, what did you mean by that? Are they in positions of—

MR. WARREN. I meant the ability to use the mechanism for upward mobility, primarily the public schools. The median income of blacks in the area is higher. The median years of school completed is higher. And I think the variable is certainly mobility. Blacks have been more stable in the community in view of the fact that many of the Spanish surnames have also been migrants who have moved through the community, and because of leadership. The sophisticated Chicano leadership has become integrated through the years in the dominant group and have not lent—have not served as models, have not intensively related with young Chicano students, have not tried to help to build some superordinate goals for the barrio. They have moved out, the idea being that primarily if they could show the dominant group that Chicanos can do certain things, then perhaps there could be meaningful changes within the dominant group toward the barrio.

I'm not saying in a positive way that blacks have remained because they had to. They remained because the suburbs were closed to them and they tried to make the best out of the situation. But it happened to be a collateral effect in that in this community it is beginning to pay some dividends.

COMMISSIONER RUIZ. Well, would these 60,000 people within Phoenix be considered migrants?

MR. WARREN. No; some of them would be.

COMMISSIONER RUIZ. Some would be? But the large majority of them have been there for many, many years, haven't they?

MR. WARREN. Right.

COMMISSIONER RUIZ. And then some of them have been there for 50, 60, 70 years?

MR. WARREN. Right. But there have been concentrations in school districts—I'm sorry, in schools—primarily housed by Mexican Americans with median years of school completed 5, 6 years, with parents, grandparents with no schooling. And I think it has been increasingly difficult for these communities to seek any kind of parity, to have any kind of leadership.

In fact, it's only recently, within the last 7 years, that Mexican American leaders have said that: "If the dominant community does not want to have anything to do with us, we don't want to have anything to do with them. We don't want to move into their communities."

Blacks have said through the years that they think they have every right to do it, they are American citizens, etc., etc., and they were organized.

And the coalitions, the *Valle del Sol*, the *La Raza*, the *Chicanos Puerta la Casa*, and so forth, are increasingly becoming more community-minded, more social-minded, more politically-minded. And they are aggressively pursuing 235 and other housing.

In fact, one of the very enlightening trends at the university is that increasingly Mexican American students are talking about returning to the barrio, saying that they can lend leadership whereby they can teach the communities to plan, to organize, to direct their efforts, to coordinate, and to control, and from these barrios individual students or

groups of students can move out into the larger society.

COMMISSIONER RUIZ. Has this been because of mostly education, bad education? You were talking about—

MR. WARREN. Oh, I would certainly— Being an educator, I would think that education is a very critical factor.

COMMISSIONER RUIZ. Are there steps being taken in Phoenix now to lick that problem?

MR. WARREN. I think so. The superintendent in the largest school district in the area is Chicano, and the No. 3 man in that area is Chicano.

In the area where I live, where for 75 years we never had a black on the board, we have two blacks, two of five, on the board. In fact, we're fighting now to get a Chicano on the board.

Some of us have had some influence in this area where 35 percent of the students are Chicano and about eight or 10 teachers which constitute less than one-fifteenth of the teachers are Chicano, so we're forming a coalition to help to appoint a Chicano as personnel officer and I think it will be successful.

COMMISSIONER RUIZ. This is a separate coalition from the one that was mentioned by Mrs. Madrid?

MR. WARREN. Right.

COMMISSIONER RUIZ. Now, with relation to annexations, have they been made to displace the Mexican Americans by zoning them into industrial areas and out of the community?

MR. WARREN. No, not really. Phoenix has pursued a very aggressive stance in annexation to avoid some of the experiences in the East where there were so many municipalities.

There is a new 1990 plan with broad outlines of land usage in the Phoenix area being distributed about the community.

COMMISSIONER RUIZ. Do you have that plan with you?

MR. WARREN. I don't have it.

COMMISSIONER RUIZ. Can you furnish it and we can make it a part of the record in this case?

MR. WARREN. Yes, we certainly can. One of the architectural students at ASU, Mike Enriques, as part of his master's dissertation, studied the plan, and he is of the opinion that the locations of commercial and industrial usages will tend to block the barrio so that it cannot expand, cannot improve itself, and I think his logic and I think his facts are quite logical.

COMMISSIONER RUIZ. Now, with respect to these barrios that you are speaking of, are the Mexican Americans that live within and confined within those barrios—do they usually own their homes, their little plots?

MR. WARREN. Yes.

COMMISSIONER RUIZ. With respect to this plan, 1990 plan, concerning zoning in the future, does it appear as though these places are to be obliterated by industrial uses?

MR. WARREN. I think the impact would be that if industry moves in the areas the property values will be depreciated, and the collateral

effect of the zoning for industry will eventually lead to zoning of the barrio also for industry, and it becomes very restrictive.

COMMISSIONER RUIZ. Well, does that mean that Phoenix is projecting itself into the future until the year 1990 to eliminate the barrio by industrialization?

MR. WARREN. Not necessarily to eliminate it as much as to compress it. Because there are difficulties in moving into the suburbs because of land use and also because of the price of property and the difficulty that we are having—and scattered housing—and the difficulty we are having in building 235 in the suburbs.

So we think the short-term effect would be the concentrations of the barrios.

COMMISSIONER RUIZ. Now, politically speaking, are there any Spanish surnamed persons on the city council?

MR. WARREN. Yes, there's one on the city council.

COMMISSIONER RUIZ. How many are there all together on the city council?

MR. WARREN. I was the vice mayor in 1969. I should know. I'm saying seven. I'm just guessing. Six or seven?

COMMISSIONER RUIZ. Six or seven?

MR. WARREN. Yes.

COMMISSIONER RUIZ. I see. Is this voting gerrymandered in any way in Phoenix?

MR. WARREN. No. We are elected at large.

COMMISSIONER RUIZ. Elected at large?

MR. WARREN. Yes.

COMMISSIONER RUIZ. But your school districts are in specifically—

MR. WARREN. Right.

COMMISSIONER RUIZ. —definitive districts?

MR. WARREN. Right. We are very concerned about the schools in view of the fact that blacks and Chicanos isolated in school districts do not have the opportunity to communicate with a variety of skilled people.

COMMISSIONER RUIZ. Now, you said that blacks and Chicano students are segregated. Are they segregated together? That is to say, are the barrios made up of Mexican Americans as a rule and then an adjacent area blacks?

MR. WARREN. Right.

COMMISSIONER RUIZ. But they are not in the same community?

MR. WARREN. Oh, yes, they are integrated in the same community. Right.

COMMISSIONER RUIZ. In other words, they are more or less integrated?

MR. WARREN. But not in the public housing units.

COMMISSIONER RUIZ. But they are in the communities?

MR. WARREN. They are in the communities, right.

COMMISSIONER RUIZ. So where the black man has gone into Phoenix he has been going into the poor area, the Mexican American area? Is that correct?

MR. WARREN. Well, these areas were one at one time until public housing units were built in 1942, and one was named Marcus DaNesa, the other Matthew Henson. And for some strange reasons, blacks and Chicanos who had lived together throughout the history of Phoenix were certainly isolated.

Then during World War II in 1945 Mexican Americans were declared white which further alienated the groups. And it's only now that we are beginning to cooperate in trying to seek some parity through the political dimension.

COMMISSIONER RUIZ. And this is done by your coalition—

MR. WARREN. Coalition. There is a black coalition. There is a Chicano coalition.

COMMISSIONER RUIZ. I see.

MR. WARREN. We are trying to learn to work together.

COMMISSIONER RUIZ. And how is that getting along?

MR. WARREN. Well, I like to think good even though we are fighting over the petty jobs in the poverty program.

COMMISSIONER RUIZ. Fighting for the same dollar?

MR. WARREN. Yes. But I think there is unity in the diversity that exists.

COMMISSIONER RUIZ. What is your opinion, Mrs. Madrid, on that? Are you getting together or are there misunderstandings?

MRS. MADRID. Well, I think there will always be misunderstandings even among the black coalition themselves and the Chicano. But I think that we are beginning to realize that we have to get together.

COMMISSIONER RUIZ. Are you getting any resistance from the balance of the community on that coalition?

MRS. MADRID. Resistance as to what? Just for being there?

COMMISSIONER RUIZ. For political purposes let us say.

MRS. MADRID. I don't believe so.

COMMISSIONER RUIZ. In other words, you are gaining strength and the balance of the community is looking to you for votes now?

MRS. MADRID. I believe if they aren't right now that they will in the future.

COMMISSIONER RUIZ. You think it will be productive then?

MRS. MADRID. Yes, I definitely do.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Let me just comment at this point. I have often heard congressional hearings interrupted for the announcement of World Series ball scores and the success or failure of outer space shots. I am delighted to report on the civil rights ball game here on earth—that at 3:04 this afternoon I am informed by our Staff Director the Department of Justice intervened in the Black Jack case, which has been of keen concern to this Commission. They did not say I believe whether we are playing in overtime or not, and I'll leave that for others to judge.

Mr. Glickstein, do you have any questions?

MR. GLICKSTEIN. No, sir.

VICE CHAIRMAN HORN. I have just one question. We have heard a

lot both in this hearing today and before the hearing about the responsibility and role of political leaders. If you listen to county and city officials, they say the President ought to do more. If you hear the President and other members of the National Administration, they say county and city officials ought to do more.

One group seems to me left out of this hearing today, and I'd just like the brief response from each of you as to the role you see for the State government and the Governors, especially when we deal with such problems as the borderlines between cities and municipalities and counties and such matters of zoning since these are all creatures of the State government.

To what extent has an effort been made in each of your respective States, the three States represented here, to involve the State government in resolving some of these jurisdictional political problems?

MR. SEGAL. In Massachusetts we have a department of community action or activities—DCA. It's not very old. We also have an antisnob zoning law. Any appeals that have been submitted have been more or less put on ice. We feel very strongly, those of us in SAC, that it is up to the department of community activities to move on that.

We are encouraged by the fact that each year the Governor brings in a package of housing laws. We have passed some good legislation in Massachusetts on housing. But we feel that once the law is on the books, it takes a great deal of energy to see that the law is enforced.

To try again to answer your question, very much. There is a great deal that can be done at the State level if the people who have the responsibility are energetic.

VICE CHAIRMAN HORN. How about Arizona?

MR. WARREN. I would like to indicate that I personally feel that State government has great responsibility, in view of its responsibility to its citizens, to try to make alive the idea of the democratic creed. And yet I am not so naive as to feel that there are not elements in a State who tend to control the legislation and that there are certain beneficiaries of the legislation.

I like to think that, between the years 1966 and 1970, on Phoenix City Council we had a very aggressive mayor, Mr. Milton Graham, who furnished exciting leadership and for a short time began to get the community to think about people. In fact, it became a "people" oriented administration and not a "thing" oriented. And in many cases this council went on record as serving as an advocate for people of all racial, ethnic, economic conditions, even challenging the State office, challenging some of our very strong business institutions in the State. This was in some cases a sporadic effort.

But to answer your question particularly, I do think State government has a great responsibility to take a stance for people.

VICE CHAIRMAN HORN. Mrs. Madrid, would you add anything to that at all?

MRS. MADRID. Well, I believe the State government definitely has a responsibility, but I don't know—It hasn't really done as much as it could. I just think there is a lack of interest.

VICE CHAIRMAN HORN. Mr. Julian, how about Wisconsin?

MR. JULIAN. Well, Wisconsin has a department of local affairs and development which is a cabinet rank department headed by a Mr. Charles Hill, who happens to be black. And the Governor recently issued a message on housing which indicates I think a real knowledge of the problem but which requests only a million dollars for the entire State program.

There is an open communities bill which will create a sort of—for lack of a better term—super-zoning board, which is still in the committee of the legislature.

I think if one has to put responsibility in Wisconsin, the responsibility is on the officials of the counties surrounding Milwaukee, on Milwaukee County officials—and that's John Doyne, the executive of Milwaukee County—and on the officials of the city. These officials have said: "Give us the power to do something. We have the power. We want something to do." And yet they fail to live up to their requests for power. And I think that that's where it really lies.

VICE CHAIRMAN HORN. Let me ask our General Counsel, have we inserted anywhere in the record so far in this series of hearings the Massachusetts zoning ordinance?

MR. POWELL. No, we haven't, but I believe we can.

VICE CHAIRMAN HORN. Let me suggest it go at this point in the record since it seems appropriate, and without objection it will be included.

(Whereupon, the document referred was marked Exhibit No. 18 and received in evidence.)

Well, if there are no further questions—

COMMISSIONER RUIZ. I didn't hear the Chairman allow the 1990 plan to go in the record as he did just now.

VICE CHAIRMAN HORN. I would be glad to have the submission of the 1990 plan for appropriate review and the possibility of putting it in the record or remaining on file with the Commission. With a lot of our exhibits there is a problem of size. But we would make the appropriate excerpts depending upon the size of the plan.

Without objection, it will be added as appropriate.

(Whereupon, the document referred to was marked Exhibit No. 19 and received in evidence.)

Thank you very much, Mrs. Madrid, gentlemen. We appreciate your coming here, sharing your information with us.

Will Mr. Jackson Pontius, the executive vice president of the National Association of Real Estate Boards, and Mr. Daniel Spaulding of the National Association of Real Estate Brokers please come forward?

For the information of the audience and the Commission, I would suspect that this last portion of today's hearing would last until approximately 6 o'clock, at which point we will recess until 9 o'clock tomorrow morning.

May I ask for an identification of the other gentleman, please? We have Mr. Pontius and Mr. Spaulding.

Mr. Spaulding. He is Dr. Booker T. McGraw, the consultant for the

National Association of Real Estate Brokers.

(Whereupon, Mr. H. Jackson Pontius, Mr. Daniel W. Spaulding, and Dr. Booker T. McGraw were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. H. JACKSON PONTIUS, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF REAL ESTATE BOARDS, CHICAGO, ILLINOIS; MR. DANIEL W. SPAULDING, CHAIRMAN, NATIONAL PUBLIC AFFAIRS COMMITTEE, NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, BALTIMORE, MARYLAND; AND DR. BOOKER T. MCGRAW, CONSULTANT TO THE NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, WASHINGTON, D. C.

VICE CHAIRMAN HORN. Mr. Powell?

MR. POWELL. To begin with the gentleman closest to the rostrum, will each of you please state your name, address, and position with the organization you represent?

MR. PONTIUS. My name is H. Jackson Pontius, executive vice president of the National Association of Real Estate Boards. I am here on behalf and in the absence of our president, Mr. William "Bill" Brown of Albuquerque, New Mexico.

MR. POWELL. Mr. Chairman, we have a statement that was presented by Mr. Pontius together with a handbook of the California Real Estate Association. We also have a statement by the National Association of Real Estate Brokers. At this point may I have these statements entered into the record?

VICE CHAIRMAN HORN. Without objection, they will be inserted in the record at this point.

(Whereupon, the documents referred to were marked Exhibits No. 20-21 and received in evidence.)

MR. POWELL. Mr. Spaulding?

MR. SPAULDING. My name is Daniel W. Spaulding from Baltimore, Maryland. I am chairman of the public affairs committee of the National Association of Real Estate Brokers—Realtists.

VICE CHAIRMAN HORN. Dr. McGraw has not been identified.

DR. MCGRAW. My name is B. T. McGraw, and I serve as consultant to the National Association of Real Estate Brokers.

MR. POWELL. Mr. Pontius, would you tell us what the composition of your organization is?

MR. PONTIUS. The National Association of Real Estate Boards maintains its headquarters in Chicago, Illinois. We have 95,000 Realtor members representing approximately 500,000 licensees throughout the United States.

The association comprises approximately 1,600 member real estate boards in communities throughout the entire Nation, 50 State associations.

Within the structure of the National Association of Real Estate Boards we also have nine councils or societies, institutes, representing appraisal, management, general brokerage, and various other specialized areas of the real estate business.

MR. POWELL. Mr. Spaulding, would you tell us who constitutes the

membership of your organization?

MR. SPAULDING. Our membership is constituted by licensed real estate brokers throughout the United States who have their boards in the respective States. We have several affiliated associations connected with the Real Estate Brokers Association, such as we have an appraisal society, we have a management department, and also we have a financing department.

MR. POWELL. Mr. Spaulding, why was it necessary to create a separate organization of black brokers?

MR. SPAULDING. It was necessary to form such an association approximately 25 years ago because of denial by the Realtors to permit us to become a member of their association.

MR. POWELL. Black brokers are known as Realists, are they?

MR. SPAULDING. They are known as Realists.

MR. POWELL. And the white brokers are known as Realtors?

MR. SPAULDING. That is correct.*

MR. POWELL. Mr. Spaulding, how do you explain the fact that most suburban communities are segregated?

MR. SPAULDING. Most of the suburban communities are segregated because of the fact that the black community has not had the opportunity of freedom to buy in localities of their choice.

MR. POWELL. Mr. Pontius, would you care to comment on that?

MR. PONTIUS. I would have to question the fact that the individuals do not have the freedom to buy of their choice. My experience has been principally in California until last August at which time I joined the National Association of Real Estate Boards. I have observed in the State of California and in the many areas I have had an opportunity to visit in a very short period of time that the Realtors are always willing to show properties and make them available to anyone who is qualified to purchase, and I'm aware of many people who have been able to buy these properties in virtually any community in the country.

MR. POWELL. Well, I would take it that segregation in the suburbs to the extent that it exists was a development that occurred over some period of time. Tell me, isn't it true that at one time the National Association of Real Estate Boards had a policy which required its members, on the pain of being in violation of the Code of Ethics, to discriminate against black home purchasers who were attempting to buy in white areas? Is that true? Was that your policy at one time until about 1950—in the early 1950's?

MR. PONTIUS. No, not until 1950. I would say there was a time that there was a question about introducing elements unfavorable to a community. But I know of no one that was ever expelled from the asso-

* The following clarification was received from the National Association of Real Estate Boards: "The National Association of Real Estate Brokers is basically made up of black brokers and known as Realists. The National Association of Real Estate Boards is made up of predominantly white brokers but there are many Negro Realtors that also belong to this Association."

Letter from H. Jackson Pontius, Executive Vice President, National Association of Real Estate Boards to John H. Powell, Jr., General Counsel, U.S. Commission on Civil Rights. July 22, 1971

ciation for—expelling somebody from the association.

MR. POWELL. Well, let me—

MR. PONTIUS. The Code of Ethics was amended approximately the date that you refer to. I believe that was Article 5 of our Code of Ethics that now reads:

“The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.”

And it has been made very clear to our members that no one is to discriminate—

MR. POWELL. Well, may I ask you something, Mr. Pontius? Don't you think that article, that provision, is rather vague? The Realtor should not be instrumental in introducing into a neighborhood a character of property or use—what does that mean?—which will clearly be detrimental to property values in that neighborhood?

MR. PONTIUS. If a Realtor is aware that someone is going to introduce into a neighborhood a machine shop, for example, in the back yard of a property that is not zoned for that, that is certainly detrimental to the area.

MR. POWELL. I see. I see. Well, let's take a look at the earlier version that that is meant to replace, and let's examine that version.

MR. PONTIUS. Mr. Chairman,—

MR. POWELL. Let me read that to you:

“A Realtor should never be instrumental in introducing to a neighborhood, by character of property or occupancy, a member of any race or nationality or any individual whose presence will clearly be detrimental to property values in the neighborhood.”

Mr. Pontius, I ask you whether or not you don't think that your present code in terms of its language suggests that your policy isn't really too different? Don't you think you need to make it a little clearer what you mean in your current code?

MR. PONTIUS. Well,—

MR. POWELL. Isn't this language I just quoted the provision which requires your members to discriminate against blacks attempting to buy in white communities?

MR. PONTIUS. No, sir. Well, pardon me. Perhaps I misunderstood your question.

MR. POWELL. Isn't the language which I just quoted, talking about—

MR. PONTIUS. The language—

MR. POWELL. —“member of any race or nationality or individual whose presence will clearly be detrimental to property values in the neighborhood”—isn't that the provision which requires your members to discriminate against blacks attempting to buy in white neighborhoods?

MR. PONTIUS. We do not condone anyone being prejudiced against blacks or any other ethnic group whatsoever.

MR. POWELL. Wouldn't it have been a violation of the code—

MR. PONTIUS. Mr. Powell, you have referred to a statement that is a

passee statement, some years old, and it was amended by the National Association of Real Estate Boards long before Congress or anyone else was concerned with the Civil Rights Act.

MR. POWELL. Well, you—

MR. PONTIUS. And I would say that we uphold the Civil Rights Act, and I would like to take this opportunity, if I may, sir, to comment about the membership of the association.

Mr. Spaulding, it is true apparently there was a time in some areas where Negroes were not able to join a local real estate board. I know of areas where Negroes were able to have joined member boards long before 1945, which was the approximate date that the National Association of Real Estate Brokers was organized.

And this created a problem as I understand it in the Southern States. And at that time some of the people in the Southern States came to the National Association of Real Estate Boards and they asked my predecessor once removed, Herbert U. Nelson, a very fine gentleman, if he would assist in organizing an Association of Real Estate Brokers in the area of Negro communities.

We did. In fact, the National Association of Real Estate Brokers was assisted by our organization. The term "Realtist" was a suggestion that came as a result of this conference.

And I would say that as far as we are concerned the National Association of Real Estate Boards in the communities throughout the country welcome anyone, and we have a good many and have had for many years, many, many Negro members, and they are contributing well to their communities and they are contributing well to our association.

MR. POWELL. Turning, you say that your provision that I quoted earlier is passé. But it is true, isn't it, that the practices of real estate brokers under that provision contributed to the present patterns of racial segregation in our metropolitan areas? Wouldn't you agree? The President himself has recognized that in his statement. Do you differ with that?

MR. PONTIUS. I can't argue that point.

MR. POWELL. All right. Don't you feel that if that is the case that you have, that your members and your organizations have an obligation to take affirmative steps to change those patterns to which your practices have contributed?

MR. PONTIUS. I don't think there is any question but what the leadership of the National Association of Real Estate Boards is doing all they can and will continue to do all they can to cooperate in making housing available for anyone.

MR. POWELL. Tell me, Mr. Pontius. In 1968 did your organization oppose the enactment of Title VIII of the Civil Rights Act?

MR. PONTIUS. Yes, we did.

MR. POWELL. Now that it is the law of the land, do you support that provision?

MR. PONTIUS. We support that provision.

MR. POWELL. Do you—

MR. PONTIUS. In fact, I may say that a good many of our member

boards throughout the Nation are even going so far as to conduct what they call equal rights committees and a code of practices to educate their members and their salesmen as to their obligation and to be sure that that responsibility is fulfilled.

And, incidentally, we opposed the law not on the basis of the law itself but because of some of the related factors that were in it, just as I opposed at one time the Rumford Act in California because we felt that some of the concepts of the Rumford Act were improper.

MR. POWELL. Mr. Pontius, your 1971 statement of policy urges a rededication, and I quote, "to the observance of law with emphasis on strengthening law enforcement." The law which you are in an excellent position to support is Title VIII of the Civil Rights Act. Why haven't you urged strengthening of law enforcement in this area?

MR. PONTIUS. The statement that you refer to includes that section as well.

MR. POWELL. Tell me, what efforts does your organization take to police your present Code of Ethics which relates to discrimination with respect to blacks attempting to buy in white areas? Do you police the activities of your members in this regard?

MR. PONTIUS. The structure of the association is made up, as I mentioned earlier, of local real estate boards. The only people that can really take—can actually take action against a licensee or a member is the local real estate boards. We have encouraged the local boards to set up equal rights committees. We have encouraged them to see that the 1968 Civil Rights Act is complied with.

We have publicized on several occasions in this manner— Here's a copy of the quarterly magazine section of Headlines, which is our weekly publication that goes out to approximately 100,000 members, in which we have: "The press, the public, open occupancy laws, and the board of Realtors."

MR. POWELL. Well, Mr.—

MR. PONTIUS. It explains in there the obligation. And we have a number of publications that I have not included in the pamphlet that has been given to you there that this Commission should have that sets forth the inequitable limitations that the association does not condone, and among that it clarifies the position of the Realtor with reference to his servicing minority groups and the public as a whole.

Now, the national association, if they find that a board is refusing to perform in this area, we can revoke their charter.

MR. POWELL. Have you ever done that?

MR. PONTIUS. We have not had occasion to do it.

MR. POWELL. Despite all of the indications, despite all the actions that the Attorney General has seen fit to bring against brokers in areas like St. Louis?

MR. PONTIUS. In the St. Louis case— I'm glad you mentioned that. In the case of St. Louis there were four members down there who—

MR. POWELL. Did you revoke the charters in St. Louis?

MR. PONTIUS. The St. Louis case is not settled yet. In fact, the St. Louis Board was not involved. You had four individual members in St.

Louis who were involved. And in the case with St. Louis, those four members, they were submitted a proposed consent decree.

I took it upon myself to inquire about one of the cases particularly and found that the party involved had 12 complaints. He indicated that of the 12 he knew that nine of them were probably improper and questioned their validity. Three of them he said: "I would question the sincerity of my salesmen."

As a result they did file a consent decree and the Department of Justice asked that a procedure be established. It would recommend to the membership some form of action.

I talked to the St. Louis Board and they have included in the consent a proposal that a code of practices be established and that in addition to the code of practices which is included in the little pamphlet that you have here— And they have gone further and said that each associate or salesman member of the Real Estate Board of Metropolitan St. Louis shall be required to file with the board a signed membership card and that will be retained in the board offices and the board will take action should there be further complaints on that.

I don't know the final disposition of this subject and I would question to what extent I should discuss it.

MR. POWELL. Let's turn to something else. With regard to the effects of past discrimination—

MR. PONTIUS. Effects of what?

MR. POWELL. The effects of past discrimination. You have agreed that the members of your organization are in some respects responsible for the current segregation in our metropolitan areas. Do you think that Realtors—

MR. PONTIUS. May I clarify that, sir? I think that you have to keep in mind that in the past when a real estate broker sold a piece of property to someone he was also in the position to service the individual, whether it was a buyer or a seller, as to what their needs may have been, and I think that the brokers over the past years acquiesced to what the public wanted, both the buyer and the seller.

Now, I think that the laws you have, the 1968 Civil Rights Act, takes care of everyone and that puts everyone on an even keel. There is no question about everyone having to perform now.

MR. POWELL. In view of the fact that you do have present effects of past discrimination, do you think that Realtors have an obligation to engage in affirmative marketing to minorities to overcome the effects of past discrimination?

MR. PONTIUS. I'm sorry. Could you repeat yourself?

MR. POWELL. Do you think that Realtors have an obligation to engage in affirmative marketing to overcome the present effects of past discrimination?

MR. PONTIUS. I think that the brokers are doing that, and I think that the National Association of Real Estate Boards and its leaders are concerned with setting up committees throughout the country that will do that, and I think that there is evidence throughout the Nation that this is being done.

Right near by—this gentleman is from Baltimore. I think you are aware of the Baltimore Plan and the Baltimore Board's activities in attempting to work with the people in the community. And they are even sponsoring a series of radio shorts explaining the importance of—or the fact that housing should be available to all people in all communities.

I believe that the pamphlet that I left with you there also contains a copy of that folder.

MR. POWELL. Mr. Spaulding, you are familiar with HUD's proposed guidelines on discriminatory advertising?

MR. SPAULDING. Yes, I am.

MR. POWELL. Do you approve of these guidelines?

MR. SPAULDING. They are all right as far as they go. But they have not covered some of the principles which HUD has— HUD has missed out on some of the principles as far as their administration policies are concerned. It's all right for a piecemeal effect, but it's not comprehensive enough.

MR. POWELL. I see. Mr. Spaulding, do you feel that builders and brokers who sell federally subsidized housing should be required to advertise their property and sell without discrimination?

MR. SPAULDING. They should.

MR. POWELL. Would you care to comment on that, Mr. Pontius?

MR. PONTIUS. I'd like to comment on the HUD advertising proposal. I think there are several sections in the proposal that could be detrimental to the purpose of selling to all people.

For example, in one instance they say that everyone must use a logo that housing is available to all people. I think if someone doesn't use a logo, then that is an indication it isn't available, and I don't think you should have to go that far. The law says that it's supposed to be available, and it should be available. There shouldn't be any question about it.

MR. POWELL. Well, in light of the code words used to signal to whites that this was a white community and the practices used to signal to blacks that this was a black community, don't you think that would overcome those effects?

MR. PONTIUS. If you know code words you know something about our business that I don't know, sir.

MR. POWELL. Well, wouldn't you say if everyone followed the guidelines there would— Should there be a requirement that everyone follow the guidelines? Wouldn't that rectify the problem you mentioned?

MR. PONTIUS. I think in view of the 1968 Civil Rights Act we have to assume that everybody has to live with that act. I don't think it's necessary to spend the money to say that we support the act.

MR. POWELL. The President talked about programs that were result-oriented. Do you think we can assume the law is being followed?

MR. PONTIUS. I'm sorry. I couldn't hear you.

MR. POWELL. Do you think we can just assume that the law is going to be followed without having programs that are going to be result-oriented?

MR. PONTIUS. No, I didn't say that, sir. I just said I didn't think the logo would help the situation. I do think that we all have to work at the problem. There isn't any question about it. I think that there are many, many people who want to be helpful in this field and there are some people that have to be further educated. And I think the Realtors are willing to help educate them. But I think this is a two-edged operation here.

I think as far as we're concerned, for example, we'd like to do a lot of work throughout the country. It takes money to do this. We can't do it just on the strength of the membership dues. The National Association of Real Estate Boards has inquired for help from some of these national foundations, and the national foundations have taken the attitude that it's all our fault in the first place "so why should we help you?"

I don't think that's going to help anyone in the future. And I wouldn't say that what happened in the past was necessarily all our fault. But we're living in a different world today and I think the people in the real estate business understand this. I think we all should understand it.

MR. POWELL. Mr. Spaulding, what has been your experience with VA and FHA with regard to their referring repossessed housing to black Realtists? Do they refer black Realtists to all of their housing or just to homes in black areas?

MR. SPAULDING. Now, that is a question I cannot answer. It has given me some concern, and I am going to make an investigation of it.

My only observation is that the list which comes to me from both the FHA and the VA does not normally have houses where I think they should be. So I am going to make an investigation of that because I don't think the list is inclusive, but that's not factual.

MR. POWELL. Dr. McGraw, do you have any information on that point?

DR. MCGRAW. On the VA? No, I do not have.

MR. POWELL. Mr. Spaulding,—

DR. MCGRAW. Except I would assess the situation as good, bad, and indifferent. It depends very largely on the caliber of VA director in the localities, the extent to which he pursues this thing. And so I think you would have to say in some localities it works pretty good and others it doesn't work too well.

MR. POWELL. Either Mr. Spaulding or Dr. McGraw, what has been your experience with getting mortgage financing for black people in the suburbs?

MR. SPAULDING. I think getting mortgage financing in the suburbs has as a rule been rather difficult, more so— Well, that's the suburbs.

MR. POWELL. Could VA or FHA do anything to improve this situation?

MR. SPAULDING. I think they could do something to improve the situation if an individual bought under that particular program. I feel that force could be brought against the lending institutions themselves. That is, if a lending institution discriminates in financing, I think their insurance should be removed immediately.

MR. POWELL. Could you tell us anything about the mechanism which banks and other lending institutions use to deny black people credit?

MR. SPAULDING. Oh, yes, there are various and devious means of denying credit. First, there is a credit criteria. They do not meet the credit requirements.

Secondly, particularly in the ghetto areas, they have various deceptive devices. In fact, it's practically impossible now to get financing in the inner-city *per se*.

As one instance, we did make a survey for your Commission relative to financing in the inner-city, and this investigation was made by our brokers throughout the United States. And credit criteria was one of the most offensive.

Secondly, they wanted to know how old the house was. And as you and I know, most of the houses in these old areas are 50 years plus. So they do not take mortgages for houses in excess of 20 years old. That's No. 2.

And No. 3, are you a depositor with us?

And No. 4, the term of years, very limited, usually 10—that is, if you can get it.

And normally the amount of money, mortgage money, which can be obtained is much lesser than that which is required, whereas if a white individual buying the same particular property through our experience, they generally will grant them a two-thirds percentage mortgage of the appraised value.

Those are just a few of our experiences, and we are documenting those and will present them to you very shortly.

MR. POWELL. Thank you. Mr. Chairman, I have no further questions.

VICE CHAIRMAN HORN. Mrs. Freeman?

COMMISSIONER FREEMAN. Dr. McGraw, it's good to see you. I would like to say to my fellow Commissioners that Dr. Booker T. McGraw is probably one of the best known experts on housing and the struggle to achieve equality of opportunity in housing in this country.

You were employed by first, I suppose, the Housing and Finance Agency, the Public Housing Administration, over a period of years. And I wonder, Dr. McGraw, since you have retired and left what we call the Federal establishment, if you would comment, if you would indicate some of your thinking to this Commission about the obligations of the Federal Government as you perceive them now as compared with what was happening over the some 20 or 25 years that you were employed in housing?

DR. MCGRAW. Well, I would have to agree with the conclusion of your own Commission that there seems to be some slippage here, if not a full-dress retreat, so far as civil rights are concerned.

I think this was very well reflected in the White House statement Friday, in my judgment. I think it's about as easy to separate the economic discrimination and discrimination among minorities who have been circumscribed and disadvantaged so that they are heavily concen-

trated among the lower-income groups as it is to unscramble eggs. I think it's wholly unrealistic. It's a nice way to avoid carrying out your responsibilities to really open up this society so that all members of the public will have the same option to live in every type of location and access to housing within its means in such locations as now enjoyed by other people.

And you can't do this if you are going to try to separate economic discrimination from racial discrimination or discrimination on the basis of race or other attributes.

Because it simply means that there will be nothing in the suburbs that people lower on the totem pole can have access to if you rule out building low- and moderate-income housing.

The question is not one of forced integration. You're not forcing anybody to integrate. I don't think anybody can force me to integrate with anybody. I'm not being forced to integrate when I live in a hotel room next to somebody or ride on the street car next to somebody.

Because I have the same access as other people to the activity and the facilities provided with funds and assistance provided by all members of the public, it seems to me these funds should not be used in any instance where they will not benefit all the people.

And I just can't— This announcement was very distressing to one who has labored in the vineyard—and now we have all kinds of tools and more recognition of the real elements of the problem today than ever before—for an Administration to be moving backward it seems to me.

We were doing better when we had to make bricks without straw on this front. We didn't have 235 or 236. We didn't have any civil rights laws in this field.

Of course, if we lived up to the Constitution, we wouldn't need any civil rights laws. It's all inherent in the Constitution. These civil rights laws are merely trying to provide some machinery for implementing the basic ideals and thrust of the Constitution, it seems to me, and it seems to me the statement issued by the White House was a great deal of sophistry. I don't know what motivated it. I wouldn't presume to try to read people's motives.

But it's certainly a disappointment and frustrating and distressing to those of us who have been laboring in this vineyard for a number of years.

I don't know whether this is fully responsive to your question, Mrs. Freeman, or not.

COMMISSIONER FREEMAN. Would you have any specific recommendations as to the kinds of programs that ought to be in effect to achieve what we are seeking?

DR. MCGRAW. We have tried to address ourselves in the paper prepared for this Commission. I think some of them you will find something in there on this.

The first thing, I would like to see that the funds already appropriated by the Congress to support these programs in housing and urban development be released and not impounded. We have got over a bil-

lion dollars of housing and urban development funds which the White House has not permitted to be spent. Most of it is in sewer and water grants. I can give you the figures.

About two hundred— What page is that on? \$200 million in urban renewal funds. \$192 million public housing. \$200 million in water and sewer grants. Model Cities \$575 million plus another \$157 million.

Now, these are funds being impounded by the White House. It has already been appropriated to be spent in fiscal 1971. And these funds are not impounded because there is not a need, because the need is urgent, and the applications are piled up there. This is thwarting the will of the Congress.

Now, anybody familiar with the obstacle race you have to go to get some funding from the Congress— Well, it's almost impossible to say what I think about this. For example, I'd like to point out that legislative committees of Congress are not in the habit of being excessive in authorizing the funding of programs approved by the Congress, enacted by the Congress.

Then comes the executive department, and it usually asks the appropriation committee for less than is authorized.

It goes to the White House and then it's cut back. And then it goes to the appropriation committee, and the appropriation committee never gives you what you ask for.

Then, once the appropriation committee makes the appropriation, then to have some \$10 to \$12 billion for all the executive departments be impounded by the White House I think is unconscionable.

And about \$1.3 million HUD funds.

Now, another thing I would briefly point out. I think just as HUD would not think of handing a builder some guidelines regarding architecture and telling him to go ahead and build a building and if there's any complaints "we'll see whether you lived up to the guideline criteria"— This is what we do in civil rights, in equal opportunity, in fair housing. We don't sit down with the applicant and have him come in with a statement of what he is going to do, a plan, just as he comes in with his architectural plans, what kind of structure, and showing that the structure meets HUD's criteria.

Now, I submit that a human being and human values are more important than a building, the architecture of a building. But this is the way we play it.

There's no reason in the world why we could not sit down with every applicant for HUD funds and have him come in with a satisfactory list of positive steps he is going to take to implement the requirements of equal opportunity and fair housing, and then hold him to that and monitor his activities from his initial planning through the occupancy and operation of the housing and see that he lives up to the plan that he brought in and said he would implement. Then we would get some things going on this front.

But when it comes to the human side of the equation, we don't screen that. We don't follow up on that to the same extent we do with respect to the physical aspects of housing.

And what is more important? All of this innovation by the Government is for the purpose of improving the viability of people, the self-development of people, so that people will be able to live and enhance their quality of life.

We can never solve these problems until we adjust the human considerations equally with the physical considerations.

COMMISSIONER FREEMAN. Thank you.

DR. MCGRAW. I think those two things will give you the tenor of how I would approach this if given the opportunity.

Now, I would like to say that I haven't been able to get previous Administrations to buy this type of bill either, but they were all further on the way than the present Administration seems to be. The present Administration even in its statement admitted that they are pulling back from what previous Administrations had done on this in opening up suburbs.

VICE CHAIRMAN HORN. Commissioner Mitchell?

COMMISSIONER MITCHELL. Mr. Spaulding, you are active now as a real estate agent or Realtist in Baltimore?

MR. SPAULDING. Yes, I am a licensed real estate broker.

COMMISSIONER MITCHELL. Could you join Mr. Pontius' association?

MR. SPAULDING. Not until about 10 years ago. I did make an application but was flatly refused.

COMMISSIONER MITCHELL. But you now could join?

MR. SPAULDING. I could join with a sponsor, but I haven't had any inclination to join although about six or seven brokers of our local association did join.

COMMISSIONER MITCHELL. Dr. McGraw, are you saying that the Secretary of HUD is exerting less than the amount of effort he should be exerting in behalf of the solution of this situation?

DR. MCGRAW. No, I'm saying he is not— He's being prevented from exerting what he ought to do. I think he would exert more himself.

When you get a chance to examine my paper, I think we tried to make clear some voices by the Secretary in 1969 and 1970 about opening the suburbs and plotting suburbs to include low-and moderate-income housing so that these people who were dammed up, unemployed and underemployed, in the city, can go out and occupy these lower-skilled jobs which are growing in the suburbs and going begging out there because they can't live out there and the transportation is too costly and time-consuming for them to get out there.

And many of the development supermarkets are having an atrocious time getting low-paid help out there to man those facilities.

COMMISSIONER MITCHELL. Thank you.

DR. MCGRAW. I'm sure that Mr. Romney would be much further along if he were permitted.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. No questions.

VICE CHAIRMAN HORN. Commissioner Ruiz?

COMMISSIONER RUIZ. Mr. Pontius, you stated that the National Association has encouraged local boards to set up equal rights commit-

tees? Is that correct?

MR. PONTIUS. That's correct, sir.

COMMISSIONER RUIZ. What do the records show as to the extent equal rights committees have been set up?

MR. PONTIUS. Well, the principal location is in California where they have done a very excellent job as I expressed earlier.

I have not had an opportunity since I have been with the National Association in the last 6 months to make a survey to determine just what has been done, but I would certainly hope that we would, because we are interested to know just how many of them have and what they are doing about it.

COMMISSIONER RUIZ. Can you submit by letter form to this Commission any statistical computation of States and places where equal rights committees have been set up or your goals in that respect?

MR. PONTIUS. Yes. In fact, that is included in the kit that I have given to you to some extent, and also my testimony that is included in that kit refers to it.

Frankly, I have a recommendation on that line that I have included in that statement which refers to a visual aids program that I believe you people are considering, and I would certainly encourage that.

I have had two films that have been left with your staff here, one developed by the California Real Estate Association for the purpose of showing people what can be done, how minorities have been able to locate, what the acceptance has been in the neighborhoods, and so on.

The film, incidentally, was prepared by Universal Studios and was not edited by the Realtors. It was done independently of the Realtors themselves.

There is another film, however, that is available to you people that was not developed by our association but I think it's one of the finest pieces of work that I have seen anyplace in the country, that depicts what can be done with existing housing and rehabilitation housing, which certainly falls under the 235 program and some of the other subsidized programs of the Federal Government.

This is a program created by Community Pride in Los Angeles—in fact, the Watts area of Los Angeles. The title of the film is "New Fires in Watts".

The film itself is a little misleading to some extent, but when you see the film you can understand that it is an exciting title, and it does show that there is tremendous new construction in the area.

Unfortunately, Community Pride, a group of people who were rehabilitating the properties, as I understand it, have gone defunct.

COMMISSIONER RUIZ. Is your organization—

MR. PONTIUS. This is something I think we should encourage. You people should. We should. I think the National Association of Real Estate Brokers should. And we should certainly work with HUD to see that that approach is advanced.

COMMISSIONER RUIZ. Is your organization willing to help in distributing such educational films as may be available or which the Civil Rights Commission may film?

MR. PONTIUS. Yes. If you had any films available, we'd be pleased to see that they were distributed to our boards and encourage the local boards to show them to various service clubs.

COMMISSIONER RUIZ. Now, you have an equal rights handbook. Has it been put into evidence here? Has it been submitted and given an exhibit number?

MR. PONTIUS. Yes, sir. It has not been given an exhibit number. It is just an exhibit.

VICE CHAIRMAN HORN. It has been entered into the record.

COMMISSIONER RUIZ. One more question. Since the National Real Estate Boards support Title VIII and originally, apparently from what has been stated, blacks were not permitted to become a member of National Real Estate Boards, why can't the real estate boards and the real estate brokers join forces on issues wherein their viewpoint may coincide?

MR. PONTIUS. They can. And I'd like to correct a statement if I may, sir. Negroes may join the National Association of Real Estate Boards, and they have been available to join in various areas throughout the Nation for years. In fact, I know some that have been members for nearly 30 years, and that's long before many of us became involved in this.

If I may, I'd like to also comment on the article that was in our Section 5 that Mr. Powell referred to earlier. You know, up until 1948 the Federal Government permitted racial covenants of one kind or another. Now, where these came from I don't know. I haven't read the history on it. In fact, I haven't been concerned about that history because I don't believe in them.

But I will say that when the Federal Government determined in 1948 that those racial covenants should no longer be advanced, the National Association immediately took steps to change that code of ethics in the association.

COMMISSIONER RUIZ. Don't you believe that if avenues of communication are not only established but kept open that this would prevent misunderstandings from developing between the two organizations?

MR. PONTIUS. Very definitely.

COMMISSIONER RUIZ. And you're willing to do that?

MR. PONTIUS. Well, even to the extent— I don't know whether Mr. Spaulding knows it or not, but I asked if we couldn't be invited to the installation of their national president in Atlanta next August, or September I believe it is. Is it the 12th of August or the 12th of September?

MR. SPAULDING. It commences on the 8th of August.

MR. PONTIUS. We have been invited. I don't know to what extent we can participate, but we'll certainly be there. And I'm looking forward to knowing the executive officers of the National Association of Real Estate Brokers.

COMMISSIONER RUIZ. Thank you very much.

VICE CHAIRMAN HORN. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Pontius, Mr. Powell pursued rather vigorously the question of what steps, affirmative steps, need to be taken to

overcome the effects of past discrimination. You are new to your present job but I don't think we can too strongly emphasize what a serious and deep-rooted problem this is.

Just the other day the New York Times quoted a statement by our Chairman, Father Hesburgh, that was made in 1961, 10 years ago, where Father Hesburgh said:

"There are the unspoken but very effective conspiracies of builders, real estate brokers, and good neighbors who are downright arrogant in preserving the blessings of democracy for their own white selves alone."

And just last Thursday this Commission issued a report on the operation of the 235 housing program and in there we concluded a number of things about the actions—

MR. PONTIUS. What page, may I ask?

MR. GLICKSTEIN. Well, beginning on page 47. We concluded a number of things about the actions of real estate brokers. We said that real estate brokers generally operated on the assumption that there were separate housing markets for whites and for blacks. And we said on page 48:

"Thus, the separate housing market for minority buyers as perceived by brokers leads to broker specialization. Most of the real estate brokers interviewed by the Commission's staff identify themselves as serving a specific racial or ethnic group in a racially or ethnically identifiable area."

Elsewhere on that page we said: "Many real estate brokers direct their advertisements toward the racial or ethnic market which they desire to serve."

And on page 461 we said: "In some cases there was evidence to suggest that both builders and brokers used overt discrimination to prevent minority buyers from purchasing houses in predominantly white areas. However, overt discrimination was usually unnecessary, in that the tradition of separate housing markets coupled with the urgent need of uninformed applicants virtually guaranteed a segregated pattern."

Now this tradition of separate housing markets is a very deep tradition that has to be broken if we are going to solve some of the problems we have been speaking about here today and that we considered in St. Louis and in Baltimore. And it does require a very, very affirmative effort to overcome the effects of this past discrimination.

MR. PONTIUS. May I ask what— I haven't had the opportunity to read the report. I do have the book, just received it when I arrived here today. But was that statement by Father Hesburgh made from a survey in New York City or a general survey or—

MR. GLICKSTEIN. I believe that statement was from the Commission's 1961 report on housing which was a national report, covered the country.

MR. PONTIUS. Well, I would say—

MR. GLICKSTEIN. It wasn't just one area.

MR. PONTIUS. The reason I asked the question is I think throughout the Nation I don't think that you would find that to be true. I raise the question about a city like New York or Chicago because I think that

there may be brokers who are living in Italian areas and are living in areas similar to that and they may be specializing in selling to Italians, but that doesn't mean that they are not going to sell to a Negro.

MR. GLICKSTEIN. Well, this report covered St. Louis, Denver, Baltimore, and a fourth city, Philadelphia.

MR. PONTIUS. I respect your comment, sir, and I think it's good that we have this past experience to use as a yardstick, because it certainly gives us a barometer of what progress we're making. But I think that updating of some of these reports is an important factor, too.

MR. GLICKSTEIN. This report is just less than a week old, just a few days old.

MR. PONTIUS. I see.

MR. GLICKSTEIN. The only point of my remark was to substitute for Father Hesburgh, who at this point I think would deliver a sermon of some sort and point out how deep-rooted these problems are and how essential it is to move ahead very vigorously and affirmatively if there is any hope at all of solving them. That's all I have.

VICE CHAIRMAN HORN. Dr. McGraw, you have mentioned the President's statement here. I know it just became available Friday. Have you had the opportunity to read the full text, all 15 pages of the statement? Or are your comments from the press reports?

DR. MCGRAW. I have had a chance to glance through the full statement but I haven't had a chance to really study it.

VICE CHAIRMAN HORN. I see. You are familiar I take it with the statement then on page 2 perhaps when you glanced through it that the President notes: "To qualify for Federal assistance, the law requires the local housing or community development project to be part of a plan that expands the supply of low and moderate income housing in a racially nondiscriminatory way."

And then on page 7 he notes that: "In short, HUD's role in the location of assisted housing is one not of site selection but of ultimate site approval," and goes on to say, "It does not initiate local housing projects."

But then he adds, I think significantly: "With more applications than it can fund, it must select those for funding which it determines most fully satisfy the purposes of the enabling legislation," which on page 2 it has been made clear include the supply of low- and moderate-income housing in a racially nondiscriminatory way.

I just wondered if those comments had caught your eye.

DR. MCGRAW. Oh, yes.

VICE CHAIRMAN HORN. Let me ask you—

DR. MCGRAW. I would like to— May I—

VICE CHAIRMAN HORN. Yes.

DR. MCGRAW. You see, this is what I call sophisticated obfuscation of the situation it seems to me. We don't draw the plans to force a different type of architecture on people, but we insist that whatever the architecture is it meets whatever the criteria are that we have. And we can do the same thing. If we want low- and moderate-income housing diffused in a certain manner, we can have that as a criterion and when

the people come in, have them tell us before we give them any funds how they are going to do this. And this is—

VICE CHAIRMAN HORN. I think this is one of the points, of course, of this hearing—I mean is to find the degree to which the processes of the Federal bureaucracy will carry out the statements of both this Commission and apparently now the Chief Executive, and certainly the courts who had a record perhaps before anybody.

DR. MCGRAW. Yes.

VICE CHAIRMAN HORN. Let me ask you, Mr. Pontius. Your ethics code has been mentioned here several times, and Mr. Powell quoted the recent statement in your ethics code that concerns sort of the replacement for the previous section.

When was that adopted—that section that Mr. Powell referred to? Do you know the year offhand?

MR. PONTIUS. Approximately 1950.

VICE CHAIRMAN HORN. 1950?

MR. PONTIUS. Sometime between 1948 and 1950. It's about the time that the U. S. courts outlawed racial covenants.

VICE CHAIRMAN HORN. Right.

MR. PONTIUS. And, of course, the reason we had it in our Code of Ethics, incidentally, was because there were racial covenants that were recognized by law, and all we were saying by having it in our Code of Ethics was that it was unethical for a real estate broker to violate that law.

VICE CHAIRMAN HORN. That's very interesting. Now, you said that your Code of Ethics really repeated what already was then the law of the land, which in that case were racial covenants. Now the law of the land is the other way around in terms of fair housing, if you will, and yet your Code of Ethics does not really include the law of the land. Do you have a reason why the change in practice?

MR. PONTIUS. We have an interpretation that also says that it is unethical and it is inequitable limitation for a member board to deny membership to anyone because of race, color, or creed or for an individual to deny service to anyone because of race, color, creed, religion, or national origin.

VICE CHAIRMAN HORN. That's in the Code of Ethics now?

MR. PONTIUS. Yes. It's in the interpretation.

VICE CHAIRMAN HORN. In the interpretation but not in the code itself?

MR. PONTIUS. Right.

VICE CHAIRMAN HORN. Is there any plan by the board in one of their annual conventions to perhaps tighten up the Code of Ethics?

MR. PONTIUS. The entire Code of Ethics is subject to review.

VICE CHAIRMAN HORN. I see.

MR. PONTIUS. In fact, we have several other items that should be considered.

VICE CHAIRMAN HORN. Now, this question was stressed a little bit earlier but I'd like to proceed and develop a point here.

Just how do you know in any area that is covered by your Code of

Ethics as to whether or not ethical standards are being followed by both your member boards and their members in turn? Do you have any sort of system where the national group checks up— this has nothing to do with the civil rights aspect of this, but I am just curious. How do you know your Code of Ethics is even being followed in any area?

MR. PONTIUS. Well, as far as membership is concerned, for example, we have never taken an inventory of our minority members. We have felt that to do that would be discriminatory in itself.

VICE CHAIRMAN HORN. I'm not really asking that, I'm asking any aspect of that Code of Ethics, how do you know that Realtors around the country—and let's forget the civil rights aspect right now. The non-civil rights aspects of your Code of Ethics. How do you know they are being carried out in an ethical way by your members?

MR. PONTIUS. Well, if a member applies to the highest tribunal within the board— And there are various committees. We have a professional standards committee. We have arbitration committees. We have membership committees who are continually carrying on indoctrination programs of one kind or another to educate the members as to their rights under the Code of Ethics and the bylaws and the rules and regulations of the boards. And if any member finds that he has been adversely treated or has not had an opportunity to present his case, that he then has an opportunity to refer it to the state association and he can bring it to the national association if necessary. We have had cases that have come to the national association.

VICE CHAIRMAN HORN. All right. So as I understand it, your cases come about essentially in two ways. Either another member of your board brings a charge about a rival's, shall we say, misconduct, or an individual complaint perhaps from a prospective purchaser of a house—

MR. PONTIUS. Correct.

VICE CHAIRMAN HORN. —or rental of an apartment. So you really don't have any testing that you undertake as a national board nor do local boards have this where you go around and just check up on the degree to which members are following your own Code of Ethics? You really have no enforcement program of your own in terms of ethical standards?

MR. PONTIUS. Only to the point that they come to our attention. Now many of these things, of course, are supported by the real estate laws throughout the country and we do support the fair employment practices commissions and the real estate commissions in the various States. And wherever they have any activities they have their deputies out checking. And, of course, in many instances, if there is a complaint, it may be a violation of law.

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. If it's not a violation of law, however, most of the real estate commissions will report this back to the state association or the local real estate board, and they in turn can take action.

VICE CHAIRMAN HORN. Okay. So then another source of complaint is an action of the State real estate commission who licenses the bro-

kers in the State?

MR. PONTIUS. That's correct.

VICE CHAIRMAN HORN. And I think we heard testimony in our Baltimore hearing that they had one member—am I correct?—in the Maryland State Real Estate Commission to enforce the law statewide for real estate brokers.

Is there any move underfoot or do you personally think it would be a good idea to have some sort of responsibility for testing ethics whether it's civil rights or not as it pertains to real estate by your own organization?

MR. PONTIUS. Well, we have a number of education programs now that we try to update people, but as you raise the question the thought has been going through my mind as to how you could mechanically set this up so that you would establish a program.

I think it's a good question. I certainly would like to pursue it further. But I honestly think at this moment—

VICE CHAIRMAN HORN. All right. Let me ask you now about the State's role in licensing real estate brokers. Are there courses required in most States to be a real estate broker and to secure a license by the State?

MR. PONTIUS. The majority of the States do now, yes.

VICE CHAIRMAN HORN. In other words, do you have to take certain courses or do you merely pass a test?

MR. PONTIUS. No, you are supposed to take the courses. However, if you are capable of passing the examination without taking the course, you should be permitted to do so. The statutes don't all read that way but—

VICE CHAIRMAN HORN. As the National Association of Real Estate Boards you really have nothing to do with individual licensing, do you?

MR. PONTIUS. No.

VICE CHAIRMAN HORN. You merely grant a charter to a local board?

MR. PONTIUS. That's correct.

VICE CHAIRMAN HORN. Are any of those local charters so that a member can be a member of that local board— Do they require any sort of educational program or continuing education to maintain individual membership in the local board?

MR. PONTIUS. Yes, they do.

VICE CHAIRMAN HORN. All right. Now, if that's true, that both the State and your local boards can require educational programs of their members to maintain themselves as professionals, do you know of any State or any local board that requires as a component that a course or special program be devised on the civil rights aspect of the real estate industry anywhere in the country?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. For example, take the analogy of the Federal Government. To be a supervisor right here in the Department of Agriculture you have to go through X number of hours, I think maybe eight to 12, of training in human relations, civil rights matters, etc., before you are permitted to assume a supervisory job. Now, this is true

of many private industries. It's true of other Government agencies.

Has the real estate profession either by your own professional group or the State which licenses you got any sort of program anywhere in the country like this?

MR. PONTIUS. Yes. The real estate— The law advanced as a model law by the National Association of License Law Officials recommends in their State examinations that matters relating to all phases of law be referred to in their examination and that people be required to be tested in those areas, and, of course, that includes the 1968 Civil Rights Act.

Now, how much further they go beyond that I can't tell you because I haven't taken the examination necessarily.

As far as the local boards are concerned, in their indoctrination programs they refer to the responsibility of the broker and the 1968 Civil Rights Act, and they are very cautious to explain to the membership that they can't even— If an individual inquires as to what ethnic stature a buyer may be when they come, that they are not supposed to answer the question. That is against the law, too.

Of course, we find ourselves somewhat confused in this area because while we tell our people that they are not supposed to ask the ethnic structure of anyone, that it's a violation of the law, we turn around and receive from the Department of Veterans Affairs a questionnaire that requires every time you show a property that you ask the question: "Are they Negro or are they Caucasian?"

And our people get mighty confused when we say on one hand you shouldn't do something and the Federal Government comes along on the other hand and enforces a questionnaire of that kind.

VICE CHAIRMAN HORN. You are referring, I take it, to the Veterans Administration?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. All right. Let me ask you, are the exams that are given by State licensing agencies a matter of public record or are those questions kept confidential? What's the practice?

MR. PONTIUS. They are confidential prior to their use, and after their use they become public information.

VICE CHAIRMAN HORN. In other words, conceivably the Commission could ask the States to furnish their most recent examination for Realtors, or, rather, brokers, and those should be available to us?

MR. PONTIUS. Yes, they would be available to this Commission, if that's what you are saying.

VICE CHAIRMAN HORN. Yes. Well, I'd like our General Counsel to ask each State to furnish us with a copy of their latest examination for real estate brokers in their State, and I would like to see just how many questions pertain to civil rights matters within that examination.

So can we have that done, Mr. Powell?

MR. POWELL. It will be done, Mr. Chairman.

VICE CHAIRMAN HORN. Now, let me ask you, do you think since we have heard testimony in the 13 years or 14 of this Commission's life in every part of the United States about the discriminatory practices of

individual brokers at the local level— Do you think, given this preponderance of testimony, even though some progress might have been made since the enactment of the 1968 act, that perhaps both the real estate profession and the various State licensing agencies ought to require that as a matter of maintaining one's license or a matter of originally securing one's license that a course be given in the civil rights aspects of real estate and really what is going on in this country in the last few years?

MR. PONTIUS. I don't see why not. As far as the National Association is concerned, we do have a suggested— We encourage the boards to put out an indoctrination course, and, as I mentioned, they ask these questions, and we are now in the process of preparing one. We will review it and see to what extent these questions are asked and see to it that this is covered in that.

VICE CHAIRMAN HORN. Good. Now, to follow up on—

MR. PONTIUS. It is covered now, but we will see to it it's improved if that's what you are asking.

VICE CHAIRMAN HORN. Fine. To follow up on Commissioner Ruiz' query, I would like to just make it sure that we find out if possible how many boards of your members have a civil rights or whatever you want to call it, equal opportunity, committee as one of their official committees at the local level. I would just be curious as a matter of statistics the degree to which this apparent policy which you are encouraging is being carried out by the troops in the field.

And I would also like to ask Mr. Spaulding—this question was mentioned with reference to one local situation, I think Baltimore—about how many Realtists—do we have any information on that?—are also Realtors?

MR. SPAULDING. I don't have the statistical figures on it but they aren't too many.

VICE CHAIRMAN HORN. Well, there is no way to get these figures?

MR. SPAULDING. We can get it for you.

VICE CHAIRMAN HORN. If you could, I think the Commission would be interested.

MR. SPAULDING. Righto.

MR. PONTIUS. Can I comment on that?

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. I know of one particular board where— In Los Angeles there is a board known as the Consolidated Real Estate Board that's a member of Mr. Spaulding's group. I think that group represents someplace in the neighborhood of about 200 Realtists, doesn't it, Mr. Spaulding? Would you recall that? And I would say—

MR. SPAULDING. In excess of 200. They are planning on bringing to the convention about 500.

MR. PONTIUS. I know in that particular board there must be 35 or 40 at least, to my knowledge, who belong to the Southwest Branch of the Los Angeles Realty Board.

Now, I have talked to some of these people saying: "Look, why should we have to have two associations? Why don't we just merge

these two groups?"

And I get the comment that: "We don't know that the Realists want to merge with us now."

But, nevertheless, they are eligible to join both boards, and that's their prerogative.

VICE CHAIRMAN HORN. Let me just ask one last question here. I think it was mentioned in the St. Louis case—and your point quite properly taken was that that was still under litigation—but I assume there have been court cases in this country, Mr. Glickstein, where they have found that there have been discriminatory patterns and practices with reference to local real estate brokers? Is that correct?

MR. GLICKSTEIN. I would suspect so.

VICE CHAIRMAN HORN. I just wonder. Do you know if anybody has lost their license as a result of the decision in a court case or is the National Association prepared to impose an ethical sanction when a legal sanction has already been imposed? Or do you have any feelings on that?

MR. PONTIUS. Well, if a legal action is taken and they lose their license, naturally they lose their membership in the association.

If legal action is taken and they are not found guilty, the association does not have the power of the courts so we would be in jeopardy if we took further action against such an individual. He'd have grounds for suit against us.

VICE CHAIRMAN HORN. You'd say that's double jeopardy you feel in a way?

MR. PONTIUS. Well, no, I'm not referring to it as double jeopardy. I'm referring to it that the matter— If the fellow went to court and the court rendered a decision and then we would attempt, the committee was to attempt, to take action, that individual would have legal recourse against that committee.

MR. GLICKSTEIN. You could conduct a separate proceeding and reach your own conclusion and there might not be sufficient grounds for a court to find that the law has been violated but there might be sufficient grounds for a real estate board to find that its code of ethics has been violated.

MR. PONTIUS. Yes.

MR. GLICKSTEIN. Different standards of proof.

MR. PONTIUS. We have had— I am aware of several instances where a board has taken action against an individual and reprimanded him to the point that if it occurred again that his membership would be dropped. And it hasn't recurred so—

VICE CHAIRMAN HORN. Has any board, any of your member boards, ever taken action to the point of having the license removed? Or is that within their power to have a member's license removed?

MR. PONTIUS. The only power that a local board has is to suspend a member or curtail his services for a period of time. The licensing agency is the one that controls the license.

VICE CHAIRMAN HORN. When you say suspend or curtail services, you mean as a member of that board? In other words, he really couldn't

practice without membership in that board or what? Or could he still practice?

MR. PONTIUS. Well, he wouldn't receive his multiple listing service, and the courts today have taken the attitude that if a fellow isn't entitled to multiple listing service he isn't able to survive very well in the community, so I would say that it does jeopardize his position to do business very well.

VICE CHAIRMAN HORN. So the main sanction then, the really ultimate sanction you have to enforce any violation of your Code of Ethics, regardless of the civil rights aspect, is to have your local board suspend him so that he can't receive the multiple listing? Is that the main sanction?

MR. PONTIUS. Well, not just the multiple listing. Suspend him from membership in the board. I mentioned multiple listing because that's one of the coveted services that many people appreciate having. It's a direct business asset to him.

But, of course, you also have the integrity of the individual, and there isn't anyone who I know who is a Realtor, member of any organization, that likes to have the public know that he has been suspended for any reason whatsoever.

VICE CHAIRMAN HORN. Do you keep any list at the national level of the major sanctions which have been imposed by member boards? Do you have that in a newsletter or do you keep a record of this?

MR. PONTIUS. Yes.

VICE CHAIRMAN HORN. I wonder if you—

MR. PONTIUS. In fact, we recommend a suggested constitution and bylaws and we recommend various rules and regulations governing services of the board, other activities relating to—

VICE CHAIRMAN HORN. I wonder if you would just mind furnishing for the Commission the list of really the most severe sanctions you have granted in the last year, without mentioning any names, but just the type of sanction imposed and what was the reason for the sanction? What type of things we are talking about?

MR. PONTIUS. Well, I misunderstood your reference to sanction. You are referring to what action we have taken against individuals?

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. And we do not— The National Association cannot take action against the individual.

VICE CHAIRMAN HORN. No, but do you collect the data of the actions taken by local boards?

MR. PONTIUS. No, the local boards collect that data.

VICE CHAIRMAN HORN. So that is solely a matter of the local boards?

MR. PONTIUS. That is correct.

VICE CHAIRMAN HORN. In other words, you don't really know the degree to which sanctions have been imposed on behalf of your national Code of Ethics?

MR. PONTIUS. That is correct.

VICE CHAIRMAN HORN. All right. Let me just say, ladies and gentlemen, we have had the assistance this afternoon of Mr. Michael Walker, a staff attorney in the Office of General Counsel.

Mr. Glickstein?

MR. GLICKSTEIN. I have two items I would like to introduce into the record that Mr. Powell referred to in questioning: the Code of Ethics of the National Association of Real Estate Boards and an excerpt from its pre-1950 Code.

VICE CHAIRMAN HORN. Without objection, those sections will be inserted earlier in the hearing when they were first raised.

(The Code of Ethics appears in Exhibit No. 20. The excerpt from the pre-1950 Code is quoted in its entirety by Mr. Powell at p. .)

VICE CHAIRMAN HORN. Are there any further questions by the members of the Commission?

COMMISSIONER FREEMAN. I didn't hear the introduction into the record of the report of the National Association of Real Estate Brokers.

VICE CHAIRMAN HORN. We, I believe, said we'd be glad to receive it, and, as with other records, it depends really on the size. We'd certainly like to include all of it if possible, but we will include as much as appropriate in the record at the earlier part of the testimony.

(This statement was previously introduced as Exhibit No. 21.)

Let me just say our schedule for tomorrow is we will begin here at 9 o'clock in the morning with Mr. William D. Ruckelshaus, the Administrator of the Environmental Protection Agency. We will conclude tomorrow afternoon's session with Secretary of the Department of Housing and Urban Development George Romney, beginning at 3:55.

This Commission stands in recess until tomorrow morning.

MR. PONTIUS. Mr. Chairman, if I may—

VICE CHAIRMAN HORN. Yes.

MR. PONTIUS. I understood that Mr. Glickstein asked that the 1950 Article 5 of the Code of Ethics of the National Association of Real Estate Boards be entered into the record?

VICE CHAIRMAN HORN. He did ask that both the earlier version and the later complete code be included in the record, and it has been inserted at the earlier part of the testimony.

If there are no further questions, the Commission stands in recess until 9 o'clock tomorrow morning.

(Whereupon, at 6:17 p.m. the hearing was recessed, to be reconvened at 9 a.m., Tuesday, June 15, 1971.)

UNITED STATES COMMISSION ON CIVIL RIGHTS

TUESDAY, JUNE 15, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, may we come to order, please.

Before beginning this morning, I would like to swear in the reporter. (Whereupon, Miss Nancy Gibson was sworn in as Reporter.)

CHAIRMAN HESBURGH. I'd like to call our first witness of the morning, the Honorable William D. Ruckelshaus, Administrator of the Environmental Protection Agency.

Before you sit down, we'd like to swear you in, and would you introduce your companions, please.

MR. RUCKELSHAU. Norris Sydnor, the Director of our Office of Equal Opportunity, and Mr. Alex Greene, who is in charge of our grants program from the Environmental Protection Agency.

(Whereupon, Mr. William D. Ruckelshaus, Mr. Norris Sydnor, and Mr. Alexander Greene were sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. WILLIAM D. RUCKELSHAUS, ADMINISTRATOR; MR. NORRIS SYDNOR, DIRECTOR, OFFICE OF EQUAL OPPORTUNITY; AND MR. ALEXANDER GREENE, DIRECTOR OF GRANTS ADMINISTRATION; ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Mr. Ruckelshaus, we are delighted that you could come this morning, and we normally would prefer to have something put in the record and then be able to talk informally, if we might. We might be able to cover more ground that way. Would that be agreeable with you?

Mr. Ruckelshaus. Yes, Mr. Chairman. I talked to Mr. Glickstein before we started and I have a draft statement. I would like to submit the statement after the testimony here so that any questions that were not clarified in the questioning period here I could clarify in the statement. This will, I think, make it very clear what our procedures are and what we are doing in an effort to comply with Title VI and Title VIII.

Chairman Hesburgh. Fine, that would be perfectly agreeable with us.

(This Statement appears on p. 1011.)

John Powell, would you begin the questioning?

MR. POWELL. Would you each please state your name and position for the record?

MR. RUCKELSHAUS. I am William D. Ruckelshaus, Administrator of the Environmental Protection Agency.

MR. SYDNOR. I am Norris W. Sydnor, Jr., Director of the Office of Equal Opportunity in the Environmental Protection Agency.

MR. GREENE. I am Alexander J. Greene, the Director of Grants Administration for the Environmental Protection Agency.

MR. POWELL. Your agency, Mr. Ruckelshaus, was created in December of 1970, is that correct?

MR. RUCKELSHAUS. That's correct.

MR. POWELL. Now, as we understand it, your agency's major grant program, at least in monetary terms, is the program for the construction of final sewage treatment facilities through which funds are distributed to municipal, local, and State agencies, is that correct?

MR. RUCKELSHAUS. That's correct, Mr. Powell.

MR. POWELL. And grants for the placement of sewage pipe or connecting lines are made primarily by HUD and not EPA?

MR. RUCKELSHAUS. We have some funds for interceptor sewers but the major lateral sewers and sewers in general are paid for either by HUD or by the local community or by the cooperative agreement between the local community and HUD or the State and local community.

MR. POWELL. Now, with respect to these grants for final sewage treatment facilities, they are allocated to States which meet certain prerequisites according to a distribution formula established by law, is that correct?

MR. RUCKELSHAUS. That's correct.

MR. POWELL. Each State determines the priority among local jurisdictions for the receipt of grants. EPA then reviews each individual proposal to make sure that EPA's requirements are met, is that correct?

MR. RUCKELSHAUS. Yes, that's correct.

MR. POWELL. With respect to these grants, how much money was authorized for this program for this fiscal year?

MR. RUCKELSHAUS. There was a billion dollars appropriated for fiscal year 1971.

MR. POWELL. What is the projected budget for fiscal 1972?

MR. RUCKELSHAUS. The Administration has requested a 100 percent increase or \$2 billion appropriation for fiscal year 1972, and actually, in our authorization bill, we have requested this amount for the next 3 years, so it's a \$6 billion Federal program for the next 3 years.

MR. POWELL. Has EPA adopted regulations to effectuate the purposes of Title VI of the 1964 Civil Rights Act, which prohibits discrimination in federally assisted programs?

MR. RUCKELSHAUS. We do not have any regulations of the Agency as yet but they are being prepared for publication in the Federal Register.

MR. POWELL. As I understand it, you are now using the regulations of the Department of Interior, is that correct?

MR. RUCKELSHAUS. That's right, of the inherited Agency, the Federal Water Quality Administration.

MR. POWELL. But you do plan to adopt Title VI regulations—when was that? How soon do you think these regulations will be adopted?

MR. RUCKELSHAUS. Well, I can't give you an exact date but we are in the process of adopting them and we hope to have them out very shortly.

MR. POWELL. With reference to the Department of Interior Title VI regulations which are currently applicable to sewage treatment facility grants, how does EPA determine whether or not the applicant's sewage treatment project is in violation of Title VI?

MR. RUCKELSHAUS. Well, the grant itself is reviewed in terms of Title VI and if there is a violation there are a number of things which can happen. We have a Form T-128, which I can submit as part of the record if you like, and one of the problems with this form under our present procedure, and one of the reasons for our changing our regulations, is that the form which indicates compliance with Title VI is not submitted to the Agencies or signed by the applicant until after the actual application itself for the construction of the sewage treatment plant is approved; so that it's submitted prior to payment of any money, and we may have—it's certainly possible that we could have as much as 25 percent of the project completed before we recognize there was any violation of Title VI under the present regulations.

MR. POWELL. Will your future regulations provide for getting information before appropriations are made?

MR. RUCKELSHAUS. Yes, they will. That is one of the primary things we are addressing ourselves to in the new regulations.

MR. POWELL. What kind of information is gathered in this Form T-128? Does it require a showing of the racial composition of the community?

MR. RUCKELSHAUS. Yes, it does. It calls for a showing of the minority makeup of the community.

MR. POWELL. Does it provide an analysis to show whether or not the minority population is being equally served by the facility?

MR. RUCKELSHAUS. Yes, it does. It has a section for an explanation of why the sewerage or sewage treatment is not provided for a particular section of the community.

MR. POWELL. Has EPA ever terminated or suspended any sewage treatment facility grant because of the recipient's failure to meet Title VI obligations?

MR. RUCKELSHAUS. In the case of Sealy, Texas, Mr. Powell, there was an application for a grant in which a portion of the community was not sewered. As a matter of fact, that portion of the community was served by an inadequate septic tank system. It was primarily minority, primarily a black community, and prior to the making of the grant itself we requested that the city, and the State also requested, that the city provide a plan for the sewerage of the entire community and it was only after this plan was submitted that we agreed to the grant.

Also, in the case of Boca Raton, Florida, there was a portion—5 percent of the community was minority, was black, and there were no provisions for connecting sewers whose wastes were to be treated by the municipal sewage treatment plant, and through negotiation with that community we were able to see that the 5 percent of the population

that had not had connecting sewers, that the connecting sewers were constructed.

MR. POWELL. In evaluating grants for final sewage treatment facilities, do you coordinate your program with HUD's program for the provision of funds for connecting lines?

MR. RUCKELSHAUS. Yes.

MR. POWELL. If HUD were not to grant funds for a community that was discriminating against minorities, would you follow that lead?

MR. RUCKELSHAUS. We do coordinate our program with HUD and I think it's necessary first of all to understand exactly how our program operates. If the State approves, say, 10 municipal sewage treatment plants of new constructions or additions to existing plants, then the city itself, in making the application to the State also has to have that application approved by the Environmental Protection Agency. We have a provision in our regulations calling for regional plans to be submitted with each application to insure that the wastes of the entire region are being handled pursuant to some kind of plan. If within that region there was a community eligible for HUD's sewer grants and HUD had refused to make those grants because there had not been compliance with some section of the Civil Rights Act, we certainly would cooperate in every way with HUD to insure that the community that had made application to us for a grant was in compliance with the act.

MR. POWELL. Mr. Ruckelshaus, in the President's June 11 statement on Federal policy relative to equal housing opportunity, he stated that: "To qualify for Federal assistance, the law requires that a community development project be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way." How will EPA implement its sewage treatment grant program in light of this requirement?

MR. RUCKELSHAUS. Well, we would implement our sewage treatment plant program, clearly, so as to do whatever we could to insure that this statement by the President, as an interpretation of the Civil Rights Act, was carried out. We are again, I think, in a peculiar position, and I think a comparison between our agency and HUD is relevant to an explanation of that position. We are a regulatory agency, and in making sewage treatment plant grants to communities we are attempting to get those communities into compliance with water quality standards that have been established by State and Federal Government in that particular area. So that there are limitations as a regulatory agency to the kinds of things that we can do to insure compliance with the Civil Rights Act because by withholding funds, for instance, in some cases, it would not be a penalty against that community at all and it would be no incentive for them to go ahead and do what we were asking them to do, because in fact they might consider it a benefit not to have to spend that additional money for the construction of a sewage treatment plant which our matching fund would force them to spend. So that what we have to do is look at each individual situation, each individual case as it arises, and see where we can use what-

ever leverage we might have in the granting of construction funds for sewage treatment plants.

MR. POWELL. Doesn't EPA have the power to obtain injunctions prohibiting communities from polluting interstate waters?

MR. RUCKELSHAUS. Yes, we do. Let me qualify that. We do within certain restrictions. We have to first of all give them a 180-day notice to comply, which was done just recently with several large cities in the country. Then if they refuse to comply, we can then proceed by court order to attempt to get them into compliance.

MR. POWELL. Now, if a community were under such a court order prohibiting pollution, would not a community have a strong incentive to obtain EPA funds to assist it in building sewage treatment facilities?

MR. RUCKELSHAUS. Yes, it would. I would hope that it would.

MR. POWELL. So that you do have some leverage to get communities to follow this requirement?

MR. RUCKELSHAUS. Yes, we do. Now, let me make another explanatory comment. In the past, I mentioned how much money was appropriated for the sewage treatment plant construction program for 1971, Fiscal Year 1971. In the past, the difference between the money authorized for the program and the amount actually appropriated has been tremendous. The program has been woefully underfunded in the past, and the communities around the country, not pursuant to the law itself, but pursuant almost to custom, have assumed that they did not have to go ahead and construct sewage treatment plants unless there were Federal matching funds available for that construction. This has not been what the law said but it has been built into the State-Federal relations and the communities' understanding of what the law was over the last 10 or 15 years. So that really if we are going to expect to have a strong enforcement program against municipalities, there is a necessity to have sufficient funds appropriated that we can come up with the amount of Federal matching funds necessary to meet our obligations which at this point are at a maximum of 55 percent for the construction of those facilities.

With the \$1 billion this year and the \$2 billion we are requesting next fiscal year, we are for the first time really going to have sufficient funds to be able to launch a really vigorous enforcement program. But that is what we are in the process of doing and I think that we will be able to be in a much stronger position now to push communities to do what they are supposed to do under the Water Quality Act than we have in the past.

MR. POWELL. In connection with this requirement for the provision of low- and moderate-income housing, do you intend to issue implementing criteria as HUD has done?

MR. RUCKELSHAUS. I am not sure I understand. Would you repeat that question?

MR. POWELL. In connection with the requirement that the President has mentioned that any community development project be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way, do you intend to issue implementing

criteria as HUD has done?

MR. RUCKELSHAUS. We have no present plans to do that. We obviously have to coordinate our efforts, to insure that the purpose of Title VIII is carried out, very closely with HUD, and to the extent that we can in any way bolster HUD's efforts to insure that Title VIII is carried out, we will do so. The difficulty in trying to adopt an implementing regulation or some kind of guidelines is that the situations vary so greatly from community to community that we have found, at least at this point, that it's almost impossible to generalize about those situations. I could give you several examples of what I mean by the difficulty in saying just what ought to be done.

If you take, for instance, a city like Cleveland, which treats 32 suburban communities, the wastes of 32 suburban communities surrounding the metropolitan area, we can move against the city itself and ask them to construct adequate sewage treatment facilities for all of the areas that they service. The city has very limited authority over the 32 surrounding suburban communities, and if one of these suburban communities were engaged in activities that were in violation of Title VIII or, at least, in the spirit of the Civil Rights Act, we could withhold funds for the construction of the sewage treatment plant, thereby penalizing very greatly the people that live in the city of Cleveland, and maybe only minimally penalizing the people that live in the suburban areas; where in fact what we want to do is insure that one social purpose, the adequate treatment of waste, is achieved, and at the same time achieve another social purpose of integration of the surrounding communities. Our ability to do this through the withholding of funds in the case of Cleveland may be very minimal. Now there are any number of different kinds of situations like that that arise, and attempting to deal with them through the adoption of regulations or implementing guidelines under Title VIII is very difficult to conceive or to conceptualize. That doesn't mean we won't continue to look at our program and look at Title VIII and see if there isn't some way we can adopt implementing regulations that will make it clear what has to be done.

MR. POWELL. In connection with finally issuing the regulations implementing Title VI and Title VIII, has HUD or the Department of Justice ever given you any guidance on this?

MR. RUCKELSHAUS. We have met several times with HUD on this problem. We have just signed, or at least I have just signed, an agreement—I don't know whether it's been signed by HUD yet or not relating to our two sewer programs as to how they are to be administered so as to comply with our regional plan to insure a regionwide treatment of the wastes of all the people in a particular river basin, for instance, and the agreement indicates that they will do everything they can in the administration of their sewer program to insure that it's in compliance with our plan. By the same token, we are in close contact with them in terms of any overall metropolitan plan that may have been funded by HUD to insure that our program is compatible with the purposes of that plan.

MR. POWELL. Has that agreement just been signed in the last couple

of days?

MR. RUCKELSHAUS. Yes. It's an agreement that I am not sure has been signed by HUD as yet. I remember signing it.

MR. POWELL. Does this provide for provision of low-and moderate-income housing as one of the considerations?

MR. RUCKELSHAUS. No. This agreement does not relate to the housing patterns as such. It relates to our overall regional plans for the treatment of the wastes of the people that live within that region, and the necessity of HUD's administration of its sewer program to be compatible with that plan.

MR. POWELL. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Thank you. Would some of the Commissioners like to question? Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Ruckelshaus, I am not sure I understand exactly how the agency initiates its program. How do you select the city or States, or will you tell us something about how you proceed?

MR. RUCKELSHAUS. Yes. Under the Federal Water Pollution Control Act that was first passed initiating this program in 1956, the Congress has set up a distribution formula for the allocation of sewage treatment plant construction funds. Essentially the funds are distributed on the basis of population throughout the country to the individual States so that if we have a billion dollars, each State will get a portion of that billion dollars based on the number of people living within the State. We are in amendments to the act as a sidelight trying to get that distribution formula changed because the number of people does not necessarily have anything to do with the needs for the treatment of the sewage of a particular State. We want to get the allocation formula based more closely on the needs of the people in the particular State. But that is the way we presently allocate the money. The State then determines which communities within the State, through a formula that they have, are eligible for these funds, and the State then certifies to us which communities are eligible, and the communities make application for the grant or for a portion of that money for the construction of a sewage treatment plant in their particular community. That application is reviewed by the State and is also reviewed by our Agency and, if approved, why then the construction starts and we make the portion of the payments that the Federal Government must under the law.

COMMISSIONER FREEMAN. At this point at which the State indicates to your Agency the communities that it deems to be necessary, what does the Agency do in determining whether the community is eligible or not? Does it make an onsite inspection of the community?

MR. RUCKELSHAUS. No, we have not in the past, and this is another thing we have to start to do. That is another reason why we are rewriting our regulations to insure that before the application is approved we make onsite inspections. We insure that Title VI is complied with. We insure that all the provisions of the Civil Rights Act are complied with in this particular grant. And the way it has been done in the past in the Agencies that we inherited, the real investigation into Title VI and the

Civil Rights provisions wasn't done until after construction was started, in which case there would have to have been a withholding of funds already committed, as opposed to the refusal of the first application.

COMMISSIONER FREEMAN. In response to one of the questions with respect to whether there would be withholding of funds, you indicated that the Agency is a Regulatory Agency, and I got the impression that you considered that being a Regulatory Agency sort of relieved the Agency of its affirmative responsibilities to enforce Title VI, and this is a point that is disturbing to me.

MR. RUCKELSHAUS. No, I certainly don't mean to imply that, and if I gave that implication I misled you. I think we do have an affirmative obligation to insure that Title VI is complied with. My reason for stating that we are a Regulatory Agency was to illustrate that we do have a somewhat different set of problems in attempting to take affirmative action to see that Title VI is complied with. Because, by withholding funds from a particular community ourselves as an ultimate sanction that we could use to insure that Title VI is complied with, we are also contributing, at least arguably contributing, to the fact that the water quality standards are continuing to be violated by that particular community, and even if we were to go into court and get an injunction on the basis that in the historical way that these cases proceed, we are probably talking about a considerable delay in the adequate treatment of the wastes of the citizens of that community and of the upgrading of water quality standards to comply with the law in order to achieve the purposes of the Civil Rights Act. That doesn't mean that we won't do it. But what I am saying is that there are circumstances that can arise where it would seem that our ability to achieve the purposes of the Civil Rights Act flies in the face of our mandate by Congress to insure that water quality standards are complied with. And what we have to do is view each situation on its particular merits and see how capable we are of achieving this dual purpose that our Regulatory Agency might have.

COMMISSIONER FREEMAN. The application which you refer to, I'd like to know if the Commission could have a copy of that application.

MR. RUCKELSHAUS. Yes, certainly.

COMMISSIONER FREEMAN. And particularly we would like to know, in the initial inquiry on that first application for funds, if there are questions that are raised for which answers can be received as to the racial composition of any and every community, and if you could also give for this Commission the names of the communities that have been funded so far for sewage treatment facilities.

MR. RUCKELSHAUS. That's about every community in the country. We can certainly give you that list.

COMMISSIONER FREEMAN. As you know, we have certain areas in which there are large segments of the population that are Mexican American or black that are not receiving these benefits and we, of course, are interested to see whether your Agency has funded any of those.

MR. RUCKELSHAUS. Yes, we certainly will supply that information

to you, Mrs. Freeman.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Well, just to pursue one point Mrs. Freeman raised, what your Agency does to improve the treatment of sewage and the quality of the environment essentially benefits everyone.

MR. RUCKELSHAUS. That's right.

COMMISSIONER MITCHELL. You are not a civil rights agency. The Government has not established the Environmental Protection Agency for the purpose of imposing sanctions on communities that do not behave themselves with respect to the civil rights circumstances, that's correct, isn't it?

MR. RUCKELSHAUS. Well, that's correct, but I think there is an overall policy in the Civil Rights Act clearly that the Government is to act in as coordinated a way as possible to insure that the purposes of that act are carried out and we are attempting to do that.

COMMISSIONER MITCHELL. Well, I am not suggesting anything else. I am just suggesting that there are Agencies whose primary purpose, regardless of whether they appear before this Commission in matters of civil rights concern, are not civil rights but rights or activities of general benefit to the entire society.

MR. RUCKELSHAUS. That's right.

COMMISSIONER MITCHELL. Indeed, it could well be the case that if you improved the treatment of sewage in a community that was all-white, for example, you would be benefiting communities downstream, if such a situation existed, that were neither white nor subject to your benefits, is that correct?

MR. RUCKELSHAUS. That's entirely correct, and I might say that supposing we had a community that at least arguably was in violation of Title VIII in terms of their housing policies, it might be an all-white community, and we would issue an order against them to take care of their sewage problem, and in the process of that order we would say that the Federal Government will match a certain amount of the funds necessary for the construction of the plant. If we were to—in some instances this is certainly conceivable—say: “Unless you change your housing patterns we will refuse to grant this money,” the community may be perfectly willing to say: “All right, we won't accept the grant, and we won't go ahead with the construction of the facilities.” We could attempt to enforce the act through the courts but this has certain problems with it. The fact of the matter is that the people who really will suffer from our failure to grant the money may be the very people we are attempting to help who might be downstream, one minority group or another, who will suffer much greater than the people in the community whose sewage is not being treated.

COMMISSIONER MITCHELL. That is precisely my point. It seems to suggest that one must exercise some care in the application of constraints in your Agency lest the results be just the reverse of those that would superficially appear to be most desirable.

MR. RUCKELSHAUS. That is right.

COMMISSIONER MITCHELL. Do you know of any instance in which low- or moderate-income housing has not been built because of any refusal on the part of your Agency to provide funds for sewage treatment facilities or related facilities?

MR. RUCKELSHAUS. I don't know of any.

COMMISSIONER MITCHELL. Thank you very much.

CHAIRMAN HESBURGH. Mr. Ruiz?

COMMISSIONER RUIZ. I have no questions, Father.

CHAIRMAN HESBURGH. Mr. Vice Chairman?

VICE CHAIRMAN HORN. I was interested in your response to both Commissioners Freeman and Mitchell because the problem has been correctly pointed out that you cannot always predict in advance what are the civil rights considerations, and there might be some broader considerations that ultimately might affect civil rights in other communities that would be affected by a particular grant downstream or wherever. I think one of the things that interests this Commission is not only the coordination within an Agency to bring civil rights priorities into focus, prior to the allocation of Federal monies, but an additional and perhaps even more basic question is the coordination between Federal Agencies, as your answer just suggested that you are well aware of the need for coordination between Agencies to carry out the Civil Rights Act.

What I am wondering is, what is the coordinative apparatus that you foresee between your Agency and the rest of the Federal Government on all of the various projects that you might have a part of, HUD might have a part of, and others, in an area. Do you foresee a review committee, for example, in a regional office through which all of you would meet once every few weeks and review applications in housing, sewer construction, whatever? Do you foresee a review apparatus here in Washington that tries to pull this together? Or do you see your own Agency enforcing its civil rights responsibility only when they get, say, a complaint from HUD that some community is in violation in a particular housing project or whatever, and therefore ask you to invoke your sanctions or to think about invoking your sanctions? I am trying to get at the apparatus involved.

MR. RUCKELSHAUS. Yes. I think the latter way may have been the procedure in some instances in the past and clearly this is not the best way to go about it. There has to be some anticipatory mechanism to avoid these kinds of problems in the future and to avoid our simply responding to complaints as they come in. And I think that clearly the coordinating agency has to be HUD, whose primary responsibility it is to enforce these provisions of the act or to see that they are complied with, and that we will, in our relationship with HUD, rely very greatly on them as the motivating Agency to insure that we can do whatever possible to insure that these provisions and the spirit of the act are carried out.

VICE CHAIRMAN HORN. All right. Now, HUD has put out, I guess as of yesterday, a series of fairly elaborate evaluation applications with

criteria for both low-rent public housing, rent supplement, and I guess 235, 236 housing. I can't find on those applications, but perhaps staff can correct me, where other considerations of programs by other Agencies are also involved, and I just wonder if maybe the Federal Government needs one basic form in this sort of general Federal grant area as it relates to the municipality or local regional area which could be sent to the appropriate Agencies at the time for review and comment, and either, as I suggested earlier, pull together at the regional level or in Washington.

I think one of the problems we have seen in hearings in St. Louis and Baltimore is the problem of regional coordination. When we talk to real estate brokers and builders, as we did yesterday and on other occasions, there is a real problem as to getting answers out of HUD, for example, because all the paper seems to have to trickle to Washington, and there is a great delay in implementing these programs. What some of us are trying to get is, can we develop criteria which can be administered in the field in some of the civil rights areas and yet achieve coordination, and as you correctly suggest, I think, in the answer to my last question, not just depend on sort of a happenstance of an individual initiative within one Federal Agency to notify another Federal Agency. Do you have any feelings on that?

MR. RUCKELSHAUS. Yes, one of the things we have done—we have done two things in relation to your question since the Agency has come into existence. One is review our entire grants procedure in an effort to streamline that procedure and cut out as much of the redtape as possible, because one of the problems that certainly we have had in our grants procedure in the past is the proliferation of paper that is involved in the acceptance of one of these applications. Second is to reorganize our entire regional structure. We had different regions for air pollution and water pollution, solid waste disposal, and pesticides all over the country. We have now taken all of those regions and combined them into the 10 regions that have been adopted by the five major domestic Agencies, so we are in the same cities of the country with our regional offices as is HUD and the other domestic Agencies. We have attempted to strengthen very greatly our regional offices so that by the first of July, when we will announce our final structure for the regions, we will probably have the strongest regional structure with more delegation of authority and responsibility as any Agency in the Federal Government. We believe this is a necessary step in order to achieve a much stronger regional approach to the problems of the environment and waste treatment in general. So that we would be very much in favor of what you are saying as an approach to the handling of this problem at the regional level, with coordination between our Agency and HUD and the other domestic Agencies that are involved.

VICE CHAIRMAN HORN. All right. Then, to summarize, as I get your answer, you say, one, it is feasible to decide these questions at the regional level. In the case of your Agency there will be sufficient power delegated to the regions, and in this area, as far as civil rights coordination goes within the Federal Government, because of the interrela-

tionships, you would look to HUD to serve as the major coordinator of the civil rights aspect within the region, is that correct?

MR. RUCKELSHAUS. Yes, that's right. The question of its feasibility, I suppose, remains to be seen, but we are hoping that it's feasible because of the approach that we have taken.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. Mr. Staff Director, do you have any questions?

MR. GLICKSTEIN. I have a few questions. I am interested in some historical perspective. You said, Mr. Ruckelshaus, that one of the disadvantages of strictly enforcing civil rights requirements is that the people that you are trying to help might suffer. I remember back in 1963 when this Commission proposed Title VI, one of the arguments that was made throughout the Government was that sort of a weapon was very impractical and undesirable because it would result in hurting the people that you were trying to help.

It seems to me, though, that you have a variety of weapons, and I am particularly interested in litigation. If you sued a community and got an order requiring them to do something about the sewage, don't you really have them where you want them? Either they are going to have to raise the money to do this or accept a grant from you, and at that point comply with civil rights requirements?

MR. RUCKELSHAUS. Yes, we do. If we go through the process of 180-day notice and the suit, we would, through the injunction process, be able to get an order against a community forcing them to take some kind of action.

MR. GLICKSTEIN. Well, one of your, as I understand it, hesitations about going through that process is that in the meantime the rivers will continue to be polluted while you are trying to get a court order, but 180 days seems a rather short time to me. We have been waiting 100 years to enforce the 14th and 15th amendments and waiting a little bit longer to clean up some of our rivers doesn't strike me as too much of a delay.

MR. RUCKELSHAUS. No. I don't mean to imply that we are not using this mechanism because we are, and we are using it in as forceful a way as we can in attempting to push communities into compliance with the water quality standards. The main inhibiting force against using it in the past has been the lack of Federal funds, the very thing that we are discussing here that there is a possibility of withholding to insure compliance with the Civil Rights Act. There has evolved in the last 15 years an understanding on the part of communities and States, and to a certain extent even the Federal Government that there was no obligation on the community to move ahead with the construction of sewage treatment plants unless the Federal matching funds were available.

MR. GLICKSTEIN. That's not correct.

MR. RUCKELSHAUS. That is not correct now because the funds are available and we are in a much stronger position.

MR. GLICKSTEIN. But even if you didn't have funds you'd be able to sue a community to stop water pollution, isn't that correct?

MR. RUCKELSHAUS. That's correct. The understanding of the States and communities has not been a part of the law. It's been more a part of a tradition that's built up.

MR. GLICKSTEIN. Assuming that next year Congress decided not to give you any money for grants for sewage treatment you still would have the authority to litigate.

MR. RUCKELSHAUS. That's correct, and we would use that authority, and I can't by any means predict what individual judges might do if Congress failed to appropriate the money and they had the argument that the Federal Government isn't doing its part, which is the argument they always use.

MR. GLICKSTEIN. Thank you.

CHAIRMAN HESBURGH. Mr. Ruckelshaus, we have found in some of our hearings that there are these regional councils. In other words, all the top people in a given region for HUD or for housing or for highways, or whatever, get together and talk over the total Federal approach, if you will, to the assistance of the communities within a given region.

I noted that you mentioned you are reorganizing your regional offices to go along with the 10 that have been established throughout the Nation. I was wondering whether or not there are such councils to which you belong in some of these regions.

MR. RUCKELSHAUS. Yes, we have requested that we be made a member of these regional councils so that our Agency's efforts are coordinated with the other Agencies in that region.

CHAIRMAN HESBURGH. This has really been one of the great problems we have found, the coordination problem. It may be that coming in as a new Agency you can ask the obvious question that the older ones have forgotten to ask: Who has got the responsibility here for all of us that we are working together to comply with the law regarding civil rights or equality of opportunity or equal protection? Do you have a special office within EPA for compliance with civil rights?

MR. RUCKELSHAUS. Yes, we have an Office of Equal Opportunity which Mr. Sydnor is the Director of, and also the Office of Contract Compliance which is in the Grants Office.

CHAIRMAN HESBURGH. They report directly to you?

MR. RUCKELSHAUS. Yes. Mr. Sydnor does. The Office of Contract Compliance works through the Grants Office itself.

CHAIRMAN HESBURGH. I see. Are there any other questions on the part of the Commission?

(No response.)

If not, is there anything you'd like to ask us, Mr. Ruckelshaus? Turn around is fair play, they say.

MR. RUCKELSHAUS. No, I have no questions of the Commission, Mr. Chairman.

COMMISSIONER MITCHELL. Just ask for half a billion dollars.

MR. RUCKELSHAUS. Yes, I'd be glad for you to appropriate some more money.

CHAIRMAN HESBURGH. We'd be happy to have anything you'd like to leave us in the way of witness testimony and any subsequent state-

ment you'd like to add we could include in the record.

MR. RUCKELSHAUS. We will submit a statement outlining very carefully all of these things we have discussed here today so that it's as clear as we can possibly make it.

(This Statement appears on p. 1011.)

CHAIRMAN HESBURGH. I think it's terribly important for a new Agency to have this clearly in the record, and we are delighted that you could come and clarify this record for us. Thank you very much, Mr. Ruckelshaus, and you other gentlemen, too.

Our next witnesses are Mr. Robert L. Carter and Mr. Ernest Erber. Mr. Carter is president of the National Committee Against Discrimination in Housing and Mr. Erber is director of research.

Mr. Carter, I guess you are by yourself, right? Would you please stand and be sworn.

(Whereupon, Mr. Robert L. Carter was sworn by the Chairman and testified as follows:)

**TESTIMONY OF ROBERT L. CARTER, PRESIDENT, NATIONAL
COMMITTEE AGAINST DISCRIMINATION IN HOUSING,
NEW YORK, NEW YORK**

(Mr. Carter's prepared Statement appears on p. 682.)

CHAIRMAN HESBURGH. Mr. Hunter, I believe, will begin the interrogation this morning.

MR. HUNTER. Good morning, Mr. Carter. Could you please state your name, address, and position for the record?

MR. CARTER. My name is Robert L. Carter. My address is New York, New York, and I'm president of the National Committee Against Discrimination in Housing.

MR. HUNTER. Mr. Carter, could you explain for us first of all why it is important to provide suburban housing opportunities for low- and moderate-income blacks and, secondly, given the fact that low-income whites live in suburbia almost to the same extent that middle- and upper-income whites do, would you explain why it's necessary to construct new low- and moderate-income housing to provide these suburban housing opportunities?

MR. CARTER. It's necessary to provide low- and moderate-income housing for blacks in suburbia because all of our urban growth seems to be going in that direction. We have made a study of this problem and we are making a very intensive study of suburbia and employment in the New York Metropolitan Area. That study will be completed, we hope, at the end of this year.

What it tends to show is that the jobs are moving out, that there is a displacement and mismatch between job opportunities and availability. Blacks are being left in the cities while blue-collar jobs are burgeoning in the suburbs. At the same time the central city is becoming generally professional, managerial, high prestige white-collar employment, and service oriented.

This, we think, increases the unemployment in the ghetto, and blacks either don't know of the jobs because they aren't out there, or

else they can't get there because our whole transportation system has been built not to transport people in the morning from the city to the suburb and in the evening from the suburb to the city, but vice versa. So this is the real problem that is being confronted. One of the basic reasons we need it is in order to have blacks out where the job opportunities are so that they can have expansion and so forth.

Now, the other question you asked, that is why do you have to build new housing, is because of the fact that there just isn't enough available housing supply. We are going to be required, I think, in a massive Federal effort, to build housing that will dwarf what was done after World War II. So I think what we need is far more low-and moderate-income housing in order to take care of not only the blacks but the poor whites as well.

MR. HUNTER. Some people make a distinction between racial discrimination and economic discrimination. Do you think that that is a valid distinction to make?

MR. CARTER. Well, let me put it this way. Let me answer the question simply, no. I don't think it is a valid distinction to make. I have to concede and it has to be conceded that there are now a growing segment of the black population that is privileged, but the majority, overwhelming majority of blacks, are underprivileged blacks to an extreme, and the income level of blacks, aside from I think the President quoted some statistics to show that the husband-and-wife families of age under 25 are now at the same level as whites. In other words, that disparity had been eliminated. This is undoubtedly the class of educated blacks where opportunities have been made available to them. But the disparity in income—

MR. HUNTER. Excuse me, if we could just dwell on those figures. Do you have any more explanation as to why for married couples under 25 it's equal?

MR. CARTER. Well, I think that what it shows is that we are beginning to reach a point in this country where distinctions are being made between blacks who are privileged, who are educated, who are qualified, and blacks who are underprivileged and who are not qualified. So what is beginning to happen is that with educational opportunities being made available to the younger generation of people which heretofore had not been available, they are at present, at least at the beginning of their professional careers and job careers, they are entering the job market at the same level as whites of the same age. This is an unusual thing to happen in our country and about the first time any statistics of its kind have been revealed.

MR. HUNTER. Do blacks and whites enter the job market at the same age?

MR. CARTER. Well, blacks and whites don't enter the job market at the same age but this group of people I'm talking to in all probability they do. I am talking now, as you understand, about the small percentage of blacks who were spoken of as I would say would be economically privileged that these statistics refer to. The other blacks, the vast majority of them, I think the figure is about 45 percent, the disparity

between their income and whites is great and is increasing, as a matter of fact. So that where you have about 45 percent of a population of blacks and Puerto Ricans and other nonwhites who are economically disadvantaged, whose average income is several thousand dollars below that of whites, then to speak of it as being a distinction between economics and race I think is false. It seems to me that what really is occurring—and I have noted this in the educational field—that there is an effort to say that we have ended the whole problem of racial discrimination in this country since before the law there is no such thing as racial differentiation being validated. Before the law there is an equality but in actual practice there is not. Therefore, people now begin to say that in education it's not racial discrimination that denies black children an equal education opportunity; it's class. But you can't differentiate class from race in that context, and to attempt to do so I think is to build a sophisticated argument, a lawyer's argument, which shouldn't hold water at this time.

MR. HUNTER. The 1970 census shows that, despite the huge increase in white suburban population between 1960 and 1970, actually the percentage of suburbanites who are black increased in the last 10 years. In light of this, do you think it's necessary to enforce fair housing laws even more vigorously or more vigorously than such laws have been enforced in the past, or is this problem taking care of itself?

MR. CARTER. Well, I think that, one, you have to look at those statistics. An increase of two people to four is 100 percent increase, but it may be meaningless with respect to actual figures.

MR. HUNTER. But what I am talking about here is not the percentage increase in suburbanites but the percentage of suburbanites who are black. Now that blacks held, even gained, in this percentage shows there was a very substantial increase in number.

MR. CARTER. Yes, but if you would follow the figures you would also find that the blacks are not the substantial increase in the newer communities in outer suburbia, in the areas which are being built. You never had a situation in which blacks were not in the suburbs. But where you found blacks were in essence an extension of the ghetto, or concentrated in certain older communities where whites had fled. So I think that it is not a true picture, number one, to cite those statistics and reach the conclusion that the barriers have been broken down and therefore blacks are moving freely in the suburbs, because they are not.

MR. HUNTER. Could you give me examples in metropolitan areas where this is happening, where blacks are going into new suburban ghettos or older communities?

MR. CARTER. All I can know is in respect to—well, I'll tell you a community. In the San Francisco area, where Oakland and San Leandro are adjacent communities, Oakland is a community which has a high percentage of blacks. The other suburb is almost totally and exclusively white. It is a newer suburb with high- and middle-income groups. I think you will also find this in the areas in and around New York. Places such as Mount Vernon and a few other places, towns in and around close to New York, older communities, do have a consider-

able percentage of blacks, but the newer communities, as you move out, do not. And I think this is true throughout the United States.

MR. HUNTER. If we look at these different suburban areas where blacks are going and whites are going, does this really make a difference? Does it matter to which suburbs they go, that they go to newer ones, that they go to white communities? What do these suburbs have to offer?

MR. CARTER. Well, I think I have tried in the earlier question you asked to answer that question. The industry is moving out and it's moving to the newer communities. New York, for example, is losing large, major industrial plants. They are being relocated in the newer suburbia. So that, one, the job opportunities seem to be going in that direction, and number two, what the blacks are doing in the older communities, they are inheriting the older housing which does not have the amenities and so forth, which would be available in newer suburbia.

MR. HUNTER. If we can turn now to policies of the Federal Government. Would you explain to us briefly what deficiencies you have noted in the suburban access policies and practices of HUD and the rest of the Federal Government; and secondly, could you explain whether on the basis of the President's statement and yesterday's announcement by Secretary Romney, Attorney General Mitchell, GSA Administrator Kunzig, whether you see a shift in Federal policy on suburban access?

MR. CARTER. Well, in regard to the last question, let me try to deal with that first because I am somewhat confused. I certainly applaud the action of the Attorney General in announcing that he was finally taking action in Black Jack, Missouri. I also liked what I heard about the new policy—not the new policy but the announcement of the policy of HUD that no longer water and sewage grants would be conditioned on open housing.

I say I am confused and, therefore, I'm going to have to wait and see whether these policies, at least the HUD policy, effectuates any real change in practice. The President's statement, I thought, seized upon a Supreme Court decision which had nothing to do, as I understand it, with Federal responsibility. The Supreme Court decision, being about the Valtierra case from California, in which the Court, as you well know, held that a California law which permitted local communities to determine to vote on whether or not they would have low- and moderate-income housing, did not deny equal protection under the 14th amendment.

However, it seems to me that this has nothing to do with the Federal Government's responsibility, one, under the fifth amendment and, two, under the 1968 Housing Act, and even more important, under the 1964 Act, Title VI, to affirmatively move in the area of seeing to it that there are open communities and open access to any facility or instrumentality that was created out of Federal funds.

I think that the whole problem of allowing this to be local initiative, local control of land use, has proved to be chaotic. What we really need, as a matter of fact, is control at the regional level, certainly control at

the State level. One of our most precious and one of our most rare commodities, scarce commodities now, is going to be available land, that is, if we are going to be concerned about environment, if we are going to be concerned about these various other things. Therefore, to allow local communities on the basis of their own views, even apart from the question of race and economic discrimination, to make determination for land use I think is very bad.

MR. HUNTER. How can you bring about this control at the regional level or at the State level?

MR. CARTER. Well, one suggestion is New York has passed a New York urban development law and created the New York Urban Development Corporation. That agency has the power to build houses, to bypass zoning, to establish it, based upon the needs for growth and housing in the State of New York. It seems to me that something of that sort ought to be created in every State, because I think the ultimate responsibility for equal opportunity in housing is a State responsibility, and that the State has abdicated it by saying these problems are local in nature.

MR. HUNTER. Do you have any knowledge about how effective this New York Urban Development Corporation has been in opening up housing opportunities?

MR. CARTER. The New York Urban Development Corporation has not utilized the power that it has to the extent that if I were the head of the agency I would want it to do. What I am suggesting to you is that it has that authority and has the power to utilize it, and may displace local zoning regulations in order to develop all types of housing.

MR. HUNTER. Let's just ask if you were head of that agency, would you really use that power effectively or would you consider that the whole thing would be abolished or not funded if you used that power?

MR. CARTER. Well, that's one of the problems that I think that I have. You put your finger on it in terms of the administrators of anything that has to do with civil rights. It seems to me there is a responsibility on an administrator that has charge of a program which affects equal opportunity and equal rights to enforce that to the limit, not to take the least step which has been true of most of our State agencies, as a matter of fact, in all of our State agencies I would say in the area of discrimination, where they are charged with the responsibility of eliminating discrimination. They take tentative small steps instead of utilizing their power to the fullest, and it seems to me that if we have an agency that is in charge of providing equal employment opportunity, equal educational opportunity, equal housing opportunity, that that charge ought to be enforced to the limit and that the agency ought to make the determination that this is what the policy is and we're going to enforce it.

MR. HUNTER. Do you think the Federal Government could be of assistance in enabling agencies like the Urban Development Corporation to act more effectively?

MR. CARTER. Well, I would think so, because I would think the Federal Government could undergird the efforts of any of these agen-

cies. What it could do in terms of monies and grants, and so forth, it could condition the money and grants on two agencies that had an open housing program policy. They certainly aren't going to have enough money to give sufficient funds to everybody who wants it, and it would appear to me that if the Federal Government, in terms of the grants that it would permit, would select and choose among those who most closely are adhering to the equal housing opportunity standards that we would move far, because this would encourage others I think to move along with it.

MR. HUNTER. If we could return to the President's statement, it talks about giving priorities in grants for housing and community development programs to areas that have plans for the provision of low- and moderate-income housing. Do you think that this requirement should be limited to programs of housing and community development, or could it be extended to all programs such as, for example, assistance to schools?

MR. CARTER. Well, I don't see any reason why it should not. It would appear to me that the Federal Government, that is, if it were determined to embark on a vigorous course of enforcement of equal opportunity under the law, that the Federal Government could condition its grants on a range of matters. I think that one of the ways—you can have segregated housing and promote segregated schools and promote discrimination in job opportunities, so you can reverse the trend, I think. You have open housing, you begin to have an area with open schools, at least open schooling is easier to come by, and greater job opportunities, so that instead of blacks being involved in this never-ending circle one way, we might unravel it by starting on the other. I certainly see no reason why the Federal Government can't require that the local communities take action in all of these areas as a condition of receiving Federal funds.

MR. HUNTER. Would you consider that forced integration if the Federal Government did that?

MR. CARTER. I don't consider it forced integration. I think I consider it—we have made that statement on several occasions—we consider this to be an obligation of the Federal Government and we consider this to be the law. We consider that the Federal Government has an obligation to enforce the law. We talk of open housing and we talk of equal opportunity, but what occurs is that we act to the contrary, and our Government officials instead of making us—and that is the people—adhere to the legal and constitutional standards which we say we live by, instead allow us to depart from those standards on the grounds that this is just too difficult to do or it's one of the things that you can't force down people's throats, or some other response of that kind.

MR. HUNTER. Mr. Carter, do you have a statement to submit for the record?

MR. CARTER. Yes, I did. As a matter of fact, I was trying to tell you I had that before you started but you asked the questions before I could get it out. So may I present this?

MR. HUNTER. Mr. Chairman, could that be admitted to the record?

CHAIRMAN HESBURGH. Yes, sir, so ordered.

(Whereupon, the document referred to was marked Exhibit No. 22 and received in evidence.)

MR. HUNTER. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Mr. Ruiz, do you have any questions of Mr. Carter?

COMMISSIONER RUIZ. Yes. There is a trend at the present time to eliminate case-by-case litigation wherein three or four persons, disadvantaged persons, may by the use of class actions get injunctions and even get punitive damages. It's particularly developing in my State of California. Has the national committee that you represent studied the possible impact as a tool for litigation?

MR. CARTER. Of a class action?

COMMISSIONER RUIZ. As a tool for litigation by class actions.

MR. CARTER. Well, I don't know whether it would be correct to say we have studied these actions. We know this is an effective tool and it is being utilized effectively in the consumer area. Attempts are being made.

COMMISSIONER RUIZ. I am just wondering now if that couldn't be applied, and I was wondering what your opinion was as a lawyer to remove barriers imposed by zoning codes. Could these be the subject of actions for injunction or for writs of mandate to open land uses? Don't you think it would be worthwhile to get a group of lawyers to work on that specific item?

MR. CARTER. Well, actually, Mr. Ruiz, we have actually filed some cases on that. We are engaged in litigation which does seek to—as a matter of fact, we have some litigation pending in California.

COMMISSIONER RUIZ. By way of class action or by way of two or three individuals independently?

MR. CARTER. No, this is by way of—the one I have in mind is by way of an organization called the South Alameda Spanish Speaking Organization, which sought to establish low-and moderate-income in Union City, and by referendum, even though they got the zoning changed, were not permitted to do so. So we brought an action challenging the referendum and the use of the zoning power of the community in that regard. We got a fairly good declaration for law of the Second Circuit which indicated the courts would have to look at the impact of the zoning on the poor, and particularly since most of them were poor blacks and nonwhite minorities.

Let me say that in the whole civil rights field that the class suit has been utilized as a weapon and fairly effectively. I do have some problems with the case-by-case method because I think that even with class suits, what you end up, in a case-by-case method, is that you can only take a certain limited part of the problem to the court, or if you take the whole problem the court is only going to determine—

COMMISSIONER RUIZ. The entire problem. You might take a state-wide problem to court. It's a consumer matter.

MR. CARTER. The court usually will only take a step, and also it takes a long time. Also, there is a great deal of money involved. Also,

the court decision doesn't necessarily, even though it sets a climate, effectuate a change, and I think that has been shown by what happened in the school segregation cases. It wasn't until the Federal Government began to enforce Title VI in regard to school segregation that you began to get an effective implementation of the 1954 decision.

I am inclined to think, frankly, that for the future the most effective way—and I think the Supreme Court is a little weary now and feels it's been left out in the cold, standing out alone on these frontiers in terms of race relations law, and the Congress and the President of the United States not vigorously backing them up, and I think the Supreme Court wants some support. I think that in the future the most effective approach is going to be through the legislative method and through Executive action, because I think in that way we are going to be able to get mandates, use of control of finances, and punitive measures of that kind to effectuate change.

COMMISSIONER RUIZ. You mentioned the referendum. There would be no objection, and the referendum even under the Supreme Court decision can easily be reconciled and gotten out of the way if, in the event in such a class action, the overriding matter pertained to race.

MR. CARTER. Exactly.

COMMISSIONER RUIZ. So we have no difficulty there.

MR. CARTER. No.

COMMISSIONER RUIZ. Now, you made mention of something that occurred in California with relation to some sort of an action where there was a referendum and there was a Spanish speaking section involved. What happened?

MR. CARTER. Well, in Union City there is a group of low-income people living in Union City, chiefly Mexican Americans, and they found several parcels of land and decided they wanted to build some low- and moderate-income housing on the land. They had to get a zoning variance and the city council approved or granted the variance, and then there was a referendum and the referendum overrode the city council and barred the construction of about 240 homes of the low- and moderate-income families.

We took the matter to court and attacked the constitutionality of the use of the zoning power to this extent on the ground that it was economic deprivation, and number two, it was racial discrimination. We lost in the district court and went to the Court of Appeals for the Ninth Circuit, and the Ninth Circuit affirmed generally, but what it did say was that local zoning power had to be utilized and had to be looked at to determine what its impact was on the poor, most of whom were minority group members, and if the impact was unduly great on the poor, then this was a matter which would be denied by the 14th amendment.

COMMISSIONER RUIZ. No question of race was brought up in it?

MR. CARTER. Yes, we argued race and economics.

COMMISSIONER RUIZ. And the Ninth Circuit Court of Appeals paid no attention to that?

MR. CARTER. Oh, yes, they did. They held that the impact of race

and economics was a factor that had to be considered. We went back to the district court and had a full trial, and the district court reached the conclusion that the city had an obligation to provide for low-and moderate-income persons, and required the city to report to it as to what plans it was making in that regard. We are now in the process of maybe working something out in terms of a settlement. It won't give us any constitutional development in terms of principles of law, but certainly will provide some low-and moderate- income homes for Mexican Americans in that area. That's the extent of how the case has developed up to this point.

COMMISSIONER RUIZ. Thank you very much. No further questions.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Carter, one of the jobs of the Civil Rights Commission is to recommend to the Congress and the President certain kinds of possible legislation that will deal with ongoing problems in the civil rights field. It's very rare we get a witness, recently at least, who says to us that the future of civil rights, the future progress of civil rights, will depend in large measure on legislative action. In the paper you have submitted, which I have not seen, have you outlined or made various specific recommendations for legislative action?

MR. CARTER. Well, let me be sure that we understand one another. I do not regard as being necessary when I made that statement that there be any new statutes enacted by Congress. What I am talking now of is legislative action, I am talking about the exercise of administrative authority pursuant to legislative enactments, and executive authority under executive power.

COMMISSIONER MITCHELL. So you would generally accept the assumption that many other people make that there are plenty of laws on the books to cover the problems of civil rights, that the problems now are guidelines, and enforcement practices and adherence to the laws on the part of the agencies responsible.

MR. CARTER. I think I would endorse that very strongly for the further reason that I am not too sanguine about our getting any more additional laws during the present time. It seems to me that we have a sufficient amount of authority and if the administrative agency would enforce that authority to the limit, then I think that we would have a change in the open housing issues in this country.

COMMISSIONER MITCHELL. Early in your testimony you made reference to the fact that in some cases for some categories of minority people, things appeared to be better. Would you care to take a look 10 or 20 years in the future and make some general forecasts about the very thing we are talking about here, prospects in housing and jobs?

MR. CARTER. Well, I'll tell you, Mr. Mitchell, I am very hesitant to do that because I look back on 1954 when the Supreme Court decided the school segregation cases. I think I was one of those that predicted that we had won the battle, and my predictions have been proved to be so false I am a little hesitant to hazard out 20 years. It does appear to be that what is happening with the opening of educational opportunities to blacks, that we are beginning to develop over the past 5 years

what I would call a growing middle class. That is, blacks who have qualifications, are privileged, and so forth, and this group, to an extent not heretofore are being economically rewarded to the extent that our educated groups in the past have not. I would think that maybe that trend will continue. I don't know what that will mean. It may mean that we will be able to perhaps in time, maybe one would be able to make a distinction between race and economic deprivation. I don't think we have reached that point now, and we are only just at the beginning of it, so I hesitate to make any predictions.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Carter, I believe you know that last October this Commission released its report on the Federal civil rights enforcement effort.

MR. CARTER. Yes.

COMMISSIONER FREEMAN. In which our general conclusion was that the Federal Government itself was not enforcing to the maximum extent of the civil rights laws, that there is a dual standard. I'd like to ask you how you see an agency such as NCDH assisting the Federal Government in this regard to the extent that we know that some of the persons who are responsible for carrying out the program are those same persons who during maybe the past 10 or 20 years were also in position of denying the opportunity. Could you speak to this point in terms of cooperation between a private nonprofit organization and the Federal Government?

MR. CARTER. Well, there are two ways that we seek to do it. One, we now have been working with HUD on a demonstration project in the San Francisco area. The purpose of this project is to attempt to develop an action prototype that would, one, reverse the trend towards closed housing market, and number two, that would open up opportunities in general. This is one of the areas. So I think in that way we are trying to assist.

Secondly, I think that organizations and agencies such as ours, and to some extent I suppose we are sort of like the Civil Rights Commission except that we deal with this one agency, we deal with housing chiefly, that is to be sort of a gadfly to police what is being done, to make suggestions in terms of guidelines and policies and programs to the agencies involved, and publicize and document their failures.

COMMISSIONER FREEMAN. I'd like to refer you to the President's statement of last Friday which included in the basic principles, and I quote: "A municipality that does not want federally assisted housing should not have it imposed from Washington by bureaucratic fiat. This is not a proper Federal role."

Now, conceivably such a municipality could consist of 100 percent of persons who resided at homes insured by FHA mortgages up to \$33,000. I would like to know if you would comment on whether it would be appropriate to include FHA-insured mortgages as a Federal benefit or not.

MR. CARTER. By all means. I think that it has been with FHA and

VA and the Federal Home Loan Bank and various agencies of that kind that have made possible really the development of these 99 percent white neighborhoods and white communities. I would think that the Federal Government in saying that we can't force this on them, what they are doing, what has been done—too much of this has been done in the past—is that when it becomes a requirement of equal opportunity, too often the Federal agency or the Federal executive, or whoever has the responsibility, will say this is something that we cannot do; we can't force things down people's throats, but when the utilization of Federal funds and Federal grants and Federal money and Federal credit is being utilized to in fact deny opportunity, to enforce segregation and things of that kind, the Federal Government seems to feel no obligation to utilize this policy to prevent that. Now, it's chiefly because of the fact that the people who take the money, the grants, and so forth, are not saying openly we are going to segregate. But as a matter of fact, the Federal Government knows that they are going to do that, and often it has encouraged that to be done. I would think that if money, mortgages and that kind, are going to be underwritten by the Federal Government, that it certainly can say to the people where the funds are going that it will not tolerate any denial of equal housing opportunity.

COMMISSIONER FREEMAN. We received testimony this morning concerning the Environmental Protection Agency and, of course, we all recognize the benefits from such an agency. I would like to know if you would comment on whether you see any basic distinctions between imposing the environmental controls from imposing the responsibility to provide housing for low-and moderate-income families.

MR. CARTER. The point is, it's a question of priorities, and what has happened with the nonwhites is that they have always been put on very low priority. I listened to part of Mr. Ruckelshaus' testimony, I came in the latter part of it, and at least I got the impression that he seemed to feel that he would be moving a little too far to enforce antidiscrimination policies in terms of the environmental controls, because of what this would mean in terms of pollution and so forth in regard to people. But it seems to me there are several answers to that that he ought to consider. One of them I think I said earlier, he doesn't have enough money that he has at the present time to utilize to clean up the environment of every town and every city and every place in the United States, and therefore he can select, and he therefore very definitely ought to select, those places which are adhering to constitutional and Federal legal standards and Federal policy which is to provide open housing and open opportunity. Now, if he had an overabundance of money to utilize, I think that maybe at that point he would have a problem, but he doesn't, and I think at this point he can select those agencies that are doing correctly and this will bring other agencies in line. It seems to me it's a very false statement which I reject entirely, that he or the agency would be doing a disservice to environmental control by insisting on open housing opportunities.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Vice Chairman?

VICE CHAIRMAN HORN. No.

CHAIRMAN HESBURGH. Mr. Glickstein?

MR. GLICKSTEIN. I merely want to remind the Commissioners in case they have forgotten that Mr. Carter was for many years the general counsel of the National Association for the Advancement of Colored People and handled before the Supreme Court some of the most significant civil rights cases in the last 15 years and, as I recall, he had an almost perfect batting average. We are very happy to have him here today.

MR. CARTER. Thank you.

CHAIRMAN HESBURGH. Mr. Carter, would you care to say something about your organization, how it's financed and how it got started, what the questions are that you are really getting into, and what success you are having now with your program?

MR. CARTER. Well, we officially celebrated our 20th anniversary in March of this year. We were organized in 1950 and we were organized principally, primarily, and exclusively, I should say, to promote equal housing opportunity. Therefore, we concentrated on housing opportunity for low-and moderate-income families and to eliminate racial exclusionary policies. Our program is multifaceted. We have a legal staff. We engage in litigation, and we also engage in providing legal advice to communities on their obligations under the Constitution and under the Federal law. We engage in research. Mr. Erber is our director of research, and I think I mentioned earlier, Dr. Hesburgh, our report which Mr. Erber is now directing in which we are trying to pinpoint to an extent not heretofore done the correlation between housing opportunities and employment opportunities to show what dislocation occur in urban growth as a result of segregated housing patterns. This is being done for the small metropolitan area involving five or six communities around New York.

We also engage in a demonstration project which I think I spoke of earlier in San Francisco, in which we hope we will be able to find means for being able to have a national action program and be able to say to communities that this is what you do and this is what you don't do if you want to have open housing develop. We also, of course, are national housing advocate, we provide services for communities and for fair housing groups, and what we also try to do is we try to be nationally the agency that keeps the country aware of the fact that housing, discrimination in open housing, is one of the most important facets in the whole civil rights field, and I think that civil rights organizations have not been aware of this. For the most part there has been the concentration, as there had to be, on the Southern problem, and as the Southern gains were made in *Brown versus Board of Education*, and so forth, they were being undercut by the rigid, the patterns of housing segregation that was developing particularly in the North and Midwest. We think that this is an urban problem which has to be attacked, and so that's what we do.

CHAIRMAN HESBURGH. How are you financed, Mr. Carter?

MR. CARTER. We are financed by individual contributions, and we are an agency that at present is composed of a large variety of member organizations who in turn support us, and we receive foundation grants and gifts. Our financing, except for special projects, is entirely private. We do have a HUD grant, which is a specific grant on which we receive funds, but for the most part our financing is entirely private.

CHAIRMAN HESBURGH. I had one last question. This is just a slight matter of understanding on my part, probably, or misunderstanding. You mentioned in the early part of your testimony about the relationship between housing and employment and the fact that the whole transportation system is not set up to get people from the central city to the suburbs where the jobs are, and then back again at night, but vice versa, which I take to mean that you say the transportation system is set up to bring people from the suburbs into the city and back to the suburbs at night. But how does that work out practically? With roads, they run both ways, and it would seem to me hard—you are probably talking about train or bus schedules or something else perhaps?

MR. CARTER. What occurs is you may watch the schedule—I used to live in the suburbs and I know. In the morning, from about 7:30 or 7, probably, until about 9:30, one is able to get a train about every 10 or 15 minutes into the city, and then the train schedule goes off maybe an hour or half-hour. In the evening, from about 4:30 until about 6:30 or 7, you have the same pattern. All the trains for the most part just go in one direction, and there is not enough equipment to have all the trains going both ways in terms of that.

CHAIRMAN HESBURGH. You are referring mostly then to public transportation by other than private vehicle?

MR. CARTER. Yes, and I am referring to that chiefly because what I'm talking about are poor blacks who would have to rely on public transportation in order to get to the jobs.

CHAIRMAN HESBURGH. Thank you very much, sir.

Any more questions? Mr. Hunter, do you have any second thoughts on questions?

MR. HUNTER. No, I don't, thank you.

CHAIRMAN HESBURGH. We appreciate your coming, Mr. Carter. We are now going to adjourn until 11 o'clock. Thank you very much.

CHAIRMAN HESBURGH. May we come to order again.

Our next series of witnesses are going to speak to the strategies to end metropolitan polarization. We have three witnesses from universities, Mr. Lisle Carter, vice president, social and environmental studies at Cornell University; Mr. John Dyckman, department of city and regional planning, University of California at Berkeley; Mr. Bernard J. Frieden, associate professor of city planning of M.I.T., Cambridge.

Would you gentlemen please take the oath and identify yourselves.

(Whereupon, Mr. Lisle Carter, Mr. John Dyckman, and Mr. Bernard A. Frieden were sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. LISLE CARTER, VICE PRESIDENT, SOCIAL AND ENVIRONMENTAL STUDIES AND PROFESSOR OF PUBLIC POLICY, CORNELL UNIVERSITY, ITHACA, NEW YORK; MR. JOHN DYCKMAN, PROFESSOR OF CITY AND REGIONAL PLANNING, UNIVERSITY OF CALIFORNIA, BERKELEY, CALIFORNIA; AND MR. BERNARD J. FRIEDEN, PROFESSOR, DEPARTMENT OF URBAN STUDIES AND PLANNING, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, CAMBRIDGE, MASSACHUSETTS

CHAIRMAN HESBURGH. Mr. Powell will get your names on the record.

MR. POWELL. Would you each please state your name, occupation, and present position? At the same time also briefly state the bearing your professional experience has on the problems of metropolitan racial and economic polarization being considered at this hearing.

MR. FRIEDEN. I am Bernard Frieden, 83 Washington Avenue, Cambridge, Massachusetts. I am professor in the Department of Urban Studies and Planning at M.I.T., where my work is involved with research into housing and of Federal programs and intergovernmental relations.

MR. DYCKMAN. I am John Dyckman. I'm a resident of Berkeley and professor of city and regional planning at the University of California in Berkeley. My interest for some time has been in metropolitan development and the emergence of the contemporary metropolitan region, a subject which I think is somewhat central to the issue before the Commission.

MR. CARTER. I'm Lisle Carter, Cornell University, Ithaca, New York. I am vice president of social and environmental studies, and also professor of public policy of the School of Business and Public Administration. My principal interest, both there and previously, is in the field of social policy and urban problems.

MR. POWELL. In the preceding day-and-a-half, we have heard much testimony about metropolitan racial and economic polarization. Mr. Dyckman, what in your view are the most significant detrimental effects of such polarization?

MR. DYCKMAN. First, I do want to say that the effects in my opinion stem very much from the processes that produce this particular polarization, polarization both of income and race. Very briefly I want to suggest that the polarization as we have heard it described in the meetings to this point result from two sets of forces, one which might be called consumer market competition forces, and the other which might be called governmental actions that influence the supply side.

On the market competition side, very briefly, certainly the present pattern which we see has been produced by competition for space and status, by the exercise of preference for public goods on the part of those who could afford to exercise that preference, that is, notably a preference for better schools in suburbs or for the absence of welfare payments. These particular conditions are based on the existence of many governments in metropolitan areas and on independent local financial support of governmental expenditures. Certainly this pattern has been produced by a protection of value stance by the exclusion of those people with different values. We have had some studies in the

Center which I directed at Berkeley of the behavior of people in new communities, and overwhelmingly these studies indicated that people were buying protection in new communities' exclusion of those people whose values or whose characteristics seemed to them different or unfavorable.

Finally, there is just outright racial prejudice which we might say produces the discriminatory price for minorities to get into suburbs, the people already disadvantaged in their ability to pay.

Now, the Government, in my opinion, has supported these tendencies with a variety of governmental practices. I will just mention a few. I would list the failure to impose desegregation on mass-produced housing from the VA housing following the 1949 Housing Act up to the present FHA support for so-called new communities which is simply large-scale housing developments. Also by the Government's suburban forming investments in transportation and sewer and water systems and largely in the taxation policies which have favored homeownership, that is, mortgage interest, forgivingness, and so on. And certainly by a whole host of local governmental practices, zoning and land-use controls, and particularly that zoning which we know that has favored large lots or attempted to favor high cost development.

The unfavorable effects, Mr. Counsel, I think are these: First, among the effects which I consider to be most unfavorable, I would list the schools' impact on the educational effect. The reason why I list this first is that I think that educational opportunity is critical to breaking the poverty circle, but as this particular pattern of metropolitan occupancy has developed, we find that the tax prices for education are unequal in the central cities and in the suburbs. By tax prices I mean the percentage of income of people that goes to pay for these public services. That is, in the central city people are actually paying a higher percentage of their income to support schools even if the total expenditure per pupil is less, and this, I think—that is, the effort is greater. And so long as the poor are concentrated in the central cities and school finance is predominantly local—after all, the local property tax provides about 57 percent of the costs of schools—this is the elementary and secondary schools—and the State on the average provides about 36 percent and the Federal Government, a very small percentage, around 7 percent.

Now, so long as this financing of schools is predominantly local and from the property tax, I think the opportunity to break through the poverty chain is very much reduced by this pattern of metropolitan settlement.

Secondly, there has been some mention of employment opportunities. While this question is not wholly clarified, and while I am not perfectly content with the condition of studies of the employment situation, I do think it is clear that the new jobs are being created now in the suburbs in very large measure, and this is new jobs for low-income people, and the access to those jobs in the present pattern is inadequate, not only in the suburban rail schedules as has been mentioned earlier, but I can give you some examples of how badly the contempo-

rary transportation systems do serve suburban employment opportunities for the central city resident, the minority resident particularly. This has been well studied in the case of Watts where it was established that in the Watts area of Los Angeles, access to jobs for which people there might be qualified was virtually nil because there is no adequate public transportation system in Los Angeles, none whatsoever, because jobs are more decentralized in Los Angeles than in any other city in the country, and because automobile ownership in Watts is substantially lower than the rate of automobile ownership generally in Southern California.

An additional example which I might offer is the example of the Bay Area Rapid Transit District which is building, as you know, a kind of metropolitan system for the San Francisco Bay Region. I have been a critic of this system and I am not saying anything new to people who have heard me talk about it before, but frankly I have been objecting to the system on the grounds that the system does not serve the minority job needs in the Bay. The reason it doesn't do it is, I would say, double or triple. First, they do not provide stations which will serve a number of the low-income minority communities. The system rather serves suburban commuters very much like a suburban railroad system. Secondly, the system is not providing stations at those points of low-income jobs, that is the destination, so it serves neither the origins nor destinations adequately for low-income minority people. And thirdly, of course, the system's pricing is even now or in anticipation going to be very high for low-income people.

CHAIRMAN HESBURGH. Mr. Dyckman, could I just ask a quick one here at the moment?

MR. DYCKMAN. Yes.

CHAIRMAN HESBURGH. What is the Federal involvement in that system?

MR. DYCKMAN. The Federal involvement is present in the form of grants for experimental features of the system. The system is supported by property tax revenues from the member counties, the three counties which belong to the district.

CHAIRMAN HESBURGH. Thank you.

MR. POWELL. Mr. Carter, do patterns of racial polarization deny urban minority equality of opportunity?

MR. CARTER. I think the answer to that is clearly yes. Mr. Dyckman has given you a picture of the objective facts which make this clear as far as choice for the minority population. When you relate that to physical confinement within the central city of minority populations, it's perfectly clear that you are talking about a choice with respect to housing which is available to black and other minority people, quality of that housing, the amount of that housing, the density and location of that housing. You are also talking clearly about what kind of educational opportunities can be provided, and now I am not arguing anything at the moment other than the question of what can be invested in education in the central city as opposed to what is invested in education in the suburbs. Of course we have heard repeated testimony, to

which Mr. Dyckman referred, that substantiates the general finding that up to 80 percent of new jobs in trade and industry are being created in the suburbs. When you look at what that means, beyond what contemporary opportunities are for adults in the minority population, it speaks to what the future is for the young, because obviously this seriously hampers the life chances of young minority people. Not only are they denied access to equal educational opportunities, but they also perceive the limitations and confinements and constraints on the opportunities that are visited on their parents and their peers, and this itself contributes to a crippling effect with respect to these young people, so you have a reinforcement of the problems that people so clearly noted about the central city or the inner core of the central city. And they are condemned to what has been the historically afflicted areas with respect to social problems however defined. So that the chances, one would have to say, of a young person getting on the much touted escalator of social and economic mobility coming out of that setting has to be significantly less than for people coming from other communities.

MR. POWELL. In connection with this problem, the movement thus far of minority people into suburbia has been characterized as a trickle. Do you agree with such characterization?

MR. CARTER. Well, the data obviously support that. Although there is an increase in absolute numbers, there is virtually no increase in proportion.

MR. POWELL. What significance does this have for blacks and other minority peoples in regard to the desirability of moving to suburbia?

MR. CARTER. Well, let me talk about this a little bit from the perspective of choice, which is I think the question that is really posed by the Commission's topic. In other words, I think we can get mixed up in rhetoric around terms like "forced integration" and "dispersal" and so forth. Each have their own unfortunate overtones, dispersal also being a kind of forced integration or forced changing of living arrangements, if you will, at least by implication. But we are now talking about the opportunity of people to live where they would like to live and live in a way that is consistent with the overall interest of this society.

Now, what we find actually—we don't have a good deal of data but there are obviously some observations that one can make—would be that there are two kinds of patterns for people, minority people, moving into the suburbs. One is the one that appears to be supported by the President's statement, which is that people of equal incomes ought to have equal access. Well, to a limited extent that's going on, although much more limited than I think is recognized. For example, I think it is interesting that in Mr. Brown's testimony yesterday, he said that if income would equalize between minority populations and the dominant white population, this would only be a shift of 3 percent in the distribution in the central city of population.

So you do get a small number of families moving into middle and upper middle class neighborhoods and, by and large, they do this in a

way that in effect subjects them to the homogenizing impact of the overwhelmingly white society. That is the life style that they are obliged to accept.

On the other hand, you have the movement which in effect is an extension of the central city minority community out into some nearby older suburb. This does two different things: By and large, this quite often means that many of the problems that we talk about in the central city are merely extended to the suburbs, and also quite often it exacerbates conflicts between minority people and working class whites who quite often have been living in those suburbs, so that the costs are interchanged at that level.

Now, what I think is of more interest to more minority people in wanting to move out of central cities to the extent that they do is that what they want are the same kinds of opportunities for decent housing and jobs and education for their children that white people have. They are not interested primarily in socially associating with whites, nor are they interested primarily in taking on the cultural values and standards of middle class whites. They are rather more interested in the kind of pluralism which we like to say that we stand for in this country but which the evidence is increasing that we really don't stand in support of in this country. Pluralism now has really gone down to really almost the political science definition of that term, again supported by the President's statement, meaning the pluralism of allowing small communities to decide to do with respect to social policy whatever they think is in the best interests of their community without any recognition of the interest of the larger community. But in the kind of cultural and value pluralism for which this society is supposed to stand, it is the significant resistance to that which I think is in large part responsible for much of the resistance of the migration of low-income groups and minority populations.

In this respect of having tried to make an over-simplistic analogy to what I have observed at Cornell, and I believe has occurred at other college campuses in the process of bringing more minority students to the campus, many of the Northeastern schools in particular for many years had a handful of minority students on campus, and those minority students, just by the overwhelming number of people they had to associate with, were in large part compelled to assimilate and accept the overwhelming value structure of the dominant group.

Then in the middle sixties began the movement towards bringing more minority poor students to campus. The numbers were relatively small but significantly, and particularly taken in the context of growing development of cultural self-awareness and appreciation, these groups found some commonality of interest but found frustration because their numbers were not significant enough to have any real impact on the way the campuses operated and they were expected to assimilate and react in much the same way as the old process worked when there was only a handful of students.

As this went on, however, and the numbers got larger, there were two liberating effects. One, the campus came more to recognize the plural-

istic responsibilities they had and take into account the interests and needs of minority population on campus and, secondly, there was the opportunity for greater pluralism within the minority population itself. It seems to me that when one is talking, therefore, about a strategy for bringing low-income and minority people into the suburban areas, you have to talk about where access is provided for a large enough number to make a critical difference both within the population and within the suburban area itself.

MR. POWELL. Dr. Dyckman, yesterday we heard testimony about the Dayton Plan, which provides for the provision of low- and moderate-income housing on a five-county regionalized basis. Would you describe comparable planning and review commissions in other parts of the country with particular reference to their capabilities in this regard?

MR. DYCKMAN. Well, first I should say that for some years now there has been a developing interest in metropolitan planning or metropolitan organization. This metropolitan organization in some cases takes a simple form of city-county consolidation as in Nashville-Davidson County, and in a number of other cases we have had the development of councils of government.

I think that potentially all of these councils of government, metropolitan councils, or these consolidated city-county metropolitan area planning groups, all of these could potentially play the role that Dayton and Miami, Ohio, have played. That is, I think there is presently the requirement that all metropolitan planning which uses Federal funding under the 701 program, that all of these plans must contain a housing element. It's possible, too, that if these metropolitan areas were to carry out the guidelines which are prescribed by the Housing and Urban Development Department to make provision for moderate- and low-income housing, that they could in practice develop the kind of proposal that is being made in the Dayton area. That is, I see not only is there no block to their doing it but there is considerable precedent for their doing it, both in the Housing Act provision of 1966 which required that there be a housing element in metropolitan planning, and in subsequent HUD guidelines over a few years ago which required that that housing element deal with moderate- and low-income housing.

Now, very frankly, the problem, the innovative feature I think of the Dayton proposal is that they have a formula which spreads the burden, if we call it burden, and so it's viewed by many of the communities in metropolitan areas, of moderate- and low-income housing over a wide number of communities. I think this is perhaps the direction in which other metropolitan areas will need to go to get agreement on the plan. I don't think there is any intrinsic reason, any persuasive logical reason why the distribution has to be so scattered, and there may be social reasons why it ought not to be so scattered. That is, I think in many instances members of the minority communities would prefer that they not be so diluted and in such small pockets within so many different communities.

So I have mixed feeling about the Dayton-Miami proposal. First, I

think it is extraordinarily good precedent to the extent that it has dealt directly with the problem which every other metropolitan area will have to deal with. Secondly, I think it's very ably put together as a program which can gain public support in that region and for which therefore we should be thankful. And, thirdly, I think at this point it remains to be seen how this will be implemented but I think they have a fairly good chance to implement it. Therefore, I think it may provide one solution which will provide one of the prototypes which we should observe in metropolitan planning elsewhere. I imagine that there will be others, that there will be other formulae devised which will offer us other prototypes. It's quite possible, for example, that in metropolitan areas we develop the jurisdictions merging some of the smaller jurisdictions which are large enough to contain more integral minority settlements within a single political subdivision or jurisdiction. That is, as I look at the numbers in the Miami-Dayton Plan, I think that they are in some cases too small to provide viable minority communities within those political subdivisions and I would hope that we could find a formula which would build up the numbers somewhat in any one political subdivision.

But I do feel that three things exist favorable to further experimentation on this. I have mentioned them. I will recapitulate. First, there exists now an embryonic form of metropolitan organization in a vast number of metropolitan areas around the country. Secondly, we have the precedent of both the 1966 Housing Act which required the housing element in all plans made by metropolitan areas which are federally supported under 701 grants; and, thirdly, we have the HUD guidelines requiring that we deal with medium-and low-income housing in these plans.

I would like to see the States and other Federal units, that is, units of the Federal system, also take an interest in this because I think increasingly the State role may be important in those metropolitan areas which are wholly contained within a single State as some are.

MR. POWELL. Mr. Frieden, are there criteria by which such planning and review commissions can evaluate the extent of the problem of racial polarization and would strengthening of A-95 be useful in obtaining such an evaluation?

MR. FRIEDEN. Certainly there is criteria and I think it's not a difficult technical job to develop the criteria by which these plans could be tested. For example, metropolitan planning agencies could be asked to identify what the gaps are between the housing, public service, job access conditions confronting minority groups in the region, and other people in that region, and come up with affirmative programs to close those gaps. The country now has some quantitative housing goals also as a result of the Housing Act of 1968 which commits us to building a certain volume of unsubsidized and subsidized housing over the next 10 years. It may be possible to translate these goals into allocations per region and provide some kind of numerical testing of how much housing different metropolitan housing plans provide.

In answering your question, though, about whether there are criteria,

I think it's important just to point to the fact that in my view the problem is not developing criteria; the problem is enforcing Federal guidelines.

It was mentioned earlier this morning that civil rights guidelines have often not been implemented properly and that is by no means unique to the civil rights field. In a great many Federal programs, guidelines and requirements that apply to low-income people just have not been taken seriously locally and have not been enforced by the Federal Government.

I call your attention to simply one reference on this, a study called the Legal Lawbreakers, recently produced by the Citizens' Advocate Center here in Washington, D.C. on the local flouting of relocation requirements. So the problem here I think is not really making up the criteria, but implementing them seriously and taking them seriously.

MR. POWELL. In this regard, would strengthening of A-95 be useful?

MR. FRIEDEN. Strengthening of A-95 would certainly be useful. I think a little background may be useful on this. A-95 was, to my knowledge, originally supported by the Bureau of the Budget around 1965-66, primarily as a way of improving the administration of the Federal grant-in-aid programs. However, that tool, the review of grant-in-aid proposals by metropolitan planning agencies, can give these agencies substantial leverage which they have through no other means to help guide the region's development and to be involved in the day-to-day decisions about how the region grows rather than concentrating primarily on long-range plans and studies.

The A-95 review does state the criterion that the project is to be consistent with metropolitanwide development plans. A-95 review does not, however, call attention to the provision of low-and moderate-income housing in any community as a requirement for Federal grants-in-aid. Strengthening the A-95 review procedure to give some priority to this matter, to low-and moderate-income housing, and to equal access to suburbia, could be important in a number of different ways. I think we should be aware of the leadership role the Federal Government has to play here and to the fact that Federal aid programs, Federal aid requirements, could go a long way towards strengthening those local officials who would like to move in this direction but need something to lean on.

In this respect I think the experience with the Model Cities Program is quite instructive. Model Cities required that Federal aid under this program be spent in the poverty areas of cities. My information from a number of mayors and mayors' aides is that this requirement was indeed welcomed by many big city mayors who wanted to increase the allocation of funds into those poverty areas, but were unable to take the political heat on that without having some Federal requirements to help along in the process. I think Federal requirements in metropolitan review could have that same effect of strengthening local officials who would like to move in this direction.

MR. POWELL. What about the President's statement that in order to qualify for Federal assistance a proposed project must be part of a plan

which makes provision for low- and moderate-income housing? Does that go some way in solving the problem?

MR. FRIEDEN. Well, certainly that is going to be helpful, but we have had that requirement in effect through the process that Mr. Dyckman described before, since 1966. That is, that water and sewer grants must be consistent with comprehensive plans; the plans must contain housing elements; the housing elements must include attention to low- and moderate-income housing. So those requirements have been on the books. I think Secretary Romney did make that clear in his own statement yesterday. The real question is how effective have they been and I think they have not been very effective.

MR. POWELL. Why haven't they been effective?

MR. FRIEDEN. The same problem that I identified before, the difficulty of enforcing Federal guidelines, local resistance, the fact that the metropolitan planning agency that handles A-95 review, is not a government. It's a special-purpose agency with voluntary membership typically. It has no power. It can only advise. It can use the power of persuasion. To amount to anything, these reviews have to be taken seriously by Federal aid officials.

MR. POWELL. But you do agree that if such guidelines were enforced it would be effective?

MR. FRIEDEN. Yes, certainly. But let me add one point to that. I think another reason why metropolitan planning review has not been as strong on this subject as we'd like it to be is the nature of representation on the metropolitan planning agencies. These are typically one representative per community in the metropolitan area which is to say that the voting representation is not on the basis of population. The central cities tend to be underrepresented. That means also that black people and poor people tend to be underrepresented on these metropolitan planning councils, and then we have to look to the nature of the voting powers on those councils if you want to see some improvement in this respect. In other words, we need both some improvements at the metropolitan area and some improvements in Washington for these criteria to be more effective.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you, Mr. Powell. Dr. Rankin, would you like to begin?

COMMISSIONER RANKIN. I have only one question, Mr. Frieden.

CHAIRMAN HESBURGH. Could I suggest that the Commissioners refer their questions to a specific person on the panel. That will make it easier for the panel.

COMMISSIONER RANKIN. Mr. Frieden, what principle of representation do you like? I mean you were talking about representation on one of these councils. Do you want the best man in the community on it, or do you want every element that makes up the community represented? I wonder which is your accepted idea of representation

MR. FRIEDEN. Okay. I was speaking to a more basic point which is the one-man one-vote principle. That is representation of communities in terms of how many people live there as a basic step. But beyond

that, as to how the community representatives are chosen, I think the general practice of having elected officials or representatives designated by elected officials is probably a good one. I think that gives a certain amount of political accountability which you probably would not have if you had separate elections to such a council occurring in an off-election year.

COMMISSIONER RANKIN. In your mind is it utterly impossible for somebody who is not an Indian to understand Indian problems?

MR. FREIDEN. Well, you raise another good point. There is a lot to be said for some special minority representation, a review by an advisor committee to such council consisting of minority people to underline the importance of elements in the plan that would be of relevance to minority groups. I certainly would favor that.

COMMISSIONER RANKIN. Thank you. That is all, Mr. Chairman.

CHAIRMAN HESBURGH. Mr. Ruiz.?

COMMISSIONER RUIZ. Mr. Dyckman, I was interested in finding out whether there is a study being made with relation to the following: Parking lot ownership is a private extension of the transportation system in the sense that a fee is exacted to members of the public who ride automobiles. In suburban retail marketing areas, ordinarily free parking is furnished by the merchants to the customers. Access to marketing facilities within central cities is frustrating oftentimes to lower-income families because the law of supply and demand allows the parking lot businessman to charge a large fee.

Now, whereas in Los Angeles you indicated there was poor transportation facilities, transportation facilities are lacking, which is true, if a person owned an automobile in Watts and wanted to shop at the Grand Central Market in mid-Los Angeles it would cost more to simply park than to buy the gasoline back and forth.

I was wondering, with respect to this extension of transportation involving minority peoples, whether there is something afoot or some study that is being made with respect to this particular problem which is so frustrating to the poor person who may only have 50 cents in his pocket or a dollar with relation to getting to a source of food.

MR. DYCKMAN. Mr. Commissioner, I don't know of any study which has examined the user population of parking lots with particular emphasis on the low-income user or what the economist would say is his price elasticity of demand for that service. But I would make one observation about this. One of the advantages, of course, which suburban locations have had is that they have been able to provide relatively free parking. In fact, this is one of the strongest locational features in the competition for industry by suburban communities as against the central cities which have to charge for parking generally because they have to ration relatively scarce space. It seems to me that indirectly the point that you have made is an argument for many kinds of industries, especially those industries which have relatively low-wage scales to find spaces outside the central city where the effective cost of transportation of people using automobiles is likely to be lower because of the lower or zero parking fee in the suburban location.

COMMISSIONER RUIZ. Are any of the other two witnesses aware of any such plan?

MR. FRIEDEN. No.

MR. CARTER. No.

COMMISSIONER RUIZ. Thank you very much.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Carter, I think Mr. Frieden referred to the Model Cities Program. We are concerned with suburban access and, as we focus in on suburban access, there seems to be a danger in our failing to recognize the effect on the vitality of the central cities that if we abandon these cities we actually have failed in many more ways than we would really I think desire.

I'd like to know if you will comment—and this would be Mr. Frieden, Mr. Dyckman, and Mr. Carter—on ways in which we can through probably regional and metropolitan planning achieve suburban access and also have programs, maybe governmentally sponsored, for improving the quality of life for those who choose to live in the cities.

MR. FRIEDEN. I don't see any conflict between those two objectives. In fact, I think they are reinforcing in many ways. That is, for the success of programs like Model Cities or Urban Renewal, I think it is important that people now in central cities have some outlet and some other place to move because if the central cities had to accommodate most of the growth in black population that can be anticipated, these areas would become even more crowded than they have been in the past, and there would be great conflicts over land and space, and most of these plans, for example, call for building new schools which consume a great deal of land, for building new housing at low- and moderate-densities, and unless there is some place for population to move, and unless some of them want to move, I think it's going to be very difficult to carry out those central city plans.

MR. CARTER. I agree with what Mr. Frieden said and I might emphasize the point that we talk about the cost that the surrounding communities impose on the central cities. We usually talk in terms of people who work there coming in and taking up parking space and things of that nature. But the major cost probably imposed by the suburbs on the central city is that through discriminatory practices, by imposing the cost of housing and providing services for the lowest-income populations in the area they, in effect, to further their own exclusionary interest, require the central cities to absorb these populations which have the greatest needs for services.

Now, it's of interest that Mayor Stokes and others have been very interested in this problem of trying to find ways of increasing access to suburban areas for low- and moderate-income people, because if the suburbs are unwilling to pay, as they claim they are, commuter taxes in any significant amount, then they certainly in a metropolitan context have a responsibility to take on part of the growth of the area across economic lines. As they do so they lessen the density of the central city to some degree. Moreover, as they do so, they lose, I would think, part of what is one of the most difficult problems about getting support for

social programs which would benefit the central city, a lack of sensitivity on the part of people who are becoming the most politically and economically powerful in the country, the people who live in the suburban areas and who, by and large, have adopted a policy of "out-of-sight, out-of-mind" as far as the people living in the central city are concerned. As they come to recognize themselves the need for a variety of social programs, they are likely to be more supportive of such programs, and so it's not only more feasible to deal with the problems internally within the central cities to the extent that costs are being shared, the income level of the whole area goes up to the extent that people have a better opportunity for jobs, but then the suburbs should become more sensitive to broader social problems than they are today.

I might add to that, just to reinforce the point I tried to make earlier, that there is little prospect that at any time in the near future there is going to be a major change in the pattern of the central cities, and the developing political power of minority groups in those cities I think is going to increase, and I don't think a policy of suburban access that helps develop suburban access and has some of the benefits that I have indicated is contrary to that development.

MR. DYCKMAN. Well, I would say to this something which might be viewed as an extension of my earlier remarks. So long as we allow people to avoid welfare burdens, for example, and to spend a higher percentage of their tax dollar on education by moving to the suburbs, and as long as we have a local financing of both schools and, to a considerable extent, welfare and other programs, we are going to have obvious resistance to any export of the problem from the city to the suburbs and part of suburban residence. I think that's a very direct fact of life.

Now, there are a number of ways I can see we could get around that. One thing that would be extremely important would be to have Federal or State governments assume a larger role in financing education. I think immediately this would have a very strong impact because if it reduced dependence of the school on property taxes, it would reduce suburban privileges in primary and secondary education in my estimation, very much reduce it, and maybe just that educational policy would indirectly have an extraordinary influence on minority entry into suburbs.

A second point I would make at this point is that as circumstances now stand in the metropolitan area, we find that the welfare burdens, or what might be called broadly social service burdens, running from public hospitals right down through direct assistance of various kinds, are really being paid for by those people who live in the central cities who support such facilities, and increasingly they are being paid for by minority people even though the justification for having those services at all is that these are broadly social or public goods, that is, that they spill over on the whole population. The whole population has an interest in seeing people kept healthy so that epidemics are not created, and a whole variety of other purposes, and yet they are really paid for only by the direct residents of the central cities, and I think that these circumstances also ought to be changed; that is, increasingly we ought to

reduce the local responsibility for some of these services.

Now, it's true that in this case I wouldn't argue for State or Federal support but metropolitan support, and that's why I would like some direct election of metropolitan representatives of some kind so they would have some taxing power, because I think we are going to get hung up on taxation without representation if we don't elect somebody at the metropolitan level to stand for public office.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Mr. Dyckman, although I suppose any of you could be responsive to this, suburbia appears to be an evil that we have wrought upon ourselves like the tolerance of adolescence which is now plaguing our campuses. One of my old colleagues says if we threw everybody out of school at 16 and made them go to work for 4 years and get rid of adolescence and then come back, we'd have better universities. I can't think of any interim treatment that parallels that for suburbia, but to indulge the American public or a segment of it in the luxury of running away from the city and living "in the country", we have permitted the establishment of highly specialized forms of government which I do not believe were ever really contemplated in the beginning days of this Nation. We have created political problems of a monstrous kind. We have allowed a mechanism to take root that has been responsible for indignities and injustices through a substantial segment of our population.

Now, when we sit around here and talk about this, we talk about umbrella types of substitutes, like metropolitan planning councils, which strike me as being very feeble kinds of approaches to the real problems we are talking about, which is you can't have that many governments, each of which is looking out for a small segment of the people and ignoring the responsibilities of people to other people.

Has anything been done—this is not just a statement, it's a question. You represent the scholarly community. You are three people whose special field is understanding this problem in terms of its governmental implications. You hint at it when you say maybe the Federal Government and the States should do more in running the schools, take this privilege away from suburbia. But did anybody ever really think in broad penetrating terms about a new concept of American life which would make suburbia as a social evil ineffective? We have talked about superficialities in legislation. Have you thought of it in the broadest sense, and where does your thinking lead you?

MR. DYCKMAN. On this count, I think there have been a number of very interesting proposals more or less of a radical nature. One which I think has an impeccable logic but great political difficulty was suggested by a long-time colleague of mine, Richard Burton, now at the Urban Institute. He proposed that we reorganize the Federal system since this is a problem of intergovernmental relations basically, and that we reorganize the Federal system and create some additional States. "We have created additional States," he said, "Let's create metropolitan areas as States," something which, of course, Mayor

Lindsay and a few other people have looked on with a certain amount of beneficence lately.

It seems to me that clearly what has happened in our Federal system is that we have functionally outgrown the classifications which we have set up in originally chartering a local government at the State level. So what has happened is that privileged sanctuaries have been created in the interstices of the system because the system frankly is not functionally adoptive. That's very clearly what I think has happened. Now, how you go about creating a better match-up of functional governmental organization with the actual operation of a social economy is another question. Certainly you could do it by creating a great constitutional convention or something again, or you could do it by using some existing governmental procedures, or in various ways, or frankly we can simply see a growth of metropolitan organization out of these rather feeble beginnings of councils of government into something which most public administration people would resist, namely, an additional layer of government superimposed functionally on the existing setup. All of these possibilities exist. As I mentioned earlier, you could do it using a lot of the existing powers as they have done in city-county consolidations, for example, and in a number of other ways. Annexation has long been used, say, in Texas. It's still used very liberally, although most other States no longer permit it. And a variety of other devices of this kind are going on.

Remember the suburban phenomenon is not new in this country. The suburbs have grown more rapidly than the central city since 1920, over 50 years now. This is not a new phenomenon in American life, and during this period we have developed this crisis, mostly because we have not made any suitable governmental change. We have tried various ways, by annexation, as I mentioned, and consolidation, but we haven't found the right formula for matching the governmental structure to this situation of growth of the cities.

Now, I don't want to belabor that point but I think that clearly in the present situation the suburbs are not evil, as such, but they are the response to very natural tendencies. One is the tendency of people with money to get the best deal they can get for themselves, as I tried to say in my introductory remarks, and by the fact that the Government has tried to serve urban development in the easiest possible way. That is, they have tried to serve it by building a lot of highways, opening up new land, by supporting individual homeownership on new land, and by a general extensive governmental policy. That has been our national urban policy for a long time in this country. It's not that we've had no policy. It's the policy we've had is the policy of taking the easy way out.

MR. FRIEDEN. I'd like to answer your question in a somewhat different way. It seems to me there has been some academic thinking, and thinking in other circles as well, about alternative approaches to the suburban problem. Yesterday and today we talked mainly about the problem of building new subsidized housing in the suburbs and the governmental consequences of that, and ways of trying to somehow intervene in the governmental system to get more of this built in the suburbs.

But the picture is somewhat different if instead of looking at the problem of building new housing, one looks at the problems of turnover in existing housing. New housing does get you into local regulatory powers zoning subdivision controls and building codes which are necessary to deal with—but new subsidized housing is a very small part of the market. We have had subsidized housing for about 35 years now, and even now less than 10 percent of the urban poor live in subsidized housing. And the the thinking has proceeded along somewhat different lines and focuses on how can we help more people and poorer people get into the suburbs through the private market rather than through governmental construction and new housing.

Now, in fact, I think the Census Bureau presentation made it pretty clear that the white poor are making their way into the suburbs and they are not doing it primarily through subsidized housing. They are doing it primarily by buying or renting older suburban housing which, when you do it through the private market, proceeds rather naturally as a rule and it doesn't precipitate a great political debate because there isn't much the local community can do to stop that. When the issue is how to build new housing, the powers are all there and the opposition turns out in force.

The thinking about how to help people make better use of existing suburban housing leads to somewhat different directions. That is to subsidized programs aimed at existing housing, for example, rather than new construction, such as the lease program or that portion of the 235 program that could be used for renovating existing buildings rather than building new ones. Certainly much can be done to make these Federal programs work better on the stock of existing suburban housing which is very large when you consider all the housing built in the late 1940's in the suburbs, for example.

Another very significant approach to this has been the idea that was advanced for a long time in academic circles of housing allowances. That is, getting people money, letting people move to whatever housing they can find, or helping them to move rather than building the housing for them. That has now gone somewhat beyond the realm of academic discussion inasmuch as last year's housing act calls on HUD to mount an experimental pilot program of housing allowances. I know the main focus of these hearings is to be on new construction and the use of other subsidy programs. It would seem to me to be important to the Civil Rights Commission to be attentive also to the way in which housing allowance programs are framed, and particularly the conduct of the pilot program, to be sure that it does get sufficient attention to suburban access as a central feature of it.

MR. CARTER. I'd like to say it's not easy to be anything but pessimistic about alternatives including the alternatives that we have under discussion, because of the patterns that have developed over the past 30 years or so. You take the notion of going to a metropolitan form of government or some other regional form of government to include the suburbs, while it was true that then some regard would have to be given to the problems of minorities and the poor, you are still confronted with

the fact that the majority of the group have now established communities and will have under the one-man one-vote rule the dominant control of those metropolitan governments, and will be able to force a majoritarian policy rather than the shifting majority policy that we like to think is what constitutes the United States. One only has to look at the city of Chicago to see that it's not purely a matter of jurisdiction in terms of where housing is located and what kinds and choices are made as far as distribution is concerned.

Or you take the notion of a takeover of the support of education by the State government. Well, right now, to the extent the State governments do participate in the support of education in virtually every major metropolitan area, they provide more support to the suburban school districts than they do to the central city school districts. Again, given the notion of one-man one-vote, it's hard to see where the clout is going to come from to shift that pattern even if the source of funds were increased at the State level. It's supposed to be the last refuge of an academic to talk about values, and we are no more competent to talk about that than anyone else, but I seriously suggest that a large part of this problem is going to have to be to find ways to make people face up to their responsibilities, and some of the things we have been talking about will have or should have that impact.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. No questions.

CHAIRMAN HESBURGH. I have a question that I'd like to aim at any one of the three of you that would like to field it, although you have answered it to some extent already. I am reminded of the old story about the lady that had about 10 youngsters and she was fixing the youngest one up for church one Sunday and spent a lot of time scrubbing him and getting him dressed in a nice white suit and told him to go out and sit on the porch and stay put until she got ready. Meanwhile he got fascinated with a butterfly and ran off into the yard and did a nosedive into a mud puddle when he tripped. He came back in mud from head to foot, and she took one look at him and she said: "It would be easier to have another one than to fix you up."

I am wondering as a question of strategy, and given the fact that our population seems to be growing very quickly, and according to what demographic information I have been able to get will continue to grow quickly, in our strategy should we try to visualize what we might call, along your line of values, good communities; good communities that are representative of the good qualities of the Nation as a whole, with its plurality, its pluralism, I should say, and with its cultural variety, and should we try to form such communities—of course we all think immediately of places like Columbia or Reston, but we are going to need so much more housing and so many more communities and so much growth, would it be easier to concentrate on trying to establish the pattern or models of these places across the country so that you would have the living reality of people saying it's better living in this kind of community than a strictly ghetto community or a pure white

community, or whatever kind of community you like to think of, of those representative of American life today. It would seem to me we would have a lot more leverage starting *de novo*, a brand new ball game, if you will, with our own rules of what we think a good community would be, than the constant fight we have with white people living in the suburbs or the frustrations of black people crowded into a central city ghetto.

I am talking strategy now, not legalisms. Is there anything to that kind of strategy? Any one of you could answer this, or all of you if you care to.

MR. FRIEDEN. It would seem to me that one look at the demographic projections would persuade us about the urgency of thinking about some alternatives to the kind of suburban growth we've had before, because with the late 1940 baby boom reaching the early thirties very shortly, and being in the typical home-buying ages, we are very likely by the late 1970's to see another suburban boom of major proportions getting underway. So I think from that point of view it is certainly important to experiment with some alternatives.

My impression of the experience with most of the communities, though, is that Columbia and Reston are far from typical. The typical one is primarily an upper middle class subdivision with superior physical equipment to what you'd find in some other suburbs, but probably no greater diversity of population. It seems to me that we are going to have to confront some of the same issues to do that. To build more diversified new communities would clearly mean a major input of subsidy and probably substantial use of Federal leverage to bring about that result.

CHAIRMAN HESBURGH. If I could break in, don't we find that where we have had subsidy right away like in 235 or 236, what has happened, according to our recent report, is you've got a lot of new housing built in the suburbs for white people and a lot of fixed-up old housing in the ghettos for black people. Would more subsidy be more of that kind of action? It seems to me we are doing a gloss on the Scripture when we say the poor will always be with you except in the suburbs.

MR. DYCKMAN. If I could comment on that, Mr. Chairman, first I think the subsidy need not be so indirect as it's been in 235-236. We had some precedents in this country of building new towns for poor people, or for at least lower middle-income people, and the Rural Resettlement Administration in greenbelt towns were actually of this character. As a matter of fact, I was astonished the other day just to look at what the average income was in those towns at the time they were built, and it seemed to me it was in some cases even below the average income for the communities in which these were situated. Yet, most city planners would think that these were admirable, or more or less admirable, for their expressions of the community building of their times, and certainly they greatly influenced FHA practices, so much so that many of the contemporary subdivisions are kind of adulterated copies of that experience in the direct Federal building programs, the greenbelt towns.

Now, it seems to me that despite the loan guarantee incentives in the present New Town Act, it's very likely that large institutionalized investors will have to join in the new town building to create this kind of suburban picture that Professor Frieden mentioned, and if that's in fact the case I think our opportunity to control them vis-à-vis the question of integration is very good.

What I am arguing is that the economics of new town building, with its heavy cash flow requirement and what the builders call a front-end load, is so formidable that substantial subsidy of some kind has to be created, and when that subsidy is created in this new town building, then I think we ought to leap in with the integration requirement, and we also ought to insist that some of the new town building be for very modest income groups.

MR. CARTER. I'd like to add to that that I think any effective new town policy would have to include what the present act really doesn't include, and that's the ability to plan ahead and to acquire land ahead, which means financing, either by the Federal Government doing it directly, beginning to bank land by investment in land ahead, or making it possible for State governments to do it. So that when the land is then turned over for development they would have considerable control over the type of housing and other development that went into that property, so I think it would be possible to have much more control with respect to that than you have in the present development scheme.

CHAIRMAN HESBURGH. What seems to be emerging from all our hearings—St. Louis, Baltimore, and here at this one—is that there are all kinds of very real obstacles to any true concept of open housing. Some of them are psychological and have to do with racial tension, and some of them are economic and have to do with a person's income or the available nearness to sources of income, namely, jobs. Another seems to be the whole political question of how decisions are arrived at in central cities or in suburbs or in villages or municipalities of various types and sizes and economic structure. And it would appear to me that in one way or another, up to and including the press conference of Mr. Romney and Mr. Mitchell yesterday, and the President's statement a few days earlier, and the various glosses upon that statement by those who have commented upon it, that we are trying somehow to get at something we call either fair housing or open housing. I would think a kind of ideal, if I could just express it in the most simple kind of language, is that we would reduce the buying of a house to the same category as the buying of a car or the buying of a dress or a suit of clothes or buying a bar of soap—whatever. It's something that has a price and you pay it, and everybody that has the price can buy it if it's available, and it's presumably things that the public needs in any kind of economic system like ours and should be available. That's how people make money, selling at a reasonable profit to people who have a need for them and the price to pay for them.

Now, my question to you, with this little prelude, is we have had these laws, we have had these Executive orders. We are all, I think, agreed, up to and including the President, that they aren't working

very well. We don't really have fair and open housing in this country. Buying a house is not in the same category as buying a car. Anybody can buy a Cadillac that has the price of one, or can finance it. You could have the price or the means of financing a house in the neighborhood you want to live in but for many other reasons that we have discussed earlier you can't buy that house, or if you bought it, it would cost you a lot more money, or you have to go through various subterfuges to buy it.

What I am asking the three of you is: If you were in a position, which we are in, to suggest to the President and the Congress what kind of law is needed to make fair and open housing, keeping in mind all the laws we have so far and all the Executive orders haven't given us fair and open housing, is there any one simple factor you could suggest that would make up the substance of that type of law? I know it's a complicated question, and I am trying to make you hear in on what is really the thing that is keeping us from having fair and open housing and how it could be covered in substance by law.

Would each of you take a crack at that? As briefly as you can, because we have to adjourn in about 5 or 6 minutes and Mr. Glickstein probably wants to get a word in edgewise.

MR. FRIEDEN. I think the whole problem is that the housing system is such a complicated one that it defies a single type of solution. You have so many actors involved in the housing system that if you have racial bias operating at any one of a half-dozen different levels—

CHAIRMAN HESBURGH. You mean administrative levels?

MR. FRIEDEN. Well, I mean operating in local governments, in terms of the building regulations, operating in the banking system where financing has to come from, operating on the part of the builder or the marketer, and the failure in any one part of the system can sink the whole venture.

CHAIRMAN HESBURGH. But there is no way the law can cover that, you don't think?

MR. FRIEDEN. Well, I think the law can move in the direction of at least trying to simplify that process.

CHAIRMAN HESBURGH. The laws have been getting tougher, haven't they, as we move along?

MR. FRIEDEN. The coverage is broad, yes. Well, for example, I think the housing loan strategy does promise some simplification by cutting out the local government part of that process.

CHAIRMAN HESBURGH. But the local government seems to get stressed more and more. Even in the President's statement recently, he comes down strongly on the local government's part in all these decisions about whether they are going to have low- or middle-income housing.

MR. FRIEDEN. Well, it is necessary if you are talking about new construction, but if you give people money and let people go out and buy their own housing, the local government role would be minimized.

CHAIRMAN HESBURGH. Mr. Dyckman, would you like to comment on what you would do if you were sitting with the President and were

going to tell him what kind of a law he ought to have?

MR. DYCKMAN. I have two feelings about this. One is that the existing laws are rather general and they do allow very extraordinary latitude in effectuation. The problem is not so much to create another statutory power in this instance, as to produce more effective implementation of the existing powers. For example, the requirement for moderate- and low-income housing, under the 701 programs which were mentioned earlier, is not a very effective guide, as things stand now, to what housing has actually been built in communities. It's not an effective guide for several reasons. Very briefly, the plans themselves are not very effective. That is, the 701 plans do not constitute enforceable local regulation but are principally advisory. Secondly, member communities are not allocated and probably can't bring themselves to allocate some of the key elements in such a program; and, thirdly, they are not obligated again to comply by any particular restrictions. Here I would argue to the President that we ought to put together the machinery of the carrot and stick, the incentives and restrictions in the whole subject, not only of Federal but of State support and privileges for development, and a whole host of other considerations, which ought to be brought to bear coherently on some of these policy objectives.

The second point I would make just incidentally is that the problem of prejudice, discrimination, and the exclusionary tactics is largely felt at the local level with the local metropolitan areas. As a good example of that I will tell a story. Once upon a time when I was a young planner working for the Chicago Housing Authority, we had a famous case of public housing in Chicago, and there was a very large celebrated fight in the city council. When public housing came up for a vote, all the aldermen voted for public housing. Ed Kelly had told them to do it and they all got out and voted for public housing. But subsequently when we had to locate some housing projects, nobody wanted it in his ward.

CHAIRMAN HESBURGH. They had aldermanic rule there, too.

MR. DYCKMAN. Yes. Now, with this kind of situation we were stymied because we couldn't get anybody to take the housing that they had all voted for. And I think that's a kind of extreme localism in effect, parochialism, if you like.

Therefore, I would have as my second rule, so far as we are dealing with sensitive areas of this kind, that we take the heat off the local guy. We take the heat off by some Federal-State prescription in this matter which gives him a crutch to fall on to do something which may be unpopular.

CHAIRMAN HESBURGH. We did this in opening up public accommodations, certainly.

MR. CARTER. First, I agree with Mr. Dyckman that there are many things—and I am sure the Commissioners are pointing in this direction—that can be done, and one of the areas we haven't mentioned sufficiently I think is the area of getting the employers who are moving into the suburban areas into the act and making their affirmative action programs do much more about the provision of low- and moderate-income housing in those areas.

But I think if there was one thing where I think there is a close correlation between the reasons that are given for resistance—I'm saying reasons that are given as against trying to deal with all the psychological and all the other problems—and suburban access, it is the impact of bringing low-income people into suburban areas, the demand on public services, and the like. And at the same time, without regard to that issue, all areas of local and State government are crying for fiscal relief. It seems plain to me that these two should be married, and that if the Government has a national urban policy for balanced urban housing in metropolitan areas, fiscal relief should be linked to the development of plans that will in effect provide for this kind of housing throughout the metropolitan area. And it doesn't matter what subject matter you are dealing with. For example, in the environmental area I don't see why any area should get grants to deal with environmental problems when it won't face the environmental problem that is caused by density within the metropolitan area which they won't relieve because of their discriminatory practices. So it seems to me that it is perfectly clear that it's in the furtherance of announced Federal policy, in a whole variety of ways, to link fiscal relief under revenue sharing, or whatever device you want, to these kinds of requirements.

CHAIRMAN HESBURGH. You are really speaking to coordination of the total Government effect of being gotten out totally by all the programs with this basic consideration that there is going to be equality of opportunity.

MR. DYCKMAN. Right.

CHAIRMAN HESBURGH. Howard, do you want to say anything?

MR. GLICKSTEIN. No, I don't.

CHAIRMAN HESBURGH. I think we are already 5 minutes beyond our time, and I thank you gentlemen very much for coming and being with us today. We will be getting together at 1:30. We are now recessed for lunch.

TUESDAY AFTERNOON SESSION

JUNE 15, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, we are reconvening this hearing of the United States Commission on Civil Rights.

Our first witness this afternoon is the Honorable Arthur A. Fletcher, Assistant Secretary of Labor for Workplace Standards. Mr. Fletcher, we are delighted to have you with us again and would you stand first and I'll swear you both in.

(Whereupon, Hon. Arthur A. Fletcher and Mr. Gerald Paley were sworn by the Chairman and testified as follows:)

TESTIMONY OF HON. ARTHUR A. FLETCHER, ASSISTANT SECRETARY OF LABOR FOR WORKPLACE STANDARDS AND MR. GERALD PALEY, ASSOCIATE SOLICITOR FOR LABOR RELATIONS AND CIVIL RIGHTS, DEPARTMENT OF LABOR, WASHINGTON, D. C.

(Mr. Fletcher's prepared Statement appears on p. 1046.)

MR. POWELL. Would you each state your names and positions for the record?

MR. FLETCHER. My name is Arthur A. Fletcher, Assistant Secretary of Labor for Employment Standards.

MR. PALEY. My name is Gerald Paley. I'm Associate Solicitor for Labor Relations and Civil Rights in the Department of Labor.

MR. FLETCHER. I would like to begin by pointing out that Mr. Wilks, who is the Director of the Office of Federal Contract Compliance, is in transit trying to get back from New York City, and the moment he arrives he will join the panel.

MR. POWELL. Mr. Fletcher, briefly, what does Executive Order 11246 require of Federal contractors?

MR. FLETCHER. Well, it requires, of course, equal employment opportunities where Federal dollars are creating jobs or where Federal contractors have contracts with the Federal Government. The Executive order is drawn in such a fashion as to assure that there are employment opportunities provided for minorities.

MR. POWELL. With regard to Federal contractors having 50 employees or more and contracts in the amount of \$50,000 or more, are affirmative action plans required?

MR. FLETCHER. Yes, they are.

MR. POWELL. Would you briefly describe what affirmative action plans are and what purpose they serve?

MR. FLETCHER. Well, an affirmative action plan is a document—a statement designed to point up first the problems that a contractor might have in arriving at what we would call compliance as it relates to providing equal employment opportunity.

The heart of an affirmative action program as we have been administering it is the thing that we refer to as goals and timetables. What we really ask of the employer in this instance is that he first take a look at his existing labor force and determine where his problems might be in relation to how he's using minorities, the extent to which they penetrate the labor supply for the company, and then we ask him, of course, to relate the actual penetration factor, presence within the labor force as to the number within the total labor market—within his immediate labor market.

From there he then begins to look at the dispersion of minorities throughout his plant from the executive suite all the way down to the production line, the idea being that minorities should be amply represented in every area of employment within the plant and in addition to that that there should be some kind of ratio of utilization between the availability of minorities within the labor supply and the actual utilization of minorities within the plant.

This is spelled out in the affirmative action program. It's designed to target the problem areas and then to make commitments to correct whatever deficiencies that are in existence as a result of putting the affirmative action program together.

MR. POWELL. The President in his recent statement noted that with

industry moving to suburbs, housing can often be a problem with respect to minority employment. What do you think the role of the Office of Federal Contract Compliance is in dealing with this problem?

MR. FLETCHER. Of course, to begin with, the Office of Federal Contract Compliance is limited to dealing with the problem of actual employment. Now, we ask a contractor in the process of putting together his affirmative action plans to determine those things that stand in the way of his having the required ratio of utilization of minorities.

Now, in the process of uncovering that, if it should turn out that one of the barriers that stands in the way is housing, then under Order No. 4 we ask the contractor to address himself to remedies. In this instance, we ask him to do a variety of things all the way from actually—and we can't impose this on him, I think I should make this very clear, but we go as far as we can to impose it and we don't apologize for it—

MR. POWELL. But you can make that a condition if he is doing business with the Government, can you not?

MR. FLETCHER. Well, not according to the counsel in our office. They indicate that we do not have the right to impose upon the contractor these particular factors.

MR. POWELL. Well, suppose, Mr. Fletcher, that a contractor plans to move from a central city to a suburb with a low minority population. Does he have any obligation to determine the effect that such a move would have on his minority employment, and if he so determines, what must he do about that?

MR. FLETCHER. Well, certainly we ask of a contractor during the period of the preaward or if he's a Government contractor and he's preparing to move, we ask him to do the same kind of planning for minorities that he does for his entire work force. By that, we mean that when a contractor gets ready to move he does any number of things, from determining the cost of the land, the location of the land, the availability of manpower or human resources we like to say, and schools and any number of things. It's a very sophisticated planning process involved in moving a plant.

Now, we insist at this particular time that the companies do the same thing or extend their planning to include the problems that minorities will have. We ask them first to take a good look at what they have on the payroll and what opportunities will the minorities who are already on the payroll—what opportunities will they have to maintain their jobs and to find adequate housing and everything else that goes along with moving into the neighborhood. We ask the contractor to look into that and to determine what problems he might have. We ask him to address himself to any problem that's uncovered. If it turns out that there isn't adequate housing, then we ask that contractor to make the necessary kind of plans to provide that kind of housing.

MR. POWELL. Mr. Fletcher, you mentioned that your Solicitor's office said that you don't have the power to require affirmative action where housing is an obstacle to minority employment. You operate under Executive Order 11246, do you not?

MR. FLETCHER. We sure do.

MR. POWELL. Now, with respect to that order, does it contain restrictions which prevent the Office of Federal Contract Compliance from requiring contractors to take affirmative action to remedy minority underutilization caused by housing patterns?

MR. FLETCHER. It is my understanding that it does. I would be happy to have the gentleman from the solicitor's office address himself to that question.

MR. POWELL. Let me question you a little bit more pointedly. With regard to employment of minorities in professional and management positions, Order No. 4, which is one of the orders implementing Executive Order 11246, states that Government contractors must take special corrective action where lack of access to suitable housing inhibits such employment.

Does this mean that the Office of Federal Contract Compliance has no authority to require contractors to do anything about housing problems of lower-level employees and doesn't it suggest that you do have some power to do something about housing when it's an obstacle to minority employment?

MR. PALEY. You're quite correct. Order No. 4 does require, as you are well aware, that the contractor take affirmative action. It specifically, as part of Order No. 4, takes into account the problem of housing.

MR. POWELL. Does it make a distinction between housing for professional and management employees and the other employees?

MR. PALEY. The reference in the order is to professional and management, but as the order has been interpreted by the Office of Federal Contract Compliance it's interpreted to include positions beyond simply professional and management level.

MR. POWELL. But you do agree that the order does require affirmative action?

MR. PALEY. The order does require affirmative action and, as part of the affirmative action program if housing is a problem, certainly we would expect the contractor to take affirmative action with respect to that.

MR. POWELL. Well, as a part of that affirmative action program, could a contracting agency require a Government contractor to establish a housing office to assist minority employees or prospective employees to find housing?

MR. PALEY. This is part of the program that we've developed and in many situations companies have set up housing coordinators within the company to deal with the problem of assisting minority people to find adequate housing in the immediate area.

MR. POWELL. Could Government contractors also be required to obtain a pledge of open housing from all real estate brokers and apartment owners used by the contractor's housing office?

MR. PALEY. This is part of the requirements that we found in some of our existing programs and part of the approach that we've developed to deal with this particular kind of problem.

MR. POWELL. Couldn't a Government contractor, in a case where

housing was a problem and they couldn't resolve it, refuse to move to a suburb if it failed to adopt a fair housing ordinance?

MR. PALEY. Well, we've never run into a situation like that. Our basic position is that a contractor must take an affirmative position with respect to fair and open housing whether it be attendance at a zoning meeting or working with private agencies to deal with the situation of housing for minorities in a particular area.

MR. POWELL. Well, in an instance where a Government contractor was going to move to a suburb that had a housing problem either because of an inadequate supply of low- and moderate-income housing or an ineffective fair housing ordinance or a combination of both, couldn't the Government contractor be required to develop programs aimed at obtaining public support for such housing?

MR. PALEY. That's right. This has been our position that we would want the Government contractor to take a position, as I said, with respect to either a public or private agency whether it be zoning hearings or what, to deal with the problem of equitable housing in that area.

MR. POWELL. How does the Office of Federal Contract Compliance know when a Government contractor is going to move to a suburb where such a move would present a problem from a housing standpoint?

MR. PALEY. I have no specific information on a situation where OFCC was forewarned that a Government contractor was moving to an area where housing would be a problem for minorities.

MR. POWELL. Could you establish criteria requiring Federal contractors to make an analysis of such problems and include that as part of the information provided to contracting agencies and to the Office of Federal Contract Compliance?

MR. PALEY. I assume that this could be incorporated into a revised Order No. 4.

MR. POWELL. Well, Mr. Fletcher, do you think that such implementing criteria should be set up in your ongoing programs?

MR. FLETCHER. The direct answer to that is we already have a task force working on what we would call a draft amendment to Order No. 4 that addresses itself to that particular problem.

In reference to a question you asked earlier, I might point out that the way that OFCC, the Labor Department Office, would be put on notice that a company is moving would actually come from the agency level, the agency that has the prime interest where that particular firm is concerned. They would be the first to know and not necessarily our supervisory staff.

Here, again, the new amendment that we're drafting will take care of that so we can be put on notice right along with the agencies and make it a requirement to do so.

MR. POWELL. But the Office of Federal Contract Compliance's role with respect to Government contracting is a coordinative one, is it not?

MR. FLETCHER. It's a coordinative and a supervisory role.

MR. POWELL. And the contracting agencies have the responsibility

in contracting with private contractors to see to it that 11246, the requirements of it, are carried out?

MR. FLETCHER. Absolutely right. But, in fact, I want the record to clearly show that the persons in the OFCC setup, the contracting compliance process, those who have first contact at the real grassroots level, turns out to be the agency compliance officer and not the compliance people at the supervisory level. We are really not in the field as such. It is the agency's compliance officers that are in the field and consequently are where the actual contact would be made.

In other words, to put it clearly, if, let's say, a defense contractor were changing communities, it would be the Defense Department's compliance agent would know that first and, in fact, unless we devised a way—which we will be doing—that will require that he puts us on notice that the company has moved, there's a real chance that information would never get to us. That's the point I'm trying to make.

MR. POWELL. Now, with respect to this task force you mentioned, can we anticipate a change in policy in regard to obtaining information necessary for you to evaluate whether Federal contractors are carrying out their responsibilities with respect to housing problems where they are problems with respect to moving to the suburbs?

MR. FLETCHER. We're making the draft with that particular thought in mind. Our draft will go to the Solicitor's office and be evaluated by them and they'll tell us what they think it is we can do and what it is we can't do, and then we will amend on that basis.

MR. POWELL. Mr. Fletcher, Section 808(d) of the 1968 Civil Rights Act provides that executive agencies must administer their programs relating to housing and urban development to affirmatively further fair housing.

Has the Office of Federal Contract Compliance been given any instructions from the Department of Labor with regard to its obligations under this section?

MR. FLETCHER. Our responsibilities stop short of agency type compliance. In short, I think it's the Civil Service Commission that would have that responsibility. That part of Executive Order 11246 as well as the civil rights responsibility under the Civil Rights Act does not include the Office of Federal Contract Compliance, where the move of a Federal Agency is concerned. That's my understanding.

MR. POWELL. Now, you administer programs relating to employment—

MR. FLETCHER. On the part of Federal contractors.

MR. POWELL. Mr. Fletcher, under last week's agreement between the Department of Housing and Urban Development and the General Services Administration, GSA in consultation with HUD will require that the movement of Federal facilities to suburbia will be accomplished only under circumstances assuring that there either is or will be an adequate supply of low- and moderate-income housing available on a racially nondiscriminatory basis.

Doesn't the Office of Federal Contract Compliance have an obligation to see to it that Government contractors moving to suburbia be

required to take similar steps?

MR. FLETCHER. I would certainly think so. I can't see how the Office of Federal Contract Compliance can require more of private contractors than—or less, rather—than we are requiring of Government Agencies, and I think it would also be fair to say that the guidelines that we'll be working out will certainly parallel the—will be at least identical to those that are being worked out between GSA and HUD to deal with Federal Agencies.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you very much. Dr. Ruiz, would you like to start out today?

COMMISSIONER RUIZ. Yes. I was a little bit concerned about your initial statement wherein you said that you were limited to problems dealing with employment utilization of minorities. My questions are now going even to that particular thing that you stated you were limited to.

I am very much concerned with the fact that McDonald Douglas both in California and in Missouri, as well as General Dynamics Corporation in Pomona say: "Our affirmative action plans and programs are secret."

Now, I have found that the people most interested in seeing that an acceptable affirmative action plan and program exists have for practical purposes had no access to it. Is there some regulation that prohibits concerned employees within the actual plant, in order to enable them to be placed upon a bargaining basis of some kind, from receiving the affirmative action program and its analysis and what is being done and how it's projected into the future?

MR. FLETCHER. I yield to Mr. Paley.

MR. PALEY. Our position has always been that it's a voluntary matter for the employer to make his affirmative action program available. As far as the Office of Federal Contract Compliance is concerned, we have taken the position with Government contractors that the programs filed with us are confidential but if the contractor chooses to make them available certainly he has every right to do so.

COMMISSIONER RUIZ. Now, why have you taken the position that it's confidential? I find nothing in the law, sir, which prohibits a contractor from disseminating information relative to his contractor's compliance status. I have examined Chapter 60 of the affirmative action programs and more specifically Subsection 221 entitled "Dissemination of Policy", and I find no prohibition against giving full information.

Now, why has your Department said this is confidential? How can employees bargain in good faith if they don't have the information, if they have to get in touch with a local agency who says: "I have this information. I have shot it to Washington," and then they can't get it from him because Washington hasn't answered the local agency.

MR. PALEY. We have never taken the position that this information is not available, but, as I have said, when the information comes to the Office of Federal Contract Compliance our position is that this information is confidential. If the contractor chooses to make the program

available to his employees there's certainly nothing that would prohibit it.

COMMISSIONER RUIZ. What is the confidential part of it if the regulations say the following, for example, "required utilization analysis and goals. In determining whether minorities are being underutilized in any job category all of the following factors must be taken into consideration:"—the question of forewarning was brought up a little while ago—“(1) The minority population of the labor area surrounding the facility.” Is that a confidential privileged matter?

MR. PALEY. No.

COMMISSIONER RUIZ. “(2) The size of the minority employment force in the labor area surrounding the facility.” Is that a matter of privileged confidence or a matter of statistics?

MR. PALEY. I think you're really misunderstanding my response. We've never taken the position that—

COMMISSIONER RUIZ. You said that it's confidential?

MR. PALEY. No. I said that the information in the hands—the program in the hands of OFCC is confidential as a Government Agency. We've never taken the position that the program in the hands of the employer is necessarily confidential. There is a distinction.

COMMISSIONER RUIZ. What happens if the employer does not give the information to the employee?

MR. PALEY. What happens?

COMMISSIONER RUIZ. Yes.

MR. PALEY. Nothing.

COMMISSIONER RUIZ. How can the employee get that information?

MR. PALEY. As I said, it's the decision of the contractor whether or not he's going to make the program available to his employees.

COMMISSIONER RUIZ. Now, this affirmative action that we're talking about and for purposes of getting compliance therewith requires that your office cooperate with the employee and this is a very negative reaction that I'm getting at the present time. Employees want to find out the availability of promotable minority employees within the contractor's organization. The contractor says: "I won't give you this information." Your office says: "We won't give you this information."

Is that affirmative action?

MR. PALEY. Our program, of course, is designed to best accomplish the purposes of the Executive order, and it's been the policy of the Office of Federal Contract Compliance that the best way that we can work with contractors in establishing acceptable affirmative action programs is by keeping a pledge of confidentiality.

COMMISSIONER RUIZ. But the law requires you, sir, and the law requires the employer and contractor, sir, with a great number of matters that are specifics here, and you say that confidence is required in order for them to comply with this to get their cooperation where the law says they must do it?

MR. PALEY. No. I said that information coming into the hands of the Office of Federal Contract Compliance is confidential. Not only do we work in establishing acceptable affirmative action programs but, as

you're well aware, we also investigate and bring administrative proceedings against contractors who are not complying.

COMMISSIONER RUIZ. How many have you brought, let us say, in southern California within the last year?

MR. PALEY. In southern California, I'm afraid I don't have any information on that.

COMMISSIONER RUIZ. You haven't brought any, have you?

MR. PALEY. I don't know.

COMMISSIONER RUIZ. How would you straighten this out with respect to getting cooperation and giving you information from employees within particular plants concerned with their well-being and with their welfare? What would you like to do? Or do you want to still keep it confidential in order to get the employers' cooperation?

MR. PALEY. It's not just a question of getting the employers' cooperation. When we go out and investigate a particular Government contractor, the information that we obtain could possibly be used against that contractor either in an administrative proceeding or a court action. So we feel it's essential from the point of view of investigating and doing an adequate job of investigating Government contractors that this information remain confidential.

COMMISSIONER RUIZ. Are you acquainted with the General Dynamics problem in Pomona, California?

MR. PALEY. No, I'm not.

COMMISSIONER RUIZ. May I contact you directly with respect to that to get your cooperation?

MR. PALEY. Yes, you may.

COMMISSIONER RUIZ. Because we have not been able to utilize your Department to affirmatively cooperate.

MR. PALEY. I'd be very happy to talk to you about that.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN HESBURGH. Mr. Paley, if I might interject just for a second, your capacity is that of Counsel, isn't that correct?

MR. PALEY. That's correct.

CHAIRMAN HESBURGH. In other words, you don't establish the policy. Who does establish the policy of the confidentiality?

MR. PALEY. Well, basically, it's a departmental policy.

CHAIRMAN HESBURGH. Who establishes the departmental policy?

MR. PALEY. Well, in this situation it's a policy really established by the Office of Federal Contract Compliance under the general departmental regulations having to do with the availability of information coming within the Department. There is nothing that unusual about this regulation.

CHAIRMAN HESBURGH. But who specifically establishes this policy that you're operating under now?

MR. PALEY. At the present time it's the Office of Federal Contract Compliance.

MR. FLETCHER. Under my guidance and direction.

CHAIRMAN HESBURGH. So, really, this is not likely to be changed unless Mr. Fletcher were to change it?

MR. FLETCHER. Right.

CHAIRMAN HESBURGH. I just wanted to get that point down because I think it's important to understand the different roles and the different responsibilities.

VICE CHAIRMAN HORN. Let me follow up on this if I might. Number one, when was this particular policy established that the affirmative action filed with OFCC would remain confidential and could not be released? Was this from the very beginning of OFCC's handling of these plans?

MR. FLETCHER. It was a policy that I inherited when I came into office.

VICE CHAIRMAN HORN. Right. I assumed you had inherited it. I take it it was established on recommendation of the Solicitor of the Department of Labor?

MR. FLETCHER. It was.

VICE CHAIRMAN HORN. Or had OFCC recommended to the Solicitor that this is the way they would like to handle it?

MR. FLETCHER. After some long and detailed discussion, my original desire was to make as much of the affirmative action program, if not the whole document, other than confidential. It turns out that we do in the process of establishing goals and timetables, we do get to see a contractor's confidential payroll. Consequently—in fact, we insist that we have an opportunity to see these things in order to adequately set goals and to know whether based on job descriptions and other things that minorities are not only being promoted but that it's not just a title promotion but actually a promotion in terms of increased responsibility and pay.

We've had company after company say to us that: "If we open up our confidential records to you, especially in this contract compliance business, if we open up our confidential pay scales to you, for an example, and it becomes public knowledge, then we've opened the door for other firms who are in our business and who might also be contracting with the Defense Department to raid us of some of our better people." So they've insisted that certain aspects of the affirmative action—certain aspects of the information we're getting is, in fact, confidential.

Now, where you cut the line off and say we can publish this much of it and keep that much out, we haven't made that decision yet.

VICE CHAIRMAN HORN. Well, this is the point I'm leading to because I realize it's established Department of Labor practice, especially to the Bureau of Labor Statistics, that where they have a reporting information program, that data as to a particular firm involved has always remained confidential, and there might be an industry summation.

But I'm wondering, in this area, I don't think we're really asking that you reveal your investigative reports or that you reveal the confidential payroll aspects in specifics. I think what Commissioner Ruiz and the rest of the Commission is concerned about is the matter of getting as much data about the goals and desires of the company on the public record where it can be subjected to employee scrutiny and press scrutiny and perhaps this Commission's scrutiny and other Federal Agen-

cies involved on the whole basis of the right to know. That means you can come to an intelligent decision.

Is there any thought, Mr. Fletcher, that there might be a way to work this out where, say, as you do in the Pentagon when you send a transcript over to be cleansed, if you will, of sensitive matters—some of it's released and some of it isn't released—is there any possibility of releasing part of the affirmative action plans so people can pass judgment on it?

MR. FLETCHER. I think there's a possibility but no policy decision has been made on that at the present time.

VICE CHAIRMAN HORN. Where would that policy, as Father Heshburgh's question suggests, originate? With your office essentially?

MR. FLETCHER. It would originate with my office and Mr. Wilks, my being the principal who would make the recommendation, and from there, the Solicitor's office reviews what it is we intend to do and then the Under Secretary and then the Secretary and then finally the decision is made. Sometimes I'm sustained and sometimes I'm not.

VICE CHAIRMAN HORN. Let me ask you this. Do you feel this would be a wise policy in the interest of furthering affirmative action to put as much data as possible in the public record?

MR. FLETCHER. Yes, for a number of reasons. One, in the kind of work that we're doing, the kind of monitoring that's required, at the moment we just do not—when I say "we" I'm talking about the whole compliance program now—we just do not have the manpower that is needed to do the day-to-day type monitoring that is required if, in fact, these affirmative action programs are going to work or if the so-called Philadelphia Plan is going to work. It actually needs daily monitoring.

Now, one way to get assistance with the monitoring of it is to be able to make available enough information to those who are in the plants. And in many instances I can appreciate the dilemma because in many instances the first line of relief so to speak as a result of an affirmative action program is going to come to those who are already on the payroll. In terms of being upgraded and any new opportunities that are built into an affirmative action program it will probably go to those already on the payroll, and certainly it would be of benefit to be able to put them on notice as to what's supposed to happen.

But, again, to be candidly frank with you, that policy decision hasn't been made because there's legal problems with it.

VICE CHAIRMAN HORN. All right. Now, let me ask Mr. Paley this question then. What is the present legal basis by which this information is denied? Is this under an exception specified in the Freedom of Information Act?

MR. PALEY. I think most of the situations where we've been involved the exception would be that the matter was one that would be under investigation.

VICE CHAIRMAN HORN. Well, suppose the matter isn't under investigation. Suppose they merely have filed the plan, the contract has been awarded, and no queries have been raised. Could not that plan be released? It's not under investigation.

MR. PALEY. Well, I think you've got a twofold problem there. Besides the legal problem on the Freedom of Information statute, it's still the policy consideration that by and large we have dealt with our contractors on the basis that these plans have been submitted to us on a confidential basis. And I think for us to immediately take a position at this point that the programs were no longer confidential would be to compromise the position that we have taken before.

VICE CHAIRMAN HORN. But I'm still trying to get at your authority under the law. You're basing it on, I take it, on a Freedom of Information Act exception. Is this correct?

MR. PALEY. Well, I think if the issue was raised, depending on the particular circumstances involved, certainly this would have to be one of the considerations.

VICE CHAIRMAN HORN. Is there a Solicitor's opinion on this matter that could be furnished to the Commission to give us the legal basis for this authority that some would say you really don't have, reading the affirmative action sections of various Civil Rights Acts?

MR. PALEY. I don't think there is one. Certainly there hasn't been one since I've been with the Department.

VICE CHAIRMAN HORN. How long have you been with the Department?

MR. PALEY. Just about a year.

VICE CHAIRMAN HORN. So this is again the policy you inherited that was made when, in 1968 or earlier—'65?

MR. PALEY. I would say thereabouts.

VICE CHAIRMAN HORN. Well, let me suggest that our General Counsel pursue this and I would like at this point in the record to have inserted an opinion from the Solicitor of Labor as to the basis upon which they refuse to release the affirmative action plan. It seems to me you've got to peg it either on the Freedom of Information Act or not, and I'd just like to know what your legal basis is. It can't be executive privilege, I assume, going back to 1789.

MR. PALEY. No. I'd say if the question was raised, I would assume it would be related to the Freedom of Information Act.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. I think this has been interesting, this particular section we've been discussing, because the point we run into everywhere is that there are simply not enough people around and enough hours in the day to get compliance. People set up a program, on the basis of that program, affirmative action program, they get a contract and once the contract is awarded everybody forgets about it and goes on to the next one, because there just aren't enough people to look at every single affirmative action program and monitor it.

It would seem to me as an innocent bystander—innocent legally at least—that you would have the best monitoring in the world of every affirmative action program if those affected by it knew what it was and I can't see any reason in the world why that shouldn't happen and happen very soon, and I suspect such a recommendation may come out of this hearing.

Mr. Mitchell?

COMMISSIONER MITCHELL. No questions.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Fletcher, one of the problems that we have encountered is that—well, at least I have the information, maybe mistakenly, that no contract has ever been terminated by reason of the violation of the civil rights provisions by a contractor. Is that correct?

MR. FLETCHER. That's right.

COMMISSIONER FREEMAN. Well, in this situation, is it not also true that contractors, Federal contractors, Government contractors, over the years have been in violation, continue to be in violation, receive no sanctions, and that there probably is little hope that the condition will change unless there is some additional protection given to assure compliance?

MR. FLETCHER. Well, you're partially right. I would like to give my views on that.

I think that it's important to understand that up until the present this is the first time that an effort has been made to shape the affirmative action concept so that it satisfies procurement law. I think the reason why up until this point a contractor has not been suspended or a contract hasn't been suspended or canceled or debarred is because of the voluntary nature of many of the programs.

I think we're moving in the direction of getting both affirmative action programs in the production industry and certainly affirmative action programs in the construction industry so that they do, in fact, satisfy the elements of contract law so we will know what it is the contractor has breached.

What I'm saying is this—and I'll use the so-called Philadelphia Plan for just a moment to try to clarify myself. The Philadelphia Plan not only asks for goals, targets, and timetables, but the Plan itself is a contract covenant. It's a binding part of the contract. Therefore, when we go in to do a compliance review on a contractor who's covered by the Philadelphia Plan, we know exactly what he has committed himself to do as a contractor. For an example, if he has agreed that a certain number of the manhours of work to be done by plumbing contractor 9 to 12 percent of those man-hours of work will be shared with minority workers, then we go in and look at the payroll time, the amount of man-hours expended, the number of those man-hours expended by minority groups, and at that particular point we know whether that contractor is or is not in compliance.

Now, as a result of doing it this way, we have moved about as close to getting a sanction under the debarment suspension cancellation concept as we've come. We expect to have a contractor debarred under the Philadelphia Plan in the Philadelphia area. I think it's Edgely Air Products. This is a contractor who signed as a part of a binding part of his contract to see to it that a certain amount of man-hours were worked by minorities. They weren't, and the issue was whether he made a good faith effort to do that. The records show that he did not make a good faith effort to see that those amount of man-hours were

shared, and so for the first time we're really in a position to say here is what fair employment would have amounted to and here is what he didn't do and this is what he breached.

Now, until the compliance program gets into that kind of posture all the way you're going to have a tough time cancelling a contract.

COMMISSIONER FREEMAN. But, Mr. Fletcher, the Executive order includes another provision; that is, a prohibition against racial discrimination.

MR. FLETCHER. Yes.

COMMISSIONER FREEMAN. Let's go to the construction trade. If a building is constructed, not one brick is laid by either a black person or Mexican American or any minority, no plumbing is done by any person, no iron work—not a single black person has participated in the construction of that building, then what do you have to find or know to find out whether there has been racial discrimination on the part of that contractor?

MR. FLETCHER. The lawyers tell me that there has to be a binding commitment in the contract, not just a vague commitment to be a fair employment practice employer, but a binding commitment in the contract that a certain number of man-hours are going to be worked by a given minority, and if that is there then you've got evidence to do the cancelling. If it isn't there, you've got a big argument as to what he was committed to do to begin with.

COMMISSIONER FREEMAN. As a lawyer, let me tell you that the contracts have been in existence and that provision against racial discrimination has been in governmental contracts for more than 15 or 20 years, and the provision also that the contract can be terminated by reason of the violation has been there. So I'd like to know if the lawyers for the Labor Department have considered this provision.

MR. FLETCHER. The lawyers for the Labor Department have told me to work out the standards and put them in the contract as a measuring device for what compliance is, and then monitor those standards to see to it that they're being satisfied. If they're not, we have the grounds for actually going on and cancelling, suspending, or debarring a contractor. If we don't have those standards so that we can demonstrate that something has been breached, then we've got a problem.

COMMISSIONER FREEMAN. Would you have information as to what the lawyers would tell you if the contractor had failed to provide any curtains for any of the windows and the specifications included it?

MR. FLETCHER. Ask the question again?

COMMISSIONER FREEMAN. Would they consider that as grounds for a breach?

MR. FLETCHER. Ask the question again, please?

COMMISSIONER FREEMAN. If the specifications required that the curtains which we see around had to be provided by the contractor and the contractor failed to provide those curtains, do you know whether the lawyers would include that as a violation and subject for breach?

MR. FLETCHER. I would assume that if it were a binding part of the contract they'd say so.

COMMISSIONER FREEMAN. Are you suggesting that the civil rights provisions are in some question as to whether they are binding, that there's a different balance given to the civil rights provision than to the bricks and mortar?

MR. FLETCHER. No. Let me point to another area that I'm responsible for and that happens to be safety standards. Now, here again, we work out the standards for what amounts to safety in a workplace and when we go in to do a safety compliance we're measuring the degree of safety based on those safety standards. If they're being complied with, then that's a safe firm to work in. If they're not being complied with, then it's not a safe firm to work in.

What I'm trying to do with the compliance program as far as the contract compliance program for minorities is concerned, is to put it in identically the same posture as we do with the minimum wage compliance which is another area that I have, and where safety compliance is concerned which is another area I have. I'm trying to pull them up so that there's no excuse or no gap between the two. We work from standards for one area and I'm trying to establish the standards so that we can cover the contract compliance area the same way.

COMMISSIONER FREEMAN. So we still are far from standards that your office considers acceptable or specific enough to cause a termination?

MR. FLETCHER. In all fairness, I think my office or I feel that my office has backed me to the extent that they have allowed that we put or recommended, gone along with the idea that we put the numerical goals and the timetables in the contract, and we've had some court tests on it, certainly at the district level in Philadelphia and the appellate level and we've been sustained. And we feel that we've opened new ground and we will move as fast as we can but certainly cautiously enough to avoid getting any adverse decisions against us, so that we will have established the concept so that it can be really implemented. We're moving deliberately cautiously.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Dr. Horn?

VICE CHAIRMAN HORN. In other words, as I gather your testimony, you're trying to get away from the rhetoric of mere phraseology that we have passed in numerous acts of Congress and Executive orders, and you're trying to get down to specifics so that the results can be monitored and really have a basis for action.

MR. FLETCHER. Yes.

VICE CHAIRMAN HORN. Let me just say, Mr. Chairman, I'd like to commend Mr. Fletcher on the efforts he's made. I think I first met you back in around 1964 when you had an early commitment to doing something in this field in Oakland, California, and later went to the State of Washington where he ran for Lieutenant Governor, and I know that your heart's in the right place and you're trying to get some action in this sort of maze of legality and rhetoric which you confront yourself with.

MR. FLETCHER. Thank you.

CHAIRMAN HESBURGH. Mr. Ruiz?

COMMISSIONER RUIZ. Mr. Chairman, may I ask one or two more questions on this?

CHAIRMAN HESBURGH. We have a short time and we have some more questions from our Staff Director, but go ahead, Mr. Ruiz.

COMMISSIONER RUIZ. I was interested in the statement to the effect that the reason this matter was not available was because it was of a voluntary nature and that there has to be an agreement even with respect to objectives and goals and other things with relation to the affirmative action plans and its exposition. Now, did your attorneys not tell you that the law is a binding part of the contract and is read into the contract irrespective of whether reference is voluntarily made to the law or not?

MR. FLETCHER. I'm not quite sure I understand your question, sir.

COMMISSIONER RUIZ. I have before me the rules and regulations which are in great detail, in much more detail than usually rules and regulations are written, on affirmative action, which rules and regulations even are so detailed that they constitute standards. That's how detailed they are.

MR. FLETCHER. Yes.

COMMISSIONER RUIZ. As to what exists, what will be done, how it's computed, how it's utilized and everything.

Now, under the law, have your attorneys informed you that these rules and regulations are made a part of every contract without any reference in the contract to the rules and regulations?

MR. FLETCHER. The direct answer to the question as to whether they have informed me or not, the answer is no, they have not.

COMMISSIONER RUIZ. Will you ask them that question?

MR. FLETCHER. I certainly will.

COMMISSIONER RUIZ. Thank you.

MR. FLETCHER. I'd like to point up one more question with reference to this confidentiality problem. We do attempt with a degree of success to coordinate our efforts with EEOC and it is my understanding that some of the information that they have as it relates to their orders, it's confidential. There's information that we ask of them and they say right away that if you want to make this public then we've got problems with letting you have it.

Here again is one of the things that's stood in the way of coming down with a hard, fast decision on where confidentiality begins and where it ends.

COMMISSIONER RUIZ. Well, I wasn't speaking with respect to that Agency that has no enforcement policy.

MR. FLETCHER. I know, but we use their information in many instances to help us document affirmative action programs. We use some of the facts and information that they have.

COMMISSIONER RUIZ. I am only speaking with respect to information given to you, sir, by contractors that are receiving Federal monies.

MR. FLETCHER. All right. Point made and understood.

CHAIRMAN HESBURGH. I only have one question, Mr. Fletcher. We

keep hearing about the Philadelphia Plan and some people view it with some skepticism. Has there been any computation of how many jobs have been made available to minorities under that Philadelphia Plan?

MR. FLETCHER. The last report we had indicated that minorities were getting at 12.2 percent of the man-hours worked. Our investigation showed that at the time we imposed the Plan in the five unions involved—or the five crafts involved—minorities were getting 2 percent of the man-hours worked. They're now getting 12.2 percent. That can be broken down into about 75 journeymen, full-fledged journeymen, and 35 trainees who are actually working at the job site.

The point I should make also in reference to that question is the first line of relief with the Philadelphia Plan turns out to be those minorities who were already in the construction industry and who could have been upgraded. For an example, many of the crafts, once they understood that the courts were sustaining what we had imposed, began then to look into the laborers' union, not outside on the sidewalk and bring new people in, but looked into the laborers' union where there have been helpers all along and persons who have been helping long enough to actually know how to do it; and they have brought those persons in under in most instances a work permit.

In addition to that, there have been minorities in the Philadelphia area who've worked in maritime electricity and maritime plumbing but who were never given an opportunity to work in the commercial industry. Now, the difference in pay between a maritime plumber and a commercial plumber for an example is quite considerable. So here again, the Plan, rather than bringing new people into the industry, it gave those already in the industry an opportunity to be upgraded.

Now, the real benefits in terms of bringing more into the industry will begin to come in the second and third year. By that time they will have already used up, we're hoping, those who are qualified or partially qualified and thus would be upgraded from within. We expect the third and fourth year of the plan to be those 2 years that will really begin to bring new people into the industry.

CHAIRMAN HESBURGH. How many localities have the Philadelphia Plan now? How many different localities have the Philadelphia Plan now or ones similar under different names?

MR. FLETCHER. We have imposed plans in Philadelphia, in Washington, in San Francisco. We will be imposing plans in two other cities within the next—one this week and the following week I believe.

CHAIRMAN HESBURGH. Chicago has its own plan, I understand.

MR. FLETCHER. Chicago had a so-called hometown solution that fell short of being a solution.

CHAIRMAN HESBURGH. Is it in your plan that this will be spread over the whole country eventually?

MR. FLETCHER. Well, yes. If I had my way, sir,—and I'm trying to have it—we would be imposing plans much more extensively, especially since the appellate court decision. My reason for this is as follows: I think it's awful hard to get those who are covered by the Executive order to voluntarily comply with a law they don't think can be

enforced. Now, voluntary compliance is great when you've already demonstrated that you can enforce the law. But when there's no indication—as one of your panelists has already asked: "Have you ever cancelled a contract?" Well, the answer was no. Then it's pretty hard to convince a universe out there that you can enforce it.

If you can't enforce it, then the quality of voluntarism leaves much to be desired. So I'm interested in imposing plans because it gives us a chance to go to court and establish enough case law to demonstrate a number of things, including convince the universe that we can make the law work.

CHAIRMAN HESBURGH. What would keep you from imposing the plan universally tomorrow morning?

MR. FLETCHER. A number of things, manpower—we don't have enough staff aboard to do the kind of factfinding, factgathering information to be able to impose them right across the country.

First, there's a difference of opinion as to whether we need to hold a hearing or not. There are those who say we can just go in and take the statistical data as we find it, mold a plan out of that, and take our chances that the court will sustain us. However, the decisions that I've read on the Philadelphia Plan and a couple of others that we've had imposed came about as a result of a hearing and a factgathering session, and the hearing record became a part of the court record, and it seemed that the court leaned very heavy on that record in making its decision in sustaining what we've done.

I don't want any adverse decisions on the book right now while we're trying to establish this. So, consequently, from a policy point of view, I'm committed to holding a hearing in the various communities where we want to impose a plan. Now, that holding the hearing and then gathering the facts out of the hearing and finally putting the plan together and getting it imposed takes about 30 to 35 to possibly 45 days. We don't have the legal staff. We don't have the technical staff at this point in time to do that.

CHAIRMAN HESBURGH. Thank you very much. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Fletcher, one of the matters that we're anxious to explore with you is the extent to which the enormous leverage of the Government contracting program can be used to make more low- and moderate-income housing available in the suburbs.

There seems to be a certain amount of confusion in the record at the moment as to whether or not a contracting agency could impose a housing requirement on a Government contractor. Could the Department of Defense, for example, tell a Government contractor that you will not be eligible for a contract unless there is adequate low- and moderate-income housing to house your employees? Could that be done?

MR. FLETCHER. My understanding of the Executive Order 11246 is that we cannot do that. That's my understanding.

MR. GLICKSTEIN. Mr. Paley, you seem to have disagreed with that.

MR. PALEY. No.

MR. FLETCHER. Let me stay with this now. That's my understanding of Executive Order 11246. However, then we turn around with

Order No. 4, which is an affirmative action document, and we say that the contractor as a part of his affirmative action must address himself to anything that stands in the way to his coming into compliance and if housing happens to be one of those things, then the contractor must address himself to some kind of remedy.

Now, I think what my problem is that in spite of the fact that Order No. 4 is a fine document, it goes a long ways from where we were when we came in, I personally do not feel that Order No. 4 as it is now drafted is actually a binding covenant in that contract.

So, consequently, I think that a contractor could tell us to go fly, if I may be so blunt, and we'd have a hard time pinning him down in court and making him do it. That's my position.

MR. PALEY. I think I ought to clarify what you thought my decision was. We always start from the premise that we look at a situation as an employment problem. A contractor in determining whether or not he's underutilizing minorities makes certain decisions by relating it to a particular problem. Now, an answer to the problem or part of the problem may be housing, and this is the kind of consideration the contractor is supposed to develop. Yet, at the same time, if there are alternatives available—for example, transportation, this kind of thing—so that if a contractor in looking at his minority complement determines that there's no underutilization obviously he's in noncompliance with the Executive order.

MR. GLICKSTEIN. Well, the President the other day explained in rather great detail the importance to this Nation of making low- and moderate-income housing available outside the centers of minority concentration. Do you think that Executive Order 11246 could be amended, for example, to require that for a potential Government contractor to obtain a contract he would have to make provision for adequate low- and moderate-income housing?

MR. PALEY. Well, I don't know if Executive Order 11246 really would have to be amended to reach that requirement. It's already, to a certain extent, built into our Order No. 4 as it relates to affirmative action programs. Certainly we've recognized it as a problem. Our situation, of course, dealing primarily with employment, has to be that it may not be the only problem. It's part of the whole picture.

MR. GLICKSTEIN. Yesterday Mr. Romney announced a system of assigning priorities and preferences in providing housing assistance. Would it be desirable, Mr. Fletcher, to provide that Government contractors or companies that are located in areas where there is adequate low- and moderate-income housing shall receive a preference in terms of obtaining Government contracts? Would you be in favor of such a policy, Mr. Fletcher?

MR. FLETCHER. I'd have no problem with that at all. Yes, I would personally consider that as a part of his capability to perform, if you will.

MR. GLICKSTEIN. Well, would you be in favor of making that policy much more explicit, that all Government contracting agencies will be directed to consider the availability of low- and moderate-income hous-

ing in the area of a particular company and give preferences to those companies that are located in areas where there is low- and moderate-income housing available?

MR. FLETCHER. I would have no problem making that directive. I still have doubts as to whether it would stand up, but I have no problem with making that directive.

MR. GLICKSTEIN. Why do you have doubts whether that would stand up?

MR. FLETCHER. I'm still finding the lawyers inside Government have all kind of split opinions as to how far we can go with this Executive order. It's that simple.

MR. GLICKSTEIN. You must have different lawyers than we do. The Supreme Court once said that: "Like private individuals and businesses, the Government enjoys the unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases." As far as I know, that decision hasn't been overruled and it's one of the bases on which Order No. 11246 is based.

MR. FLETCHER. Well, I answered your question the way that I personally feel about it. I also answered it cautiously because I've found that if you get 10 lawyers together you can get 10 different opinions as to what you can and can't do, and that's especially the case with the contract compliance and what we're trying to do with affirmative action. Ask 10 different lawyers what you can and can't demand and you'll get 10 different opinions. So, again, I have no problem with putting that out as a directive, but I readily recognize that the chief Counsels at different agencies that are controlled by that directive are going to run to the law books and find out whether they have to do it or not.

VICE CHAIRMAN HORN. Mr. Chairman, if I might make a suggestion, perhaps we should have an intragovernmental internship program where we send you 10 of our lawyers and you send us 10 of yours, and maybe a year of each would be helpful.

CHAIRMAN HESBURGH. I was going to suggest another nonlegal opinion from a nonlawyer, since we're surrounded by lawyers here, and that is that there are two kinds of lawyers: those that tell you how you can do what you want to do without going to jail and those that are always telling you what you can't do. I like the first kind.

MR. GLICKSTEIN. Well, what I'm hoping, Mr. Fletcher, is that particularly in view of the President's statement on housing the other day where he pointed out the extent of polarization that exists in this country and the need to scatter low- and moderate-income housing about, that you would reevaluate the way in which the Government contracting program can be altered to carry out the President's message.

MR. FLETCHER. I'll be happy to.

CHAIRMAN HESBURGH. Mr. Fletcher, we appreciate your coming and, of course, you, too, Mr. Paley. Thank you very much for your participation.

Our next two witnesses are both mayors, to address the problem of the central city in relation to suburban growth, Mayor Carl B. Stokes

of Cleveland, Ohio, and Mayor Norman Mineta, who is Mayor-elect of San Jose, California.

Mayor Stokes has been delayed, I'm told, at the Conference of Mayors, and will be here subsequently, so we will go ahead with Mayor-elect Mineta.

(Whereupon, Mr. Norman Mineta was sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. NORMAN MINETA, MAYOR-ELECT, SAN JOSE, CALIFORNIA

CHAIRMAN HESBURGH. I know you have a statement, Mayor-elect Mineta, and in the interest of brevity, because we are trying to stay on time—we have a Cabinet member arriving later on—we would prefer that you summarize your statement if you would be so good to do that. That will give time for questioning.

MR. MINETA. Fine, Mr. Chairman.

The statement as submitted to you—I'd like to actually start on page 2 of the testimony relative to the Valtierra case because I think this is a very vital part—

CHAIRMAN HESBURGH. I should also add your whole statement will go in the record as is.

MR. MINETA. Fine.

(This statement appears as Exhibit No. 23.)

CHAIRMAN HESBURGH. Would you also identify the gentleman with you?

MR. MINETA. The gentleman with me is Mr. Richard Eckfield who is the mayor's Washington representative for the city of San Jose.

Mr. Chairman, I am sure the Commission is aware that the Valtierra case, involving the right of a referendum vote on public housing, is a case which grows out of the unsuccessful referendum on public housing held in San Jose in June of 1968.

For the record I should state that at that time the majority members of the city council were in favor of constructing public housing, and I am sure that they still are. But the disappointing ruling of the high court has perpetuated the difficulties we face as we try to alleviate our low-rent housing problem.

Let me just take a few minutes to set the stage so that you can better understand the problems we face in San Jose.

We have a definite need for low-rent housing in San Jose. Our most recent study showed our unmet need for low-income families and elderly persons in 1969 to be 14,500 units. Our total low-rent housing requirement at that time was some 28,000 units, but some of this would be accommodated by the private housing market. The 14,500 figure, therefore, was the need which at that time could not be met through the private supply.

The housing programs which we can obtain without referendum do not reach the needs of the low-income market.

The 1969 Kaiser study showed, for example, that 9.4 percent of our population earned less than \$3,000 per annum income; 9.9 percent

earned between \$3,000 and \$5,000 a year; and there were 21.2 percent in the \$5,000 to \$8,000 per year bracket.

In San Jose the basic rent on a 236 three-bedroom unit for a family of four or more rents for between \$135 to \$140 per month. Now, based on the 25 percent of income kind of formula, this would mean a person would have to have an income of \$6,720 per year to participate in this program. Rent supplement payments reduce the effective income for participation in some cases. But the combination of 236 and rent supplements is not a practical way to address the problem. We, in fact, need low-rent public housing.

In San Jose there is a very definite correlation between being poor and being a member of a minority group. In our area we have not only black Americans but we have a substantial Mexican American population as well. Of the approximately 14,500 persons whom the Kaiser report identified as having an unmet low-rent housing need, our city staff estimates upwards of 85 percent of that number are members of minority groups.

In 1968 we tried to obtain a referendum for public housing from the citizens of our community and failed. The Valtierra case resulted from that election. The Commission should know that prior to that election we tried to stress the positive side of low-rent housing. We campaigned on the basis of a dispersal or scattered site program to assure the community that we would not concentrate in one area the 1,000 units of housing for which we were seeking voter approval.

We also talked about quality construction and esthetics. Examples of nice looking garden-type low-rent apartment projects were published in the newspapers in our effort to arrest any fears the citizens might have that the city council might be contemplating construction of some of the institutional type looking public housing that had been built in other parts of the country.

Hindsight being what it is, I am sure that there is always room to say we could have sold harder, or spent more money on a more sophisticated public information program. But the point is we did have our 250-citizen member Better Housing Committee campaigning in the neighborhoods. Approximately \$10,000 was raised locally and spent for publicity, primarily through the newspaper, radio, and television media. A citywide forum was conducted under the citizen committee's sponsorship, and the mayor and the majority of the city council campaigned actively for its approval. Even at that we still lost the election. The voters would not permit us to construct the 1,000 units of housing.

As a mayor, I believe we in the city, working with our city and county housing authorities, have a responsibility to try and promote the development of adequate housing for all citizens within our economy, including the low-incomed.

But the fact remains that this income group has been singled out by the State of California and the Supreme Court, by requiring the city to take special and unusual action before we in the city can see to this housing need.

I am not a lawyer, but to my mind this constitutes discrimination,

not only against the poor, which is bad enough; but due to the correlation between being poor and being of a racial minority, it constitutes discrimination against our racial minority citizens as well. The fact that our city is largely suburban creates a situation whereby the total community can deny to a smaller portion of that community the low-rent housing it needs.

Another problem the special referendum treatment for low-rent housing causes is a financial one. I will not burden this Commission with the problems we face as we try to finance our basic municipal services. However, in the regular election in the State primary, if we were to proceed with an election, it would cost the city itself between \$52,000 and \$67,000. This means, because of our own municipal financial problems, that it will either have to incur such an expense, or postpone even beginning to try to alleviate our low-rent housing problem through construction for another year. Further, as this Commission well knows, no municipal endeavor ever received voter approval without some form of public information program being carried out. Such an effort could run the costs far beyond the cost estimates of the special election itself.

As mayor-elect, I am not at all sure that we are at this time in a position financially to be able to carry out such an obligation to have such a special election. Because of this, we face the grim prospect of being forced to ignore even the basic issue of trying to obtain the voters' consent necessary to enable us to begin to face our low-rent housing responsibilities for a minimum of another year. This, gentlemen, seems to me to be un-American.

In San Jose, since we are talking about solving our own existing low-rent housing problems in our own city, we do not represent a case where, at least as far as the city is concerned, we are proposing to export our low-income citizens to another jurisdiction. Therefore, the question of who pays for the municipal services that these citizens must use, due to the nontaxable nature of their housing that they do not pay for, is not germane. I am sure that some tax relief in terms of a greater tax contribution by the HUD low-rent programs would constitute a selling point for low-rent housing in our community; but in the final analysis, we in San Jose cannot hide behind that issue since the people we hope to house are already living in San Jose. Their present housing is simply substandard, and we want to do something about it.

Maybe HUD should advance us the money required to hold the special election and to mount the necessary public information campaign and then consider this expenditure as an eligible project cost. If the referendum failed, the funds so advanced would be considered as a grant.

Gentlemen, members of the Commission, I really do not know what the answers are, but I can tell you in our city we are going to need both assistance and guidance to meet the burdens placed upon us as we try to meet our low-rent housing responsibilities, or else these burdens which have been legislatively placed upon this single program in California will have to be lifted.

CHAIRMAN HESBURGH. Thank you, Mayor-elect Mineta.

Before we get into questioning, I would like to ask Mayor Carl Stokes, whom I saw coming in, if he would step up and be sworn and make his statement.

Mayor Stokes, it's good to have you with us again. We recall your testifying before this Commission in 1966.

(Whereupon, Mayor Carl B. Stokes was sworn by the Chairman and testified as follows:)

TESTIMONY OF MAYOR CARL B. STOKES, CLEVELAND, OHIO

CHAIRMAN HESBURGH. Mayor Stokes, we have a little time problem because we have a Cabinet member coming, and we would appreciate it very much if you could summarize your statement. You can give the whole statement to the record, but if you could summarize it would be helpful to us.

MAYOR STOKES. Father Hesburgh and members of the Commission, I respectfully request that the statement which I have submitted, along with an accompanying document called "The City", which is published by the National Urban Coalition, be received for the record as though I had personally presented it.

CHAIRMAN HESBURGH. So recorded, and it will be part of the record, and our attorney will pick it up right now, if you would.

(Whereupon, the statement referred to was marked Exhibit No. 24 and the document, "The City" was marked Exhibit No. 25 and received in evidence.)

CHAIRMAN HESBURGH. Would you also identify the gentleman with you, Mayor Stokes?

MAYOR STOKES. Larry Snowwhite from the National League of Cities and Conference of Mayors.

If it please the Chair and the Commission, permit me to go outside the statement which is presently before the Commission to make some additions in this respect. I assume that the Cabinet member which the Commission is anticipating hearing from is the honorable and distinguished Secretary of HUD, George Romney.

CHAIRMAN HESBURGH. That is correct.

MAYOR STOKES. I think he is a distinguished man and I believe a committed American. I do feel I ought to say some things in anticipation of his visit.

If there is a pervasive and pernicious evil in American society other than white racism, it is economic or class prejudice and hostility. It is at the least sophomoric, if not in some sense to try to suggest that something is different in this country, to separate economic prejudices, class hostilities, from the racism that afflicts our society. I do not speak theoretically. I speak, I believe, with the support of both the National League of Cities and the Conference of Mayors on the experiences of those of us who have to preside over approximately 70 percent of the people in the United States.

Mr. Chairman, I would say to you that we have been afflicted with the ravages of racism but also with the ravages of those who dislike

another because he is not able to function at the same economic and social level.

Permit me, in addition to the testimony which I have given on a national basis, to quickly try to make a personal point. I want to make it clear that the white racism of which I reaffirm, and it's been established in the Kerner Commission report and in the Milton Eisenhower Commission on Violence report, that it has an unquestioned debilitating effect on the most important and number one domestic problem of our Nation, to take you next into a discussion of the problems of those who are poor, that happen not to have any black or white complexion to it. And when I say that, the best way for me, a black American, to explain it to you, is that in my city of Cleveland I tried to put low-income housing into the white areas of our city. I met great and fearsome resistance. This Commission was there, some 5 years ago, and established factually some of the great problems of our town.

I would want to say to this Commission that I faced not only resistance but some of the most personal vilification not one degree less, and in some respects much more, when I went to put low-income housing for black families in the middle-income black areas in Cleveland. If you could have been there to listen to the protests by a city councilman by the name of Clarence Thompson and by the name of George White, who has been elevated to the judicial bench, and I mention their names only because when they stood up and made public testimony I assume they want the world to know that they stand for these principles.

As they remarked about why they did not want the low-income housing in this almost totally black neighborhood, here are the reasons, Mr. Chairman, and members of the Commission, by two black councilmen: First, it would overcrowd the schools. Secondly, it would tend to reduce property values. It would overload the existing sewer and other facilities. It would tend to increase crime and juvenile delinquency.

Now, obviously, Mr. Chairman, and members of the Commission, if you close your eyes, those would be the words of any white bigot in any community in the United States. Those weren't white people speaking. Those were two black elected representatives, one of whom has been promoted to the bench, another one who sustained or survived election despite me by some 53 votes.

I would want this country to understand that the fairly well documented white racism is only one part of the problem we have, and as a President of the United States—and I did not come here, Mr. Chairman and members of the Commission, to take a cheap shot at the President of the United States. Frankly, I don't know much difference between the President of the United States' manifest position and that of some 95 percent of most white Americans, so I don't hold the President as expressing something peculiar from or different from what is held by most white Americans.

But I do want to lend the personal experiences which I and other mayors presiding over these problems have that would suggest or not suggest—would establish beyond any refutation, that you cannot separate the pernicious economic discrimination of this Nation from the

pervasive white racist perversions and problems of our country. The two of them together manage, whether it is white or black, to keep the kind of suburban ring around the central cities.

Father, if you would permit me just to read from the speech that was given by a man who is no longer mayor. Voluntarily Arthur Naftalin, who might be considered as the one intellectual of those of us who have been mayors, spoke to us in December in Atlanta, and I think it sums it up, and I want to use it because in his city of Minneapolis—it has only 4 percent black population and too often we tend to try to prove the validity of something on the basis of the number of black people that you have.

So this is what Mr. Naftalin, who is a white mayor, not black like myself, who has a very low black or Puerto Rican population, and no Oriental population to speak of in his city, said, Mr. Chairman, and members of the Commission:

“The central cities can be viewed as having been engaged in a war on several fronts. On one front are the suburbs, forever pillaging the central cities of their leaders and their resources; on another front the State governments, demanding tribute in the form of mandated services but refusing to share the tax booty, even that portion extracted from the city itself; on still another front is the Federal Government, an ogre commanding all the escape routes, a one-time ally whose affections have lapsed, leaving the central cities to meet the rising expectations of their citizens with diminished resources; and on the final front the city’s own residents increasingly restless and rebellious and now demanding to know by what authority the city rules at all.

“It is time, perhaps, that the central cities acknowledge defeat, and that they move to claim the entitlement of any vanquished foe which in their case is to be rescued and rehabilitated by their adversary, the suburbs, the State, the national government, and their own constituents.

“My realities will elaborate this post-war situation. The first of them is simply this: The political and economic power of the central city has precipitously declined and will continue to decline in the future. The 1970 census gives the definitive word. Everywhere central cities have only a minority of the population of the area that they serve. The future belongs to the suburbs. The decline of central city populations and the growth of the suburbs will continue into the seventies, further diminishing the central city’s capacity to cope with its problems in vesting political control evermore firmly in the suburbs.”

I am going to skip over and just end up with what he says.

“That in terms of the number of civic leaders, the suburbs overwhelm the central city. When an areawide matter is under discussion, the cause of the suburbs is defended by an army of city and village mayors and managers, clerks and superintendents, school board members, and highly articulate, affluent, and prestigious citizen leaders, while the central city’s cause rests with the one mayor and his single band of city hall allies, that increasingly the better educated and more influential civic leaders with time, money, knowledge, and mobil-

ity, live in the suburbs and they do not hesitate to use their energies and their talents to support policies that will preserve the advantages enjoyed by their suburban communities. The reality is that increasingly the resources of the urban area are situated in the suburbs, while the problems of the area are located in the central city."

Mr. Chairman, resting on my own confidence about the Commission reading the testimony which we have submitted, just with those additions, I would thank the Chair for giving me this opportunity to appear before you.

CHAIRMAN HESBURGH. Thank you, Mayor Stokes. We have a few questions. Mr. Powell?

MR. POWELL. Mayor Stokes, Mayor Mineta, would either of you care to comment on how access to the suburbs is related to the welfare of the city?

MAYOR STOKES. The access to the suburbs is related to the welfare of the city. Well, when you understand that when your population leaves the city, when the economically viable person leaves the city and that then the businesses, the retail businesses as well as the factories and the other sources of employment follow, and when in fact you have no way for those who are left in the city to get out to where the jobs are, then obviously, just from the standpoint of a man being able to make a living, he has been deprived of his adequate and able opportunity to live close to the place where he would be employed or have an opportunity for employment.

When you compound that with the fact that as the economically viable person and the businesses and industry move to the suburbs, and then the Federal Government assists them in getting into and out of the city by way of highway construction, which highway construction depletes the tax-producing revenues of the city, you compound your problem then by reducing whatever tax-producing real estate that you have in the city.

Finally, I would think that the most important thing is that the suburban living persons, the suburban residents, really are the ones who continue to control the city. When I say control it, I mean that I happen not to know any central city in which the editors of the newspapers live within the central city, and anyone who doesn't understand and appreciate the power of the newspaper is underestimating what the situation is.

The labor leaders live outside of the city. The heads of the chambers of commerce live outside of the city. Yet, these are the real decision-making people who determine whether in fact a tax increase is going to be voted up or rejected. These are the persons who control what the State legislature is or is not going to do in relationship to the central city, and so in this rural suburban-oriented hierarchy that in fact controls the very existence of the central city, this is why our welfare has been decimated and appears so dismal for the future.

MR. POWELL. Mayor Mineta, what is the role of the property tax in opposition to housing for low-income housing?

MR. MINETA. This has been one of the keenest problems involving

most municipalities, and that is that with public housing you do have the tax exempt status of this kind of housing, and if the central city is to continue to assume this kind of a burden involving the lower-income and trying to house those with low-rent type of housing, there has got to be some kind of either full taxation being given to the cities for the incomes that are otherwise lost, or some kind of bonus is going to have to be given to the central cities. Otherwise there will be this continuous flight from the urban areas to the suburbs, and the central cities are going to be left with nothing but the low-income.

The problem here is that, for instance, in San Jose specifically, when you talk about a tax burden in 26 school districts, 14 school districts independent of which are elementary school districts, the kind of burden that is left on those districts to try to provide the school facilities is really a fantastic problem, and yet without this kind of a tax relief, either full taxation being put on that public housing plus a bonus, this kind of trend is going to continue in the future, this kind of flight to the suburbs.

So just from the school viewpoint there is a tremendous burden being placed on the local municipal school districts to provide that kind of service.

MR. POWELL. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. I'll pass, if I may. We have some housing experts here.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mayor Stokes and Mayor Mineta, I would like to ask you both to comment on my questions. You have described conditions in suburbia which indicate of course what we already know, that the suburban communities have been the beneficiaries of the Federal Government—whatever benefits they have had available have gone to suburbia.

Now, you describe conditions in which the editors, the labor leaders, all have the decisionmaking responsibilities. Now, we have a statement which you have referred to in which the Administration has indicated that it will not attempt to impose federally assisted housing upon any community.

Now, let us assume that a particular community is occupied by all of these people who have run from the cities into FHA-insured homes, and they themselves are the ones who vote to exclude the low-income and moderate-income families.

I have an impression that even this has some implications with respect to the denial of equal protection of the laws under the 14th amendment, and I wonder if you would comment on that.

MAYOR STOKES. If I may comment on it, Mrs. Freeman, there is no question in my own mind about what the denial of the equal protection of the laws here happen to be in relationship, particularly to that poor white American. It's so clear about the black American that it's not clear about the white American.

Can I give you just a quick example? You may think it's a joke; it's

not a joke, but how the average white American considers a certain class of poor white Americans. I once was an assistant prosecutor, and one day two of the vice squadsmen came in, and they were quite upset, and I asked them what they were so disturbed about, and they related to me how they had been across the street on 21st and Paine where they had gotten a call about a woman molesting the customers there, and they went there and tried to get the woman to leave and she wouldn't leave, and finally they had to call the wagon. When the wagon came the fellow said: "It took four of us to put her in the wagon," and just out of curiosity I said: "Was she white or colored?" He said, "Neither one; she was a hillbilly."

Now, that man went right on talking because he really had not understood he said anything wrong or odd. He knew she wasn't black, and he was not going to let her be white. He called her something else. And that's what they consider about the Appalachian white in our Nation. This poor white person is relegated to the central city, denied his and her rights under the privileges of this country, just like the black American is, and together with that central city black American of moderate-or low-income, is denied the opportunity of moving out where there is an opportunity to have some space, enjoy some open space, enjoy a better quality school system, to enjoy the opportunities of FHA-guaranteed mortgage and federally insured housing.

He, like the black and brown American, is relegated to that central city where he in effect subsidizes his own existence by trying to pay the exorbitant and ever-increasing property tax on an ever-decreasing valuated property. This is why I try to fight in the sense, Mrs. Freeman and members of the Commission, for this poor white American of whom the President quite astutely recognizes that there are more of than there are black Americans. But in fact if he doesn't move to affirmatively protect the rights of the white American who happens to be poor, destitute, politically powerless, then there is no question in my mind but the extent to which the rights of the black American are going to be protected are going to be proportionately less even than that gentleman or lady, as the case may be.

MR. MINETA. The other point I believe that you make is a fine distinction in terms of the overabundance generally of the Federal aid that does go to the suburbs, and it denies the poor, regardless of whether he be white or nonwhite, access to that kind of service that would otherwise be available.

The other point I think is the fact that in the Valtierra case, involving the referendum measure in California, the court just spoke to the point that this is not one of racial discrimination, but the point is because of the high correlation between low income and the racial question, they really sort of disregarded that.

I think the other point that I'd like to make is that there is a dichotomy really that we face, in that we have statements, having been issued last Friday, and this is a thing I wanted to point out in my statement, and that is we need guidance. We need guidance because there is a Presidential statement that says he will not do certain things by

Executive fiat, and yet the Department of Justice yesterday decided, or at least announced in conjunction with HUD, that they were going to file against the Black Jack, Missouri case.

So again here is this dichotomy of approach, and this leaves the municipalities, I think, in sort of a state of ambivalence as to what do we do from here, if this is the approach that is being applied by the Federal Government.

MAYOR STOKES. Mr. Chairman, I am not at all impressed by the law suit against the Black Jack, Missouri situation. I'm not impressed. I just don't know how much more blatant, how flagrant a situation could be, than the Black Jack, Missouri case. My goodness, if a case such as that in which you literally almost have working drawings on a project, and then a community moves openly, deliberately, to rezone to stop it, well, my goodness, if a Government couldn't move under those kind of circumstances, then in fact there is no chance at all. It is not in this outrageously flagrant violation of people's rights that would assure me about the Administration's policy in this regard. I want the less blatant things. I want the Cleveland, Ohio, situation, for instance, that's in the materials that I have presented to you, where your Council of Government, your COG unit that is now required under the Federal Government, and which I will tell you, tomorrow is going to be—not tomorrow literally but tomorrow in the sense of our governmental behavior—is going to be the unit through which all Federal funds will come. There is not a city or metropolitan unit in the United States in which the regional government unit has given the central city proportionate representation in this powerful planning unit that will determine every Federal dollar that will come into the city, and that will determine the future planning and development of that metropolitan statistical area.

Now, if you take a situation like in Cleveland where out of a seven-county area they have established 52 votes and given the city of Cleveland three votes, representing about 8 percent of the votes, where we constitute 25 percent of the population—25 percent—but only with 8 percent of the vote. And do you know this, Mr. Chairman, Cleveland is the only city in the United States that has filed a lawsuit against its regional government demanding that we either get proportionate representation along the lines of the one-man one-vote rule, or else that we get something approximating it, which might be all right, except that there has been no responsiveness from the Federal Government to this patently discriminatory voting situation of the regional government that determines the welfare of over—well, it's in excess of over 2.5 million people in our area. So we are fighting it alone, although we brought it to the attention of the Government.

Now it means, however, that throughout the United States regional governments have organized to discriminate against the central city in an organization which is going to go on and be the sole determinant of whether or not Federal funds come into the city, and in every place in this country that is similarly situated, the city of Cleveland is the only one that has filed. I'm catching—I wish I could use a colloquialism—but as a black mayor it comes down to where they simply excuse it by

saying: "Well, Stokes is proceeding on this on a sort of reverse racism.

I'm leaving office, Mr. Chairman. I don't have to be here today, I don't even have to be in Philadelphia where we are meeting in the Conference of Mayors, but I am concerned about my city. I am concerned about the white and black Clevelander who is going to be left there, not only without any protection but even without an advocate, because the very City Council of Cleveland is doing everything that it can to literally turn over the resources and assets of our city by capitulating to this powerful suburban Council of Governments.

Now, at the risk of extending my remarks too far, I am not going to do as Mayor Naftalin suggests, literally to throw myself upon the mercy of the very ones who are raping my city. I would anticipate finding little compassion from those who take the violent act in the first place. The only recourse that these embattled surrounded cities have is the Federal Government. In the absence of the Federal Government taking an affirmative, aggressive role, then I say from experience, not from theory, that the result will be a continued deprecation of the lives of the people of the central city and those who are trapped there. I turn to the Federal Government, having exhausted the traditional laudatory but unrealistic thing about local government being closest to the people and thereby able best to answer and respond to its needs. I say to you at the local level it does respond. It also responds at the most base of people's motivations, its prejudices, its hates, and as a consequence we have to turn to the one level of Government since, as Mayor Lindsay has suggested, there is an ever-increasing body of opinion that State governments are irrelevant, and we have no other course to which to turn, other than to our Federal Government. And if our goals are to be carried out as a free society, and as a society in which every man and woman, every family, will have a decent home in a suitable environment, only by the extension of the powers of the central government in the granting or withholding of the dollars that come from all of us in this Nation, and thereby exact the performance by those who would tend to indulge their prejudices and their racism.

CHAIRMAN HESBURGH, Mr. Ruiz, do you have a question?

COMMISSIONER RUIZ. Yes, if I may be permitted.

Mr. Mineta, it is stated in crowded urban areas that the greater number of poor persons are minority persons, and as you stated there is a correlation. I was just wondering, maybe San Jose may not have emphasized this fact of life in preparing the Valtierra Supreme Court case. It is understandable why you as a Japanese American, and I as a Mexican American, would like to get something through without reference to our minority identification. I know that Mexican Americans tried to make themselves invisible for a long period of time and just tried to be American Americans statistically speaking. Undoubtedly such an effort was made in San Jose. In the San Jose case, perhaps there was too much subtlety. A subtle case won't work until we have more Black Jack cases; whereas Mayor Stokes may not be impressed by the Black Jack case, there are many persons who are in need of that precedent. We listened to a great deal of testimony from the contract

compliance people this morning, and they are just sitting and sitting and sitting because they want an open-and-shut case to establish a precedent, but since the Honorable Norman Mineta has said that he would like perhaps some advice on what to do from here on out, it is my respectful suggestion that if I were to reapply for funds, I would not try to hide the true facts and would interject the racial question.

MR. MINETA. Thank you, Mr. Ruiz.

MAYOR STOKES. Could I respond to that?

CHAIRMAN HESBURGH. Sure, go ahead.

MAYOR STOKES. I want to put this in the right perspective, sir. You must understand, at the risk of repetition, I don't believe that there is anything in the world that even an unreasonable person could have done about Black Jack except filed a law suit. That is not the typical case in America. It is the subtleties from that point down that I am talking about and that we have to address ourself to, and if, in fact, our governmental employees need a Black Jack situation in every instance, then, in fact, we have made no greater progress than where we were in 1954 in which it was just not only *de facto* but *de jure* segregation in our schools throughout the United States.

This HUD administration and the Federal Government totally have to recognize the variation, all of the subtleties, the extents to which people will go to sublimate their fundamental prejudices. I will give you a good illustration, if you will. We've got 1,200 acres outside the city of Cleveland where we want to build a new town. As soon as we announced, in a six-page statement, the construction of a new town with some 8,000 housing units, some 5,000 of which would be up for low-income homeownership, all of the surrounding suburbs needed no more. They immediately called a meeting, over 700 people attended, and they came out unquestionably—let me just give you an illustration because I think maybe I don't get over what I'm talking about. Let me give you an idea of what these suburbs said.

There was a little mayor called Graybow who split his community of Warrensville Heights with some black people in it, just split it right down the middle before this came up. And immediately he came out and united all the white people in the village against it. The mayor of Beachwood notified our so-called regional government of his unequivocal opposition. He hadn't even read the six pages. The village of North Randall, through its mayor, urged the regional council to refuse approval of our application for detailed planning grant under the New Communities Act. The Warrensville Heights Board of Education adopted a resolution against the new town on grounds that it would have more children to educate. The village of Orange resolved in a resolution its "unalterable" opposition. The trustees of Warrensville Township urgently requested the regional government to deny our application for a planning grant. Not a one of them said anything about black people moving out there. Not a one of them said anything about poor people moving out there. But that was the unspoken reason, and Black Jack happens not to go to that kind of situation. And it is that Cleveland situation which I say is the day-to-day situation of an

America which learns that it no longer talks about spiks and wops and niggers, but rather talks about density and overcrowding of schools, et-cetera, to achieve the same purpose.

COMMISSIONER RUIZ. Wouldn't you say that our opinions coincided, if I were to adopt the same premise that you have, that the contract compliance interpretation as given to us this morning in the opinion of many people is a totally unreasonable interpretation?

MAYOR STOKES. Yes, sir.

COMMISSIONER RUIZ. Thank you.

VICE CHAIRMAN HORN. Mayor Stokes, let me ask you several questions. I think the Commission would agree with you in your concern for the plight of all poor Americans, be they white, red, black, yellow, or brown. At this point in the record, without really getting an answer from you on this right now because I think we have your interpretation, I would like General Counsel to furnish a statement as to the jurisdiction of this Commission over white Americans of a lower economic level.

Now, Mayor, I notice you were quite eloquent at the beginning of your testimony on the problems of white racism in America. I wonder, since this Commission has a policy where we are against all racism, be it white, red, black, yellow, or brown, do you feel the same way as this Commission and would you also oppose black racism in this country, or is this just a one-way street?

MAYOR STOKES. Well, if you take the definition of racism you couldn't have black racism because racism, as strictly defined, relates to a majority group that has some feelings of superiority, and obviously the black people of America would have to struggle hard to arrive at that psychological or mental attitude.

VICE CHAIRMAN HORN. I think you are aware of certain groups within the black community that have had this feeling, haven't they? This is a matter of historical record, though.

MAYOR STOKES. Well, for instance?

VICE CHAIRMAN HORN. I am thinking of some of the religious groups, how about the Black Panthers, etc? I mean, hasn't there been a black superiority cult, whether you can call it identity-finding or other term sociologists—I am not one—might use. But isn't there also a problem where we ought to be against all racism, whether it be black, white, red, yellow, or brown, rather than simply one sort of racism. That's all I'm trying to get on the record. I didn't think you'd want to leave the record that cloudy so I'm trying to help you.

MAYOR STOKES. Fine. I appreciate that.

I think that the term "black racism" has been loosely used, but I think what you are really trying to arrive at is whether or not, for whatever reason it is, if black people in response to white racism develop a hatred of their own, a feeling of vindictiveness and a wish to harm them as they have been harmed by the white person, do I agree with that? No, I don't agree with it. In fact, it is an absolutely unviable, untenable position for us to take, and if you had been in Philadelphia on Sunday when I spoke at the Bright Hope Baptist Church, I warned the black

American: "Don't fall into this hate trap, because if there is one thing that the white man knows how to do in America, it is how to deal with you when you turn to violence if you are a minority group." And I compared the potential of the white America with that of Germany when it moved to exterminate Jews. There is no question in my mind, sir, about the potential of white America being willing to visit extermination upon the black American when he turns to picking up the brick and the fire bomb and the pistol and the rifle, and that's why I urge my people: "Don't take that course of action."

VICE CHAIRMAN HORN. In other words, Mayor, you would agree with this Commission that one should make their decisions in this country without regard to the color of one's skin, essentially in terms of the negative aspects of that.

MAYOR STOKES. I think that's elemental. I think that's axiomatic, yes.

VICE CHAIRMAN HORN. Let me ask you: I am very interested in the role of mayors in this country. We have heard a lot about what local government ought to be doing; we hear a lot about what State and Federal Government ought to be doing. And to lead into this, I wonder what is the proportion of the Cleveland city budget that is spent on public works construction, let's say.

MAYOR STOKES. There is one difference between your capital budget—most cities have little problems with capital budgets, which would go into construction etcetera, but if you are talking about the operating budget—

VICE CHAIRMAN HORN. I am really just limiting it to public works, and you will see in a minute why. How many buildings do you build under city funds a year? I'm just curious. Do millions go into this field?

MAYOR STOKES. You'd be talking about millions. One building costs us \$8 million.

VICE CHAIRMAN HORN. All right. Now, what I'm trying to get at is, what role have you taken in Cleveland as a mayor to, say, set down specifications—you weren't here when Mr. Fletcher testified on the Philadelphia Plan, and there is a lot of controversy as to whether it's successful or not successful. One point he made is that in Federal Government contracts, at least, there ought to be specifications as to minority hours worked on these projects, and if you lay it out and then they sign the contract—say the contractor or the unions related to it—you then have got a way to monitor them.

Now, my query to you is: In Cleveland in city contracts issued by the city of Cleveland on public works construction, have you got standards for the employment of minority workers?

MAYOR STOKES. Mr. Horn, the city of Cleveland leads the United States in this regard. In December of 1969 I passed an equal employment opportunities ordinance for the city of Cleveland that has brought millions of dollars into the black community, in the minority Puerto Rican community in our city, which has seen, for instance, a black architectural and a black engineering firm become the largest in the world, not in the Nation but in the world, and affixed behind their

name, the name of their firm, "International". Because when I came in office they didn't have but five employees. Now each one of them have over 32, and I'm talking about high-paid professional persons.

In addition to which you can't get a contract in the city of Cleveland to build a dog house or pyramid if you don't have substantial minority representation, and this has brought me into the worst conflict with our predominantly white city council, with even our newspaper there, the Cleveland Press that has editorialized about whether or not the enforcement of minority rights cost the city of Cleveland money. There is no city in the United States that has seen the kind of record that my city has in this regard.

VICE CHAIRMAN HORN. I think this would be very helpful to the Commission, Mayor. Could you furnish this Commission with—maybe it isn't available either at the city or Labor Department level, and I'd like General Counsel to get it from Labor Department if it is available, with the statistics as to the number of black workers employed in labor unions in Cleveland prior to the time you took office and now. I am interested because I think this is the sort of leadership that ought to take place. I am interested in the proportionate increase in the number of black workers in labor unions in Cleveland.

MAYOR STOKES. Whether they are working or whether they are in a labor union?

VICE CHAIRMAN HORN. Well, I'd like to know if the leverage you could exert through your public works building program funded by the city of Cleveland has resulted in more black citizens in this case being added to building and construction trades unions, and if we could get the data of those the year before you took office and the last current year, I think it would be appropriate to have it at this place in the record.

MAYOR STOKES. Don't you want to also find out whether or not they are working?

VICE CHAIRMAN HORN. Yes.

MAYOR STOKES. You know, they could be in the unions and not working.

VICE CHAIRMAN HORN. After I get that question answered I'd be delighted to have any additional comments you'd like to make.

MAYOR STOKES. Sure, we'll provide a copy of our EEO ordinance also.

VICE CHAIRMAN HORN. But I think Mr. Fletcher's point was very interesting in the sense that he felt there had to be a specification to really get the contractor and the unions nailed on what their commitment is in terms of goals.

MAYOR STOKES. We didn't wait on the Federal Government in this. We didn't need the Federal Government.

CHAIRMAN HESBURGH. Mr. Mayors, we appreciate very much your help. We are at a closing time because we are going to have a 15-minute break, and then we will reconvene for the final session today. Mayors, we are going to miss seeing you in these hearings.

CHAIRMAN HESBURGH. Will this hearing of the United States Commission on Civil Rights kindly come to order.

We first have a brief statement by Martin Sloane, Assistant Staff Director, Office of Civil Rights Program and Policy, of this Commission. He will talk on Federal policy and equal housing opportunity.

(Whereupon, Mr. Martin E. Sloane was sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. MARTIN E. SLOANE, ASSISTANT
STAFF DIRECTOR, OFFICE OF CIVIL RIGHTS PROGRAM
AND POLICY, U.S. COMMISSION ON CIVIL RIGHTS**

MR. GLICKSTEIN. Mr. Sloane, I have a copy of a paper entitled "Federal Policy and Equal Housing Opportunity" which I believe you prepared. Is this a copy of that paper?

MR. SLOANE. That's correct.

MR. GLICKSTEIN. May we have this introduced into the record?

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred was marked Exhibit No. 26 and received in evidence.)

MR. GLICKSTEIN. I'd like to ask you some questions about the contents of that. Would you briefly summarize the development of Federal policy on equal housing opportunity over the years and the impact this policy has had on housing opportunities for minority families, please?

MR. SLOANE. Federal policy on equal housing opportunity over the years falls into three distinct chronological phases. The first phase runs from the early 1930's when the Federal long-range involvement in housing and urban development first began, until approximately 1947, shortly after the end of the Second World War. It was during this period that the principal Federal Agencies and programs which we still have today were established, Agencies such as the Federal Housing Administration and its mortgage insurance programs, the Federal Home Loan Bank Board, providing assistance to savings and loan associations, our principal mortgage finance institutions. Other Agencies which were depression Agencies, such as the Home Owner Loan Corporation, also were formed during this period. Federal policy during this period was to be an active exponent of racial discrimination and racial segregation in housing.

The Federal Housing Administration, for example, the leading Federal Agency at the time and perhaps still now, actively encouraged racial homogeneity in housing; its underwriting manual warned against inharmonious racial groups. It also warned against school integration. In fact, it recommended racially restrictive covenants to assure racially pure subdivisions.

The Federal Home Loan Bank Board and the Home Owners Loan Corporation as well, maintained policies which were in favor of racial segregation. In fact, the policies of these Agencies were not even separate but equal. As the late Charles Abrams once characterized these policies, it was separate for whites, nothing for blacks.

The only Agency that differed in the slightest from this uniform Federal policy back in the thirties and early mid-forties was the United

States Housing Authority which was responsible for the low-rent public housing program. This was the one Agency that had policies and practices aimed at assuring that minorities, particularly black minorities, got their fair share of low-rent public housing. It was, however, mostly on a segregated basis. The United States Housing Authority did nothing about it.

The second phase began shortly after the end of the Second World War and ran until November of 1962. This phase can be characterized as one of neutrality. Shortly after the end of the Second World War, FHA, in response to pressures from a number of groups, removed references to inadvisability of inharmonious racial groups from its underwriting manual and changed them to more neutral terms.

It wasn't until the Supreme Court's decision in *Shelley v. Kraemer*, which ruled that judicial enforcement of racially restrictive covenants was in violation of the 14th amendment, that Federal policy really began to change, at least as official policy. FHA and its sister Agency, VA, changed completely from recommending racially restrictive covenants to refusing to insure guaranteed loans on houses that carried racially restrictive covenants. FHA also began encouraging open occupancy, not requiring but encouraging open occupancy projects. FHA and VA also entered into cooperation agreements with States and localities that had fair housing laws and agreed that they would debar builders who were found to have violated these State and local fair housing laws.

These policies had very little practical effect. As I mentioned earlier, the policy on restrictive covenants was only one form of discrimination. There were plenty of other forms which FHA and VA did little about. The policy of encouraging open housing had little effect because there was no requirement. The cooperation agreement with State and local fair housing commissions had no effect at all. Not one builder was ever debarred under these cooperation agreements.

In fact, during this period of neutrality and actually encouraging open occupancy, it was estimated that less than 2 percent of FHA subdivision houses had gone to minorities during the entire period of 1946 through 1959. At the same time the Public Housing Administration, which was a successor to the United States Housing Authority, still was permitting local housing authorities to assign tenants on the basis of race even though it was clear to any lawyer in this country that this was a clear violation of the United States Constitution. Nonetheless, it was permitted.

The third phase began in November of 1962 with the issuance of the Executive order on equal opportunity and extends to the present. It is a period in which Federal Agencies have been subjected to increasingly stringent mandates of equal housing opportunity. These consist first of the Executive order on equal opportunity and housing which prohibited discrimination in federally assisted housing. Then Title VI of the 1964 Civil Rights Act which prohibited discrimination in any federal assisted programs or activities, including housing programs. Title VIII of the Civil Rights Act of 1968, which is the Federal fair housing law

prohibiting discrimination in most of the Nation's housing, and the Supreme Court's decision, *Jones v. Mayer and Company*, which prohibits all racial discrimination in all housing, public as well as private.

Again this has been a change in Federal policy and very little in the way of practical effect. According to an FHA survey made in 1968, a little more than 3 percent of all FHA subdivision housing had gone to black families during the period following the issuance of the Executive order of equal opportunity in housing until the end of 1967. This was a period when discrimination in federally assisted housing and FHA housing was supposedly prohibited by law. Yet, very little of the housing did go to black families.

MR. GLICKSTEIN. Mr. Sloane, would you summarize the recent activities of HUD in carrying out its responsibilities under Title VIII?

MR. SLOANE. HUD's posture in carrying out Title VIII responsibilities and other fair housing responsibilities has been essentially a passive one. Reliance for enforcement has been almost entirely upon the receipt of complaints. There have been comparatively few complaints, many fewer that have been satisfactorily resolved. This has been demonstrated through experience the most ineffective way of enforcing the civil rights law.

HUD's activities have also been characterized by inordinate delays in taking basic and even rudimentary steps in carrying out its civil rights responsibilities. For example, the very rudimentary step of collecting racial and ethnic data on program participation, the decision to take this step was not made until April 1970 which was 2 years after the fair housing law was passed, almost 6 years after Title VI was passed, more than 7 years after the Executive order had been issued. The actual collection of racial and ethnic data did not commence until 9 months after that decision was made.

Other fundamental decisions, such as site selection criteria for civil rights, tenant selection criteria for civil rights, also decisions on these criteria have been characterized by inordinate delays of nearly 2 years.

Of equal importance is that there has been a failure to gear and coordinate the substantive program operation with civil rights program operation, this despite a clear directive in Federal fair housing law to HUD and to all Federal Departments and Agencies to carry out their programs and activities in a manner affirmatively to further the purposes of Title VIII.

One example of this is in the 235 program of homeownership for low-income families, which the Commission recently issued a report on, and there we found that FHA, which is the constituent of HUD charged with responsibility for operating this program, had virtually abdicated responsibility for it entirely, turned it over to private parties. What we found in fact was that it was private real estate brokers, private lenders, private builders that were making the key decisions, decisions being made on a racial and ethnic basis as to which of the eligible families would get any subsidy at all, how much subsidy they would get, and which housing they would be permitted to live in.

MR. GLICKSTEIN. Mr. Sloane, would you give us your overall conclu-

sion about the Fair Housing Law role the Federal Government is now playing as opposed to the role it played in earlier years?

MR. SLOANE. In terms of official policy there has been, I think, a 180 degree change, a change from one of openly and officially advocating racial discrimination and segregation, to one of clear legal mandates of equal housing opportunities. Practices, however, have not changed nearly to the same extent. My conclusion is that the zeal with which Federal officials carried out policies of racial discrimination back in the early days of Federal involvement has not been matched at all by similar enthusiasm in carrying out their mandates of equal housing opportunity.

MR. GLICKSTEIN. I have no further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Thank you very much, Mr. Sloane.

CHAIRMAN HESBURGH. We would now like to ask the Honorable George Romney, Secretary of HUD, Mr. Eugene Gullledge, Mr. Floyd Hyde, Mr. Samuel J. Simmons—all of these being Assistant Secretaries—to be sworn.

(Whereupon, Secretary George W. Romney, Mr. Eugene A. Gullledge, Mr. Floyd M. Hyde, and Mr. Samuel J. Simmons were sworn by the Chairman and testified as follows:)

**TESTIMONY OF THE HONORABLE GEORGE W. ROMNEY,
SECRETARY; MR. EUGENE A. GULLEDGE, ASSISTANT SECRETARY
FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FHA
COMMISSIONER; MR. FLOYD M. HYDE, ASSISTANT SECRETARY FOR
COMMUNITY DEVELOPMENT; AND MR. SAMUEL J. SIMMONS,
ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY, DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C.**

CHAIRMAN HESBURGH. Mr. Secretary, may I say first of all that we are very grateful to you for being with us today because we really couldn't have completed our task in this hearing without having the opportunity of this discussion with you, and we appreciate your coming, and we understand you have some opening remarks you'd like to make.

SECRETARY ROMNEY. Yes, Mr. Chairman. I will keep them as brief as I can. I think you have prepared copies and I am not going to read all of the language in the prepared statement, but I hope that you will glance at those parts that I don't read. I am very pleased to be here to discuss this subject.

CHAIRMAN HESBURGH. Mr. Secretary, may we also introduce the full copy into the record?

SECRETARY ROMNEY. Yes, thank you.

CHAIRMAN HESBURGH. Thank you, sir. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 27 and received in evidence.)

SECRETARY ROMNEY. I am pleased to be here because I have been involved directly and personally for over 30 years in trying to do something about civil rights in housing. As vice president of the Detroit Victory Council, I fought segregated war housing during World War II. As a delegate to Michigan's Constitutional Convention, I helped lead the fight for a State Civil Rights Commission. And as Governor I

worked to build the Commission into a well-staffed, aggressive agency, and to expand its powers, particularly in the housing field.

My fundamental convictions on housing discrimination have not changed: if anything they have intensified over the years. What has changed, hopefully, is the breadth and depth of my understanding of the unequalled complexity of issues and problems which have come to be associated with housing and race.

I want to say, Mr. Chairman, that this subject is the most complicated subject in this country, and to undertake to deal with it in simplistic terms is a very unfortunate thing to do. And I want to add this, that it's going to be some time before those who are now indicating interest in this subject are really going to understand it, and consequently there is going to be a lot of confusion over terms and other things. And having gone through that experience with respect to Vietnam personally in the international field, I hope we are not going to get into all the difficulties that we have experienced in connection with that tragic development in this area, because it affects us more directly.

But in any event, the President's statement last Friday, I believe, goes a long way toward laying out these issues candidly and thoroughly. The President's statement articulated the springboard for action. We can move forward now, faster, more firmly and effectively than ever before. And surely, the pace of our progress will be quicker if all who share the vision of an open society with open communities can join in devising and implementing strategies which will make that vision a reality.

An open community cannot be defined primarily in physical terms. We cannot prescribe its size or contours; the precise combination of houses, apartments, parks, streets, and factories. Nor can we prescribe the "right" physical characteristics of people who live in any given location.

An open community must be defined primarily in human terms. We have an open society with open communities when each citizen has freedom of movement, and opportunity to live and work with dignity, and when public and private institutions protect and enhance his freedom and opportunity.

Measured in these human terms, our Nation's great metropolitan areas are not open communities for many minority Americans. And, of course, they are not open communities in the field of housing yet.

Our historical failure as a society to provide truly equal opportunity for all has now placed its stamp on the physical and political map of our cities and suburbs. Deep divisions exist. According to new census data, racial concentration is intensifying, as the President detailed in his message. In the interest of time, I am not going to read the extracts from his message, but they deal with the consequences of segregation, with public policy that he has announced, and with an interpretation of affirmative action under Title VIII.

Now, in the face of his explicit affirmation of national policy, it is difficult to understand a persistent misconception of the President's

position. It has been alleged that the President takes a "passive" view of the Federal role in housing, and that he is unwilling to wield what some perceive as "the enormous leverage" of the Federal Government to make low- and moderate-income housing available throughout metropolitan areas on a nondiscriminatory basis.

The root of the misunderstanding appears to lie in differing perceptions of the Federal role in housing and community development generally. Because of the tragic dislocations and injustices which have tormented our Nation during its recent history of explosive urbanization, it is tempting to look for villains and scapegoats.

The Federal Government, with Agencies like FHA, the old urban renewal agency, and others, assumed this malevolent role in the eyes of many. It follows, of course, that the Federal Government can and should now assume the role of omnipotent hero. Now, I don't question what has just been cited from an historical standpoint up until the last 2 or 3 years. Certainly, the governmental policy was in line with national policy, which was a policy of segregation. That's why these Government Agencies reflected that in their public policies in early years because the whole national approach was segregation. But in any event, FHA only played a small part in that picture. Until as recently as 1968, the average subsidized housing production in this country was 35,000 units a year. It's only since 1969 that there's been any significant subsidized housing production. That also included insured—but if you include the insured—it was one segment of the picture—the insured was much bigger than the subsidized. But again this misconception plays a role because if the Federal Government really shaped all this segregation, then it can clean it up, you see, and it should now assume the role of omnipotent hero—righting all wrongs, knocking down all barriers with a flourish, and redrawing the crazy quilt map of our metropolitan areas.

This scenario simply does not fit the facts. Without minimizing the Federal role in either creating problems or solving them, and without defending Federal policies which were clearly indefensible, we should at least recognize that, for example, the vast majority of suburban homes were built without any FHA involvement at all.

The presumed "enormous leverage" of HUD programs should also be kept in perspective. For example, the water and sewer program, which is often cited as a powerful lever, has provided partial assistance to only one in 10 suburban jurisdictions during the entire 5-year life of the program. Although we do have some leverage, HUD programs are in fact of marginal interest to most well-established suburbs, and it is sheer illusion to think that HUD can bring about startling overnight changes in the existing suburban physical and social landscape by turning Federal money on or off, even if we had the authority, even if we had the authority beyond the authority we have, and we have very limited authority in this area if you will take a look at the history of the enactment of the fair housing legislation and Title VI of the 1964 Civil Rights Act. It's not nearly as broad as many people are claiming in their public discussions in this country today.

Now, what the President has said is that the Federal Government is not going to create an army of Federal zoning officials to march through thousands of individual suburbs, substitute Federal zoning for local zoning, and thus impose low- and moderate-income housing or "economic integration" by "bureaucratic fiat".

But the President also said: "We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

And how does the Federal Government "encourage" positive action in this field? It does so by administering its programs and its limited resources to achieve stated national policies and purposes. That is what my department has done and will continue to pursue vigorously, and I do not apologize for the fact that this Administration has taken a year-and-a-half since the Fair Housing Act became fully effective to formulate policies as crucial to the future of this Nation as the policies with respect to Vietnam. Now, we didn't do a very good job in devising policies for Vietnam. I hope we have done a better job in connection with the initial policies here with respect to the domestic problem that is most nearly comparable to that unfortunate situation.

I would now like to outline for you a kind of status report on what we have already done, and what further actions we have underway. First, I will cover policies involving federally assisted housing, and then comment briefly on policies involving community development projects affecting housing.

Last August, when I appeared before Senator Mondale's Select Committee, I called attention to the huge new volume of federally assisted housing and indicated that we were working with the Department of Justice to develop site selection policies governing FHA-assisted housing programs. I testified that:

"Pending adoption and publication of such policies the FHA is pursuing an informal policy designed to avoid further concentrations of federally assisted housing in large, institutional settings or in areas of minority racial concentration."

This informal but explicit policy was first instituted in late 1969, and we are beginning to see some preliminary results. You should bear in mind, of course, that because of the several months' lag between application and housing completion, there is a corresponding lag in visible results. In the case of our 236 program and public housing program, that lag is around 8 to 9 months at least. In the case of 235 it's not quite that long. It's about half of that. But there is a time lag here, and so policies put into effect at that point are only beginning to show up.

I believe, however, that the maps I am about to show you indicate an encouraging trend toward a broader variety of locational choice throughout metropolitan areas. Clearly, the maps do not show the detail on racial and economic characteristics which are necessary for a complete evaluation, but they do indicate an incipient trend.

(The maps referred to appear beginning at p. 763.)

Now, each of the marks on these maps that I will show represent 20 units or more. On some of the maps the areas of minority concen-

tration are outlined. Because we didn't have time to do so, the minority concentration is not uniform on all the maps. In most of them, it's 75 percent or more. In some it's 40 to 50 percent.

But in any event, let's take a look at Baltimore. The Baltimore map shows that before January 1970, 22 projects were built inside the city limits, marked in red, while only two projects were located outside the city limits. The black circles identify all subsidized housing of 20 units or more, including public housing, rent supplements, 221(d) (3), Sections 235, 236, and 202 elderly. During the next 6 months, 20 projects—the red dots—were completed in the city, and nine were located elsewhere in the metropolitan area, showing some progress in dispersal. Then between July of last year and December, or January 1st of this year, only four projects were started in the city—those are the blue triangles—while 12 new projects were located outside the city limits.

The Baltimore Metropolitan Area is quite large, as shown in the small inset map but, as you can see, the blue triangles representing the projects since July of last year, represent a much greater dispersal in the Baltimore area.

While the rate of construction of federally assisted projects has declined recently in Washington, D.C., the location of the projects has been directed to areas beyond the city's boundaries.

Let's take a look at Washington. As of January 1, 1970, the map shows an equal distribution of projects within and outside of the city limits—21 projects each. During the next 6 months, five projects were started inside the city and 14 were located in other parts of the metropolitan area—the red dots. Now, only three projects were started inside the city in the 6-month period which runs from July through December, as compared with nine projects in surrounding areas.

I should point out that many of the projects started in 1970 were processed and approved earlier, so we should show an even better distribution in 1971, but again it's the incipient trend that I'm talking about. I guess I should point out that the blue circled areas are the areas of minority concentration, and you will note that very few of the projects started since July last year are within the areas of minority concentration. Practically all of them are outside those areas of minority concentration.

Now, San Diego shows a large amount of subsidized housing located outside the city boundaries in widely scattered parts of the metropolitan area. Only eight projects were located in the city as of December 31, 1970; five existed prior to January 1, 1970; and three were added between July 1 and December 31, 1970. Prior to January 1, 1970, only three projects had been located outside the city. During the 6-month period from January 1 to July 1, 1970, 25 projects were built in outlying parts of the metropolitan area. An additional 21 projects were completed and located in the remaining portion of the Standard Metropolitan Statistical Area, particularly to the east of the city. Again you see in the blue areas, the areas of minority concentration, practically all of the recent projects are outside of the areas of minority concentration.

Now let's take a look at San Antonio. Activity in San Antonio has

been strong and the effect of the instructions given to the field office concerning the location of assisted housing projects can be seen. As of January 1, 1970, 42 projects were within city limits, and only one was outside. In the next 6 months, seven projects were started within the city limits, and none outside. But during the third period, 12 projects were started outside the city limits and 11 were started inside. Again you see the dispersal, the greater dispersal, and I think we have a concentration map there showing areas of minority concentration, and again the blue triangles are largely outside of the area of minority concentration.

Now, let's take a look at Pittsburgh. The Pittsburgh Metropolitan Area contains a large volume of federally assisted housing. As of January 1, 1970, 33 projects had been started inside the city limits, again the red line essentially shows it, and approximately 50 projects were scattered throughout the remainder of the four-county metropolitan area. Construction activity decreased during the next 6 months when 17 projects were started within the city and five projects were located in the area immediately outside the city. During the 6-month period ending December 31, 1970, nine projects were started in Pittsburgh city, while 16 projects were begun in various parts of the metropolitan area.

Now, there is another aspect to consider in connection with Pittsburgh, and that is that the cluster of red units there and the blue triangle units in the central city area is partly a result of the fact that we have a Project Rehab there and those are importantly rehabilitation projects, because one of the things we are undertaking to do is to rehabilitate the blighted areas. In Pittsburgh, HUD and a private organization, created and financed by a large number of industrial firms, have been cooperating aggressively to rehabilitate substandard housing on a volume basis using the Section 236 and rent supplement programs primarily. We think it is vital that Federal housing assistance programs be used to rebuild slum areas at the same time they are being used to create housing opportunities for minorities outside of the central city. Both approaches, I am convinced, are fully consistent with our overriding objective of creating freedom of housing choice for all Americans.

Now let's take a look at Jacksonville, Florida. Jacksonville has demonstrated an effort to achieve a variety of locations for federally assisted housing. A total of 19 projects had been started within city boundaries as of January 1, 1970, compared with seven projects outside the city limits. During the next 6 months, twice as many projects—12—were built outside the city as within its boundaries, the red dots. During the last 6 months of 1970, four projects were located in Jacksonville proper; eight were located in other parts of Duval County.

These results have been achieved under the informal program that we have had since the end of 1969 or 1970. And I might say that we have charts of about 189 metropolitan areas, and all of them show some improvement, except for about 19. Again all I am saying is, considering the time lag, it indicates that even the informal policy began to create

some degree of distribution better than we had been getting.

Now, these results have been achieved under the Department's informal policy, which has not been reduced to writing. Now that the President has issued his statement, we are in a position to give more explicit policy guidance to our field personnel.

We have developed housing project selection criteria which we sent over I think yesterday afternoon so you could take a look at them. I realize they are very lengthy and complex so I don't know that you've had much of a chance to take a look at them, but we wanted to supply them as quick as we could. Now, because of their importance, we will not make them immediately effective, but will first circulate them for 30 days for public comment. Copies are available for your view and suggestions.

There are separate forms for Section 235, for rental projects under Section 236 or rent supplement, and for public housing. While there are some variations resulting from program differences—the homeownership form has no management criterion, for example—the basic format and approach is the same in each case.

A proposed project will be rated “superior”, “adequate”, or poor with respect to criteria ranging from “community need” to “improved environmental location for low-income families” to “effect of proposed housing upon neighborhood environment.” A key item is “nondiscriminatory location”. Here a proposed project will earn a “superior” rating if it is outside an area of minority concentration. It can earn a “superior” or “adequate” rating if it is inside an area of minority concentration only if it is either a part of a major development like Fort Lincoln, or the Southwest Urban Renewal Area, where the HUD building is located, which will be racially inclusive, or if it responds to overriding needs which can't feasibly be met any other way. If a project doesn't rate at least “adequate” on the nondiscriminatory location criterion, it will be disapproved.

Now, this clear statement of policy should be very helpful both to our field personnel in rating proposed housing projects, and to developers and sponsors in guiding them as to the project characteristics which will enhance the prospects for their approval. I think I can anticipate a question by saying that as a general proposition, all other factors being equal, projects outside areas of minority concentration will be given preference. In other words, that one factor can make the difference. Now, it's true other factors can, too, but in any event that factor could make the difference.

As some of you may know, we recently published in the Federal Register for comment guidelines which we propose to use in governing the advertising of housing for sale or rent. These guidelines are directed to newspapers, but they will also be helpful to housing sponsors, owners, sellers, and renters.

We now propose additional regulations designed to insure that there truly is equal opportunity for eligible persons of all races to buy or rent federally assisted housing. These proposed regulations govern such things as advertising practices, nondiscrimination in employment of

sales personnel, informing relocation agencies of housing availability, consideration of persons referred by HUD, and the like. The requirements likewise cover subdivisions, multifamily projects, and mobile home courts wherever 25 or more units are involved. One further significant requirement is that HUD field offices will make available to interested persons and groups—including, for example, minority brokers and fair housing organizations—upon request, every 30 days, lists of FHA subdivisions or projects on which FHA has issued commitments. This should help to spread the word regarding availability of FHA-assisted housing more broadly, as recommended by your Commission in its report on 235 housing last week.

These affirmative marketing guidelines are also being published for 30 days to secure comments before they become effective. Copies are available for your review and your suggestions.

Now, in addition to these new program standards and guidelines, HUD is continuing its support of innovative efforts to end the invidious dual housing market which prevails in almost all metropolitan areas. We have three contracts in force—in Chicago, San Francisco, and Washington, D.C.—to develop and test the most effective techniques for achieving an open housing marketing system. These efforts will demonstrate methods which can be duplicated in other metropolitan areas to increase housing opportunities for minority citizens by eliminating segregated dual real estate markets.

Last week the General Services Administration and HUD signed an agreement covering low- and moderate-income housing in the vicinity of newly located Federal facilities. Under the agreement, HUD will investigate the availability of low- and moderate-income housing on a nondiscriminatory basis and make findings and provide advice to GSA as to such availability with respect to proposed locations for a federally constructed building or leased space. In the event that GSA has no reasonable alternative to a site where the supply of low- and moderate-income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the Agency involved, GSA and HUD will develop an affirmative action plan designed to assure an adequate supply of housing within 6 months after the building or space is to be occupied.

Turning now to various community development grant programs, I want to emphasize that we will continue to apply the law and this Administration's policies to those programs. This means that communities that actively pursue the expansion of housing opportunities have an advantage in competing for limited program dollars.

In this connection, the President's statement of June 11 set forth three important statutory mandates. Now, I'm not going to read his language again. You have his message. But no grant is to be made if there is discrimination, and a workable program is required with respect to some of the major programs, and the comprehensive planning funds require a housing element in the comprehensive plans.

Now, these statutory requirements impose basic conditions of eligibility. As I noted earlier, the President has also said:

“We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people.”

To implement that policy and the affirmative statutory requirement in the Fair Housing Act with respect to the water and sewer grant program, we have a project selection system which takes into account, in addition to such factors as public health and financial need, the accessibility of low- and moderate-income housing to be served by the project. Again copies are available for your review and suggestions.

I'd like to make this water and sewer picture crystal clear. Yesterday in my press conference I pointed out that most of the water and sewer projects require a housing element, but let me make that situation completely clear. There are two ways in which a community can secure water and sewer grants. In both cases they must have a comprehensive planning program. Now, if the comprehensive planning program is privately financed, if it's not financed by Federal money and if the community involved has adopted a comprehensive planning program, which must include a housing element, then they become eligible for the water and sewer grant, and under those circumstances communities would be eligible.

Now, on the other hand, the communities that apply for Federal funds for comprehensive planning secure those funds only if their comprehensive planning includes a housing element. And under those circumstances, they have complied with the housing element requirement with respect to 701 before they have received a water and sewer grant.

Now, in addition, in the project selection system, the housing element is one of the elements that is used in establishing points for eligibility for the water and sewer money. But there are two ways that you can secure water and sewer grants and there is some flexibility in that program.

Finally, I want to say a word about long-range projects for metropolitan open communities. And when I talk about a metropolitan open community, I want to make perfectly clear what I'm talking about. I do not believe you are ever going to see in this country a completely homogenized society. I do not believe that this country is going to be put on a racial grid. I do not believe you are going to have racial quotas that will mix people on an even proportion throughout the country or throughout metropolitan areas. But I profoundly believe that it's necessary for these metropolitan communities to provide reasonable housing opportunities throughout the metropolitan community. And this means that to do that there may well be low- or moderate-income housing in one community in the metropolitan area, and perhaps not in another. But I do not believe that it will contribute to the effort to achieve progress in this field to continue to play on this idea that against the background of the fragmentation that exists in our metropolitan communities where you have suburban communities with as few as a thousand people in them, 2,500 people, little communities in a big community—I do not believe that it will promote the cause that we

are concerned about here by talking about trying to get every little general purpose government in a metropolitan area to accept low- and moderate-income housing. Now many will. The Dayton Plan is a great example. I'm all for it. Our Agency financed it, and our Agency has undertaken to make it a successful project, because I think that is a good ideal approach. But to undertake to bring this about through coercive means in my opinion would be self-defeating.

Now, on the other hand, I think it is absolutely essential for every American to have an opportunity to live within a reasonable distance of his job and daily activities, and that means there must be on a metropolitan basis the opportunity for people of different backgrounds to live under circumstances of their choice within a reasonable distance of their jobs and daily activities.

Now, I believe that most Americans, fundamentally, are receptive to constructive change. Much depends, however, on the approach of those responsible for public and private leadership. If we permit or encourage the tough issues involved to be posed in oversimplified terms of racial polarization, the cause of open communities will be set back, and open metropolitan areas, because that's what I think we have to have. This has already cost valuable time.

Furthermore, when there is too much pressure for what "*ought to be*," it prevents what *can be*." But if we convince Americans of all races that there are comprehensive approaches which can harness continuing metropolitan growth and turn it to the welfare of all of our citizens, we can yet succeed. And it is vital to the future of all America, and, yes, the world, that we succeed, that we succeed in accelerating progress toward providing every American with his inalienable constitutional rights of equal opportunity and freedom of choice.

CHAIRMAN HESBURGH. Mr. Glickstein, our Staff Director, will conduct the original questioning.

MR. GLICKSTEIN. As you mentioned, Mr. Secretary, we received a lot of these documents yesterday afternoon, in fact we have been receiving lots of documents since last Friday, and it's been a little difficult to digest it all, and I thought perhaps we could make some effort to clarify some of the things that are contained in these various documents.

Today you have some doubt on the presumed enormous leverage of HUD programs. The President in his statement on Friday said the Federal Government provides billions of dollars in assistance and guarantees of mortgage credit for housing financing. The Federal Government sets standards widely used by industry, such as minimal property standards, credit standards, appraisal standards, and construction standards. The Federal Government makes market analyses which materially influence the private sector. The Federal Government approves mortgagees, builders, developers, and brokers with respect to their doing business with HUD. Yesterday at your press conference you were also asked about the question of leverage. The question was: "So there is a penalty attached to not having low-income housing?" and you said: "Absolutely, absolutely, absolutely, and there is real leverage for

the programs, and this idea that there is no leverage is not accurate. There is great leverage because the leverage is that they can freely decide whether or not they want to qualify. But if they don't qualify they don't get the money."

Do you have this great leverage?

SECRETARY ROMNEY. Mr. Glickstein, I don't want to get into an argument with you over semantics here. I made what I meant by enormous leverage perfectly clear. I meant that the Federal Government by itself can't overnight change these conditions with its programs. That's what I described as enormous leverage, and there are those who talk in those terms, and it just can't be done. Anyone who really knows this problem, as you know it, sir, knows that even if you have the Federal Government and the State governments and the local governments moving, you've got to have private leadership, too. And so when you talk about what Government can do, let's keep it in perspective. That's all I'm suggesting.

MR. GLICKSTEIN. The President in his statement talked about programs today being directed at correcting the effects of past discrimination.

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. And that is an enormous problem.

SECRETARY ROMNEY. Look, we have leverage. I made it perfectly clear yesterday we have leverage. We have been using to some extent that leverage; we are going to be using it more. We have leverage. But that leverage is not leverage that can bring about a utopia in this picture overnight, which is what people seem to think can be done.

MR. GLICKSTEIN. As I understand it, under the community development projects that you spoke about yesterday, we have such things as water and sewer grants, urban renewal grants, and open space grants. The figures that I have are rather rough, but I believe that for all three programs there was \$1.7 billion available this fiscal year, approximately, and \$1.1 billion of that was for urban renewal. And as I understand the urban renewal program, a good deal of that, or most of it, is within the cities rather than in the suburbs.

So according to my arithmetic, there is \$600 million available for exercising Federal leverage through community development in opening up housing in the suburbs. That's not a great deal of money then, is it?

SECRETARY ROMNEY. Of course, you've got the housing programs, and you have other programs that are involved here, so I don't particularly follow your point. There's a shortage of funds. It is true that a good deal of the urban renewal money goes into these central cities. A good deal of it goes into smaller communities, and some of it into suburban areas, because you have suburban areas that are blighted and that need renewal, and consequently a good deal of the urban renewal money is going into those areas. And there is a great shortage of those funds, and therefore that produces leverage, but it doesn't produce enormous leverage in the terms that some people have used the term.

MR. GLICKSTEIN. Of course, the problem of lack of low- and moder-

ate-income housing in the suburbs is really not just a HUD problem. It's a national problem. What if the leverage that you spoke about that's available through housing programs, community development programs, was increased by adding to that EPA programs, education funds, highway funds, why shouldn't this be a truly national program involving all programs and not just HUD programs?

SECRETARY ROMNEY. Well, Mr. Glickstein, that's entirely up to Congress, but you have to have congressional authorization to do this. And again I want to say that in my opinion, if you focus attention primarily on that course, that you are just going to stir up a great big controversy that's going to delay progress on the things that can be. Now, there are those who think we ought to cut off all funds to any community that discriminates on any program. Now, Congress has been through this argument. The courts have been into it. There are court decisions on this point. The Congress has been into it, and the Congress in considering the civil rights legislation of '64 and the fair housing legislation of '68, had a pinpoint amendment. So again, I sincerely believe that if you focus attention on some of these proposals that probably *ought to be* if you had different circumstances, you can well retard and prevent progress on what *can be*.

MR. GLICKSTEIN. I wasn't really talking about cutting off funds. What I was suggesting was that these other programs also be dispersed on a priority basis, and that the carrot be held out not just for water and sewer grants—

SECRETARY ROMNEY. You ask the other Departments about that. The President has directed all of the Agencies dealing with housing to do that in the statement he issued, the Agriculture Department, the Veterans Administration, the Defense Department.

MR. GLICKSTEIN. And of course Title VIII does direct all Federal Agencies to administer their programs so as to further the purpose of the title.

SECRETARY ROMNEY. Yes, but let me call your attention to this, that the act doesn't define fair housing, and it doesn't define affirmative action, and consequently they really ducked the question of what fair housing meant and what affirmative action means. Now, the President didn't duck it. He has defined it in his statement. Now, these are some of the realities you have to deal with here.

MR. GLICKSTEIN. Well, in your statement today and in your press conference yesterday, and also in the President's statement, a great deal of attention was placed on the fact that housing or community development programs must be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way. Is the need to be part of the plan a new requirement?

SECRETARY ROMNEY. No.

MR. GLICKSTEIN. That's a requirement that's been around for some time?

SECRETARY ROMNEY. That's part of the workable program. It's part of the comprehensive planning. It's been a part of the picture for some time. Now, with respect to the housing programs, of course we

have just developed these project selection systems, the proposed ones, but the planning requirements have been required by the statutes and as a matter of fact the General Accounting Office gave us a report shortly after we took office indicating that while there had been a statutory requirement for the workable program, that the workable program had never really been enforced. Well, we've enforced it. We've cut off funds from Chicago, We've cut off funds from other cities, San Francisco and other cities where they didn't have a workable program. We've been enforcing it. It has some teeth now.

MR. GLICKSTEIN. On the 701 type program that you had been using to evaluate water and sewer grants, have those plans been effective in scattering low- and moderate-income housing in the suburbs?

SECRETARY ROMNEY. To some extent. It's one element of the picture.

MR. GLICKSTEIN. Have they been evaluated to determine whether they are being effective?

SECRETARY ROMNEY. We are not in as good a position to evaluate that as we will be when we get the racial data that we are in the process of collecting on all of our programs. We have racial data now in the public housing program, but we don't have racial data on our other programs, and, consequently, we are not in a position to evaluate as we will be within another year.

MR. GLICKSTEIN. As a result of the new or clarified policies of the last few days, are there going to be any changes in what's going to be required of these plans that must be in existence before either housing or community development programs are funded?

SECRETARY ROMNEY. We don't have any under current consideration with respect to comprehensive planning and the workable program.

MR. GLICKSTEIN. For example, would the plan have to define the housing needs of the region by income group?

SECRETARY ROMNEY. Well, again, to the extent that the housing criteria that we have just announced requires some such distinctions, why, they will be involved. But I don't know of plans in that direction with respect to the workable program or the comprehensive planning program.

MR. GLICKSTEIN. The President in his statement said the plans had to be result-oriented with respect to its progress toward the overall goal. Will the plan specify goals and timetables and specific methods of achieving goals?

SECRETARY ROMNEY. Well, we have outlined specific methods of achieving goals, yes.

MR. GLICKSTEIN. Well, as I understand the way—

SECRETARY ROMNEY. If you are asking if we are going to set up certain figures, no, we are not going to do that, because that isn't the way the program works. That isn't the way Congress has set up these programs. Congress has set up these programs on the basis that as far as housing is concerned the Department doesn't build housing, that the Department depends on local organizations, private or public, coming in and submitting a housing proposal.

MR. GLICKSTEIN. But that program has to consist of a plan.

SECRETARY ROMNEY. Well, it has to be consistent with the requirements with respect to housing, and the workable program and the comprehensive planning program must have a housing element. Now, with respect to the housing programs, we are dependent on other people coming in and submitting proposals. We set up general objectives in that area, and Congress has set up the national housing goal, but to bring it down in great detail it depends on what people come in with that enables us to make a selection as between different proposals.

MR. GLICKSTEIN. But the President's statement says that in approving a proposal it has to be part of a plan that expands the supply of low- and moderate-income housing, and what I'm asking is how can you—

SECRETARY ROMNEY. What page are you reading from?

MR. GLICKSTEIN. On page 2 of the President's statement. (See p. .)

SECRETARY ROMNEY. Well, let me see what you are reading from.

MR. GLICKSTEIN. It's the third paragraph on page 2.

SECRETARY ROMNEY. As I have indicated, in connection with the comprehensive planning money, the comprehensive planning approach must include a plan, and that plan must include a plan for housing. The same thing is true with respect to the workable program. The workable program must include a plan with respect to meeting housing needs. So it does do that.

MR. GLICKSTEIN. When somebody comes in to you—

SECRETARY ROMNEY. In the case of Cleveland— let me give you a specific example. Mayor Stokes was just on here. Cleveland has not had its workable program recertified until—I have forgotten whether it's been recertified right now or not—it's still pending—but we think we are about in a position to recertify it because Cleveland has just indicated that they will include in their workable program provision for 2,500 housing units. Now my recollection is that it still has to be approved by the city council before we can recertify, but the workable program does get into those specific terms. In the case of Chicago, we held up funds to Chicago for some time because of their failure to make a firm commitment with respect to housing units under their workable program. Now, when they made a firm commitment with respect to the housing units under their workable program, then it was recertified, and that was fairly recently.

So, yes, these plans do include requirements of that character.

MR. GLICKSTEIN. So it isn't just a matter of waiting for somebody to come in with a project proposal and then evaluating that proposal in isolation?

SECRETARY ROMNEY. Well, Mr. Glickstein, it depends on what you are talking about. There are many programs we are talking about here, and if you will be specific in your questions, I will be specific in my answers. As far as housing is concerned, in approving a housing project *per se*, that housing project doesn't have to be a part of an overall plan, but it does have to conform with the requirements with respect to housing.

Now, with respect to making money available to a local community

for comprehensive planning, that local community must have a housing plan.

MR. GLICKSTEIN. Let's say a community comes in and requests a water and sewer grant from HUD. Doesn't that have to be part of a plan?

SECRETARY ROMNEY. It does have to be part of a plan.

MR. GLICKSTEIN. And how would you evaluate that particular application for a water and sewer grant in terms of whether it conformed to the plan?

SECRETARY ROMNEY. At this point the Congress requires that the community have a plan that will make provision for housing, but the statute does not require at this point for the plan to actually submit a specific housing program. It will require the submission of a specific housing program beginning next fall, but it doesn't at this point.

MR. GLICKSTEIN. That requirement has been deferred for a number of falls, hasn't it?

SECRETARY ROMNEY. Yes, on the action of members of Congress, but not at our request. We have never requested deferrals. As a matter of fact, we have been concerned with the deferral of the requirement for a specific program.

MR. GLICKSTEIN. Well, what about a 235 project, for example? If a builder comes in and proposes a 235 project, doesn't that have to be part of a plan?

SECRETARY ROMNEY. No, it does not have to be part of a plan.

MR. GLICKSTEIN. Again the President said the law requires that local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

SECRETARY ROMNEY. That's true in many ways but it's not an absolute that applies to everything, and it doesn't apply to every housing project that is submitted.

MR. GLICKSTEIN. Well, I guess what I'm really driving at is—

SECRETARY ROMNEY. Now, we have requested that the A-95 review be applied in those instances where housing projects involve 50 or more units, and that's so that where there is a regional body that is doing regional planning that projects of any consequence will be reviewed by them for the purpose of giving us the benefit of their views with respect to the relationship of that housing project to their plans.

MR. GLICKSTEIN. But as I understand the A-95 review process, one of the things the clearinghouse is required to comment on is not the availability of low- and moderate-income housing or the effect of the particular project in relieving areas of racial concentration. So at least as far as what this Commission is interested in today, the A-95 review process wouldn't get us very far.

SECRETARY ROMNEY. Well, they can comment on any aspect of the situation they want to comment on.

MR. GLICKSTEIN. But they are not required to under the A-95?

SECRETARY ROMNEY. They are not required to, that's right.

MR. GLICKSTEIN. I guess what I'm driving at is that we heard testi-

mony about the Miami Valley Plan and that you commented on the other day, and on paper it looked like a very fine plan, and it indicated where the 235 housing was going to be and where all the other types of housing were going to be, and I assume that if a builder came in and had a proposal to build some housing in one part of the Miami Valley area on the basis of the Plan, that Plan does take account of the needs of low- and moderate-income housing, and his particular project might be approved. But Mr. Bertsch who testified told us that the mere fact that something is projected on a plan does not necessarily mean it's ever going to be done.

SECRETARY ROMNEY. At this point there is no requirement that the housing projects conform with a Miami type plan. However, because I think that the Plan deserves a real test, and deserves encouragement, we are going to work with them to help them to carry it out in line with their agreement. We did help the Miami Valley to develop this Plan. As a matter of fact, I had the men who initiated it tell me that it was some of the statements that I have been making that caused them to undertake this effort, and I was very pleased to hear that. Furthermore, we helped finance their planning, and we think it represents a step in the direction that many other communities might wisely take and, consequently, we want to, if possible, help them to determine whether or not that plan can succeed.

MR. GLICKSTEIN. Don't you have any discretion in setting requirements about what the plan should require or contain?

SECRETARY ROMNEY. Not as much as you think I have. No, I have no authority to require these plans to contain the sort of thing you are talking about.

MR. GLICKSTEIN. But again, would you have discretion to indicate which types of plans you'd give preference to?

SECRETARY ROMNEY. We have the authority to apply the criteria that we have outlined here, and we would undertake to apply those criteria.

MR. GLICKSTEIN. Those criteria were not directed at plans. They were directed at—

SECRETARY ROMNEY. We have no authority, Mr. Glickstein, as I think you know, to require a metropolitan area to plan, number one. Number two, we have no authority to require them to include what you are talking about.

MR. GLICKSTEIN. I know you have no authority to require a metropolitan area to plan, but according to the President's statement, unless there is a plan, then the community doesn't participate in Federal programs.

SECRETARY ROMNEY. That's very true with respect to our program in many ways, but as is the case with most other things, it is not an absolute that applies to everything that's done. If you want to so construe it, why go ahead and do it.

MR. GLICKSTEIN. Let me move on to some of the slides that we saw here. You indicated that it was impossible—you didn't have the data at the moment to tell us whether some of these new projects being built

in the suburban ring were occupied by whites or blacks, is that correct?

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. The report on the 235 program that the Commission issued last week indicated by and large that new 235 projects in the suburbs were occupied by whites, and by and large 235 projects involving existing housing in the inner-city were occupied by blacks.

SECRETARY ROMNEY. As you know, I didn't disagree with that basically.

MR. GLICKSTEIN. You didn't?

SECRETARY ROMNEY. No. I replied. I made a public comment and I trust you read it and I didn't disagree basically. As a matter of fact, you don't have to prove through me that we've got a dual housing situation in the country. We've got a dual housing situation. We've got dual housing markets in practically every metropolitan area in the country, and that's one reason we need an affirmative marketing plan, and that's one reason we developed one, and we believe that under that program we can make some progress. That's one reason why we are testing different approaches in some metropolitan areas to see what we can do.

MR. GLICKSTEIN. And you believe that the affirmative marketing plan that was announced the other day would remedy, or possibly remedy—

SECRETARY ROMNEY. I didn't say it would remedy it. It's too deep-seated for that. I don't think any one thing will remedy the situation. I think this oversimplification is one of the problems. It's an element that might be helpful, and it's a first step in that direction, and we believe it will be helpful.

MR. GLICKSTEIN. Well, the other day in explaining the results of our study you said that the program operates within the framework of the private real estate market. FHA has traditionally been structured, legally and administratively, to respond to the private market. FHA does not by itself control such things as housing, site location, housing consumer preferences, choice of brokers, or the willingness of brokers to deal or not deal in FHA-insured properties.

How will the affirmative marketing plans deal with this problem involving FHA that you described in your statement the other day?

SECRETARY ROMNEY. Do you want me to read it? You've got it. I'll be glad to read it.

"Pursuant to this authority it is the policy of HUD to administer its FHA housing programs so as to achieve a condition in which individuals of similar income levels in the same housing marketing area have a like range of housing choices available to them regardless of race, color, religion, or national origin. Each sponsor of a proposed HUD-FHA project or subdivision shall pursue affirmative fair housing marketing policies in solicitation of eligible buyers and tenants.

"Requirements: Each sponsor shall meet the following requirements:

"(a) Carry out an affirmative program to attract applicants of all races. Such a program shall typically involve publicizing the availability of housing opportunities, including advertising in minority media,

if minority publications or other media are available in the area from which the market potential will be drawn. All advertising shall include either the HUD-approved equal housing opportunity logo or slogan, and all advertising depicting persons shall depict persons of majority and minority races.

“(b) Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority races for staff engaged in the sale or rental of properties.

“(c) Instruct all employees and agents in the policy of nondiscrimination in fair housing.

“(d) Specifically inform local housing authorities and relocation agencies of the development of projects and subdivisions and data pertinent thereto.

“(e) Specifically solicit eligible buyers or tenants reported to the sponsor by the HUD area or insuring office.

“(f) Prominently display in the sales or rental office of the project or subdivision and include in any printed material used in connection with sales or rentals information concerning its nondiscriminatory fair housing policy.

“The affirmative fair housing marketing requirements, as set forth in 4(a) to 4(f) above, shall apply, as of the effective date of this policy, to all subdivisions, multifamily projects, and mobile home parks of 25 or more lots, units or spaces, hereafter developed under FHA subsidized and unsubsidized housing programs.

“5. Each sponsor of a project or subdivision shall provide on a form to be supplied by HUD information indicating his affirmative fair housing marketing plan to comply with the requirements set forth above.

“6. Upon request, the Director of each Area and Insuring Office shall provide monthly a list of all projects or subdivisions covered by this circular on which commitments have been issued during the preceding 30 days to all interested individuals and groups.

“7. Sponsors failing to comply with the requirements of this circular will make themselves liable to sanctions authorized by law and regulations.”

Now, we are hopeful that that will enable us to make some progress in this field.

MR. GLICKSTEIN. How will FHA determine compliance with these guidelines?

SECRETARY ROMNEY. By complaints or spot checking.

MR. GLICKSTEIN. Will you become involved in spot checking or will you rely on complaints?

SECRETARY ROMNEY. We will rely on complaints and we will do our own checking where we have reason to do so.

MR. GLICKSTEIN. I think the Commission has been critical of HUD because you have not engaged in enough self-initiated investigations and—

SECRETARY ROMNEY. Well, you've been critical of us in many ways.

MR. GLICKSTEIN. That was one respect, and I have an article that appeared in the Milwaukee Sentinel on April 19th that quotes the

Federal Housing Administrator of Wisconsin in which he is talking about the 235 program, and he indicates that most of the new houses have been built in the suburbs and have gone to whites, the same pattern we found, and he said he would welcome a complaint and would act on it rapidly and indicated that without a complaint his hands were tied; he just couldn't do anything.

SECRETARY ROMNEY. Well, Mr. Glickstein, with the affirmative marketing policy and with the project housing selection criteria that we've just submitted, it's obvious that there should be a significantly better distribution of the housing on the basis where it must be open to all. Now, I don't think you or anyone else should expect immediate improvement because the hard facts are that this is a problem of a very deep-seated character that has to be dealt with.

MR. GLICKSTEIN. Just one final question before I defer to the Commission. We have been talking primarily about construction of new housing, and in the President's statement and I believe in your statement today you did comment on the great progress we are making in building additional units of new housing every year.

SECRETARY ROMNEY. Yes, I think the Commission has recognized the fact that we are doing a great deal more in terms of providing low- and moderate-income housing on a volume basis for the first time, really, in the history of the country.

MR. GLICKSTEIN. But, nevertheless, I would guess that most of the housing market consists of existing housing.

SECRETARY ROMNEY. You mean that we are supplying or is being sold?

MR. GLICKSTEIN. That people are moving into. They are moving into existing housing in the suburbs and existing housing in the cities, and I take it that your affirmative marketing circular doesn't cover existing housing?

SECRETARY ROMNEY. I think that's right. It applies to subsidized and FHA-insured.

MR. GLICKSTEIN. But not existing housing.

SECRETARY ROMNEY. FHA-insured.

MR. GLICKSTEIN. Existing housing?

SECRETARY ROMNEY. No, not existing.

MR. GLICKSTEIN. Just the new starts.

SECRETARY ROMNEY. That's right.

MR. GLICKSTEIN. So as I understand the way—

SECRETARY ROMNEY. Look, we are not ducking this question that you're raising. Now what you are really talking about is the dual housing market that exists in this country and the fact that most minority citizens when they go into a real estate office are shown the book for blacks instead of the book for whites. We know that, and we have some very meaningful projects that are beginning to show some real results, and if you want to check into one that is most meaningful, take a look at the Leadership Council in Chicago. Now, they, with our money, have reached a point where they now have Federal judges beginning to assess some real penalties against people who discriminate, and they

are also assessing penalties of sufficient magnitude and providing attorney fees of sufficient magnitude, so hopefully this will become an attractive area for private legal practice. But in any event, Mr. Glickstein, one of my college professors told me once something I have never forgotten, and I think it's very practical and sound in terms of making progress, and if you can find anyone more concerned about making progress in this field than I am I'd like to know who he is, because I have lived through what happens as a result of the prejudices and the explosiveness of what we are talking about here. Now, you want to take a look at what the Leadership Council of Chicago is doing.

MR. GLICKSTEIN. I believe we are going to hear testimony from them.

SECRETARY ROMNEY. And it takes private leadership of the character involved there to make real progress as well as governmental programs. It cannot be done by Government alone. The Government should provide the leadership. The National Government should certainly be out in the forefront and we are, but what my college professor said to me was this: That if you really want to make progress in any field, you have to start with where things are and build from there. You can't start way up here where you'd like to see things and build in mid-air or it doesn't last.

Now, what I have been undertaking to do as head of this Department is to identify where things are and what we can do to move from there and achieve some progress, and we've got some meaningful experiments going on. The Washington Center activity is one here in Washington. The Mid-Peninsula activity and the National Committee Against Discrimination in Housing in the San Francisco Area is another, and with the results of those programs and others, the Dayton Plan and the President's statement, I think we are at a point where we can begin to request national private leadership to step up and be counted in this area, along with governmental leadership.

Now, the hard facts are, having been in the public arena as I have been, what the President has just done is a very courageous thing as you yourself I think indicated in your statement to some extent. But, in any event, very few people who run for public office are prepared to stand up and take a firm position in the area we are talking about, and the President has just done that, and in my opinion he has done it in a very statesmanlike way because he has reconciled these two principles of equal opportunity and greater freedom of choice in this housing area in terms of how we can move from where we are in these various areas to move up, and that's what we need to concentrate on in my opinion.

MR. GLICKSTEIN. I have some additional questions, Mr. Chairman, but perhaps I could defer to the other Commission members.

CHAIRMAN HESBURGH. If you don't we are going to take it away from you anyway. Thank you, Mr. Glickstein.

I think Vice Chairman, Dr. Horn, would like to initiate some questions.

VICE CHAIRMAN HORN. Mr. Chairman, there are a number of documents we have referred to which really haven't been put in the record

yet. I think I put in the President's statement yesterday of June 11, but I would also like to include in the record at this point, since we will refer to them—and I think we will have to check with the White House as to whether it's proper. There was a background briefing provided at the White House on June 11 providing some background on the President's statement. Two White House officials participated. It was for quotation to them but not attribution to them. It's possible we might identify them as White House Official 1 and White House Official 2. I think that ought to be in the record. If it was publicly released, then it can be put in with their names.

The second thing would be the statement the Secretary made on June 14, and the transcript of the press conference which I think lay the whole basis for documents.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the White House briefing was marked Exhibit No. 28, Secretary Romney's statement of June 14 was marked Exhibit No. 29, and the transcript of the press conference was marked Exhibit No. 30 and were received in evidence.)

VICE CHAIRMAN HORN. Let me commend you first, Mr. Secretary, and the President, for trying to get some results and try to put an end to the rhetoric, even though we all have to deal with rhetoric as a way to implement policy.

Now, in the last few days we have listened to witnesses and some in the press and there are varying interpretations of these documents. Some read into it in a way just what they want to read into it. Let me tell you what I read into it, and I wish you would correct me if I'm wrong.

As I understand the President's statement, it boils down to this, that although the Federal Government will not force economic integration, that those locally designed proposals which do promote economic integration will get first crack at either the Federal monies or the grants or guarantees as appropriate, and that's really what the leverage is, and I refer, of course, to the paragraph you have just been discussing with Mr. Glickstein, paragraph 3 on page 2 of the President's statement, as combined with, I believe, part of page 7 of the President's statement, that with more applications than it can fund it must select those for funding which it determines most fully satisfy the purposes of the enabling legislation, and in doing so it says, "yes" or "no" to local requests for financial assistance for projects that have been locally planned and will be locally executed.

Am I wrong in that interpretation?

SECRETARY ROMNEY. Let me put the essence of it in my words, if I may.

VICE CHAIRMAN HORN. All right.

SECRETARY ROMNEY. As far as I am concerned, the President has made it very clear that the Administration will take every action to eliminate racial discrimination, and it will also take action to eliminate racial discrimination that is cloaked under economic actions of any type, that the economic will not be permitted to hide racial discrimina-

tion as a subterfuge.

Now, I think also if you want a succinct statement of what the President's policy is, that you will find it on page 11 of his statement, where he says:

"Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the 'affirmative action' mandate of the 1968 act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

"In furtherance of this policy, not only the Department of Housing and Urban Development but also the other departments and agencies administering housing programs—the Veterans Administration, the Farmers Home Administration and the Department of Defense—will administer their programs in a way which will advance equal housing opportunity for people of all income levels on a metropolitan areawide basis."

Now, I think if you couple what I said earlier about taking action to eliminate racial discrimination whether direct or covert, and this, that's the basic thrust.

VICE CHAIRMAN HORN. Now, my understanding of that thrust, taking what's said then on pages 2, 7, and 11, would be that as long as it's locally proposed in a plan or project proposal and it is promoting economic integration, or at least additional housing opportunities of low- and medium-income, then this type of proposal, given other considerations presumably in accord that are at least adequate, would get to the top of the heap among this great competition of proposals for which you have limited funds.

SECRETARY ROMNEY. I have indicated that generally where other things are equal, that the location of a housing project outside of an area of minority concentration would result in that project getting preference.

VICE CHAIRMAN HORN. All right. Now, there apparently was some confusion I think here in the minds of the Commission in response to Mr. Glickstein's question about the third paragraph on page 2 of the President's statement. What I suggest is that the General Counsel of HUD could perhaps reply in terms of that third paragraph as to which housing assistance programs really would be included in it, and which wouldn't, because as I understood, there was some difference about whether a comprehensive plan was needed or not, and I don't want to

belabor that point anymore.

(See p. 1024.)

Let me ask you in another area: As I look at that background conference held by—apparently it's public—Mr. Ehrlichman and Mr. Garment, Mr. Garment said on page 4 of the background performance that really the lead Agency would be HUD. This morning we had Mr. Ruckelshaus before us of another Agency not under the jurisdiction of your Department, and he said in response to a question that they would rely on HUD as the coordinator in this area.

Now, what this leads me to is just the question of leverage as to whether we are to interpret the President's message and your statements as being limited to simply the other leverage you have available within your jurisdiction at HUD, or are you to serve—and certainly that's the way I interpret the statements and the background—as the coordinator for all Federal activity and try to bring some sanctions if sanctions are necessary.

SECRETARY ROMNEY. We have already taken a lead with respect to the General Services Administration and working with them to work out a program with respect to the location of Federal installations.

We have also taken action with respect to the Financial agencies, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the Comptroller's Office, to get information with respect to financial institutions to determine the procedure by which we can bring about the compliance on their part.

We are working with the Department of Labor in the area of enforcement in relationship to minority employment, and so on. We are working with many other Departments and will work with many other Departments.

VICE CHAIRMAN HORN. Mr. Secretary, I take it in that case it's a matter of persuasion in your judgment with other Departments for them to invoke their leverage to help you in a particular situation, or do you really have any power under the law to be the lead agency?

SECRETARY ROMNEY. I don't have any power under the law to require them to do anything.

VICE CHAIRMAN HORN. Let me ask, Mr. Chairman, to have included in the record at this point three forms which the Secretary distributed at his press conference the other day concerning 235 housing, rent supplement, and 236 projects, as well as low-rent public housing. I think HUD is to be commended for trying to get the criteria as well as the various aspects of the program down in writing, and we ought to have that as part of the record.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the documents referred to were marked Exhibit No. 31 and received in evidence.)

VICE CHAIRMAN HORN. I wonder with these forms that you offered yesterday, plus the fact that you are going to have to depend on persuasion, what sort of coordinative mechanism do you foresee to try and pull together all the activities the Federal Government is doing in some of these metropolitan areas. Would it be at the local level, here in

Washington, or what?

SECRETARY ROMNEY. Well, we have various levels. After all, the Federal Government has a Civil Rights Committee in the Domestic Council, and through that Committee there is a means to coordinate the effort of the various Departments, and of course the Domestic Council itself becomes a coordinating mechanism at the national level.

Now, in addition we have regional organizations and regional councils at the regional level, and they become a coordinating mechanism at the regional level, and our Department has decentralized beyond the regional level and we have established area offices in a number of States, and those area offices become a means of coordinate activity at that level.

VICE CHAIRMAN HORN. Are you satisfied with the bureaucratic apparatus that exists within the Federal Government to achieve this coordination?

SECRETARY ROMNEY. No, I think the President's reorganization program should be adopted.

VICE CHAIRMAN HORN. You feel narrowing the number of Cabinet Departments would also result in similar activities at the State level?

SECRETARY ROMNEY. Sure, because if you combined all the community development activities in a Community Development Department, it would be much easier to coordinate a number of these programs we are talking about. After all, you then have the Farmers Home Administration in the Community Development Department, and you'd have all the water and sewer programs in one Department. As it is, you've got water and sewer programs in four Departments and a number of Agencies.

So what the President has proposed would permit a much more effective coordination and a much more effective administration of the programs, and furthermore you could hold a particular Cabinet officer more responsible for results.

I've done this in the Department. When I took over the Department we had two Assistant Secretaries responsible for housing production. I created a functional organization and put all the housing production under Assistant Secretary Gullledge, gave him the authority, gave him the money, and held him responsible, and it made him responsible and you can therefore hold him accountable. And I think this is one of the reasons we have been getting greater results in our housing production. The same thing works in other fields.

VICE CHAIRMAN HORN. One of the frustrations we sort of feel as we go around the country holding hearings, when we talk to regional officials in not only your Agency but other agencies, and also when we talk to builders and real estate brokers, is the frustration that they can't get decisions rapidly enough at the local level because so much clearance is required with Washington. Are you doing anything to get at this problem of decentralizing authority to a regional area basis?

SECRETARY ROMNEY. We have decentralized and we have placed the authority for most of our programs at the area level, but it needs to go beyond that. The President has not only proposed reorganization,

but the President has also proposed revenue sharing, special as well as general, and those programs are designed to avoid this red tape and delay and to get the money out to the State officials and the local officials so that they can make use of the money on the basis of their greater knowledge of local conditions and local problems. We think that makes a lot of sense, and we are hopeful that Congress will pass the Urban Special Revenue Sharing Act.

VICE CHAIRMAN HORN. Let me ask you in the President's statement, the phrase "racial concentration" is mentioned, and it could be interpreted that those plans that give you the best way to break up racial concentration in an area, or at least don't put federally assisted housing in areas of existing racial concentration, would be at the top of the list for available Federal money. What's your feeling on that? Would those be at the top of the list?

SECRETARY ROMNEY. Well, as I have indicated, we have the criteria and consequently that's a requirement with respect to the availability of the funds. If they don't at least have an adequate rating with respect to the location of the project, why they aren't eligible.

VICE CHAIRMAN HORN. Do you feel that perhaps something besides racial concentration ought to be looked at, as for example in the case of Washington, where is the job concentration? Is that a factor that would be gone into and not simply moving the project away from racial concentration?

SECRETARY ROMNEY. Well, obviously, in connection with housing you have to give some consideration to the economic conditions within a marketing area, and so on. But I have expressed great concern about the job pattern in the metropolitan areas and the need to encourage, as the President does in his statement, a metropolitan approach instead of a community-by-community approach. The hard facts are that the central cities are in my opinion not in a position to work out their problems within the central cities, and that is because jobs and other resources have moved out of the central cities to such a considerable extent.

Now, in our criteria, one of the points is accessibility to job opportunities in terms of the location of the housing project itself, and also the question of good transportation at reasonable costs; is the project accessible to good educational, commercial, and recreational facilities? That's point number 4, "improved environmental location for lower-income families". An item is "outside areas which have an excessive concentration of subsidized housing", like you have in St. Louis.

VICE CHAIRMAN HORN. Let me ask you: Moving to page 13 of the President's statement, he says there that while we all have to recognize that the various kinds of land use involved in housing site selection are essentially local, that they represent the kind of basic choices about the future shape of the community or of a metropolitan area, and that should be chiefly for the people of that community or that area to determine. Then he goes on to say: "The challenge of how to provide fair, open and adequate housing is one that they must meet; and they must live with their success or failure."

I wonder what the President meant by success. Do you have any idea of what his version of success might be?

SECRETARY ROMNEY. Creating a harmonious environment, I'm sure, a good quality of life throughout the community, and I think he was talking in terms of the real community rather than these artificial political boundaries that exist in metropolitan areas.

VICE CHAIRMAN HORN. Let me ask one last question, Mr. Chairman, and then make a request for further information. As we go around the country we find various local regional Federal officials are not completely sensitized in terms of their particular area in the broader civil rights considerations which might affect their particular program. If it's agriculture they regard their mission in some areas as: "How do you get the wheat subsidy check out?" In highways it's "How do you put a freeway here?" In Housing it's sometimes: "How many housing applications have you cleared?"

I just wonder what are you doing as the chief executive of HUD to sensitize your various regional officials to broader considerations than merely laying down a lot of houses?

SECRETARY ROMNEY. Well, we have an equal opportunity structure within the Department that operates at the regional level and the area level as well as the national level, and requirements for that concern to be injected into the consideration of these programs and applications. Furthermore, they are constantly monitoring the situation with a view to making certain there is a recognition of the importance of this area of concern. Now, in addition, we are working with State organizations, local organizations; Secretary Simmons has had training sessions for State officials. He's meeting with private groups, leadership groups, with a view to increasing their concern. We have many activities designed to increase the awareness in our Department as well as to increase the activity on the part of State and local governments, and also on the part of private groups.

Now, with the President's policy statement, we are going to be in a much better position to move forward in this respect. To some extent we have been hampered in carrying out a fully effective program, and with a decentralized organizational structure such as we now have, where the bulk of the decisionmaking with respect to the granting of funds is out at the area office level, you do need clear-cut policies and clear-cut project selection procedures to enable them to function within the framework of sound direction.

VICE CHAIRMAN HORN. On that last point, do you see your area directors, now that they have this authority at the regional level, as really serving as a lead Agency to administer what has been referred to by the President's advisors as a national policy in housing with HUD as the lead Agency? In other words, do you see an active aggressive role of trying to pull together the actions of EPA in a region in relation to HUD prior to, say, the approval or rejection of a particular request for funds, grants, or assistance?

SECRETARY ROMNEY. Well, are you talking about EPA's environmental activities or—

VICE CHAIRMAN HORN. I just picked out one Agency.

SECRETARY ROMNEY. I don't know that EPA is in the housing field.

VICE CHAIRMAN HORN. They really aren't but they are in, say, other activities of Federal construction, and of course we are looking at a broad interpretation of Title VI combined with Title VIII.

SECRETARY ROMNEY. Well, we just reached this agreement with GSA with respect to Federal facilities, whether leased or built, and that would apply to EPA or any other governmental operation. The President has recommended, in the environmental package that he submitted to Congress, land-use planning which would have application to the environment and also the community development, and under that proposed legislation we would have the key responsibility for the community element aspects of land-use planning. We think that it's time to encourage States and metropolitan organizations and local communities to do more effective jobs of land-use planning because that ties right into the housing situation.

VICE CHAIRMAN HORN. I guess what I'm trying to nail down is, on these three forms which you distributed yesterday, which will really be judged at the local level by your regional people based on a metropolitan area, would any considerations go into the approval or denial of a particular project other than HUD considerations? Would any other Federal Agencies' activities in relation to that community be brought to bear before HUD decides whether they grant the assistance or don't grant the assistance, or is it just HUD activities and coordination that those regional people are going to be concerned with?

SECRETARY ROMNEY. Well, obviously, the activities of other Departments have some impact on some of these other criteria.

VICE CHAIRMAN HORN. That's right.

SECRETARY ROMNEY. And certainly that means that we would be taking them into consideration.

VICE CHAIRMAN HORN. Okay, so there will be some process to get their input then prior to decision?

SECRETARY ROMNEY. Sure.

VICE CHAIRMAN HORN. Now, I'd like, Mr. Secretary, if your Department could furnish for the record, based on the charts that we were shown, the actual number of housing units by those three time periods constructed inside the city boundaries and outside the city boundaries, so that we cannot only relate the particular trend in projects but the particular trend in dual housing units.

SECRETARY ROMNEY. It will take us a little time to get the number of housing units but we will undertake to do it.

CHAIRMAN HESBURGH. I think, also, Mr. Secretary, the racial composition when available. I know all those facts aren't in yet, but that would be very helpful for our future planning.

SECRETARY ROMNEY. Well, that's information of the type that we are in the process of developing, and that could take some little time.

CHAIRMAN HESBURGH. That's all right. We don't mind as long as

we get it when it's available. The Government Printing Office is to do our hearings anyhow.

Mrs. Freeman, would you like to ask a question?

COMMISSIONER FREEMAN. Mr. Secretary, yesterday Mr. Brown, the Director of the Census, presented to the Commission the population of 12 metropolitan areas which revealed that in the suburban communities, as against the central cities, there had been between 1960 and 1970 in every single instance less than 5 percent change of the population, the black population, into suburbia, which means on this question of suburban access, it is just as difficult to get into suburbia now if you happen to be a member of a racial minority as it was 10 years ago.

You indicated in your earlier testimony that FHA policy and program has had very little impact or has shared very little responsibility for this.

SECRETARY ROMNEY. I don't think I put it quite that way, Mrs. Freeman. I just indicated it was not something that had shaped the whole thing. I think I pointed out that really the Nation had a segregation policy, and it was reflected in FHA and reflected in other places, and it was an important part of it.

COMMISSIONER FREEMAN. Well, I want to speak to the role of FHA now. From the beginning of the program through fiscal 1970, almost eight million home mortgages valued at over \$46 billion have been insured. That's under the 203-B program. Going closer to home, my own home of St. Louis, St. Louis County has received 74 percent of all of the FHA loans on a punitive basis, and even for the Fiscal Year 1968 St. Louis County received 74 percent, and also our figures show that this kind of trend has been true throughout most of those metropolitan areas. Now, our concern is with the way in which there will be some realistic change.

Now, one of the problems that the Commission found in our Civil Rights Enforcement Effort Report was that in some instances the decision is made—and I will say with respect to FHA now—by executives or staff of FHA who were formerly members of the real estate industry which is responsible for the exclusion in the first place.

So my first question to you would be with respect to the bureaucracy itself, the extent to which in this change or this program for change that's going to be made, whether those persons who make the decisions, whether they are the same people who were responsible for the exclusion in the past. Are they still with FHA?

SECRETARY ROMNEY. Well, I think under Civil Service we have many people who have been with FHA for a long time, and I don't know that there's much you can do about it.

COMMISSIONER FREEMAN. There is such a program called redlining of areas.

SECRETARY ROMNEY. There isn't now. There used to be.

COMMISSIONER FREEMAN. Under such a program there were certain districts in a city, for instance in the city of St. Louis—

SECRETARY ROMNEY. There used to be, Mrs. Freeman, as you

know, but that's not true now.

COMMISSIONER FREEMAN. When did that stop, sir?

SECRETARY ROMNEY. I think that stopped in '65, back in there.

COMMISSIONER FREEMAN. Is it possible that the policy did not get back to some of the persons in—

SECRETARY ROMNEY. If you are asking me if all of the FHA personnel changed overnight, no. People don't change that fast. People change more slowly than almost any other thing on the face of the earth.

COMMISSIONER FREEMAN. Well, what we'd like to do is see what we can do to help them change.

SECRETARY ROMNEY. I would too, Mrs. Freeman, by being able to confront them with directives that they have to follow in specific terms, such as we presented here. We are going to be in a much better position to judge them as to whether they have or they haven't. And if we have some that don't conform with this, then we have a basis of getting rid of them. Now, we've gotten rid of some of these FHA personnel in connection with this investigation of 235 existing, where they were not carrying out their responsibilities properly, and we have been able to dismiss some of them, despite Civil Service and the problems of changing personnel. I assure you it's a much different problem to change an organization in Government than it is as head of a company, and I know the difference.

COMMISSIONER FREEMAN. Well, may I go on to another concern. One of the problems has been that there are some communities that do not want poor people.

SECRETARY ROMNEY. Black and white.

COMMISSIONER FREEMAN. That's right. But the Congress in the 1970 Housing Act—

SECRETARY ROMNEY. I mean black and white communities that don't want poor people, black people that don't want poor people as well as white people.

COMMISSIONER FREEMAN. That's right. Very few people that have more than \$5 want poor people. Poor people don't like poor people.

CHAIRMAN HESBURGH. Poor people don't like themselves.

COMMISSIONER FREEMAN. I want to call to your attention Section 504 of the Housing and Urban Development Act of 1970, which provides for experimental housing allowance programs, monthly housing allowances to families in such localities determined by the Secretary to have an adequate supply of housing units. Now, this would be an area, it seems to me, in which, if money would be given to that family, that that family could move into an existing house, without causing too much—maybe he'd have to sneak in, but anyway it wouldn't cause too much difficulty if he got the funds from HUD.

I'd like to know, first, the plans of HUD for implementing it and, second, if Congress has made an appropriation and the amount of the appropriation and the extent of implementation to date.

SECRETARY ROMNEY. Well, we are in the process of undertaking some research projects. Congress directed us to do so but they didn't

appropriate any special money for the purpose. They told us to take money out of our regular research budget.

Now, Secretary Hyde reminds me that we have one such project going in a Model City area in Kansas City, but we also are structuring other tests of a larger character, and we are hopeful we will get the funds from Congress next year to undertake the tests. We think it's something that should be thoroughly explored.

COMMISSIONER FREEMAN. I was going to ask you, Mr. Secretary, if you would comment on this provision as a potential for desegregating some of those hardcore bigoted communities.

SECRETARY ROMNEY. Well, of course what it would mean is individual families would have resources with which to go out and locate their own housing to a greater extent, and I think private initiative in that respect would perhaps produce somewhat greater distribution, although I think it's difficult to say with certainty what would happen. As a matter of fact, Mrs. Freeman, it seems to me that with adequate opportunity to move, and with adequate income, that there isn't anyone that can sit here and say at this point what patterns of grouping would develop in this country. I really don't know. Now maybe some people are smart enough to know what patterns would develop. I do know that I've gone into many urban renewal areas where the people are bitter at the idea that they are not going to be able to remain and live right in the area that they have been living in. As a matter of fact, the black people are divided. There are many black people who think the idea of increasing the housing opportunity outside of the central city is an effort to weaken black political power, and so on. There are many viewpoints in this situation, and I am quite frank to say that I don't know just what will happen given equal opportunity and freedom of choice, but I do believe the President is right in saying that everyone should have the right, and everyone should have the ability, and there should be mobility, so there can be movement in this situation. Now what patterns will develop I don't know.

Let me give you a specific example, and I am going to fuzz it up a little bit because the individual might be identified too clearly otherwise. But in any event, there was a black man in Michigan who had the respect of the whole State. He occupied a very important State position. He accepted a position in private employment, a good paying job in Detroit. He had been living outside of Detroit. And a black Federal judge, who lives in one of the better parts of Detroit, urged this black man to go out and locate a house in a completely new area in Detroit where there were no black people—because he could, there isn't any question about him being able to do it—but he said: "I don't want to." He said: "Why do you want me to go out there and live way out there some place? I want to live with my friends. I want to live with the people I know."

Now, I don't know frankly what people will do when they have complete freedom of mobility. I am for getting them complete freedom of mobility. I am for enabling them to have freedom of choice, and I think the freedom of choice is going to result in great diversity, and I think

also that that freedom of choice must be on a metropolitan basis, as a matter of fact, a State and national basis, and I think it's got to include housing of various types so people can live within a reasonable distance of their job and daily activity.

COMMISSIONER FREEMAN. You do agree with me, then, that the freedom to choose is not now a reality?

SECRETARY ROMNEY. Oh, sure, sure.

COMMISSIONER FREEMAN. That you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. Mr. Secretary, could I address myself to Secretary Simmons?

SECRETARY ROMNEY. Sure.

COMMISSIONER MITCHELL. I do that because he was once a member—

SECRETARY ROMNEY. He's an alumnus.

COMMISSIONER MITCHELL. —an alumnus of the Civil Rights Commission, because one of the things that has troubled the Commission about Agencies like HUD is that in the development of some of its programs in which we have special interest, those people on the staffs of various Agencies who share that interest and that background, not always involved in the upper policy making levels—I suppose it's really pointless to ask whim with his boss sitting over to his right, but what I am interested in is whether the Secretaries with you have all shared in these policy determinations and whether they understand the considerations, as Mr. Simmons does, or the Civil Rights Commission, whether they share your satisfaction with the position you now find yourself in and your hopes for the future. Maybe Mr. Simmons can speak the language of the Commission for a moment and respond to that.

MR. SIMMONS. All the people here at the table were involved in terms of the formulation of these policies and do play a key role in really trying to institutionalize the equal opportunity process. I think that the key thing that is involved, the key thing that I have been concerned with is that too often in the past the equal opportunity was an *ad hoc* process that was really dependent upon who the people happened to be in office at that time. Out in the field it would depend upon how wise and how smooth an individual was and what he was able to achieve.

The key thing that we are trying to do in terms of these procedures here now is to institutionalize the equal opportunity process so that an individual who is not an equal opportunity specialist can carry this out on a day-to-day basis and achieve the goals that we are talking about. This is the key thing we have been working at, and I would say this is the kind of concepts that are held by the top people at HUD.

COMMISSIONER MITCHELL. Mr. Secretary, you have your hands on the jugular of the great problem that has split this free society and threatens to fragment it. I appreciate your frankness in describing the realities of the past because they are now an indelible part of the record, the history of this country anyhow, and I for one am glad to have had you here and do not see how my colleagues on the Commis-

sion could do anything but rejoice at your willingness to make the representations you are making and to advance those made by President Nixon. I find it unthinkable that you are making representations that are not sincere and that you don't intend to deliver on them. I recognize that you are dealing with problems that aren't always predictable, and you have already said that, but I would like the record to show that this Commissioner at least is greatly impressed by this presentation and feels that you are reflecting what is a great hope for the citizens of this country, poor or a minority group who wants to live somewhere of his own choice.

SECRETARY ROMNEY. Thank you. Let me say this in response, Mr. Commissioner, that when you combine the problems of the cities with the problems of housing and race, you have the most complex, sensitive, and explosive problem in the Nation today. It's the number one problem domestically. There isn't any question about it. And this Nation will sink or swim on its ability to solve that problem, and to an extent the world, because if we can't work this out we won't be able to work it out on a world basis, and with transportation and communication being what it is, it becomes more urgent on a world basis as well as a domestic basis.

COMMISSIONER MITCHELL. This is one area in which, in my opinion, the people of this country cannot take many more disappointments. They have had incredible tolerance in other areas, and sitting on the university campus I have watched the extent to which they could be confused by many other social changes. We are not talking about the grownups, about a segment of our society that has got explosive implications, as you and I both know from different vantage points, and those who keep saying that time is running out are speaking a real truth when they speak now about housing.

SECRETARY ROMNEY. That's right.

CHAIRMAN HESBURGH. Dr. Ruiz, do you have any questions?

COMMISSIONER RUIZ. I've been sitting by here listening objectively and it's rather an advantageous position to be in the far end of the table here.

I have noted that unfortunately some sources have misconstrued some language which is contained in the President's message. The President's statement has been misinterpreted in some points as I have heard the testimony develop here. Now, far be it for me to pretend to write a Presidential speech. I personally admire Mr. Nixon's many fine qualities. I owe my appointment on this Commission to the President. I make reference to page 4 of the statement of Secretary George Romney for release—

CHAIRMAN HESBURGH. Dr. Ruiz, is that the statement yesterday or . . . ?

COMMISSIONER RUIZ. Let me see here. It says 4 p.m. Tuesday.

SECRETARY ROMNEY. That's today, I guess.

COMMISSIONER RUIZ. That's today, yes. And I call attention to the paragraph that starts out: "What the President has said is that the Federal Government is not going to create an army of Federal zoning

officials to march through thousands of individual suburbs, substitute Federal zoning for local zoning, and thus impose low- and moderate-income housing or economic integration by bureaucratic fiat."

I am assuming for purposes of my statement that the laws of the bureaucracy are clear and in regulations and enabling legislation.

SECRETARY ROMNEY. Well, that's a big assumption to make, because the law isn't clear.

COMMISSIONER RUIZ. I am going to make reference to what our President said the other day. I am going to substitute the word "communities" used by the President in his statement, with the words "government agencies" in lieu thereof. But the President also said: "We will encourage communities to discharge their responsibility for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries"—and substitute the words "government agencies" to read: "We will encourage the government agencies to discharge their responsibilities for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries."

Now, going to the next paragraph, the President said: "We will encourage communities to seek and accept well-conceived, well designed, well-managed housing developments"—and substitute the words, "We will encourage the government agencies to seek and accept well-conceived, well-designed, well-managed housing developments."

Now, don't you believe that this would have cleared up some of the misconception if those words had been used instead of "communities", sir?

SECRETARY ROMNEY. No, sir.

COMMISSIONER RUIZ. Now, will you state the basis of your opinion?

SECRETARY ROMNEY. Sure, because in the metropolitan area of Chicago you've got 1,110 separate autonomous units of local government.

COMMISSIONER RUIZ. What has that to do with encouraging government agencies to discharge their responsibilities particularly with respect to the fact that the local government ties into municipal government and State government, and that there are assistance of funds from the Federal Government that go to the local agencies.

SECRETARY ROMNEY. Well, the fact that in my opinion you can't get at this problem effectively on a general purpose by general purpose government basis; and these are highly fragmented metropolitan areas, and you need a broader basis on which to deal with that.

COMMISSIONER RUIZ. Well, I am agreeing with you that you do need a broader basis with which to deal and that broader basis is the Federal Government, and that the Federal Government agency should be encouraged. Do you disagree with me?

SECRETARY ROMNEY. No, I think they should be encouraged, and we are encouraging them, Doctor. I also pointed out in my testimony that you need more than just the government agencies. You not only need the national Government agencies, you need the State agencies,

you need the local agencies, and you need private leadership.

COMMISSIONER RUIZ. You have so stated in your testimony. I am referring to the President's statement, if this would not have been better stated in order to clear up this misconception.

SECRETARY ROMNEY. What misconception?

COMMISSIONER RUIZ. The fact that the President is not encouraging government agencies.

SECRETARY ROMNEY. Why should you have that misconception? If you read his statement it's certainly clear that he is encouraging. He is not only encouraging government agencies, he is also encouraging private groups. If you will turn to page—

COMMISSIONER RUIZ. He says the Federal Government.

SECRETARY ROMNEY. —14, "This Administration will offer leadership in encouraging local and State governments and housing authorities to address this question creatively and imaginatively, and to address it with a keen understanding of the needs of those persons for whom the housing is better provided as well as the needs of the community at large.

"Local and State authorities, for their part, should continue to respond constructively, pressing forward with innovative and positive approaches of their own. For it is they—and beyond them, it is millions of Americans individually—with whom the challenge primarily rests. We are dealing here in a realm in which Federal authority, while substantial . . ."—and then he goes on to point out the need for activity on the part of all government agencies and levels. He did that.

COMMISSIONER RUIZ. Now, I was very glad to hear of your affirmative plan to tie together the fragmented civil rights responsibilities of the various Agencies, and if you are working on a plan to institutionalize, as Mr. Simmons said, the structure into the housing community and the housing responsibilities of HUD, I think we are going to go some place, and the sooner that's done the better it's going to be.

SECRETARY ROMNEY. Well, thank you. I don't want to leave you with a misconception here. I haven't indicated that we are going to be able to coordinate the activities of all the Federal Departments here in this area suddenly. I have indicated some of the areas where we are moving, and I have indicated the structure that exists within the Federal Departments to get at this on a coordinated basis through the Civil Rights Committee of the Domestic Council.

COMMISSIONER RUIZ. The only reason I made reference to that is because the words, "HUD is going to take the lead" perhaps is also unfortunate because testimony we have received heretofore apparently has given some of us the impression that a lot of these agencies are passing the buck over to HUD, and that is the reason I reacted when Mr. Simmons said: "We are going to try to tie these things together and structurize it in such a fashion to make it more efficient."

SECRETARY ROMNEY. Well, again, I think he was referring to the effort we are making here and that's what's happening.

COMMISSIONER RUIZ. Well, I want to congratulate you. I think it's a very excellent effort, and the quicker it's done the better it's going to

be, because the buck is going to stop some place and will have to stop.

SECRETARY ROMNEY. Well, again I want to say that I think the President is right, that this is a problem that you can't pin on just an individual or a department, and I again want to submit to you that this is something that leadership at all levels needs to be involved in. I have had the responsibility at the State level. I know what happened when we got a civil rights commission in the State of Michigan. All of the mayors and city councilmen said: "Goody, we won't have to pass fair housing ordinances." So I got them all together, and I said: "I want you to know that the State government can't assume the full responsibility to handle this problem. It's too deep, it's too pervasive, it's too difficult. Leadership at every level has got to stand up and be counted here, and we are just as concerned about having fair housing ordinances passed by local governments as we were before, because if you do your part and we do our part it's still going to be a long time before we work this problem out."

Now, let's be realistic about this. The hard facts are that many black people now are beginning to show the same tendencies that white people have been showing in relationship to low- and moderate-income families, as Mrs. Freeman and I were discussing. Furthermore, there's still the fact that if you give mobility people still move. And I just think that the question is, has the President outlined programs that will move us from where we are and make more progress? Now, to make more progress in my opinion, we are going to have to have policies that will not create greater resistance on the part of those whose help is needed to make progress. And at the same time, we've got to maintain the hope of those who need change, that they can get change, and this is not a simple situation to deal with. It's complex. It's sensitive. It's emotional. And the question is, has the President taken the steps here and have we taken the steps that are in the right direction, and will they move us from where we are and move us on in the direction we ought to be moving in.

COMMISSIONER RUIZ. Your philosophy is accepted.

SECRETARY ROMNEY. Thank you.

COMMISSIONER RUIZ. My purpose was to bring out the fact that the Federal Agencies should take a more positive stance in this entire picture.

SECRETARY ROMNEY. Thank you.

CHAIRMAN HESBURGH. Mr. Secretary and gentlemen, we thank you very much for being with us today. I am going to say only one short word, and I think it should be said because I have been, like yourself, facing this problem for the last 14 years as a member of this Commission. And I have found that of all the problems we have undertaken, this is perhaps the stickiest, the one most given to frustration. We began on voting and I think we have licked the voting problems more or less. People can register to vote today and millions of them couldn't before.

I think we have made enormous progress in public accommodations which were closed in so many areas and now are open in so many areas,

in almost all areas of public life.

I think we are left with this kind of inextricable trilogy that you can't solve anything separately here. You've got to solve it all at once or across the board, step by step, in housing and education and employment. And the whole nut of the problem as we have been seeing it is that as our urban situation has been developing vis-à-vis the suburban situation, we are finding a concentration of blacks in one area and a concentration of the job opportunities they need for mobilization upwards in another area. We are finding that after spending billions of dollars on housing, the fact is that it probably had a terrible social effect on the whole fabric of American life, because we have concentrated housing in a way that has represented to the whole world our prejudices and our hatreds and our smallness of spirit.

I think there has been more difficulty in solving the housing problem as we have moved around in hearings about the country than any other problem we have faced. I think we are going to lick the education problem eventually. We are going to lick the employment problem. But we can't lick it without licking the housing problem. The thing that really bothers me is that 10 years ago, 1961, I made a minority statement in one of our reports, and almost everything I said in that statement regarding housing I could repeat today with equal truth. That doesn't mean we haven't made some progress, but it means the progress has been so slow that those that are faced with the problem I think are frustrated to a point that's easy to understand and difficult to imagine continuing.

While I am happy that this week we have seen so much talk about housing—we've had the President's statement, we have had the press conference of yourself and our Attorney General, we've had the background statement of the White House, we've had the hearing here in this building and will continue tomorrow and part of the next day—but I must say that I am not filled with enormous hope. I am filled with some confidence that you, sir, have all of the high ideals of what ought to be, and that are trying to make some progress on what can be right now today and tomorrow and the next day, but I think that you are perfectly right when you say that this problem is not going to be solved by a Presidential statement. It's not going to be solved by HUD. It's not going to be solved by anything but a total effort of this country and a total effort of this Government, and I believe throughout the Government we have seen so many fine statements and so much rhetoric and so much of the carrot and the stick, and I think you could probably qualify the President's statement by saying it goes heavy on the carrot and light on the stick. But the fact is that there is motion forward, and there is rhetoric that says the right things, but I just hope to God that we are not saying words and not pointing to reality, because we cannot go on in this country with the kind of frustration, at least I've seen up close over 10 years, of continual rhetoric and continual planning and changing of administrations, and all the political process.

So what I would say is, I repeat what Chancellor Mitchell said, that we've had a good conversation here with you today and I hope we can

have some more conversations. When we oppose you publicly in reports of one kind or another, there is nothing personal in it because we want to be as eager to get to that goal as you.

I think I would disagree with you when you say you can't put on pressure for what ought to be. I think we've got to put on pressure for what ought to be. And I think what ought to be, if I could paraphrase it as a concluding statement for today's hearing, is that every human being in America ought to have the same opportunities, and every human being in America, wherever he happens to be born, into a poor or rich family, ought to have the same kind of human dignity, and that ought to be recognized by everybody, and every American somehow should have the same hope. That isn't true today. Until it becomes true we are going to keep pressing for what ought to be. And I think as Bobby Kennedy, maybe quoting somebody else, said: "Don't look at what is and say that's it"; say, "Why can't it be different?" And I think we've got to make it different.

SECRETARY ROMNEY. Dr. Hesburgh, I said "too much pressure". Now, there's a difference between what you are talking about and what I was talking about. I didn't say just "pressure"; I said "too much pressure".

CHAIRMAN HESBURGH. Well, I disagree in any event.

SECRETARY ROMNEY. All right, but let me respond also on this point. I do think it takes mobilization of national leadership, and I think that includes private leadership.

CHAIRMAN HESBURGH. I agree with you.

SECRETARY ROMNEY. And we are working with plans of that character, because that was necessary in connection with the job situation. As a matter of fact, the National Alliance of Businessmen emerged out of just such an effort. That's been necessary in the school desegregation effort, and it's going to be even more necessary in this effort because this deals with a much more intimate and difficult situation as you have indicated.

CHAIRMAN HESBURGH. Well, the reason I said I differed, I don't think you can have too much pressure in this country today for what ought to be, because it's the price of our survival as a Nation, I think.

SECRETARY ROMNEY. Well, look, I again want to say that if you put so much pressure on what ought to be you get so idealistic up here that you prevent what can be and you stop progress, because you get everybody's attention focused up here.

Now, I was at the Mayors' Conference yesterday and the mayors wanted to attack the President on the basis that the President hadn't included in his statement a provision to cut off all Federal funds if any community discriminated on any program, in the application of any program.

Now, under today's circumstances that we have to face, to attack the President on the basis of what they think ought to be, and to undermine what he is trying to do here, is to put too much pressure on what ought to be perhaps, in their terms, and to prevent what can be. And furthermore, as I pointed out, what ought to be, maybe that would be

in the direction, but again if you put too much pressure way up here instead of being where you can build, and you criticize those and undermine the support of those who are trying to make realistic progress and to build from where things are, then it undercuts progress. That's my point.

Look, I can speak just as fervently, I think, as anyone in this country about what ought to be in broad terms. I am not talking about that. I am talking in terms of specific programs of application, of practical effort, of methods to get things done at any given time, and you have to start within the realities and build from there or you are building in midair and you don't get anyplace if it's too idealistic or if it's completely unrealistic.

CHAIRMAN HESBURGH. I don't think it's too idealistic though, Mr. Secretary, to say that we are aiming at a point in American life where buying a house is like buying anything else. There's something dismally wrong with America when a white prostitute can buy a house that a black professional man can't buy.

SECRETARY ROMNEY. I don't disagree with that. But what are you going to do about it? How are you going to correct it? I am not talking about that sort of pressure. I'm talking about my Department cutting off all funds because a community has discriminated on one program. I don't have authority to do it. And when I'm put in that position it undermines my ability to get a job done. It undermines confidence in me. I have no authority to do it. That's why I talk about pressure to do what ought to be maybe, but I have to do what can be done.

CHAIRMAN HESBURGH. But the beauty of the ideal, I think—someone said it's like the stars; you may not reach them but you chart your course by them. But at the same time, we went to the President of the United States a few times back and said to him: "We think it's a terrible thing in this country that Federal money is being used in a discriminatory fashion and we ought to put a provision in the laws that it be cut off." We were talking about Title VI, of course.

He said: "That's ridiculous; it's unconstitutional; I don't want that power."

The fact is we got that power and it's made quite a turnaround in the whole progress in civil rights.

And I would personally agree, although I didn't consort with the mayors in this, that this country is never going to reach this goal until it says clearly to every community: "If you don't believe in the Constitution of the United States and the Bill of Rights and you are not willing to live that out in your lives and not be governed just by sheer prejudice, you aren't going to get any Federal funds."

SECRETARY ROMNEY. Look, I made talks like that for years. I'll send them to you, Doctor. If there is anyone who has a more profound conviction about the brotherhood of man and the fatherhood of God and the fact that men were raised up to write the Constitution of the United States, and divinely inspired in writing it, I'd like to know who it is. Now, that isn't the question. The question is the practical process of getting things done, and the methods and administration and the

laws and the factors you have to deal with. I'm not talking about the idealism of it, but I'm talking about—well, I have reached my point.

CHAIRMAN HESBURGH. Well, I think we are probably talking on the same lines, Mr. Secretary, but I am merely saying this, that we are coming up on our 200th anniversary of the Nation and its founding and its ideals that were put out at that time, and 200 years is a pretty long time to get somewhere in this, and we are getting somewhere. I guess what I am impatient with is the fact that something I said 10 years ago in this field I could say again today.

SECRETARY ROMNEY. Well, let me be realistic, if you want to be realistic, I mean if you want to get progress. In my opinion if you want to block any progress in this housing field in the years immediately ahead, you really mount a national program that is focused on the idea that you are going to force low- and moderate-income housing into every community in this country, and if they don't take it you are going to cut off all their Federal funds.

Now, I want to tell you that, based on the hard realities of the situation, that will be counterproductive at this point, because the people of this country are not ready to support that sort of approach; the representatives in Congress are not ready to support that sort of approach. I believe that any American citizen ought to have the right to live in any community in this country, given the economic circumstances and other things to do it, but by golly if you undertake at this time to go as far as the mayors wanted to go, it will be counterproductive in my opinion. Now I may be wrong, but I do think that there are things we can do beyond what we are doing, and let's go after them.

CHAIRMAN HESBURGH. Well, I guess maybe where we may disagree a little bit is on what can be done. I think what's right can be done, and what we are doing now is not right, and much of what the Government has done in the past has been very wrong and we've got to counter that now.

SECRETARY ROMNEY. Well, I think where the dialogue ought to focus is on this question of what ought to be done. Now I've made it perfectly clear that I think if we are going to make real progress in dealing with this problem, one of the things that ought to be done is to get at it on a metropolitan basis instead of this fragmented governmental basis, that in my opinion if you focus attention on forcing this into every little fragmented community in this country, at this point, you are not going to make the progress that you will make if you undertake to get it on a metropolitan basis.

CHAIRMAN HESBURGH. I think we are agreed on that.

SECRETARY ROMNEY. All right, but this is important, because if you take the wrong approach here it delays. Now I think the metropolitan approach doesn't.

CHAIRMAN HESBURGH. What you are really saying is we have got to reorganize the political structure of this country to build on Federal-State, and it needs something down below there other than the village or the township or the big city.

SECRETARY ROMNEY. Or make metropolitan housing planning

meaningful. And when I say make metropolitan planning meaningful, I mean this: I don't think it's important that every community in a metropolitan area have low- and moderate-income housing, but by golly I think there ought to be enough communities around through that metropolitan area that ought to have low- and moderate-income housing so that poor people, black or white, can live within a reasonable distance of where their jobs and activities are. That's what I mean by getting at it on a metropolitan basis. Now, there may be communities—and I think there are some—where they may want to do it on a total basis as Dayton has done. Good, let's do that. But it seems to me the effort ought to be focused on the metropolitan approach rather than this suburb-by-suburb approach, because we need housing in the central cities and in the suburbs and in the small towns throughout the country.

CHAIRMAN HESBURGH. Good. Well, thank you again, Mr. Secretary, and I will prove what great magnanimous spirit I have by giving you the last word. Thank you very much.

We are adjourned until tomorrow morning.

(Whereupon, at 6:30 p.m., the hearing was recessed, to reconvene at 9 a.m., Wednesday, June 16, 1971.)

UNITED STATES COMMISSION ON CIVIL RIGHTS

WEDNESDAY, JUNE 16, 1971

VICE CHAIRMAN HORN. The U.S. Commission on Civil Rights will be in order. I will swear in the new reporter.

Lee, if you will raise your right hand, and repeat after me.

(Whereupon, Mrs. Lee Dotson was sworn in as Reporter.)

VICE CHAIRMAN HORN. Ladies and gentlemen, this morning we will begin with a panel consisting of Mr. Percy Sutton, the president of the Borough of Manhattan; Mr. Neil Newton Gold, director of the Suburban Action Institute; Mr. Herbert Franklin, executive associate at the National Urban Coalition; and associate professor David Trubek, who teaches law at Yale.

If these four gentlemen will come forward we will swear them in and begin the questioning.

(Whereupon, Mr. Percy Sutton, Mr. Neil Newton Gold, Mr. Herbert Franklin, and Mr. David Trubek were sworn by the Vice Chairman and testified as follows:)

TESTIMONY OF MR. PERCY SUTTON, PRESIDENT, BOROUGH OF MANHATTAN, NEW YORK, NEW YORK; MR. NEIL NEWTON GOLD, DIRECTOR, SUBURBAN ACTION INSTITUTE, WHITE PLAINS, NEW YORK; MR. HERBERT FRANKLIN, EXECUTIVE ASSOCIATE, NATIONAL URBAN COALITION, WASHINGTON, D.C.; AND MR. DAVID TRUBEK, ASSOCIATE PROFESSOR OF LAW, YALE UNIVERSITY, NEW HAVEN, CONNECTICUT

VICE CHAIRMAN HORN. Mr. Powell, you may begin.

MR. POWELL. Would you each please state your name, address, and position for the record?

MR. SUTTON. I am Percy Sutton, 10 West 135th Street in Manhattan, New York City. I am—that is what you asked, the name and address?

MR. POWELL. Name, address, and position, for the record.

MR. SUTTON. Yes, I am president of the Borough of Manhattan, and for those who may not know what a Borough President is, he's a disappointed mayor.

MR. POWELL. Thank you.

MR. TRUBEK. My name is David Trubek, 421 St. Ronan Street, New Haven, Connecticut. I am an Associate Professor of Law at the Yale Law School.

MR. GOLD. I am Neil Gold, 180 East Post Road, White Plains, New York, and I am the Director of the Suburban Action Institute.

MR. FRANKLIN. I'm Herbert M. Franklin, 3730 Oliver Street, Northwest, Washington, D.C., and I am the executive associate at the National Urban Coalition.

MR. POWELL. Mr. Trubek, what is your area of specialization?

MR. TRUBEK. I teach in the fields of land use planning and property law.

MR. POWELL. Did you recently undertake some research for the Commission?

MR. TRUBEK. I did.

MR. POWELL. Would you describe the nature of that research?

MR. TRUBEK. I examined the cases that had been decided in the State courts in the last approximately 10 years in the area of land use controls that affect access of minority and disadvantaged groups to the suburbs and also this legislation in State legislatures having the same implications, and analyzed these against general goals of open access to housing and employment.

MR. POWELL. I have here a paper entitled, "Will State Courts and Legislatures Eliminate Exclusionary Land Use Controls?" dated June 16, 1971. Is this the paper you prepared for the Commission?

MR. TRUBEK. It is.

MR. POWELL. Mr. Chairman, at this time I would like to have this paper introduced for the record.

VICE CHAIRMAN HORN. Without objection, this paper will be inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 32 and received in evidence.)

MR. POWELL. Mr. Trubek, what generally are the purposes of land use controls?

MR. TRUBEK. The purposes of the land use control system in the United States are stated in the legislation in extremely general terms. They are stated to be—to promote the health, safety, morals, or the general welfare, and usually, and there are exceptions to this of course, usually the legislation does not specify any more precise purposes than these obviously expansive ones that I have stated.

MR. POWELL. Mr. Gold, how do land use controls inhibit minority access to the suburbs?

MR. GOLD. They do so in two ways. The restrictive land use controls prevalent in today's suburbs result in the development of housing at rents and prices which preclude roughly 80 percent of the American people from securing access to new housing. Minority groups, black, and Spanish speaking groups, particularly, are generally in the lower half as opposed to the upper half of the income distribution in the Nation, and, therefore, they are in effect precluded from competing for the housing that is developed in the suburbs by the nature and the results of these land use controls.

The second effect of these land use controls and the general knowledge of the consequences in terms of housing price is to preclude black

and Spanish speaking families from conceiving of the suburbs as an alternate residential site for themselves and their families. And so the land use controls apparently in existence today turn out to have a rather debilitating effect upon the capacity of minority groups to exit from the central cities.

MR. POWELL. Mr. Trubek, given a discriminatory effect, can an actual intent to discriminate typically be shown?

MR. TRUBEK. I think that the typical situation in which land use controls of the type described by Mr. Gold have this effect don't result or arise from what might be called a specific discriminatory motive, certainly not a clear-cut and easily identifiable one. The case of Black Jack, which has been discussed, is rather unusual in that there were no zoning land use controls in general in existence in this area. But in a typical situation, policies which were established a long time ago for a variety of very complicated motives are simply maintained by suburban jurisdictions and this maintenance has the effects described by Mr. Gold, without arising from any clear-cut, easily provable, or identifiable motive.

M. POWELL. Despite the discriminatory effect of land use controls in some cases, do they nevertheless have a valid purpose?

MR. TRUBEK. Well, they have a variety of purposes, and many of them are valid, and the major problem with land use controls is not that they are without valid and legitimate purposes, but that frequently they are employed for purposes which are not valid or they are—valid purposes are pushed to an excess, and so on. So that, for example, density controls, which are at the heart of our land use controls system, have many valid purposes. When they are employed, however, not to further the legitimate concerns for maintaining reasonable densities but rather to stop development or to increase the minimum cost of housing beyond that that can be afforded by large percentages of our population, then they lose their validity.

MR. POWELL. Mr. Franklin, would you agree with this? Would you care to comment on this?

MR. FRANKLIN. Yes, I do agree with this and the particular problem arises in the connection with federally assisted housing because usually that housing is the most visible effort to provide housing for racial and income groups that are in effect discriminated against by the land use controls that Mr. Gold and Professor Trubek referred to, so it's in these contexts, particularly, where the conflicts arise.

MR. POWELL. Mr. Gold, testimony adduced at this hearing is to the effect that job opportunities are increasing much more rapidly in the suburbs than in central cities. Does your research support this conclusion?

MR. GOLD. Yes, it does. Let me say that the movement of jobs to the suburbs in our metropolitan areas is a nationwide phenomenon that is, practically speaking, irreversible. There is simply no possibility of building an employment base in the central cities adequate to the needs of these cities in the context of a rapidly decentralizing economy.

I brought with me some statistics with respect to the outmigration of

jobs which may be illuminating. We of the Suburban Action Institute have analyzed the various censuses of business for the 40 largest metropolitan areas in the United States in the last five census years and the result of our analysis is that the SMSA's of the Nation gained 5,150,000 jobs in manufacturing, wholesale trade, retail trade, and selected services.

In that period, central cities gained 782,000, while suburbs gained 4,370,000, or 85 percent of the total increase, in new jobs.

Now, to put the figures that way really masks the reality of what has happened. For example, in the manufacturing sector which provides job opportunities for a large proportion of the minority labor force in the United States, the total number of new jobs in the last five census years in the 40 largest SMSA's was 2,080,000. However, the suburbs, of this 2,080,000, the suburbs gained 2,055,000. The cities actually lost 29,000.

It seems to me when you put together the general sense of what's happening, the outmigration of jobs, and when you look rather carefully at where this—what kinds of jobs are leaving the cities, you see that it is precisely those jobs which low-income, moderate-income and minority workers must have in order to survive, so what's really at stake in the failure to allow minority people and low- and moderate-income people to live throughout metropolitan areas is in a sense a denial of equal employment opportunity to these groups.

MR. POWELL. Mr. Sutton, what are the implications of this trend on minority employment and what are its effects on the central cities from the point of view of job opportunities and the ability to pay for public services?

MR. SUTTON. I wonder if I might first also say, sir, before replying to that, may I state, when you asked me what my position is, that I should also tell you that I am chairman of the advisory board of Suburban Action, which is a nonprofit foundation that deals with problems of the suburbs, race, and poverty, and a variety of other problems, and establishes programs for dealing with the suburbs.

There is an interrelating between the Government-sponsored mechanization of the plantations and the farms of the Southland, the financing of housing, FHA finance of housing in suburbs, and the building of giant highways so that we have had in the last couple of decades certainly more prominently in the last decade, a plethora of people coming from the plantations where they were pushed off because of the Government policy, the Federal Government's policy, and paying farmers not to plant crops, and of course the farmers then mechanized their farms and the people who have agrarian skills then seek to go to the metropolitan areas

They come typically to New York and other metropolitan areas, and when they have come there, they have come with great hope, but they have come with agrarian skills, and then after a while, with some pressure, they have developed new skills. Those new skills have been skills of blue-collar workers and white-collar workers. But by the time they develop these new skills the job opportunities have moved to the sub-

urbs. And then when we find a job opportunity moving to the suburb we find that these people who have come from the Southland, who have come from Puerto Rico, who have come from deprived backgrounds in this modern day setting, are not able to move with the jobs to the suburbs, they are not able, both economically and racially. One, there are racial restrictions upon their moving to the suburbs; and two, there are economic restrictions.

These economic restrictions come in the form of zoning ordinances in the suburbs, and while a factory will move to the suburbs, the people who were in the blue-collar variety—status, rather, and people who were in the white-collar status, cannot move with the jobs

The result is, this absence of mobility on their part is they remain in the city, they remain unemployed, they now must collect unemployment insurance, they now must get on welfare, they now must also put a great strain on city services and not producing any taxes for the city. I think it is almost un-American, that which is happening—if we might use the term, un-American.

MR. POWELL. Thank you.

Mr. Franklin, is there necessarily a conflict between the concerns of environmentalists and those of persons trying to increase suburban housing opportunities?

MR. FRANKLIN. No. There is an apparent conflict on occasion because the people who are concerned with enhancing ecological values tend to approach problems from what might be called an antidevelopment bias. After all, the ideal solution to preserve the environment is to stop all forms of development, and so they start from that position.

Those who are concerned with access to new opportunities, access to the land reserves of metropolitan areas, what you might call the egalitarian or civil rights concerns, start with, I think, what might be legitimately called a prodevelopment bias. In other words, they are trying to get development, so that occasionally you will find the two camps seem to be in conflict.

Where this is most evident is—take the case of Lackawanna which the President mentioned in his Presidential message. When the black nonprofit group wanted to supply single family housing in a white, expanding part of the city of Lackawanna, the countervailing concerns that were expressed in that case were the sewers would be overloaded, or, we want to preserve open space, so that ecological and environmental concerns sometimes get expressed as the countervailing considerations to opening up housing opportunities.

I think in many instances these are not genuine concerns but I see the convergence of interests between the two camps would be in some reform of land use controls through some form of cluster zoning or what have you, which would preserve open space, cut down the costs of providing sewers, and at the same time, open up opportunities for an entire range of people to live where they might like to.

Mr. POWELL. Mr. Franklin, should corporations consider themselves responsible for dealing with the minority housing and employment problems that suburban location create?

MR. FRANKLIN. I think there's a very real question as to whether a corporation that moves out of a central city location to an area that is inaccessible to minority groups, potential minority group employees, is not in effect offering terms and conditions of employment on different bases. On the basis of race. If it moves into an area where it is quite apparent that because of the high costs of transportation and the availability of housing persons of minority groups or lower-income groups who might normally have an opportunity to work are frozen out of that job opportunity by virtue of the location of the plant.

So, to answer your question in brief, yes, I think there is a responsibility.

MR. POWELL. Then what should corporations moving to suburbia do?

MR. FRANKLIN. Well, you may be aware that in one proposed piece of legislation which Senator Ribicoff has introduced, it would be imposed upon Federal contractors the obligation not to move to localities unless some agreement is worked out in that locality or through that locality on a regional basis for the provision of housing in accessible locations on a one-to-one basis with employment in that corporation for employees earning \$10,000 or under. And I think that that approach is a useful one on a voluntary basis as well as for legislation. In other words, to have a corporation say to itself: We will not move to Community X unless they assure us that they are affirmatively working on housing opportunities or will do so in a regional basis.

MR. POWELL. Mr. Gold, Mr. Franklin has referred to the case of Federal contractors. Do corporations have a broader legal responsibility to take actions in cases where they move to suburbia?

MR. GOLD. I would think so, although I completely agree with Mr. Franklin that there is a special responsibility on Federal contractors. The two positions are really joined in the sense that most of the large corporations of the United States are Federal contractors in one way or the other, and so while there are other mechanisms to reach corporate discrimination in employment as a result of migration to restrictive suburbs, I think the method that Mr. Franklin suggested is totally viable. But let me respond to your question in a broader context.

Suburban Action Institute has recently filed with the Equal Employment Opportunity Commission two formal complaints, one against the American Telegraph and Telephone Company and one against the Radio Corporation of America. In both instances, these corporations were moving their—determined to move their corporate headquarters out of New York City. In the case of RCA, to New Canaan, Connecticut, one of the wealthiest towns in America with a prevalence of four-acre zoning and a 2 percent minority population. In the case of AT & T, to a community in New Jersey called Bernards Township, which has 4-acre zoning, 5-acre zoning and which the median price of the new house is upward of \$80,000

In the case of New Canaan, I might add, the median price house is \$100,000. Corporations have a special responsibility to be cognizant of the employment implications of their decisions to move to communi-

ties that are zoned restrictively. Such decisions often have the effect of discriminating against the minority labor force insofar as that minority labor force cannot compete for the jobs that will be available in the suburbs. I might just add one further sentence on that. If a company has in a central city a minority labor force, 10 percent, in 10 years, given the racial changes in central city, it's quite likely that that minority labor force may rise to 20 or 25 percent of the company's total workforce. If the company moves to a restrictive suburb, it's likely that the 10 percent will decline over the next decade to something less than that so that it does not take much intelligence to foresee the racial and employment consequences of such moves.

MR. POWELL. Mr. Gold, the agreement between the Department of Housing and Urban Development and the General Services Administration calls for affirmative action on the part of Federal agencies moving to suburbia. Could corporations do the same thing?

MR. GOLD. Yes, I think they could. I would think that the President has a special responsibility here. Our researchers have pointed out that the top 500 corporations and their allied 50 largest corporations in banking, insurance, retail trades, utilities, and transportation, altogether 750 corporations, account for roughly 80 percent of all the new jobs that are created each year in the United States. And if the Federal Government were to take the initiative in bringing together the heads of these 750 corporations, and pointing out the urban policy implications of their random site selection procedures which normally result in their development of facilities in restrictively zoned suburbs, it might be possible to voluntarily in line with the President's decisions as to how things should be done in this country, to voluntarily create a general understanding on the part of the corporate leaders in America not to move to such suburbs, and that decision when translated into actual policy may begin to break the back of the problem which we are addressing here today.

MR. POWELL. Mr. Trubek, are State courts effectively dealing with the problem of exclusionary land use controls?

MR. TRUBEK. I do not think so. As I indicated in my earlier statement, the statutes which establish the powers through which local governments use governmental coercion to determine the kinds of land uses that can occur within their jurisdictions, these statutes articulate the most general and vague purposes and then delegate to the local communities effective and total power to establish the policies which will be followed in carrying out these vague purposes

Now, these policies, as has become apparent throughout these hearings, and in many other places, these policies are determined largely by the local community attempting to further its own interest as it defines it. And these policies lead to many of the practices that have been labeled, quite properly, exclusionary.

Now, the State courts have been asked occasionally and more frequently in the last few years to take a serious look at these practices and these policies. While there have been occasional cases that indicate some willingness in some jurisdictions by State courts to question

and indeed overturn some local policies and practices that have exclusionary effects, nonetheless, by and large throughout the United States, the State courts have done very little and give very little indication that they will make a major attempt to change these policies at the local level.

As I set forth in my statement that was admitted into the record, I think that this is quite understandable, given the statutory structure of our land use control systems, for really the State courts have very little statutory and even clear and explicit constitutional guidance to deal with what is an extremely complex matter which the State legislatures have basically delegated to the local level without further guidelines or review procedures.

MR. POWELL. What about reform at the State legislative level? What types of legislations are being considered and how would you assess the potential effect of this legislation in solving these problems?

MR. TRUBEK. Well, there are basically—there are about three or perhaps four different types of legislation which have been developed, or proposed, to deal with these problems. As I say in my statement, more legislation has been proposed than has been passed, and what legislation has been passed has been up to date of limited effect. It's also quite recent to the extent that there has been any specific legislation on this matter, it has been quite recent.

The major types of legislation that have been discussed are, first, to change the level at which land use control decisions are made. As I said, they are all made, almost exclusively, by and large throughout the United States at the local or municipal level. As you all know, our land use control systems are purely a State system. Therefore, there are 50 different land use control systems, and what I say is my attempt to give you a sense of the average or normal situation. I am sure there are exceptions to everything that I'll say, in one of the 50 States. However, the first type is to change the level at which the decisions are made.

If the reason that local policies are exclusive it's because the policies are set by people who only think of a small jurisdiction and a narrow set of issues, then it would follow that a wider level of decisionmaking might lead to policies that would further the interests of broader groups within the society and take into consideration the kinds of issues that Mr. Sutton has mentioned, which are of concern to the center cities but which the suburban jurisdictions would rather not think about if they can avoid it.

Now, there have been really no effective measures of this type. There are several instances of limited State zoning powers being established and I will not go into detail because they are all set forth in my statement, but basically none of them were established to deal with this type of problem. They are almost exclusively in States where there is very little urbanization, industrialization, and largely these State zoning powers have been established to curb development, not to encourage a certain kind of development in a certain place. So that—while that is a possible solution, no State action can be found relevant to this Commission's concern.

There is the second important area which is the establishment of limited purpose review boards. There is one type. One example of this type now in existence, that is the Massachusetts Appeal Board. The Massachusetts Appeal Board is given the power to override local zoning decisions in those cases where local zoning boards have denied permits for subsidized low- and moderate-income housing, where the town has not met an established quota which the statute creates for all towns in the low- and moderate-income field.

This statute which is about 2 years old has had relatively little impact because of drafting deficiencies and ambiguities and obscurities in the statute, doubts about its basic validity, and other problems which have emerged. It is a statute which I happen to think is a useful model, but because of partly technical deficiencies, and partly because it's relatively new, it has had little effect.

There are other examples that I state in my report of this type of statute which have been proposed, but there has been little interest in the State legislatures in following the Massachusetts model.

This year three or four Massachusetts type bills were introduced and it is doubtful that any of them will be passed. Some have already been rejected and others look like they are dead.

The third type of activity, or measure designed to deal with this problem, is to more narrowly define the purposes of zoning so that the State courts could supervise more carefully exclusionary practices or more positively define the purposes by explicitly requiring that zoning be used to further the goals of equal housing opportunities and to provide explicitly for low- and moderate-income housing.

There are some vague sections in some State statutes that would suggest some interest in this. None of them have had any effect. No legislature has yet passed any serious legislation of this type.

Finally, there is the New York Urban Development Corporation model in which a State housing authority is given power to raise funds or given State funds and then authorized to build low- and moderate-income housing throughout the State despite the existence of local exclusionary policies and practices.

There is only one authority in the United States established that has this total range of powers. In some ways it seems like an ideal solution because you combine the money that's needed with the power that's needed to override local decisions. However, as my testimony indicates, and as the record will show, the New York Urban Development Corporation has not chosen to exercise its so-called zoning override powers in suburban areas. It has found that there is an inherent conflict between its mission to construct a lot of houses quickly and the problems of building housing in many of New York's suburbs. And it has chosen perhaps wisely in the beginning, but at any rate, chosen to build housing almost exclusively in central cities. So that it appears that this two-purpose agency, although in some ways ideal, finds when its two purposes conflict with one another, that the goal of construction to the extent that it can be given priority will be given so over the goal of creating a more open community, as Secretary Romney expressed it.

Those are the major types of legislation. There has been very little movement at the State legislature level. Obviously given the politics of these issues, there is strong opposition to this type of legislation, and given the incredible complexity of these problems and political difficulties, I believe that the State legislatures are not going to act unless clear and explicit policies are set forth at the Federal level which will give guidance to the States in carrying out national goals.

MR. POWELL. Mr. Franklin, what role does the Federal Government have in bringing about the creation of such regional mechanisms to which Mr. Trubek referred?

MR. FRANKLIN. The best way to answer that, I think, is to remind the Commission about something that I think perhaps has been overlooked in the flurry of statements made recently by the President and Secretary Romney.

The President in his Second Annual Housing Goals Report which was issued in April 1970, a year ago, made a very important statement which was not repeated in his message of 3 days ago. In that message to the Congress, he said: "Community opposition to low- and moderate-income housing involves both racial and economic discrimination. Under the Open Housing Act of 1968 it is now illegal to discriminate in the sale or rental of most housing on the basis of race. Strict enforcement of this and similar statutes will help establish an atmosphere in which such discrimination will be the exception rather than the rule."

And here's the key sentence he said: "Nevertheless, the fact remains that it is difficult, if not impossible, in many communities to find sites for low- and moderate-income housing because the occupants will be poor or will be members of a racial minority, or both. The consequences that either no low- or moderate-income housing is built or that it is built only in the inner-city, thus heightening the tendency for racial polarization in our society.'

That's page 42 of that report of April 1970. And on page 10, very specifically he said that he would recommend legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action.

Now, those two statements in April 1970 are not repeated in the statement of June 1971. And they were followed up in June of 1970 by a recommendation of the Secretary of Housing and Urban Development for a Federal statute which would, he said, be the first necessary step in ending the ominous trend toward stratification of our society by race and by income. So that I think we have had introduced now 3 days ago a dichotomy, a distinction between race and income in the Federal approach to this, and I wanted to get on the record the fact that that is a distinction which was not being used a year ago in 1970.

Now, in addition, I think the question of how you get at this problem does involve some kind of regionalization or metropolitanization of the housing subsidy programs, and I think the Commission ought to be aware of the fact that we have a dual system of transmitting housing subsidies to people who are in need of them at the present time. I'm not

speaking of a racially dual system, I'm speaking of an economically dual system. That is to say, if you are not poor, if you are of moderate income, you get your housing subsidies through an essentially private system, the private lenders, the private developers, the FHA system is essentially a private system which transmits these subsidies to you.

If you are poor, however, and in need of housing assistance, you get your aid only through what might be called a public mechanism where there is local public approval, not only of the individual project but of whether you ought to have the subsidy at all. So if you have suburban areas, for example, who have not created local housing authorities, which is the primary mechanism through which subsidies for the poor are transmitted, or have not approved the availability of rent supplements, which is the other way in which subsidies for the poor are transmitted through what might be called the private mechanisms. So in a sense you have local jurisdictions that freeze out the availability of housing subsidies for the poor simply through nonaction, whereas the moderate-income family gets its subsidies through private mechanisms that involve the kind of land use controls that Professor Trubek has described, but which do not involve local public approval of the fact of being subsidized.

Now, I think that this dual kind of system has to be eliminated and I think it is fair to say that you would have to have legislation to that end. But until it is eliminated there are ways in which the Federal resources now available might be transmitted in a way that encourages the kind of thing that we have heard about in Dayton, Ohio, the Miami Valley Regional planning process.

I think the Federal Government ought to put much of its resources into encouraging the development of this process and eventually get to the point where it has what might be called an ear-marking, that is, projects that come out of that kind of regional mechanism will have first crack at the subsidies, and I think that is consistent with what the Secretary said to the Commission yesterday and in his press conference, so that if he does develop a priority allocation mechanism that favors the project coming out of this metropolitan planning process, we will be at least one step toward where we ought to be in providing housing on the basis without respect to—on a nondiscriminatory basis with respect to income and race.

Now, let me conclude that all too brief statement by saying that the question of whether local land use controls have a purpose of discriminating is quite a separate question from what their effect is, and I think this Commission and everybody else ought to say that the important fact we are dealing with is what are the effects of what happens and not what is the motive. I find a certain ambivalence in the President's statement on this which you might for the record like to reread and perhaps your Counsel would like to look at, and that is on page 6 of the President's statement, he said: "In such cases where changes in land use regulations are made for what turns out to be a racially discriminatory purpose," and he uses the word, "purpose"—"the Attorney General in appropriate circumstances will also bring legal proceedings."

Now, that's a very limited statement. However, on page 10, paragraph 8, in a very fine statement, he says: "We will not countenance any use of economic measures as a subterfuge for racial discrimination," and then goes on to say: "When such an action is called into question we will study its effect."

Now, there is ambiguity in this statement as to whether the policy of the Administration, insofar as its intervention of legal proceedings will be based on, purpose or effect. And I think that we all ought to be agreed that we are talking about effects and that since Federal Civil Rights Laws apply to all subsidized housing, the discriminatory inclusion of such housing always has a discriminatory impact. I think we then therefore ought not to be accepting any distinction between economic and racial discrimination, and I underscore what Mayor Stokes said on that point.

MR. POWELL. Thank you. One concluding question.

Mr. Sutton, is there a conflict between the goal of increased housing opportunities for blacks in suburbia and the increasing potential black power in our central cities?

MR. SUTTON. I'm glad you asked a question of me, Mr. Counsel, because I was beginning to feel in my involvement in this panel as though I was an inner-city resident seeking to get into the suburbs.

There is, I see, sir, no conflict between political power in the cities and the seeking of political power in the suburbs. It is a fact of life that there is bigotry in America and it is a fact of life that black people and minority groups do not accede to political power in the cities until such time as they are either in the majority or near majority, so that we do have an increasing number of people as we grow near a majority, or become a majority, an increasing number of people who are gaining political power as mayors, borough presidents, other positions in this country.

We have, however, a desire of many people, black people, just as white people, seek to live wherever their job opportunities are, to live—to seek to live where educational opportunities are, so they are seeking to move into the suburbs. Some have said that this is going to diffuse the power, this is going to reduce the power of black people to gain political power in the cities if we move to the suburbs.

I am of the firm conviction, out of experience, that black people must seek power in the suburbs as well. They must seek, even though there is bigotry, and they will not become elected officials in many instances, they must seek to influence the conduct of elected officials in the suburbs for if we are ever to change our zoning, if we are ever to develop what I think is the ultimate, and that is regional planning, regional government, for the purpose of planning and the purpose of resources, we must be able to exercise some influence in the suburbs.

So I think we must continue to gain political power, black people, minorities, must continue to gain political power, and they must see no conflict between political power in the cities and the outmigration from the cities to the suburbs where they will become a part of the political structure where they must work to influence the turn of events there. I

see no conflict at all, sir.

MR. POWELL. Thank you very much, Mr. Sutton. No further questions.

VICE CHAIRMAN HORN. Thank you, Mr. Powell. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Sutton, I would like to pursue the point with respect to political power in terms of the large numbers of poor people, including minority poor, that appear now not to be having much power. This whole panel has described a situation in which the poor seem to be like pawns in a chess game. The State legislatures have not responded, the local municipalities have not responded.

I wonder if you could say in what ways that even the exercise of the ballot would cause a difference in the situations that exist today?

MR. SUTTON. Let me describe for you, if I might be subjective and conventional, a condition that exists in the city of New York, for example.

We have just entered a session of our State legislature. We normally meet for 3 months out of the year. That State legislature mandates a budget for the city of New York. It mandates certain programs for the city of New York. New York is increasingly becoming a city in which the middle-income people and upper middle-income people have left the city for the suburbs, they left by those ribbons on concrete, those highways structured by the Federal Government. They left to get the FHA housing that is out there. And now we are left with a number of poor people who have come to the city because again, of a Federal effort, as I mentioned before, that is, subsidizing the farmers not to grow crops and mechanization of farms so that people come with great hope to the city.

Now, they are there. They are in fact gaining political power, but they are still controlled, and most legislatures in this country are controlled by suburban and rural legislators.

In New York City in this last session of the legislature, the anger became so great on the part of the legislators from the city of New York that we are now talking of secession, and there's been the attitude in the past when people talk of New York seceding from New York State a dismissal of it as a joke. It is getting serious attention now and the reason it's getting serious attention is because New York City legislators, though only three short of being equal to other legislators from outside New York City, because they are poor and because they deal with the problems of the poor have exercised very little influence and very little flows to the city of New York.

The result is that we are now finding an absence of real clout, and that is one of the reasons that I'm suggesting that as black people, as Indians, as Chicanos, as Puerto Ricans move, they ought to seek to move in the suburbs, and there influence suburban legislators, for I believe only by doing this are we going to have an opportunity to have an evenness, an even-handed administration of the various programs of State governments

I think that what has happened is a form of cruelty. Minority groups

are acceding to power in various parts, only to find bankrupt cities. This cannot endure.

COMMISSIONER FREEMAN. Let's take a typical community where perhaps you have a population of 25,000, maybe 6,000 homes with the maximum FHA loan, insured loan, \$33,000. They probably have a mortgage of a \$40,000 house. With their mortgages and their suburban communities they vote to exclude low-income families. That is, a vote of the community.

I would like to ask you and any of you, in particular Mr. Trubek, if there are ways in which this, the equal protection clause of the 14th amendment, the prohibition against the State in this regard, if this could be applicable, and particularly, is it important now in the light of the policy that there will be no insistence that a community accept the federally assisted programs for low-income families?

MR. SUTTON. My own disturbance is the same Supreme Court that will ultimately decide this issue has already reached a decision that I find very depressing to people who live in inner-cities, very depressing to minority groups, and of course, when you talk about pursuing action under the 14th amendment, we're going to wind up with the same Supreme Court deciding the matter. I'm not very hopeful.

MR. FRANKLIN. May I add to that, a comment?

I think Mr. Sutton is referring to the Valtierra case which we are all familiar with, and the National Urban Coalition filed an amicus brief in that case, along with a number of other organizations, and we have since prepared an analysis of that opinion, to suggest that it is far more limited than has appeared at first blush, and if the Commission is interested I could submit that memorandum for the record. It does indicate that there is still a great possibility that the equal protection clause, when appropriately invoked in a case, can protect the rights of the poor, even notwithstanding the referendum requirements.

I think that case went off on a very limited set of circumstances in California and we ought not to read it more broadly than it really is. So if you are interested, I have that memorandum.

VICE CHAIRMAN HORN. We'd be glad to have that memorandum for the record, and without object it will be inserted at this point in the record.

(Whereupon, the document referred was marked Exhibit No. 33 and received in evidence.)

COMMISSIONER FREEMAN. Mr. Trubek?

MR. TRUBEK. Yes, I think that your question is a very important because as we— if we start from the premise that the local communities of the type you describe are presently subject to no constraint of any substantial importance in limiting those decisions, and therefore don't have to take into account national goals, regional goals, metropolitan goals, State goals, and we look around and see who might be reminding them in one way or another of their obligations and removing their power when they fail to follow their obligations, one immediately looks, it seems to me, to the Federal level.

And I think that in the present context, given the Administration's position and so on, the Federal courts take on a greater importance than they may have taken on at other times and other places. So far it's a fact that there have been relatively limited judicial responses into the broader reaches of the 14th amendment, the kinds of cases that have been dealt with have been largely cases where one can find purpose, but discriminatory purpose will occur in very few cases and you still can have profoundly discriminatory effects as all the panelists have said. Therefore, it does seem to me that a more sophisticated application of the 14th amendment, understanding the importance of effects, and not focusing narrowly on purposes, will be an essential part of any organized and coherent national approach toward these problems. And I think the Federal courts may well, Valtierra to the contrary notwithstanding, because I agree with Mr. Franklin's characterization, may well respond to efforts to expand and make more precise the concept of effect under the 14th amendment.

COMMISSIONER FREEMAN. This Commission, as you know, has long been concerned with the consequences of Federal policy and not with the narrow determination of whether an act was intended to be discriminatory. I thank you for your comments.

MR. TRUBEK. Let me make one point, which is that this is one of the major problems. I know Father Hesburgh said yesterday this is one of the most complex areas, and it's partly because there is no— frequently it is sort of a combination of decisions, none of which were intended to have discriminatory effects, which somehow has this effect, and therefore it's very hard to find a clear morally reprehensible or clear-cut discriminatory act to put your hands on. Everything is very murky, everything is very obscure, and yet if you see it in its overall pattern, it is in some ways more discriminatory than things that were consciously set forth to create racial segregation, for example. And that is, it seems to me, the great dilemma in this area, and why we need a whole new perspective in civil rights to get at this range of problems, because it is indeed by far the most complex kind of systemic problem rather than a sort of linear discriminatory purposive decision that we have to get at.

COMMISSIONER FREEMAN. Of course, as you know, the black experience in this country has been such that we have lived it, we have known that it was there, but getting somebody to believe it, that has been a problem.

MR. SUTTON. Commissioner, the comment made by Mr. Trubek was to the effect that he is not too sure there has been a conscious discrimination, and I don't have as much hope as they do with the Supreme Court, and I don't view that this was a rather limited decision made by the Supreme Court. But I do think there is a clear and conscious discrimination when we talk about your example of the FHA. The FHA, there was a conscious discrimination, because the banks cooperated and the FHA cooperated in discriminating against blacks.

I would just not like to eliminate that, that was a conscious discrimination.

MR. TRUBEK. I think my point was, when you eliminated all the conscious discrimination you would still have systemic effects that would lead to discriminatory effects, so we can't stop with that, or solely look for that. We have to look for how all of a series of things, some of which may have had discriminatory purposes at one time that have been forgotten. Others which didn't have discriminatory purposes when they were enacted, but which are now comfortable policies behind which discriminatory purposes can in effect reside without ever manifesting themselves in any explicit statement of: "We're going to pass this zoning law so that we can discriminate against X, Y, Z," so on. You don't have to do that. You have nice, comfortable, apparently neutral policies. And then everything sort of moves together, all of the different decisions of different jurisdictions or inactions of different jurisdictions somehow cumulate in the net pattern.

So that if we look only for the bad man or the bad purpose, we'll miss what is really important, which is a complex metropolitan regional system of government that allows certain patterns to occur without even anyone sitting down and saying: "We want this pattern."

There are many people who find it comfortable when the pattern emerges and are not going to move to change it, but that doesn't mean you can find that they have manifested a specific purpose to create the system.

COMMISSIONER FREEMAN. This has been defined as institutional racism.

MR. TRUBEK. Call it what you will.

MR. SUTTON. Mr. Trubek said this, this is very frustrating to me, it's frustrating to minority group people, when he suggests that what we have is a pattern of not conscious discrimination, but a complex of things. This is what they have been saying for years and Mr. Trubek is not the sort of person who would say this, but for years they have said: "Well, this is not a conscious thing, and because it is not a conscious thing we can't deal with it in the courts."

I am not prepared to buy this. I say that it is a conscious thing, and it is not just a complex of circumstances that we cannot prove if we are given the opportunity. We can prove the consciousness of it.

VICE CHAIRMAN HORN. Professor Trubek, I think you have made a very good point. Since you mentioned the court, it reminds me of Potter Stewart's comment in a pornography case that while he couldn't define pornography he knew it when he saw it. I merely hope that when the court gets future cases of discrimination they will know the consequences when they see it. Commissioner Mitchell?

COMMISSIONER MITCHELL. I have no questions.

VICE CHAIRMAN HORN. Commissioner Rankin?

COMMISSIONER RANKIN. Mr. Sutton, as a professor of government I was interested in your statement, or implication, that one man-one vote doesn't work in New York; is that correct?

MR. SUTTON. One man-one vote does work in New York except the votes are outside of New York City.

COMMISSIONER RANKIN. It does work then for the entire city and

the State both; is that correct?

MR. SUTTON. Well, what actually happens is, New York City has been set apart by the State of New York, and we— most of the legislators, as a matter of fact, a majority of three, are suburban or rural legislators who have certain fixed concepts of the vile city. The result is that we get back— I should tell you that disproportionate burdens are placed upon the city of New York and disproportionate income flows to the State of New York. The result is that, for example, some \$200 more is given for the education of a youngster who lives outside— the college education of a youngster who lives outside of New York than inside the city of New York, and there are many discriminations inflicted upon the city of New York though we do have one man-one vote.

COMMISSIONER RANKIN. Thank you. I have another question to ask you with respect to some of your testimony. I live in Durham, North Carolina. We have one municipality. All the area around is in a small county where over half the people work inside the city. We are trying to unify the government into one unit of government. The opposition comes from the whites outside and from the blacks inside. The blacks inside say it will dilute our vote and so they vote against it.

What I thought you said a few minutes ago, the thought was desirable. Now, how can we make them see that it would be desirable? Maybe I could bring you down to Durham and you could help us out.

MR. SUTTON. I'm not too sure I belong in Durham. Let the people of Durham solve their own problems. I have a lot of problems in New York, Mr. Commissioner. Actually, mine is rather a personal philosophy, looking at it from the larger point of view, the overview, that I think that we are going to gain political power, blacks and minorities are going to, because whites are abandoning the city, so we are going to — so this is just going to fall into our hands. But we must not just remain there.

For example, suppose we control New York City and all of the legislators who were part of the State legislature were black or Puerto Rican or Mexican Americans, or Indian, and they went into the State legislature, they would be in no better position then to influence legislation than the combination of whites, blacks, and Puerto Ricans who are there now. So what we have got to do is to penetrate the enemy, if I might term the suburban people the enemy of the city of New York, we have got to get out there and have got to influence them for oftentimes we can, though not being the majority, we can be the balance of power there, and we can select the kind of legislator who will of course vote in the manner we wish.

Incidentally, may I say this, sir? Speaking of the enlarging of the political unit, I think it is inevitable that within the next decade we are going to see metropolitan government in many areas. Right now, for example, in New York City there are many complaints and many people ran to the suburbs. In the suburbs of New York City the most prominent suburb is Nassau County. Nassau County 15 years ago was a quiet little countryside. There are more than a million people in Nassau County. Nassau County now has all of the problems that New York

City has. So Nassau County has a suburb, and that's Suffolk County. So Suffolk County is now coming into 500,000 people. So we are going to realize sooner or later that we have a common problem and we're going to be able to get those legislators to vote with us to develop a metropolitan area because unless we have a metropolitan area government we are not going to be able to deal with our problems of electrical resources, very natural resources, with the collection of taxes.

We need for planning purposes a metropolitan government or regional government, and for delivery of services we need local government. And I think this is inevitable.

VICE CHAIRMAN HORN. Let me follow up on that, Mr. Sutton.

Last night Commissioner Mitchell and I were discussing some of these questions. He's a private flier and he made the point that when he flies over metropolitan areas you really can't tell where these suburbs and cities—that are by the hundreds in many of these metropolitan areas begin and end. Now, pursuing it a little further, besides the sort of metropolitan regional government planning and cooperation, would you care to speculate on the feasibility of perhaps devising some population density formula whereby you would include the counties of northern New Jersey, Westchester County, Nassau, maybe Suffolk, county in Connecticut or so, with the five boroughs of New York, and create a new State in the Union which would entitle you to two Senators in the United States Senate, which would free you from the legislatures of Connecticut, New Jersey, and New York, and so you would have your own problems to solve rather than have the upstate, downstate, and traditional antagonisms?

Do you see this as feasible, either in terms of asking the legislatures to yield to you a new State as I think they could do under the Constitution? I'd like to have Counsel write a memorandum on this, by the way. Or on an interstate compact basis approved by Congress.

MR. SUTTON. First I want to say to Mr. Mitchell, I have much in common. As an old pilot, I now don't fly anymore individually, but I do see the cities merging with the countryside. But I do want to say that I am a co-chairman, Mr. Commissioner, Mr. Vice Chairman, of an effort that will produce a petition that will have on the ballot in the city of New York in the November election the proposal for making New York City a City-State. Were we to be a City-State, sir, we would rank over 43, we would have a greater population than all but 43—I'm sorry, we will be the 43rd State of the Union, and were we a City-State also, sir, we would have greater influence. We'd like those two Senators to come from New York City. We don't see any difference in our problems were we to include New Jersey than our problem now with Suffolk County and the rest of them.

Unfortunately, this is where the people have gone to from New York City. We would like to have New York City as a City-State, and we are not joking about it anymore. We see it as a possibility.

Now, of course, you know under the Constitution of the United States it is required that Congress approve this. It is also required that the State legislature approve this. And the way the State legislature of

New York has been treating us, and since they believe that we create all of the problems, they forget that we produce most of the money, but since they feel that we are so bad, maybe they will get rid of us by just saying, "Good riddance". We have high hopes.

VICE CHAIRMAN HORN. I am interested that you want your Senators from New York City since they seem to be coming from Massachusetts and Connecticut in recent years.

Let me just ask one final question before I yield to Mr. Glickstein.

It was raised by Mr. Franklin, pointing to the President's housing message in June of '70 that on pages 10 and 42, certain recommendations had been made about Federal action to override perhaps State and local public bodies, and that really those legislative recommendations have not been pursued.

I wonder, Professor Trubek, since you are a legal scholar in this area, what do you feel the pro's and con's are of Federal enactment which would have the possibility of overriding local zoning ordinances? What are the constitutional problems?

MR. TRUBEK. I don't think there are any constitutional— I am not a constitutional law scholar specifically, and I'm—

VICE CHAIRMAN HORN. You are the first lawyer I have ever heard admit that he wasn't. We have an honest man in our midst.

MR. TRUBEK. But I don't think there would be the remotest constitutional problem with the kind of legislation that Secretary Romney originally introduced and then was withdrawn, because as I remember that legislation, it merely said that no town, no local government, could bar a federally assisted project because it was a federally assisted project. It said really very little more than that, which would get at cases which do occur. I mean, there are very important cases where you could easily make the case that the town would have allowed a somewhat similar project but because it was federally subsidized and therefore it brought with it a sort of aura of poor people and black people and so on, the town sort of either changed its zoning or refused to give a variance which it might have given in another case.

Now, it would certainly take care of that. It seems to me there is no constitutional problems. It seems to me such legislation would be important because there is this notion that somehow in the Administration's position that the private sector and the local communities are going to work this problem out. But if you look at the lawsuits that come up; some win, some lose, and I don't think there is enough legislation, both at the State and Federal level, to make these lawsuits as effective as they could be. But if you look at them, it's the private sector fighting the local government, trying to implement Federal policies with no help from the Federal Government, by which I mean, builder X wants to build a federally subsidized project or project in which the recipients will receive Federal assistance, say a 235 project, and there have been a few cases now coming up on this.

The town which has allowed multiple family dwellings in other parts of the town suddenly decides that it really is inappropriate, rezones or refuses a variance. All right. Here's a private builder who wants to

build housing to make money, but in connection with a Federal program, finding that the local community refuses him and getting then very little assistance from the Federal Government in carrying forth what appeared to be a Federal program. So that you have both the free market, as it were, and the Federal programs is coming in conflict with local decisions and the local powers coercing the builder against his will to stay out, if you want to put it that way. This whole business of coercion versus—you have got to remember that land use is one of the most controlled parts of our economy, and so when we think about Government control, we have to recognize that we have a highly controlled industry, as it were, but controlled by tens of thousands of little towns rather than by any larger government. I think legislation would be helpful and constitutional.

VICE CHAIRMAN HORN. Thank you.

Mr. Glickstein just handed me a memorandum prepared by our Office of General Counsel that at this point without objection, I will have inserted in the record. Congressional Power to Prohibit Exclusion of Low- and Moderate-Income Housing, which deals with the constitutional aspects of this.

(Whereupon, the document referred to was marked Exhibit No. 34 and received in evidence.)

Mr. Glickstein?

MR. FRANKLIN. Could I add one word, very briefly?

VICE CHAIRMAN HORN. Yes.

MR. FRANKLIN. It seems to me that if we are going to use the housing industry as a focal point for economic conversion to peacetime uses and there's a lot of talk of this, that the problem that we are confronting and the Commission is concerned about has got very serious implications for our ability to organize ourselves, to create the housing industry into one of the driving engines of our economy, because it depends on the interests of entrepreneurs as to whether we will really get this job done. And if Secretary Romney wants Operation Breakthrough to succeed, he has got to convince the capitalized entrepreneurs that there will be sites available on a predictable and assured basis and that can only be done if the Federal Government gets behind this process and supports it.

MR. SUTTON. Mr. Chairman, before we conclude, may I just make an observation that I know each member of the Commission and its Counsel has noted before? However, I think that housing more than any other area you deal with goes to the guts of discrimination in America. And it goes to also the sense of helplessness of people who live in America who are minority group people, for I think that housing more than any other element, poor housing reminds the individual every day of the sense of depth of his depression. But also, segregated housing produces segregated schools. It produces the kind of ghetto that does not give the individual who lives there access to job opportunities, and without job opportunities there is the unemployment, and with the unemployment comes the crime.

The thing is so intertwined that I think your stress on housing, your

stress on the opportunity to break out of the ghetto and not gild the ghetto—we hear more and more talk about, let's go into the ghetto and gild it, let's refurbish the ghetto. This is not the solution to the problem. There must be certainly some refurbishing of the ghetto, but there must be outward movement from the ghetto as well.

I should like to comment also with regard to a statement made here with regard to New York State Urban Development Corporation, which is a New York State chartered organization that has the power to both raise funds and construct housing. It has an unusual power to override zoning as was suggested by Mr. Trubek. This power, however, is not just failed—it's not unutilized solely because it is more speedy to build in the city, it is not utilized because of a political problem. The voters must vote money, they must vote the bonds to build the houses, so those who run the Urban Development Corporation are fearful of overriding zoning in the suburbs because if they do override zoning in the suburbs they will not get additional funds. I just want to make that comment.

VICE CHAIRMAN HORN. Thank you. Mr. Glickstein?

MR. GLICKSTEIN. I just have one question for Professor Trubek.

You mentioned various State laws that seek to deal with the zoning problems. Have any efforts been made by any of the legal groups like the American Law Institute or the Bar Association or the group that publishes things like the uniform commercial code to come up with a model statute that could be recommended to all State legislatures that would deal with this problem? Has the bar been involved in this at all?

MR. TRUBEK. There is no organized effort that I know of to create a model statute narrowly aimed at this set of questions. In the legal profession, the National Association of Home Builders has been working on developing a model statute of their own and they—it's a statute modeled basically on the Massachusetts as—and taking parts of the Connecticut statute that I worked on.

The American Law Institute has a model land development code which would be sort of a comprehensive attempt to restructure our land development, land use controls, land development system, and proposes some things which would affect this. That has gone through several drafts now, many of which I think were inadequately—inadequately took into account this range of issues. Currently a new draft is being worked on, and emerged, or is about to emerge.* I understand that the reporters are more aware of this problem and are trying to take it into account. When we see the draft we will know whether they have done so.

Those are the only two things I know of. And the ALI thing is not precisely aimed at this problem but at the general reformation of our land development system.

MR. FRANKLIN. Mr. Glickstein, the President has introduced his National Land Use Policy Act, which has a provision in it, incidentally, which is pertinent to our discussion, and that is it would encourage

*Tentative Draft No. 3 was issued on April 22, 1971. Letter from David M. Trubek to David H. Hunter, June 22, 1971.

States to assume some kind of control over what the act refers to as development of regional benefit. And they have been very—they have muted the civil rights connotation of that particular provision, but they are there, nonetheless, and I think the Commission might be interested in monitoring that particular legislation.

MR. GLICKSTEIN. Thank you.

VICE CHAIRMAN HORN. Without objection, I would like a copy of the act just referred to inserted in the record at this point.

(Whereupon, the document referred to was marked Exhibit No. 35 and received in evidence.)

Thank you very much, gentlemen, we appreciate the four of you coming down here and sharing your insights and thoughts with us on this occasion. Thank you.

MR. SUTTON. Mr. Chairman, may I just say before you depart that I should like very much to submit a statement which would be cumulative of that which I have said here today, but I would like to also comment that were we to take in our southern cities such as Atlanta; Houston, Texas; San Antonio, Texas; and some other southern cities, and put an overlaid map over them, we would find if we talk about black and white and grey we would find more grey areas in the South and we would find more black areas and white areas in the North. We have more discrimination in housing in the North than there is in the South, and I think that one of the things that happens in the city of New York, and such northern cities as the city of New York, in our ghettos is, whatever we feel about the ugliness of the ghetto, it is made all the more ugly by the lily-white nature of the suburbs that surround us that say: "Stay out."

VICE CHAIRMAN HORN. Thank you very much again, gentlemen.

Mr. Johnson, the Administrator of Veterans Affairs, please come forward.

(Whereupon, Mr. Donald E. Johnson was sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. DONALD E. JOHNSON,
ADMINISTRATOR, VETERANS ADMINISTRATION.**

CHAIRMAN HESBURGH. Mr. Johnson, we would like to acknowledge the fact that from 1958 to 1960 you were a member of our State Advisory Committee in Iowa and we appreciate the help you gave this Commission, on that occasion, over those years. Could we swear your associates if they are going to talk?

MR. JOHNSON. Yes, Mr. Chairman, and might I introduce them to you?

CHAIRMAN HESBURGH. I'll swear them first and we'll put it as part of the record.

(Whereupon, Mr. John J. Corcoran, Judge William Parker, and Mr. John Dervan were sworn by the Chairman and testified as follows:)

**TESTIMONY OF MR. JOHN J. CORCORAN, GENERAL COUNSEL,
VETERANS ADMINISTRATION; JUDGE WILLIAM PARKER, DIRECTOR,
CONTRACT COMPLIANCE SERVICE, VETERANS ADMINISTRATION;
AND MR. JOHN DERVAN, DIRECTOR, LOAN GUARANTY DIVISION,
DEPARTMENT OF VETERANS BENEFITS**

CHAIRMAN HESBURGH. Mr. Johnson, one other thing, We have your statement which we are going to put in the record as is. If you will summarize it, it will give a little more time for questions and I think might yield more fruit. So we would appreciate it if you would summarize it.

(Whereupon, the document referred to was marked Exhibit No. 36 and received in evidence.)

MR. JOHNSON. Thank you, Mr. Chairman.

CHAIRMAN HESBURGH. I hope you will identify—Mr. Powell will take care of that.

MR. JOHNSON. Thank you, Mr. Chairman, and Commissioners. First of all, the gentlemen accompanying me at the table: to my immediate right is John J. Corcoran, General Counsel of the Veterans Administration. To his right is Judge William Parker, Director of the Contract Compliance Service of the Veterans Administration. To my left is Mr. John Dervan, the Director of the Loan Guaranty Service in the Department of Veterans Benefits, which handles all matters of housing.

The VA of course is pleased to be afforded this opportunity to tell the Commission of the actions that we have taken to obtain nondiscrimination with regard to housing under the GI Bill and GI financial assistance.

While we represent a relatively small part of the whole housing industry the cumulative totals of the actions which we have taken are significant. Since the beginning of the GI Bill, back in 1944, there have been home loans that total nearly eight million different loans.

Beginning in 1962, after Executive Order 11063, the VA took the initiative in several fair housing measures. For example, there were agreements negotiated for the purpose of establishing cooperative and coordinated programs with State and local agencies. At that time understandings were signed with 10 States and seven cities that had fair housing laws on the books.

In 1963 there were detailed guidelines issued aimed at coping with conditions caused by force or threats of force against minority purchasers of VA houses located in all-white neighborhoods. Certain other things happened during this period of time to carry forward the policy of the Federal Government with respect to fair housing.

Following the outbreak of civil disorders in 1968, the VA issued special instructions to assure that ghetto areas were not arbitrarily excluded for eligibility for loan guarantees or rejected for appraisal processing.

Following the Civil Rights Act of 1968, the VA ushered in a new set of fair housing measures aimed at providing additional impetus to the Nation's express commitment to equal housing opportunities for all. We have added to our staff of the Loan Guaranty Service two experienced personnel whose responsibilities are to manifest the Agency's commitment to fair housing for veterans and in the years following substantial gains have been made.

Because of the volume of properties which we make or underwrite

loans on, we do of course repossess those on occasion which are not paid for and with respect to these acquired properties, and that is the term that we use, the procedure was introduced, and I might add not without arousing some criticism and complaints, that called for the collection of hard ethnic and racial data about prospective purchasers, and later we extended this to cover the race of the broker as well.

The problem of racial restrictive covenants was finally disposed of by amendments to the VA regulations which had the effect of rendering restrictive covenants meaningless in VA transactions.

Minorities were afforded a wider chance to participate in the purchase of VA properties by a change in the procedure that extended the time for submitting offers from 3 to 5 days with a guaranteed weekend included in the interval. Also, for the same purpose, the VA embarked on a program of paid advertising in the ethnic press in all cities with large minority populations which included under the official nondiscrimination legend listings of acquired houses currently on the market.

In Spanish publications, for example, the ads were run in that language.

The most sophisticated step in the racial data program was taken in 1969, requiring the assignment of a property location code on all property acquisitions that described the racial character of the neighborhood where the property is located.

The most recent step taken in the racial data program will for the first time provide information about the race or ethnic origin of veterans making applications for home loans guarantees and direct home loans. This has been accomplished through a revision of the application form.

The VA does believe that to a measurable extent, the success of an equal opportunity program hinges on the involvement of minorities themselves in the program's operation. For this reason, as well as because it facilitates administration, the Loan Guaranty Service has embarked on a deliberate program to attract more minority persons as sales brokers, property management brokers, fee appraisers and repair and maintenance contractors.

I think probably the major effort which has been made in recent months is that for sometime the VA has recognized the desirability of requiring a certification of future nondiscrimination from veterans or other individuals for GI home financing and assistance, but up until recently the VA had entertained serious doubt as to our authority to take this step. Upon my direction, the General Counsel has just concluded a restudy in depth of the possibility, and based upon the advice of General Counsel, I am now prepared to impose a requirement for a certification against discrimination on the basis of race, color, creed, or national origin in the future sale or rental of properties as a prerequisite to obtaining a VA direct or guaranteed loan.

An identical certification will also be required of those seeking to purchase VA acquired properties. Regulations to this end are now in preparation and I contemplate inauguration of this procedure in about 60 days.

In the long view this should have some affirmative effect in the elimination of housing discrimination by individual sellers or renters, both urban and suburban.

We recognize, of course, that the program which is in the written statement and the steps that we have taken do not provide a total solution to the problems of discrimination in housing that face minority veterans. Our jurisdiction by virtue of its being confined to veterans places a very special limit on our impact on the lending industry and the real estate business.

The housing industry, after all, is a single entity. The problems encountered by its customers, be they availability of loans, housing shortages, construction, or what have you, are the same whether the buyer or borrower be veteran or nonveteran. I believe, however, that our equal housing opportunity activities have made important strides towards the elimination of discrimination in the sale or rental of housing for veterans.

Mr. Chairman, we will take your questions.

VICE CHAIRMAN HORN. Thank you very much, Mr. Johnson. We will carry your whole statement as presented in the record of this hearing. Mr. Powell?

MR. POWELL. We have the names and addresses of the individuals.

Mr. Johnson, how many applications for loan guarantees do you process annually?

MR. JOHNSON. Mr. Dervan has the exact figures here, sir.

MR. DERVAN. Applications for loan guarantees the past 3 years, 1968, 248,000; 1969, 233,000; last year when money was tight they dropped to 194,000.

MR. POWELL. Of these applications how many loans does VA guarantee annually?

MR. DERVAN. The guaranteed loan total, sir, in the past 3 years: 1968, 211,000, for a total of \$3.7 billion; 1969, 213,900 for a total of \$4 billion; and in 1970, 167,500 for a total of about \$3.4 billion.

MR. POWELL. Of this number how many are made to purchase homes in the suburbs, approximately? Do you have a percentage?

MR. DERVAN. Well, we don't have any percentage data on that, Mr. Powell, but I would say that in line with housing generally in the United States, the bulk is probably in the suburban areas.

MR. POWELL. How many loans were made to purchase homes in the central cities?

MR. DERVAN. I would say a relatively small proportion of the total.

MR. POWELL. You would say that most of the new homes that you are guaranteeing are located in suburbia and most of the existing housing—

MR. DERVAN. I would say that as a general statement, that is probably correct.

MR. POWELL. How much money was loaned by private lenders last year with the VA acting as the guarantor of the loans?

MR. DERVAN. These are the figures which I gave a moment ago, sir. In 1970, the 167,500 loans which we guaranteed represented an initial advance of funds of about \$3.4 billion.

MR. POWELL. Mr. Johnson, it might be helpful for you to briefly describe how the Veterans Administration assists veterans in the purchase of homes.

MR. JOHNSON. This begins, today, while the man is still in Service, in a project that we call Outreach, in which we have qualified personnel who explain all VA benefits and programs in the field. We have men in Vietnam, for example; also we have them at major military separation points, the military hospitals, as well as operating through a series of regional offices and contact offices throughout the United States which are either accessible in person or in large measure by telephone involving WATS in which the inquiries can be made.

We make great use of the media to explain to the returning veteran those programs in which he might have an interest, of which housing is only one. Then we begin, as we make the personal contact, providing him either with written or oral information or both, as to some of the things to look for as they prepare to enter into contracts for the purchase of homes, their contacts with the lending institutions, etcetera. We are now working on a test pilot basis for those veterans which under our law are characterized as disadvantaged, to give them full orientation as they try to move out to purchase a home of their own. We are doing this in the District, in Los Angeles, and in Chicago on a pilot project so that they might be as fully oriented as possible, not only to the advantages of homeownership but to some of the dangers that are involved as they go out to look for housing and for financing.

MR. POWELL. You mentioned that you are now beginning to collect racial data. The President in his message mentioned the problem, the national problem of racial concentration on central cities and congestion. Do you suppose you could use these racial data in a way that could alleviate that problem?

MR. JOHNSON. It might be possible. The racial data to which I refer was primarily on acquired properties and the role that we have played to get the minority veteran aware that housing was available under some very favorable conditions for purchase. For example, in the first 3 months of this calendar year, on VA owned homes, we had 3,800 total offers accepted and the racial percentages of those offers accepted were 60 percent white, 6 percent Spanish American, 30 percent Negro, 1 percent Oriental. The remaining 3 percent were not identified.

MR. POWELL. That's very interesting, Mr. Johnson, but I would suggest that if we knew more about those houses, one, where were they located? Two, were they new? What percentages of the houses bought, for example, by the some odd 40 percent of blacks were located in the central cities? What percentage of those houses were relatively old as compared with the new houses located in the suburbs? Couldn't the data be used to identify this problem?

Another thing, for example, in advertising the property, could you not in the ethnic press, could you not advertise houses located in subur-

bia, in addition to those located in the central cities?

MR. DERVAN. The point you make is a very good one, sir. In meeting with representatives of black and other minority groups, we have gone over this data with them and they have said: "Fine, that's good, that's very interesting, but really aren't you really moving black citizens into houses in black areas? You may be improving their housing but is their location changing?" And, quite frankly, we were not able to answer the question adequately because of the lack of intelligence as to area. And this is the reason why very recently we have introduced in connection with the appraisal of properties which are to be foreclosed, not in connection with the original appraisal incident to the purchase of a property, a property location code which will describe the property as being in an area all-white or in an area of mixed race or all-black. Thus, in the future when one of our properties is sold and we know that the buyer is a black veteran or nonveteran we will know whether that house is in an all-black area, in an all-white area or in a mixed area. But as of this moment we could not tell you, sir.

MR. JOHNSON. Just for clarification, the figures to which I referred in Mr. Dervan's remarks are all previously occupied houses.

MR. POWELL. Beg pardon? Would you say that again?

MR. JOHNSON. The statistics that I used, sir, and the remarks of Mr. Dervan are related to VA-acquired properties, all previously occupied housing.

MR. POWELL. I see.

We understand that VA repossesses houses at the rate of between 1,100 and 1,200 a month; is that correct?

MR. JOHNSON. That's correct.

MR. POWELL. I think you are to be commended for your just announced policy of requiring purchasers of that property to give a pledge that they will not in selling the property—will sell on an equal opportunity basis. Do you have any way that you are going to police that?

MR. JOHNSON. Yes, indeed, we do. And in fact, these are some of the things that I asked, as we made the basic decision to move forward with this new policy and with the new opinion of the General Counsel. As of this moment I cannot give you definite regulations—they have not been written as to how we will police it but we recognize that there is a problem here in the future for us to monitor and to supervise.

MR. POWELL. Well, with respect to these repossessed houses, do you have the authority under Title VIII to require brokers who sell such repossessed VA houses to conduct their whole business on a nondiscriminatory basis?

MR. JOHNSON. Yes, indeed. And we do require this. And we also have a working arrangement with the Department of HUD so that if we find a broker in violation of our agreements that they can suspend, or will suspend upon our recommendation, and we will likewise, if they find discrimination and so inform us, we also suspend that broker.

MR. POWELL. They are required to sell all their houses, not merely repossessed VA houses on a nondiscriminatory basis; is that

correct?

MR. DERVAN. Mr. Johnson's initial answer, Mr. Powell, was directed to the supposition that your question concerned solely the sale of VA acquired or repossessed property, whereas I think your question does relate to a broker who is also handling the sale of properties on a conventional financing basis.

MR. POWELL. Let's put this into context.

We are talking about property owned by the Veterans Administration, houses owned by the Veterans Administration. The Veterans Administration can then choose which brokers they are going to use in the sale of these houses. Now, in choosing the brokers that you want to use to sell these houses, couldn't you require as a condition of doing business with the Government that they agree not to discriminate in the sale of any of their houses, not merely houses owned by the Veterans Administration? Don't you have that authority under Title VIII?

MR. DERVAN. I really don't know whether we have the authority. I will say that up to this point our certification, Mr. Powell, has been simply confined to operations in respect to VA acquired properties. They must certify in respect to those properties.

MR. POWELL. We do have a Federal policy, an example of that is the Office of Federal Contract Compliance which operates under Executive Order 11246, and under that order the policy is that when the Federal Government does business in the purchase of services or goods, that it requires those with whom it does business not to discriminate.

Now, it seems to me there is a parallel here. The Government owns property and it is going to sell that property, it ought to require people who act as their agents in selling that property not to discriminate. Now, in the Office of Federal Contract Compliance, the Federal contractors are required not to discriminate, not merely with respect to that portion of the business in which they are manufacturing Government goods or services, but with respect to their entire business.

It seems to me that the parallel here is quite clear, and I would suggest that you look into that question and let the Commission know whether or not you feel you have that authority.

MR. JOHNSON. Mr. Powell, just to prove that Government can make decisions, General Counsel and I have just discussed this. It had not been raised with me before. The General Counsel has just been instructed verbally to investigate and supply me with an opinion. We would be glad to submit it for the record, and I might say that I am in complete sympathy with the point that you raised.

(The opinion referred to is part of Exhibit No. 55.)

MR. POWELL. Thank you very much.

Now, with respect to the Section 808(d) of the Title VIII of the Fair Housing Act of 1968, all Federal Agencies are required to administer their programs relating to housing in a manner affirmatively to further the purpose of this title. You mentioned that you have recently assigned some new people in connection with this work. How many people does the VA have assigned to carry out the equal opportunity in housing program in the Veterans Administration? How many full-time

people do you have?

MR. JOHNSON. There are two specialists on Mr. Dervan's staff here in central office in Washington. They are the specialists who must supply the field offices with the information. Because of our programs with total benefits, and because I believe that we do have a good record in the whole area of minority relationships, we have separate officers who are concerned about equal opportunities in all other fields and there is some cross-servicing, so to speak. Mr. Parker is my personal representative and counselor in the whole matter of equal opportunity and his authority does range some distance.

MR. POWELL. Let me make sure I understand you.

You only have two full-time people whose responsibilities are exclusively and primarily concerned with equal opportunity; is that correct?

MR. JOHNSON. In the matter of housing, that's right.

MR. POWELL. But yet you make loans in the hundreds of thousands of dollars and you have 49 field stations all over the country. Do you think that two people can begin to do the kind of investigation necessary to see to it that these nondiscriminatory regulations are actually carried out?

MR. DERVAN. Well, obviously, I think that two people for a complete monitoring is not adequate in respect to a volume of in the neighborhood of 150,000 to 200,000 sales per year.

MR. POWELL. Would you consider asking—

MR. DERVAN. I was going to add, though, if I may, sir, that Mr. Englisher and Mr. Cox, who are the members of my staff, travel to all of our local offices and meet with the personnel in our offices and also with the local fair housing groups in the various areas in which the offices operate and it was through their efforts that, for example, that we were able to establish the assistance projects which we have underway here in Washington, D.C. and in Chicago.

MR. POWELL. Yet you only have two people to go to all 49 field stations? Do you think that it would be helpful to ask Congress to increase your appropriations with respect to this kind of personnel? If you're actually going to—in view of the President's statement about seeing to it that we get results, wouldn't you think that you should do this?

MR. JOHNSON. We believe that the Congress, in line with the President's recommendations, is going to give us some relief overall in our loan guaranty divisions as to the number of personnel and most assuredly some will fall into this category.

If I may, sir, I think you used the figure of 49 field offices. Actually, for the record, there are 57 regional offices, so that we have the right numbers. The Home Loan program is administered through 49 of these regional offices.

MR. POWELL. It makes the problem even worse.

MR. JOHNSON. Yes.

MR. POWELL. Mr. Johnson, one of the chief components of the President's program to achieve equal housing opportunity is the development of policies relating to housing, marketing policies. What are

some of the things you have considered doing in implementing this policy? What about implementing regulations on what constitutes discriminatory advertising?

MR. DERVAN. Let me put it this way. As you are aware, Mr. Counsel, the Department of Housing and Urban Development has recently promulgated proposed guidelines for housing advertising. These have been published in the Federal Register on a notice basis. We have notified the Department of Housing and Urban Development that when these guidelines are finalized they will also be the position in respect to VA.

I might add, Mr. Counsel, that in respect to advertising concerning houses, acquired by the VA and offered for sale by us through real estate brokers, we specifically require this advertising to contain a statement that the housing is available without regard to race, color, or creed. We also require the broker to post on the front lawn of that house a large distinctive sign which says in effect: "No Discrimination, Available for sale to anybody."

MR. POWELL. Now, with respect to advertising, isn't there a method by which a builder can obtain VA approval to advertise property in large unit developments as VA-approved housing?

MR. DERVAN. Some builders have used this term. We do not approve housing as such. What these builders are referring to when they use this term, Mr. Counsel, is the fact that the property has been submitted to the VA for appraisal. We have examined the site and the properties and the plans and specifications, made a determination that they meet our subdivision requirements, that they meet our minimum property standards, and based on the plans and specifications submitted to us we have made a determination of the reasonable value of that property and have issued a certificate to the lender which in effect is a commitment on value. In the sense that we approve advertising or other factors, no.

MR. POWELL. Now, then, the term, VA-approved, means merely that this housing meets VA standards. Is that correct?

MR. DERVAN. Yes, that an eligible veteran who is desirous of purchasing a house in that subdivision which has been appraised by us can, if he meets income and credit requirements, have a loan made to him guaranteed and thereby finance the purchase of that house.

MR. POWELL. If he meets your income and credit requirements, that's an aid in the marketing of that housing; it's an advantage to the builder, isn't it?

MR. DERVAN. There is no question, Mr. Counsel, that the veterans' market has been important to many builders throughout this country.

MR. POWELL. In that instance, couldn't the VA require the builder not to discriminate in the sale of housing to nonveterans?

MR. DERVAN. Well, we do require, sir, that he certify to us that he will not discriminate in the sale of that housing on the base of race, color, or creed, and if I am accurate, if my memory is accurate, the certification is not limited to sales to veterans, as such.

MR. POWELL. Well, in policing the activities of such builders do you inquire as to whether they are discriminating with respect to non-veterans as well as veterans? You might not have the—

MR. DERVAN. I must say, Mr. Counsel, that there is no positive ongoing program of monitoring by actually going out to a subdivision at the present time and saying: "How many sales have been made to Spanish origin? How many have been made to blacks, and whites, and so forth?" At the present time our monitoring procedure, other than what our people know is going on because of their knowledge of the area and the applications coming in, is a situation in which the person aggrieved files a complaint and then we investigate. This is the situation at the moment.

MR. POWELL. But your racial gathering data—do you intend to use that data for this purpose?

MR. DERVAN. Yes, this is one of the purposes for which we have undertaken this.

MR. POWELL. We would certainly be interested in knowing what your position is with respect to whether you can require nondiscrimination in the sale of housing to nonveterans, when a builder is advertising his property, all of his property, as VA-approved?

MR. DERVAN. Well, this is a factor that will be considered by General Counsel, I'm certain.

MR. POWELL. Mr. Chairman, I have no further questions.

CHAIRMAN HESBURGH. Thank you very much, you anticipated me. I was just going to get some Commissioners in here.

Mrs. Freeman, do you want to—

COMMISSIONER FREEMAN. My question relates to the statement that: "We examine the site and the properties and make determinations that they meet the subdivision requirements." Would you tell the Commission who it is—I mean what is the position of the classification of the person who makes that examination and determination?

MR. DERVAN. This examination is made by personnel in our local offices whom we generally describe as construction analysts. What they do is they go out and they personally visit the proposed site of the subdivision, look at its geography, surrounding factors. Then they look at his proposed subdivision development plans and then, the facilities such as the sewage, water, so forth, and then finally the plans and specifications for the houses themselves.

COMMISSIONER FREEMAN. Could you give the Commission information as to how many of these construction analysts are members of minorities, black, Mexican Americans, Indians, etcetera?

MR. DERVAN. In respect to specific specialists, no, but I can tell you generally that we have about 2,100 loan guaranty people in all of our offices throughout the country and of that total, roughly 15 percent are minority people.

COMMISSIONER FREEMAN. Well, could you give us the breakdown in terms of the classification and the right to make these kinds of determinations by race?

MR. DERVAN. I could supply this to you.

COMMISSIONER FREEMAN. That's what I'm saying. Would you?

MR. DERVAN. Yes, I would.

(The information referred to is included in Exhibit No. 55)

COMMISSIONER FREEMAN. Now, what are the determinations to be made by VA when there is a direct loan made? What is the difference between the guaranty and how do you make the distinction as to race with respect to—do you have a breakdown on this?

MR. JOHNSON. . . First of all, on the direct loan program, by law the Administrator must determine a given area as a credit shortage area, and this is primarily rural America. The less populated areas may qualify for direct loans, if private financing is not available.

COMMISSIONER FREEMAN. What about a community, an inner-city, where perhaps all of the minorities would find it impossible to get credit, would that be considered a credit shortage area?

MR. DERVAN. Under the governing law, Mrs. Freeman, there would be no basis to make a determination that a credit shortage area exists on the basis of the racial factor. The law says we are not confined to rural areas, small cities, and towns, not near large metropolitan areas where private guaranteed loan financing historically has not been generally available. So we have to determine, Number 1, if this is a rural area, or a small city or town, not near a large metropolitan area, and then in respect to these specific areas, if private guaranteed financing generally has not been available in the past.

COMMISSIONER FREEMAN. Has the Veterans Administration made any study with respect to the class, the minorities that may have systematically been excluded by lenders in either the rural or small towns, or the central cities?

MR. DERVAN. Well, in response to your specific question I would have to say that a formal study as such has not been made, Mrs. Freeman. However, we did undertake on an experimental basis several years ago a followup with veterans, black veterans, who had indicated to us that they were going into the housing market to locate housing suitable for their families. We did this when the individual came into the office and applied for a certificate of eligibility, which is the first piece of paper he has to have to evidence eligibility.

Then in those cases, where it was noted that he was a black veteran, for example, we sent a questionnaire to him to ascertain whether his efforts had resulted in a loan or having noted that he hadn't submitted an application to us, we sent the questionnaire to him to learn why. And there were only a very few instances in which the individual ascribed their not getting a house to discrimination.

COMMISSIONER FREEMAN. About how long ago was that survey made?

MR. DERVAN. I would say that was about—I think we terminated that about two or maybe three years ago. But the results we could show you. We still have the results.

COMMISSIONER FREEMAN. Well, my other question—

MR. DERVAN. My point, Mrs. Freeman, is that we have been trying to do something in this area.

COMMISSIONER FREEMAN. This Commission still receives the information that the black veteran finds it difficult to find a lender, and we would just like to know if we could get the facts on this.

MR. DERVAN. Well, I can speak only from personal experience and observation, and I've been in this business for quite a while. My own feeling, or my own impression, is that income is one of the factors which is operating more acutely today than perhaps a few years ago. In the recent years, the escalation in the cost of housing has been such that coupled with the rather substantial rise in interest rates, has placed the cost of mortgage financing, particularly to a veteran who is in need of 100 percent financing, which our program provides for, has priced him out of the market, whether he's black or whether he's a white veteran. But I think it's generally recognized that in respect to income it's probably that black veterans are more likely to be in the lower-income range than white veterans.

COMMISSIONER FREEMAN. But does not that situation suggest that the Veterans Administration might extend its direct loan program and recommend additional legislation to include the cities?

MR. DERVAN. Well, I think that the policy of the Government is reflected in the assistance programs which HUD is administering. In other words, those programs are directed to providing either mortgage assistance subsidy payments to the people in the lower- and moderate-income ranges, or through providing for reduced rentals through assistance under the 236 Program.

COMMISSIONER FREEMAN. Is it your position then that you do not see the need to recommend any improvements in the existing policies of the Veterans Administration?

MR. DERVAN. My position is that there is always room for improvement in any operation and, as a matter of fact, yesterday I devoted very considerable time with some very able leaders in the investment community, such as the Dime Savings Bank of New York, and the Five Cents Savings Bank of Boston, as to just what we could do to increase the housing assistance to veterans, particularly younger veterans coming back from Vietnam, and of course Vietnam veterans include a very large proportion of blacks.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Johnson, one of your colleagues gave some figures which interested me. In the last 3 years, apparently your high point in number of VA loans for housing is 213,000?

MR. DERVAN. In the past 3 years, yes.

COMMISSIONER MITCHELL. How—historically going back to the years after World War II, how does this relate—

MR. DERVAN. I would say, Mr. Commissioner, that in the mid-fifties, it was either 1955 or 1956, we approached the half million mark, in that neighborhood.

COMMISSIONER MITCHELL. You were operating at almost a half million a year at that time?

MR. DERVAN. At that particular time.

COMMISSIONER MITCHELL. And do you recall that the concern for racial problems in the making of those loans and in the behavior of builders and sellers of homes was the same as it is today or less intense?

MR. DERVAN. My impression today, Mr. Mitchell, and again I'm stating a personal impression, is that housing opportunities for the individual who is credit qualified, who has the income, is better than it was in the earlier years.

COMMISSIONER MITCHELL. Are you talking now from a racial or—

MR. DERVAN. Yes, from a racial standpoint.

COMMISSIONER MITCHELL. You think there has been substantial improvement?

MR. DERVAN. I think so. I think the attitude of the participants in the industry has changed, just as I think the people, the Nation as a whole have changed.

COMMISSIONER MITCHELL. In retrospect, of course, looking back over those years then we would probably agree that VA has funded a great deal of white suburbia and has its footprint in a lot of racial situations that now have come back to trouble us as we look at suburban development.

MR. DERVAN. Well, I believe it was Secretary Romney who stated that no doubt in the past that the operation of Federal policies, FHA and VA programs, which in effect responded completely to private initiative did result in this to a considerable extent.

COMMISSIONER MITCHELL. But in the resale of homes sold originally under somewhat less desirable conditions from the civil rights point of view, you now feel that there are adequate safeguards for the redesign of those same neighborhoods and those same suburban enclaves?

MR. JOHNSON. Yes, I think we have made substantial progress in this and particularly with some of the new initiatives which we have taken. And in addition to this, there is another factor, that upon the recommendation of the Administration and the VA, last year the Congress reinstated eligibility for World War II and Korean veterans whose eligibility for guaranteed loans had expired, and we are beginning to feel now the impact of that because our request for appraisals and loans are up considerably.

COMMISSIONER MITCHELL. Can we walk through a VA loan—let us assume I'm a veteran, which I happen to be as a matter of fact, and I want to buy a house, and I live in Denver, let's say, and I found a house in the city or in suburbia, and I don't have the means to buy that house without assistance from the Veterans Administration, what's the first thing I do?

MR. DERVAN. Once you have located the house, and let's say this is not in a subdivision, this is somebody who is being transferred and he has his house up for sale, Mr. Commissioner, and you are driving through there and you noted it, so you go to the broker and you say: "How much is the house?" He tells you and that seems to be a reasonable price, and you say, "All right, I would like to buy this house." So you sign a contract subject to your getting a VA loan of a prescribed

amount.

Now, just to make the example as clear as I possibly can, Mr. Commissioner, let's assume that the sales price of the property is \$25,000. Let's assume also that you are in a position where you can pay \$1,000 down on closing costs but you can't make a substantial down payment, but you know that the VA program provides for 100 percent financing. So in this case the broker would say: "All right, I will have the house appraised by the VA to determine its reasonable value," and at that point he would say: "Pay me \$40, Mr. Commissioner," and you would pay it, and then he would arrange to submit a request for appraisal to VA.

Upon receipt of that request, Mr. Commissioner, we would designate a local private fee appraiser to go out and appraise that property and submit to us an appraisal report.

COMMISSIONER MITCHELL. Now, this appraiser has indicated to you that he doesn't discriminate, that he is not an appraiser for discriminatory housing?

MR. DERVAN. Well, we don't require it of appraisers, as such, no, sir.

Now, when his appraisal report comes in, let's say that it says the value of this house in his opinion is \$25,000.

COMMISSIONER MITCHELL. Now, let's say I bought a house right in the middle of a black section, is he influenced by that in his appraisal?

MR. DERVAN. No, sir, because our directives say that: Consider what the value of that property is, the fair market value.

COMMISSIONER MITCHELL. Let's say I bought a house in the middle of a white section that is beginning to turn black?

MR. DERVAN. Again they are to appraise what is the market value—

COMMISSIONER MITCHELL. Who are they looking out for, the lender or me?

MR. DERVAN. They are looking out for the veteran and for the Government's interest. The purpose of that—

COMMISSIONER MITCHELL. The Government's interest is getting paid back.

MR. DERVAN. The Government's interest is having an adequate security for the loan, that we don't guarantee an excessive loan on the security of the property.

COMMISSIONER MITCHELL. Now, you are saying he doesn't care really whether that neighborhood might be affected by changing—

MR. DERVAN. He is under instructions, under the policies which we have established. Race is not to be a factor for increasing or for reducing values.

COMMISSIONER MITCHELL. Do you spot check them?

MR. DERVAN. We try to check 5 percent of our appraisals.

COMMISSIONER MITCHELL. He makes an appraisal—

MR. DERVAN. All right, sir, and the appraisal report comes in with a valuation equal to the sales price.

COMMISSIONER MITCHELL. The appraisal report—I'm a bank

director, so I'm not guessing at this, is that the form that has a picture of a house on it, and he makes a comment about the kind of neighborhood the house is in?

MR. DERVAN. Yes, sir.

Now, he comes back with a \$25,000 valuation, in his opinion. Our people check his report against comparable valuation data, sales data, that we have in our files, in our geographical files, and let's assume that is completely consistent with our data, then in that case we would issue a certificate of reasonable value in the amount of \$25,000.

Now, in most instances, Mr. Commissioner, a broker will have some connection with a local lender, originating mortgages and he may say: "Well, you can take your own lender or I know that so and so down here is making loans in this area, so go and see him and apply for your loan."

COMMISSIONER MITCHELL. Do you check to see whether the broker—lender, makes loans on any racial basis, or doesn't make loans when racial characteristics are involved?

MR. DERVAN. There is no specific check as such, Mr. Commissioner, but the regulation which we have out says that a prejudicial practice shall be the basis for your suspension from further participation in the program.

COMMISSIONER MITCHELL. Now, at the bank where I sit on the loan committee and look at these loans I see nothing on your form that says that, I just pick up a loan and your form just says—

MR. DERVAN. That is correct.

COMMISSIONER MITCHELL. It doesn't say: "You better be careful if you turn this loan down because you have a racial interest."

MR. DERVAN. However, the Lenders' Handbook, if you look at the Lenders' Handbook, Mr. Commissioner—

COMMISSIONER MITCHELL. But the loan committee doesn't look at the Lenders' Handbook. Why don't you put it on the form, by the way?

MR. DERVAN. Well, it's a thought. Neither we nor the FHA have done it as yet, but it's a thought.

COMMISSIONER MITCHELL. A bank director is capable of about as much prejudice as almost any other citizen around and yet he sits there and looks at those loans, and can shake his head and say: "Gee whiz, we are making too many of these kinds of loans," and discourage the lending of money to racial groups.

MR. DERVAN. Well, of course, the directorship of a lending institution determines what their policies will be, as you know, sir, in respect to location, in respect to percentage of loans, and so forth and so on.

COMMISSIONER MITCHELL. The directorship of a lending institution is not always a direct path to heaven.

MR. DERVAN. Correct. All right, the \$25,000, he applies for a \$25,000 loan, and perhaps for the benefit of the other members of the Commission, because I'm sure you already know it, the theory under which a lender is willing to make a \$25,000 loan on a \$25,000 property is that our \$12,500 guarantee of payment reduces that lender's initial exposure from a loan standpoint to a \$12,500, and since he has a

\$12,500 loan exposure against the property which appears to be worth \$25,000, he's just as willing to make it on a guaranteed basis as in a case where the individual comes in and says: "I'm paying down \$12,500 cash, would you make me a twelve-five loan?" This is the theory.

COMMISSIONER MITCHELL. The difference in interest rates?

MR. DERVAN. Yes.

COMMISSIONER MITCHELL. At this point the bank makes the loan?

MR. DERVAN. Right, sir.

COMMISSIONER MITCHELL. And you are advised?

MR. DERVAN. Yes, it reports the loan to us and then we issue a certificate of guarantee which evidences the fact that we have entered into a contract with the lender, that we will guarantee repayment.

COMMISSIONER MITCHELL. Suppose the bank won't make the loan? Do you have many turndowns from—

MR. DERVAN. I'll say this, I don't have data on the number of turndowns where the individual contacts the bank and the bank turns him down and says: "I'm sorry, we can't accommodate your desires in this instance." We do know that, in respect to the applications which the bank passes initially and says: "This appears to be all right, we'll submit it to the VA for prior approval," in about 15 percent of the cases submitted to us we do turn them down where they come from lenders.

COMMISSIONER MITCHELL. Do you have figures on the percentage of applications or appraisals you make that don't materialize as final acquisitions of homes?

MR. DERVAN. Well, yes, we do. I can indicate it this way. For example, last year virtually 392,000 requests for appraisals were submitted to the VA. In the same calendar year, as I indicated earlier, we had about 194,000 applications received and in the same year, 167,000 loans were actually closed. Now, there is some lag always between appraisal and so forth, but on the other hand, many individuals will obtain a VA appraisal or an FHA appraisal as a measure of "What shall I fix as my sales price for the property?"

COMMISSIONER MITCHELL. Do you see in communities where you are doing a lot of lending a sharp distinction between the sources of loan funds? In other words, are there black banks that lend to black people and banks that just don't ever show up in those kinds of loans?

MR. DERVAN. Well, I really don't have any reliable information on that.

COMMISSIONER MITCHELL. I should think it would be of interest to VA to know where people of different racial characteristics are getting their money from.

MR. DERVAN. Well, again, I—

MR. JOHNSON. Mr. Commissioner, the thing that is important to us at the moment is that veterans can find some financing, conventional financing and our loan guaranty officers at the individual stations do know where the sources of money are and will assist veterans to find them. The sources do change from time to time and the availability of funds, and if I dare mention it to you, but savings and loan associations at times have more funds available as compared to the com-

mercial banks, and the situation changes. And our loan guaranty people are conversant with the local conditions, and furthermore assist the veteran in securing those sources.

COMMISSIONER MITCHELL. At this moment your impression is that anybody of reasonable suitability as a borrower can buy a house who is entitled to a VA guarantee, and will have no trouble finding financing.

MR. DERVAN. If the individual has a reasonably good credit history, Mr. Commissioner, and there isn't any serious problem about his income in relation to the housing debt he proposes to undertake. I don't think he'll have any problem. The difficulty that we get into lots of times is when our rate is not fully competitive with alternative investments which lenders may make, and I would just like to go back a moment, Mr. Commissioner.

With respect to the identity of people who are making loans—lenders who are making loans to black veterans, the very purpose of putting on the application form the race of the applicant is to develop this intelligence which heretofore we did not have. Thus we could not say that specifically out of 100 guaranteed loans made by X lender last month, five, ten, or zero, were made to black veterans.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Gentlemen, we are running a little behind. The Vice Chairman wants to ask a couple of questions. I wish we would be real brief with our answers because we have Mr. Kunzig coming in about 10 minutes and we have to take a break.

VICE CHAIRMAN HORN. Well, I'm going to ask a series of questions first which I don't expect an answer on completely now, because we do have a problem of time, but I do want an answer from the VA submitted for the official record.

Now, getting back to follow up Commissioner Mitchell's point, what law, Mr. Johnson, prevents you from requiring the appraisers to whom you are paying fees from signing an antidiscrimination pledge in order to be a VA appraiser? Have you got a law that prevents you from adding that pledge?

MR. DERVAN. There is no law that I know of.

VICE CHAIRMAN HORN. As a matter of policy would you think it's wise to add that pledge?

MR. DERVAN. I would say this, Mr. Horn, that I think we should study the matter. We do require the appraiser to certify that he has no interest, financial or otherwise—

VICE CHAIRMAN HORN. Could we add that he also has no discriminatory interest?

MR. DERVAN. Yes.

VICE CHAIRMAN HORN. Can we seriously get down to this? This is a simple thing of one sentence.

MR. DERVAN. Yes.

VICE CHAIRMAN HORN. And you are paying out millions of dollars in fees?

MR. JOHNSON. Mr. Vice Chairman, I would say that it does need exploration, but if we are to expect a veteran, a purchaser, to sign that,

then we should expect others who are involved to sign it, and we shall explore it.

VICE CHAIRMAN HORN. Well, all I am saying is, there are millions of dollars raised from black citizens and white citizens and brown citizens going to pay appraisers and I think the least the VA could do is nail them down with an antidiscrimination clause.

MR. DERVAN. The Government should have the same policy.

VICE CHAIRMAN HORN. Well, could we start with the VA and maybe set a trend for the Government?

Now, I'd like to suggest, and I don't want an answer to this now, that you obviously have a research staff, that a random sample be conducted on those loans that are turned down and do not materialize because the private financing doesn't materialize, if there are such loans, and that we do a spot check on a statistical basis as to how many are blacks, browns, other minorities, whites, etcetera. Now, I don't ask for an answer on that today.

(This information is discussed in Exhibit No. 55.)

VICE CHAIRMAN HORN. Now, let me get to what I had originally intended to ask.

Number 1, to what extent was the Veterans Administration involved in the preparation of the President's housing message? Were you consulted?

MR. JOHNSON. Mr. Vice Chairman, yes, we were, we made input as to our procedures and what had taken place and what we were contemplating.

VICE CHAIRMAN HORN. Mr. Johnson, are you a member of the Civil Rights Subcommittee of the Domestic Policy Council?

MR. JOHNSON. No, sir.

VICE CHAIRMAN HORN. I would think certainly there ought to be some attempt to get you on that since you have a major impact in the housing market.

Now, in both the background statements by Mr. Garment when the President's message was released, on page 11, and on page 34 of Attorney General Mitchell's press conference on Monday, there is a reference constantly made to the role of HUD as the lead agency in this whole area, and I'm trying to get at whether the role of HUD is merely limited to its own departmental jurisdiction or whether it would include across-the-board housing activities in the Federal Government as pertaining to getting at the problem of nondiscrimination?

What's your conception of the role of HUD in relation to your agency?

MR. JOHNSON. It definitely is the lead agency within the Government and that we are consulted and initiate consultations, too, as far as that goes, on all matters.

VICE CHAIRMAN HORN. In the regional level then, you do have some sort of apparatus where your people in those 57, I believe, field offices can relate to HUD at the regional basis to make some of these decisions?

MR. DERVAN. On technical matters, for example, there is very

close coordination.

VICE CHAIRMAN HORN. All right.

Now, I guess what I am going to get down to in the last question, are those two gentlemen that you have sort of as civil rights monitors, if you will? I don't want you to expound on their descriptions today, and I realize that sometimes job descriptions in Government, corporations, and universities are phony, but I would like you to furnish for the record the official job descriptions of both of these individuals because the basic concern I have listening to this testimony is, we have a Presidential message with a housing policy, we are supposed to get the bureaucracy to carry out the mandate of the Chief Executive. I'm worried when we don't have sufficient resources, sufficient will power, sufficient impetus at the bureaucratic level of this Government to carry out what the President of the United States, in fact the last four Presidents, and several Congresses of the United States, want to do in this area. So I would appreciate any advice you could give the Commission in that regard. Thank you.

(The job descriptions referred to are part of Exhibit No. 55.)

CHAIRMAN HESBURGH. We are very grateful, Mr. Johnson, to you and your associates for coming today. I can tell you it's been quite a jump since the last hearing we had regarding VA. At that time all the repossessed housing was only shown to the members of the race that left it. Black housing was only shown to blacks, and white housing was only shown to whites, and there was a dual system within the VA. I take it, that's completely gone now?

MR. JOHNSON. Yes, indeed, and I think that, you know, we could draw the diagram of that progress, since this was first initiated. There has been a very substantial change.

CHAIRMAN HESBURGH. We appreciate very much your being here, and we—Bob, are you anxious to have a question?

COMMISSIONER RANKIN. I'm foregoing it.

CHAIRMAN HESBURGH. Well then, we will have a 5-minute break and thank you very much for coming.

CHAIRMAN HESBURGH. Mr. Kunzig, would you and your associates stand, please, and be sworn?

(Whereupon, Mr. Robert L. Kunzig, Mr. Harold S. Timmer, Jr., Mr. Edward E. Mitchell, Mr. Arthur F. Sampson, and Mr. Herman Barth were sworn by the Chairman and testified as follows:)

TESTIMONY OF MR. ROBERT L. KUNZIG, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; MR. HAROLD S. TRIMMER, JR., ASSISTANT ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; MR. EDWARD E. MITCHELL, DIRECTOR, OFFICE OF CIVIL RIGHTS, GENERAL SERVICES ADMINISTRATION; MR. ARTHUR F. SAMPSON, COMMISSIONER OF PUBLIC BUILDINGS OF THE UNITED STATES; AND MR. HERMAN W. BARTH, DEPUTY GENERAL COUNSEL, GENERAL SERVICES ADMINISTRATION, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Would you introduce your associates, Mr. Kunzig?

MR. KUNZIG. On my right, Mr. Chairman and members of the Commission, is Commissioner Arthur F. Sampson, Commissioner of Public Buildings of the United States. On my immediate left is Harold S. Trimmer, Jr. the Assistant Administrator or Number 3 man in the Agency. On his left is the Director of the Office of Civil Rights, Edward E. Mitchell. And on the far end is the Deputy General Counsel, Mr. Herman W. Barth.

CHAIRMAN HESBURGH. Thank you, sir. Mr. Powell, will you proceed?

MR. POWELL. Mr. Kunzig, would you please briefly describe the function of your Agency as it relates to the acquisition of space for Federal Agencies?

MR. KUNZIG. As the General Services Administration was put together by the Hoover Commission in '49 it has many, many functions and is one of the few Agencies in the Government that crosses the entire border of governmental activities.

One of our five services is Public Buildings Service, headed by Commissioner Sampson on my right. One of the things we do there is to acquire space. Another is to build public buildings. Another is to manage over some 10,000 Government buildings.

MR. POWELL. Mr. Kunzig, in the normal situation, does GSA or the Agency needing space select the community in which a facility will be placed?

MR. KUNZIG. There are many discussions with the Agency before a building is acquired. As a matter of fact, the sole consideration used to be the interest of the Department or the Agency that was acquiring the building. That and cost, of course, which is always a consideration.

In the 2 years we have been at GSA, we have brought forth proposals to the White House which resulted in Executive Order 11512, which I know we're going to be talking about this morning. We proposed the order to the President and were delighted when he adopted it.

Now socioeconomic factors are taken into consideration in addition to the interests of the Agency itself as to where the facility goes.

MR. POWELL. Mr. Kunzig, in the past few years have a substantial number of Federal facilities been constructed or leased in suburban communities throughout the country?

MR. KUNZIG. Not nearly as many as you might think there are. And since there have been many mis-statements about this, particularly in the press, I would like very much to take a minute here and I ask permission to do this to tell you what our policies are.

First, let me tell you regarding the buildings which are in the cities you asked us about recently. Two people that have been moved out of Atlanta, Georgia, during 2-½ years that I have been head of the GSA. In Boston, Massachusetts, only 105 Federal employees have been moved out of the city during my tenure of office. In Chicago, Illinois, zero. In Detroit, Michigan, 1,259, but they are to return to the city and that is guaranteed because we are now constructing a building in the

city which they will come back to. Houston, Texas, 23 people. San Francisco, California, 22 people.

I would like to mention Washington, D. C., because I have had a policy since I've come here, a policy which I believe in very strongly, and which I put into effect almost immediately, involving civil rights and involving our people at GSA. There hasn't been too much activity in this area before, but we started a very strong policy of not moving, and I repeat that, not moving people out of cities, particularly in Washington, D.C.

I did this because I feel that people should be as close as they reasonably, possibly can be to the building in which they work.

With regard to figures for Washington, D.C. that you have asked for and which we have supplied, I would like to explain them very quickly here. 940 people moved to Crystal City—back of the airport. That's the Federal Supply Service, our own unit, but they were all moved before I ever took office.

The Library of Congress 581 people moved to Alexandria Mall. A few weeks after I came to office, Dr. Mumford, the Librarian of Congress, came to me and said they had a serious problem, heavy books were piled in certain areas and they had a serious problem with floor load and some floors had actually collapsed. He had looked all over and found a building that would hold books piled on floors that would do for a brief period of time. They are going to move back to Washington as soon as their planned building is finished.

The main one that you and everyone else have all talked about is the tearing down of the Navy Munitions Building. We had serious problems with those two buildings. One of our biggest problems was a rat problem, rats infested those two buildings. They hadn't been torn down as they should have been, as you know everyone knows this story, they were temporaries in the First World War.

President Nixon had the courage to say: "Take them down, they've got to come down." We were then faced, and I think the decision was absolutely right, we were faced with the problem of moving some 15,000 people. It was one of the most mammoth moves that ever took place in the Government.

Of course, we had to consider the needs of the Agency involved; in this case it was the Navy, mostly Navy, and they wanted to be as close as they could to the Pentagon. They were moved to buildings in Crystal Mall, which is just behind the airport, very close to the Pentagon.

Ladies and gentlemen, that move was at the shortest, 1.8 miles, and at the longest, 2.3 miles. True, they go across a bridge to get there, but I think, as was said in yesterday's testimony by Mr. Romney and others, you have somewhat artificial political boundaries in this situation. They moved across the bridge, but one of the most interesting factors which I didn't see any paper ever print, is that more than half of those employees lived in Virginia already, so for those people it was closer. Admittedly for others it was further away, but that was an absolutely necessary move which then had to be made, and those people moved 2 miles across the bridge, which is far less distance than we could have

moved within the District.

Bureau of Mines, 305 people. This was a back fill operation. Space was vacated in Roslyn, the Bureau wanted to go there. They said it was necessary for them to go there. We had a lease on this which we could not break, and there was a vacancy because we moved the people that were there back into the District, back into the District, gentlemen.

HEW Public Health Service, that's the famous Rockville, Maryland, move that keeps being put in the paper day after day.

The previous Administration moved 5,525 employees from the Public Health Service out into Rockville. There were 396 more to go when we took over. I made the decision, and I would make it again that those 396 belong with the others. I would have no right there not to move them out there. I completed the move begun by my predecessors.

Would they have gone there, the entire 5,800 and something, had this come up in my time? Answer, *no*, they would not have gone under my policies to Rockville, Maryland.

Smithsonian, Radiological Facility. We advertised for downtown lab space for 42 people and couldn't find any. We did find lab space in Rockville and moved those people there. That's one which we definitely moved and I take full responsibility for moving those people.

Next, five food inspectors who serve Northern Virginia were moved to Northern Virginia. Their job is in Virginia, and that's why they are asked to go to Virginia, and that's why HEW wanted them to go to Virginia.

Also, the Bureau of Indian Affairs asked for and received space for 12 people in Roslyn just across Key Bridge and not very far from the Interior Department.

The Interagency Auditor Training Center, Department of Commerce moved six people to Bethesda to combine in a postal training facility located there.

Civil Service Commission moved 110 people to Hyattsville, Maryland, because their field investigators are there and they wanted them in that area.

I don't think these moves are the type of thing we are talking about, but they are moves which we mention because they are moves out of the city.

Finally, 500 employees moved in '67 under an agreement then with AID to move them to Roslyn, Virginia. There were 525 left, which were agreed to move a year or so later. We continued that move under the theory that it was part of the same thing.

I would like to point out that we are officially responsible for moving 54 people out of the city, gentlemen.

In addition, I would like to point out that we have moved 4,056 people into the District. We have located the Environmental Protection Agency, Mr. Ruckleshaus' Agency, in Southwest Washington. We went out of our way to see that that stayed in the District. We advertised only in the District, and they are staying in the District. 1,264 people more than are now working in the District will come back into the District.

That is the picture of movements to and from the District since I took office. I think you'll see that very few people have been moved out of the District. We are trying not to move them out of the District. Many Agencies, and this isn't known because you don't see it, come to us and want to move out of the District. There's a long list of them. We have turned them all down. They have not moved out of the District and not moved into the beautiful green acres way out in Germantown or some other place, where they are away from the homes of the workers and the people that work there. The most obvious example that did receive some publicity is the Government Printing Office which had a "wonderful" place way out in the country. Gentlemen, they are not in the country and they have not moved because we blocked the entire thing.

I'm sorry to have taken some time with this, but I wanted you to know those facts because they are the true and correct facts as to what we've done at GSA.

CHAIRMAN HESBURGH. Mr. Kunzig, I'm happy you had time to do that because you may have noted I slipped over your statement. And I wanted to say that I am right now inserting it in the record.

(Whereupon, the document referred to was marked Exhibit No. 37 and received in evidence.)

If there are points in that that you want to refer to in your testimony, feel free to do so. But we find we get so much more out of dialogue than just listening to a long statement. We have it in the record already.

MR. KUNZIG. Your Counsel explained to us that there wouldn't be a prepared statement read.

MR. POWELL. Mr. Chairman, Mr. Kunzig has referred to information requested by the Commission which GSA has provided. At this point I would like to have that information placed in the record also.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 38 and received in evidence.)

MR. POWELL. Mr. Kunzig, in the President's recent statement on Federal policies relative to equal housing opportunities, you stated that in implementing that provision of Executive Order 11512, which requires GSA to consider in selecting sites for facilities the availability of adequate low- and moderate-income housing, all Agencies must specifically take into account whether housing is in fact available on a nondiscriminatory basis. How will GSA implement this order?

MR. KUNZIG. We will continue to do what we have been doing and I think we're going to do it much, much better due to our new agreement with HUD, which I know we'll be discussing here.

The Commissioner of Public Buildings does this directly and will be doing it every day. He may want to discuss it.

MR. SAMPSON. The system we will use is to involve HUD in the early process when we have a request for space. For example, if we are contemplating constructing a new building, rather than waiting until we have selected certain sites, we will bring HUD people in and use their expertise in the selection of sites to give us advice on housing and

also other aspects of the Executive order that they are involved in.

For example, urban renewal, new towns. We involve them earlier in the process and get more benefit from their expertise.

When we are talking about leasing of buildings, we will get them involved in the delineation of the geographical area that we will use to go out and advertise for space, we will seek their advice and expert help at the earliest possible stage.

In addition, should we both find, as we process our requests for space that there is a need for more housing than is available at that time, we will work together to arrive at what is now called an affirmative action plan to see that housing becomes available. This is very specific in our agreement, that housing becomes available at the time Federal employees will occupy that space or within a short period of time thereafter.

I think the new development here as far as HUD and GSA are concerned is the formalization or codification of a working arrangement we've had with them since the Executive order came out in February of 1970. With the codification of course you have more teeth, and we will get more help from HUD which we need very badly to do our job in GSA as far as housing and other socioeconomic factors are concerned in the selection of sites.

MR. POWELL. Mr. Chairman, there's been reference to an agreement between the Department of Housing and Urban Development and the General Services Administration. At this point I'd like to have that agreement inserted into the record.

CHAIRMAN HESBURGH. So ordered.

(Whereupon, the document referred to was marked Exhibit No. 39 and received in evidence.)

MR. POWELL. Mr. Kunzig, this agreement of June 11th provides that HUD's advice regarding the availability of low- and moderate-income housing on a nondiscriminatory basis will constitute in the words of the agreement "the principal basis" for determining whether or not this provision is met.

Does this mean that there are other factors which will be considered in making this determination? How much weight will HUD's advice be given?

MR. TRIMMER. Mr. Chairman, if I might respond to that, the principal factor here is the advice of HUD. However, under the Intergovernmental Cooperation Act in B.B circular A-95, as well as the Executive order itself, we are required to consult with State and local and regional planning bodies and we would expect that there would be certain information on this same question of housing furnished in connection with that consultation.

The reference here was to permit us also to take into consideration such information as these local, State, and regional planning bodies might provide. But, again, the principal reliance here would be upon the advice of HUD.

MR. POWELL. In making this determination regarding the adequacy of low- and moderate-income housing on a nondiscriminatory

basis, who will survey the housing needs of the low-income employees of the Agency? Will HUD or the occupying agency do that?

MR. TRIMMER. I believe the survey initially of the needs of the occupying Agency will be done by the occupying Agency. The occupying Agency will tell us the grade levels of the prospective occupants of that building, where they live at the moment, and so forth. We would then furnish that information to HUD to enable it to make its determination as to the availability of adequate low- and moderate-income housing on a nondiscriminatory basis.

MR. POWELL. Who, if anyone, is providing criteria as to the type of information which should be solicited regarding the low-income employees? Would that be GSA or HUD?

MR. TRIMMER. You are referring now to the type of information which we would request?

MR. POWELL. Yes.

MR. KUNZIG. I would think that as these criteria for work on the new buildings come along the expertise there is at HUD, and HUD will have to tell the Agencies just exactly the kind of information it wants in order to make a sensible decision.

MR. SAMPSON. HUD would establish the basic criteria.

MR. TRIMMER. At the moment, however, Mr. Powell, what we have been supplying HUD with is the grade level breakdown and the current place of residence of those employees.

MR. POWELL. In this process, will the occupying Agency's employees and other private groups who have any substantial interest in the housing situation of the proposed area have an opportunity to express their views prior to site selection?

MR. SAMPSON. Unquestionably the process we have been following is to try as best we can in the area we are going into, and this has to be handled on a case-by-case basis, to meet with all of the interested parties. I think an example of the kind of work we are doing is in Brookhaven, New York. This particular case was after the fact, but we have learned there that it should have been before the fact.

In this particular case I personally went to Brookhaven, met with both the minority employment committees there and the minority housing committees. In this case it was an all-black minority. I explained to them what we were trying to do and how we could help them. I then met with the township officials and established a dialogue between them and the black community and GSA and HUD to try to optimize the results in that particular area.

MR. POWELL. Do you think that a provision providing that groups having substantial interest in the housing situation in the community being proposed for facilities should be included in the agreement? Do you think such a provision should be included in the agreement?

MR. KUNZIG. Let me answer this way, if I may, Mr. Powell. I want to be perfectly frank here and make sure that we understand the overall situation and problem in which we find ourselves.

Housing is not and cannot be the only thing that we consider. There

are two points that always have been considered. The first is Agency efficiency, whether it can do its job in the particular place we are talking about, and the second is cost to the Government and whether Congress is going to give us the money needed for it. Incidentally, Executive Order 11512 downgrades the Agency efficiency from "primary" to "material" consideration.

Housing is of course very important, obviously. Alleviating unemployment is another socioeconomic factor that we take into consideration under President Nixon's order. Rehabilitation of deteriorating areas, helping underemployed, all these are taken into consideration.

In addition, we take into consideration reinforcing other Federal programs, such as urban renewal, model cities, new town programs, all these. This is a mix. All these things must be looked at and studied, and in some cases one may be predominant and may be the deciding factor. In other cases several factors may be deciding. And housing, I want to be very honest, cannot be the only factor.

For example, you have a situation where they need a border station. There is no housing anywhere but the border station must be on the border. We cannot be in a position of saying: "The border station cannot go there." We have got to work it out somehow, with transportation or whatever, but the building must go there.

Another example is the Department of Agriculture studying — let's be ridiculous, the tetze fly, or something. There's a particular area in Alabama, and I'm not trying to pick on Alabama, where they have got tetze flies, and the building must be there because that's the only place they can study the tetze fly. There isn't housing for anybody, let's say. Then we have to make the best arrangements we can, but the building has to go there.

These are examples of our problem. We have to take all of these things into consideration. However, it no longer is just where an Agency itself wants to go.

The best example and first major test of Executive Order 11512 occurred in Fresno, California, where the Agency wanted to go in the northeastern part of the city, all-white, all lovely, pretty green trees, schools around, all the rest of the stuff. That was the only place they could go they said. They even had tests made and special people hired to show that it had to go there. We said: "No, first we study the site selection under the new Executive order." This was the first big case.

We met with the local officials—the mayor, the city council, the officials of the State, and of course, HUD, HEW, and Commerce. This takes time, and we had to move them because you can't sit forever on these things. The people need the building.

In this case it was the Internal Revenue Service that had to have the building. There were two other areas, a mostly black area, in the southwestern section of the city which is almost agricultural, and an area in the southeast section of the city which was very predominantly Mexican American, a rundown area, and an area which they were desperately trying to build up.

We worked out an arrangement where the people in IRS agreed that

they could really function, and obviously we can't put a building where nobody can function. They could function in the Mexican area, and the building was put there, with the agreement of everybody. A whole new redevelopment took place in that area, and the city now will move in that direction.

Thousands of jobs will be going to the Mexican Americans who live right there, and in other words, President Nixon's socioeconomic order worked and worked beautifully, and everybody is satisfied.

MR. POWELL. You mentioned that housing is only one of the factors considered when you place a facility. That's true, but I think the innovative feature of this agreement is that it provides that under no circumstances will a facility be placed unless one of two things is true, either there will be an adequacy of low- or moderate-income housing on a nondiscriminatory basis or the selection of that facility will be accompanied by an affirmative action plan which will see to it that there will be such adequate housing within 6 months.

I want to commend the GSA and the Department of Housing and Urban Development for entering into this agreement, because I feel if it is implemented it will go a long, long way towards—

MR. KUNZIG. I want to say one thing in fairness, I must say one thing, sir, because I don't want to leave any misunderstanding.

The affirmative action plan deals with the housing for our Federal personnel. There are two types of housing we are talking about here, housing for our Federal personnel and housing generally for the community, open housing, let's say, for the community. The affirmative action plan, and I'll read specifically the words here, says: "GSA and HUD will develop an affirmative action plan designed to insure...a sufficient quantity of low- and moderate-income housing available to the Agency's personnel on a nondiscriminatory basis."

In other words, if it is the other type, we take it into consideration, and it might result in our doing it or it might not. But when Federal employees are affected we must have the affirmative action plan, as you just stated.

I didn't want to leave a misapprehension there.

MR. POWELL. Regarding the limitation you have just mentioned about Federal employees, in the President's June 11 statement on housing opportunities, he stated that Federal programs must be aimed at correcting the effects of past discrimination.

In light of this requirement, don't you think that you ought to broaden your concerns to the needs of the community-at-large?

MR. TRIMMER. This is one factor, Mr. Powell, under what we, for shorthand purposes, refer to as Section 2(a)(2) of the Executive order. Housing really enters into play here in two areas. Such as in Section 2(a)(6) which is the section dealing with employees and this is the section with respect to which the agreement with HUD on an affirmative action plan is specifically directed.

But Section 2(a)(2) that deals with community factors and under 2(a)(2) we look at this whole host of community factors, everything from the ability of the facility to help relieve unemployment, to the

ability of the facility to aid in physical rehabilitation of the area, to the ability of the facility, again, to contribute generally to the housing situation within the community. And here as we have indicated in our prepared statement, we generally try to work with the community to obtain the maximum leverage that we can through location of that facility within the community.

But, as Mr. Kunzig has indicated, the specific need here under Section 2(a)(6) is really the specific need of our employees. Obviously, you have to have someplace for your employees to live when they come to work in that facility and that is why there is specific reference to an affirmative action plan within the agreement with HUD.

MR. POWELL. The low- and moderate-income people who would be in the community, were there sufficient housing, would constitute potential employees of the facility. Don't you have an obligation to potential employees as well as employees?

MR. KUNZIG. Well, if it were there for the employees, they could move there and become employees. I think that could very well happen.

MR. SAMPSON. I think it fits both categories.

MR. POWELL. With respect to the affirmative action plans which come into play when a facility is placed on a site with an inadequate supply of low- and moderate-income housing, how are they going to work? Will such plans include members of the local real estate industry, builders, developers, real estate marketers, financing agencies, community groups, local officials? Are you going — is it going to be a broad based involvement?

MR. SAMPSON. It has to be broad based in order for it to work, and again I would go back to our experience in Brookhaven where we did get involved with all of the community groups in order to make some kind of affirmative action plan work. Without those groups the plan will not work.

MR. KUNZIG. I think I could safely say this, Mr. Powell, although this specifically hasn't happened in this area yet in this fashion, that if we had absolutely no cooperation from the community and if everybody in the community said in effect: "Go to hell," to put it bluntly, they just wouldn't somehow get the building.

MR. POWELL. I see. I see. Very good. A couple more questions.

What types of commitments from the community would be necessary? For example, what is meant by the term in the agreement: "Removal of obstacles to the provision of such housing?" Does that include changing restrictive zoning ordinances, building codes, and other exclusionary land use controls?

MR. BARTH. I think it would basically have to include a sitting down and negotiating with the broad spectrum, as has been mentioned, to get them to remove any obstacles, and I think if there is an obstacle such as zoning, then you are going to talk to them about removing that.

Now, how far you can go and how far you can go to enforce something like that, is something that we are going to have to wait and see.

Obviously, this is a new agreement. We have no experience under it. We're going to proceed with it, we are going to try to do the best we can under it. If we find, as the agreement says, that it is going to need changing or re-enforcing at the end of a year, we'll do that.

It's awfully hard to sit here and speculate at this time exactly what we are going to run into in something that we really haven't tried before.

MR. KUNZIG. On that very point, Mr. Powell, we have had experience recently, a few months ago, in Wilmington, Delaware, in a slightly different area. This involved the affirmative action plan coming forth in a situation commonly called the Philadelphia Plan situation, although this was a new and local plan being worked out in Wilmington.

We got nowhere with the contractor who was the low bidder. Remember, we are required in contracting to award the bid to the low bidder because people come back and say, why are we spending millions more, it's the low bidder that should be getting this, and they think there is something corrupt and funny. In this case the low bidder wouldn't come across. We just got nothing, no plan, no nothing. So finally we did this. I issued a statement that, if by the next Friday, which was 6 days later, the affirmative action plan were not forthcoming, the bid would go to the second low bidder.

It was a most amazing thing, and I know you'll agree, within 5 days the plan was there, beautiful, just beautiful. And he got the contract and God is in his heaven and all's right with the world. But using that pressure did work very well.

MR. POWELL. One last question. How soon would GSA issue internal operating procedures to implement this agreement?

MR. KUNZIG. There are two reasons—one basic reason that I haven't been able to put out what I wanted to so far, is that we wanted to get some operating experience. Now, we have the agreement with HUD. We obviously need rules and regulations to go out as soon as possible, taking into consideration our experience so far plus the HUD agreement.

I would think we would put them out to the best of our ability, as soon as possible and then we can change them as necessary, based upon what we find the practice to be.

MR. SAMPSON. If I could add to that, we have a nationwide training program in operation right now, where we are experimenting with our personnel in the field, and from their experience in selecting sites and locations we are developing a comprehensive set of regulations and we should be done in early summer with that training program.

MR. POWELL. No further questions, Mr. Chairman.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Kunzig, you mentioned the move in Fresno and how everybody was satisfied there. What about the two moves to Rockville, Maryland; are people becoming satisfied with that or does opposition still exist to that move?

MR. KUNZIG. On the two moves to Rockville, Maryland, as I said

before, a large group went out in the previous Administration, and I'll take full responsibility for agreeing to the move of the last 500 in this Administration, but they had to be with the other people. Some of the people have complained that they didn't like the building. Frankly, we do get a lot of complaints on buildings. They had a small fire there, which got everybody scared about fires. We are doing the best we can with that, but HEW wants the people to stay there; they are there, and that's where they are at the present time. We have no other plans at the moment.

COMMISSIONER RANKIN. Are they any happier now than when the move was made?

MR. SAMPSON. The employees are happier. Whenever you move employees anyplace and you shake a building down, you have problems with the employees. They complain.

We did some special things for them as far as protection is concerned, in terms of guarding and fire protection, and the employees themselves are a little more settled.

I think the important point here, relating to this and what Mr. Kunzig said earlier, is if this move had been proposed under the new Executive order of this Administration they would not have moved there.

COMMISSIONER RANKIN. Do you think if they had the opportunity to move back, would they move back today?

MR. KUNZIG. Well, I guess whether they have the opportunity depends really on a decision of the Secretary of Health, Education, and Welfare, because we still must go to the Secretaries of the different Departments to get their opinion on these things. Whether they would want to come back for their own reasons or not, I do not know. They have not come to us in any way and asked to move back. They did, however, recently in the Education Department — and some of you living here probably saw those stories in the newspapers — issued a story which somebody leaked, I presume, that being the latest vogue today. The story was in the newspapers that they were going to move outside the city to Bethesda. I hasten to add that nobody had talked to us. So we just quietly smiled and called them up on the phone and said: "It might be nice, since we are the only ones that can move you, if you would discuss it with us." They had not talked to us about it, they are not moving out to Bethesda, or wherever it was. They then announced that they had changed their mind and they were not going to move to Bethesda. So they will not go, sir.

MR. TRIMMER. Dr. Rankin, one point I might make in connection with the Rockville building too, as far as relocating these people again now, unfortunately when the Federal Government takes a facility of that size for economic reasons we enter into a long-term lease, and we do have a 20-year lease for that facility now in Rockville. If they moved out we would then have a back fill problem, which is a recurring difficulty.

COMMISSIONER RANKIN. It all points up to the point that when moves are made like that it is well to look into the housing situation in that new area. Wouldn't you say that's what this points out?

MR. TRIMMER. We would agree 100 percent. That's the whole thrust and purpose of the Executive order.

MR. KUNZIG. But in fairness again, sir, there are always employees that don't like this. Somebody wants to be close to the golf course, somebody wants to be close here, and you just can't keep them all happy, as much as I would like to.

COMMISSIONER RANKIN. Now, my next question would be a good last question for our interview this morning—

MR. KUNZIG. It's all right with me, sir, if you wish to make that your last question.

COMMISSIONER RANKIN. "I have done my best to change this, to change attitudes, practices, and programs. More can be done and more should be done."

Could you amplify on that "more can be done" and "more should be done"? Are you going to take civil rights action on your own initiative or just what the law requires? I'm interested in your explaining your statement.

MR. KUNZIG. Sir, I'll explain part of it this way, and others may have further explanations. For example, in contract compliance we have a responsibility to try to use—again a current word—"leverage" to see that blacks or other minorities are hired in substantial proper number by different companies who buy from us, or deal with other parts of the Government. We have been assigned by the Department of Labor the responsibility of dealing with them.

We were assigned a certain number of these interviews and actions this past year. We were delighted and amazed to find that by working at it very hard—as never has been done in our Agency, we were able to hit 114 percent of our assigned quota—in other words, more than we were asked to do.

We also fought at the same time for more money from Congress and more people in the sense of ceilings. We got the people and the money. We hope that—final action hasn't been taken yet but it looks like we're going to get it. It ought to come in another month.

If so, we will more than double the actions that we can take in contract compliance and the actions we can take to try to see that this type of unfairness is cut down to a minimum.

There are other actions which I would like to mention that fit in here and which we are doing more of all the time. We totally reorganized our contract compliance area under the General Counsel and now have upgraded it again in the last few days to a situation in which Mr. Mitchell—to my left here—is now the head of a new Office of Civil Rights which has both our EEO and Contract Compliance offices completely under it.

I think we are one of the first Agencies or Departments not to have assigned that to somebody else who had other duties but to create a whole new unit totally for this and for nothing else. Just EED and compliance. Mr. Mitchell will be at our Commissioner level which is our top level, and this has never happened before.

I would like to tell you a little bit about people at GSA. In vacancies

that I have filled, 30.9 percent have been filled by minorities, all over the United States of America. Thirty-four percent of my promotions have been minority. They weren't made because they were minority. I made it very clear. If I can do anything about it, nobody is going to have an unfair action taken against him because he is a minority, but he's not going to get promoted either just because he's a minority. I think it's fair all the way around and I think that's what we have been doing. In Grades GS-10 and 11.

MR. TRIMMER. One thing I might add there. One of the reasons this figure is as high as it is, is that when we came to GSA we discovered a situation that minority employees had, quite frankly, been held back for a number of years. Particularly in the first 12 months we were there the number of minority promotions was much higher than that percentage, because what we were doing was attempting to redress the previous imbalance and inequity which had existed.

MR. KUNZIG. Thank you, Ted, that's exactly right.

When I came, GSA had almost nobody above a GS-12 that was a black. Now at GS-10 and above, the increase has been 39.8 percent in jobs. We have two GS-17's, two men earning \$36,000 a year. One was Assistant Head of Administration of the whole Agency. That's the gentleman on my left who has just moved over to the new position, and the other gentleman is a scientist in our telecommunication area. So this is also part of what we are trying to do in the overall picture.

We have had executive seminars, and I think we are the only Agency and Department that has had this, and we're proud of this thing. We are the first Agency that has had these seminars for the entire top level of our staff. 1,322 people have attended special seminars which were run by Mr. Mitchell on my left and Mr. Daniels, who is in the audience here today, who is head of our EEO office. They brought in leading speakers, minority people from all over the country, who spoke to our top staff in full-day seminars after which many of the people came to me and said it was one of the finest things they had heard.

They were totally run and operated by Mr. Daniels and Mr. Mitchell and our entire top staff was exposed to this discussion of the problems in our country today.

We are one of the Agencies that has more blacks than almost any other Agency. We had 32 percent when I took over. We have now 36 percent of our employees who are black.

We have also instituted all kinds of new training programs in GSA to permit many minorities able to move laterally so they can go sideways and up in other areas, because it's the only way. You can only go so high as an elevator operator, you can only go so high in whatever work you have. No pun intended. You can only go so high in whatever work you have, if it's cleaning or something of that nature. And now we have these new programs.

COMMISSIONER RANKIN. You told me what you are doing and what you have done. You said more can be done. What—can you explain—

MR. KUNZIG. We are going further in that whole direction, more and more.

MR. TRIMMER. One of the things—

MR. KUNZIG. Just a minute.

Let me mention minority business task force. I have been placed in charge by the President of a minority business task force to use procurement to aid minority business enterprise—this is another thing, and I have to be honest about it, which is hardly ever publicized, and I want to state that. The releases go out, we tell everybody, all the time everything we have done, but do you read it in the newspapers, gentlemen? You never read it in the newspapers. I have knocked my brains out to try and get the public to know these things, because I think it's important—very important—for the true picture of what's happening to get out; and the true picture of what's happening in the Nixon Administration with regard to blacks, with regard to minorities, and all minorities, is not getting out.

We started in 1969 with \$36,000 worth of contracts let to minority businesses, so that that man with a Government contract can get started or go further in a small business. It comes under the Small Business Act that legally permits us to do this, because it's preferential treatment. These people are getting contracts not by bidding.

In FY 1971, which has a few weeks to go, we have let in GSA alone 169 contracts at \$9.3 million, but in the whole Government as of today, right now today, it's 452 contracts at \$47 million, and by July 1 we will hit \$60 million worth of contracts awarded specially to minority entrepreneurs to let these businessmen have an opportunity to get a share of the action, as is said, and to be part of the business picture. They can't get it forever, they have to get on their own and keep moving, but that is what is going on, and we will be doing more and more of this kind of thing.

We have had 48 seminars throughout the country for minorities, blacks, Mexican Americans, particularly Spanish speaking people, all over the country in different cities because our biggest problem was these people didn't know about this program. We couldn't get the information to them. You would send out things to blacks in the community, you put it in black newspapers, do everything you could, but we couldn't get it out, so we invited all sorts of leaders, black leaders, and other people to seminars, all minority people. They came to these seminars and we also used our business service centers in the 12 largest cities in the country to distribute information about the program.

We have now by name and number of the players, 12,000 different people that have been counseled as to how they can get into Government contracts. These things could be expanded and are being expanded everyday, Dr. Rankin. That's what we are trying to do, sir.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. I would like to ask Vice Chairman Horn if he has any questions.

VICE CHAIRMAN HORN. Yes, I have a few, Mr. Chairman.

Number 1, on page 2 of your statement you refer to California State College. I assume that's in Pennsylvania; isn't that correct?

MR. KUNZIG. Coming from California, Mr. Vice Chairman, I can see why you say that.

I spoke at California State College and came out there in Los Angeles and not only that, sir, it was the day of the earthquake. You greeted me with an earthquake when I got there.

VICE CHAIRMAN HORN. California State College, Los Angeles, we'll amend that.

MR. KUNZIG. That's right.

VICE CHAIRMAN HORN. Let me ask you now, to what extent was GSA consulted in the preparation of the President's housing message? Did you have an input in this, and what was the involvement?

MR. TRIMMER. Yes, we were asked to furnish material insofar as the Executive order was concerned, since we were the sponsors of that Executive order originally. And also areas, frankly, within which this Commission, for example, might have interest. Other areas pertaining basically to housing in which GSA was involved.

VICE CHAIRMAN HORN. There is a Civil Rights Subcommittee of the Domestic Policy Council. Are you on that, Mr. Kunzig as a member?

MR. KUNZIG. No, sir.

VICE CHAIRMAN HORN. I'm trying to get a handle on the coordinated mechanism at both the Washington level and the field level to try and get some of these policies coordinated. I would think similarly as I have commented with the Veterans Administration that really since your Agency has such a tremendous impact on equal opportunity, jobs, housing, facilities, so forth — well, I don't want to tell the President how to reorganize the White House, I think this certainly would be a useful thing to work on.

MR. KUNZIG. They have called me over frequently, sir, on this general subject as a consultant. I don't believe I am a member of that particular committee.

VICE CHAIRMAN HORN. Now, let me ask you, in your release of Monday, June 14, 1971, with reference to the execution of an agreement with HUD, in Point 4, it says: "In the event GSA determines the Federal facility or leased space is to be located in an area where HUD has found the availability of low- and moderate-income housing on a nondiscriminatory basis to be inadequate, GSA will provide HUD with a written explanation of the reasons for the selection of that location."

Now, as background before I put the question to you that's related to that paragraph, I note as I read Mr. Garment's statement the day the President's housing message was delivered, that HUD is to be the lead agency when we are talking about housing, as such. And I note Attorney General Mitchell said this on pages 11 and 34 of his Monday press conference. And then I see this. And I'm trying to get at who decides when, say, HUD, the so-called lead agency, according to the President's message, is operating in this area and yet GSA is saying: "Well, we disagree with HUD, and all we have to do is really furnish you our written reasons."

Would that sort of matter go to the White House for final resolution

since you both report to the President directly?

MR. KUNZIG. Well, you see, Dr. Horn, on the problem of where a building goes, the responsibility for placing a building, is in GSA and, therefore, results in ending up with me making the decision. For example, if a building had to be in a certain place, let's say for some reason the CIA had to have a building in a certain place and it had to be there for very good and obvious reasons — and the Agency said that they cannot function anyplace else, then if the building is necessary and if Congress has passed money, the building must be put there. We can't say that we will not give them the building because we are a service organization.

We would go through all the different procedures we have outlined. I won't say them again. And if HUD came back and said that it does not agree that the proper availability of housing exists at this particular place, we would probably have to go ahead and put the building there and work like mad on bus arrangements and everything else.

VICE CHAIRMAN HORN. Well, I would assume if the Secretary of HUD wanted to insist the matter he could force the matter to the White House level?

MR. KUNZIG. Yes, we would all be called to a discussion at the White House, yes.

VICE CHAIRMAN HORN. Now, at the regional level, do you have plans for close coordination of your work with HUD in terms of the effect of both the location of Federal buildings and housing at the regional level? What sort of working relationship do you find at the regional level?

MR. SAMPSON. HUD recently decentralized throughout the country and they have regional directors. Our regional directors work directly with their regional directors.

VICE CHAIRMAN HORN. So there are some regular meetings or is this ad hoc?

MR. SAMPSON. No, there are regular meetings. An organization has been formed at the regional level called the Regional Council, which consists of the socioeconomic agencies, and GSA participates with them in their monthly meetings.

VICE CHAIRMAN HORN. Mr. Kunzig, you mentioned that low bid problem. Are you required under the law to take the lowest bid or under what exceptions can you make to waive that?

MR. KUNZIG. Well, I am not totally required to take the low bid, because the low bidder may be somebody as we had just recently in a construction company that has one man and a girl and a typewriter, and if we give him the low bid it may be a totally phony bid. It has to be the lowest responsible bidder and that's the key word.

VICE CHAIRMAN HORN. In other words, the word, "responsible". Can you define that in terms of including such things as affirmative action, fair housing, certain considerations that this Commission is concerned with?

MR. KUNZIG. Mr. Barth, our Deputy General Counsel.

MR. BARTH. Let me differentiate for a moment between when we

go out for leased space and what bids we can accept as opposed to when we go out on a construction contract and what bids we can accept.

Under our invitations for leased space we have very, very broad authority in considering which one we are going to accept based upon all of the factors that are in the Executive order. In other words, on those, price is only one factor which we have to consider. We consider the housing, the location, the other socioeconomic factors, and make then our judgment as to which one of those we would want to accept.

Let's set that on one side for a moment and go to a construction contract, where basically we are bound to a large extent by the procurement regulations, and are required to make the award to the lowest responsive, responsible bidder. But in the area of responsibility, of course, you can consider the affirmative action program which the bidder has to file with you prior to the award, under the contract compliance procedures.

Now, that was our Wilmington situation, where we failed to get what we considered to be an acceptable affirmative action program, and announced that if we didn't get it, we were going to go to the next bidder, and then we got it.

VICE CHAIRMAN HORN. In other words, in terms of your discretionary authority you can really assure that contractors are hiring a sufficient number of minority individuals in their employment groups?

MR. BARTH. We have a large amount of flexibility in that area, sir.

VICE CHAIRMAN HORN. Just to pick up one recent answer of yours, Mr. Kunzig, you mentioned the building about CIA. I notice on pages 25 and 26 of your Monday press conference you state that the location of CIA does not come under GSA. Has that changed between Monday and Wednesday?

MR. KUNZIG. No, it hasn't changed between Monday and Wednesday. We do build, and I must straighten out that statement of Monday, we do build the regular office space for many of these Agencies, for example, the Atomic Energy Commission, but we don't handle their special purpose buildings.

VICE CHAIRMAN HORN. In other words, you don't have control over the site selection of certain Government activities?

MR. KUNZIG. Particularly NASA, Atomic Energy.

VICE CHAIRMAN HORN. Is that set out in the law or in an Executive order?

MR. KUNZIG. It's in their laws, I believe.

MR. BARTH. Basically we get our authority from three areas. We get it from the Public Buildings Act of 1959, we get it from the Federal Property Administrative Services Act of 1949, and we get it from Reorganization Plan No. 18 of 1950. Those are the three basic authorities for us in the acquisition of Federal space, owned and leased, and all of those contain certain basic exceptions which leave to the Agency the authority for basically special purpose space.

VICE CHAIRMAN HORN. I'd like Counsel to furnish the Commission for insertion in the record at this point a list of those Federal Agencies

or activities for which you do not have authority in this area. Could you do that for us just so we have a complete record?

MR. BARTH. A list of Agencies? I would probably furnish it to you as a list of our authorities and to the extent possible, give you a list of—

MR. KUNZIG. I think we ought to make it clear that we might not be listing all of them because there might be somebody else come along with exceptions.

(The information requested appears on p. 1029.)

VICE CHAIRMAN HORN. One last question.

I notice the State of New York is constructing now a major State building right in the middle of the ghetto, so called, Harlem. I wonder, are there any plans on the books for, say, putting a major Federal building right in the middle of Georgia Avenue, somewhere, halfway between Constitution Avenue and the Maryland border?

MR. KUNZIG. We have at this very moment, and I would rather not go into names, numbers, or players, because it is still confidential, we have two buildings under plan which would be black built buildings with black financing and black people, and they would be Government, and predominantly in black areas of the city, yes, sir.

VICE CHAIRMAN HORN. Thank you.

I would like to say, in conclusion, Mr. Chairman, I have followed Mr. Kunzig's work on Capitol Hill, GSA and on Capitol Hill he worked for Senator Scott, co-author of our legislation extending this Commission in 1964, and he has had a deep devotion to doing something about civil rights both here and in Pennsylvania States Rights under Governor Scranton. I would like to commend you for what you have done under GSA, in trying to turn a bureaucracy around.

CHAIRMAN HESBURGH. I think we all associate ourselves with that statement.

MR. KUNZIG. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. I will yield to Mrs. Freeman.

COMMISSIONER FREEMAN. Mr. Kunzig, you were referring to the move of the Navy Department and we realize that has already happened, but you have said that about half of the employees already lived in Virginia.

I think that we would probably guess right if we said that among the half that do not already live there, that they might be low grades, and that a significant number of them would be members of a minority group.

My question to you is with respect to remedying the effects of past discrimination, the extent to which officials of GSA or of the Navy Department would be at this point sitting down with the local officials to try to open up the areas, and also whether those Agencies have an ongoing housing committee to make housing available if the employee chooses to move to the community.

MR. KUNZIG. Let me say first, and then I will ask Mr. Sampson to explain what we did in this very particular move, because I don't think it had ever been done before. In checking this over, there may be,

as you say, more lower-income people who live in the District and now have to go across the bridge, but there were considerable lower-income people who had been paying that extra fare to come across the bridge the other way before. There were others and it gets into a wash, probably a little bit more from this side. Would you tell just what we have done in this area?

MR. SAMPSON. One of the things we did, we set up a special task force to take care of people that were involved in that move, because we knew it was a very difficult move. We had a special housing counseling service that was on an ongoing basis throughout the whole year when the move was made to try to help people get located across the river.

That took care of the situation as far as the move was concerned, and we helped all the people we possibly could.

Now, in addition to this, and I think this is perhaps most important, and this is where we got into a situation where we are trying to use our leverage, to quote as someone spoke here, to encourage better conditions.

We recently went out for bid in Alexandria where they are doing something about housing, for 500,000 square feet of space, and we restricted the area to Alexandria.

MR. KUNZIG. The reason we restricted it to Alexandria is because they had the low-income housing and other areas didn't have them.

MR. SAMPSON. And when industry came to us, and other people, to open up the bidding to Arlington County, we said, when you put housing in, we will open it up.

COMMISSIONER FREEMAN. Thank you.

My next question is with respect to your point, Mr. Kunzig, about the increase in minority people in the upper grades.

I would like to know if GSA could submit to this Commission, the total number of employees GS-8, 9, 10 and up, and the breakdown by race.

MR. KUNZIG. I would be glad to do that.

COMMISSIONER FREEMAN. Thank you.

(This information appears on p. 1127.)

CHAIRMAN HESBURGH. Mr. Kunzig, I think also for the record, it is good to point out that you are doing something, hopefully next year, with the collaboration of the Congress, that we have been pushing for a long time and that is to go from 52 persons to 121 persons in your contract compliance staff at GSA, doubling—a little more than doubling—the budget for that area, from \$713,000 to \$1,648,000.

We have had a feeling all along, and this is—part of what gets into the rhetoric on the slowness of bureaucracy to move towards these high goals is that you simply—we can't do the job that has to be done with the numbers of people we have, and the quality of people we have, and we are delighted that Mr. Mitchell's job has not only been upgraded, but there are also more people in there working, and that is a very good move.

I wanted to ask just one quick question—that is, do you find any motion in the building trades towards curing of the problem that seems to be endemic to them all across the country, that they have so few

minority workers?

MR. KUNZIG. It is terribly difficult.

As Dr. Horn knows, I come from Philadelphia, and have been very active and interested in the Philadelphia Plan since its inception. We tried to force it up there, when I was with the State government, and we have been forcing it now.

For example, what a lot of people don't realize is that no large Federal Government building really has gone up in the last couple of years in Philadelphia except a huge—now going up—new Post Office Court house at 6th and Market on Independence Square.

That is held up at the moment with strikes, but it will move ahead. That is a huge building, costing \$77 million.

In the contracts involved with that building, everyone of them, the whole Philadelphia Plan operation is deep in it. It costs more, and we know very well that it is going to cost more, because the cost is going into the training of people who are desperately needed.

We need people in the construction industry, and to keep them out, I think, is unconscionable, and I have always made that point clear. And if something isn't continually done on this, and if we don't keep after it, it is a farce.

Now we are doing the best we can. It is a union problem, but these must be opened up to allow blacks and other minorities to work in these fields. They want to work in these fields. We are desperately short in these fields, and the contracts are going up in the astronomical figures, which aids inflation. So everything points to the fact that we must open up, so that these people can work.

CHAIRMAN HESBURGH. Do you have some forward motion in the contractors here in Washington? I know you have a big building going up on Pennsylvania Avenue right now.

MR. SAMPSON. There is some movement in Washington, and there is some movement in other spots throughout the country, but it is very spotty, Mr. Chairman. But Washington is starting to soften somewhat.

MR. KUNZIG. In fairness, we have to say that contracts which were made prior to the institution of such plans as Philadelphia Plan, Washington Plan, whatever city it may be, would not have those clauses.

CHAIRMAN HESBURGH. I take it you apply that plan wherever you build in the country now?

MR. SAMPSON. It is applied on a mandatory basis in certain cities. Now we have three: Philadelphia, Washington, San Francisco.

We have voluntary plans that have been approved in some 12 cities, and we apply it there.

MR. BARTH. Excuse me. In addition to that—

CHAIRMAN HESBURGH. What keeps it from being applied nationwide?

MR. BARTH. In addition to that, where there is no imposed plan, and where there is no so-called hometown plan, where a contract is, I think over \$50,000 or \$100,000, we require an affirmative action plan of

the contractor prior to award.

CHAIRMAN HESBURGH. I see.

MR. SAMPSON. On all contracts.

CHAIRMAN HESBURGH. Thank you. Mr. Staff Director?

MR. GLICKSTEIN. We have been talking a great deal about programs with respect to new facilities, location of new facilities, leasing new space. But the President, in his message the other day, also spoke about correcting the effects of past discrimination.

Do you have any plans or action areas where there are already existing facilities owned or leased, and where there is either not adequate low- or moderate-income housing available, or where there are discriminatory housing practices?

MR. SAMPSON. In that particular case, I think our best opportunity to do some good is the Alexandria example, where we are saying that we are going to try to correct some of the areas where they don't have housing, before we locate there.

It is not easy for us to accomplish this, however, because when you are locating space, you are somewhat at the mercy of the market.

What we have tried to do in Washington, for example, is to convince developers to go down into those areas where they can do the most good. When we say on a persuasion basis, if you build there, we are likely to lease there, but we have to look at the marketplace in order to have any effect.

MR. KUNZIG. And we can't, of course, promise in advance. That is impossible to do.

MR. TRIMMER. Also, Mr. Glickstein, in terms of correcting a past situation, when you look at the factor of leverage, our leverage exists primarily when we are going into a situation.

Once we are already located there, in terms of the practical effect that we can have, I think it is limited. I think it is limited to the kind of thing that Mr. Sampson suggests, working with the community and suggesting that if you want more Federal facilities, you had better start moving in this direction.

MR. GLICKSTEIN. There is no leverage in threatening to move out?

MR. TRIMMER. Not if you have a 20-year lease.

MR. GLICKSTEIN. Assuming the lease was signed before the 1969 Act was passed, perhaps requirements of that act could be read into the lease, and if it wasn't being conformed with, you'd have a basis of breaking the lease.

MR. SAMPSON. We have leases now in certain parts of the country which are at the end of the 20 years, but we interpret this as going into new space, and we can use that leverage.

MR. GLICKSTEIN. Thank you.

CHAIRMAN HESBURGH. Thank you, gentlemen.

And I want to thank Mr. Powell and the staff attorney, and the work which has gone into this.

We appreciate your enthusiasm, Mr. Kunzig, and we wish you the

best in moving forward to do what you are doing now, and more. Thank you very much.

WEDNESDAY AFTERNOON SESSION

JUNE 16, 1971

CHAIRMAN HESBURGH. Ladies and gentlemen, may we come to order.

Mr. Secretary, I would appreciate it if you and your associates would stand and be sworn in.

(Whereupon, Secretary John A. Volpe, Mr. Richard F. Lally, and Mr. F. C. Turner, were sworn by the Chairman, and testified as follows:)

TESTIMONY OF THE HONORABLE JOHN A. VOLPE, SECRETARY, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY MR. F. C. TURNER, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, AND MR. RICHARD F. LALLY, DIRECTOR OF CIVIL RIGHTS, DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Thank you Mr. Secretary. Would you introduce the gentlemen with you, Mr. Secretary, please?

SECRETARY VOLPE. The gentleman on my right is Frank Turner, the Federal Highway Administrator, a job which I had the privilege of holding way back in '56, and on my left is Dick Lally, the departmental Director of Civil Rights.

CHAIRMAN HESBURGH. Mr. Secretary, I believe you would be willing to summarize your statement. I think right now I will introduce your full statement into the record. If you would be so good as to summarize it, we would appreciate it very much.

(Whereupon, the document referred to was marked Exhibit No. 40 and received in evidence.)

SECRETARY VOLPE. Mr. Chairman, members of the Commission, you all have my prepared statement which is being inserted into the record, as Father Hesburgh just indicated, and with your kind permission, I would just like to take a few moments for brief remarks emphasizing some of the points in that statement, with perhaps an additional comment or two.

I would first like to commend the Commission wholeheartedly for calling these hearings. I could not agree more that fair housing without regard to race, color, religion, or national origin is a basic right of all people in this Nation.

We are pleased to be here because we feel that mobility also is a basic right and, further, that mobility and fair housing are closely intertwined. One is not much good without the other. Open housing in suburbia must be accompanied by physical access to suburbia, and

this is true of the inner-city as well.

I have emphasized repeatedly that our society can develop employment, housing, job training, health, and education facilities from now to kingdom come, but these opportunities won't be fully effective unless they are linked by an effective, efficient, inexpensive, viable transportation system; transportation that is within the reach of all. That is to say, public transportation is a vital, key factor in shaping the world in which we live.

Public transportation must and, of course, can do much more than simply bring suburbanites into the core city at 9 in the morning, and send them home again at 5 o'clock in the afternoon.

Since 1965, the Federal Government has made some 181 capital improvement grants for mass transit, totalling almost \$1 billion. We have preserved or stabilized bus systems in 45 cities. We have helped purchase 6,500 new buses, over 1,000 rail rapid transit cars, and 860 commuter rail cars. And most of these grants, I might add, have been made in the past 2 or 3 years.

Beyond the service aspect of transportation, we recognize that transportation development is a major factor in residential patterns and community development. The accessibility of effective transportation has a profound effect on community growth and demographic alignment. This is a responsibility that we do not take lightly.

Transportation planning in a Nation of over 200 million people must be related to more than simply getting from point A to point B. Indeed, the law requires that transportation planning be consistent with comprehensive planning.

Transportation must shape and mold the communities in which we live and work. For some time now the Federal Highway Administration has done much more than simply design and construct highways.

In planning for the total transportation picture, the Highway Administration cannot avoid, which it certainly has never wanted to, making certain that we take affirmative action with regard to housing, including replacement housing.

Within the Office of the Secretary, both our policy development and our environment and urban systems people work very closely with the States and communities of this Nation to assure that transportation development has a positive effect on the makeup and development of our cities and towns.

And I would like to emphasize that we have taken significant action in the area of fair housing. In October 1969 we established the policy that any construction projects assisted by our Department, which involved the displacement or relocation of people, would not be approved unless and until adequate replacement housing had been provided; even built, if necessary.

The policy requires that all such housing must be fair housing, available to all persons regardless of race, color, religion, sex, or national origin.

When it is considered that each year approximately 70,000 people are displaced as a result of transportation construction activities, some

50,000 by highway construction alone, the impact of this policy on the housing patterns of the Nation is, of course, readily apparent.

As I noted in my prepared statement, we are definitely considering at this time some type of requirement that applicants for Department of Transportation funds, in metropolitan areas, give us a specific analysis as to whether the proposed project would have a positive impact on any existing patterns of racial concentration in the area involved. Without this analysis, such projects would not be approved. There would be no Federal funds.

This is in line, of course, with President Nixon's recently announced housing policy. We would propose to work very closely with the Department of Housing and Urban Development in this endeavor, inasmuch as they have the lead role in comprehensive planning.

Already, in quite a few instances, major urban highway projects have been scrutinized in detail, to determine the social, environmental, and human impact on the affected communities. In my statement for the record, several instances are detailed where this has been done.

One other point. I know the spirit in our Department is good. Through regular equal employment opportunity meetings, which are not directly related to housing, of course, our field people have been made fully aware of the civil rights commitment at the top level of our organization chart. These people have to stand up at a quarterly meeting, and give us a report of what they have done, what kind of progress they have made during the previous quarter. There is nothing more embarrassing than to stand up and say that you didn't make any progress.

There is no question throughout the Department that we are determined to do what is right. There will be no lagging, no delay, no obstruction of progress. There may be delay in the construction of some projects, I mean highway projects or other projects, but no delay or obstruction so far as carrying out the spirit of the law. We try in every way possible to even be ahead of the law.

We certainly will be glad to answer any questions that you or the members of the Commission may have at this time.

CHAIRMAN HESBURGH. Mr. Secretary, before we begin the official questioning, one point that you may wish to add to that statement.

It seems to me that you took that stance early on, which eliminated a problem that really bothered this Commission in the early days. We were constantly finding people who were dislocated with no provision made for housing because a highway went through and the highway was more important than the human beings that were put out of the house. Did you have any law to back you up on that, or any directive, or how did you come to that position?

SECRETARY VOLPE. Mr. Chairman, I had had, of course, some experience as Commissioner of Public Works in Massachusetts for almost 4 years. I helped to launch the new Interstate Highway Program in 1956-57, and I had seen areas in which, because of the need to seem to get the project going rapidly, people too frequently were out on the street, homeless you might almost say, with the bulldozers practically

at the back door.

The fact is that the Congress had passed, 2 years ago, or a year and a half ago, legislation, the Federal Aid to Highways Act of 1968, which indicated that replacement housing should be provided wherever possible. I determined that it should be possible everywhere. Therefore, I issued a departmental directive that adequate replacement fair housing would be available on every project, not just on those where they thought it would be possible but on every single project. And if there had to be delay, there just had to be delay.

CHAIRMAN HESBURGH. No project would start until this had been assured?

SECRETARY VOLPE. That is correct.

In other words, I did not want anybody thrown in the street, in order to build another street.

CHAIRMAN HESBURGH. Mr. Glickstein, our Staff Director, will do the official questioning. Mr. Glickstein?

MR. GLICKSTEIN. Mr. Secretary, we realize that there are many programs under your jurisdiction, but for the purposes of this hearing we are going to concentrate, in the short time that we have, on the activities of the Federal Highway Administration, and the effect of the Federal Aid Highway Program on racial polarization.

I take it there is no dispute, based on your statement, that the provisions of 808 (d) of the Fair Housing Act that require all Executive Departments and Agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this title; there is no dispute that that is applicable to DoT, and that is a provision of law that you are fully implementing?

SECRETARY VOLPE. Absolutely no question about it.

MR. GLICKSTEIN. In the President's recent housing message, he stated that the Federal Government will encourage communities to provide decent low- and moderate-income housing.

We have heard some conflicting testimony about just to what degree programs administered by HUD involve a great deal of leverage, whether HUD has a lot of leverage, or a little bit of leverage. Do you think that highway funds are sufficiently attractive to suburban communities that they could be used as a carrot to provide such encouragement, the type of encouragement the President spoke about?

SECRETARY VOLPE. I think that a great deal has to do with the nature of the officials in suburbia.

I found, for instance, in my own service as Commissioner of Public Works that generally speaking, the highway department—this is not meant as any criticism of the highway departments, but only as a matter of fact—basically was interested in the design and construction of highways. They were interested in building them constructively, building them as efficiently as possible, and I might add they were considering the environment long before it became fashionable, although some people think that it is only the last 2 years since attention was given to that.

But the fact is, I found that in the relocation field, in order to really get a job done, the relocation ought to be placed in an area where we had that as the major focus, rather than the design and construction of highways. And as a result, I created a division in our department of commerce that would be responsible for the relocation housing. That has worked out very, very well.

Since then, we developed a new department, as a matter of fact, for community affairs, and that division was transferred from the department of commerce to the department of community affairs. In this way we felt that we had done a great deal towards having an agency that was dedicated only to this work, to getting that job done.

I think that we can use some leverage. We will have to work very, very closely with HUD, because they have the lead responsibility for 801, as you know. But on the other hand, there are cases such as the Charleston case, where certain complaints were received that the highway would cause the breakup of the community in that area. I did not just sit back and take the word of those who indicated that that was not true. We actually sent one of our most trusted people down there. He spent almost 3 or 4 weeks right there in the Charleston area, got the facts, brought them back to us.

There was slight deviation from what we had first received, and as a result of the information we had, as a result of consultation in the community, we were able to make some modifications in the plans and provide for the development of replacement housing, working with HUD, that will give these folks a chance to live where they want to live.

Most of them, as a matter of fact, wanted to stay in that immediate area, provided that the highway did not downgrade the community. That is one of our major problems, to try to be sure that as we build these highways—and we are so building them, I believe—they become compatible with the environment, and not detrimental to the environment.

MR. GLICKSTEIN. Well, one of the things that the President addressed himself to in his message was encouraging suburban communities to make provision for low- and moderate-income housing. I would like to know whether you think that the highway program can be used to encourage suburban communities to make provision for low- and moderate-income housing?

To be specific, if a highway is planned to go through a community that does not have adequate low- and moderate-income housing, that does not have a fair housing law, do you think that the highway program could be used to say to this community: "Until you have a plan to provide adequate low- and moderate-income housing, until you have a fair housing law, this highway is not going to be built."?

SECRETARY VOLPE. I don't think that we have the authority at the present time to do that.

I am willing to stretch, when I have something to hang my hat on. But at the present time, the only peg we would have would be if we felt that in any way, that project was being built so discrimination was going to be brought about, and that a particular location was selected

because, oh, well, there are only blacks or little Italian boys that live over there. Certainly then we would have a right and a moral obligation. And, in accordance with the law, we would be able, I think, to undertake the use of this weapon.

But I don't think we could use it to force low- and moderate-income housing unless, as I say, there was definitely provable discrimination.

MR. GLICKSTEIN. Well, the President, in his message, in talking about housing programs, said that to qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing.

Wouldn't it be appropriate before a community qualified for a highway, that it be part of a plan to provide for low- and moderate-income housing?

SECRETARY VOLPE. I think that there are ways in which we can encourage—I think there are ways in which, as we deal—and of course you have to remember, that the Federal Government does not construct these highways. It is the State highway departments that construct these highways. They submit to our divisional offices, one in each State, a request for approval to build a given project in a given location.

And our divisional offices have been given the approval authority. I started this decentralization back in 1956, when I found that 85 percent of the requests for approval were coming into Washington. If the volume of requests was continued, we would need two or three Washington D.C.s to handle the problem.

And so we gave the authority to our divisional offices. I told them either they ought to fire all of the folks at the division offices, if they weren't competent to make the decisions, or that if they were competent, then the decisions ought to be made at that level.

However, the divisional people had to be made aware of my interest in, and my direct concern with the fact that they had to approve these projects consistent with the law, whether it be environment, in civil rights, or whatever it might be. That is the way most of our work has been handled, although the actual taking of bids, the awarding of contracts, is done by the States.

I think it would be persuasion only, rather than law now on the books that we could use.

MR. GLICKSTEIN. You say the State build the highways, but at least in some of the highway programs, the Federal Government pays about 90 percent of it—

SECRETARY VOLPE. On the Interstate system, the Federal Government pays 90 percent of the cost, and on the other Federal-aid systems, it pays 50 cents on the dollar.

MR. GLICKSTEIN. The statement contained on page 7 of your statement, which you repeated orally, that you are considering criteria to determine whether a specific project will have a positive impact on existing patterns of racial concentration in the area involved: Wouldn't that suggest that a positive impact might necessitate the construction

of low- and moderate-income housing in some areas?

SECRETARY VOLPE. What I am trying to say there, Mr. Glickstein, is that if in the analysis of this project, we can determine that a more positive impact can be made through a modification of the route, or if in some other way that project can be developed so that it will have a positive impact, then certainly, we ought to implement it. And we shall.

We were waiting for the President's statement in this area, in order to be able to develop a policy of our own.

We weren't just sitting waiting for the statement. We had been working on what we might develop on our own. The President's statement now permits us to finalize our own orders, and we are very hopeful that it will not be very long before we will have our own departmental directive published.

MR. GLICKSTEIN. Well, let's assume that the analysis that you describe on page 7 shows that in the suburban area there is currently no low-and moderate-income housing, and that the suburban communities do not have a fair housing law; that minority people are going to be displaced by the portion of the highway that goes through the city, and will have to be relocated within the city because of the absence of low-and moderate-income housing in the suburbs, and the absence of a fair housing law.

That sort of a project would not have a positive impact on existing patterns of racial concentration. It would just continue them.

SECRETARY VOLPE. That is correct. And we, under the terms of what we are already doing, would insist upon their building housing, which is fair housing, which is clean, sanitary housing, before we would allow the project to be built.

That is as clear as I can make it.

In other words, they would not be able—we would not give permission for them to proceed.

MR. GLICKSTEIN. That would be for the people that were displaced in the city.

SECRETARY VOLPE. That is correct.

MR. GLICKSTEIN. But if there were no low-and moderate-income housing in the suburban communities, and if there were no fair housing law in the suburban communities, it is likely that this housing that you are speaking about would be built in the city and that the racial concentration there would be perpetuated.

SECRETARY VOLPE. Well, I would only say this. We never have enough money to do all the things we want to do. We do have a choice, usually, in accepting the Interstate system where it is a designated system. We do have a choice of approving certain projects beyond and above other projects. This selective approval is the kind of a tool that we can use where, as the President's message states, that we can choose those projects that will have a more positive impact.

MR. GLICKSTEIN. Well, then, you are planning a sort of a system of priorities, also, where you would make some choices, and one of the factors that you would consider would be the positive impact on existing patterns of racial concentration?

SECRETARY VOLPE. Yes, sir.

MR. GLICKSTEIN. You spoke about your relocation regulations, which Father Hesburgh appropriately complimented you for.

Do you currently have any requirements that some of the dwellings be located outside of areas of minority concentration?

SECRETARY VOLPE. There is no requirement *per se*, for that.

There are some areas where as a result of the takings, we can now, under the legislation provided by the Congress, buy additional land on which to build this housing. Generally speaking, such housing is located within the right of way that we acquire. Namely, instead of taking right of way 150 feet wide, we might take a plot 250 feet wide, in order to build the housing that is required. On the other hand, there are some cases where that cannot be done, and we would, in those cases, certainly acquire the land elsewhere.

We have found, certainly during the period I have been here in Washington and even in my experience as Commissioner that generally speaking, people want to live, want to stay, in the neighborhood they have lived, in, and want to stay where their grocery store is or their church is, or whatever it is that they particularly would like to stay near.

We have not found too many cases where the people say: "Look, I want to go to some other part of the community to live." Usually it has been the other way around.

In Charleston, it was exactly that. They said: "We want you to be sure that enough space is taken—enough space is reserved in the Urban Renewal project that HUD is planning, in order to provide the housing to take care of those people who will be displaced by the road project."

MR. GLICKSTEIN. Well, I think that HUD had somewhat a similar explanation for the fact that their low-and moderate-income housing built in the suburbs was predominantly white, and their low-and moderate-income housing in the central cities was predominantly black.

And apparently, the other day, affirmative marketing criteria were issued by HUD to insure that it be made clear to people that there were options, it wasn't just necessary for them to relocate near where they live; but that there was housing in the suburbs that they could move to.

And what I am suggesting is that maybe there should be options created for people that are dislocated in the city, so that they might have an option to move outside of areas of racial concentrations.

SECRETARY VOLPE. That would certainly be a part of the impact analysis that I talked of, that we would receive. If we felt at all that certain things were being done in order to avoid a positive impact, certainly that would be a part of establishing a judgment on that project.

MR. GLICKSTEIN. So then your analysis that you have discussed with us might also apply to your relocation practices and—

SECRETARY VOLPE. That is correct, sir.

MR. GLICKSTEIN. Can you give us any instance, an example of some instance where you might decide not to provide Federal highway funds on the grounds that the proposed highway would perpetuate racial polarization?

SECRETARY VOLPE. I would rather ask Mr. Turner to reply to that. You know, of course, that I have only seven administrations to try to keep track of—railroads and aviation and a few others. I can't keep track of all of them. Frank, do you have any particular project in mind—you are talking about a project that is coming up, or one that has been built—

MR. GLICKSTEIN. Or a hypothetical one, or one that has been built, or that you are now sorry that you built.

MR. TURNER. I don't believe that I can think of a particular project that would meet the specifications that you have set out. All of our projects, we believe, contribute generally to transportation needs, open to all users, regardless of location, economic means, race, color, creed, religion, or anything else.

SECRETARY VOLPE. How about the housing, are there any projects in which—even a hypothetical one, as Mr. Glickstein said, that you think of where we might apply the kind of analysis that we have talked about, that would enable us to deny funds if we felt that this was required in order to permit the fair and decent housing that we intend for them to provide.

MR. TURNER. I think that it might only be reached through the provision that governs the relocation of people displaced from a highway, in which the requirement is that before the project can be approved, a State must submit to us a relocation plan which we approve. This must include provision for fair housing.

This is a condition precedent to the approval of a project. Unless that condition is met, then the project necessarily cannot be approved by us. This would be a standard provision that would govern all projects in every State.

MR. GLICKSTEIN. While we are on the question of submitting plans, as my last question I would like to ask about the public hearings that are held in connection with the proposed highways.

The statute provides that at those hearings, the economic and social effects of the location of the highway be considered, and in one of your policy statements, PPM-20-8, you list 23 factors that would be considered.

And none of those factors relate to racial concentration. I wonder if now that the President has stated his policy so clearly, has indicated that we have to do something about racial polarization, it would not be wise to amend this to make it clear that racial polarization, minority concentration be something that be considered at the public hearings?

SECRETARY VOLPE. Just as soon as we have completed the finalizing of the review we are making right now, that certainly would be one of the other factors we would consider. If that is not, that will be Number 24.

MR. GLICKSTEIN. Twenty-four—maybe it should be Number 1.

SECRETARY VOLPE. Well that is all right. I was just going to add, that would not mean that it is last in its consideration of values. Certainly, I think of the situation where you could build a road in such a way as to actually polarize, so that you have separated the black from

the white community. Then you are really polarizing.

Those are the things that certainly we do look at. I think in the context of what the President has said, and what we have just been talking about, we will be in a position to do a better job in this field.

MR. GLICKSTEIN. I think in going beyond just polarization in a city, within a particular community, what is particularly important is polarization within the entire metropolitan area.

SECRETARY VOLPE. As we develop—something which we have been working at very, very hard—I have had both our policy people as well as our Assistant Secretary for Environment and Urban Systems working on the process, the total process of planning. There is no point in doing transportation planning in a vacuum.

Transportation should not be built just because we have got more trucks, therefore we build another highway; or we have more automobiles, we just build another highway; or we have something else, and we build something else.

Transportation, as I have tried to get across to our people, and think I have convinced them, is for the purpose of serving people and the goods that people need. This has not always been done. The planning process was such that you had overlapping of jurisdictions. You have a local jurisdiction, in some cases you have a county jurisdiction, in some cases you have had a regional jurisdiction and you have had a State jurisdiction. Then of course, you have your Federal Agencies, some with regional offices, some without, and then the operation and the apparatus here in Washington.

Since 1962 the Federal Highway Administration, after Congress passed legislation requiring comprehensive planning has been working. It gave a 3-year lead time, if I remember correctly in '65, right Frank?

MR. TURNER. Yes.

SECRETARY VOLPE. In '65 that statute became operative. Since that time they cannot approve a project unless it is consistent with comprehensive planning developed for that area.

Now comprehensive planning, unfortunately, has not really been what I call comprehensive planning. When I think in terms of comprehensive planning, I feel that I am not thinking only in terms of the fact that, well, there is a railroad here, or there is a transit line here, or something else, all to do with transportation.

I am thinking in terms of what is going to be built, what are going to be the needs of the people and that community 5 years, 10 years, 15 years down the line.

Where is the hospital going to be built?

Where are the additional schools going to be built?

Where are the universities going to be built, and so forth?

With the answers to such questions we can plan transportation to serve those needs, rather than just build facilities for the purpose of merely moving people through a community.

MR. GLICKSTEIN. Thank you, sir.

CHAIRMAN HESBURGH. Mr. Secretary, in our hearings both in Baltimore and in St. Louis, we found that one of the real present anguishes

in upward mobility of the black community particularly, is that as whites have moved to the suburbs, businesses have tended to go to the suburbs with them, and while the blacks are concentrated more and more in the inner-city, they are cut off from access to jobs.

We found many people who have a terrible time getting to work, and as a result, they could not take jobs where they were available, because they could not get a house there.

But I would like to get at it from a different point of view. We are hoping to correct that through a different approach to the housing market, open housing, fair housing, and all the rest.

But for the moment—and I would suspect there are always going to be people in the central cities, some people living there—is there any forward planning that you can tell us about for rapid transit to get poor people to jobs without breaking their backs with high fares, or changing buses every 5 minutes, or taking all day to do it?

SECRETARY VOLPE. Father, I am glad you asked that question, because this is one of the real serious problems, not only in the two communities you mentioned, but in many, many communities across the Nation.

The fact is that we found one city, and I won't name it, where the same bus routes were being used that had been used for the last 30 years, and yet there had been enormous changes in that community in the last 30 years.

We gave that city a grant with which to develop, through consulting firms, a better routing system that would more adequately serve the needs of the people. Jobs had moved, the factory had moved from the city to suburbia. Yet, there was no way to get there.

Roxbury, which I am sure you are familiar with, Father, I am sure other members of the Commission—

CHAIRMAN HESBURGH. Yes, we had a hearing up there too.

SECRETARY VOLPE. Yes, I am sure you have.

Because so many of the jobs had gone out to what we like to call our Golden Semi-Circle up there in Massachusetts—I haven't been able to see that Golden Circle for quite a while, and I would like to see it one of these days, and I hope I will—there was no way, unless a person living in Boston or Roxbury wanted to spend 2½ hours, or 3 hours to get to work, to work out there.

And so we, at the State level at that time, and later through a Federal grant, started a bus service from Roxbury to the Route 128 factories or electronic plants, and all of the other types of manufacturing and research plants that were there. And we found that we were able to place a great many young people, especially, as well as middle aged folks like myself—not old folks like myself, but also old folks—by getting them out from Roxbury to Route 128.

I had a survey made. After a 3 or 4 month period, we found that people had gone from positions where they were only earning about \$1.50 an hour, to positions where they were able to earn \$2.50 to \$3 an hour, or more.

Public transportation is one of the biggest jobs we have. It is because

of this that President Nixon, on my recommendation, submitted to the Congress in 1969, for the first time in our Nation, a long-range plan for public transportation.

In the past, starting in 1965, as I indicated in my testimony, they were giving out \$100-\$150 million—I think the last year before I came it was \$175 million per year. But you never knew what the next year was going to bring, or whether or not there would be an appropriation at all for public transportation.

In bus transportation, yes, we can buy a few buses, and so forth. That is primarily the area in which we can serve most of the communities.

But there are about a dozen or 15 communities in our Nation, where rail rapid transit systems of one type or another is the answer, not the type that was built in Boston in 1908 and unfortunately even up until a few years ago, but modern rail rapid transit systems such as the BART system now being built in San Francisco, the Bay Area Rapid Transit System.

This is a system that will be a computerized operation, it will bring people into town from and out of town to suburbia, making several stops, of course, in between. It will be clean service, it will be fast service, it will be safe service.

There are a dozen or 15 cities where we have to implement what is already in place, and beautify the subway stations. We have just given a grant to Philadelphia, for instance. They have eight subway stations. If any of you had been in them, you would not want to go there again. So we have given Philadelphia a grant to clean those subway stations up. We have even done that in Boston, I might add. The fact is, that we can be of assistance by cleaning up these subway stations and by providing new cars—but by primarily providing buses in the majority of the cities. Over 257 bus companies have either gone out of business or just disappeared, or have been taken over by a public agency or a public authority. Even in such takeover cases, they haven't been able to balance their books.

So, this is where we are helping with the passage—on a bipartisan basis, I might add—by very, very substantial margins in the Congress last year, The Public Transportation Systems Act of 1970. This act is going to help us to do the kind of a job we feel is absolutely essential.

The President said in his message that this necessary transportation was a public responsibility, just as much as public education or public welfare, or public health.

In other words, if you deny a person the opportunity to get to a job; in essence you are denying him one of his rights. This right, therefore, is the reason for this public transportation effort and the reason why the Federal Government should spend, and is spending, a great deal of money. In the past 2 years, we will have spent approximately a billion dollars, contrasted to the spending of approximately the same amount over the first 5 years, or 4 years of the program.

In the next 2 or 3 years, we will be getting up to a billion dollars a year, and I think as the needs increase we will be seeing even more than

that spent annually in this area. I think this program is so vital, not only for the poor who need it, not only for the handicapped who need it, but also for relief of some of the congestion in the inner-city itself, where a good many jobs are lost from that cause. Congestion results not only from the cars themselves, but also from the fumes they create. We also are working on that problem and hope that by 1975, or sooner, we will have cars that will emit a great deal less pollution than they do today.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Mr. Secretary, you referred earlier in your remarks to HUD, as a lead agency, or the lead agency, when we talk about the President's statement on June 11th on Federal policies relative to equal housing opportunity. That was also the phrase used by Mr. Garment in the background. It has been used by Attorney General Mitchell in referring to that statement.

Just what does that phrase, "lead agency" mean to your Department?

Does this mean that HUD would have authority over certain policies of your Department, when it gets into the field of trying to prevent discrimination in housing against minorities?

SECRETARY VOLPE. They have the lead role in housing, just like we have the lead role in transportation.

There are many cases where we are checking with HUD, we are checking with the Department of Interior on environmental matters, and so forth. But we are the lead Agency in transportation. They are the lead Agency in housing.

We work with them. Although we will ordinarily take their advice, I would not hesitate, if I felt that something was important for me to do that I should be doing, not to accept advice that might be given from that quarter. However, I am very sure of George Romney's fine personal convictions in this area.

VICE CHAIRMAN HORN. What I am trying to get at is the apparatus to sort of coordinate and resolve any differences of opinion that might arise between you and the Department of Housing and Urban Development.

Does this mean that this sort of a matter, if the two Departments were in conflict, would go to the White House?

Who would resolve the two of you on something like this?

Suppose the Secretary of HUD felt very strongly that running an Interstate freeway, or just a Federal grant, Federal aid highway grant, or mass transit project through an area of one city was really not promoting dissemination of low-income medium-income housing opportunities into the suburbs, and not really getting the housing and the people where the jobs were. How do we get a handle on this and resolve differences between your two Agencies?

SECRETARY VOLPE. Well, very, very fortunately, because of the relationship George Romney and myself have had over the course of the last decade, we have worked out our mutual problems.

Not too frequently have the two Secretaries had to sit down. I have

people in our Department who have sat down with either the HUD Under Secretary, or with Sam Jackson, and we have resolved any problems that might have developed.

In other words, when we submit to them, which we do, an environmental impact statement, there are times when they don't concur completely with that environmental impact statement.

We then work together to eliminate any areas of disagreement. Sometimes they may give a little, sometimes we give a little, but in the final analysis, we have not had to go to any higher authority to get the decision made.

I am sure the same thing would apply here.

VICE CHAIRMAN HORN. You mentioned that your experience as former head of the Public Works Program, I think in Massachusetts, and also at the national level caused you to believe that we ought to have more decentralization to the regional level to make a lot of these decisions, so they all don't come to Washington, in this case.

What sort of apparatus do you have for coordination at the local level with the agencies like HUD, and how do you as Secretary—since I think one of the toughest jobs in the world is to come into this city with a new Administration and have to try and get some responsiveness out of the bureaucracy you inherit, who has been here before you and will be here after you, and all the alliances they have with Congress—how do you get a handle on decisions like this that are going on at the regional level, so that you can monitor them and see that your strong commitment in this area is carried out.

SECRETARY VOLPE. Well, let me say, Mr. Horn, that probably is one of the greatest dilemmas that any executive faces when he takes on an assignment, whether it be at the Federal establishment, or at the State level where I first undertook my public service in 1953.

It is extremely difficult, and you just can't expect to put the head of a Department or Secretary or Commissioner, maybe with four or five or half a dozen other people and expect that their ideas permeate all the way down through the ranks the day after you get there; that your philosophy, your method of doing business would permeate all the way down through the ranks.

On the other hand, the goal can be reached and by a willingness to work, which this job and any other public service job requires, and an ability to know how to work with people and make them feel wanted. We can speak as long as we want about the bureaucracy, or Federal employees, State employees, or other government employees, and look down our nose at them. But frankly I have found both in my State experience as well as in my Federal experience, that these people are human beings who are willing to do a job and willing to carry out a policy provided somebody will give them direction.

It just means that you have to be extremely clear with the enunciation of what you want done, and be sure that this permeates not just to the half a dozen, or 10 people that might report to you, but also out to the field.

I make it a point on every one of my visits that I make to a city, to sit

down with my field people. Not just a half a dozen people, which I did the first half a dozen times. I decided if I was going to spend a half an hour or an hour here with some of my people, to get their assistants in at the same time. Therefore, I meet with 40 to 50 of the regional people around San Francisco, or around Atlanta, or wherever it might be. As a result, we try to have our thinking permeate all levels.

We have found, frankly, as long as they know what the requirements are and what we expect of them, we have been able to delegate responsibilities to them, which have been carried out.

Now we haven't delegated everything. There are some things we have retained in our control, because we feel, at least at this stage of the game, we do not want to release that control.

But a great deal of what we do is delegated to the field. In most cases they do a great job.

We also have been working out, and have reduced, the number of things that have to be discussed between HUD at the national level and DoT at the national level.

Unfortunately, we don't have regional DoT administrators. We are just getting them appointed right now, as a matter of fact. But we do have regional Federal Highway Administrators. And on a highway problem, they can talk with the Regional Administrators of HUD there, and in many cases resolve it at the local level instead of having to come to Washington.

VICE CHAIRMAN HORN. Let me ask you, would Mr. Lally, who I note is your Director of Civil Rights and here with you, would his office have a role in spot checking some of these proposals, to look at the civil rights implications, as far as the Department's overall policy and your policy as Secretary is concerned? Or, is he just concerned about employment?

SECRETARY VOLPE. No, no, he is concerned with civil rights. I can assure you that this is one of the areas in which, number one, we are very fortunate to have a man like Dick Lally. He has a great, great belief in his fellowman regardless of race, color, or origin. When I came aboard, the Director of Civil Rights did not report directly to the Secretary.

I insisted that the Director of Civil Rights report directly to me, because I felt this was an area that crossed all the lines of all the administrations. Therefore, I wanted the man responsible for this area for the entire Department to be responsible directly to me.

We asked that each administration, likewise—it wasn't being done, I don't believe, in any case—to appoint a civil rights officer to report directly to the administrator of that administration. Frank Turner now has a Director of Civil Rights that reports directly to him.

Dick Lally serves in the coordinating role for each of the administration Civil Rights Directors and their staffs and then he spends time, together with members of his staff, spot checking some of the things that the administrations are doing, making certain he meets with them on a regular basis. At quarterly conferences, all of our regional people—not only those here in Washington, but the people out in the field—

are brought in for meetings, so they may have direct access to exactly what the Secretary has to say, and the reports that their respective administrators have made in their respective fields.

VICE CHAIRMAN HORN. In other words, they can monitor within the Department, on a program basis, what is going on from the civil rights aspect?

SECRETARY VOLPE. Absolutely.

VICE CHAIRMAN HORN. You are a member of the Civil Rights Subcommittee of the Domestic Policy Council, aren't you?

SECRETARY VOLPE. I believe so.

VICE CHAIRMAN HORN. Do they have any apparatus under that Council to really monitor civil rights activities within the Federal Government?

SECRETARY VOLPE. Bob Brown, together with Len Garment, really are the men who stay in my hair, shall I say, which is all right because usually I am ahead of them. The Office of Management and Budget, of course, also has a role in this area now. So we do get from both the White House and the Office of Management and Budget from time to time, a communication, a telephone call, asking what we have done about the President's letter of such and such a date that calls for a certain thing to be done.

VICE CHAIRMAN HORN. Let me say in conclusion, Mr. Secretary, as a member of the President's Task Force on the Executive Branch during the transition period, I guess I was the lone advocate saying that the White House ought to have a regional presence, where they could bring together the directors, say of your Agency, which you are working toward, the directors of HUD, HEW, and other Agencies, just to make sure that the Administration's policy is being carried out on a regional basis.

One of my concerns, as I sort of go through the byways of the bureaucracy, and also having been here for a number of years, is that people still do things individually. And I can understand those concerns, and so can you, as I know you have. Whether, you know, it is building highways, or building houses, or paying out soil conservation payments or whatever it is, and there is a need somehow to get people together at the working level in the field to make sure that all these priorities are put together.

SECRETARY VOLPE. May I say that I think that probably, and this is not said in any partisan sense, it is just strictly a matter of fact—I think President Nixon, with one stroke of the pen, when he promulgated the order creating the 10 standard regions with common head-quarter cities, first for five Agencies of the Federal Government, and then asked all of the other Agencies that have dealings directly with the public, to also move in that direction, has probably done more to bring about a cohesiveness which was lacking before than possibly could have been done by any other means.

In Boston, for instance, while I served as Governor, we had a Federal Executive Board, but the regional office for the Highway Administration was in New York.

A Governor, even in just one agency or department, for instance, HEW, might have to go to five different cities, in order to get five different applications expedited.

Great progress has been made in this area. There are regular meetings. When I said I meet with some of my people, I also now address and go to meet with the Federal Executive Boards, as well as my own regional councils in the various headquarter cities throughout the Nation.

VICE CHAIRMAN HORN. All I am saying is, we need coordinators for the coordinators.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Lally, can I ask you a question?

The Secretary has brought out how the building of highways, the Federal Government aids the States, and the States participate, isn't that correct?

Have you found any State at all interested in civil rights, or do they leave all of this to the Federal Government?

I just wondered if any of the States have taken any positive program toward the relocation of people on grounds of civil rights?

MR. LALLY. Perhaps Mr. Turner should answer this, but I will give it a try anyway.

I think that over the past several years, there has been a great increase in the interest of State highway departments in the area of civil rights.

Perhaps most of the attention has been given to what was determined to be the highest priority area, and that was in the field of employment. All State highway departments now, by virtue of Federal Highway Administration guidance, have established equal opportunity coordinators. They have established field coordinators. They conduct compliance reviews, and they are active in the broader areas of civil rights. I think Mr. Turner has had meetings throughout the field on this topic.

COMMISSIONER RANKIN. With respect to relocation, could you point out any State, particular State, or any single State that has been making a noteworthy effort to bring this about?

MR. LALLY. I cannot at this time identify a particular State. Perhaps Mr. Turner can.

MR. TURNER. I think it would be very difficult to single out one State in comparison to another.

I think it is a fair statement to say that every State highway department is working in the direction that this Commission is working. And I don't believe that you will find any reluctance, any refusal to work with the objectives of civil rights in any of the highway departments of this country.

Obviously, they vary in degree just as individuals do, even on this Commission, but they are all working in the direction of the objectives of this Commission, without exception.

SECRETARY VOLPE. Could I just add to that, sir?

COMMISSIONER RANKIN. Yes. Please.

SECRETARY VOLPE. I would only add to what Frank has had to say, that there are those States that don't need coaxing or arm twisting. There are some that get it done, but it takes a little more effort on our part to get them to do it. And I can think of—

COMMISSIONER RANKIN. You would rather not identify any of these?

SECRETARY VOLPE. I would rather not identify. However, we have made the improvements, and we have made the changes and, as I say, it took a little effort, but it has been done.

COMMISSIONER RANKIN. Well, just one short question. In the building of highways, is there ever going to be, is there ever going to cease this demand for new highways?

SECRETARY VOLPE. Well, until and unless we provide a viable, clean, decent alternative to the automobile, you are just going to continue to build highways.

That is why we are putting a great deal of money into research and development, on systems to come on line not 15 years from now, but within the next couple of years.

COMMISSIONER RANKIN. Well, in square miles, what do we have in highways now? Do you have any idea how many—

SECRETARY VOLPE. Yes, Frank has those on his fingertips. I can remember some of them.

MR. TURNER. Yes, the total area of this Nation that is devoted to all modes of transportation, is about 1 ¼ percent.

COMMISSIONER RANKIN. One and one-quarter at the present time?

MR. TURNER. Yes, sir.

SECRETARY VOLPE. But I can name a city where almost a third of the city is paved over.

MR. TURNER. But that same third of the city was paved over or devoted to transportation before the automobile was ever invented.

All cities of the country, of the world, long before the advent of the automobile, had about the same amount of their area devoted to transportation, as is devoted today to the automobile.

The city of Washington D.C. actually has less area devoted to automobiles today in its street and highway system, than it did when Major L'Enfant laid out the city.

COMMISSIONER RANKIN. Well, I can believe that after driving to work this morning. Just one other question.

As we build more highways, doesn't it become harder to make them compatible to the environment, and not detrimental, or does it become easier, and that is my last question?

SECRETARY VOLPE. Do you want me to take that?

MR. TURNER. Well, I would say that it is easier, sir. The attention that has been given in the last few years—by that I mean within the last 10 years—to the questions of social values, environment, human factors, and things like that, is rather tremendous.

I believe the job is actually easier today than it was 10, 15, 20 years ago.

COMMISSIONER RANKIN. And it will be easier in the future, you think?

MR. TURNER. Easier in the sense that there is both public acceptance of these factors and their costs, and there is acceptance within the profession of the need for including these factors.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. Dr. Mitchell?

COMMISSIONER MITCHELL. I will yield to Mrs. Freeman, if I may.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Secretary, I would like to know how many employees are in the Office of Civil Rights?

SECRETARY VOLPE. We have, of course, both a Civil Rights Office in our own Office of the Secretary of Transportation and we have an Office of Civil Rights in each of our administrations. We are set up a little different than most of the Departments in that we have separate administrations with the Secretarial office giving general supervision.

Dick probably has those figures in mind better than I. I remember our own totals, but I don't remember the others.

COMMISSIONER FREEMAN. Could you give me the figures for each?

MR. LALLY. Yes. I think these will generally be accurate, but I don't know.

SECRETARY VOLPE. Within one or two.

MR. LALLY. In the departmental Office of Civil Rights, I think we have 13 or 14 positions.

And then we have an Office of Civil Rights, for example, in the Federal Highway Administration, which I think has about—this is headquarters—another 15 positions or so.

SECRETARY VOLPE. Here in Washington?

MR. LALLY. Yes. We have another—in the Washington headquarters of the Federal Aviation Administration, there will be another 15 positions. In the Washington headquarters of the Coast Guard, there probably are closer to 20 positions. And in the Washington headquarters of the Urban Mass Transportation Administration, there are probably about 10 positions.

Then we have regional offices, also, and there are, I think, 11 FAA field offices that also have civil rights specialists on their staff in a full-time capacity. And I would say they would probably run, on an average of the 10 offices, probably three, four positions each. So that would be another 40 positions.

We have regional offices for the Federal Highway Administration, also. And on the staff of the Regional Administrator, are civil rights specialists. And they would probably average 3—

MR. TURNER. I have 22—

MR. LALLY. —a total of 22, in the field, in the FHWA.

MR. TURNER. Plus the part-time assistants, and many other people.

COMMISSIONER FREEMAN. These include the clerical positions?

MR. LALLY. Yes, I would say generally the—

MR. TURNER. No. Not in mine.

MR. LALLY. The Federal Highway Administration does not include— There would probably be a few additional clerical support across the board there.

COMMISSIONER FREEMAN. You have about 125 employees responsible for the entire United States?

MR. LALLY. Those are the full-time civil rights professional staff of the Department.

The civil rights resources of the Department are multiplied in a number of ways. As Mr. Turner indicated, in each of the Federal Highway Administration division offices, there is an equal opportunity coordinator. That would add 50 more.

In the FAA, all of the airports' program people are employed in the conduct of Title VI compliance reviews, for example. These are people that day in and day out, during the course of their ongoing duties, are performing civil rights functions at the same time.

COMMISSIONER FREEMAN. My question, Mr. Secretary, is with respect to the input of these people or other persons with respect to a decision in terms of urban mass transportation, or the Federal aid highway program.

One of the continuing complaints is that a central city around this country may be sort of dissected, and people displaced without regard to what will happen to them, and without any opportunity to have anything to say about it.

At what point would there be any input from the people to be affected, from the civil rights people or any other resource persons?

SECRETARY VOLPE. Let me first of all set the record straight insofar as the number of cities where there are any problems in this area.

This has been tremendously magnified. As a matter of fact, there are only about 11 cities left in this Nation where we have any problem with regard to the location of highways. Is it 11 or 12?

MR. TURNER. Eleven.

SECRETARY VOLPE. Eleven apparently is the correct figure.

The fact is that it represents—I had the percentage figure in my mind—is it less than 1 percent—

MR. TURNER. Less than a quarter of a percent.

SECRETARY VOLPE. —less than 1 quarter of 1 percent of the total mileage that we are working on.

COMMISSIONER FREEMAN. Mr. Secretary, could you speak of it in terms of those cities involved?

Because, you see, 1 percent, if you were talking about New York City, may mean something different than 1 percent if you are talking about a small town of 10,000.

SECRETARY VOLPE. Of course. What I said was about 1 quarter of 1 percent of the total mileage is affected.

The fact is that in these 11 cities, one of the major reasons we have not resolved the situation is because there is a dispute as to where an expressway shall go without, one, disrupting the community values. Second, there is the necessity for making certain that housing is available. In some cases they haven't been able to come up with an answer. Not unwilling, but just don't have the space, in some cases. Third, there are problems of the environment which have become very much a part of the decisionmaking process, and the other 20-odd criteria that

Mr. Glickstein spoke about.

But those are a very limited number of cities. As a matter of fact, they are so limited in number, that the Secretary himself has had to get involved in practically every one because the problems will be very difficult regarding decisions as to how and if you can construct a highway at all.

And in some of those 11 communities, I would daresay there is a good possibility that highways may not be constructed at all. The local authorities and the State authorities have not been able to come to a decision themselves, as to where it should be built. We tried to act as a negotiator, in a sense, to try to get them together on a basis that will give us the kind of a job we want and which we believe is essential.

However, we have told them that in some cases, especially on the Interstate system, unless they resolve the problems with these particular projects, that they may lose Federal aid funds. As a matter of fact, the Congress wrote into legislation in the 1970 Federal Highway Act, that unless they have made the decision by July 1st of 1973—1972—that we will be able to write them off the Interstate system.

COMMISSIONER FREEMAN. Could you provide for the Commission the names of those cities, sir?

SECRETARY VOLPE. Yes, we will.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Thank you very much, Mr. Secretary and your associates. We appreciate your coming today and I think we have learned a few things from this, and we count on your support and effort to push forward on these goals.

SECRETARY VOLPE. That you can be sure of, just so long as the dear Lord gives me the strength.

CHAIRMAN HESBURGH. Our Vice Chairman would like to make an announcement for the record.

VICE CHAIRMAN HORN. For the record, I understand we have apparently two microphones in front of us today, and I don't want to get into this issue now.

But I would like the Staff Director to contact the appropriate people and find out, Number one, what the reasons are for it in terms of the taxpayers paying the cost of this, if it is the insistence of the networks, or are they paying it?

Number two, the particular union that installed them, I would like to know the percentage of minority employment in that union, as a matter of the record, and I would appreciate a thorough memorandum on it.

I might add also, Mr. Chairman, that I am bothered that our microphones cannot be shut off, once we are not speaking. And, I don't know about the others, since often confidential conversations are conducted up here, I would hate to have them broadcast around the country—not that they are particularly in the last few days as I monitor the networks.

CHAIRMAN HESBURGH. We will now have a recess until 3:15.

CHAIRMAN HESBURGH. I would like to call our next witnesses, who are Mr. Arnold R. Weber, Associate Director of the Office of Management and Budget, and Mr. Richard Nathan, Assistant Director.

MR. WEBER. Mr. Chairman, it is correct that I am Arnold Weber, but I am not accompanied by Richard Nathan. I am accompanied by Mr. Dwight Ink and Mr. William Brussat.

CHAIRMAN HESBURGH. Fine.

(Whereupon, Mr. Arnold R. Weber, Mr. Dwight A. Ink and Mr. William Brussat were sworn by the Chairman, and testified as follows:)

**TESTIMONY OF MR. ARNOLD R. WEBER, ASSOCIATE DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY MR.
DWIGHT INK AND MR. WILLIAM BRUSSAT, WASHINGTON, D.C.**

CHAIRMAN HESBURGH. Mr. Weber, I believe you have a statement, if you would like to do it briefly, and we will take the whole thing for the record—whichever way you would like to do it.

MR. WEBER. Well, with your permission, Mr. Chairman, because the focus of my testimony deals with, essentially, the administrative procedure, whose details might not be fully known, I would prefer to read it, and I think it is reasonably brief and would permit time for questioning.

CHAIRMAN HESBURGH. All right. I appreciate that.

MR. WEBER. Thank you, sir.

I am very pleased to appear before this Commission to discuss one of our activities, which may contribute to implementation of the civil rights policy in the administration of Federal programs.

Your invitation to the Office of Management and Budget to testify at these hearings, expressed a specific interest in OMB Circular A-95, as revised, entitled Evaluation Review and Coordination of Federal and Federally Assisted Programs and Projects.

(OMB Circular A-95 (Revised) appears as Exhibit No. 3 on p. 449.)

As Associate Director of OMB, I am keenly interested in the implementation of the circular, notwithstanding its bureaucratic designation, Circular Number A-95, represents an important element in our efforts to expand intergovernmental cooperation in the administration of the existing Federal Grant-in-Aid system.

Through this circular, we also hope to achieve better coordination of Grant-in-Aid activities at the point of action, that is at the State and local levels of government.

In view of the Commission's interest, I will explore the extent to which the project review system established under OMB Circular A-95 can contribute to the implementation of the various civil rights laws, particularly Title VI of the 1965 Act, dealing with discrimination under federally assisted programs, and Title VIII of the 1968 Act dealing with fair housing.

However, before I address this question, it would be useful to describe the A-95 review process, so that the Commission may more easily identify its potential role in the civil rights area.

OMB Circular A-95 was developed to implement section 204 of the

Demonstration Cities and Metropolitan Development Act of 1966, and in partial furtherance of Title VI of the Intergovernmental Cooperation Act of 1968.

Section 204 of the 1966 Act requires that applicants for Federal assistance to projects in metropolitan areas under certain program categories, largely of a public facilities type, must provide opportunity to an "areawide agency" to review the application.

Section 204 requires only that this areawide agency, which is referred to as a clearinghouse in A-95, be given an opportunity to review an application. It is not required to make such a review. And I think that is an important distinction to recognize.

Section 204 makes specific provision for cases where the clearinghouse has chosen not to take advantage of this opportunity.

The areawide agencies are described in Section 204 as those having comprehensive planning capability, and the review is concerned with "the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area, and the extent to which such project contributes to the fulfillment of such planning."

The program categories covered in Section 204 are open space land projects, planning or construction of hospitals, airports, libraries, water supply and distribution facilities, and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects.

I might note, probably the most active program area has been in the water and sewer waste treatment plant, as far as the clearance project has been concerned.

A-95 also serves to implement, in part, Title IV of the Intergovernmental Cooperation Act of 1968.

Title IV consists of a set of Congressional policy directives with the purpose of facilitating intergovernmental coordination of planning and development.

These statutory directives of Title IV form the basis for the broad scope of A-95 before the more limited—beyond the more limited and specific aims of Section 204.

A-95 is a four-part directive. Part One encompasses the review procedure in which the Commission has expressed interest.

In effect, Part One builds upon the review procedures developed for metropolitan areas under Section 204. It extends these to State government and to nonmetropolitan regions, and expands the coverage to include almost all public facility and physical development programs as well as a number of human resource type programs.

The review procedure is called the project notification and review system, or PNRS and works as follows:

The PNRS is an early warning system under which States and State agencies, metropolitan and regional bodies, and local governments that might be affected by a proposed federally assisted development, are provided with a chance to examine and comment upon it, before it is implemented. When a potential applicant for Federal assistance under

certain programs decides he is actually going to apply for such assistance, he sends a notice of his intent to appropriate State, regional, or metropolitan clearinghouses, or A-95 review agencies.

The notification briefly describes the project for which he is seeking assistance, and gives an estimate of when he expects to have his application ready for submission to the Federal Agency.

The clearinghouses identify those parties for whom the proposed project may have some significance. State clearinghouses involve other State agencies, and metropolitan and regional clearinghouses involve area agencies, local governments, or other major groups in the review process. These parties are sent copies of the notification.

The clearinghouses have 30 days after receiving the notification to indicate any interest they or their constituents may have in exploring the matter further with the applicant, and to arrange to do so.

If there is no such communication from the clearinghouses, the applicant is free to complete and submit his application.

If there are problems with the proposal subsequent to notification and, after consultation, there are still unresolved issues, the applicant must allow clearinghouses 30 days to review the completed application and submit any comments.

If comments or recommendations are submitted by or through the clearinghouses, the applicant must include them with the application. The comments are for the purpose of assisting Federal agencies in evaluating the application.

In addition to comments on the relationship of the proposed project to comprehensive planning indicated under Section 204, Title IV of the Intergovernmental Cooperation Act specifies other areas of concern which are open to comment.

These include land use, balanced transportation, aesthetics, environmental concerns, and similar matters. Thus Circular A-95 presents agencies of State and local government with an opportunity to influence decision on proposed federally assisted projects that may affect their own plans and programs.

The requirement of A-95, on the other hand, fall on applicants for Federal aid and on Federal Agencies administering programs providing such aid.

Review agencies, that is the clearinghouses and their constituents may or may not submit comments on applications. And if there are such comments they are not in effect, circumscribed by A-95. Therefore, comments concerning the civil rights aspects of a proposed project could be made.

We do not know the extent to which civil rights considerations have been raised in the A-95 process, although the Miami Valley Regional Planning Commission has indicated that it has dealt with civil rights matters in its reviews. And incidentally, Mr. Chairman, the magnitude of the projects cycled through is, oh, almost at a level of 20,000 now per year, so it is generating a lot of paper and a lot of comments, and we hope in a salutary way.

As I have noted, the range of programs covered by A-95 goes beyond

those originally specified under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, which focused largely on public facilities.

We recently revised A-95 to broaden further the coverage of programs subject to review. We also added some human resources programs, such as the OEO Community Action Program, and 24 housing and urban development programs. The revision only became effective on April 1 of this year. So our experience is still limited with respect to these changes.

The agencies designated as clearinghouses under the project notification and review system are several types. State clearinghouses are designated by Governors, and are most frequently the State planning agency or a unit in the Governor's office.

At the metropolitan and regional, or nonmetropolitan levels, the agencies designated as clearinghouses were for the most part originally established as comprehensive planning agencies. They are frequently councils of government. Many or most of them are in effect voluntary organizations, depending for their existence or status on the participation and support of the local governments in the area.

Their primary mission is coordination of development, planning, and cooperation in pursuing matters of common interest.

A-95 has done much to strengthen these organizations, and in carrying out the missions for which they were established.

Many of these organizations are still in the developmental stage. Their interest and expertise centers on orderly physical development of the region. They are generally untested in planning for human resources development, and have focused on technical planning issues.

To date they have demonstrated relatively little capability or taste for coping with social issues. Thus, such organizations have been more receptive to applying the review procedures to areas where there is a known community of interest among the member governments, rather than to potentially controversial matters.

However, to the extent that such organizations are able to deal successfully with regional problems, controversial or not, they help to establish a degree of acceptance that permits them to initiate consideration of more controversial issues.

There have been instances where such organizations have been able to play a constructive role within the civil rights field. As I indicated before, I understand that the Miami Valley Regional Planning Council has testified at these hearings on the so-called Dayton Plan, under which the council was able to secure agreement among its member local governments on a plan for systematically allocating responsibility for developing low- and moderate-income family housing among them.

In a less dramatic instance, the Metropolitan Washington Council of Government developed a Model Fair Housing Ordinance, which has, with minor variations, been adopted by most of its member governments.

Neither of these actions originated in the A-95 review process, although conceivably it could have played some facilitating role, had it

been applicable.

Within this framework of statutory intent, and experience, I would like to consider how A-95 might be amended to focus attention on civil rights considerations in State and areawide development.

We have not yet had the opportunity to explore fully the possibilities indicated here with the clearinghouses, the various public interest groups, and minority organizations. However, certain possibilities may, and will, be actively explored.

A review could, for example, provide an assessment of the degree to which a proposed project might contribute to the maintenance or dissolution of patterns of segregation or discrimination.

A review could identify situations where minority interests could be favorably or adversely affected, or a project might evoke or mitigate inner group tensions.

The A-95 review also might be used in connection with the 701 housing element to check compatibility of projects with plans to develop a more balanced housing supply. In such areas we believe that A-95 could play a constructive role.

On the other hand, the extent to which an A-95 review can contribute to the enforcement of the specific prohibitions against discrimination under Title VI and VIII may be limited because of the relationship of the review process to the standards applied by these provisions.

An A-95 review takes place well before any grant is awarded or contract signed. Its timeliness, of course, is an important element.

However, Title VI and Title VIII compliance provisions become operative subsequent to grant or contract award. In the case of housing, sponsors must certify compliance with Title VIII. It is only after a project has commenced, or housing is completed and for sale or rent, can a finding be made that discrimination has been practiced. But the A-95 review process could point out areas of possible noncompliance, since enforcement must be conducted by Federal Agencies and the courts.

It is significant that A-95—or it is apparent that A-95 has some promise in facilitating progress in the civil rights field. However, we must sort out what it can and cannot do in a realistic and objective manner.

The A-95 review process is a matter of choice by the clearinghouses and State and local governments, and we should try to build on its successes.

By itself the A-95 review process probably cannot solve major civil rights problems, but it can help build into our administrative procedures, a sensitivity to and awareness of the possible impact of Federal Government program decisions on civil rights at the local level.

It is OMB's intention to actively consider revising A-95 to include a review of civil rights considerations. We will discuss this matter with public interest groups representing State and local government, civil rights groups, and with the clearinghouses, the question of how A-95 might be most constructively amended to reflect civil rights objectives.

Following this review, we would expect to develop our recommendations for amending Circular A-95 to incorporate considerations related

to civil rights by August 1 of this year.

Thank you for your attention, Mr. Chairman, members of this Commission. I would be pleased to answer any questions.

CHAIRMAN HESBURGH. Thank you very much, Mr. Weber. Our Staff Director, Mr. Glickstein, will begin the questioning.

MR. GLICKSTEIN. Mr. Weber, I am interested in your comments that the A-95 review process is a matter of choice, and you did quote from the provisions of Section 204 on which A-95 is based, indicate that.

Why, under Title IV of the Intergovernmental Cooperation Act upon which A-95 also was based, couldn't this review process be required?

MR. WEBER. Well, it might be so as a legal matter, and I am not prepared to concede that, but to accept it as an alternative.

But it seems to me that you have to go to the purpose of the clearinghouse in A-95 procedure. Its original purpose arises from the observation that you have a flood of categorical programs, and categorical program grants going out to particular communities. Each in their own bureaucratic channels, each subject to their own timing and phasing.

At the same time, as a matter of policy and initiative, we have endorsed and tried to encourage comprehensive local planning.

So the initial purpose of the act was to say, those of you who are engaging in comprehensive planning, we will provide a vehicle whereby you can be notified on a timely basis, of possible Federal program decisions. So the purpose of it started not in order to bind the Federal Agencies, although the Federal Agencies do and should take into account some of the judgments of the clearinghouses, but rather to provide on a voluntary basis, timely information for local planning groups.

Now you know, it seems to me that it would just encumber the system to establish as a mandatory requirement, a local review, particularly in agencies or in regions where the mechanism doesn't exist, and where the governmental units might not want to establish them.

MR. GLICKSTEIN. Why couldn't you require that the mechanisms exist? That Federal assistance would not be forthcoming to an area that did not have a clearinghouse mechanism.

MR. WEBER. Well, again it goes to the purpose. I think the overall objective is making sure that in the development of local programs, that you have a local input, you see. And that it doesn't just fall like manna from heaven, you know, from Washington.

Almost all of these programs call for their own planning mechanism, you see, within the framework of that department's, or program's responsibility. For example, in the manpower area, local input is derived through the requirement that you submit a comprehensive area manpower planning system.

What we are talking about here is comprehensive planning, and I don't know whether within the framework of a particular categorical program, we want to lay on a requirement for comprehensive planning. And if we do, that is an issue, you know, of sufficient magnitude and gravity that it should be considered in its own right.

MR. GLICKSTEIN. Well, I would think that Title IV which talks about the achievement—the economic and social development of the Nation, and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural,—you have been emphasizing local interests, and Title IV seems to very strongly emphasize the national interest.

MR. WEBER. Well, we don't see them as being inherently contradictory.

I think that the thrust of the act was based on judgment derived from experience. There was a lot of program activity. There was 600 Grant-in-Aid programs, and 1,049 domestic assistance programs, and many of these were carried out without regard to the planning requirements, and planning interests of local governments.

So there is a high degree of planning that goes on at the national interest, at the national level, that I would clearly agree with you that planning at the national level does not subsume the national interest.

MR. GLICKSTEIN. Well, one of the ways the President, in his statement the other day, indicated that we were going to be able to break up areas of minority concentration in this country and provide free access to suburban areas, is that at least in the housing area, to qualify for Federal assistance, the President said, the law requires a local housing and community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

Why couldn't the A-95 procedure, and the clearinghouse mechanism be used to further that policy of the President's? Why couldn't planning be required, and review be required, the comments be required, and as far as whether or not the plan will deal with civil rights problems, you have already indicated you are going to explore that possibility.

MR. WEBER. Actively explore it.

I think in response to your specific question, Mr. Ink is most familiar with the planning requirements of the housing act, and he can answer that.

MR. INK. All I was going to say is that the comment that Mr. Weber made about the exploring areas in which A-95 might be useful was not limited or restricted to one facet of it, and this is an area that we will be looking at. We want to talk with both minority groups and public interest groups, keeping in mind the background and the origin of the legislation, which was designed not as an enforcement mechanism, but as a means for taking into account and recognizing the State and local plans when federally assisted programs move forward.

As Mr. Weber indicated, these are not necessarily inconsistent, but we do think we need to examine it rather carefully with both the minority groups and the public interest groups, how they can best be meshed.

MR. WEBER. Let me make a philosophical supplement to what Mr. Ink said.

There are a lot of meritorious and urgent goals in the civil rights area. Say, for example, in the extension of manpower training opportunities.

And it is sort of a tactical question, how can you best put your energies into that area to achieve that goal?

Now, you can set up sort of a procedure, which isn't really linked to any substantive program and say this is going to be the bureaucratic catch basin, so to speak, and everything is going to go in there. Manpower training, airport grants, and what have you.

Or, you can say you will try to build those considerations actively into the program guidelines and planning requirements for that program itself, as in fact we have done in the manpower area, as we are in the process of doing in the area of urban mass transit and related fields.

So I would not, you know, and we do not—and I hope you were sensitive to the implication of our statement—we do not preclude the A-95 process as playing a useful rôle.

But in particular problem areas, it is the main channels of activity that are associated with those programs themselves that will have to carry most of the water, at least in my judgment.

MR. GLICKSTEIN. Well, there is a whole continuum of things that could be done. I suppose the most extreme thing is to require clearinghouses and to require clearinghouse review. Let me suggest some less extreme matters.

MR. WEBER. Well, we just wanted to say that one horse can only carry so many riders.

MR. GLICKSTEIN. For example, Title IV itself says that all viewpoints, national, regional, State, and local, shall be considered.

But in Circular A-95, where the subject matter of comments and recommendations are outlined, all that is asked for are comments on the extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives. There is no mention of national.

I would think at the least, Circular A-95 would require the consideration of national objectives, one of which is Title VIII of the 1968 Act.

MR. WEBER. I see no problem in principle with that, Mr. Glickstein. I would believe, though, that as an expectation that national considerations are taken into account by the Federal Agency which is charged with the administration of the program, so that as an application comes up and has appended to it comments generated by the review process, they are procedurally and intellectually, if you will, meshed with something called national considerations, which are the province of the Federal Agency.

MR. GLICKSTEIN. Well, I would hope that one of our goals would be to encourage regional clearinghouses to take national interests into concern, and not just leave that problem with the national government.

MR. WEBER. I agree with you.

MR. GLICKSTEIN. Then the other—another suggestion, and I think your statement indicates that this would be entirely feasible, is to include among the—assuming that the comments are voluntary and I won't debate with you about that, but why couldn't one of the matters on which clearinghouses could have the opportunity to comment would

be the extent to which—you suggest that that would be a possibility—I am just wondering why that isn't just so readily apparent—the extent to which the particular request for assistance will further racial concentrations or will provide access to housing, or opportunities on a regional basis, something of that sort.

MR. WEBER. Well, we did indicate that that is one of the dimensions of the problem that we would explore with the interested parties, and involved parties, that is correct.

MR. GLICKSTEIN. I would like to just make one other comment, since I notice that you said you were going to discuss this matter with public interest groups representing local and State governments, with civil rights groups and with clearinghouses, and you did not mention the Commission on Civil Rights. In case we don't get another chance to comment, I would just like to make—

MR. WEBER. I would expect that one way or another you will get an opportunity to comment, Mr. Glickstein.

MR. GLICKSTEIN. You talked about the limitations that A-95 places, with respect to Title VI and Title VIII, on pages 10 and 11 of your statement, and you said that, for example, in the case of housing sponsors must certify compliance with Title VIII. It is only after a project is commenced, or housing is completed and for sale or rent, can a finding be made that discrimination has been practiced.

Well, my concern is that is a rather narrow interpretation of what Title VIII means, or what discrimination is. The mere location of a particular housing project might involve a violation of Title VIII. Or, violation of Title VI.

I would suggest that there are a lot of things that could be done in these very preliminary stages. One of the problems we have had in enforcing civil rights laws is that not enough preaward checking has been done.

MR. WEBER. Well, I think, without being pettifogging about it, the language of the testimony reads, "can a finding be made that discrimination has been practiced." That is, that would relate to a commission of an act that is taken, rather than a contemplated act that would be associated with the project submission, and in the case of the A-95 process, really a precis of a project application.

I don't think we are held guilty for bad intentions in their own right, to the extent that we can identify it. This, in no way, gainsays your point, but rather explains the careful construction of our testimony.

MR. INK. I think the area that you expressed interest in is the one of the areas in which we think this probably holds the greatest promise, in terms of the pattern of location of low-income housing.

And particularly to the extent to which that is reflected in regional planning. And we would think that it would be particularly useful in those instances.

MR. GLICKSTEIN. I have no further questions.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Mr. Weber, what was the extent of the Office of Management and Budget's participation in the President's

statement of June 11th on Federal policies relative to equal housing opportunity?

Did you actively participate in the draft of that message?

MR. WEBER. Did I actively—

VICE CHAIRMAN HORN. Well, your office?

MR. WEBER. Mr. Horn, you are asking me to be aware of everything that goes on in my office and, as you know, that is a formidable burden for any bureaucrat. I was not personally involved.

VICE CHAIRMAN HORN. Do you know if anybody from OMB was?

MR. WEBER. I am not in a position to answer that with the accuracy—

VICE CHAIRMAN HORN. What leads me to this is that I commend the Administration for trying to get results oriented, because we have had a decade of rhetoric on this subject. But now that we are getting results oriented, I am interested in the apparatus for coordination at both the national level and the regional level, and in both the background statements, the President's statement, the Attorney General's press conferences, in various statements to this Commission by heads of other Agencies in the Federal Government, be it EPA, GSA, etcetera, it has been made clear that HUD is to be the lead agency, if you will, that is the phrase used, in carrying out this policy statement of the President.

Now my query is this, should HUD feel one way about a particular policy, and let's say, comes into conflict with the Department of Transportation, what apparatus have you got to resolve the matters between these two Departments, to pull this issue out to get real coordination taking civil rights priorities into account.

MR. WEBER. Well, I do not know the specific details as it relates to HUD's role as lead agency in possible interagency conflict.

However, I can lay on the table briefly, the array of mechanisms that we have to try and mediate, broker, or ultimately decide issues which involve interagency conflict, and interagency difference of opinion is, as you know, an everyday occurrence.

First, between the Agencies themselves, particularly at the staff level. Then you move up to a policy level. Then you make a judgment whether you want the Cabinet Secretaries involved. In some instances they are not involved, and then it goes over to the Executive Office of the President in the White House.

I daresay, in some instances, given our organizational arrangements, OMB, through its so-called desk officer arrangements, that is one Assistant Director serving a particular set of departments will, on occasion, be called upon to resolve these disputes.

If that doesn't work, it goes to the boss.

In other instances, it would go to Domestic Council and White House staff.

I am not sure, or I am just not aware of, the particular locus for the resolution of disputes that has been developed in this area, but I must say, and this reflects some of my own experience in the Department of Labor before I came to OMB, it was our feeling down in the Depart-

ment of Labor, that if you had a problem, there were plenty of people up there who wanted to settle it for you. And I am sure that will be the case here.

VICE CHAIRMAN HORN. As you recall, Father Hesburgh and I met with you and Mr. Shultz in August on our Civil Rights Enforcement Report, and some of the points we made there, and later made publicly, were, one, to get the budget examiners actively involved in reviewing civil rights priorities, and I think you agreed with that, and are implementing that.

The second, which I do not believe you agreed to, was to have within OMB an Office of Civil Rights, which could monitor, dip down, pull some of these things out that are crawling between the cracks, so that once the President has decided on a policy, and I commend him for deciding this one, that we can do something to carry it out, not just wait another 10 years for more rhetoric.

MR. WEBER. I think in part the difference is semantics, Mr. Horn, and if it resolves down to a difference of opinion concerning the most effective bureaucratic tactics, I am prepared to discuss that with you.

When I was—as a matter of fact—when I was Assistant Secretary of Labor for Manpower, my general judgment was if you had a little box attached to the Assistant Secretary, and he was called your Special Assistant for Civil Rights, you really are swimming against the tide. And that is what we had there.

If you really want to make progress in the everyday administration rather than on an after-the-fact compliance basis, you have got to get those considerations into the line and the day to day administrative operations.

Now, be that as it may, what we have done in OMB is we have established a unit. It is a unit now comprised of three examiners. And lest you flinch at the numbers, let me say in passing, that that is equal to the number of examiners that we have for NASA and Department of Commerce, and their ongoing charge is to have cross-cut responsibility, across all of our program divisions, which take into account the broad scope of Government with respect to civil rights consideration.

VICE CHAIRMAN HORN. Okay. So we do have three examiners then to look at this—

MR. WEBER. Well, wait a minute now. Wait a minute. Because we work on leverage, Mr. Horn. We work on leverage. Those three examiners, now, insure, for example, that we have a civil rights review in our budget process. And we have just completed what we call our spring preview, with respect to getting a set on fiscal 1973 budgets.

One of the reviews, along with the environment, along with R&D, along with science, was in the civil rights area. That means that every examiner who looks at his particular Department and his particular program, knows that he is responsible for applying and examining the civil rights performance and implications of his Department for which he is responsible.

Mr. Shultz is sensitive to it, and I am sensitive to it—

VICE CHAIRMAN HORN. Well I know you are, and I commend you

for having the three examiners. I hope they will work closely with the Commission. We have hundreds of feet of reports that I think would be helpful in most of these programs.

Now, moving to the region, one of my concerns again at the region, here we have all these departments. You are slowly, and I think commendably, trying to get one unified regional, at least outline, at the same States and the same headquarter cities.

But we still get down to the fact of, who really gives the Administration's word, or OMB's word in the region to pull these Agencies together on a regional basis?

Now I know during the Second World War, the Bureau of the Budget had three offices which Congress took great delight in abolishing as rapidly as they could after the Second World War.

And I am wondering, is there any thought, and I have long advocated this, that OMB get a regional presence, so that as you decentralize decisions in areas like this, by the hundreds of millions of dollars, you can grapple with this down where it counts?

MR. WEBER. Well, this is an important and complicated question, and we have addressed it specifically, and addressed that alternative at this time and probably in the foreseeable future.

It goes in part to the role of OMB as it relates to the Department. We have now gone through a giddy period of growth, and we are up to 691 people, and there is much to be said for keeping us small, professional, nonoperational in the sense that we are charged with running programs.

Also, the statutory authority and responsibility for programs, in many instances, does not go to the President; it goes to the Secretaries and the Cabinet heads.

So we feel that we operate, can best operate, by trying to develop procedures and institutional arrangements, procedures for followup, to insure that departments do their job well, and to try and help them do their job well.

If we would put somebody in the field—and incidentally we have liaison people assigned to all the 10 regions and they go in and out—but to put somebody out there, would at this stage erode the line responsibility and accountability that the President and OMB are trying to build.

In other words, if something goes wrong in the HUD program, you know, it is the easiest thing in the world to blame that interloper from the Executive Offices of the President who is out there messing. The real responsibility goes to the Secretary of HEW, who, in turn, presumably is held accountable by the Congress and by the President.

So we are trying to support development of regional apparatus and, as you know, we have given great impetus to the regional councils, and we want the regional councils to be effective devices for interagency action at the local and regional level.

We do not think at this time that it is appropriate for OMB to have people out there on a permanent basis.

I might say, I understand they did have it shortly after World War II.

It was called the Eyes and Ears, but Congress didn't like those eyes and ears and those positions were eliminated.

CHAIRMAN HESBURGH. We have 3 minutes left. Dr. Mitchell, I hate to be cutting you short, so why don't you take up the questioning?

COMMISSIONER MITCHELL. This is more a comment than a question, but maybe it is both, and I will keep it within 3 minutes.

The Christians down here, Father, are afraid of the lions up there.

What troubles me, as I listen to this, clearly what you are talking about with clearinghouse reviews, with examinations of proposed Federal programs, with interagency implications, all boils down to some fellow—to a man, or a woman or a child who either can't get into a decent school, or for whom there is no library, or for whom there is no real highway to get to work, or something like that.

Now when we had a hearing in St. Louis, we had a witness from Olivette. He was a black man. Now this black man lived out in the meadow, which was annexed by Olivette, largely because it was full of black men who lived in the meadow.

They then applied for urban renewal funds, and they got the urban renewal funds, they went to all the black people in the meadow and said: "You are in the way. We have a slum clearance project, so you had better leave." And all the black people left.

And they then rezoned the land light industrial, so they could improve their tax situation, and none of the black people ever came back.

Now none of those people really knew what happened to them.

You can talk about clearinghouses and review mechanisms, and you can talk—as you use the phrase out there—people out there—all the minority people of the United States are out there. They are not on review committees and clearinghouses. And I hope that in developing any mechanism, whether it is A-95 or your Title IV, or your intergovernmental mechanisms, or this small bureau of professions you are talking about, that we never lose sight of the fact that individuals want to know what their rights are. And that you have to ask them how programs affect them and not committees and Ohio Valley Planning Societies and all of the rest of it.

MR. WEBER. Mr. Mitchell, you know, of course, I agree with you completely in principle. What you have stated is the problem of democracies and complex societies.

There are several apparatus that are there, the CAAs, the Model Cities groups, and at risk of seeming to appear to give a commercial, that is one of the reasons this Administration has endorsed the concept of revenue sharing—one of its purpose to provide fiscal relief and, secondly, to bring decisions closer to the people who are affected by those decisions, so they can have an impact on them in a timely basis. But I certainly agree with you.

COMMISSIONER MITCHELL. I am simply commenting for the record, on the need for carrying a clearinghouse function beyond the bureaucratic concept, of getting a few guys from out there to say it is okay.

MR. WEBER. Well, if those are the right few guys, and are representative of the people whose interests you feel are ignored, that is the sort of situation that we want.

CHAIRMAN HESBURGH. Mr. Weber, we appreciate your coming. I just wanted to add for the record, a word to associate myself with Dr. Horn. We do appreciate the efforts that have been made to get a systemic input of the civil rights concern into the total budgetary process, where I think perhaps the greatest leverage of all is, in all bureaucracies, where all the money comes from, and that this is apart of the decision of how much money people get, and for what purposes they get it.

We also appreciate the fact that this year I think, Mr. Shultz worked hard to put extra people on compliance because they were so understaffed throughout the Government. That should be very helpful in the years ahead.

I believe our concern about a special dimension within OMB for civil rights was simply to be sure that the expertise was there on this broad set of problems that are very complicated, very involved, especially in areas like housing or financing, things of this sort.

I would just like to say on the part of the Commission, that if we can ever be helpful, we have people that have had 10 or 15 years specific expertise in these areas. We are at your service, because I think we have the same goals.

Thank you very much for coming, and also your associates.

MR. WEBER. Thank you, Mr. Chairman. I appreciate your comments.

(Whereupon, Attorney General, John N. Mitchell, Mr. David Norman and Mr. James Turner, were sworn by the Chairman and testified as follows:)

TESTIMONY OF THE HONORABLE JOHN N. MITCHELL, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY MR. DAVID NORMAN, ACTING ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, AND MR. JAMES TURNER, DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, WASHINGTON, D.C.

CHAIRMAN HESBURGH. Mr. Attorney General, you have a statement I guess you want to read or summarize. Do whatever you wish with it. We will make it a part of the record as is.

ATTORNEY GENERAL MITCHELL. Well, Father, with your permission, since you have the statement before you, I think I might conserve your time by not reading it.

CHAIRMAN HESBURGH. We would appreciate that, because we have been running late all day.

ATTORNEY GENERAL MITCHELL. I know that.

I would like to say that we appreciate what the Commission is doing. That we would like very much to have its recommendations after its hearings are over, and of course to have our Department work with your staff.

CHAIRMAN HESBURGH. Thank you very much, sir. We have long been concerned with the same problems, and I hope this is a period

when we can make some great progress on them.

(Whereupon, the document referred to was marked Exhibit No. 41 and received in evidence.)

CHAIRMAN HESBURGH. I would like to ask Mr. Glickstein, our Staff Director, if he might begin the questioning.

MR. GLICKSTEIN. Mr. Attorney General, for the record, would you introduce the two gentlemen accompanying you, please.

ATTORNEY GENERAL MITCHELL. Yes. On my left is Mr. David Norman, the Acting Assistant Attorney General, Civil Rights Division, and Mr. James Turner, Deputy Assistant Attorney General, in that same Division.

MR. GLICKSTEIN. Mr. Attorney General, we have heard a lot of testimony the last few days about the President's statement on housing opportunity that was issued last Friday.

Would you say that this reflects a strong policy commitment on the part of the Federal Government, to remedy racial and economic polarization in our metropolitan areas?

ATTORNEY GENERAL MITCHELL. It certainly is very strong on the subject of racial discrimination. And to the extent that racial discrimination affects economic integration or economic discrimination, I am sure that it will serve a substantial purpose in that direction.

MR. GLICKSTEIN. The statement, in describing the way priorities are going to be granted for housing applications, does indicate consideration will be given to moderate- and low-income housing, so I assume to that extent our economic polarization will be dealt with, is that correct?

ATTORNEY GENERAL MITCHELL. I am sure that is the case, and I am certain that the activities of Secretary Romney and the regulations that he has drafted, and those that are to come, will be addressed to providing middle-income and low-rent housing, of course which will help in the economic field.

MR. GLICKSTEIN. Yesterday, Mr. Attorney General, Secretary Romney said that he believed that a dual housing market exists in practically all metropolitan areas of the United States. And he went so far as to say, that most real estate brokers have one list of houses they show to black people and one list of houses they show to white people.

Has it been the experience of the Department of Justice that the problem is as severe as Mr. Romney described?

ATTORNEY GENERAL MITCHELL. No, I would not believe that that be the case.

Undoubtedly, there are areas in which that practice exists. We know that from our investigative experiences, and the lawsuits that we have brought to correct it, and, of course, the voluntary compliance that has eliminated those practices after the Department has become interested in a particular area.

MR. GLICKSTEIN. Well, the Secretary also indicated that the new affirmative marketing guidelines that HUD issued the other day applies to new housing and not to existing housing, and he indicated that this dual market that was perpetuated by brokers largely cons-

isted of existing housing.

And I would like to ask you whether there are—I know the Department has brought lawsuits against brokers, but I would like to ask you whether there are any possibilities of extending the type of relief the Department has sought, for example, to sue all the brokers in the community, if that community appears to have a dual housing market that is stimulated by the real estate brokers.

ATTORNEY GENERAL MITCHELL. Yes, there are those potentials, and, of course, we have addressed ourselves to the multiple listing services, which involve a substantial portion of the community, and are getting at the problem through that.

MR. GLICKSTEIN. I know that it is inappropriate for you to comment on pending litigation, or litigation in preparation, but would you consider this type of suit priority for housing litigation?

ATTORNEY GENERAL MITCHELL. Yes, very much so.

We, in addressing the matter of litigation in this field of open housing, have selected the suits where we could do the most good, where there are patterns and practices, and where the relief granted in a particular case will have the greatest impact. And, of course, as I mentioned previously, where we are successful in such litigation, it has a ripple effect in the removal of the practices in other areas and other entities.

MR. GLICKSTEIN. The data I have indicate that in the current fiscal year, the Civil Rights Division has 150 attorneys, 20 of whom were allotted to the Housing Section, and I understand you have requested 18 more lawyers for fiscal year '72.

I remember in the days when I worked in the Civil Rights Division, and the Civil Rights Division intervened in a case, the Division was even smaller then, often the newspapers would say the full power of the Federal Government has now been brought into play, and there I was alone, up in the library, writing a brief. And that was the full power of the Federal Government.

ATTORNEY GENERAL MITCHELL. Well represented.

MR. GLICKSTEIN. Thank you.

Given the President's statement that the Federal Government must undertake the vigorous enforcement of fair housing, would you consider attempting to increase the staffing of your housing section?

ATTORNEY GENERAL MITCHELL. We have had that matter under consideration. And it is quite possible we will. We have another resource, which is becoming more and more effective, and that is our United States attorneys.

Some of the Offices, as you know, have their own Civil Rights Sections. Others have personnel that work in this field, and we presently have, in Washington, all of our United States attorneys and we are having seminars on this subject matter.

They represent tremendous resources which can be used in this field and, of course, have been quite effectively.

We are finding that there is less and less a disposition on the part of U.S. Attorneys to shy away from our civil rights litigation. They are all

dedicated to it, and we have had an understanding with each and every one of them, whether they were in the North or the South or the East or the West, that this was going to be part of their responsibility, and they have unanimously accepted it. So we do have substantial resources in that area.

MR. GLICKSTEIN. Moving on to the lawsuit that you filed on Monday, the Black Jack Case, the complaint indicated that the basis of the suit was that the practices in that community had the purpose and effect of excluding minority group persons, and I am curious about the extent to which the Department will be able to litigate where the purpose of what was done isn't quite as clear as it was in Black Jack, where it is more a question of the effect of some action?

ATTORNEY GENERAL MITCHELL. You are not talking about the city of Black Jack case, you are talking about that general area?

MR. GLICKSTEIN. Yes. That is correct.

ATTORNEY GENERAL MITCHELL. Obviously, each case will have to be looked upon and examined on its own standing or merits or demerits. And this, of course, we propose to do. You can't generalize in that area.

But I would say, as the President's statement has said, that where there is any vestige at all of racial discrimination, we can move against it regardless of the other factors involved.

MR. GLICKSTEIN. Now, some people are concerned that the Supreme Court's decision in the Valtierra case a few weeks ago limits the actions of the Federal Government.

I notice in the President's statement, that the scope of that decision, I thought, was rather narrowly defined.

Do you feel that the Valtierra decision does have any serious—places any serious limits on what the Department can do in the housing area?

ATTORNEY GENERAL MITCHELL. Well, it does to the point that you interpret it through what the dissenting opinion said, which was very clear, that they believe that the Court had eliminated everything except racial discrimination. And the substance of that case, dealing with the definition of persons of low-income which was the subject matter that you got down to, certainly got to the economic issue which the Court did not accept. The majority opinion, of course—at least in my opinion—went directly to the absence of proof that there was any racial discrimination involved.

MR. GLICKSTEIN. I notice that in the President's statement, he also placed a great deal of reliance on the fact that the California system of referendum was a very old and established procedure.

Do you think that is a factor that might be considered?

ATTORNEY GENERAL MITCHELL. Well, the President took that observation from the majority opinion of the Court. They pointed that out—to show, I presume, that this was a tradition in California, and it was not something that was devised for the purpose of defeating this particular project.

MR. GLICKSTEIN. I gather that—am I correct in reading the President's statement as suggesting that the Valtierra decision does not

place limits on what HUD can do, for example, in setting priorities as to where it will provide financial assistance, and where it won't?

ATTORNEY GENERAL MITCHELL. In no way, shape, or form, whatsoever, other than the requirement that exists in the laws, and of course would exist in California. But you would have to have a legal authorization of a low-rent public housing project before he could enter into the contributions contract with them.

MR. GLICKSTEIN. That would be a local requirement?

ATTORNEY GENERAL MITCHELL. That is definitely a local requirement but, of course, under his statute, as I recall, there is a requirement of approval by the local governmental body before a housing authority or other public entity can go ahead with a project. And he would have to respect that.

MR. GLICKSTEIN. Perhaps I can ask you a rather technical question which we discussed with Secretary Romney yesterday, and I am not sure the answer was entirely clear.

The President said in his statement, to qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.

The Secretary seemed to suggest that this requirement only applied to things like water and sewer grants and open space grants and urban renewal grants, that the requirement that there be a plan did not necessarily apply to subsidize the nonsubsidized housing request for assistance.

ATTORNEY GENERAL MITCHELL. Mr. Glickstein, I am not certain that I can answer that question with any definite assurance that I am correct.

I believe that the statement here was made in connection with the requirements of the workable program, which does, of course, have a housing element in it.

MR. GLICKSTEIN. I have no further questions.

CHAIRMAN HESBURGH. Vice Chairman Horn?

VICE CHAIRMAN HORN. Just on that latter point.

I notice the lead-in sentence is that the President is saying, underlying our housing policies embodied in our laws and our Constitution are certain basic principles, and that is certainly one that he seems to place great stress on as does this Commission, and it is, of course, one that we have raised with each individual coming before the Commission.

Let me pursue one other point that Mr. Glickstein raised, just to make doubly sure on the answer.

He asked you about purposes and effects, and I notice on page 6 of the President's message, he says in the really third full paragraph: "The Courts have also held that when its reasons for doing so are racial, a community may not rezone in order to exclude a federally assisted housing development. In such cases, where changes in land use regulations are made for what turns out to be a racially discriminatory purpose, the Attorney General, in appropriate circumstances, will also bring legal proceedings."

Then on page 10 we note, or he notes, that: "When such an action is called into question, we will study its effect."

And I think the query is this, and let me just make an assumption, see if you agree with it. I take it that you will look at both purpose and effect in deciding this?

There has been some concern expressed in the press, by some witnesses, that you really might be looking only at the purpose that might underlie a particular action, rather than the effects of discrimination. And there is a great concern that some emphasis, maybe great emphasis and a priority ought to be placed at looking at the actual effects of discrimination.

ATTORNEY GENERAL MITCHELL. Well, the question that you present, I think is the one that I answered before, that where you have a purpose or effect of discrimination, and it is racial discrimination, then we, the Department of Justice, under the direction of the President, will take these actions.

VICE CHAIRMAN HORN. Because there might be, really, a lack of clear purpose, is our point.

But the effects are obvious, but you really can't pin it down, but there is a discriminatory result, maybe an unintended consequence of a particular action. I think this is what we are trying to get at.

ATTORNEY GENERAL MITCHELL. This is conceivable, and that is why I say that you can't speak to this subject matter in generalities. You have to get to the specific cases and analyze them to see if there is that purpose or effect.

VICE CHAIRMAN HORN. Let me ask you one final question.

Without regard to the litigation aspect, but in your role as a member of the Cabinet, as a member of the Civil Rights Subcommittee of the Domestic Policy Council, and looking at just general Federal programming and the priorities, values, considerations that are brought to bear on whether you put a freeway here, or a housing project there, and the general meshing of Federal programs, are you satisfied with the degree to which civil rights considerations that do not involve litigation or cases are really brought to bear prior to the approval of Federal policies?

ATTORNEY GENERAL MITCHELL. No, I certainly am not. And I don't believe that anybody in the Cabinet is satisfied to that extent. I think that you will find by the record that this Administration has made great progress in that direction. Some of the President's Executive orders, his instructions to some of the Departments and Agencies, I believe are building up a much better picture than we have had before, but, obviously, it should have greater consideration along with whatever other considerations are given before you locate a Federal building or a highway or whatever the project may be.

VICE CHAIRMAN HORN. Would you have any suggestions as to an appropriate administrative apparatus, either in Washington or in the field, to achieve greater coordination and taking into account these priorities and considerations?

ATTORNEY GENERAL MITCHELL. I think it has to be done in Wash-

ington at a top level where you get the coordination of the different Departments and Agencies, and I think that is what is being done now.

VICE CHAIRMAN HORN. This is at the White House or OMB level, presumably?

ATTORNEY GENERAL MITCHELL. Yes, the OMB, of course. They are the ones that are working in that field now, and it is the Agency that has the technical knowledge and the broader scope. I think it can probably more effectively bring it all together.

VICE CHAIRMAN HORN. Thank you.

CHAIRMAN HESBURGH. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Attorney General, one of the major deterrents to achieving the purposes of Title VIII of the Housing Act is that it is complaint oriented.

Particularly, I would like to ask you about the provision that provides that where a State or local fair housing law exists, that when there is a complaint, that it must first be referred to that State or local agency, and for the—as you know, the 30-day suspension. Well, this, of course, delays further a basic right, and I think you know that a Supreme Court Justice said some years ago, that justice delayed, is justice denied.

I would like to ask, if you would recommend the elimination of this provision in the law, and if you feel that it would be—if it is your opinion that it would aid in achieving an open housing market?

ATTORNEY GENERAL MITCHELL. I would like to see that done.

What I would like to see done, is to have more State and local action in this field.

It is the necessity at times that the Federal Government start policing everybody, but a lot of these problems are local problems, and can and are being addressed in certain States and localities at a local level. So that I would prefer that for better enforcement.

I would also point out, of course, that we are not limited by that time element, and were that complaint brought to us, and it were within the scope of our activities, we could move on it directly.

COMMISSIONER FREEMAN. Could you advise us of the number of situations in which you have moved on it within the 30-day limit?

ATTORNEY GENERAL MITCHELL. I can't at this time, but I will be glad to provide you a record with respect to it.

I would not believe that they would be very many because of the investigative process that we have to go through, as you know, in order to file a lawsuit.

COMMISSIONER FREEMAN. On the point that you made, that you believe it is a local matter, we also received information, or testimony from the Director of the Census, concerning 12 metropolitan areas, in which the—there is in each of those 12 areas, a predominant white population surrounding in a noose, an inner-city. And this, of course, in every single one of these areas, the basis for the exclusion, is racial discrimination.

So that the question is, whether, when the local community, or all around this country, if they are permitted to get by with the policies

and practices of exclusion, how can we hope that they will then change and make it any different?

ATTORNEY GENERAL MITCHELL. Well, let me please correct what you repeated that I had said. I don't mean to imply that this is a State and local matter exclusively.

What I said was I would hope that the States and their localities—some of them, as you know, have State fair housing commissions and boards, that operate on a statewide basis—I would hope that there would be more of that so the Federal Government doesn't constantly have to be the policeman.

I am sure that there are many areas in this country where the disposition is not and would not be to carry out their open or fair housing policies. And that is why we do have the power in the Federal statute, and can move.

COMMISSIONER FREEMAN. Should not we request or require, however, that where a situation exists because of a Federal benefit—let me give you a hypothetical situation of a community that has a population of 25,000 people all living in homes that have—that are insured by FHA loans—that those people get together and vote to exclude the poor people—you see, they are there because of the Federal benefit, and they also use their power to exclude other persons from getting a Federal benefit. Is this a situation in which the Federal Government should take a hands off position?

ATTORNEY GENERAL MITCHELL. No, it is a situation that Federal Government should direct itself to, and I am sure through the administration of the programs over in HUD it will be, and has been directing itself to. The whole point of the President's statement was that all of this housing should be open to everybody and this is the goal that we are striving to accomplish.

COMMISSIONER FREEMAN. Are you suggesting, then, Mr. Mitchell, that perhaps in the future that the Administration will be looking at those communities and the votes of such municipalities that exclude?

ATTORNEY GENERAL MITCHELL. I am not quite certain as to what type of a vote you are talking about.

COMMISSIONER FREEMAN. Well, maybe a Black Jack situation that may be determined by somebody else not to be racial. They just don't want poor people.

ATTORNEY GENERAL MITCHELL. Well, the somebody else won't make the determination as far as we are concerned. We are the ones that make the determination as to whether we will file the cases or not.

COMMISSIONER FREEMAN. But would you look at whether those persons were themselves the beneficiaries of Federal money, or subsidies?

ATTORNEY GENERAL MITCHELL. Well, we might very well look at that to see if we could open up that housing. But whether we looked at it or not might have no bearing whatsoever on the legal position as distinguished from the factual situation that existed.

COMMISSIONER FREEMAN. Would a complaint have to be filed? This is what I am getting at.

ATTORNEY GENERAL MITCHELL. In what instance?

You see, what I said before, and I would like to re-emphasize, it is very hard to approach these questions on a theoretical basis when you are dealing with racial discrimination. So we would have to look at the circumstances and see what the action was, whether it be governmental or otherwise, to determine whether there was racial discrimination.

COMMISSIONER FREEMAN. Then do I understand you to say that unless you would make a determination that there is racial discrimination, that there would be no intervention by your office?

ATTORNEY GENERAL MITCHELL. We would have no basis for intervention.

COMMISSIONER FREEMAN. What about the equal protection clause of the 14th amendment?

ATTORNEY GENERAL MITCHELL. Well, if there is a violation of the equal protection clause, obviously we would address ourselves to it.

COMMISSIONER FREEMAN. Then you would also look for that?

ATTORNEY GENERAL MITCHELL. Yes, indeed.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN HESBURGH. Mr. Mitchell?

COMMISSIONER MITCHELL. Mr. Secretary, just on this same vein, there has been some talk in recent days—the word lead agency is being used, possibly because it has appeared in some statements and some press conferences, and I would like to explore that just for a moment with respect to your position, and the questions that Mrs. Freeman has been asking.

Is there a lead agency through which a complaint reaches you that you respond to?

Do you initiate action yourself?

How do you see yourself in this housing context, as responding to violations?

ATTORNEY GENERAL MITCHELL. There are basically three areas in the administration of the programs by Secretary Romney and his Department. There are matters referred to us for consideration, which frequently lead to litigation.

A second area, of course, is where we have complaints from the public.

The third area is where we come upon these questions that present problems through our own resources and efforts. This is illustrated by some of the cases that are started by private plaintiffs; when we see that there is one of considerable public importance, we will intervene and provide the resources of the Justice Department to help in that area.

COMMISSIONER MITCHELL. In cases where HUD refers a matter to you, do you make the final determination as to whether you act on that?

ATTORNEY GENERAL MITCHELL. Whether we litigate or not, yes, sir. This, of course, is not only true as to these matters referred to us by HUD, but as to all other matters referred to us by Departments in the Government.

COMMISSIONER MITCHELL. In your opinion, is the average citizen who is likely to have possible reason for complaint by virtue of his being a member of a minority group or some other similar situation, is he sufficiently aware of the remedies available to him under the law?

Do we have a situation here where the people who are most likely to be affected, don't understand their recourse, and don't know how to reach you and your Agency?

ATTORNEY GENERAL MITCHELL. I would think that that might very well be true, but the situation is improving.

And let me point out that much of this material gets to us through these fair housing committees and commissions that exist around the country with which we have a continuing dialogue, and work closely. They are on the ground floor in the community when the evidence of racial discrimination arises. They are generally the first ones complainants go to, and, of course, with our liaison, we get a good deal of that information.

COMMISSIONER MITCHELL. Do you run into situations where there is a credit-form of credit discrimination? I notice the President made reference to credit discrimination in his recent statement. Have you run into instances where you could document credit discrimination?

ATTORNEY GENERAL MITCHELL. I don't doubt for a moment that it exists. Our history in it has not been very extensive.

According to my recollection, we have had three investigations where we could not make cases. We have 10 investigations in, I think, seven cities underway now. It is not an easy subject matter to document, but we are hopeful that the Federal Bureau of Investigation which is doing the investigation for us in these 10 particular cases will be more helpful.

I think the better way of getting at that credit discrimination, or at least some forms of it, is through the regulatory bodies that control these lending institutions, and I know that Secretary Romney has taken some action in that field.

COMMISSIONER MITCHELL. Thank you.

CHAIRMAN HESBURGH. Dr. Rankin?

COMMISSIONER RANKIN. Mr. Attorney General, I am a Southern representative on this Commission, and I wonder if you would be willing to comment on something that pertains to civil rights, but does not pertain to housing?

ATTORNEY GENERAL MITCHELL. If I have the answer to it, I will be delighted.

COMMISSIONER RANKIN. The first one is this:

Are we wrong down South, that is, I will call them liberals, who have tried to carry out the law insofar as civil rights are concerned, and they feel just a little bit let down as they did last fall, when some of them, through Court order, integrated their schools against considerable amount of local opposition. Another county right next to them did not do anything. Then, after they had taken this action, there was an announcement from Washington, they had another year, another 2 years in which to take the necessary action to integrate the school.

The liberal was put then—I mean this school superintendent in this

Georgia county, was put in a rather difficult situation with respect to his citizens.

Is that a bad situation, or does that exist all over the South, or not, what do you think?

ATTORNEY GENERAL MITCHELL. Well, let me, I believe, correct a statement that you have made. There has not, last year, or the year before, been said that there would be 2 years—

COMMISSIONER RANKIN. I know that. I extended the time.

ATTORNEY GENERAL MITCHELL. —to integrate the schools, because of the fact that the Court has said “now” on three separate occasions, so that we have to address it in that context.

I believe that one of the problems that have resulted in the South's acceptance of school desegregation was that it was not uniformly applied across the board in all areas. Frequently, because of the physical makeup and nature of the school districts, and sometimes because of other circumstances. But I firmly believe that in most of the cases, and by and large, when the Southern school officials have found out what the law is, the finality of it, they have been very helpful, very cooperative in bringing about desegregation of the schools, and by and large the communities have accepted it in very good spirits. Much more so than some of our litigation in other parts of the country, I might say.

COMMISSIONER RANKIN. That is what I noticed. I live in Durham, North Carolina, and the former black high school and the white high school are both integrated. We hold hearings around Northern cities, and I see no integration like that at all in any of the cities that we visit.

Are we that much ahead of the rest of the country down South?

ATTORNEY GENERAL MITCHELL. I believe that the figures will show that is the case, yes, sir.

COMMISSIONER RANKIN. And so I have a lot of sympathy with Senator Stennis and Senator Ribicoff when they made their statements to this effect. Don't you?

ATTORNEY GENERAL MITCHELL. I would hope that everybody in this country could be treated equally, North and South.

One of the problems we have, of course, is the controversial subject matter of *de jure* and *de facto*. It is a question of where and how you get the handle on it.

COMMISSIONER RANKIN. Is there a good handle that we can get hold of this, and whereby *de facto* segregation becomes *de jure* segregation? Is there any way we can do that?

ATTORNEY GENERAL MITCHELL. Nobody has found it yet, but I know that there are many people addressing themselves to the problem.

COMMISSIONER RANKIN. Mr. Dave Norman and some of them could possibly come up with some solution, couldn't they?

ATTORNEY GENERAL MITCHELL. I am sure they would like to if we had a basis for doing it.

COMMISSIONER RANKIN. Thank you.

CHAIRMAN HESBURGH. Mr. Attorney General, we have found in

these hearings, and we find it in almost every hearing that involves the number of different Departments in Government, that there is a great unevenness in the approach, at times the enthusiasm of the approach to Title VI enforcement—at least speaking of Title VI of the 1964 Act.

Do you think there is something that Justice could do to somewhat homogenize the process, or at least get out some standard forms that would apply to all suppliers, all builders, and all this and all that?

What I am getting at is that some kind of form, it might be ingenious as a task to write such a form legally viable, a form that would simply address itself to the fact that everyone that partakes of Federal money by benefit or by contract, or whatever way, commits himself or herself, or the organization involved, not to practice discrimination in any way.

I think that is the intent of the law. I think the problem is, has been, one of coordination. Dr. Horn keeps bringing this up with almost every witness, and I think he has got something.

Do you think of any way we might get a common approach across to all the Government agencies on Title VI?

ATTORNEY GENERAL MITCHELL. I would not believe so, Father, other than the fact that the law requires it, and of course the contracts and other documents require it. I think it is a matter of enforcement and policing by the different Departments and Agencies that do business in this field.

And as you may have noted in some of my statements in the past, the exercise of the rights of cutoff under Title VI are frequently very non-productive. And I firmly believe this in the field of school desegregation.

We would rather make them desegregate the schools and have the funds available for the children that need it, for their lunch programs and their books and brick and mortar or whatever else it may be.

I think the question has to be approached in a broader scale than just lower the boom once there is a technical violation.

CHAIRMAN HESBURGH. I was thinking more of the commercial operations.

For example, we find people who, on record, are discriminating in extension of credit, real estate brokers in making houses available, labor unions not having really open access to jobs and crafts. We have found all kinds of inequities and various kinds of brokers, assessors, people that go around checking on the value of property and so forth. And yet all these people, many of them are, one way or another, in the Federal employ, directly and indirectly, and the force to really monitor it is really very difficult, and it seems that almost nobody ever gets caught, or ever gets cut off, or debarred, or whatever.

It does seem to me that it is the kind of thing that doesn't have to be done very often, but just the fact that it is an imminent threat, and not a distant threat and that somehow there is a way of simply monitoring it and some way that everyone knows that it is there to be monitored so that almost everyone becomes a monitor of the freedom of the individual citizens of the country—exactly how to get at that legally, I don't know, except that you find some are doing it fairly well with the kinds

of forms they use, the kind of requirements they get before they make a contract. Others don't seem to care very much at all, others that do nothing, and it is that unevenness that—I know the Executive order asked the Justice to somehow coordinate this with the whole Government.

It must be a monumental task, but I was just curious if you had any thoughts on how that could be best done.

ATTORNEY GENERAL MITCHELL. Well, let me say that with respect to a situation of personal services, where somebody is involved in these activities, I should think you would cut it off quite directly and absolutely.

With respect to a program or a part thereof, where there is discrimination, to the extent that it can be done to hurt that individual as distinguished from the recipient of some of the benefits. I would do that directly, too.

We do have the problem, of course, of whether—since the statute says particular program or part thereof—if you find a municipality is discriminating over here in a housing project, you can't cut off its water grants. But I think that principle was established in that school case that we had down in Florida in Taylor County.

I think, Father, the most effective ways is to have people in the different departments charged with this assignment who have an interest in it and who have the authority to sort it out and do the right job. I think that is the best thing.

These are what, basically, our discussions with the different Departments assess. That is where the failure comes. So hopefully there will be improvements in that.

I know there is now in HUD an updating of the regulations that exist there, and I know from our discussions with Transportation that they are improving.

But it takes somebody with the ability and the clout addressing themselves to the problems.

CHAIRMAN HESBURGH. I think you are perfectly right, because the problem I find all the time is, everybody is looking for a scapegoat in this field. And they always want you to say the President is a scapegoat, or you are the scapegoat, or somebody else is.

ATTORNEY GENERAL MITCHELL. We, eventually, become the scapegoat.

CHAIRMAN HESBURGH. Right. So the point, I think, is terribly important is they say, how has this Administration been performing. I say you can't answer that yes, no, well, badly. You have to say that there are some parts that are going very well, and some that are going quite poorly, and some that are doing practically nothing, and some that are avoiding doing it, and some doing exactly what they have to, but not one inch more.

And I think you are perfectly right. It depends on the man on the job, and somehow, I think—I don't know how you get a handle on that, except to get the best people on the job, I suppose.

ATTORNEY GENERAL MITCHELL. And give them the authority.

CHAIRMAN HESBURGH. This is about the—I hate to think the number, but it must be a fairly large number in the row of housing hearings I have been through since this Commission began, and if I might, this is not in the form of a question, but more a little thinking out loud with you, sir, I think it may be helpful.

I find great progress, which is not really the end of the road by a long shot, but I go back to the day in our early hearings where the following things were true:

Where the Federal housing agency was—simply had no thought of civil rights, and it ran two programs, one for whites, one for blacks and followed even restrictive covenants, on occasion.

We found VA housing when they would foreclose on a white house, they would never even show up to a black veteran.

We found the worst kind of lists in real estate offices, dual lists almost everywhere we went.

We found many places where we went where a black person couldn't get any credit, and a white person got it immediately.

We found that we had no laws, no backup, no Executive order, no nothing.

Now that was back in the late '50s.

Today it seems to me that we have a different situation. We have a lot of laws, but we still have a lot of local resistance, and we have a fairly spotty performance at times on the administration of the laws.

It seems to me that we have got a great chance in this age to make one big jump forward in the whole housing agency, and I guess, for better or for worse, we are going to have to lean on you to give us the real oomph in this field.

I put it this way, that there are three things that really we found the obstacles to open housing in our times.

One you can't do anything about—none of us can except for ourselves, I guess, and that is the psychological obstacle of prejudice. Some people just don't want another person living next to them for all kinds of prejudicial reasons. And that, I guess, is the job of the schools and the churches and others to do something about that.

But I find that the younger generation has less of this than the older generation, so that is one benefit.

The second is really political, and we find that the country's political subdivisions are so mixed up, and there are so many ways things can be prevented by the interaction of the city and the suburb, and the township and the unincorporated village, and the incorporated village and we feel that somehow the Federal Government, the State government, and then all of these little subdivisions of various kinds interlocking and interacting, that at that point it gets very difficult and prejudices operating in an organizational way.

And it is my feeling that only the Federal Government can somehow break through that. I don't know how either by reorganization plans, or whatever.

The third thing is really financial, and I think the Federal Government can get at this both in the presentation of funds for decent hous-

ing, at least for the six million of our citizens who live in dilapidated and poor housing. So we are talking mostly about low-income and moderate-income housing.

That is why we are so happy to see this mentioned strongly in the President's statement.

The other, I think, is the strict monitoring of the agencies of financing, the mortgage agencies and the other agencies that bear on the construction industry and the possibility of catching up with the housing market.

But looking across the whole country in the human rights area, in the context of this hearing and a long, long list of hearings going over 14 years, it seems to me that we have had the breakthrough in voting. When this began there were some six million people who couldn't even register to vote. Many counties with a majority of Negroes in them, that not a single Negro or black registered to vote.

I think we have broken through that one, and it has been done by Federal action mainly.

I think in the public accommodations we have had a breakthrough there, and it has been done by Federal action. The law changed it almost in a 24-hour period. Not the prejudice—still problems.

The *de jure* dual housing system, I think there has been a breakthrough there. Still a lot of internal problems, but at least legally the breakthrough has been made.

And I would say that the great breakthrough we really need now is the housing breakthrough, because housing is so tied up with where you go to school, and if you are locked in a ghetto, you are locked in a ghetto school.

The schooling has so much to do with the employment. If you are locked in a ghetto school education, you are not going to be prepared to go to college or university and then get better employment to make more money to get a better house.

And the whole thing becomes a circular problem. And I think the most difficult part of the problem to get at, is not the school, or the employment, but the housing. And the housing is key to the solution of the other two, I believe, if this country is going to be an open society.

So, I, for one, rather than griping about the President's statement and trying to pick holes in it, I would like to say, let's take everything positive and strong in that statement and really push it, see if maybe in the next year or two, we can't make a big jump through on the open housing situation, the fair housing situation, decent housing in a decent neighborhood, which is the job, I think, of the Government for the pursuit of happiness of its people.

Now, my only question out of all this little bit of history is, I believe, that it is the Federal Government that can make the great breakthrough there, the way it did in voting, *de jure* school system, and the whole question of public accommodations.

I guess what I wanted to ask you is, do you agree with me that the Federal Government has to give the leadership and make the breakthrough?

ATTORNEY GENERAL MITCHELL. I think the Federal Government has to give the leadership in many parts of the country. I am sure you are well aware, Father, that we don't have the legal tools. It is not as simple as getting at a State publicly supported school where you have direct legal action that can be taken.

But I would like to make one other observation that I think is helpful in this area. I see more and more instances around the country like that group around Chicago and the ones in Dayton, where it is not only the education of the neighbors to live with each other, it is also the education of the public officials and others through community actions and pressures that are bringing them to consider these problems.

We probably get more action out of that, in a better way, than we will be trying to find ways of forcing people to do something that they legally will not be required to do.

CHAIRMAN HESBURGH. Well, I said yesterday to someone, that I thought the housing statement of the President was more carrot than stick, but Commissioner Mitchell here corrected me a little bit and said, at least somebody is being hit over the head with a carrot.

I think we have come to the end of our time.

We appreciate your coming, Mr. Attorney General, and your associates as well.

We are now going to adjourn until tomorrow morning at 9 o'clock. Thank you all very much.

(Whereupon, the meeting was recessed, to reconvene at 9 a.m., Thursday, June 17, 1971.)

U.S. COMMISSION ON CIVIL RIGHTS

THURSDAY, JUNE 17, 1971

VICE CHAIRMAN HORN. Ladies and gentlemen, may this final session of the United States Commission on Civil Rights come to order?

This morning the meeting will be conducted by Commissioner Mrs. Frankie M. Freeman. Mrs. Freeman?

COMMISSIONER FREEMAN. Mr. Counsel, will you call the first witness?

MR. POWELL. Mr. John Stastny of the National Association of Home Builders.

(Whereupon, Mr. John Stastny, Mr. Nathaniel Rogg, and Mr. Herbert Colton were sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. JOHN STASTNY, PRESIDENT, NATIONAL ASSOCIATION OF HOME BUILDERS OF THE UNITED STATES, CHICAGO, ILLINOIS; MR. NATHANIEL ROGG, EXECUTIVE VICE PRESIDENT, AND MR. HERBERT COLTON, GENERAL COUNSEL, WASHINGTON, D.C.

(Mr. Stastny's prepared Statement appears on p. 982.)

COMMISSIONER FREEMAN. Mr. Stastny, will you identify the persons with you?

MR. STASTNY. Yes. On my left is Dr. Nathaniel Rogg, who is the executive vice president of the National Association of Home Builders, and on my right is Mr. Herbert Colton, who is general counsel to the association.

COMMISSIONER FREEMAN. Mr. Powell?

MR. POWELL. Mr. Stastny, how long have you been president of the NAHB?

MR. STASTNY. Since January 20th of 1971.

MR. POWELL. Would you briefly describe the primary functions of your organization and its membership?

MR. STASTNY. The primary functions are education; representation of an industry which is trying to provide housing for the people of this country; the bringing together of people whose knowledge and experience, when shared, makes for better industry and a better production ability; the observance of legislation, which is proposed, and the taking of positions for or against such legislation, sometimes the promulgating of legislation which we feel is consistent with the provision of a good housing supply for all people; and, of course, the promulgation and support of the Code of Ethics, on which we base our—

MR. POWELL. What proportion of homes built in the past few years have been built by members of your organization?

MR. STASTNY. We estimate that well over two-thirds, and probably three-quarters, of the homes and apartments built by professionals are built by members of my association.

MR. POWELL. Has most of the new housing been built in suburban communities?

MR. STASTNY. I think so, sir.

MR. POWELL. What factors make the suburbs a better place to build new housing in than the central cities?

MR. STASTNY. Well, as a person who has built a good deal of housing in the central city, for one thing, it is easier. The land is there, the facility is there, the availability is there, the red tape is not as violent in the suburbs as in the central city, and, of course, the market is in the suburbs.

MR. POWELL. Has your membership been involved in the construction of low- and moderate-income housing, and federally subsidized housing?

MR. STASTNY. Well, first to the extent of being among the original proposers of many of the low- and moderate-income housing programs, which in the past, oh, decade or even less, have developed, such as the 221(d)(3) program, 221(d)(4) program and 236 and 235 programs—these—most of them resulted from a study which we prepared a number of years ago, when the only alternative to housing purchased in the open market, was public housing. There was no middle area for low- and moderate-income people.

And my association, I am pleased to say, was instrumental in bringing about the programs which exist today.

Then, of course, the performance, the working out of the red tape and the shakedown cruises in trying to make these programs effective and produce housing, and the actual production of the housing.

MR. POWELL. Has this low- and moderate-income housing also been predominantly located in the suburbs?

MR. STASTNY. No, I don't think so, sir.

MR. POWELL. The new housing, that is?

MR. STASTNY. I beg your pardon?

MR. POWELL. Has a good percentage of the new low- and moderate-income housing been located in the suburbs?

MR. STASTNY. I don't have any exact figures. I think a good bit of it has been in the suburbs, and I think for generally the same reasons that I cited earlier.

MR. POWELL. Mr. Stastny, with particular reference to your association's position concerning the Federal Rent Supplement Program, and its requirement for local approval, would you briefly describe how NAHB has been involved in promoting low- and moderate-income housing through Federal financial assistance?

MR. STASTNY. Well, as individuals, our builders throughout the country have faced housing authorities and zoning boards, and local and State authorities, and have done the best that they could to bring

about acceptance by a community or by a local government body of one or another kind of low- and moderate-income housing development.

You made specific reference to the Rent Supplement Program, and I don't think I fully understood your question.

MR. POWELL. Must there be local approval before the rent supplement program can be implemented in a particular community, and does your organization have a—

MR. STASTNY. Yes, and we have a number of times in our policy statements and by resolution, suggested that the workable program requirement be removed as a condition for the acceptance of low- or moderate -income housing development

MR. POWELL. You find that this requirement for local approval presents an obstacle to your program of—

MR. STASTNY. It has on many occasions, sir.

MR. POWELL. What percentage of the new housing is built by your membership?

MR. STASTNY. We estimate between two-thirds and 75 percent of the professionally built housing.

MR. POWELL. You have indicated that the requirement for local approval is an obstacle. Could you briefly describe any other obstacles that your membership experiences in attempting to build new housing in suburban communities?

MR. STASTNY. Yes, I can and if you will permit me, because as you know our statement to this Commission was submitted a number of days before the President's statement on the subject. I would like to present a supplementary statement which we have prepared which deals with the question that you have just raised, and ask that it be included in the remarks that we have filed.

MR. POWELL. The statement that you have presented, I request that that be entered in the record at this time.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 42 and received in evidence.)

MR. STASTNY. Now, you are talking about the statement that we submitted before today?

MR. POWELL. That is right. And, could you summarize your views? We would like to—

MR. STASTNY. Yes, I do have it very briefly summarized, if you will permit me.

The President's delineation of national housing policy, together with the ensuing Administration actions, we feel represents a long step forward in the efforts to end racial discrimination in housing.

While the President's definition and explanation of that policy stops short of directing active use of all available Federal means of ending such discrimination, subsequent actions of the Department of Housing and Urban Development, Department of Justice, and the General Services Administration are encouraging to us.

The President, however, drew a line, between "racial discrimination" and "economic discrimination" in the application of the Admin-

istration's policy, and therein lies the problem. All too often, they are indistinguishable. In the ultimate sense, there is the question of why they should be distinguished. The basic result of the use of either is to deny a class of citizenry—low- and moderate-income families, black and white—access to decent housing and environments.

We believe that unless the increasing problem of economic discrimination is met determinedly and forcefully, it will not be possible to produce the necessary homes and apartments for families of low- and moderate-means, whether white or black.

Now this position has been made in my statement submitted heretofore to the Commission, which you have entered into the record.

Fewer than 50 years ago, zoning was held constitutional to the extent that it was reasonable in the promoting of the health, safety, and welfare of the residents of a community.

It is our view that now, in far too many cases, zoning is being used to protect the narrow, self-interest of a particular community without regard to the health, safety, and welfare of a community, and the Nation as a whole, and, frequently, in contradiction to it. When it is used this way, a situation develops in which it is possible for local communities to frustrate national housing goals.

The problem of economic discrimination by zoning is, in our opinion, of fundamental and overwhelming importance; it can only be solved by positive leadership—Federal, State, and local; public and private.

This, however, does not—excuse me—this, however, does, indeed, represent a formidable task and, as the President has said, no single set of rigid criteria can be laid down that will fit a wide variety of local situations. As I have said, therefore, we are immensely encouraged by the President's statement that racial discrimination will not be tolerated, and that the Department of Justice and the Department of Housing and Urban Development have been developing and elaborating a wide ranging program aimed at creating equal opportunity, equal housing opportunity.

I want to take this opportunity to compliment this Commission on the work that you have done in providing the opportunity for us to be here to talk to you.

MR. POWELL. You have indicated that economic discrimination also is a problem in your efforts.

Are you familiar with the Dayton Plan which provides that low- and moderate-income housing be provided on a regional basis with all of the local jurisdictions taking a share of the housing needs of the region?

MR. STASTNY. Yes, that is the voluntary plan which developed in the Dayton area, is that right?

MR. POWELL. That is correct.

MR. STASTNY. Yes, I am familiar with it.

MR. POWELL. Does your association favor this kind of approach in solving this problem?

MR. STASTNY. We do, indeed.

MR. POWELL. Has your association been involved in the activities to encourage areas to adopt regional plans like the Miami Valley Plan?

MR. STASTNY. Yes, sir. Our association which is made up of something over 54,000 members, some of them builders, some of them associates and suppliers, particularly the builder members, have been involved in many, many efforts at the local level, at the county and regional levels in bringing about understanding and acceptance of the need for planning of this kind.

Nationally, our association has gone on record with positions which have proposed that this is an important way for us to go.

MR. POWELL. Have there been any favorable results produced as a result of your activities?

MR. STASTNY. Not enough, sir.

The Miami Valley thing is great, as we see it, but we think there is room for a great deal more improvement.

MR. POWELL. What do you think your association could do to help overcome the opposition to this kind of regional planning?

MR. STASTNY. Hang in there and work harder.

MR. POWELL. In view of your concern with these problems, does your association have a position on the proposed HUD Guidelines on Nondiscrimination in Advertising and Affirmative Marketing Guidelines?

MR. STASTNY. We have not taken the matter up formally in the process that we have for establishing policy, but we have no objection to the guidelines that have been promulgated.

MR. POWELL. You have mentioned that your association is involved in taking positions on public questions and often takes positions before congressional committees regarding these questions.

MR. STASTNY. Yes, sir.

MR. POWELL. How do you account for the fact that NAHB's recent Annual Policy Statements and in its program for its recent annual convention, there was no mention of homebuilders responsibilities under the Fair Housing Law?

MR. STASTNY. We have historically been involved in the promulgation and encouraging publicly, not only our own membership, which is committed to the support and the enactment of the inferences of the Fair Housing Law, but in calling upon other members of the housing community, the other professionals involved, the financial community to come with us and try to do the job.

If there was no specific reference in that particular year's policy statement that you are speaking of, I suspect if you go back a few years you may find specific reference to it.

I think in our 1968 policy statement, there was clear -cut reference to our support for it.

MR. POWELL. Did your association support the enactment of Title VIII of the 1968 Civil Rights Act?

MR. STASTNY. Is this the one that we did unanimously?

Yes, we did, sir, by unanimous resolution at a time when we felt it necessary to call upon the other members of the community in which we exist attempting to house the people of this Nation.

MR. POWELL. I want to pay particular attention to the period before

the act was passed.

Did you support enactment of Title VIII before it was passed?

Did you help educate the public and the Congress to the need for the passage of this important law?

MR. STASTNY. I don't have a personal specific memory of this, but knowing the attitudes of myself and the people with whom I have worked for many years in NAHB, I suspect that we did support the enactment of that act.

MR. POWELL. Now you have mentioned the problem of building in the suburbs, and racial discrimination is still a very important problem. What has your association done to brief its members on their responsibilities under Title VIII?

MR. STASTNY. I think the publishing and the making knowledgeable of our membership, the formation of policy, which is included in my statement to you, of the homebuilders to abide by the law and to encourage all sincerely concerned with housing the American people, to join with us to the end that we attain our basic objective of a decent, safe, and suitable environment for all the families in America; in the many efforts that we have made at the local levels as builders, trying to operate in communities; and in the function of our committees, which have dealt with some of the very, very strenuous problems and constraints with which we have had to deal historically in this housing business.

Constraints of not only zoning, but codes, which frequently unnecessarily raise the cost of housing, and in this way defeat some of the production that can be attained in housing.

In the area of labor, where we have frequently regretted the fact that opportunities for employment in the construction industry, housing especially, are not made more available to members of minority races, because in construction, and especially in housing, lies an exceptional opportunity for people to not only attain in a reasonably short time, a high earning capacity, but also to enter business, by one of the shortest routes that I know. And it is not always easy, because it is a highly competitive business. But my grandfather came to this country from Central Europe a long time ago, and was able because he had a background in construction, was able to fight his way out of his particular ghetto at his time.

My father found my business, a very—the business in which I am presently—one of great opportunity, and without an enormous amount of education. As a matter of fact, without graduating from primary school, was able to achieve a good deal of success.

And, unfortunately, the depression wiped him out. And so when I came of age, again, without a great deal of education and without a great deal of formal training, but with a background and with an understanding of construction and an ability, and a good name that my father and my grandfather had left, I was able to build my own business, beginning with a borrowed thousand dollars, into a business which has been good to me.

MR. POWELL. Mr. Stastny, with respect to this regional approach, is

there something more the Federal Government could do?

Could the Federal Government design its programs so as to make it that in order for a housing development to qualify for Federal assistance, it would have to be part of a plan which would make the provision for low- and moderate-income housing on a regional basis?

If that were made a requirement for a housing development, or a community project to qualify for Federal assistance, do you think that would be effective?

MR. STASTNY. I am afraid that during a part of your question, I was being given some advice here, and I was trying to look at a note here that—

MR. POWELL. Could the Federal Government design its programs so as to make the regional approach to the provision of low- and moderate-income housing more effective?

For example, if the laws were such that in order to qualify for Federal assistance a building development or a community project would have to be part of a plan which made provisions for low- and moderate-income housing, and no Federal assistance would be given unless that were true, would that be helpful?

MR. STASTNY. It would certainly bring about the production of more low- and moderate-income housing.

MR. POWELL. No further questions, Mr. Chairman.

MR. STASTNY. May I add that the Federal Government could involve itself in more activities such as the one which we were involved in in 1962 when we cooperated with the White House in producing a special film which had a special message from President Kennedy, explaining the Executive order which he issued in 1962 on equal opportunities in housing, and urging the cooperation of our entire industry involved in this.

I think that in the area of the housing goals which we have established by law, the Congress in 1968 established these goals. I think that in establishment and an acceptance of these goals at the local level, at the county and at the State levels, would be helpful, and would be consistent with the regional concept that you describe.

MR. POWELL. No further questions, Madam Chairman. Thank you.

COMMISSIONER FREEMAN. Commissioner Mitchell, do you have questions?

COMMISSIONER MITCHELL. Yes, Madam Chairman.

Mr. Stastny, your statement makes reference to obsolete building codes, and suggests that homebuilders could provide either better houses, or less expensive houses for people who need those kinds of houses. Those codes were changed. Would you care to comment on what kinds of changes you would like to see made?

MR. STASTNY. Yes, sir.

My industry has helped to develop in many cases, and has applauded the availability of advancements in the technology which we use in the construction of houses and apartments, and yet, all too frequently, on one basis or another, we are not permitted to use a material because of a specifications code which may have been drafted 50

years before, or 20 years before.

COMMISSIONER MITCHELL. How do you feel about prefabricated houses?

MR. STASTNY. I think they are fine if they meet the test of the marketplace.

If they bring housing to the person who is going to live in it at a cost lower than the house which is being fabricated on the site, then I think they are great.

I want to point out to you though, that since the end of World War II, my industry has reduced the number of onsite hours in the production of housing from something over 40 percent at that period, to about 18 percent today. This doesn't say that less labor goes into the production of housing from something over 40 percent at that period to about 18 of components which we use.

COMMISSIONER MITCHELL. You are still not being very specific. When you say—

MR. STASTNY. All right. I will be specific.

How about plastic pipe, for example? Plastic pipe is a good example. For a long time we had to fight to get copper tubing accepted in some of the communities in which we build.

COMMISSIONER MITCHELL. What is the objection to plastic pipe?

MR. STASTNY. Well, the objection to plastic pipe has been principally carried on by groups such as the Cast Iron Pipe Institute who have a vested interest in opposing plastic pipe, I suppose.

But more unfortunately, by code authorities at the local level, and without more firm direction from the State or national level who simply say our code requires thus and so, and therefore you will not use anything but thus and so.

In the case of copper tubing, it did not require special threading and special corking and caulking, and didn't require some of the make-work practices that hard pipe required.

Romex wiring, for example, which would greatly reduce the cost of housing in my area, where we have still got to string wiring through hard pipe which is bent and fitted and really—

COMMISSIONER MITCHELL. What do you do as an association, to seek a change in those codes?

MR. STASTNY. Well, we have committees which have sat, which have analyzed the codes and the costs that they have added to the housing we are producing. We have a research institute which has tested new materials and new systems.

We have, in some cases, been effective in reducing the cost of housing by proving that some of the systems historically required by the FHA, for example, the bridging which used to be required in flooring, but which was proven by us to have no value at all, only adding cost, was removed after we proved this. This is the kind of effort we make.

COMMISSIONER MITCHELL. Do you get any help from the unions in this?

MR. STASTNY. We may have, at times, but I have explained to you some of my frustrations which have originated from the union basis.

COMMISSIONER MITCHELL. Are the unions in your industry becoming any more susceptible to integration than they were in the past?

MR. STASTNY. Not enough.

COMMISSIONER MITCHELL. Do you think that is a deliberate act on the part of the unions?

MR. STASTNY. I don't think that I want to judge this, but I would simply point out to you that I think it is unfortunate that we have to have a Philadelphia Plan and Chicago Plans.

COMMISSIONER MITCHELL. You mean you have no opinion, or you don't want to express an opinion?

MR. STASTNY. Yes. It is my personal opinion that there has been, unfortunately, an exclusion of minorities from entry into the unions.

COMMISSIONER MITCHELL. That is not so of your association, though, right?

MR. STASTNY. It certainly is not.

COMMISSIONER MITCHELL. As you know, few industries in this country are more favored by the Federal Government than the building industry.

The VA, the FHA, the whole concept of tax benefits for someone who owns a home, and that is a highly selective benefit, which is not always available to others, all work to the benefit of the home building industry.

I should think that every aspect of it would be under intense scrutiny at all times with respect to its habits in the matter of integration and low-cost and middle-income housing.

MR. STASTNY. Let me suggest that my industry provides one of the basic human needs of man, and the primacy of these human needs is important.

COMMISSIONER MITCHELL. My grandfather was in the clothing business, and a pair of pants is a basic human need, but there is no tax exemption for them.

MR. STASTNY. That is clothing. You are clothing, and I am shelter, and there is food, and these are prime human needs.

Now, the agencies that you referred to, the FHA and these tax agencies and so forth, the benefits of these agencies are delivered to the people who occupy the housing.

And while there are advantages that the industry enjoys delivering to the people, these are benefits designed by this Government for those people, and they really are not designed for the industry.

COMMISSIONER MITCHELL. Well, I am not sure that I see the relevance of that with respect to the industry's ability to benefit from Government programs. The American people might well find an alternative route for benefiting from Federal interest in housing for minorities and for other segments of the population.

Now, let me ask you: it has been suggested that one of the ultimate results of Federal encouragement of broad-based housing of the kind we occasionally talk about, has been the development of future ghettos, future slums, and that a great deal of the housing the taxpayers have paid for in a desperate effort to alleviate housing situations is just

replicating the agonies of the past decade or two from now. How do you feel about that?

MR. STASTNY. I think that there is unquestionably room for more improvement in the planning of the communities that we are building. I can recall—well, in addition to the reference to, oh, ticky tacky, the developments that were built immediately following World War II, but developments which were encumbered by zoning requirements for side yard setbacks and other antique, unnecessary requirements. Happily we are going to cluster zoning, and zero outlines and some other more advanced uses of land.

I can recall a builder relating to me, many years ago, at an NAHB meeting, and being kind of exciting about it, because I was involved in the same effort, relating to me that he had built two developments. It was at a time many years ago when the forces of the market were such that a development was either black or white, and the builder observed that he had built these two developments, and at this point, 5 years later, about the only difference that there was between the two developments, was that the one which was primarily occupied by black people seemed to be maintained a little better than the other one.

I think we have been in this struggle a long time, and have made honest and sincere efforts to bring about the aims this Commission is committed to. Many of us in our own ways.

COMMISSIONER MITCHELL. How do you feel about—do you have a feeling about the relative merits of individual houses versus high rise or apartment house building, as a device to produce low- to middle-income housing?

MR. STASTNY. Well, I think they both have their place. Certainly, an individual house is—or a town house, or a cluster house at ground level or garden apartment setup is far more desirable for a family than the high rise proposal.

On the other hand, for the elderly person the high rise is frequently more convenient, because it can be built with elevators, which, you know, are needed by some people for even one flight of stairs, and convenient to shopping and transportation, and so it is a matter of whom you serve.

COMMISSIONER MITCHELL. One of the things we talk about at these hearings is the problem of industry moving to the suburbs without adequate housing for its minority employees who are left behind in the city.

You certainly are in a city where that is a frequent occurrence. Do the homebuilders—has the Home Builders Association ever gone to the National Association of Manufacturers, or any industry association and suggested that they demand a joint project in which housing and the new industrial location would be jointly considered?

MR. STASTNY. We have—in the area in which I live and work, Chicago Metropolitan Area, we have joined with industrial organizations such as the Illinois Bell Telephone Company, who moved an enormous operation from another part of the country into our area, and have tried to work with them jointly in providing housing for all of the people who

would come in to work in that facility.

I think it is quite likely that our organization has been involved with other associations in attempting joint efforts to bring about this end, because it is one of our important goals.

COMMISSIONER MITCHELL. Let me ask you again, your statement you said back in the sixties, early sixties, your organization dedicated itself to the goal of higher standards of living for better living conditions for minority groups, for raising those standards.

We are about a decade from the time you made that statement. Would you say that those standards have measurably increased or improved?

MR. STASTNY. I say that—

COMMISSIONER MITCHELL. That that situation is better.

MR. STASTNY. I will certainly say that we have built a great deal of housing, as the opportunity has grown for us to build housing; especially for people of minority background, and it is encouraging.

We haven't done enough, any of us. I think the census figures that recently came out indicate that we have substantially improved the housing supply.

COMMISSIONER MITCHELL. Well, let's take an area you and I both know, which is the Chicago suburban area, and let's take the area north of Chicago, that is Wilmette, Winnetka, Kenilworth, Highland Park, Lake Forest, Skokie, can you tell me where, in the last decade, there have been major building developments in which large numbers of minority or low-income people have been attracted to that area?

MR. STASTNY. First of all, you have picked about a half a dozen of the high priced bedroom communities in the north area of Chicago. I am not personally familiar with them, I have not built in any of them, but I question whether there is any land available in any of them, or has been in the last decade.

Skokie, perhaps. As a matter of fact, in Skokie there has been. In Skokie, the first turnkey public housing development in Cook County was built. A good friend of mine, who has since died, Paul Friedman, was director of the county authority, and I think that Skokie probably has provided a good part of it. But Skokie is the only community in the list that you mentioned that I know where there might be land available.

COMMISSIONER MITCHELL. Can you think of others that might be good examples?

MR. STASTNY. Well, I think—you know—

COMMISSIONER MITCHELL. Well, let me put it this way, does the National Home Builders—

MR. STASTNY. How about Park Forest?

You know, one of our guys built that in the forties, in the early forties. And it was an integrated community from the very beginning, and is a very happily thriving community.

COMMISSIONER MITCHELL. Anything else like that since the forties?

MR. STASTNY. I think that Phil Klutznick, who was involved in the original Park Forest, is involved in such a community in the north and

one in the south.

Now I want to tell you this, during this past decade, during this past decade and with the incidence of the Executive order, and the attention that has been focused, and the education which has occurred in this area, and of the need for open housing, that I think any number of communities have been opened. You know, I can't at the moment pick a particular development or a particular community where they have achieved something. I think generally the situation has improved. Don't you?

COMMISSIONER MITCHELL. Well, Mr. Stastny, let me put it this way, and since this is relevant to what I said earlier, you are in a terribly favored industry regardless of whether it is a basic need of society. It is funded and favored in many ways by the people of the United States, in the end, the taxpayers.

Now this Commission sees the agony of the American minority public, and the American low-income public as it sits and studies problems of suburban access and the ability of these people to find homes.

When homebuilders come to us and say, we enthusiastically support federally supported programs for more homes, it is understandable that they are supporting Federal aid for the development of their own business. Now, if there is a noble implication to that, that is fine.

But when I ask you for real evidence, when I ask builders for real evidence, whether they are the National Association of Home Builders, or whether they are random Realtors we pick up in St. Louis or in Baltimore or in Washington, it always seems to me it is in the next town, or it happened in the forties, or there was that experimental project down the road somewhere.

We are far from making the dent we have to make. You are talking about a devotion on the part of builders that goes back at least a decade.

Now homebuilders of the United States, determined over a 10-year period to kick the door open and open the suburbs to everyone, to build new housing near burgeoning industry, and to deal with this problem, it seems to me might be reporting more success than I am hearing here today.

MR. STASTNY. Mr. Commissioner, our statement, I think clearly states what our product has been during the time that you describe. I think that the evidence of our efforts exists in the number of housing units which have been provided, or have been rehabilitated for the people of minority races. That is the evidence. We have built three-quarters of those houses, or rehabilitated three-quarters of those houses.

Your suggestion that ours is a highly favored, specially funded industry is simply incorrect, because, again, I call your attention to the fact that the programs accrue to the benefit of the people who are housed, and let me suggest that if you have travelled as I have in other parts of the world, and have looked at some of the socioeconomic systems that are being used in other countries for providing housing for their people, you will find that by comparison, no matter how you slice it, we are the

best housed country in the world.

And we are producing housing at the best possible price. Again, no matter how you slice it, in terms of the earning capacity of the person who is buying that housing or renting it, or in any comparison, principally because we are a highly competitive, free industry.

Now, I think that our best service to the people of this Nation who need housing, has been to survive—to survive—the kind of attacks that we have suffered for a long time. Attacks through the—in unwise and improvident exercise of the constraints under which we have worked, and the attacks which come about through the misunderstanding or misinformation about what our industry is doing or not doing.

Now, it is only quite recently that the Federal Government got involved in kicking the doors of the suburbs, or the communities—the inner-city for that matter—open, and yet you question my industry's efforts in the past decade. We got in there just as quickly as we could.

Let me tell you that long before the FHA would enter the area of Lawndale in Chicago—I think you are familiar with Lawndale—I was there trying to build new housing. FHA could not enter it, because their standards then required that the age of the neighborhood would just disqualify that particular area. And yet the community needed new housing.

I was part of an effort which tried to build the first new housing in that community for 30 years, because it was clearly needed. And we got conventional financing, and we had mixed reactions, and mixed success.

Fortunately, in succeeding years, the 221(d)(3) program was developed, and we concluded a program which took far too long, and cost a lot of money, using the 221(d)(3) facility, which was developed after that program.

We have done a great deal of this kind of work, many of us, all over the country.

COMMISSIONER MITCHELL. Mr. Stastny, if I can just have one final comment, the overwhelming majority of the people in this country live in segregated housing that was built by somebody. I am sure it was built by members, largely, of the National Association of Home Builders.

That does not suggest that you would not like to build other kinds of housing. But it does suggest that you just simply can't say, well, we are sorry we have to do this sort of thing.

At a time like this, this country is confronted with a housing problem and as its suburban areas grow, it is confronted with housing challenges of the kind that your organization and others are going to have to take more seriously.

MR. STASTNY. We are not saying what you say we say, Mr. Commissioner, and the overwhelming majority of the housing which is existing today was built before the National Association of Home Builders came into being.

But I think none of us is doing enough, clearly. None of us is doing enough. And I am speaking now of the citizens of this country, black

and white.

COMMISSIONER MITCHELL. Well, that is simply my point. Somewhere the Civil Rights Commission is supposed to make recommendations to the United States Government for solutions to problems of housing.

It seems to me that the Commission someday is going to have to sit down and say to itself: "Are the present incentives to home builders producing the kind of houses that the country wants?" If they aren't it may recommend that there be alternatives.

MR. STASTNY. I think you ought to worry about whether there is an adequate flow of funds into the housing, because this is one of the principal deterrents to the building and housing, and—you know, I could name a dozen others, But I am not sure they are germane to this.

COMMISSIONER FREEMAN. Mr. Stastny, you have said that your organization has 55,000 members, and that you have built from two-thirds to three-fourths of all of the homes.

You regretted the fact that there is lack of employment of racial minorities.

I would suggest to you, sir, that the homebuilder employs the worker and that you have a duty to do more than regret the fact that there is racial discrimination in employment in the home building industry.

MR. STASTNY. Well, we would like—I would like nothing better, Madam Commissioner, than to have the right, the opportunity to hire minority people whom, in my judgment, could be trained, and if there is not a union program available to that person, then he could be trained on my job. I just don't have that opportunity because of union domination in the area in which I work.

COMMISSIONER FREEMAN. Are you an employer?

MR. STASTNY. I beg your pardon?

COMMISSIONER FREEMAN. Do you have employees?

MR. STASTNY. This present day I don't, but I have in the past. I subcontract most of my construction work at this time.

COMMISSIONER FREEMAN. The total number of persons involved in a building would be, at the maximum, how many employees including all of the crafts?

MR. STASTNY. Depends on the kind of building, on the type of development.

COMMISSIONER FREEMAN. But it ranges—could you have a range?

MR. STASTNY. Sure. For purposes of picking a number, let's pick 20.

COMMISSIONER FREEMAN. You, as a builder, make the decision as to whether you are going to build on a particular location or not?

MR. STASTNY. Generally, yes.

COMMISSIONER FREEMAN. And you make the decision as to what kind of building you are going to construct?

MR. STASTNY. Sometimes it is the client for whom I work, but if it is a development which I am proposing, then I do that, decide.

COMMISSIONER FREEMAN. And you employ the people?

MR. STASTNY. If I happen to be the employer, if I happen to employ the trades, as I have in the past, I do. For some years, I have been

subcontracting in the trades to people who have been the prime employers.

COMMISSIONER FREEMAN. I would still suggest to you that you have a duty to more than regret.

MR. STASTNY. Oh, sure. I agree. And yet, you tell me, under the circumstances in which I work, how I can hire a person, if I am forbidden that opportunity by a union which has complete control over my operations?

And if that person in applying to the union finds the opportunity to be trained is not made available to him, or the opportunity to join, even if he has the skills, is not available to him?

COMMISSIONER FREEMAN. As a homebuilder, these 55,000 members are the beneficiaries of FHA-insured construction loans, are they not?

MR. STASTNY. We participate in a program, which again, FHA insures the mortgage of a house which is owned by an individual.

We are certainly involved in a program in which we are making a living, no question about it. And I think serving our country. But it is a program which is not designed solely for our benefit. It is designed for the people who need housing.

COMMISSIONER FREEMAN. We are suggesting to you that one of the best things that you could do, since racial discrimination is illegal, that there would seem to be no difficulty in complying with the law.

MR. STASTNY. We do comply.

COMMISSIONER FREEMAN. But if there is racial discrimination, and 55,000 members of the homebuilding industry have built these homes that exclude minorities from employment, and exclude minorities from occupancy, this is illegal.

MR. STASTNY. We—you know, I must ask you the question again, how can a person in my position, in the light of the union's refusal to allow a person who is not a member of that union to work, hire that person and provide employment for him?

COMMISSIONER FREEMAN. You make recommendations—have you had any consultation with any of the unions involved?

MR. STASTNY. Yes, yes, we—as a matter of fact, we are involved in some manpower training programs right now which are endeavoring to change the manpower supply. And some of them are specifically designed for access by minority people.

COMMISSIONER FREEMAN. Would you submit to this Commission, the reports of your efforts with respect to employment, with a breakdown with respect to the employment and membership of the homebuilders industry?

MR. STASTNY. I don't know—now the employment and membership of the homebuilders industry? I don't know that we have got the numbers.

COMMISSIONER FREEMAN. By race.

MR. STASTNY. I don't think that we have figures that could define this kind of thing.

COMMISSIONER FREEMAN. Could you try to get it for us?

MR. STASTNY. Yes.

Now the records that deal with our involvement in manpower training, are there. We are involved right now in about a million dollars worth of this kind of thing annually.

With respect to our membership, I just don't know. We are a confederation of local organizations, some 500 local organizations in all of the States. We don't have any records which determine whether people are black or white, or of any other minority.

COMMISSIONER FREEMAN. One final request, then, would you submit to this Commission the names of any localities that are less segregated today than they were 10 years ago, by reason of efforts of the Home Builders Association.

MR. STASTNY. Well, now, does that include efforts of men who are building, or companies who are building, and who are members of our organization?

COMMISSIONER FREEMAN. Yes.

MR. STASTNY. All right. I will do my best to assemble that information for you.

COMMISSIONER FREEMAN. Thank you.

Do any of the other Commissioners have any questions?

VICE CHAIRMAN HORN. I now have a question.

I would like to remind my colleagues, since we are now on the subject of union discrimination, that I had raised this question when we agreed on the witnesses for this hearing, that we ought to have members of the building trades before this Commission.

I must say that I don't think it is completely fair to query homebuilders and contractors on this subject without having the members of the building trades nationally and regionally and locally, come before us. And I was told at that time that we really weren't getting into this subject so much as the demography of movement between center city and the suburbs.

I would like to also remind my colleagues that I have asked for a study of union discrimination from my first day on the Commission. I am glad to say the Commission will finally do one in the coming fiscal year.

Now what I would like to have happen is have our General Counsel put, at this point, in the record, a legal memorandum as to what are the obligations under the National Labor Relations Act and related labor acts, of a contractor or a businessman, in terms of his control over the hiring of employees to assure that there is some minority representation.

We might consult with Mr. Fletcher on this, because the Philadelphia Plan is involved in this.

And I would like that memorandum to be shown to the members of the Home Builders, and if they have any additional comments to make, I would, for one, welcome your views in the record.

But I think one of the regrettable things here is that you really have very limited choice unless you want about 20 picket lines put up around your construction works, in terms of the membership of the various unions that are working on your particular projects.

And I think this is one of the regrettable aspects of how the whole

thing works in this country, in terms of giving decent job opportunities to people.

CHAIRMAN HESBURGH. Mr. Vice Chairman, I would like to associate myself with your concern about getting at the totality of the problem.

I would like also to ask in that memorandum that you are going to have done by the General Counsel, Mr. Powell, that some attention be given to what would happen if the Government took seriously its own regulations, and simply said that there will be no money given for any buildings of any kind, unless the people working on that building are not practicing discrimination.

In other words, the builder can't get the money for the building, unless the people building that building are integrated, and that in fact the contractor then has his hand strengthened, because he can say to the union, there is not going to be any work for the union unless you people come in here with an integrated work crew, because until I can guarantee that, I can't get the money to hire you.

I think it is high time the Government got serious about this. We have been going through this year in and year out.

I can remember talking about it 10 years ago in Cleveland, where there was about one plumber in the whole plumber's union in Cleveland, and the man in charge of the union whom we did have on the stand at that time, said it was none of his business.

I think it is very much his business if he wants to be employed.

COMMISSIONER MITCHELL. May I just ask whether you would further extend the instructions to the General Counsel to include in the same memorandum, the obligations of anybody who is benefiting from Federal funds, or building houses with Federal funds, to comply not imply with union integration requirements, but with the general requirements of any Federal contractor with respect to the civil rights of those people who will occupy, purchase, or use the premises.

VICE CHAIRMAN HORN. Well, I would be delighted to, and I think what you are suggesting, Commissioner Mitchell, is that among competing priorities, as a matter of Federal policy adopted by Congress in pursuance of the Constitution, if you do get to a clash between national labor policy and national antidiscrimination policy, I think it would be our nonlegal judgment at this point that certainly the antidiscrimination policy ought to be supreme, when it came to a clash between two different policies like that.

COMMISSIONER MITCHELL. We are in complete agreement.

By the way, I would like to make it very clear that I am not attacking the housing industry because it happens to be here, but this is the nature of this whole inquiry, it has to do with housing and the way people live. And you cannot escape the association between builders and unions and houses.

CHAIRMAN HESBURGH. I think you also have to footnote at this point our most recent study of 235, 236, which proved without a shadow of a doubt that all of the housing of the suburbs, the great, great majority of it went to whites, and the fixed up old dilapidated housing in the ghettos went to blacks.

Now that is the way the law operated in fact and these places weren't built by men from Mars.

COMMISSIONER MITCHELL. And the people who bought the housing were steered there by the builders.

MR. STASTNY. Oh, no. I must object to that, sir. We operate in a marketplace, and we don't set the attitudes, or control the flow of people in the communities, and I am sure you are aware of that.

I think that in your concerns about manpower and its effect, the effect possibly of broader opportunities in entry into the construction industry, you ought to consider the fact that presently the economy is suffering seriously from a situation which exists in the construction industry because of, what in my opinion is a kind of monopoly, an artificial shortage of manpower. And as a result, workers in the construction industry are making demands that are far and beyond and above reason in too many instances, and which are too frequently used as goals by members of other industries, and in an economy which has been fighting inflation for a long time, it is unfortunate.

It is my opinion, that if a more sensible balance of manpower supply were achieved, that we would not only bring opportunities to the people who need them but serve the general economy.

COMMISSIONER FREEMAN. This economy, sir, suffers more from the consequences of racial discrimination than from any other problem that you have talked about.

MR. STASTNY. I think we are speaking to both problems.

COMMISSIONER FREEMAN. The General Counsel will prepare the memorandum, and for those questions that we have given to you for comment, they will be submitted.

Thank you very much. You are excused.

MR. STASTNY. Thank you very much.

(Whereupon, Mr. John Ligon, Mr. Jose Antonio Muniz, Mr. Armando Pereiras, and Mr. George Bowens were sworn by Commissioner Freeman and testified as follows:)

MR. POWELL. Mr. Resnick?

(Whereupon, Mr. Aaron Resnick was sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. AARON RESNICK, GOSHEN, NEW YORK; MR. JOHN LIGON, PHILADELPHIA, PENNSYLVANIA; MR. JOSE ANTONIO MUNIZ, BRONX, NEW YORK; MR. ARMANDO PEREIRAS, NEW YORK, NEW YORK; AND MR. GEORGE BOWENS, NEWARK, NEW JERSEY

MR. POWELL. Madam Chairman, the witnesses have all been sworn, have they?

COMMISSIONER FREEMAN. Yes.

MR. POWELL. Would you each, please, state your name, address, and occupation, and would you also each state the location of your place of work?

MR. RESNICK. My name is Aaron Resnick, R.D. 2, Maple Avenue, Goshen, New York.

I am the president of Local 906, and I work for Ford Motor Company.

MR. BOWENS. George Bowens, 69 Farley Avenue, Newark, New Jersey. I work for Ford Motor Company, Mahwah, New Jersey.

MR. PEREIRAS. Armando Pereiras, 78 Post Avenue, New York, chairman of the Spanish Committee, working for Ford Motor Company, Mahwah, New Jersey.

MR. MUNIZ. My name is Jose Antonio Muniz. I work for Ford Motor Company. I live at 955 Evergreen Avenue, Bronx, New York.

MR. LIGON. My name is John Ligon. I live at 1523 North Allison Street, Philadelphia, Pennsylvania. I work for the Ford Motor Company, an officer with Local 906, UAW.

MR. POWELL. You have each indicated you work for Ford Motor Company.

Do you all work for the plant in Mahwah, New Jersey, is that correct?

ALL WITNESSES. That is true, yes.

MR. POWELL. Mr. Resnick, how long have you been an officer of the UAW local?

MR. RESNICK. Oh, a total of almost 6 years.

MR. POWELL. You are now president of that local?

MR. RESNICK. That is right.

MR. POWELL. Beginning with Mr. Resnick, would you each indicate how long you have worked for Ford Motor Company, how much you earn, and the size of your family.

MR. RESNICK. I have worked for Ford for 16 years. My regular earnings with Ford Motor Company have run currently at about \$10,000 a year. Did you ask for the size of my family?

MR. POWELL. Yes.

MR. RESNICK. There are four members in my family.

MR. BOWENS. I've worked for the Ford Motor Company for 4 years. There is three members within my family.

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MR. BOWENS. I've worked for the Ford Motor Company for 4 years. There is three members within my family.

MR. POWELL. How much do you earn?

MR. BOWENS. I earn \$8,000.

MR. PEREIRAS. I work for the Ford Motor Company for 11 years, and I make \$10,000 a year. And the size of my family is three members.

MR. MUNIZ. I work for the Ford Motor Company for 13 years, I make an average of over \$10,000 a year. There is six in my family.

MR. LIGON. I have been in Ford for a period of 28 years. My average yearly earnings is about \$9,000. I have four in the family.

MR. POWELL. Mr. Resnick, how many employees work at the Ford Assembly Plant at Mahwah?

MR. RESNICK. Currently there are 4,600.

MR. POWELL. Of these, approximately how many live in or near Mahwah, do you know?

MR. RESNICK. I don't know the precise number, but I think you could count the number of members who are hourly employees at the Mahwah Assembly Plant on your hands. The number that live in the town of Mahwah.

MR. POWELL. Mr. Resnick, the UAW has recently expressed concern about the zoning laws of the township of Mahwah with particular reference to the effect of those zoning laws in preventing members of the union from living in or near Mahwah.

Would you describe in general terms, that zoning and its effect with respect to the ability of members to live in or near the township?

And in doing so, you might want to make reference to the map of the township of Mahwah, which is behind you.

MR. RESNICK. I can see the map, but I am not certain that it is of any particular assistance.

As I am aware of the zoning laws in the town of Mahwah, the bulk of the land is zoned for 1 and 2 acre, one family occupancy. Less than 1 percent of the land area is available for multiple dwellings, and I believe much of it already is consumed.

MR. POWELL. Mr. Resnick, how does this affect the cost of housing in Mahwah?

MR. RESNICK. Well, since the advent of the Ford Motor Company Assembly Plant in Mahwah, and to the present time, the land has increased to a point where a 1 acre, average 1 acre lot costs about \$25,000, and this would then mean that minimum costs for new homes is somewhere in the area of \$50,000, perhaps \$75,000.

MR. POWELL. Mr. Resnick, if these zoning restrictions were abandoned, would the union be in a position to assist its membership in obtaining low- and moderate-income housing in and near the township Mahwah?

MR. RESNICK. The UAW has a housing corporation that is prepared to buy land and undertake the building of homes, and really what we are looking for, is say, rather than really high density housing, we are looking for homes for our members, and we think we can do it at a moderate rate, providing that the—some of the requirements, some of the zoning laws, are abandoned.

MR. POWELL. Mr. Resnick, did the Ford Motor Company recently conduct a survey of the employees at Mahwah, inquiring into the commuting distance, time, and cost with respect to traveling from their home to work?

MR. RESNICK. Yes, they did.

MR. POWELL. Do you have a copy of that survey?

MR. RESNICK. Yes, I have. I have it in my hand.

MR. POWELL. Madam Chairman, at this time I would like to have that survey entered into the record.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 43 and received in evidence.)

MR. POWELL. Mr. Resnick, would you briefly describe the information contained in that survey and its conclusions?

MR. RESNICK. The survey was a mailed request for answers to all the—both salary and hourly employees of Ford Motor Company, some 5,200 or 5,300 people.

Responding was approximately 30 percent of that number.

Of the 30 percent, among the questions asked, two-thirds indicated that they would like to move into the area, and the average mileage of residency from the plant at the present time indicated by these people was approximately 25 miles.

MR. POWELL. Does the survey show that over 50 percent of the employees at this plant travel a round trip of more than 50 miles each day?

MR. RESNICK. Well, the survey was only responded to by 30 percent of the people.

MR. POWELL. Yes, of those that responded, does that show that over 50 percent of those that responded have to travel more than 50 miles round trip each day from home to work?

MR. RESNICK. Well, I would say it does, because the average mileage worked out in it was 25 miles, one way.

MR. POWELL. Mr. Resnick, how far do you commute round trip daily to work, and how much time does it take?

MR. RESNICK. Well, I have worked for 16 years, and in that time my average commuting distance was about 40 miles one way, and time allowed had to be in excess of 1 hour each way. That was well over 2 hours of allowed time to go to work.

MR. POWELL. Mr. Bowens, how much time do you take in commuting each way, and what is the distance?

MR. BOWENS. Well, it takes me about 35 minutes to 40 minutes to commute each way, and it is about 70 miles to 73 miles round trip each day, which also runs a little longer in the wintertime, when it is icy. It may take me 2 hours, maybe over an hour.

MR. POWELL. Mr. Pereiras?

MR. PEREIRAS. It takes me around 1 hour in the morning, coming to work. On the way home, it all depends on the traffic. Sometimes a little bit over 1 hour. In the wintertime, it all depends on how the roads is. If it is ice, it may take me 2½ hours, 2 hours.

MR. POWELL. Mr. Muniz, how much does it cost in commuting—Mr. Pereiras, rather, how much does it cost you in commuting?

MR. PEREIRAS. Well, first the gas costs me about \$13 or \$14 in gas. Now I have to pay a toll, it costs me \$1 in toll, because I have to go through the Washington Bridge, and that increases my car insurance, plus I have to put on a new set of tires every year. This is a lot of expenses.

MR. POWELL. Mr. Muniz, how far do you have to commute round trip, and how long does it take you?

MR. MUNIZ. Sixty eight miles every day, back and forth—34 each way.

MR. POWELL. Mr. Ligon?

MR. LIGON. Well, I have temporary lodging in a town close by, during the week. I commute on the weekends to my home in Philadelphia.

MR. POWELL. Mr. Ligon, you say you have worked at Ford Motor Company for over 28 years, and I take it you have been at the assembly plant in Mahwah for a number of years, also. Is that correct?

MR. LIGON. That is correct.

MR. POWELL. In your years there, have you found that these distances that the employees have to travel, particularly in winter months, are a safety hazard?

MR. LIGON. Extremely so.

MR. POWELL. Do they also have an impact on job security, and if so, would you describe that?

MR. LIGON. Sure.

Because of the hazardous condition in traveling, often the workers are late to work, and sometime they are prevented from getting to work at all. When this occurs, this is not taken under consideration by the company and, therefore, the workers are penalized, and in many instances, after a number of penalties, they are discharged.

MR. POWELL. There are approximately, Mr. Ligon or Mr. Resnick—there are approximately 5,000 employees at this Mahwah Plant, is that correct?

MR. LIGON. That is true.

MR. POWELL. Are these commuting distances a factor in the turnover rate? What is the turnover rate, approximately, at this plant?

MR. LIGON. I would say about 1,000 yearly.

MR. POWELL. Is this commuting distance a factor in that, also, in addition to job security?

MR. LIGON. Definitely so.

This comes about because of the inability to get to work on many occasions, the terminations and the frustration that many of the workers subject themselves to. They voluntarily quit their jobs.

MR. POWELL. Mr. Ligon, you are an officer in the UAW local as well as the local fair employment practices committee, are you not?

MR. LIGON. I am.

MR. POWELL. Have you attempted to find housing near your place of work, Mr. Ligon, and would you please describe these attempts?

MR. LIGON. In Mahwah, on several occasions, I—as a matter of fact, I once rented an apartment down in Mahwah, which was substandard. That was one of my reasons for leaving Mahwah, because there wasn't any apartments or homes available in the town of Mahwah.

In applying for apartments that were posted as vacant, I was denied, for one reason or another, the privilege to rent this apartment.

MR. POWELL. Do you feel that this difficulty was solely economic, or do you think that racial discrimination was involved?

MR. LIGON. Well, on those occasions it was purely racial, not economics.

MR. POWELL. Mr. Bowens, you are chairman of the union's local fair employment practices committee, are you not?

MR. BOWENS. Yes, sir.

MR. POWELL. Mr. Bowens, approximately what percentage of the plant's workers are black?

MR. BOWENS. I would say approximately 29 percent.

MR. POWELL. Mr. Bowens, what is the population of Mahwah?

MR. BOWENS. Roughly, about 10,000 people.

MR. POWELL. And to your knowledge, how many of these are black that live in Mahwah?

MR. BOWENS. Roughly about 380 or 388, somewhere around between there.

MR. POWELL. Was that three people or 3 percent?

MR. BOWENS. Well, 300 or 388 people, somewhere around there.

MR. POWELL. 380 blacks?

MR. BOWENS. Right.

MR. POWELL. Mr. Ligon, would you please describe the housing conditions of the few black families that do live in Mahwah?

MR. LIGON. They have, in Mahwah, an area that is considered to be a ghetto, and this is the only area where the black families live.

The housing conditions are substandard. Aside from that, the municipality does not maintain the streets as far as pavements, nor light. Another area—they are not supplied—they don't have city gas. They must acquire their own gas unit, propane, where in the other section of the city of Mahwah, the city does supply the gas, also they maintain the streets in good condition and the street and lights.

MR. POWELL. Mr. Pereiras, have you attempted to locate housing closer to work?

MR. PEREIRAS. Yes, for about 3 years.

MR. POWELL. Would you please describe those attempts?

MR. PEREIRAS. Well, the few times I try, you know, I find out that I could not afford to live in Mahwah because of the high price of the property, you know. So that discouraged me a little bit.

So I tried an apartment. So I running into another problem, you know. For example, my wife called one day, and the apartment was vacant. When I would show up, and I spoke, they told me it was—they make me—they don't say, you can't take the apartment, you know. They have already rented it.

MR. POWELL. Does your wife have a Spanish accent as you do?

MR. PEREIRAS. No, my wife talks better English than I. She has been in the United States for a long time.

MR. POWELL. And when your wife called, an apartment was available?

MR. PEREIRAS. Right.

MR. POWELL. But when you showed up—

MR. PEREIRAS. When I showed up and I spoke, that was the end.

MR. POWELL. Mr. Pereiras, you are chairman of the local Spanish-American Council, are you not?

MR. PEREIRAS. Yes, I am.

MR. POWELL. Are most of the council's members Puerto Rican and Cuban?

MR. PEREIRAS. The most—they are the majority.

MR. POWELL. Is there a significant percentage of workers at the plant who are Cuban and Puerto Rican?

MR. PEREIRAS. Right.

MR. POWELL. Have many of the Puerto Rican and Cuban workers experienced difficulties in obtaining housing in or near Mahwah?

MR. PEREIRAS. Well, they have, some of them, more problem than I, because some of them don't even speak English. But they have the same problem I have. Not a chance.

MR. POWELL. Mr. Muniz, have you faced situations similar to those described by Mr. Pereiras?

MR. MUNIZ. Yes, I did.

MR. POWELL. Would you please describe them?

MR. MUNIZ. I seen in the paper, an ad, about 8 years back, lots for sale, \$2,000, 100 by 100 by 75.

So my wife called. They were available. But when I got there, they wanted me to buy 50 lots.

MR. POWELL. Mr. Muniz, to your knowledge, do any Puerto Rican or Cuban families live in Mahwah?

MR. MUNIZ. Not that I know of.

MR. POWELL. Mr. Resnick, as union leader, have you had occasion to discuss the workers' housing problems with the plant management?

MR. RESNICK. Yes, I have.

MR. POWELL. Has the Ford Motor Company been cooperative with the union and with the workers in attempting to alleviate their housing problems?

MR. RESNICK. Well, they have been cooperative as far as speaking on the subject. But I have never seen, aside from this survey, and I am not certain what the intent was there, I have never seen that they actually did anything to alleviate the problem.

MR. POWELL. Mr. Resnick, what do you feel are the responsibilities of companies locating in the suburbs, with regard to housing needs of their workers?

MR. RESNICK. Well, companies particularly like ours, move from a metropolitan area. Ford Motor Company came from Edgewater, which is part of New York City Metropolitan Area, and the workers lived in fairly high density areas.

When they moved, they expanded, they brought with them the people from the Metropolitan New York Area, and hired people mostly from Upstate New York, New York City, and the Newark-Jersey City areas. All of these areas averaging approximately 35 miles distant from their new location.

Now at no time did the company ever make any effort to locate their people in the area where they moved their plant.

I have been with the company since they have been in Mahwah, and we are aware that they have done nothing during all this time to relocate their people.

MR. POWELL. You have indicated—we have had testimony that the population of Mahwah is 10,000, but is there still a lot of vacant land in Mahwah that could be zoned for moderately high density, and is this, say, is that a picture of the plant and the surrounding territory there?

Is there much vacant land in Mahwah that could be used for low- and moderate-income housing?

MR. RESNICK. To begin with, the land area, Mahwah is the largest township in Bergen County, and one of the largest townships in the State of New Jersey. Over 75 percent of their land is still vacant.

MR. POWELL. Of that 75 percent, how much of it is zoned for 1 acre or better?

MR. RESNICK. Over 50 percent is zoned 1 acre or 2 acres. I am not certain of all the zoning requirements. Twenty or 25 percent of it is zoned for additional industry, and right up to the present they still haven't made any provision for the workers to come along with the industry.

MR. POWELL. Is there any significant percentage of the land zoned for multiunit development of low- and moderate-income housing?

MR. RESNICK. Approximately 1 percent zoned with very little of it remaining available.

MR. POWELL. Mr. Resnick, have you discussed the workers' housing need with Mahwah civic groups?

MR. RESNICK. Yes, I have.

MR. POWELL. What has been the response of those groups with whom you have talked?

MR. RESNICK. Well, we have gotten a favorable response from one newly formed organization. However, generally the response has been antagonistic.

MR. POWELL. What kind of comments have you heard from these groups?

MR. RESNICK. Well, basically, the antagonism has been directed towards the possibility that by removing or agreeing to higher density zoning, that there would be a great influx of welfare people into the area.

And this seems to be the main area of opposition. However, the implication is very clear that their opposition is directed towards the absorption of any minority groups in the area.

MR. POWELL. Mr. Resnick, is it true that there are a number of other plants in Mahwah?

MR. RESNICK. Yes, there are. There has been a pretty large influx of good sized companies into the Mahwah area.

MR. POWELL. Do the members of these civic associations to whom you have talked think that they have a responsibility to provide housing for the people who work in these plants?

MR. RESNICK. Well, in my discussion with them they have never indicated that they felt they had a responsibility. In fact, they have been very ready to suggest that there are other areas that we could move to.

MR. POWELL. Notwithstanding the fact that this industry provides

taxes and supports the public services that are there in Mahwah?

MR. RESNICK. As a matter of fact, the industry is very kind to Mahwah, which has one of the lowest tax rates probably in the State.

As a matter of fact, just as a comparison, I live in a rural community with no services at all. I provide all the basic operating services for my home, and my tax rate is almost three times as high as the tax rate for an equivalent home in the Mahwah area.

MR. POWELL. Madam Chairman, I have no further questions, but I would request that the chart and picture be entered in the record at this point.

COMMISSIONER FREEMAN. They will be received.

MR. POWELL. Thank you.

(Whereupon, the documents referred to were marked Exhibits No. 44 and 45 and received in evidence.)

COMMISSIONER FREEMAN. Father Hesburgh, do you have any questions?

CHAIRMAN HESBURGH. Mr. Resnick, is there any place closer between Mahwah, say, and New York City or Jersey City, that might be developed for housing?

I mean, we have been concentrating on the possibilities of Mahwah, and obviously you have problems with 1 or 2 acre zoning, although all those houses it shows there look like they are about a fairly standard sized lot, the ones closest to you there. Wouldn't that be right?

MR. RESNICK. The picture shows homes that have been in existence for the most part for many years. This is prior, really, to the zoning, and I believe the zoning laws were instituted when industry started to come into the area.

CHAIRMAN HESBURGH. I see. Well, anyway, is there any place between that and New York City or Jersey City or Newark, that could be opened up for housing?

MR. RESNICK. I would feel possibly that there might be. I would feel rather strange to go into another community and say, you should accept our workers, before I try to get the area that is benefiting from these workers to accept them.

CHAIRMAN HESBURGH. Yes. Isn't that kind of backward for Mahwah to be passing up all the income it might be getting from these workers?

MR. RESNICK. Yes, it is.

CHAIRMAN HESBURGH.. Do you have any idea of the total tax that Ford Motor Company pays to the community?

MR. RESNICK. No. I know it is very substantial, but I have no idea of the amount.

CHAIRMAN HESBURGH. That should give them some leverage, shouldn't it?

MR. RESNICK. Ford Motor Company certainly has leverage and probably should have used it, but to my knowledge they are very reluctant to make any—to apply any pressure in behalf of this.

And, incidentally, they have a substantial interest in finding homes for their employees in the area, because of the problems of absentee-

ism, and turnover of employees.

Incidentally, the rate of turnover, and we have a count of hiring during '68, '69 and '70, and the average ran 2,000 a year.

CHAIRMAN HESBURGH. What about the salaried employees? Do they live in or around Mahwah?

MR. RESNICK. For the most part they live closer to the plant, although again, I think the total count of all employees hourly and salaried in the town of Mahwah is less than 50.

CHAIRMAN HESBURGH. Thank you.

COMMISSIONER FREEMAN. Dr. Horn?

VICE CHAIRMAN HORN. You have mentioned that 75 percent of the land in Mahwah is undeveloped, and that this is one of the largest townships in Bergen County.

Does Bergen County have a 1 and 2 acre zoning ordinance, or is the county land not subject to that? What sort of zoning exists in the county?

MR. RESNICK. My understanding of the zoning laws is that they are strictly a local zoning law. It is the town itself that has the zoning law. I know nothing of a county zoning law.

VICE CHAIRMAN HORN. What is the nearest town between Mahwah to Mahwah, within Bergen County? What is the mileage?

MR. RESNICK. The next town would be the town of Ramsay, which is almost free of any substantial industry.

VICE CHAIRMAN HORN. How far away is it?

MR. RESNICK. About 5 miles.

VICE CHAIRMAN HORN. About 5 miles.

Do you know if they have a 1 or 2 acre zoning law?

MR. RESNICK. I do not know.

VICE CHAIRMAN HORN. My query gets down to this. I wonder why we have to be limited, as sad as that situation is, and I would agree with you that they ought to open up housing for low- and moderate-income, as well as what is apparently extremely high level of income with a \$25,000 an acre price. But why do we have to be limited, either the company or the union, to simply the community, but why not develop our own housing adjacent in the county area, if it is not prohibitive.

MR. RESNICK. Well, I am aware that there is a great deal of resistance in all of the localities around the Mahwah area to any sort of housing programs that might absorb large numbers of—I don't know how to call them—outsiders, perhaps.

Most of them have very high cost land. I would guess the \$25,000 an acre would hold for perhaps 10 miles in any direction.

VICE CHAIRMAN HORN. Is housing a negotiable item under your annual, or every 3 year collective bargaining arrangements with Ford Motor Company?

MR. RESNICK. Really not, no. We would have no way we could bargain on housing.

VICE CHAIRMAN HORN. You could not make a demand that the company, as one of their fringe benefits, aid, say, various UAW pension

funds and investing in multifamily housing in Bergen County, even if it was not within the township? Couldn't you make this a demand for negotiation?

MR. RESNICK. I really doubt it.

We are dealing with the central Ford kind of issue. This would be a policy out of central Ford, and our powers of negotiation are strictly in matters that the local company could—well, something that they could give us. I don't believe that this is an area that they have the power to move.

VICE CHAIRMAN HORN. Are you saying the local union is limited by what your national leadership wants to negotiate on, and you really can't get local grievances into the bargaining picture?

MR. RESNICK. There certainly would be no area we could get local grievances into this area. Our grievances are limited by contract structure and it is pretty clearly defined, and this would not fall within any area of our contract.

VICE CHAIRMAN HORN. I notice in most negotiations nationwide in different industries, new types of demands are made as society evolves. We never thought of fringe benefits maybe 30 years ago, except perhaps a limited pension fund. We now think of dental care, psychiatric care, medical care, recreational facilities, a whole wide range of benefits that weren't thought of before.

Why hasn't housing been a subject for the employees whom the UAW represents, to make major demands on with the company?

MR. RESNICK. I would like to suggest that this is an area, certainly, for consideration on a national table. I don't see any place that we could accomplish it locally.

VICE CHAIRMAN HORN. Well, I must say I am sort of saddened that there can't be local negotiations to meet the peculiarities of the workers and the company in an area. It seems to me the members of a union ought to have a right to demand certain things that maybe are unique to their particular situation.

That is all, Madam Chairman.

COMMISSIONER FREEMAN. Chancellor Mitchell?

COMMISSIONER MITCHELL. Mr. Resnick, what do they make in this plant?

MR. RESNICK. We take the parts of a car, put them together, and drive a completed car off. The unit is all models of Ford.

COMMISSIONER MITCHELL. So you are a final assembly plant? Would you say that is—

MR. RESNICK. Yes, this is a final assembly plant.

COMMISSIONER MITCHELL. And your cars are painted and everything?

MR. RESNICK. Oh, yes. Complete body work, paint, the assembly, various parts that we make up right there.

COMMISSIONER MITCHELL. Do you make any vehicles that are painted in military colors, do you supply any vehicles for the military, the Army or—

MR. RESNICK. Yes, we do. We build trucks, also.

COMMISSIONER MITCHELL. So you are saying that Ford Motor Company is assembling vehicles to deliver to the military in a place where minority people can't find a place to live?

MR. RESNICK. That is correct.

COMMISSIONER MITCHELL. I have no further questions.

COMMISSIONER FREEMAN. Mr. Resnick, do you know whether the city of Mahwah actively recruited the relocation of this plant in its community?

MR. RESNICK. I really would only be able to tell you from hearsay, and I would prefer not to.

I was certainly not a party to it, and I am not aware what the arrangements were when the—when Ford Motor Company moved, but presumably, or almost surely, it was to an advantageous location.

COMMISSIONER FREEMAN. Well, Mr. Bowens, or any of the others, I would like to ask if you know if the employees have brought to the attention of the Ford Motor Company, the problems, and made a request outside the union, for their intervention to change the situation?

MR. BOWENS. I don't know of any that have made a request for intervention, but I know that constantly when employees are late and they are going off, and they explain that these are their problems, you know, being late for work due to traffic tieups, or a car breaks down, or flat tires, or bad roads, and the company turns a deaf ear. This has been brought to them through that means.

COMMISSIONER FREEMAN. Could we suggest to you that a memorandum to the company, the central Ford, or whatever that is, and wherever it is, outlining in detail the problem which you have encountered, ought to be submitted, and if you do so, we would be happy to receive a copy of such memorandum.

MR. BOWENS. Yes, you could.

COMMISSIONER FREEMAN. Thank you, gentlemen.

I am sorry, Mr. Glickstein has questions.

MR. GLICKSTEIN. Mr. Bowens, if housing were available near the plant, would you be interested in moving from Newark to an area nearer to the plant?

MR. BOWENS. At one time I was, but now I plan to get further education, so it would be an inconvenience now, you know, of going back to school for my education.

MR. GLICKSTEIN. But, if that weren't your situation, you would be interested?

MR. BOWENS. I would definitely move closer.

MR. GLICKSTEIN. Some persons have raised questions about the efforts that some people are making to open up suburban communities for occupancy by members of minority groups, and they have said that black people really like to live in the city, and if you built houses in the suburbs, that they would continue to remain in the city. I take it that you don't agree with that position?

MR. BOWENS. I disagree with that wholeheartedly, because I feel that black people like to live wherever housing is available that they

could afford housing in that area.

They don't like to be confined, because they like fresh air, too, move out to the suburbs, have a back yard, you know, so they can have a good time.

MR. GLICKSTEIN. Thank you.

COMMISSIONER FREEMAN. Do any of the other Commissioners have questions?

If not, thank you gentlemen, you may be excused.

This hearing will be in recess for 15 minutes.

CHAIRMAN HESBURGH. On behalf of the whole Commission of Civil Rights, I would like to thank Secretary Hardin, who has made this hall available for our meeting the past 4 days. It has been one of the most convenient and agreeable places we have had in our many meetings across the country in various Government facilities.

We also want to thank Mr. Hardin's staff. I will mention them by name in my closing statement, but many of them have been extremely cordial and extremely efficient, and we would not have had as good a hearing as we have had without their help. And on behalf of the Commission, I do want to thank you, Secretary Hardin, and I will be sending you a little note to this effect.

COMMISSIONER FREEMAN. Thank you, Mr. Chairman.

This hearing is now in session. Mr. Counsel, will you call the next witnesses.

MR. GROSS. The next witnesses are seated at the witness table, Mr. Stoner and Mr. Chandler.

(Whereupon, Mr. Richard B. Stoner and Mr. Marvin Chandler, were sworn by Commissioner Freeman and testified as follows:)

TESTIMONY OF MR. MARVIN CHANDLER, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, NORTHERN ILLINOIS GAS COMPANY AND PRESIDENT, METROPOLITAN HOUSING DEVELOPMENT CORPORATION, AURORA, ILLINOIS AND MR. RICHARD B. STONER, VICECHAIRMAN, CUMMINS ENGINE COMPANY, COLUMBUS, INDIANA.

MR. GROSS. Madam Chairman, I have before me an item relating to previous testimony, a letter from Mr. G. E. Rittenhouse, which he requests be placed in the record.

With your permission, I would like to insert that in the record at this point.

COMMISSIONER FREEMAN. It will be received.

(Whereupon, the document referred to was marked Exhibit No. 46 and received in evidence.)

MR. GROSS. Gentlemen, will you please each state your name and present employment for the record?

MR. CHANDLER. My name is Marvin Chandler. I am chairman of the executive committee as of last Monday. Prior to that, chairman, chief executive officer of Northern Illinois Gas Company, Aurora, Illinois.

MR. STONER. My name is Richard B. Stoner. I am vice chairman

of the board, Cummins Engine Company, Columbus, Indiana.

MR. GROSS. Mr. Chandler, would you kindly describe the operations of Northern Illinois Gas Company including the number and kinds of employees it has and over what area they are distributed.

MR. CHANDLER. Yes.

We are a gas distributor, a distributor of natural gas, in about the northern third of the State of Illinois. We serve most of the northern part of the State except the area within the city of Chicago and a small strip along the North Shore.

We have over a million customers, and 17,000 square miles of territory, and a population of some four million people. We are the sixth largest gas distributor in the country.

MR. GROSS. Just very briefly, what kind of operations do your employees perform?

MR. CHANDLER. We have 3,100 employees, of whom something over 800 are management and the balance are clerical and physical workers, all unionized. They work in the general office, mostly clerical, staff and management functions, about 600 or 700, and then the rest are spread over the area in some seven outlying division headquarters.

They are engaged not only in clerical, but also in construction work, laying of pipelines and in appliance service work, calling on customers' homes to repair appliances, change meters and the like.

So there is a balance of physical and clerical work.

MR. GROSS. What proportion of your employees are members of minority groups?

MR. CHANDLER. Five percent, which is about, considerably more than, the population proportion of the area.

I might say, just to orient a little bit, because the northern third of Illinois sounds pretty comprehensive, about 80 percent of our business and operations and so forth are within 40 miles of Chicago. We start at the city limits and move out. And, of course, that is where the great mass of the whole operation is.

MR. GROSS. What proportion of your employees would be concentrated in the area to which you just referred?

MR. CHANDLER. Probably something similar, 80 percent, or more.

MR. GROSS. In terms of your efforts to increase minority employment, have housing patterns in the area where you are active been a problem in this effort?

MR. CHANDLER. Well, they are a problem. Of course, first it is a problem to find minority people, but we began a diligent effort along that line about 1967, and now about a quarter to a third of the traffic through personnel department seeking jobs are minority.

In terms of housing, it is likewise something of a problem, and we do what we can to assist them in that.

MR. GROSS. When you say it is something of a problem, could you expand on that somewhat?

MR. CHANDLER. Well, it is almost impossible to recruit employees from the city of Chicago, where the greatest minority numbers are to come out to work in the suburbs, unless they can find housing compati-

ble with their income. And that is difficult.

It also has posed a problem for management employees, whom we have recruited from predominantly Negro colleges and this sort, but we work very hard with them to solve that problem and we have been successful.

MR. GROSS. This lack of low- to moderate-income housing in the area of your employment has, in your view, restricted the amount of recruiting that it would be feasible for you to do in an area like the city of Chicago where the minorities are concentrated?

MR. CHANDLER. Yes.

MR. GROSS. Can you describe what—again referring to this lack of low- to moderate-income housing—do you feel that that has had, is having an effect on the economic development of the area which your company serves?

MR. CHANDLER. Yes, I am very concerned about that. I am probably more concerned about that than I am about our own particular situation, because we are finding enough minority people in the area now, so that a very sizable proportion of all our new hires, 65 percent of the first quarter of this year, are from minorities.

But we are not hiring very many people. We are not expanding. In fact, we have fewer employees now than we had 10 years ago, when we were doing much less business. But we have been able to improve productivity substantially.

But our business rises or falls with the economy of the area we serve, the suburban area around the city of Chicago. And that is where industry is coming. It is coming in great quantities. But, during the last 10 years, about 75 percent of all the new plants built in the total metropolitan area have been built in the suburbs rather than in the city. In 1970, that figure was 84 percent of all the new plant construction.

There are many moveouts from the city. We have 200 to 300 new plants built in our area every year, and a quarter to, approaching a half of those, are companies moving out from the cities because either they have outgrown their locality, their facilities there, or they have become obsolete from old age, or they don't like the quality of the labor force. I don't know all the reasons, but we get a great many moveouts of plants from the city.

And unless there can be a labor force to keep maintaining those plants, provide the work force, I am worried about the future of the economics of the area, and our business depends on the continued growth of the area.

So we have a very selfish, as well as a social conscience, reason for wanting to see low- and moderate-incomes in the suburban areas, so the workers can follow the plants.

The unemployment in the suburban area is—well, in the city is 10 percent or more higher than it is in the suburban area.

MR. GROSS. Do you feel that the lack of low- to moderate-income housing is having a present impact on the employers, either in terms of a pinch that they are now feeling, or is it distorting the economic development in that area now?

MR. CHANDLER. Well, not right now, probably because of the recession. But everyone's operations are down a little bit. But a couple of years ago, there was a real pinch. Almost every plant you drove by had a sign outside with two or three or four categories of job openings, seeking people.

And a number of the employers that have worked—have moved out, have told me of the difficulties they had in keeping their people, even when they make a real effort in providing buses, providing reverse transportation. It is a long haul from the South Side of Chicago—an hour, hour and a half of reverse commuting. It is expensive and people may, workers may do it for a while, but after 2 or 3 or 4 or 6 months, they have had enough. Even if they are driving their own cars, it is a long drive, and expensive drive. Turnover gets to be quite high, and absenteeism is a problem.

MR. GROSS. The fact that the employers in this area have moved to this area, felt this pinch, does that translate itself into effective pressure for additional low- to moderate-income housing in the area, or does this not produce such an effect?

MR. CHANDLER. Well, I think it has.

Many of the plants that moved out are small companies that find it hard to take individual action. But the major companies in the Chicago area do recognize the problem and have coalesced to try to do something about it. That is where my other hat comes in.

MR. GROSS. Right.

You are president of the Metropolitan Housing Development Corporation?

MR. CHANDLER. Yes.

MR. GROSS. I think that is an affiliate of the Leadership Council, am I correct?

MR. CHANDLER. That was formed by the Leadership Council for Metropolitan Open Communities.

MR. GROSS. Just as a predicate for describing the Metropolitan Housing Development Corporation, which we can abbreviate MHDC in the best Washington tradition, can you describe briefly the Leadership Council?

MR. CHANDLER. Leadership Council?

MR. GROSS. Please.

MR. CHANDLER. Leadership Council was formed about 1965 after Martin Luther King made a march into the suburbs to dramatize the lack of open housing in the suburban area. He met with Mayor Daly in what was called the summit conference. The mayor pledged himself and the civic leaders pledged themselves to do all they could to provide one, equal opportunity, open housing market for the whole metropolitan area.

Leadership Council was formed as a result of that. The directors of Leadership Council are a blue ribbon list of Chicagoans white and black, from the heads of major industries: Sears, Roebuck; Commonwealth Edison; Inland Steel; and Illinois Bell Telephone—if you will forgive me for putting myself in the same company—Northern Illinois

Gas, and others.

Cardinal Cody, Bishop Montgomery, other religious leaders, political leaders, several suburban mayors, pretty much a cross section of very top people who were devoted to the concept of one open housing market for everybody, without discrimination in the Chicago area.

In 1968 the Council—may I go on now to the MHDC—

MR. GROSS. Yes, please do.

MR. CHANDLER. The Council set up a nonprofit organization called Metropolitan Housing Development Corporation to engage in the construction of low- and moderate-income housing in the suburban area, and received a grant from the State for operating expenses, and for development or investment in such projects. And we have been working at it now. We spun wheels for perhaps a year, but we have been working very hard and very diligently for the last 2 years. I have been president of it for over a year and a half, and devoted an awful lot of energy to it right up to a hearing at Arlington Heights that closed at 10:30 last night.

It is hard, it is tough.

MR. GROSS. Excuse me, sir. Before we go on to the program of MHDC, can you describe a little bit more in terms of how it relates to the Leadership Council and its sources of support, and membership.

MR. CHANDLER. Well, the membership of our board is very similar, except at perhaps a notch lower in the corporate hierarchy to the Leadership Council board.

We have representation, again, from major Chicago industry. We have representation from a number of minorities, both black and Spanish speaking Americans in the city as well as in the suburban area.

Our financial support, as I say, comes still from the original State grant back in 1968.

MR. GROSS. Is there financial support from corporate employers who are involved with this?

MR. CHANDLER. Not at this stage, no. We look towards it, but our State grant has been adequate up to the present. There is corporate support of the Leadership Council. That is its major source of support, from corporate contributions.

MR. GROSS. And could you describe the specific program goals that MHDC has set for itself?

MR. CHANDLER. Well, we are seeking to build several hundred units of low- and moderate-income housing each year, in the suburban area.

We are constantly searching for land, trying to get zoning, if zoning is necessary and build either under section 235 or 236.

It has been a frustrating experience. The land search is difficult. Prices are often too high to make the section 236 feasible, make the financial feasibility work out. We have one project in South Elgin, section 235 single family project under construction. It will be about 39 or 40 homes. We have got a dozen or so sold. We have sales to blacks, Spanish speaking and to Indians.

I would judge that when we are through, perhaps eight or 10 or 12 of those homes will be sold in what was a predominantly—exclusively—

white area of modest income, white single family residential area.

We acquired land in another community, Addison, but in our rezoning application, it has become clear that we are not going to get the zoning.

We acquired an option on land in Arlington Heights I spoke of a moment ago. We completed our third hearing before the Plan Commission last night, and we lost out on our zoning petition by a vote of 9 to 2.

I don't think that either one of those, the Addison or the Arlington Heights decision, could be viewed as clearly exclusionary zoning. In both cases there were problems that Plan Commissioners would have trouble with. One case traffic outlets, and in another case, in Arlington Heights, it is completely surrounded by single family homes on all sides, and there is some question whether it meets the criteria which read perfectly reasonably. But it does show the problems, and I am bruised and battered from the flak one takes from the majority of the residents who clearly don't want it.

MR. GROSS. This was a public hearing that you are speaking of, last night?

MR. CHANDLER. It sure was.

MR. GROSS. Can you give us at all the flavor of the community reaction to this?

Perhaps you can put that in setting by describing the nature of the project, or the housing that was proposed, as it appeared before the hearing.

MR. CHANDLER. Well the project, there is 190 units of two-story, what we call attached, single family homes, in clusters. They are not row townhouses, they are not one big bulk structure. They are six or eight units in a cluster and there are several clusters. Each has its own entrance. They are one and two story.

On 15 acres, it is about as low a high density as you can have, and still have multifamily.

It abuts on one side against single family—right against the property line of single family homes that value of \$35,000 to \$65,000.

This 15 acres was made available to us from the Order of St. Viators, a Catholic order, which has a high school on 80 acres and was not using the 15, and short of funds, as many of them are, and was convinced that this was a good purpose that fit their morals and ethics and beliefs.

MR. GROSS. What is the racial composition of the residents in the surrounding area?

MR. CHANDLER. White. In fact, for miles around, I guess. I asked what the black population of Arlington Heights was at one time, from someone, expecting a percentage figure, and instead I got a number, and it was 10 or 12, or something like that.

MR. GROSS. Was there any explicit discussion of race in the meeting last night?

MR. CHANDLER. Very little.

MR. GROSS. Can you give some of the flavor of the opposition—

MR. CHANDLER. Well, the opposition says it is bad zoning, which

you should not put a—when people buy a single family against the school, they are buying something that they think will stay that way. And apartments should be used as transitional or buffer zoning between single family and commercial or single family and industrial, and that zoning should be clear when the purchaser of the single family makes his purchase, so that in effect he doesn't have the rules changed after he has made his investment.

These homes that have been there, have been there for periods of 3 to 15 or 20 years. They naturally are not happy, regardless, I think of their feelings about minority. But I think their opposition is very vocal.

MR. GROSS. Turning more to the affirmative side of this, can you indicate, since we are interested in what corporate employers can do in helping contribute to the problems, in your view, is it of any significant help that a person such as yourself, who represents major employers in the area, is supporting this effort? Perhaps not in the context of a public meeting such as this, but in various ways.

Do you think it is significant that this does have the support of employers such as yourself?

MR. CHANDLER. I think it is very significant. I think the amalgam, the coalition is almost—well, is a very desirable way to go about it.

If I were up there alone as Northern Illinois Gas trying to build this project, or any other which may fit zoning better, I would be pretty uncomfortable, because there is flak, and these people are customers, and they are public, and we want to live and get along with everybody.

Most people, as well as corporations, natural and corporate persons, do, I guess.

So when you get, well—it is just a lot more comfortable for me, for example, to have the chairman of the Leadership Council be the president of the Commonwealth Edison Company, who is our most bitter rival and competitor. And people cannot say, we are going to throw all the gas out of the house and go electric, because Tom Ayers is standing there side by side. It is one of the few things we agree on. We agree on very firmly and strongly.

So when we have Northern Illinois Gas and Commonwealth Edison and Illinois Bell lined up together, we have Sears, and we have Montgomery Ward, and we have Carsons, the major retailers in this suburban area lined up together, we have the Northwestern Railway on our board, which provides commuter service, excellent commuter service in the Chicago area, and we have the big banks, the Continental Bank, the First National, we have Borg Warner, Inland Steel, International Harvester, Jewel Tea, which is all over the area with their Jewel Stores, it makes it much more comfortable for everybody, and I think has a weight of authority to it that gets us a lot further, a lot faster than we would individually.

MR. GROSS. Finally, just looking toward the future, the Arlington Heights experience suggests that zoning is a problem.

Have you had other—I know you haven't lost the war in Arlington Heights, but have you had other setbacks in other projects related to zoning, specifically?

MR. CHANDLER. Well I mentioned Addison, where probably it was not the best place for a multifamily regardless of low- and moderate-income, or equal opportunity or anything else.

It was a kind of bottleneck traffic problem, and would have put quite a few vehicles in an area that they would have trouble getting entrance and exit.

So I think one thing we have learned, is try to pick our spots better, and not get into the zoning fight. We didn't pick the spot in Arlington Heights. It came to us from the Catholic order, and we were glad to fight the battle and will continue to.

I still think it is a good project. I don't think it will destroy property values. I don't think it will do any of the horrible things that the opponents think it will do.

I would like to see it there. And we had some good proponents, too. I would say the audience was three to one or four to one against us, but we had darned good—the one in that case—darned good one. Many of the churches, League of Women Voters, certain human relations committee of Arlington Heights, Northwest Opportunities Center, got up and some stalwart individual citizens got up and said: "This we should do. We should make some sacrifices."

It did my heart good to hear them, and I have nothing but respect for our proponents. I respect our opponents, too, but I love our proponents.

MR. GROSS. Are there any other obstacles in addition to zoning, assuming we can class that as an obstacle?

What are your other main problems, and how do they relate to you as you perceive your prospects for the future?

MR. CHANDLER. Well, we may have some financing problems. I think we can solve those with the kind of corporate support we have.

I think we will have to do more groundwork, and perhaps not too ostentatiously, as far as MHDC is concerned, in advance, to find out who these concerned citizens are ahead of time, and try to get some leaders in individual communities to take the initiative in perhaps helping us, in being front men, so that we have some stronger local support among respected leaders in the individual community. I think the kind of people that are on our board of Leadership Council Board are generally respected broadly. But the respect can vanish when we come into someone's backyard.

I think there is site selection, so as to try to find the areas that are not as controversial, although perhaps not as desirable, as something we will have to concentrate harder on.

But it isn't easy, and I don't think it is a good idea to ram something down people's throats, so that the residents, when they do come in, are going to be viewed with—as very unwelcome interlopers, and shunned and the like.

I think some way has to be prepared, and there has to be some degree of acceptance, or no one will want to move in.

MR. GROSS. Thank you.

MR. Stoner, sir, would you please describe the operation of Cummins Engine Company in terms of its location and the numbers and kinds of

employees it has?

MR. STONER. Cummins Engine Company's main manufacturing facilities are located in Columbus, Indiana. This is in the Southeastern portion of the State, about 50 miles south of Indianapolis, 75 miles north of Louisville.

This area is the sparsely settled area of the State. We manufacture diesel engines, automotive diesel engines principally, high speed diesel for industrial uses, also repair parts.

We have manufacturing facilities not only in Columbus, but also in four other locations in the United States: at Fostoria, Ohio; Cookville, Tennessee; Dallas, Texas; and Memphis, Tennessee. We have overseas plants in seven countries. In the United States, our employment totals about 12,000, 8,700 of which are located in Columbus, Indiana, being our major manufacturing location.

The employees that we have are largely commuters, because the population of the area is not great. The company was developed here from the beginning. It started here in Columbus, Indiana, and that is why our principal locations are there, our principal manufacturing facilities.

We have continued to expand in this area. As a result, many of our employees, over half now of our people, commute from a distance outside the county, which in our case is a round trip greater than 40 miles.

To the people in this area, this seems a great distance. They are not trained when they come to us. Frequently, they come as untrained. We train them, develop their skills, and, therefore, they remain with us.

The percentage of our minority employment in relation to the area—let me take each of the areas for just a moment. The commuting area in which we are located has 1 percent black people. Our employment of blacks is about 1.8 percent. It has been increasing the last few years, especially in the professional and managerial ranks.

In the other areas where we are located, outside of Columbus, at Fostoria, Ohio, we have a crankshaft plant, camshaft, machine miscellaneous parts, the minority percentage of the population there is slightly over 2 percent. Our employment is about 4 percent of the minority.

At Fleetguard, which is a filter operation, we make filters, air filters, fuel filters, at Cookville, Tennessee, which is located about 80 miles east of Nashville, Tennessee, the edge of Appalachia, there the minority population of the area is about 1 ¼ percent. Our minority employment is about 2.9 percent, approaching 3 percent.

Fridgiking is an automotive air conditioning for the after market operation in Dallas, Texas. There our minority employment, including black and Mexican Americans, is about 34 percent.

Our fourth operation is at Memphis, Tennessee, which is a reconditioning plant, where we take water pumps, fuel pumps, other component parts of the diesel engine, recondition them and sell them as reconditioned parts when the engine is overhauled or the unit is overhauled, through our distributor network domestically. We do this reconditioning in an area that is in the redevelopment area of Mem-

phis, located near the downtown area, in what at one time was our distributor. There, in that particular area, it is approaching 40 percent black, our employment there is mainly black women. Seventy-two percent of our employment is black, and that includes supervisory personnel also.

All these figures include those where we have supervisory personnel.

MR. GROSS. At the Columbus facility, if one were to draw a circle around it, such that you took in the area from which one could commute to the plant within half an hour, could you describe in more detail the nature of residence patterns in that area?

MR. STONER. We are the largest employer in five of the counties in this area.

This means that the commuting time follows the major highways that lead out of Columbus, or into Columbus, and the commuting distances are up to 40 miles one way, or 45 miles. Some a little greater, but as you near the Louisville area, the commuting is towards Louisville, or towards Cincinnati, depending upon the direction.

The road network is fairly good inasmuch as an Interstate runs north and south, and feeds into our area.

MR. GROSS. But in terms of this area to which I tried to refer, which I understand would follow the routes of the roads, is there a—in your view—an adequate supply of low- to moderate-income housing with respect to your employees?

MR. STONER. No, there is not. This is one of our great concerns, because there is not, in the Columbus area.

In order to determine this, we have been concerned for some time, because one of the conditions that make better employees, is the living conditions under which they live, and their feeling toward the company and the community in which they work.

I think there is a direct relationship, inverse, as the greater distances from the plant, the less identification they have with that community because their families are not there, their children are not going to school. Also our degree of absenteeism, our degree of turnover is greater, as the employee lives a greater distance from his place of work.

So we have been concerned about housing, in cooperation with the other industries in the area in Columbus, and our employment pattern is not unique. It is the same employment pattern that exists among the other major industries there. There are some other national industries there. Arvin Industries, Hamilton-Cosco, both national companies.

They have the same problem of the fact that they have increased turnover and absenteeism by the fact that a number of employees have to commute this greater distance.

So we, together with the other companies, made an industrial survey of housing, of our employees, their desires, and, of course, high on the list was the fact that over half of them would move closer to their location if housing available in their income, as they saw it, which we would term, I presume, low-income housing, was available.

So that has become a major concern of ours, and also, I am sure, a concern of the other employers.

MR. GROSS. Has the company determined, as a matter of principle, that this is a problem which warrants its corrective action, on its part?

MR. STONER. Yes. We have established a group in the company which I am responsible for, to make sure that we are doing all that we can in this area.

We are not sure which way we ought to go at this time, frankly. We are trying to pursue the first course of action, which you would do, to encourage local builders. How much success we are going to have with that, I am not sure. I think it will be limited.

Although, this past week we had some initial success with it. The local builders, which there are now very few, because they contend it is not profitable to build low-income housing. The profit margin is not as great as other areas of building. One of the local builders just opened a 100 single family housing unit with Federal 235 help, this last week. Put it on sale, promotion, and he was surprised. We cooperated with our employees, giving them information, urging that those who were interested go. We did not provide any financial subsidy. We urged that they go. And he sold 34 of the units, and I think financing can be arranged on the basis of which it is on this, the first weekend which he was rather surprised.

He has another unit of 100 adjacent to it, so there is a possibility of 200 this year. I think, knowing the need, I think those 200 will be taken. These are three bedroom and four bedroom houses of three standard design. The units are prefabricated and moved to the site, but it is individual house construction.

MR. GROSS. If you find that efforts to operate this way through encouraging of private home building market to fill the need, can you indicate what some of the other alternatives are that the company might contemplate?

MR. STONER. Yes. We have looked at—and I don't think encouragement of the local builders will get it all done. I would like to think it would, but I do not believe it will.

We are now encouraging outside builders, too, and the local builders are not very enthusiastic about this approach.

We also are considering some direct participation. And we have not decided on the course of action. We are considering the possibilities of maybe acquiring some land, and then indirectly subsidizing it to the extent of having builders come in and then take it over and build it with our providing the subsidy through the Land Acquisition or, lastly, build it ourselves. I don't think we will do that, because we are not house builders in that business.

But we are interested in providing the housing, and we want to provide the stimulus for it.

To what extent, we are just now in the development stage, analyzing the pluses and the minuses of each of them, and seeing to what extent we should become involved.

MR. GROSS. Thank you gentlemen. I have no further questions, Madam Chairman.

COMMISSIONER FREEMAN. Chancellor Mitchell?

COMMISSIONER MITCHELL. Mr. Chandler, your testimony has put on the record something that hasn't been there before, and in many ways may be one of the most significant pieces of testimony we have had here in this and in the prior hearings.

Really, what you have—I happened to have lived in your area and bought a lot of gas from you, as a matter of fact.

MR. CHANDLER. I am sorry you are not any more.

COMMISSIONER MITCHELL. In those days you had a shortage of gas.

MR. CHANDLER. We are back at that again.

COMMISSIONER MITCHELL. But the point really is, what you have said is that at this moment in the Chicago area, and I know how capable the leadership in Chicago is in moving in this direction, you have pulled together the great banks of the Chicago and three suburban Chicago areas, the power companies, the Sears Roebuck-Montgomery Ward complex, the great power of industry, of retailing, of food retailing, of finance, of public utilities, and you have really, as a group, said to this area: "We have to have a solution to the problem of minority housing in the suburbs."

And you are getting licked, four to one.

MR. CHANDLER. That is right.

COMMISSIONER MITCHELL. Now, who are the other three guys? Who is left, after you take the team you are on, who is left? Who is licking you?

MR. CHANDLER. Well, the commissioners that voted against us last night, one was an employee of Commonwealth Edison, who, as I said, whose president is chairman of the Leadership Council. Two are employees of the Northern Trust Company, which is a supporter of the Leadership Council. They are the Archies of All in the Family, or whatever the name of that program is. They are the people that just don't want it to happen and they raise questions—I really don't think that in every case it isn't—I just don't want a black man next door. They are concerned about traffic, about the impact on schools. Their school taxes have been going up at a very rapid rate. They are concerned about water supply, the pressure is not as good as it ought to be in the summer, what is it going to be if this comes in.

Their storm water runoff and drainage—some of them have water in the basements. What is that going to do now if some more parking lots instead of open space, so there are a whole raft of influences come to bear, and I can understand them, but—

COMMISSIONER MITCHELL. We keep saying here, and we keep exhorting our colleagues in Government, we say to the President of the United States, or the Secretary of Housing and Urban Development, and Attorney General: "What this country needs is leadership. We have got to have leadership to get out of this situation."

If there ever was a demonstration of leadership, you are producing it in the Chicago area.

How do you feel about its long-run potential?

MR. CHANDLER. I am not discouraged. I think we need some suc-

cesses. I think if we can have a few, or a half a dozen successes for people to look at, and get some witnesses to say, gee, it wasn't so bad after all, they can believe us when we show that the school impact has a fairly good chance—being positive taxwise, rather than negative. The single family home is a much harder burden on the school than the multifamily.

I think we will make it, but it is discouraging and it is slow. And although we have leadership, I don't make my living at it. I have got some other things to do, too. It takes a lot of dedication and a lot of hard work, and the problem of land at reasonable price is a difficult one. It is a real difficult one.

COMMISSIONER MITCHELL. I hope the record will show, with respect to both of you, that one Commissioner, at least, has great respect for what you are doing, and feels that it is this kind of personal-joint effort, combination of both, that is going to contribute the most to the solution of these problems.

MR. CHANDLER. Thank you very much.

COMMISSIONER FREEMAN. Dr. Horn, do you have any questions?

VICE CHAIRMAN HORN. Well, I would like to take advantage of this time period to make a few comments.

First, to commend both of you gentlemen for the obviously responsible corporate leadership which you represent, and to share Commissioner Mitchell's inquiry that we would really like to see a lot more of it as I know you would, nationwide.

Three of us, of course, on the Commission of six, are university presidents, and we all, I guess, get pretty well used as one of our occupational descriptions, to sitting patiently through nonsense and just sort of listening. And one thing I am delighted with the last 4 days, is that really we have had very little nonsense. There might have been a little emotionalism from time to time on the first or second day, and while that was heartfelt, I think that we have before us, as you represent, people that have tried to get down to the really tough problems of the processes, and how they work and how you can improve them.

For example, with maybe two or three exceptions, we did not hear much of the glib white racism tag, which is the oversimplification which killed the Kerner Commission's credibility in this country.

And I think, along that line, I remember I just finished as a delegate to the White House Conference on Youth, and one of the sadness in the final session was when a Brown Beret got up denouncing a Spanish American girl who was born in Texas of Mexican parents, and said: "Well, she is not Chicano, she says she is an American."

I think, as has been represented not only in your testimony, but in the testimony of union workers, the testimony of city officials that this Commission has heard, the sooner we settle down to looking at these processes, and how we can improve them, the better off we will all be.

And I think one thing I have gotten out of this hearing, just listening to this discussion, is that obviously we are not just talking about racial discrimination. We are talking about class discrimination in this society.

You have just noted, and I can believe it, that while sometimes it is a subterfuge on people in terms of hiding their prejudices, we have a very real problem in this country of economic discrimination.

Mr. Bertsch, our first day, and Mayor Stokes later, pointed out that it is a question of middle class blacks resenting lower class blacks moving in.

Or, it is a question of middle class whites resenting Appalachian whites moving in, etcetera.

And, of course, one of the problems in the current housing policy of the Government is, it is primarily focusing on the racial discrimination, and it is very difficult to untangle where economic discrimination and racial discrimination leave off.

I must say as an educator, I have been concerned generally, in this country, that we seem to have a certain snobbery where we place the emphasis both in the media and in our educational system on the values of the Ivy League education, the liberal arts education. We don't really give an equal emphasis and dignity to people that work with their hands, as well as their minds or their minds as a hand.

And all I want to say is, I commend you gentlemen for what you are doing. I know it is a tough road to go down, and I am sure you are taking a lot of static from probably some of your stockholders, from probably people within your corporation. But I think only if we do this not only at the national level, but at the regional, State, and local level, that is the only way we are going to solve this problem.

I just thank you for coming here today, sharing your views with us.

MR. CHANDLER. Thank you. May I make a comment on that, Madam Chairman?

COMMISSIONER FREEMAN. Yes.

MR. CHANDLER. Perhaps I should have said that another factor that comes in, that I hope time will help cure, and we will try to help cure—we are trying to help cure by what I call missionary work—is a misunderstanding about low -and moderate-income housing.

The first thing that people think of, the first thing that people in the suburbs think of, is Chicago's Cabrini Homes, which is a massive public housing, high rise publicly owned facility, primarily for people on welfare. And very predominantly black.

And it takes a lot of talking before they will come down to realize that the probable occupancy of the place we are talking about is going to be their existing senior citizens, and school teachers, and municipal workers, and hospital workers, and the lower paid people in the plants that are around the area there now, or that they would like to get in and get in the tax base.

As I say, there is a lot of education, and that will take time, but I am not pessimistic that it is hopeless, either.

COMMISSIONER FREEMAN. Gentlemen, I think we ought not to be lulled, however, into feeling that just because we have a committee that has good intentions, that we actually ought to stop there.

It seems to me that, as you say, while we need some successes, that perhaps some of the people ought to be—we ought to cut through some

of this rhetoric. It is a tragedy in this country that so many people who are themselves the beneficiaries of the Federal subsidy, and that is all the FHA-insured loan is, that they, themselves, take the Federal subsidy, move out to the suburbs, and vote to exclude other people.

Now, this is something that has to be brought home to them. This is something that has to be brought home to our Government.

And it seems to me that until we can cut through this, that we are really not, any of us, the Government, committees such as yours, and companies such as yours, doing all that needs to be done.

Mr. Stoner, I would like to know what is the median income of the 8,700 employees that you have in Columbus?

MR. STONER. Our average straight time hourly wage is \$3.85. Two thousand hours a year would be \$7,600 without overtime. \$7,800, I have just cut it.

COMMISSIONER FREEMAN. So at least more than half of your employees would come within the definition of need for this program?

MR. STONER. That's right.

COMMISSIONER FREEMAN. Well, would each of you comment on what more needs to be done, and who ought to be the people who are doing it?

MR. CHANDLER. You go ahead, while I am thinking.

MR. STONER. All right. I think a lot more needs to be done and needs to be done by several groups. It isn't one group alone.

Certainly the corporate employer, the employer needs to take a more active role, and that has not been done in the past in many communities.

I think the employer has a responsibility, a direct responsibility for making sure that action is taken and some action is stimulated, and to what extent he has to develop that as part of his overall concern for his employees.

We believe the employer has to take a very active role. I think the community has to take an active role. They have to provide an effective open housing ordinance. They have to provide the opportunity for making sure that land is available for the construction of homes.

Then I think the Federal Government, or some agency has to provide some additional subsidy in order to enable the builders, or those who are interested in it, to make a return on their investment where it will not be made.

So I think there is a joint responsibility of several people. But I think it has to be pushed by each of the groups and cannot be sloughed off on some other group and say it is their responsibility. I think each of us have a responsibility to push, and make sure we do ours, and work with others to get theirs done, also.

COMMISSIONER FREEMAN. Mr. Chandler?

MR. CHANDLER. I will buy that answer. I don't have very much to offer in addition, I don't believe. I think the educational job is important. As I indicated, it will eliminate all the misunderstanding.

COMMISSIONER FREEMAN. Would it kind of help if we would enforce the law?

MR. CHANDLER. Yes. That is the job the Leadership Council, incidentally, is doing in Chicago. It has brought over, I believe, over 100 cases now, which last time Secretary Romney was there, I believe said that was more than was brought in the rest of the country as a whole. Isn't that right, Mr. Holgrem, our managing director of the Leadership Council, who is here with me?

So, that has to be done.

COMMISSIONER FREEMAN. Father Hesburgh, do you have any questions?

CHAIRMAN HESBURGH. It seems to me as we have been going round and round this whole question, the most discouraging part, and I am fundamentally an optimist, but the most discouraging part is that we get people from the top echelons of Government. The President makes a fine statement on open housing; Secretary Romney of HUD says that he is going to do everything possible to see that open housing becomes a reality in our times; the Attorney General says he is going to uphold laws, and the laws require a decent housing in a decent neighborhood for all American citizens.

We have here two of the best representatives I know in American industry leadership, and they are not only talking about it but working for it as well, as are many Government officials.

We have put, I guess, of the country's resources, something like \$40 billion—is that adequate, Mr. Staff Director—something like \$40 billion into housing since some years after the end of World War II, and yet, when you look at the country, even look at the most recent report we published on 235 and 236, which says that the net result of all this good will and all this effort is that white people get houses built for them in the suburbs, and blacks are piled deeper and deeper into the ghettos, away from the jobs which are their opportunity for upward mobility.

You ask yourself, as Mrs. Freeman just asked you gentlemen, how do you get a handle on the problem?

What is to tell us that we won't be sitting here—not us, but our successors—10 years from now, in this city and in this country and facing this Government, and not have exactly the same situation, only worse. Because I think one can say it is not better, but worse than it was. There are more people involved in the tragedy today than there were before.

The country certainly has established some goals. I think integration is a goal that has been established in just about every front where it touches—education, voting, housing, justice, accommodations and all the rest.

We have established a goal of 29 million, Mr. Staff Director, or was it 26 million, housing units in the next 10 years—yes, 26 million, and I believe that was 1968 that the 10-year goal was set up. And we are far from being on schedule and meeting that goal.

So one asks himself, what hope can people have when they face the situation where we say we are agreed on what the ideals of the country are, we say we are agreed on the equality of opportunity in housing, as

in everything else, we say we have got behind these ideals the power of the Federal Government, the power of private industry, the power of the churches, the educational institutions, and nothing happens.

Well, where is the bottleneck, that is my question of you gentlemen.

Maybe it is Mrs. Freeman's question in another dimension. But where is the bottleneck? With all this agreement, and all the fine words, and all the money—\$40 billion is not an inconsiderable amount of money—why do we keep getting deeper and deeper into the hole, that is quite different than the mountain of ideal that we at least put forth as a country?

Mr. Chandler, would you say a word on that, and then Mr. Stoner?

MR. CHANDLER. It is a tough question.

The people are still a big force, and I don't think there is the unanimity that you cite. Maybe the unanimity among the leadership up at the top.

CHAIRMAN HESBURGH. Do you think we have the ideal expressed in the law, but the law isn't effective to do what it says it is going to do? Decent housing for every American, free access, open housing—

MR. CHANDLER. Writing the law and having a lot of leaders saying this is right, this should happen, doesn't make it occur.

CHAIRMAN HESBURGH. Are we saying then, fundamentally, that the American people are so caught up in prejudice and ignorance about what would happen if we had open housing, or fear about what would happen, that Americans are being guided by prejudice and fear, instead of by reason and civility and openness to other human beings?

Are we really saying that?

I think we are.

MR. CHANDLER. I think we are.

In the current adult generation. But Archie's kids are quite a little different, and I think maybe the hope is in the kids. It is in mine.

CHAIRMAN HESBURGH. I always say, though, I am afraid—my only fear though, I have no fear about their present conviction about being more humane than their elders. I am always afraid though, they are going to grow up and be as fatheaded as everybody else. I hope not.

VICE CHAIRMAN HORN. Or they will like humanity in the abstract, and not like people as individuals, is another fear.

CHAIRMAN HESBURGH. Mr. Stoner, what do you think of this?

MR. STONER. Well, I think it is, Father Hesburgh, I think the one thing that we have to look at is, it takes education along with it, and results to show that the fears people have are not really justified, when we get a move in an area to accomplish it. We need some successes, and they may be small successes on the local front, and we add to that.

I am not pessimistic. I am optimistic. I think that it is going to take even more money than has been provided so far. I think it is going to take—the young people, I think, fortunately, are interested in—more so in human beings than in security that they accuse the older generation of being. It may be the time in which they grew up and the time in which we grew up.

But I think these things are coming along. If we can show some suc-

cess, whether it is in Chicago, whether it is in the rural areas, or in New York, each of those areas, we can build on that. And it is an educational process.

I think it takes not only our speaking and rhetoric, but our commitment to it and the results that we can get from it.

CHAIRMAN HESBURGH. I would like to summarize, and get your reaction, both of you, to what at least came through to me in the last 4 days.

It seems there are three great blocks, if you will, to the achievement of fair and open and decent housing in this country for all Americans, not just for the privileged few who happen to be white and wealthy, or white and affluent. In saying this, I am saying I don't go along with the statement of the President's message about differentiating between racial and economic discrimination. I think they are so intertwined that I think you would have to be either a genius or, I don't know, a super-philosopher to wend your way between that distinction in the concrete case. Because I think in 80 to 90 percent of the cases, they are almost identical, although they may show one or the other manifestation.

But the three obstacles as I see it are:

The first obstacle is, I suppose, characterized by being personal or human, or even psychological, and I suppose it might best be described by the word prejudice, which has within itself a large measure of ignorance and fear and stereotyping, and making judgments without having evidence for the judgment. Just an automatic knee-jerk judgment that if we have open housing, there goes the neighborhood. Or, there goes my property values, or my kids are now going to be surrounded by drugs, or the whole panoply of fears people have because there has been some very bad public housing, and they have seen it, and they think all public housing now is going to be that and nothing else. They don't want their neighborhood to look like that.

I might say that most people living in that kind of housing, don't want to live there, and don't want to live in that kind of neighborhood either. But they can't do anything about it, because it is the only thing that is available to them, and it is getting worse rather than better because of the concentration. And their hope of working is getting worse, than better, because they can't get out of that box, and they can't travel 100 miles a day, because they are not wealthy. There is no adequate transportation to do it, anyway.

So the first block, I think, is prejudice. And I would think that we can't ask the Government to do very much about this. I think this has got to be taken on by the private sector. It has got to be taken on by parents, in families. They can't talk one way in public, and the other way in the privacy of their kitchen or living room.

I think it has got to be taken on by churches, and I think that churches have just got to come out in this country and say: "We are sick and tired of pandering to the people who support us. We would rather be poor and honest, than affluent and silent on an issue of this importance for the heart of America."

The third area, I think, are the schools that we have all said and heard said in this room, and I am sure that the fellow educators here would agree with me, that the younger people at least instinctively, are less prejudiced than the older people.

Many of them, fortunately, have had the experience which older people haven't had, which is, having friends who are of another race, or another religion, or another color.

I would think that probably 90 percent of the white affluent people in America—and I take affluence to be somewhere around \$20,000 income annually—I think that 90 percent of these people have probably never eaten a meal in the home of a black person, never spent overnight in the home of a black person. They probably never had a black person as a friend with whom they could converse on things of a personal nature, and as a result their fears are fed by the stereotypes rather than straightened out by the truth. They never had the experience of the truth.

Their youngsters are getting that experience now in all of our universities and many of our schools. Unfortunately, not too much in the segregated *de facto* schools of the large cities.

The second great block, I think, is political, and here I would think it is first a question of organization, where we are politically organized in a very unrealistic way with so many small units, that to get a good thing done, like open housing, you have to run the gauntlet of 40 people that can say: "nay." You run the gauntlet of the local government, the metropolitan problems of government, planning being done by whole segments of people in small dislocated units, that don't communicate with each other.

The question of zoning, local laws, councils that are feeling pressures from their neighbors and feeding on their neighbors' fears, and afraid to stand up and say what is right, rather than what is convenient.

You have this small, political organization also fed by the fact that many people today are saying these decisions ought to be made locally.

But I would like to ask, what decision was ever made locally in the face of national prejudice? Did the local people decide that blacks could vote in the South? Did the local people decide that somehow we are going to have housing for all people, and try to live as one Nation rather than two separate, unequal Nations?

I think there are certain great human rights that local people aren't going to say yes to, unless we can educate them faster than we have been doing, and with more success than we have been having in the past.

The third great problem, of course, is economic. You are not going to get builders building houses for lower- and middle-income people unless it is a profitable endeavor. If they can build houses for a higher echelon of income and make more money, they are going to do that.

I think they are not going to integrate labor unions, they are not going to get builders, retail people in housing, brokers and all the rest, the finance people, interested in all of this unless it is a profitable venture, because we happen to be a society that operates on profit, not on

beneficence, although there is some beneficence within the society. I am speaking at present of the foundation. I have to recognize that.

But at the same time, I think it has to be profitable. What I would like to see is profit linked to the ideal of America. We have had much disagreement in this last 4 days, about where we use the stick and where we use the carrot.

I take the availability of profit being a carrot, and I take a stick being the ideals and the laws governing this land. And I would say that we can't have 40 sticks and 40 carrots, because we don't have 40 sets of ideals in this country, but we do have 40 different kinds of laws governing all of our fragmented activities of the Federal, State, and local governments.

What I would hope we would come to, and which I would predict we would come to some day as a national ideal, is to say these are the ideals this country lives on, and if any community doesn't want to share those ideals in their totality, the totality of the benefits coming from the public purse are going to be denied them. They can't take sewer and water, and not take open housing. They can't take all kinds of help and police protection, and not open up their schools to youngsters that are desperately in need of better education.

In other words, we have had a kind of selective service going in how you feed off the Federal Government. You take all those things that are agreeable and nice, you take all the subsidies that benefit you, and you turn down the subsidies, as Mrs. Freeman says, so often benefit others.

We say: "Well, why should the poor and middle-income feed at the public purse, at the expense of the public purse?"

I would like to ask you: "How did the railroads get put across this country?" We didn't create Vanderbilts and others, without the public purse. We gave away practically—well, not practically—we did give away millions of acres of land along the right-of-way, just to get those railroads through. And I think it was a good decision, because the railroads opened up the country.

How do we get airports built all over this country for the convenience of the few that can travel by air? By public money.

You go down the list of every bit of progress this country has made, and practically all of it has been somehow subsidized by the Government for a fairly limited number of peoples who make use of the facilities, for a very, very limited number of people who will get wealthy by providing them.

And what we are really saying is, that at long last we are coming to a segment of our society and we are going to do something to help them. And we are going to use the same principles and the same methods we used to help the few get where they are, and I think it is high time we do this.

Well, if these are the three kinds of blocks we have: Prejudice, which I think will have to be taken on by the complete public sector; education, churches, private organizations, business, all kinds of benevolent organizations. The political, which I think is going to require some of our political scientists to think how we can reorganize,

or even override, little local nay-saying to great national ideals, which I think means we are going to have to have a law that can overcome a local zoning board's obstructing a national ideal. And the third thing, economic, where I think we take the benefits of America, and we link them with the ideals of America, and say: "If you don't want the one you can't have the other." And that is going to take a very firm stance, and whoever takes it is not going to get very many votes, but he may wind up being another Abraham Lincoln.

Well, anyway, these are the things that came through to me the last 4 days, and I just would like to ask two gentlemen who have been giving their own leadership problems if this makes any sense to you?

MR. STONER. Father Hesburgh, I think that is a marvelous summary, and I would agree with it.

There are two footnotes I would like to add. One deals with the governmental problem. Our local governmental units were created in the days of the horse and buggy. The county was established on how long it took to get—ride a horse—to the county seat and back again. We are still using that same concept in local government, and it is vital in the State from where I come—a reorganization is absolutely essential in order to achieve some of the basic things that you are mentioning.

Now there is resistance to that, there is always resistance, but it has to be taken on as an educational project and developed across political and party lines, because that is the way we are going to get the results. And it has to be done nationwide.

The second thing is, on the footnote, it seems to me that the churches in this country had their finest hour in the last 25 years or 30 years, or maybe the last 100 years, in the leadership role that they took in the early 1960's over the question of voting rights for the blacks. The leadership role that was not only taken by the National Council of Churches, but were taken by the Catholic churches and the bishops, and the leadership they took, not only in the South, but also in the North. And I think the one problem of education that you speak about, and the fear or the prejudice, what everyone will say, maybe is in affluent America, and I think it is. And affluent America still likes to say that they are a churchgoing portion of the population. And from the pulpits, from that area, they are going to have the educational push. And I think if the churches are to mean anything, they are going to have to take that role. Also, if they are going to appeal to the young people, they are going to have to do something in that area.

If the churches want to become a meaningful part of society again, or yet, or continue, whichever word you want to use, I think they have to participate in that. And there certainly is a challenge for them, because they need to educate us parishoners, and I think we need to help the church do that, whether it is Catholic, Protestant, or Jewish, whatever it is, or whatever the religion is, I think they can play a more dominant role than they have, and I think that is absolutely necessary for us.

Those are just two footnotes I would like to add to your excellent comments.

CHAIRMAN HESBURGH. I appreciate that second one, which is a

sermon to my department, which I accept with full heart.

MR. STONER. I did not mean it to yours. I meant it to mine, also. I am in the National Council and the Vice President of the National Council of Churches.

CHAIRMAN HESBURGH. Well, the church is us anyway, it is not me or you, it is all of us.

Mr. Chandler?

MR. CHANDLER. You summarize so well, I find myself at a loss to add very much to it, Father Hesburgh.

I do see one, footnoting your first item—I do see one element of hope there, very concretely and tangibly.

I think industry is employing more blacks, and all the way up, making a real effort up through the management ranks. The black MBA is the crown prince these days, probably getting the most offers of anybody.

We find in our company, where black employment is multiplied by five in the last 3 or 4 years, that employees are finding out that working alongside a black man, having lunch with him in the cafeteria, playing golf with him at the golf outing, you know, he is a great guy, they love him, and he is a good friend, and we can talk about things.

I know one employee who told me he was playing golf with our Charlie Thurston, one of our fine young black men, coordinator of minority employment for a while, kind of really got us going, University of Kansas graduate engineer. A man told me: "Well, I got a date to play golf with Charlie Thurston tomorrow, but don't tell my wife." So he has made the break. I think, given a chance, his wife will, too, and gradually there is some progress being made through the interplay in the job location.

CHAIRMAN HESBURGH. Ladies and gentlemen—

VICE CHAIRMAN HORN. Can I make one request for information?

CHAIRMAN HESBURGH. Yes, one quick one.

VICE CHAIRMAN HORN. Let me ask the Staff Director, Mr. Chairman, to contact both the Gallup and Roper polls and insert at this point in the record, any surveys they have in the last 5 years, as, if you will, the prejudice-nonprejudice, tolerance level by income and education. I don't think we ought to leave the record unclear that we are flagellating people because they make \$20,000 a year or above.

Any poll that I remember shows, that while there might be problems there, the problems come at a much lower income level in terms of economic class competition. And I think we ought to have that in the permanent record.

CHAIRMAN HESBURGH. I agree. I think that is a good observation.

I was thinking more about it is this category of people and this category of income level that keep other people from moving into the neighborhood.

VICE CHAIRMAN HORN. Well, they should be more active leaders, perhaps, but the problem is more complex than that.

CHAIRMAN HESBURGH. The problems of prejudice are as complex as all humanity, because it affects all of us.

Ladies and gentlemen, this hearing of the United States Commission on Civil Rights is nearing its end. If you gentlemen want to remain, I am only going to talk for a couple of minutes, it might be more comfortable to stay right where you are. We would be glad to have you associated at our closing.

I want first of all to express our appreciation to the Secretary of Agriculture, Clifford M. Hardin, for his generosity in making this auditorium available to us for this hearing.

I want also to thank Mr. T. M. Baldauf, Mr. A. R. Knudsen, Mr. Louis McElroy of the Department of Agriculture, and the members of their staffs who have been of invaluable help to us preceding and during the hearing; Mr. Meredith Baughan and Mr. Morris Bernstein of GSA, and Mr. Jack E. Braxton and Mr. R.J. Wierenga, the Deputy U.S. Marshals, who have been present throughout this hearing, also bear our gratitude.

I would like to depart from my text here, and express the gratitude of the whole Commission for our staff, which puts enormous dedication and long hours into the preparation of these hearings, and while the Commissioners may seem to get the external credit for it, I think I would like to pass that credit on particularly to them and to the others who have been associated with them, like our court reporters, who give us a good record of this proceeding.

We appreciate the cooperation of the news media representatives who have covered our sessions, even when they have been boring, on occasion, and we are again, as always, grateful to each member of our staff for all of the efforts that go into these meetings.

Over the past 1 1/2 years, this Commission has studied intensively the problem of racial polarization in our Nation's metropolitan areas. As you know, we have had hearings in Baltimore, St. Louis, and here in Washington.

It is clear that the Federal Government is only one of the many institutions which must share in the solution of this problem. But it is equally clear that the mammoth task of remedying the effects of many years of discriminatory exclusion of minorities from all suburbia, often due to Government programs, will be possible only if there are affirmative and now systematic and systemic efforts on the part of the whole Federal Government toward this end.

This view of the problem of racial polarization is perceptively reflected in the statement on the equal housing opportunity which was issued by the President of the United States last Friday. This one statement will not change overnight the present bad situation, so deeply rooted in prejudice and malpractice on the part of many in both the public and the private sector.

This hearing, which we are now concluding, has focused on deeds, rather than words, and on actual remedies. It has focused on the question whether the Federal programs and policies in fact, today, are being used to the fullest extent possible to remedy the problem of racial and economic polarization in our metropolitan areas.

Much of the testimony we have heard here for the last 3 1/2 days,

confirms the findings of our investigations over the past year and a half, that the Federal Government has not treated the problem of racial and economic polarization as a problem of the first priority. I might say a problem at the heart of the solution of America reaching its ideals.

The painful reality is this. There exist, on the statute books, basically all the laws we need to move aggressively on this problem. But somehow, the will, the imagination, at times the creativity and, above all, the sense of priorities have been lacking. Tragically, we continue to temporize with the cancer of racial polarization, with the most virulent and destructive form of racial injustice that our country knows.

It is true that over the past 2 weeks, in some cases in presentations before this Commission, a number of new initiatives were announced, or were said to be under consideration for action in the proximate future. We have heard most of the distinguished leaders of our Federal Government speak to us of their efforts to achieve equality of opportunity for Americans of all races and all ethnic backgrounds, particularly in the area of housing.

I believe they are trying to do their job well. We of the Commission assume that they are as dedicated to the promises of our Constitution as we are.

We are encouraged by what some of them have said to us. But we will have to watch closely the developments which follow the announcements, and we will not confuse these announcements with the hard reality of accomplishment.

If we sound unusually skeptical in saying this, it is because our hopes have so often been frustrated in the past.

The Commission does not intend to leave here today and let matters rest. Many new programs and policies have been announced within the past few days, and we are grateful for that.

Many promises and hopes have been expressed. We will follow them with our reports, and possibly with another hearing here in Washington, to see what progress has been made.

Just as several months after the publication of our Federal Civil Rights Enforcement Effort Report, we reviewed the progress that had been made in the areas dealt with by that report, so here our concern with the Federal Government's role in reducing racial polarization will persist.

During the months ahead, our principal concern will be with those steps which Federal Agencies can take under existing legislation to contribute to the solution of this problem, steps which thus far they have failed to take.

Let me enumerate several of these.

First, commencing with the first witness on Monday, the director of the Miami Valley Ohio Planning Commission—and recurring throughout the testimony of many of the witnesses who followed him—was emphasis on the fact that cooperation between jurisdictions in metropolitan areas is the very foundation for undoing metropolitan racial and economic polarization.

There are now Federal laws on the books which would permit— if indeed they should not be read to require—the Office of Management and Budget, HUD, Department of Transportation, and many other Federal Agencies, to require every suburb receiving Federal assistance to be part of a plan for reversing racial and economic polarization. You find this mentioned almost verbatim in the President's message.

Here is one place where the Federal interest in overcoming racial prejudice is matched by an extraordinary potential for constructive Federal leadership.

In our view, continued failure to seize upon this opportunity would be a serious breach of the Federal Government's responsibility to make solution of this problem truly a matter of first national priority.

Number two. A second factor of great significance, closely related to the first, is the need for effective cooperation among Federal Agencies in dealing with the problem of racial polarization.

Basic requirements for effective civil rights planning and project review, which apply to some programs, inexplicably are not brought to bear upon others.

At a minimum, if we are to demonstrate that we are truly dedicated to the solution of the problem of racial polarization, it is incumbent upon the Government to devise, and publicly to announce, goals and timetables for the development of a coordinated, across-the-board multiagency plan of action for dealing with this problem.

Three. A third major area where performance lags behind Federal authority and Federal responsibility is in the racially dual housing market. Secretary George Romney candidly acknowledged that systemic discrimination in the sale and rental of housing pervades the land today.

Such steps as affirmative marketing guidelines for existing housing, which HUD's proposed regulations would not cover, but I think should, are essential if this problem is to be attacked meaningfully.

When Secretary Romney appeared here on Tuesday, he stressed, as did the President in his housing statement of last Friday, that there are great limitations on what the Federal Government can do to solve the racial polarization problem. Of course, this is a fact of life which we all do well to bear in mind. I might say the problem and its solution are shared by every American, not just the Federal Government, and certainly not just the President.

But granting these limitations, they all make it all the more crucial that the Federal Government make the full use of all the tools at its command, if it is to have the effect for which it was preordained when it was constituted.

If the sorely oppressed minorities of this Nation have any one just demand, it is that the Federal Government make good on its announced purpose—loudly affirmed at these hearings by many witnesses—to remedy the manifold injustice wreaked by racial polarization in all of our metropolitan areas. That just demand makes crucial the question of whether the good words and good intentions of our Federal Government are matched with the use of every available tool

or the solution of this pressing and urgent problem.

Indisputably, this hearing has documented that this standard is not satisfied by our present course. The hopes, the trust of many of our people—indeed, of all of our people—are riding on what has been done—are riding on what is to be done in the months ahead.

This Commission hearing is officially ending. But what has been said in this room during its sessions must mark a new beginning, a renewed effort to make the bright day of justice finally dawn.

It is in this spirit, and with this hope, that on behalf of all of my fellow Commissioners and our staff, I declare that this meeting of the United States Commission on Civil Rights is adjourned.

Thank you all very much.

(Whereupon, the hearing of the U.S. Commission on Civil Rights was adjourned.)

EXHIBITS ENTERED INTO HEARING RECORD

*Exhibit No. 1***COMMISSION ON CIVIL RIGHTS**
HOUSING AND EMPLOYMENT OP-
PORTUNITIES IN SUBURBAN AREAS
Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on June 14, 1971, and that an executive session, if appropriate, will be convened on June 14, 1971, to be held at the U.S. Department of Agriculture, Thomas Jefferson Memorial Auditorium, 14th and Independence Avenue SW., Washington, DC. The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, or national origin which affect the housing and employment opportunities of minority group members in the suburban parts of metropolitan areas and elsewhere; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, or national origin as these affect the housing and employment opportunities of minority group members in the above areas; and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, or national origin in the fields of housing, employment, and related areas.

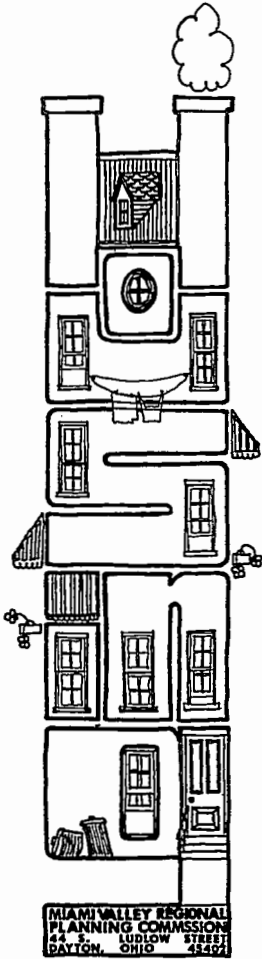
Dated at Washington, D.C., May 3, 1971.

THEODORE M. HESBURGH, C.S.C.,
Chairman.

[FR Doc.71-6353 Filed 5-5-71;8:48 am]

A HOUSING PLAN FOR THE MIAMI VALLEY REGION

A SUMMARY



A
HOUSING PLAN
FOR THE MIAMI VALLEY REGION
JULY 1970

I
INTRODUCTION

Since the early months of 1969, the staff of the Miami Valley Regional Planning Commission has been engaged in carrying out a Housing Program. In addition to fulfilling a very obvious lack in this area locally, the program also responds to the Federal Government's requirement that local planning agencies address themselves to the critical problem of housing an expanding population.

The extent of the Nation's housing crisis has been widely reported. This country will require an additional 26 million housing units¹ in the next ten years, or 2.6 million each year. Estimates of immediate production are running at about 1.3 million units per year, or one half the number needed: A major purpose of the M.V.R.P.C. work in housing has been to determine how our local area stands in relationship to this National Housing deficit. What share belongs to us in Dayton and the Miami Valley Region? To what extent are our families ill-housed? How far have we come toward fulfilling the oft-repeated "promise" of a decent home for every family?

1. A Decent Home, The Report of the President's Committee on Urban Housing, December, 1968.

II
GOALS of the HOUSING PROGRAM

The Housing Program of M.V.R.P.C. exists because of the circumstances presently surrounding that element of our environment. The reservoir of decent, safe and sanitary dwelling units in this five county Region is not sufficient to house its population. Although the responsibility for this has traditionally been left to the private sectors of the housing market, it is clear that they alone can no longer do the job. Alleviating the shortages and shortcomings that we are presently experiencing requires the combined effort of builders, developers, financiers, volunteer organizations, local government officials, private citizens, architects, planners, packagers, the federal government, realtors, lawyers, nonprofit, limited dividend and profit motivated sponsors. All of these have a role to play in the housing process.

To understand this report and the activities of the continuing Housing Program of which it is a part, it is necessary to identify two overriding goals toward which our efforts are directed.

These are:

- To adequately house all of the Region's people.
- To create and/or maintain sound, viable neighborhoods in the process of housing those people.

Analysis of the local housing situation during the past year indicates that to accomplish these, we must bend our efforts toward achieving two further goals:

- To increase the supply of housing units numerically, especially for low and moderate income families and individuals.
- To expand the range of housing opportunity for everyone geographically.

Virtually all of the Housing Program efforts are directed in one way or another toward achieving these goals. Certainly there is a full range of objectives within these that must necessarily be achieved to move us closer to the larger goals. This report itself is such an objective. For the goals of quantitative increase and geographic expansion imply two other more specific questions: How many?, and where?

III
PURPOSES of the HOUSING PLAN

The purposes of this document, The Housing Plan, are four-fold.

1. To provide a public report summarizing the estimated extent and character of housing needs in the Miami Valley Region on a county basis.
2. To outline the ways in which these needs can be translated into reasonable and achievable goals for the sub-areas of the Region.
3. To provide numerical guidelines for geographically distributing the needed housing units throughout the Region.
4. To provide policies and recommendations for taking the actions necessary to implement the suggested pattern of housing distribution.

IV
RATIONALE

If planning as a public responsibility is to be effective, it must address itself to all aspects of the environment. None of these is simple in today's world, and their interrelationships are even more complex. And if, for the sake of examination, the environmental elements are

identified separately, perhaps none is more difficult to understand, or more far-reaching in its implications, than housing. It is as minute as a tiny room in a boarding house, and it is as vast as the entire stock of housing units that a given geographic area possesses.

The essence of the housing situation is not really difficult to identify or even to document. Good housing is scarce; there is not enough of it, at appropriate prices, to allow everyone to have his share. The result is that certain groups of people are left no other choice but to live in housing which has filtered down to them as the rest of the population moved up the housing ladder. While new housing is being produced for the majority of households, very little is being produced, either new or rehabilitated, for those whose circumstances result in a limited income.

The solution is apparently simple: build more housing of the kinds needed. But this is easier said than done. For one thing, there are economic restraints that hinder it, although there are various solutions to this. The second restraint is the one that makes the problem a philosophical one. It is the intricate network of feelings and convictions which everyone has about the place and the way he lives.

To Americans, the concept of property-ownership and territorial rights are nearly universal and wholly sacred. The opportunity for these is one of the things that characterizes our way of life. Taking advantage of the opportunity implies hard work, however, and once the objective is achieved, a man understandably feels protective of what he has. If something threatens the way of life that he has made for himself and his family, he will instinctively seek to deter it.

The problem we face in our housing crisis is not just that everyone should have a chance at a good place to live; hardly anyone can disagree too strongly with that premise. It is the question of where, geographically, that chance should be that elicits gut-level debate. The idea that sound and stable neighborhoods should be made accessible to people whose life styles or income brackets are different becomes a frightening one because of the changes that are implied, be they real or imagined.

For this reason, the goal of maintaining viable neighborhoods intact becomes a primary one, one that must be emphasized and clearly stated.

To take any action that would tear down sound areas would be totally self-defeating. It would make the problem larger, not smaller.

At the same time, however, geographic containment of the less expensive housing stock continues to be a constraint upon complete housing opportunity. To broaden that opportunity, two concomitant approaches must be taken. First, deteriorating areas must be caught and restored, for they represent a part of the opportunity

also; an important part, as many people who live in them have no desire to leave. Second, a number of reasonably priced housing units must be located in other areas so that families and individuals who wish to will have the chance to locate there.

Neither of these approaches alone can provide the solutions we seek. But together, in balance, they hold a promise of measured success.

V

BACKGROUND WORK and FINDINGS

From the outset of the M.V.R.P.C. Housing Program, two facts have been apparent: first, a part of the Region's people are ill-housed; and second, a housing shortage exists that precludes significant alteration in this condition.

Based upon the general knowledge at hand, the program developed two simultaneous thrusts: to acquire the information and understanding necessary to assess accurately the housing situation and to promote actively the production of obviously needed housing units. Although carrying out these things has involved a variety of activities and has had widespread implications, the work program has been directly or indirectly oriented toward achieving them. A third effort, without which the other two would have been meaningless, has been to create a level of public awareness that a housing crisis does indeed exist, and a level of public concern about that fact.

The important thing at this juncture is to recap the factors which delineate the scope of the "housing problem" to which this report addresses itself.

First is the factor of need for additional housing units. Need is a social concept and it is concerned with the people who must be housed. There are estimated to be nearly 123,000 households² within the five county Region presently whose incomes fall into the "low and moderate" category, and who therefore may have difficulty finding good housing at prices they can afford.

The second factor is the existing supply of housing units and the deficiencies in that supply. The housing inventory should respond to total housing need through its composition of sound, livable dwelling units of different types, styles, sizes, locations and price ranges. To the extent that the supply fails in any of these respects, it may be termed deficient. In every jurisdiction of the Region, it is safe to say that the housing stock does not measure up in at least one of these ways. The housing supply should provide the opportunity for Miami Valley households to select a place to live that satisfies their requirements, and that opportunity should exist regardless of financial limitations.

A third factor is housing production. Given that a need

for certain kinds of dwelling units exists and that the present supply of units fails to meet that need, what prevents the housing industry from filling the gap? The private market has traditionally been left to produce the housing that this country needs; but it is an industry that is complex and fragmented and presently it is falling farther and farther behind in its production rate. This situation is not wholly the fault of the industry. Money is scarce, interest rates are exorbitant, labor and materials costs are high, land is expensive, governmental red tape is lengthy and costly. Taken together these things forced the average price of new homes in the Dayton area to more than \$25,000³ in 1969. Not only is housing production in a slump, but that which is being produced is priced far beyond the reach of those who need it. The tightening of the market at the upper end causes a tightening throughout, and even those units that should filter down into the lower-priced brackets fail to do so. Thus, in the existing economic situation, there is virtually no prospect for the private market alone to alleviate the housing shortage we are presently experiencing. It should be carefully noted that the market segment for which the industry cannot economically produce housing is no longer just that usually referred to as "poor", but also includes moderate income households.

The fourth factor for consideration here is something that may be called public attitude. If the private housing market alone cannot provide for the housing needs of the population, then it must be infused with some form of public aid. There are a number of ways in which this may be done. Although, in fact, the federal government has for years been assisting American families in acquiring shelter through FHA and VA insured loans and through tax deductions of interest payments, there is a groundswell of opposition to the newly instituted programs oriented toward assisting financially limited families to obtain good housing. Proposals to use these programs to build housing in any but old and run-down areas are met with a multitude of objections. The depth of this problem is such that M.V.R.P.C. has recently received monies to conduct a study of the impact of placing low and moderate income housing units in suburban areas where there may be very little (or none) such housing now. It is believed that the study will shed light on the complexities of this problem and indicate directions for finding solutions. In the meantime, however, plans and work must proceed to get new housing built for the families who need it, and to broaden total housing opportunity for these same families.

2. M.V.R.P.C. estimate.

3. Home Builder's Association of Metropolitan Dayton.

VI

QUANTIFYING the NEED: the SUPPLY INCREASED

The need for sound housing, of various types and amounts in various locations, forms the basis for the Housing Plan. A quantitative assessment of the Region's housing needs is

the subject of a report by M.V.R.P.C., which is summarized on pages 10 through 12 of this document.

Stated in a slightly different manner, the conclusions to be drawn from the report on housing need are (1) that a need for additional sound housing units exists to the extent shown by the figures in Table 7; (2) that this need is primarily among the low and moderate income households who can no longer participate in the private housing market; and (3) that the range of housing opportunity for these households is geographically limited.

Housing need is essentially the volume of sound dwelling units that would be required if the entire population were to be provided decent, safe and sanitary shelter. To the best of anyone's knowledge, this is a condition of things that has never been achieved heretofore, and there is no assurance that it will be achieved in the near future. In planning for a better environment, however, nothing short of this goal can be set forth.

VII

LOCATING NEEDED HOUSING UNITS: the OPPORTUNITY EXPANDED

A. Why a Distribution Plan?

It has been pointed out that identifying the extent of need for housing units is only a part of the total problem. The other aspect of it is geographic. The following discussion will illustrate this.

Montgomery County has an estimated total of 193,673 households as of 1970. Of these, 85,753 or over 40% are estimated to have incomes of less than \$10,000. Obviously, some jurisdictions or planning units in the County have a greater proportion of low and moderate income households than others. Dayton City is the most notable example. Obviously, too, a shift would have to take place if each jurisdiction were to have a number of low and moderate income households proportionate to its share of the County's population.

Recommending such a distribution of households would be saying in effect, that every jurisdiction should have the same economic mix of households. This is not necessarily the case, nor is it established here as an objective. However, the implication of the existing concentrations of low and moderate income households is that to a large extent there is no opportunity for those concentrations to dissipate.

The households are constrained within them and may continue to live there because there is no housing available in other areas within their income range. Certainly not all of them want to move. The majority live in housing that is either in good condition or that can be restored to good condition. Also, they are living in neighborhoods near people like themselves, they are

close to commercial facilities and transportation, and may have a genuine preference for these things as they are.

On the other hand, the housing in which these households live is largely old housing that has come down to them through the filtering process. Very few new units are being provided in the proper income range anywhere — either in the older areas or in the new suburban areas. The inventory of dwelling units known to have been produced for this income bracket consists of those operated by the Dayton Metropolitan Housing Authority and those built under FHA-assisted programs.

These households then, are first of all given little opportunity to live in new, modern, dwelling units. Second, they are given practically no opportunity to live in areas other than those where they now find themselves.

A proposition basic to this report and to the overall Housing Program is that housing opportunity for all of the Region's households must be maximized. One way of doing this for the low and moderate income households whose opportunity is constrained in the ways described above is to provide for the construction of the needed dwelling units in areas other than the concentrations where they now live.

The distribution of units presented here is for the purpose of moving in that direction. No one area is expected to accept or absorb all of a County's or the Region's needed housing units. All of them have the capability for receiving a share of those units, and this report establishes guidelines as to how many, or of what number, that share should consist.

B. The Distribution Method

Geographic distribution implies some kind of grid or areal matrix upon which the distribution is imposed. To provide this, the five-county Region was subdivided into 53 "planning units" or sub-areas to which the housing units could be assigned. These are illustrated in Figure 1. Their size is based, to a large extent, upon the intensity of the development within them. Thus, in the metropolitan area, planning units often consist of individual townships, whereas, in less densely populated areas, groups of townships have been put together to form large areas of counties. Dayton City actually consists of 21 planning units composed of groups of census tracts, but the distribution presented here allocates units only to Dayton as a whole.

With housing need figures having been established, a geographic matrix designed and pertinent data compiled, the next major task was to determine a mathematical way to distribute dwelling units. It is untenable to make arbitrary assignments, even with a

vast amount of information at hand upon which to make them, and so a more scientific method was sought. Since a variety of factors influence an area's capability to absorb new units, the method had to be as sensitive to these as possible.

Also, the distributing had to be done on a county basis, since this is the geographic unit on which the need estimates were made. It should be noted again that the figures to be distributed in each county represent additional needed low and moderate income units only, and the minimum necessary to shelter the population adequately. In every case, the need figure is a relatively small proportion of the total county housing inventory and should not be regarded as representing a great overall impact. The only real threat of such an impact would come if the needed units were placed in one or two areas. It is this eventuality which this housing plan seeks to avoid.

There are a number of factors upon which a distribution can be based. For example, the simplest solution is to divide the needed housing units equally among the planning units. Or, each planning unit can be assigned a number of units equal to its proportionate share of the population, thus distributing units in the same ratio as the population is distributed. The greater the number of people, the more units assigned. Again, each planning unit can be assigned dwelling units according to the number of low and moderate income households it contains. The greater its population in this category, the more moderate and low income units assigned it. This method sounds quite logical on the surface, but in fact, it would simply be placing the new units in the same areas where lower cost housing now exists. Geographic opportunity would not be enhanced through this method at all. A variation of this method that would solve that problem, however, is to assign units inversely to the proportion of low and moderate income households, so that the greater the existing proportion, the fewer the dwelling unit share.

Two other methods involve the school system. Since this is one of the most sensitive points of controversy when the question of low and moderate income housing is raised, it was deemed necessary to consider ways of building it into the distribution process quantitatively. One way of doing this is by looking at school districts' assessed valuation per pupil, and distributing units according to the relative strength or weakness of this factor. The higher the assessed valuation per pupil, the greater the number of dwelling units assigned. It is recognized that assessed valuation alone does not determine the monies that a district actually receives for its schools. However, it does represent the potential for taxation for education, and that is considered to be the relevant point here.

The other school-related factor is "pupils in excess of

normal capacity", which indicates overcrowding and need for more classrooms. Here an inverse rank can be used again, with the most severely overcrowded districts receiving the fewest dwelling units. In both this method and the preceding one compensation can be made for the disparities between school district boundaries and planning units boundaries by adjusting assignments to reflect the geographic differences.

The six described in the preceding paragraphs seem to hold the greatest promise of yielding reasonable results, yet each one alone has its shortcomings. Thus evolved the idea of using a composite of the six, for this would achieve a counterbalancing of the strengths and weaknesses of each planning unit and yield a distribution of units sensitive to them.

The results of this mathematical distribution of units for each county are contained in the table which follows. The figures represent the number of low and moderate income housing units to be received by each jurisdiction under the composite distribution method. It should be emphasized that these figures are not intended to be taken precisely at their face value, but are to be used as guidelines for scattering the needed units. (see Table 1 on page 7)

The low and moderate income housing needs include both FHA-assisted and public housing units. In working toward the goals set forth here, it is necessary that each planning unit now served by a public housing authority accept a certain number of these units, as well as FHA-assisted units. The location of these will be rather strictly limited by the criteria governing their development. Within the metropolitan area, however, suitable sites are available for such housing and the way should be paved for it by execution of cooperation agreements with the Dayton Metropolitan Housing Authority to expedite its development.

In areas not now served by a housing authority, it is highly recommended that these be established. Throughout the Region there are families for whom decent housing cannot be produced by any other means. Low-rent public housing serves a very necessary purpose in helping to house the low income segment of the population and is a program that must continue apace. It, too, however, suffers tremendously from geographic confinement that limits its full usefulness.

C. Factors for Further Considerations

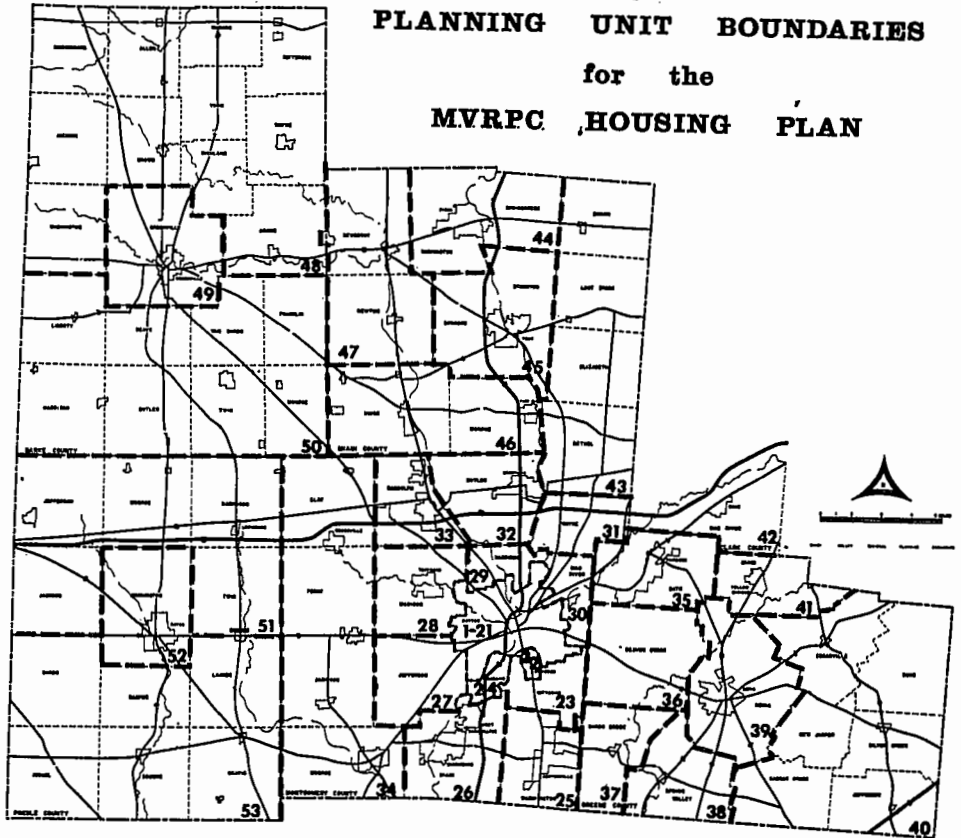
All the planning units have the capability to accept immediately a number of units of one kind or another. Based upon all of the collected data on each planning unit, the staff attempted to go through the exercise of isolating factors that might sharply curtail an area's ability to absorb the housing units. Essentially, however, they all have the necessary basic elements

such as commercial facilities, transportation, land, schools, parks, utilities, etc. Not all the potential sites in a given planning unit have all these things, but it is most likely that sites can be found in all of them that are satisfactory. A more detailed analysis will have to be made on a project by project basis as proposals are made.

MVRPC Involvement

In proceeding with the implementation process, the MVRPC staff has and will continue to accept the responsibility of working with representatives of all the planning units to develop needed housing in ways that will be most sensitive to their problems and that will assure the greatest possibility of enhancing the quality of community life. Officials and citizens alike are invited to meet with the staff and its consultants whenever they deem necessary and beneficial to discuss housing for their particular area.

Figure 1
PLANNING UNIT BOUNDARIES
for the
MVRPC HOUSING PLAN



**Table 1
HOUSING UNIT DISTRIBUTION BY COUNTY**

MONTGOMERY Need = 8811			GREENE Need = 2159			MIAMI Need = 1553			DARKE Need = 734			PREBLE Need = 868		
Planning Unit No.	Name	dwelling units	Planning Unit No.	Name	dwelling units	Planning Unit No.	Name	dwelling units	Planning Unit No.	Name	dwelling units	Planning Unit No.	Name	dwelling units
1-21	Dayton City	1709	35	Bath	339	43	<u>East:</u>	<u>295</u>	48	<u>North:</u>	<u>264</u>	51	<u>North:</u>	<u>321</u>
22	Oakwood	634					Brown			Mississinawa			Jackson	
23	Kettering	878	36	Beavercreek	291		Lost Creek			Allen			Jefferson	
24	Moraine	335					Elizabeth			Wabash			Monroe	
25	Washington	599	37	Sugarcreek	257		Bethel			Patterson			Harrison	
26	Miami	740				44	<u>Piqua:</u>	<u>326</u>		Jackson			Twin	
27	Jefferson	441	38	Spring Valley	158		Washington			Brown				
28	Madison	414					Spring Creek			York				
29	Harrison	582	39	Xenia	354	45	<u>Troy:</u>	<u>311</u>		Richland		52	<u>Eaton:</u>	<u>278</u>
30	Mad River	441					Concord			Wayne			Washington	
31	Wayne	432	40	<u>Eastern:</u>	<u>436</u>		Staunton		49	Adams				
32	Butler	573		Caesar Creek						Washington				
33	Randolph	502		New Jasper						Greenville	198	53	<u>South:</u>	<u>269</u>
34	<u>West:</u>	<u>731</u>		Jefferson									Dixon	
	Clay			Silver Creek		46	<u>Tipp - W. Milton</u>	<u>285</u>		50	<u>South:</u>	<u>272</u>	Israel	
	Perry			Cedarville			Union			Liberty			Somers	
	Jackson			Ross			Monroe			Neave			Gasper	
	German		41	Miami	324	47	<u>West:</u>	<u>326</u>		Van Buren			Lanier	
							Newberry			Franklin			Gratis	
							Newton			Harrison				
										Butler				
										Twin				
										Monroe				
Total		8811	Total		2159	Total		1553	Total		734	Total		868

442

VIII
HOUSING GOALS and POLICIES
for the
MIAMI VALLEY REGION

Adopted September 23, 1970
Meeting No. 67

A RESOLUTION

WHEREAS, sound and adequate shelter is one of the most basic of human rights; and

WHEREAS, we have previously committed ourselves to "a decent home for every family" in the Miami Valley Region; and

WHEREAS, there is a critical shortage of housing locally, particularly for families and individuals of low and moderate means; and

WHEREAS, alleviating the shortages that presently exist requires the cooperation and efforts of all related public and private community resources;

NOW, THEREFORE, the Miami Valley Regional Planning Commission hereby adopts the following goals for housing within the Region:

1. to adequately house all of the Region's people;
2. to create and/or maintain sound, viable neighborhoods in the process of housing those people;
3. to increase the supply of housing units numerically especially for low and moderate income families and individuals;
4. to expand the range of housing opportunity for everyone geographically.

In pursuit of these goals, and to facilitate meeting the Region's housing needs, the Miami Valley Regional Planning Commission hereby adopts the following Housing Policies as guidelines for its ongoing Housing Program:

1. Encourage local officials throughout the Region to accept the goals of the Housing Plan and to initiate definitive efforts toward developing the needed housing units.
2. Encourage local officials throughout the Region to implement the policies of the Housing Plan as amended herein.
3. Authorize the provision of staff services, upon request

and to the extent feasible, to local officials, private and public organizations, and citizen groups to supply information about, and to aid in the location, evaluation, and compatible development of, proposed housing units.

4. Authorize the MVRPC staff, in the course of the above and in conjunction with the City-County Housing expeditor, to act as a central monitoring point for all low and moderate income housing developments.
5. Through its staff, evaluate proposals and attempt to insure:
 - a. that the quality of construction of the proposed housing units shall equal those of modestly priced housing units being constructed in the same locality and during the same time period;
 - b. that new housing developments shall be located in such a manner that they will be served by commercial and recreational facilities, transportation, schools (where required), employment opportunities and all of the necessary facilities in keeping with sound planning principles;
 - c. that every effort shall be made to create new housing developments that are compatible with the character of the neighborhood in which they are to be built;
 - d. that guideline densities for multiple-unit development for standard families shall conform to local zoning standards. The maximum size and density of such developments, however, should be governed by realistic consideration of the occupants' living needs, compatibility with existing development and physical site limitations.
6. Operate, through the staff, a central collection, processing, and dissemination point for housing-related data.
7. Encourage the adoption and vigorous enforcement of fair housing ordinances.
8. Promote means through which local citizens can be involved in the development of projects meeting the local communities' housing needs.
9. Authorize the staff to work with agencies, sponsors, and developers of low and moderate income housing to emphasize the entrepreneurial and employment

opportunities inherent in them for minority contractors, sub-contractors and construction trades workers. Efforts should be made to coordinate with emerging business organizations, directing assistance at the stimulation of such groups.

10. Promote efforts throughout the Region to provide credit counseling to enable families to qualify for home ownership programs and increase their possibilities for continuing home ownership.
 11. Encourage programs leading to home ownership for families, but at the same time recognizing that this situation is not desirable for all families at all points in time, and therefore, choice must be offered.
 12. Encourage local officials to develop ways of making rehabilitation of deteriorating housing a significant activity and a part of their overall housing policies.
 13. Explore the development of a land bank which could obtain appropriately located land, including available excess public lands, for low and moderate income housing.
 14. Endorse continued participation in the housing process by community leaders and resource groups through provision of seed monies for non-profit sponsorship of low and moderate income housing developments.
 15. Encourage active participation in the housing process by lending institutions through mortgage loans to non-profit, limited dividend and profit-motivated developers and through the provision of risk capital for housing development ventures.
 16. Encourage the U.S. Department of Housing and Urban Development to adopt more flexible and workable standards for qualifying participants in home ownership programs.
 17. Encourage the Federal Housing Administration and the Farmers Home Administration to work with local elected officials and MVRPC to insure that the placement of new housing developments is consonant with the intent of the housing goals.
 18. Adopt the county-wide housing unit needs and the suggested distribution, as shown in the Distribution Tables contained in the Housing Plan dated July 1970, for the purpose of encouraging housing opportunity and choice. Adoption of the suggested distribution assumes that the figures are to serve as flexible guidelines, subject to modification as additional factors are brought out through consultation with citizens and local officials in the involved political subdivisions.
- Local officials are requested to consider appropriate action, concerning the following policies directly related to their part of the implementation process:
1. Endorsement of the goals and policies of the Housing Plan as amended.
 2. Recognition of housing as a public, as well as a private responsibility, due the express attention and effort of all local government officials.
 3. Determination and removal of any discriminatory restrictions imposed by local codes and ordinances upon the location of low and moderate income housing developments.
 4. Examination of health, safety, building or housing codes to determine to what degree, if any, they unnecessarily impede the construction of needed housing units.
 5. Encourage experimentation with alternative development and construction standards which would facilitate lower construction costs, provide greater neighborhood livability and increase the choice of living patterns available to the Region's families.
 6. In areas not now so served, establishment of public housing authorities to build, operate and maintain housing for lower income families and individuals.
 7. Adoption, by local elected officials, of such resolutions of agreement or cooperation agreements as may be required to enable placement of low and moderate income housing within their jurisdiction.
 8. Enact and vigorously enforce fair housing ordinances.
 9. Design and activate programs aimed at working with neighborhood groups to improve the quality of the residential environment.
 10. Establishment of greater communication and cooperation among governmental officials, school officials, other organizations, citizens, and the MVRPC to identify problems of school districts in absorbing new students and to seek solutions to those problems.
 11. Provision of educational information and technical assistance to rural and small community residents as well as urban area residents, regarding the availability of financial programs for housing improvement in those areas.
 12. Cooperation with MVRPC in exploring the feasibility of accepting a share of the Region's needed housing units.

**HOUSING NEEDS
IN THE MIAMI VALLEY REGION**

JUNE 1970

**I
INTRODUCTION**

The Miami Valley Region is experiencing a housing shortage. The extent of this shortage will be reflected in the data presented herein on housing need. In this regard, the five counties encompassed within the Region (Montgomery, Greene, Miami, Preble and Darke) vary in terms of the extent and quality of their total housing environments and in the amount of housing needed by each to adequately house its population.

The primary purpose of this report is to document the extent of present housing needs in the five counties of the Region.

In an attempt to offer clarity, the following terminology will be defined:

Housing Need -- the number of units required in order to provide all households with decent, safe and sanitary dwelling units and to provide a sufficient number of vacant units to create a vacancy rate within which choice can be offered and mobility can occur.

Housing Demand -- "The number of (housing) units that will be absorbed at a specific price ... It is concerned primarily with new units entering the market and only secondarily with exchanges in the existing stock... Demand by definition must be effective and, therefore, is limited." 1

The most basic distinction between these two concepts is that need is defined without primary consideration to the economics of the situation or the "insatiable desire" and "the ability to pay" which characterize effective demand. Need is primarily a social concept, while demand is an economic concept. This report will deal with the issue of need rather than demand.

The most revealing conclusion which can be drawn from this study is that the housing needs indicated in 1970 for the various counties are the result of an accumulated housing deficit over a long period of time. A glaring reality is that while housing has been built, only very small quantities have been built primarily for the low and moderate income population. Their need has been met

insufficiently through the filtering process whereby, to a large extent, the old deteriorated and dilapidated units comprise their housing market.

1. FHA Techniques of Housing Market Analysis, Department of Housing and Urban Development, January, 1970, p.p. 157, 164.

**II
FACTORS in ESTABLISHING HOUSING NEED**

The need for additional housing is partially based on aspects of population growth in terms of net increase, migration, and projected household size changes. In addition to the factor of new household formations upon which the above contributing factors will have impact, such elements as overcrowdedness, vacancy, extent of dilapidation and the number of demolitions must be taken into consideration in analyzing housing need.

In order to evaluate the extent of housing need more fully and systematically, the MVRPC staff approached the problem from two angles in terms of 1) examining the extent and condition of the dwelling unit supply, and 2) deriving the gross dwelling unit need from several somewhat discrete factors.

A. Dwelling Unit Supply

What is the inventory of the existing dwelling units? In this report, the housing inventory will be used to refer to the total number of existing dwelling units including non-usable farm units and dilapidated units. The difference between the total number of dwelling units, and the non-usable farm units and the dilapidated units yields what we will refer to throughout the report as net usable units. It should be noted that "usable units" includes the portion of the housing stock that is in deteriorating, but salvagable, condition. These units will require repair or rehabilitation to maximize their livability within the total housing supply. Table 1 provides the housing inventory by county for 1970.

**Table 1
Housing Supply by County, 1970**

Factors of Housing Supply	Montgomery	Greene	Miami	Preble	Darke
No. of dwelling units, total	197,303	36,401	28,083	11,145	15,410
Dilapidated and non-usable farm units	- 1,919	- 908	- 905	- 689	- 789
Net usable units	195,384	35,493	27,178	10,456	14,621

B. Dwelling Unit Need

The increase in the number of households, vacancy rate and estimated doubling and overcrowding are the factors of consideration in determining gross or total housing need.

1. Households

As mentioned earlier, the primary factor in estimating present and future gross need is the total number of households. The extent to which the private housing market keeps up with this growth will partially determine whether there will be a housing supply deficit. It is important to note, however, that production of housing in the private market is not spread evenly across the range of household income brackets. Housing being produced today is largely middle and upper income in nature, as evidenced by the fact that the average price of new homes built in Montgomery County in 1969 was \$25,300. Although it is impossible to draw exact cut-off lines for the level at which households begin to have difficulty competing in the open housing market, some rough determinations can be made. In this report, it is considered that in Montgomery County and Greene County households with incomes of less than \$10,000 comprise the low and moderate income group; in Miami, Preble and Darke Counties, households with incomes of less than \$7,000 comprise this group.

It is primarily within the low and moderate income groups that housing need exists, since few housing units are being built that are within the buying power of these households and the existing units available to them are often of poorer quality. Conversely, it is in the middle and higher income groups that effective demand exists, for these are the households that can actively compete for the new housing being built today.

2. Vacancy Rate

As defined by the Department of Housing and Urban Development, the vacancy ratio is simply the total number of vacant dwelling units divided by the total housing inventory. An accepted rule of thumb as to what is a suitable vacancy rate ranges from 3% to 6% depending upon the type of housing and the kind of area in question. The vacancy rate in summer, 1969, for the counties of the Region ranged from a low of 1.6 in Montgomery County to a high of 4 to 5% (estimated) in Darke County. In general, for the purposes of this report, an overall rate of 4.5% is considered comfortable for Montgomery and Greene Counties, while a rate of 4.0% appears sufficient for the three other rural counties of Miami, Preble, and Darke. Within these rates such factors as mobility, up-keep, renovations, etc., can occur.

3. Doubling and Overcrowding

Another important factor in determining housing need is doubling and overcrowding. The basic

assumption within this report with reference to the factor of doubling is that it is relevant mainly to that segment of the population characterized by poverty conditions, and not the remainder of the population, since better economic conditions facilitate a climate of mutual choice about doubling.

III

HOUSING NEED ESTIMATES

A. Analysis of Need by County

Based upon the factors of need for and supply of housing units, a county by county analysis was made of total need, net need or deficit, and need for low and moderate income units for 1970; and of total need and net need or deficit by 1975. These computations and their results for 1970 are presented in the tables that follow.

Table 2
Housing Need Analysis
Montgomery County
1970

Housing Need		Housing Supply	
Households	183,675	All dwelling units	197,303
Undoubling	+ 3,102	Dilapidation/non-usable farm	- 1,919
Vacancy @ 4.5%+	8,855	Usable Supply (net)	195,384
Total Need	205,632		
Usable Supply	-185,384		
Net units needed (deficit)	10,248		
Units needed for low & moderate income	8,811		
Percent of Deficit	88		

Table 3
Housing Need Analysis
Greene County
1970

Housing Need		Housing Supply	
Households	35,491	All dwelling units	36,401
Undoubling	+ 699	Dilapidation/non-usable farm	908
Vacancy @ 4.5%+	1,629	Usable Supply (net)	35,493
Total Need	37,819		
Usable Supply	-35,493		
Net units needed (deficit)	2,326		
Units needed for low & moderate income	2,159		
Percent of Deficit	93		

Table 4
Housing Need Analysis
Miami County
1970

Housing Need		Housing Supply	
Households	26,782	All dwelling units	28,083
Undoubling	+ 920	Dilapidation/non-usable farm	- 905
Vacancy @ 4.0%	+1,108	Usable Supply (net)	27,178
Total Need	28,810		
Usable Supply	- 27,178		
Net units needed (deficit)	1,632		
Units needed for low & moderate income	1,553		
Percent of Deficit	95		

Table 5
Housing Need Analysis
Preble County
1970

Housing Need		Housing Supply	
Households	10,829	All dwelling units /	11,145
Undoubling	+ 127	Dilapidation/non-usable farm	689
Vacancy @ 4.0%	+ 438	Usable Supply (net)	10,458
Total Need	11,394		
Usable supply	- 10,458		
Net units needed (deficit)	938		
Units needed for low & moderate income	868		
Percent of Deficit	83		

Table 6
Housing Need Analysis
Darke County
1970

Housing Need		Housing Supply	
Households	14,877	All dwelling units	15,410
Undoubling	+ 217	Dilapidation/non-usable farm	- 789
Vacancy @ 4.0%	+ 596	Usable Supply (net)	14,621
Total Need	15,490		
Usable Supply	- 14,621		
Net units needed (deficit)	769		
Units needed for low & moderate income	734		
Percent of Deficit	95		

The following table summarizes all of the housing need estimates for the five counties for 1970.

Table 7
HOUSING NEEDS BY COUNTY
1970

County	Net Units Needed	Low and Moderate	
Montgomery	10,248	8,811	86%
Greene	2,326	2,169	83%
Miami	1,632	1,553	95%
Preble	938	868	93%
Darke	769	734	95%
Total (Region)	15,913	14,125	89%

B. The Role of Rehabilitation

Reference has been made in this report to the volume of dwelling units in the Region that are in deteriorating, but repairable, condition. Careful note should be taken that these are counted in this analysis as a part of the usable supply. For that usable supply to function at its maximum capacity, then, requires that these units be rehabilitated and restored to their full usefulness. The need estimates presented here are conservative to the extent that they reflect only those new units that must be added to housing inventory. Were needed construed to mean both new and rehabilitated units, the total figures would rise astronomically.

Although rehabilitation is of secondary consideration in this report and will be the subject of additional work, estimates of the number of units in need of rehab in each county are shown in Table 8 below. The amount of actual work that these units are in need of varies from relatively minor repair work to complete gutting and rehabilitation.

Table 8
Dwelling Units in Need of Rehabilitation
(by County - 1970)

Montgomery	19,389
Greene	4,634
Miami	4,648
Preble	2,370
Darke	3,708
Total	34,749

Source: MVRPC estimates

IV

CONCLUSIONS

1. The MVR is presently in need of some 16,000 new housing units.
2. Of these, more than 14,000, or 89% are needed for low and moderate income families.
3. In addition, nearly 35,000 dwelling units are in need of rehabilitation to make them fully a part of the usable housing supply.

The preparation of this report was financially aided through a Federal grant from the Urban Renewal Administration of the Department of Housing and Urban Development, under the Urban Planning Assistance Program, authorized by Section 701 of the Housing Act of 1954, as amended.

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Exhibit No. 3

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 9, 1971

CIRCULAR NO. A-95
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Evaluation, review, and coordination of Federal
and federally assisted programs and projects

1. Purpose. This Circular furnishes guidance to Federal agencies for added cooperation with State and local governments in the evaluation, review, and coordination of Federal assistance programs and projects. The Circular promulgates regulations (Attachment A) which provide, in part, for:

a. Encouraging the establishment of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 (Attachment B).

b. Coordination of direct Federal development programs and projects with State, regional, and local planning and programs pursuant to Title IV of the Intergovernmental Cooperation Act of 1968.

c. Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or federally assisted projects affecting the environment pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969 (Attachment C) and regulations of the Council on Environmental Quality.

This Circular supersedes Circular No. A-95, dated July 24, 1969, as amended by Transmittal Memorandum No. 1, dated December 27, 1969. It will become effective April 1, 1971.

(No. A-95)

2. Basis. This Circular has been prepared pursuant to:

a. Section 401(a) of the Intergovernmental Cooperation Act of 1968 which provides, in part, that

"The President shall . . . establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development"

and the President's Memorandum of November 8, 1968, to the Director of the Bureau of the Budget ("Federal Register," Vol. 33, No. 221, November 13, 1968) which provides:

"By virtue of the authority vested in me by section 301 of title 3 of the United States Code and section 401(a) of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), I hereby delegate to you the authority vested in the President to establish the rules and regulations provided for in that section governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives.

"In addition, I expect the Bureau of the Budget to generally coordinate the actions of the departments and agencies in exercising the new authorizations provided by the Intergovernmental Cooperation Act, with the objective of consistent and uniform action by the Federal Government."

b. Title IV, section 403, of the Intergovernmental Cooperation Act of 1968 which provides that:

"The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this Title."

(No. A-95)

c. Section 204 (c) of the Demonstration Cities and Metropolitan Development Act of 1966 which provides that:

"The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this section," and

d. Reorganization Plan No. 2 of 1970 and Executive Order No. 11541 of July 1, 1970, which vest all functions of the Bureau of the Budget or the Director of the Bureau of the Budget in the Director of the Office of Management and Budget.

3. Coverage. The regulations promulgated by this Circular (Attachment A) will have applicability to:

a. Under Part I, all projects (or significant changes thereto) for which Federal assistance is being sought under the programs listed in Attachment D. Limitations and provision for exceptions are noted therein.

b. Under Part II, all direct Federal development activities, including the acquisition, use, and disposal of Federal real property.

c. Under Part III, all Federal programs requiring, by statute or administrative regulation, a State plan as a condition of assistance.

d. Under Part IV, all Federal programs providing assistance to State, local, and regional projects and activities that are planned on a multijurisdictional basis.

4. Inquiries. Inquiries concerning this Circular may be addressed to the Office of Management and Budget, Washington, D. C. 20503, telephone (202) 395-3031 (Government dial code 103-3031).

GEORGE P. SHULTZ
Director

Attachments

(No. A-95)

REGULATIONS UNDER SECTION 204 OF THE DEMONSTRATION
CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966,
TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT
OF 1968, AND SECTION 102 (2) (C) OF THE NATIONAL
ENVIRONMENTAL POLICY ACT OF 1969

PART I: PROJECT NOTIFICATION AND REVIEW SYSTEM

1. Purpose. The purpose of this Part is to:

a. Further the policies and directives of Title IV of the Intergovernmental Cooperation Act of 1968 by encouraging the establishment of a network of State, regional, and metropolitan planning and development clearinghouses which will aid in the coordination of Federal or federally assisted projects and programs with State, regional, and local planning for orderly growth and development;

b. Implement the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 for metropolitan areas within that network;

c. Implement, in part, requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, which require State and local views of the environmental impact of Federal or federally assisted projects;

d. Encourage, by means of early contact between applicants for Federal assistance and State and local governments and agencies, an expeditious process of intergovernmental coordination and review of proposed projects.

2. Notification.

a. Any agency of State or local government or any organization or individual undertaking to apply for assistance to a project under a Federal program listed in Attachment D will be required to notify the planning and development clearinghouse of the State (or States) and the region, if there is one, or of the metropolitan area in which the project is to be located, of its intent to apply for assistance. Notification

will be accompanied by a summary description of the project for which assistance will be sought. The summary description will contain the following information:

(1) Identity of the applicant agency, organization, or individual.

(2) The geographic location of the project to be assisted.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed projects.

(4) A brief statement of whether or not an environmental impact statement is required and, if so, an indication of the nature and extent of environmental impact anticipated.

(5) The Federal program and agency under which assistance will be sought as indicated in the Catalog of Federal Domestic Assistance (April 1970 and subsequent editions).

(6) The estimated date by which time the applicant expects to formally file an application.

Many clearinghouses have developed notification forms and instructions. Applicants are urged to contact their clearinghouses for such information in order to expedite clearinghouse review.

b. In order to assure maximum time for effective coordination and so as not to delay the timely submission of the completed application to the Federal agency, such notifications should be sent at the earliest feasible time.

3. Clearinghouse functions. Clearinghouse functions include:

a. Evaluating the significance of proposed Federal or federally assisted projects to State, areawide or local plans and programs, as appropriate.

b. Receiving and disseminating project notifications to appropriate State agencies in the case of the State clearinghouse and to appropriate local governments and agencies in the case of regional or metropolitan clearinghouses; and providing liaison, as may be necessary, between such agencies or bodies and the applicant.

c. Assuring, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, that appropriate State, metropolitan, regional, or local agencies which are authorized to develop and enforce environmental standards are informed of and are given opportunity to review and comment on the environmental significance of proposed projects for which Federal assistance is sought.

d. Providing, pursuant to Part II of these regulations, liaison between Federal agencies contemplating direct Federal development projects and the State or areawide agencies or local governments having plans or programs that might be affected by the proposed project.

4. Consultation and review

a. State, metropolitan, and regional clearinghouses may have a period of 30 days after receipt of a project notification in which to inform State agencies, other local or regional bodies, etc., that may be affected by the project (including agencies authorized to develop and enforce environmental standards) and to arrange, as may be necessary, to consult with the applicant on the proposed project.

b. During this period and during the period in which the application is being completed, the clearinghouse may work with the applicant in the resolution of any problems raised by the proposed project.

c. Clearinghouses may have, if necessary, an additional 30 days to review the completed application and to transmit to the applicant any comments or recommendations the clearinghouse (or others) may have.

d. In the case of a project for which Federal assistance is sought by a special purpose unit of government, clearinghouses will assure that any unit of general local government,

having jurisdiction over the area in which the project is to be located, has opportunity to confer, consult, and comment upon the project and the application.

e. Applicants will include with the completed application as submitted to the Federal agency:

(1) Any comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

f. Where regional or metropolitan areas are contiguous, coordinative arrangements should be established between the clearinghouses in such areas to assure that projects in one area which may have an impact on the development of a contiguous area are jointly studied. Any comments and recommendations made by or through a clearinghouse in one area on a project in a contiguous area will accompany the application for assistance to that project.

5. Subject matter of comments and recommendations. Comments and recommendations made by or through clearinghouses with respect to any project are for the purpose of assuring maximum consistency of such project with State, regional and local comprehensive plans. They are also intended to assist the Federal agency (or State agency, in the case of projects for which the State under certain Federal grants has final project approval) administering such a program in determining whether the project is in accord with applicable Federal law. Comments or recommendations, as may be appropriate, may include information about:

a. The extent to which the project is consistent with or contributes to the fulfillment of comprehensive planning for the State, region, metropolitan area, or locality.

b. The extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives as specified in section 401(a) of the Intergovernmental Cooperation Act of 1968, as follows:

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(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

c. As provided under section 102(2)(C) of the National Environmental Policy Act of 1969, the extent to which the project significantly affects the environment including consideration of:

(1) The environmental impact of the proposed project;

(2) Any adverse environmental effects which cannot be avoided should the proposed project be implemented;

(3) Alternatives to the proposed project;

(4) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed project or action, should it be implemented.

d. In the case of a project for which assistance is being sought by a special purpose unit of government, whether the unit of general local government having jurisdiction over the area in which the project is to be located has applied, or plans to apply for assistance for the same or similar type project. This information is necessary to enable the Federal (or State) agency to make the judgments required under section 402 of the Intergovernmental Cooperation Act of 1968.

6. Federal agency procedures. Federal agencies having programs covered under this Part (see Attachment D) will develop appropriate procedures for:

a. Informing potential applicants for assistance under such programs of the requirements of this Part (1) in program information materials, (2) in response to inquiries respecting application procedures, (3) in pre-application conferences, or (4) by other means which will assure earliest contact between applicant and clearinghouses.

b. Assuring that all applications for assistance under programs covered by this part have been submitted to appropriate clearinghouses for review.

c. Notifying clearinghouses within seven days of any action (approvals, disapprovals, return for amendment, etc.) taken on applications that have been reviewed by such clearinghouses. Where a State clearinghouse has assigned an identification number to an application, the Federal agency will refer to such identification number in notifying clearinghouses of actions taken on the application.

d. Assuring, in the case of an application submitted by a special purpose unit of government, where accompanying comments indicate that the unit of general local government having jurisdiction over the area in which the project is to be located has submitted or plans to submit an application for assistance for the same or a similar type project, that appropriate considerations and preferences as specified in section 402 of the Intergovernmental Cooperation Act of 1968,

are accorded the unit of general local government. Where such preference cannot be so accorded, the agency shall supply, in writing, to the unit of general local government and the Office of Management and Budget its reasons therefor.

7. HUD housing programs. Because of the unique nature of the application and development process for the housing programs of the Department of Housing and Urban Development, a variation of the review procedure is necessary. For HUD programs in the 14.100 series listed in Attachment D, the following procedure for review will be followed:

a. The HUD Area or Insuring Office will transmit to the appropriate State clearinghouse and metropolitan or regional clearinghouse a copy of the initial application for HUD program approval.

b. The clearinghouses will have 15 days to review the applications and to forward to the Area or Insuring Office any comments which they may have, including observations concerning the consistency of the proposed project with State and areawide development plans and identification of major environmental concerns. Processing of applications in the Area or Insuring Office will proceed concurrently with the clearinghouse review.

c. This procedure will include only applications involving new construction and will apply to:

(1) Subdivisions having 50 or more lots involving any HUD home mortgage insurance program.

(2) Multifamily projects having 100 or more dwelling units under any HUD mortgage insurance program, or under conventional or turnkey public housing programs.

(3) Mobile home courts with 100 or more spaces.

(4) College housing provided under the debt service or direct loan programs for 200 or more students.

All other applications for assistance under the HUD programs in the 14.100 series listed in Attachment D are exempt from the requirements of this Circular.

8. Reports and directories.

a. The Director of the Office of Management and Budget may require reports, from time to time, on the implementation of this Part.

b. The Office of Management and Budget will maintain and distribute to appropriate Federal agencies a directory of State, regional, and metropolitan clearinghouses.

c. The Office of Management and Budget will notify clearinghouses and Federal agencies of any excepted categories of projects under programs listed in Attachment D.

PART II: DIRECT FEDERAL DEVELOPMENT

1. Purpose. The purpose of this Part is to:

a. Provide State and local government with information on projected Federal development so as to facilitate coordination with State, regional and local plans and programs.

b. Provide Federal agencies with information on the relationship of proposed direct Federal development projects and activities to State, regional, and local plans and programs; and to assure maximum feasible consistency of Federal developments with State, regional, and local plans and programs.

c. Provide Federal agencies with information on the possible impact on the environment of proposed Federal development.

2. Coordination of direct Federal development projects with State, regional, and local development.

a. Federal agencies having responsibility for the planning and construction of Federal buildings and installations or other Federal public works or development or for the acquisition, use, and disposal of Federal land and real property will establish procedures for:

(1) Consulting with Governors, regional and metropolitan clearinghouses, and local elected officials at the earliest practicable stage in project or development planning on the relationship of any plan or project to the development plans and programs of the State, region, or localities in which the project is to be located.

(2) Assuring that any such Federal plan or project is consistent or compatible with State, regional, and local development plans and programs identified in the course of such consultations. Exceptions will be made only where there is clear justification.

(3) Providing State, metropolitan, regional, and local agencies which are authorized to develop and enforce environmental standards with adequate opportunity to review such Federal plans and projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Any comments of such agencies will accompany the environmental impact statement submitted by the Federal agency.

3. Use of clearinghouses. The State, regional, and metropolitan planning and development clearinghouses established pursuant to Part I will be utilized to the greatest extent practicable to effectuate the requirements of this Part. Agencies are urged to establish early contact with clearinghouses to work out arrangements for carrying out the consultation and review required under this Part, including identification of types of projects considered appropriate for consultation and review.

PART III: STATE PLANS

1. Purpose. The purpose of this Part is to provide Federal agencies with information about the relationship of State plans required under various Federal programs to State comprehensive planning and to other State plans.

2. Review of State plans. To the extent not presently required by statute or administrative regulation, Federal agencies administering programs requiring by statute or regulation a State plan as a condition of assistance under such programs will require that the Governor be given the opportunity to comment on the relationship of such State plan to comprehensive and other State plans and programs. Governors will be afforded a period of forty-five days in which to make such comments, and any such comments will be transmitted with the plan.

3. State plan. A State plan under this Part is defined to include any required supporting reports or documentation that indicate the programs, projects, and activities for which Federal funds will be utilized.

PART IV: COORDINATION OF PLANNING
IN MULTIJURISDICTIONAL AREAS

1. Policies and objectives. The purposes of this Part are:

a. To encourage and facilitate State and local initiative and responsibility in developing organizational and procedural arrangements for coordinating comprehensive and functional planning activities.

b. To eliminate overlap, duplication, and competition in State and local planning activities assisted or required under Federal programs and to encourage the most effective use of State and local resources available for development planning.

c. To minimize inconsistency among Federal administrative and approval requirements placed on State, regional, and metropolitan development planning activities.

d. To encourage the States to exercise leadership in delineating and establishing a system of planning and development districts or regions in each State, which can provide a consistent geographic base for the coordination of Federal, State and local development programs.

2. Common or consistent planning and development districts or regions. Prior to the designation or redesignation (or approval thereof) of any planning and development district or region under any Federal program, Federal agency procedures will provide a period of thirty days for the Governor(s) of the State(s) in which the district or region will be located to review the boundaries thereof and comment upon its relationship to planning and development districts or regions established by the State. Where the State has established such planning and development districts, the boundaries of designated areas will conform to them unless there is clear justification for not doing so. Where the State has not established planning and development districts or regions which provide a basis for evaluation of the boundaries of the area proposed for designation,

major units of general local government and Federal agencies administering related programs in such area will also be consulted prior to designation of the area to assure consistency with districts established under interlocal agreement and under related Federal programs.

3. Common and consistent planning bases and coordination of related activities in multijurisdictional areas. Each agency will develop checkpoint procedures and requirements for applications for planning and development assistance under appropriate programs to assure the fullest consistency and coordination with related planning and development being carried on under other Federal programs or under State and local programs in any multijurisdictional areas.

The checkpoint procedures will incorporate provisions covering the following points:

- a. Identification by the applicant of planning activities being carried on for related programs within the multijurisdictional area, including those covering a larger area within which such multijurisdictional area is located, subareas of the area, and areas overlapping the multijurisdictional area. Metropolitan or regional clearinghouses established under Part I of this Circular, may assist in providing such identification.
- b. Evidence of explicit organizational or procedural arrangements that have been or are being established by the applicant to assure maximum coordination of planning for such related functions, programs, projects and activities within the multijurisdictional area. Such arrangements might include joint or common boards of directors or planning staffs, umbrella organizations, common referral or review procedures, information exchanges, etc.
- c. Evidence of cooperative arrangements that have been or are being made by the applicant respecting joint or common use of planning resources (funds, personnel, facilities, and services, etc.) among related programs within the area; and
- d. Evidence that planning being assisted will proceed from base data, statistics, and projections (social, economic,

demographic, etc.) and assumptions that are common to or consistent with those being employed for planning related activities within the area.

4. Joint funding. Where it will enhance the quality, comprehensive scope, and coordination of planning in multijurisdictional areas, Federal agencies will, to the extent practicable provide for joint funding of planning activities being carried on therein.

5. Coordination of agency procedures and requirements. With respect to the steps called for in paragraphs 2 and 3 of this Part, departments and agencies will develop for relevant programs appropriate draft procedures and requirements. Copies of such drafts will be furnished to the Director of the Office of Management and Budget and to the heads of departments and agencies administering related programs. The Office, in consultation with the agencies, will review the draft procedures to assure the maximum obtainable consistency among them.

PART V: DEFINITIONS

Terms used in this Circular will have the following meanings:

1. Federal agency -- any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.
2. State -- any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.
3. Unit of general local government -- any city, county, town, parish, village, or other general purpose political subdivision of a State.
4. Special purpose unit of local government -- any special district, public purpose corporation, or other strictly limited purpose political subdivision of a State, but shall not include a school district.
5. Federal assistance, Federal financial assistance, Federal assistance programs, or federally assisted program -- programs that provide assistance through grant or contractual arrangements. They include technical assistance programs, or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code sec. 47-2501a and 47-2501b).
6. Comprehensive planning, to the extent directly related to area needs or needs of a unit of general local government, includes the following:
 - a. Preparation, as a guide for governmental policies and action, of general plans with respect to:
 - (1) Pattern and intensity of land use,

(2) Provision of public facilities (including transportation facilities) and other government services.

(3) Effective development and utilization of human and natural resources.

b. Preparation of long range physical and fiscal plans for such action.

c. Programming of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program.

d. Coordination of all related plans and activities of the State and local governments and agencies concerned.

e. Preparation of regulatory and administrative measures in support of the foregoing.

7. Metropolitan area -- a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Office of Management and Budget may determine to be appropriate for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and these Regulations.

8. Areawide agency -- an official State or metropolitan or regional agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area; an organization of the type referred to in section 701(g) of the Housing Act of 1954; or such other agency or instrumentality as may be designated by the Governor (or, in the case of metropolitan areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

9. Planning and development clearinghouse or clearinghouse includes:

a. An agency of the State Government designated by the Governor or by State law.

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b. A nonmetropolitan regional comprehensive planning agency (herein referred to as "regional clearinghouse") designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law.

c. A metropolitan areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

10. Multijurisdictional area -- any geographical area comprising, encompassing, or extending into more than one unit of general local government.

11. Planning and development district or region -- a multi-jurisdictional area that has been formally designated or recognized as an appropriate area for planning under State law or Federal program requirements.

12. Direct Federal development -- planning and construction of public works, physical facilities, and installations or land and real property development (including the acquisition, use, and disposal of real property) undertaken by or for the use of the Federal Government or any of its agencies.

ATTACHMENT B
Circular No. A-95
Revised

SECTION 204 OF THE DEMONSTRATION CITIES AND
METROPOLITAN DEVELOPMENT ACT OF 1966,
as amended (80 Stat. 1263, 82 Stat. 208)

"Sec. 204. (a) All applications made after June 30, 1967 for Federal loans or grants to assist in carrying out open-space land projects or for planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review--

"(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

"(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

"(b) (1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area

or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

"(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c), or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

"(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this title, involves a major change in the project covered by the application prior to such amendment.

"(c) The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section."

TITLE IV OF THE INTERGOVERNMENTAL COOPERATION
ACT OF 1968 (82 Stat. 1103)

"TITLE IV -- COORDINATED INTERGOVERNMENTAL
POLICY AND ADMINISTRATION OF DEVELOP-
MENT ASSISTANCE PROGRAMS"

"DECLARATION OF DEVELOPMENT ASSISTANCE POLICY"

"Sec. 401. (a) The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of smaller communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

"(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

"(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

"(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

"(4) Adequate outdoor recreation and open space;

"(5) Protection of areas of unique natural beauty, historical and scientific interest;

"(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

"(7) Concern for high standards of design.

"(b) All viewpoints -- national, regional, State and local -- shall, to the extent possible, be fully considered and taken

into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

"(c) To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

"(d) Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

"(e) Insofar as possible, systematic planning required by individual Federal programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning."

"FAVORING UNITS OF GENERAL LOCAL GOVERNMENT"

"Sec. 402. Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government."

"RULES AND REGULATIONS"

"Sec. 403. The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this title."

SECTION 102 (2) (C) OF THE NATIONAL ENVIRON-
MENTAL POLICY ACT OF 1969 (83 Stat. 853)

"Sec. 102. The Congress authorizes and directs that, to the fullest extent possible; (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall--....

"(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;...."

COVERAGE OF PROGRAMS UNDER ATTACHMENT A, PART I

1. Programs are listed below pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968. They are referenced by Catalog of Federal Domestic Assistance identification numbers.
2. Heads of Federal departments and agencies may, with the concurrence of the Office of Management and Budget, exclude certain categories of projects or activities under listed programs from the requirements of Attachment A, Part I. OMB concurrence will be based on the following criteria:
 - a. Lack of geographic identifiability with respect to location or impact (e.g., certain types of technical studies);
 - b. Small scale or size;
 - c. Essentially local impact (within the applicant jurisdiction); and
 - d. Other characteristics that make review impractical. OMB will notify clearinghouses of such exclusions.
3. Covered programs

Department of AgricultureFarmers Home Administration

- | | |
|--------|--|
| 10.400 | Comprehensive Areawide Water and Sewer Planning Grants |
| 10.409 | Irrigation, Drainage and Other Soil and Conservation Loans |
| 10.412 | Recreation Association Loans |
| 10.414 | Resource Conservation and Development Loans |

(No. A-95)

10.418 Water and Waste Disposal Systems for
Rural Communities

10.419 Watershed Protection and Flood Preven-
tion Loans

Soil Conservation Service

10.901 Resource Conservation & Development

10.904 Watershed Protection & Flood Prevention

Department of Commerce

Economic Development Administration

11.300 Economic Development -- Grants and Loans
for Public Works and Development
Facilities

11.302 Economic Development -- Planning Assistance

11.303 Economic Development -- Technical Assistance

Department of Defense

Department of the Army, Office of the Chief of
Engineers

12.101 Beach Erosion Control

12.106 Small Flood Control Projects

12.107 Small Navigation Projects

12.108 Snagging and Clearing for Flood Control

Department of Health, Education, and Welfare

Environmental Health Service

13.001 Air Pollution Control Program Grants
(Planning Only) ^{1/}

^{1/}These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

- 13.014 Solid Wastes Demonstration Grants 1/
 13.015 Solid Wastes Planning Grants 1/

Health Services and Mental Health Administration

- 13.206 Comprehensive Health Planning --
 Areawide Grants
- 13.219 Health Facilities Construction --
 Diagnostic and Treatment Centers
- 13.220 Health Facilities Construction --
 Hospitals and Public Health Centers
- 13.221 Health Facilities Construction -- Long-
 Term Care Facilities
- 13.222 Health Facilities Construction --
 Rehabilitation Facilities
- 13.235 Mental Health -- Community Assistance
 Grants for Narcotic Addiction
 (Construction Only)
- 13.236 Mental Health -- Construction of Community
 Mental Health Centers
- 13.249 Regional Medical Programs -- Operational
 and Planning Grants (Planning and
 Construction Only)

National Institutes of Health

- 13.340 Health Professions Facilities Construction
- 13.350 Medical Library Assistance -- Regional
 Medical Libraries
- 13.369 Schools of Nursing -- Facilities Con-
 struction

1/ These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

(No. A-95)

Office of Education

- 13.408 Construction of Public Libraries
- 13.456 Higher Education Academic Facilities ---
State Comprehensive Planning
- 13.457 Higher Education Academic Facilities
Construction -- Interest Subsidization
- 13.458 Higher Education Academic Facilities
Construction -- Public and Private
Colleges and Universities
- 13.459 Higher Education Academic Facilities
Construction -- Public Community
Colleges and Technical Institutes
- 13.477 School Assistance in Federally Affected
Areas -- Construction
- 13.487 Supplementary Education Centers and Ser-
vices (Construction Only)
- 13.493 Vocational Education -- Basic Grants to
States (Construction Only)

Social and Rehabilitation Service

- 13.711 Juvenile Delinquency Planning, Prevention,
and Rehabilitation (Planning and
Construction Only)
- 13.716 Mental Retardation Community Facilities
Construction
- 13.746 Vocational Rehabilitation Services --
Basic Support (Construction Only)

Department of Housing and Urban DevelopmentHousing Production and Mortgage Credit/FHA

(Note: The following programs are subject to the limitations and procedures set forth in paragraph 7, Part I, of the Circular.)

- 14.100 College Housing Debt Service
- 14.101 College Housing Direct Loans
- 14.103 Interest Reduction Payments - Rental and Cooperative Housing for Lower Income Families (236)
- 14.105 Interest Subsidy - Homes for Lower Income Families (235(i))
- 14.112 Mortgage Insurance - Construction or Rehabilitation of Condominium Projects (234(d))
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects (213)
- 14.117 Mortgage Insurance - Homes (203(b))
- 14.118 Mortgage Insurance - Homes for Certified Veterans (203(b))
- 14.119 Mortgage Insurance - Homes for Disaster Victims (203(h))
- 14.120 Mortgage Insurance - Homes for Low and Moderate Income Families (221(d)(2))
- 14.121 Mortgage Insurance - Homes in Outlying Areas (203(i))
- 14.122 Mortgage Insurance - Homes in Urban Renewal Areas (220 homes)
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing (213)

(No. A-95)

- 14.125 Mortgage Insurance - Land Development and New Communities (Title X)
- 14.126 Mortgage Insurance - Management Type Cooperative Projects (213)
- 14.127 Mortgage Insurance - Mobile Home Courts (207)
- 14.134 Mortgage Insurance - Rental Housing (207)
- 14.135 Mortgage Insurance - Rental Housing for Low and Moderate Income Families (221(d)(4))
- 14.136 Mortgage Insurance - Rental Housing for Low and Moderate Income Families - Below Market Interest Rate (221(d)(3))
- 14.137 Mortgage Insurance - Rental Housing for Low and Moderate Income Families, Market Interest Rate (221(d)(3))
- 14.138 Mortgage Insurance - Rental Housing for the Elderly (231)
- 14.139 Mortgage Insurance - Rental Housing in Urban Renewal Areas (220)
- 14.146 Public Housing - Acquisition, Construction, Rehabilitation (New Construction Only)
- 14.149 Rent Supplements - Rental Housing for Low Income Families

Metropolitan Planning and Development

- 14.200 Basic Water and Sewer Facilities -- Grants
- 14.203 Comprehensive Planning Assistance
- 14.204 Historic Preservation Grants
- 14.207 New Communities -- Loan Guarantees

- 14.208 New Communities -- Supplementary Grants
- 14.209 Open Space Land Acquisition and Development Grants
- 14.210 Public Facility Loans
- 14.214 Urban Systems Engineering Demonstration Grants

Model Cities Administration

- 14.300 Model Cities Supplementary Grants

Renewal and Housing Management

- 14.602 Community Renewal Planning Grants
- 14.606 Neighborhood Development
- 14.609 Urban Renewal Projects

Department of the Interior

Bureau of Outdoor Recreation

- 15.400 Outdoor Recreation -- Financial Assistance
- 14.401 Outdoor Recreation Planning -- Financial Assistance

Bureau of Reclamation

- 15.501 Irrigation and Drainage Systems Loans
- 15.503 Small Reclamation Projects

Federal Water Pollution Control Administration

- 15.700 Construction Grants for Wastewater Treatment Works 1/
- 15.701 Water Pollution Control -- Comprehensive Basin Planning Grants 1/
- 15.707 Water Pollution Control -- State and Interstate Program Grants 1/

National Park Service

- 15.904 Historic Preservation

Department of JusticeLaw Enforcement Assistance Administration

- 16.500 Law Enforcement Assistance -- Comprehensive Planning
- 16.501 Law Enforcement Assistance -- Discretionary Grants
- 16.502 Law Enforcement Assistance -- Improving and Strengthening Law Enforcement

Department of LaborManpower Administration

- 17.205 Cooperative Area Manpower Planning System

1/ These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

Department of TransportationFederal Aviation Administration

20.102 Airport Development Aid Program

Federal Highway Administration

20.201 Forest Highways

20.204 Highway Beautification -- Landscaping
and Scenic Enhancement

20.205 Highway Planning and Construction

20.206 Highway Planning and Research Studies

20.209 Public Lands Highways

20.211 Traffic Operations Program to Increase
Capacity and Safety (Construction Only)Urban Mass Transportation Administration20.500 Urban Mass Transportation Capital Improvement
Grants (Planning & Construction Only)20.501 Urban Mass Transportation Capital Improvement
Loans (Planning & Construction Only)20.505 Urban Mass Transportation Technical Studies
Grants (Planning and Construction Only)Appalachian Regional Commission

23.003 Appalachian Development Highway System

23.004 Appalachian Health Demonstrations (planning and
construction only)

23.008 Appalachian Local Access Roads

(No. A-95)

23.010 Appalachian Mine Area Restoration

23.012 Appalachian Vocational Education Facilities

National Science Foundation

47.036 Intergovernmental Science Programs

Office of Economic Opportunity

49.002 Community Action Operations (excluding administration, research, training and technical assistance, and evaluation).

Water Resources Council

65.001 Water Resources Planning

Exhibit No. 4

PROHIBITION OF DISCRIMINATION

Passed (4-2) on 9/23/69

AN ORDINANCE

By

No. →

ENACTING CHAPTER 501 OF THE CODIFIED ORDINANCES, IN CONFORMANCE WITH ARTICLE I OF THE OHIO CONSTITUTION OF 1851 DESIGNATED AS THE "BILL OF RIGHTS" TO PROHIBIT DISCRIMINATION IN THE SALE, RENTAL, LEASING, OR FINANCING OF REAL PROPERTY, OR IN EMPLOYMENT PRACTICES, OR EDUCATIONAL INSTITUTIONS, BECAUSE OF RELIGION, CREED, RACE, COLOR, SEX, NATIONAL ORIGIN OR ANCESTRY; AND TO ENACT SECTION 501.99 TO PROVIDE FOR A PENALTY FOR A VIOLATION OF CHAPTER 501.

WHEREAS, Article I of the Ohio Constitution of 1851 designated as the "Bill of Rights" and the First Section thereunder entitled "Inalienable Rights" states in part that all men have certain inalienable rights among which are those of enjoying, acquiring, possessing and protecting property, and

WHEREAS, Freedom of Choice in housing is required by the State Constitution and important to all citizens and their families, and

WHEREAS, such freedom may not be denied on the basis of Religion, Creed, Race, Color, Sex, National Origin or Ancestry, and

WHEREAS, if acts of discrimination in housing, employment, or education occur, they will directly increase the costs of government and adversely affect the continuing growth, progress and development of the City of Kettering,

NOW THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio:

Section 1. That Chapter 501 of the Codified Ordinances entitled "Equality of Occupancy" is hereby enacted to read as follows:

and Opportunity
501.01 DEFINITIONS:

As used in this Chapter, the following terms shall have the meanings described in this Section unless the context requires otherwise:

(a) "Person selling real property" includes individuals, partnerships, associations, organizations, trustees, corporations, agents, legal representatives, receivers and other organized groups of persons that:

- (1) sell real property whether improved or unimproved.
- (2) lease or rent real property in a single building consisting of one or more housing units.

(b) "Purchaser" includes any occupant, prospective occupant, lessee or tenant, prospective lessee, or tenant, buyer or prospective buyer.

501.01 DEFINITIONS (Continued)

(c) "Financial Institution" includes any individual or individuals, partnerships, associations, organizations, trustees, corporations, agents, legal representatives, receivers or other organized groups of persons regularly engaged in the business of lending money or guaranteeing loans on real property.

(d) "Insurer" includes any individual or individuals, partnerships, associations, organizations, trustees, corporations, agents, legal representatives, receivers or other organized groups of persons regularly engaged in the business of issuing casualty insurance policies or title insurance policies on real property.

(e) Housing unit - any building, structure or part thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the residence or sleeping place of one family as defined in Section 921.27 of the Codified Ordinances.

(f) "Discriminate" or "Discrimination" includes any distinction or difference in treatment based on the religion, creed, color, sex, race, national origin or ancestry of a person.

501.02 PROHIBITED ACTS.

(a) No person selling real property shall solely because of religion, creed, color, race, sex, national origin or ancestry of any person:

- (1) Refuse to sell, lease, or rent any real property to a purchaser.
- (2) Evict from or deny occupancy to a purchaser of any real property.
- (3) Make any distinction, discrimination, or restriction against a purchaser in the sale, rental, price, terms, conditions, or privileges relating to the sale, rental, lease, occupancy of real property, or in the furnishing of any facilities or services in connection therewith.
- (4) Refuse to show any real property or otherwise attempt to prevent the sale, rental, or lease of any real property to a purchaser.

(b) No person selling real property shall publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement or sign

501.02(b) (Continued)

of any kind relating to the sale, rental, or leasing of real property which indicates any preference, limitation, specification or discrimination based on religion, creed, color, sex, race, national origin or ancestry of a person.

(c) No financial institution shall discriminate in the granting, withholding, extending, or renewing or in the fixing of the rates, terms, or conditions of any financial assistance sought by an applicant or applicants for the purchase, construction, rehabilitation, repair, or maintenance of any real property or improvements thereon because of the religion, creed, color, sex, race, national origin or ancestry of the applicant or applicants or their family.

(d) No person or persons shall conspire, assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section nor engage in economic or other reprisals against a person or business firm for complying with this act.

(e) No insurer shall discriminate in the issuance, insuring, extending, granting or renewing or in the fixing of rates, premiums, terms or conditions of any casualty insurance policy or title insurance policy for the sale, purchase, rental, leasing or construction of any real property or improvement thereon.

(f) It shall be unlawful--

(1) For a labor union because of race, creed, color, national origin or ancestry,

(a) To deny full and equal membership rights to an applicant for membership or a member;

(b) To expel a member from membership;

(c) To discriminate against a member or applicant with respect to hire, tenure, referral, apprenticeship, compensation, terms, upgrading, or other conditions or privileges of employment;

(d) To do or to commit any other act with respect to a member or applicant which arises out of, or is activated by, consideration of race, creed, color, national origin or ancestry.

(2) For an employer, because of race, creed, color, national origin or ancestry,

(a) To refuse to hire an applicant for employment;

(b) To discharge an employee;

501.02(f) (Continued)

(c) To discriminate against an employee with respect to hire, tenure, apprenticeship, compensation, terms upgrading, or other conditions or privileges of employment;

(d) To do or to commit any other act with respect to an employee or applicant which arises out of or is activated by, considerations of race, creed, color, national origin or ancestry.

(3) For an employment agency, because of race, creed, color, national origin or ancestry.

(a) To refuse or fail to accept, register, properly classify, or refer for employment any persons;

(b) To comply with any request by any employer for referral of applicants if the request indicates directly or indirectly that the employer desires any limitation of applicants to persons of particular racial, religious, or national characteristics or in any other way fails to comply with the requirements of this chapter;

(c) To do, or to commit any other act with respect to an applicant for referral or employment which arises out of, or is activated by, considerations of race, creed, color, national origin or ancestry.

(4) For any labor union, employer, employment agency, or other person to require any applicant or employee to furnish information respecting his race, creed, color, national origin or ancestry, except where required by a governmental agency.

(5) For any person to circulate or publish any notice or advertisement relating to employment or membership in a labor union which indicates directly or indirectly any preference, limitation, specification, or discrimination based upon race, creed, color, national origin or ancestry.

The provisions of this section shall apply to a joint labor-industry apprenticeship committee or board and to each individual member thereof notwithstanding the employer members of such committee or board are not in fact the employer of an apprentice against whom an act of discrimination has been committed, to the extent the members of such committee or board participate in the act of discrimination.

(g) No person shall discriminate, on grounds of race, creed, color, national origin or ancestry, with respect to, access to, use of, or benefit from any institution of education or public services and facilities or public recreation rendered in connection therewith, except that a school operated by a religious denomination may require membership in such denomination as a condition of enrollment, provided such requirement is placed upon all applicants.

501.02 (Continued)

(h) To induce or attempt to induce the sale or listing for sale of a housing accommodation by representing that a change has occurred or will or may occur with respect to the racial, religious, or ethnic composition of the block, neighborhood, or area in which the property is located;

To induce or attempt to induce the sale or listing for sale of a housing accommodation by representing that the presence or anticipated presence of persons or any particular race, religion, or national origin in the area will or may result in:

- (1) The lowering of property values.
- (2) A change in the racial, religious, or ethnic composition of the block, neighborhood or area in which the property is located.
- (3) An increase in criminal or antisocial behavior in the area.
- (4) A decline in the quality of the schools serving the area.
- (5) To make any representation to any prospective purchaser that any block, neighborhood, or area has, will, or might undergo a change with respect to the religious, racial, or nationality composition of the block, neighborhood, or area for the purpose of discouraging the purchase of a housing accommodation in a particular area.
- (6) To engage in, or hire, or conspire with others to commit acts or activities of any nature, the purpose of which is to harass, degrade, embarrass, or cause economic loss:
 - (a) To an owner who shall offer to provide housing accommodations, facilities, or services to any purchaser regardless of race, color, religion, ancestry, or national origin of the purchaser, or
 - (b) To an owner because such owner has provided housing accommodations, facilities or services to a purchaser of a particular race, color, religion, ancestry or national origin.
- (7) To engage in any economic reprisal against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under the terms of this Chapter.
- (8) Intentionally to aid, abet, incite, compel, or coerce any person to engage in any of the discriminatory practices defined by this Chapter.

501.02 (Continued)

(9) To willfully obstruct or prevent any person from complying with the provisions of this Chapter, or to resist, prevent, impede or interfere with the commission, or any of its members or representatives in the performance of duty under this Chapter.

(10) If a Real Estate Broker, salesman or employee thereof has been found to have committed an unlawful practice under this Ordinance the Real Estate Commission of Ohio and the Dayton Area Board of Realtors shall be notified.

(i) LIMITATIONS.

(1) Nothing in this Ordinance shall require an order to offer property to the public at large before selling, renting or leasing it, nor shall this Ordinance be deemed to prohibit owners from giving preference to prospective tenants, lessees or buyers for any reason other than religion, race, color, national origin or ancestry.

(2) This Ordinance shall not apply to the rental of any rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) Nothing in this Ordinance shall require an order to offer property for sale, lease or rental to any person if the owner has any reason to believe that such person is not negotiating for the purchase, rental or lease of such property in good faith.

(4) To the rental or lease of any rooming units in a housing unit, if the owner or a member of his family resides in the housing unit; or

(5) To the rental or lease of any rooming units in a house in which the owner of the entire house or a member of his family resides.

(j) No person shall knowingly and intentionally induce and entrap another to commit a violation of this Chapter not contemplated by him for the purpose of instituting a criminal prosecution against him.

(k) Severability. If any Section, Subdivision, Paragraph, Sentence or Clause of this Ordinance is for any reason held invalid or unconstitutional, such decision shall not affect any remaining portion, section or part thereof.

Section 2. That Section 501.99 of the Codified Ordinances is hereby enacted to read as follows:

501.99 PENALTY

Any person who violates any Section of this Chapter shall be deemed guilty of a misdemeanor and for the first offense shall be fined not more than \$50.00, for a subsequent like offense not less than \$25.00 nor more than \$500.00, or imprisoned not more than ten (10) days or both.

Section 3. That this Ordinance shall take full full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 1969

ATTEST:

RUTH WARD,
Clerk.

R. J. HAVERSTOCK,
Mayor.

CERTIFICATE OF APPROVAL

JOHN J. ADAMS,
Law Director.

{Requested by Councilman Ankney}

BOARD OF COMMUNITY RELATIONS

Passed (4-2) on 9/23/69

AN ORDINANCE

No.

ENACTING SECTIONS 501.03 AND 501.04 OF CHAPTER 501 TO CREATE A BOARD OF COMMUNITY RELATIONS AND TO PROVIDE FOR THE ADMINISTRATION AND INVESTIGATION OF COMPLAINTS OR VIOLATIONS OF CHAPTER 501.

WHEREAS, it is desirable for the well-being of our community to foster and maintain cooperative and amicable relations among and between all of the citizens of the City of Kettering, Ohio, and

WHEREAS, the fostering and maintaining such an atmosphere of mutual understanding and cooperation will be aided by study of and recommendation for the alleviation of existing and potential problems by a citizen's group formed for this purpose, and

WHEREAS, the Council finds that discrimination in employment, education, housing, public accommodations, public services, and schooling adversely affects the health, welfare, peace and safety of the community. Persons subject to such discrimination suffer depressed living conditions, poverty and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced, and creating conditions which endanger the public peace and order. The public policy of the City of Kettering is declared to be to foster equal opportunity for all to obtain employment, education, housing, public accommodations, schooling, and public services without regard to their race, creed, color, national origin, or ancestry and strictly in accord with their individual merits as human beings.

NOW THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio:

Section 1. That Section 501.03 of the Codified Ordinances is hereby enacted to read as follows:

501.03 BOARD OF COMMUNITY RELATIONS

There is hereby created a Board of Community Relations. Such commission shall be composed of nine (9) members to be known as Commissioners who shall be appointed by City Council, one of whom shall be designated as Chairman and the appointed members shall agree to the policy as established by this Ordinance. City Council may also designate one member as Vice-Chairman to preside in the absence of the Chairman.

The terms of office of each commissioner shall be for two (2) years, provided, however, that for the first term of office, four of the commissioners shall be appointed for a one (1) year period

so as to provide thereafter a continuity of membership. Any member chosen to fill a vacancy that occurs otherwise than by the expiration of a term shall be appointed for the unexpired term of the member whom he is to succeed. Five (5) commissioners shall constitute a quorum for the purpose of conducting business thereof.

Any commissioner may be removed by a majority vote of City Council.

Each commissioner during his term in office shall be a resident of the City of Kettering and shall serve without compensation. Meetings of the Commission shall be at such times and place as designated by the Chairman or in his absence the Vice-Chairman provided that notice of the meeting shall be served personally or left at the usual place of residence of each commissioner, or by U. S. mail sent to the usual place of residence, or by telephone conversation to each commissioner.

Section 2. That Section 501.04 of the Codified Ordinances is hereby enacted to read as follows:

501.04 ADMINISTRATION AND INVESTIGATION OF COMPLAINTS

(a) The Board of Community Relations shall perform the following duties:

- (1) To stimulate cooperative efforts among various segments of the structure of the community, religious and civic organizations, business and industrial organizations, churches, schools, social agencies, fraternal and labor associations, etc., to improve intergroup relations throughout the entire community.
- (2) Cooperate with all public and private agencies toward the achievement of racial and social equality and harmony.
- (3) Make studies to determine if there exists areas of inequity of protection of citizens under law.
- (4) To collect and analyze information on local conditions affecting intergroup relations.
- (5) To offer its advice to any group, firm association, or agency which may request it.
- (6) At the request of the Council or the City Manager, to make studies and recommendations with reference to any situation or specific problems involving intergroup relations.

(7) To watch for and make recommendations for such remedial action as may be deemed necessary to reduce or avert strife or tension in intergroup relations.

(8) To advise and consult with the City Council and City administration and make recommendation on all matters involving intergroup relations or religious, racial or ethnic prejudice or discrimination.

(9) Propose legislation as needed to supplement existing legislation and submit the same to the City Manager for formal submission to the City Council.

(10) Prepare and submit an annual report to the City Manager for transmittal to the City Council and such special or additional reports as may be requested from time to time by the City Council and/or the City Manager.

X (501.04-a-11) (21) Except that nothing in this Ordinance shall be construed as authority or a mandate to the Board of Community Relations to in anyway serve to ~~recruit or~~ *recruit or* ~~seek to recruit or~~ *subsidize* ~~movement of other persons from other~~ *subsidize* communities into the City of Kettering.

(b) For the administration of this Ordinance, the Board of Community Relations shall have the power to:

(1) Formulate a plan of education to advance freedom of choice in housing for all citizens to eliminate housing discrimination based on race, religious creed, color, sex, national origin, or ancestry.

(2) Adopt such reasonable rules and procedures as are necessary to effect the broad purposes of this Ordinance

(3) To foster, through education, conciliation and persuasion, the preparation of legislation and policies for action by governmental and private units, and through such other methods as it shall deem fit, the maximum possible degree of equal opportunities and equal rights for all persons, regardless of race, color, creed, or national origin or ancestry.

(4) To conduct studies regarding discrimination in employment, education, housing, public accommodations, public services, and related areas.

501.04 ADMINISTRATION AND INVESTIGATION OF COMPLAINTS (Continued)

(c) A complaint of alleged discriminatory housing practices as prohibited by this Chapter shall be in writing, signed and sworn to as true by the complainant, and may be filed in the office of the Board of Community Relations. Upon receipt of a complaint the Board of Community Relations shall cause an investigation of the complaint to be made by such procedure as it may adopt excluding use of police or Law Department investigators. Such charge shall be filed with the Board of Community Relations within thirty (30) days after the alleged unlawful discriminatory practices are committed. If it determines after such investigation, that it is not probable that unlawful discriminatory practices have been or are being engaged in, the Board of Community Relations shall notify the complainant that it has so determined, and that it will not issue a Formal Complaint in the matter.

If the Board of Community Relations determines, after such investigation, that it is probable that unlawful discriminatory practices have been or are being engaged in, it shall endeavor to eliminate such practices by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors shall be disclosed by any member of the Board of Community Relations or its staff, or be used as evidence in any subsequent proceeding. If after such investigation and conference, the Board of Community Relations is satisfied that any unlawful discriminatory practice of the respondent has been or will be eliminated, it may treat the complaint as conciliated, an entry of such disposition shall be made on the records of the Board of Community Relations.

If the Board of Community Relations finds that no probable cause exists for crediting the charges, or, if upon all the evidence, the Board of Community Relations finds that a respondent has not engaged in any unlawful discriminatory practice against the complainant or others; it shall state its finding of fact, and shall notify the complainant and the respondent that said complaint has been dismissed.

Should the Board determine at any time that a complaint

501.04(c) (Continued)
filed with it alleging a violation of this Chapter was filed in bad faith, the party so filing a complaint may be subject to a civil suit for damages including but not necessarily limited to reasonable expenses caused the respondent by the filing of said complaint, including reasonable attorney's fees.

Section 3. This Ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this ____ day of September, 1969

ATTEST:

RUTH WARD,
Clerk.

R. J. HAVERSTICK,
Mayor

CERTIFICATE OF APPROVAL

JOHN J. ADAMS,
Law Director.

(Requested by Councilman Ankney)

planners notebook

Volume 1 Number 1 / April 1971

published by the American Institute of Planners

A Regional Housing Plan:

The Miami Valley
Regional Planning
Commission Experience

Presented by the AIP
Executive Director

and

Dr. M. Shafer
Chairman, Social Planning & Housing
Miami Valley Regional
Planning Commission

(EDITOR'S NOTE: *The Dayton Plan, as this housing plan is commonly known, is the first case of a regional planning agency successfully coming to grips with the problem of balanced distribution of low and moderate income housing throughout the metropolitan region. The adoption of the plan and its implementation have and will continue to involve a high level of communication and cooperation among the local elected officials, the planning and housing agencies and others. The plan was adopted and is now into implementation in spite of strong early reservations and reactions against the idea by some suburban citizens. The Department of Housing and Urban Development, especially the office of Assistant Secretary Samuel C. Jackson, has widely endorsed The Dayton Plan as a national example.*)

Last fall, the Miami Valley Regional Planning Commission adopted a regional Housing Dispersal Plan. The Dayton Plan, as it is now commonly known, calls for the balanced distribution of about 14,000 additional units of low and moderate income housing, including a considerable amount of public housing, over the next four years throughout the five-county Dayton, Ohio, metropolitan region.

The MVRPC was created in 1964 and has 30 member municipalities, as well as the five member counties. There are forty commissioners, 37 of whom are elected officials, with each municipality having one representative and each county having two representatives. Many of the

jurisdictions in the region also have officially endorsed the housing plan concept.

The Miami Valley Region, in southwest Ohio, has a total population of just under 900,000. Three counties are predominantly rural in character, while the Dayton metropolitan area is contained within the other two largely urbanized counties. Dayton City has a population of 243,000, or a little more than one quarter of the region's people. About 11% of the area's total population is Black, and most of these people live in a concentrated area of Dayton's west side. Blacks make up more than 30% of the Dayton City population.

The housing plan described here essentially is based on computing low and moderate income housing needs by county and allocating shares of this housing to planning units throughout the region, each of which is based on groupings of municipalities and/or townships within a county. (See map.) Location of such housing is coordinated through voluntary agreements and working relationships with the MVRPC and through the A-95 review process. The plan is meant for immediate implementation, and it is already affecting the location of proposed housing in the region.

Although the details of the plan itself are of interest, the process of achieving public and political support for the adoption and implementation of the Dayton Plan is the most important emphasis in this case study. This is the most difficult part. The housing plan, dropped into an unprepared environment, would have stood no chance of survival.

The Need

About two years ago, MVRPC began a housing program with four major first-year goals: (1) to compile all pertinent information on housing in the region; (2) to employ the information to single out the region's housing problems; (3) to provide technical assistance on housing to all those requesting it; and (4) to create a level of community awareness about housing as the problem it is to some of the area's citizens. When the first program year closed with a regionwide Housing Conference, the conference drew more than 300 participants and a sizable amount of positive publicity.

In the second program year, two aspects of the housing problem had been crystallized. First, there existed in the region a shortage of sound housing units in the low-moderate income bracket. Second, the housing that was available to low and moderate income households was located in very restricted geographic areas. These, of course, are common conclusions in nearly every American metropolitan area.

The origins of the plan concept probably cannot be traced precisely. During the early days of the housing program, the staff often sought direction through knock sessions among themselves and with consultants. During one of these, the seed was planted when consultant Richard G. Coleman of Cincinnati crystallized the discussion: "What is needed in terms of a housing plan," he said, "is a way of taking the housing need and spreading it throughout the region. There should be housing opportunity for everyone everywhere." Weeks later, the director of the Dayton Metropolitan Housing Authority was with an MVRPC staff member at a suburban community council meeting. They were trying to convince the council to accept public housing into their community, and the members were hesitant. After the meeting, he said to the MVRPC staffer, "We need a plan that will tell these communities how much low and moderate income housing they should have. Can regional planning give us something like that?"

Thus the wheels were set turning. The staff knew that much greater production of low and moderate income housing was needed and had promoted it throughout the program. Now it became clear that this alone would not suffice; MVRPC would have to take the responsibility of setting forth a Dispersal Plan for scattering the needed housing.

There were no guidelines as to how to go about it, no examples to follow. Even on the problem of quantifying housing need, which was the first step, no one single source offered the end-all, be-all answer. And on the question of how to numerically distribute the units to sub areas of the region, no one had touched that with a ten-foot pole.

Plan Formulation Methodology

First, housing need was quantified using a straightforward need vs. supply technique. Need was defined

as a social concept, separate and apart from the economic concept of demand. The results of this analysis showed that in 1970, the five-county region was suffering a deficit of—and therefore needed—about 16,000 additional housing units. Of these, more than 14,000 were estimated to be needed for the low-moderate income market. The need figures did not take into account all of the dwelling units in need of rehabilitation; it dealt only with new units required to eliminate dilapidation and overcrowding and provide a comfortable vacancy rate.

Also, the need figures were broken down by county so that each of the five member counties could see its own need as a part of the total regional need. Care was taken to do the best possible job on the need figures, as these were to be the quantities distributed throughout each county. The numbers of units arrived at indicated the seriousness of the situation on the one hand, but they were conservative enough to seem reasonable and not overwhelming on the other.

This is perhaps the first application of a lesson that pervades the entire housing plan story—enough to illustrate the point, but tempered to discourage reaction from going off the deep end.

Once the county by county need figures were computed, the larger task of distributing them had to be faced.

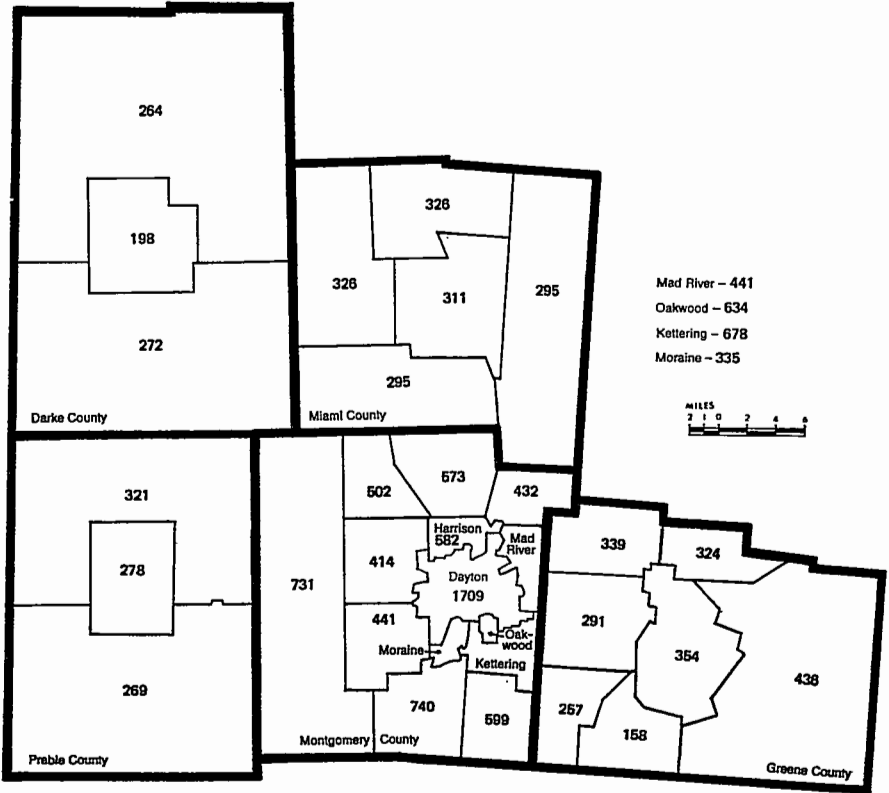
The entire region was broken down geographically into 53 "planning units". These consisted of groupings of census tracts within the City of Dayton (which was treated as a whole anyway), municipalities in three cases, townships and their included municipalities in the remainder of the metropolitan area, and groupings of townships in the rural, sparsely populated sections. Then the needed low and moderate income dwelling units were assigned to the planning units using a composite of numbers resulting from six calculation methods: (1) equal share; (2) proportionate share of the county's households; (3) proportionate share of the county's households making less than \$10,000 annually (or less than \$7,000 in the three more rural counties); (4) the inverse of #3; (5) a share based on the assessed valuation per pupil of the school districts covering the planning units; and (6) a share based on the relative overcrowding of the school districts involved.

The final result was an allocation of each county's low and moderate income housing need to every planning unit of the county. Obviously, any number of methods could be devised to accomplish the distribution, employing any combination of factors. In making its analysis of pertinent factors and ways of combining them, the staff considered three groups of elements. One was *population*, and included such things as number of people, number of households, household income distribution, number of persons over age 65 and number of welfare cases in each planning unit. Another category was *housing* itself and within this were number of dwelling units by type, age of dwelling units, the condition of housing in each planning unit, percentage of home ownership, average house value, and number of building permits issued during the last several years. The third category was *facilities*, and this included the availability of sewer and water, transportation, shopping facilities, recreational areas, schools, and proximity to employment and job centers.

All of these things were compiled into a huge matrix

MVRPC Housing Dispersal Plan by Planning Units

Total units, about 14,000



with the planning units forming the vertical axis, and the thirty factors forming the horizontal axis. Thus all of the planning unit profiles could be viewed in relationship to one another and their characteristics compared easily.

It is probable that any or all of the factors could have been quantified somehow and further, placed in a voluminous distribution formula. One fact that discouraged this, however, is that a number of factors all signify a similar basic condition. For example, a high percentage of low and moderate income households, poor housing condition, and a concentration of welfare cases are all indicative of an area where many lower income people now live. There would be a certain redundancy about building all of these things into a formula. By the same token, few households of low and moderate income, a high average house value, and a high degree of home ownership combine to profile an area in which affluent families are located. A number of factors like these can be left out simply because they do not add significantly to the information being considered. It is to be emphasized that a vast amount of data about each planning unit was available and was examined before, during and after the allocation process.

The six factors used in the calculations, however, seemed to reflect some very basic determinations: the possibility of each sub-area being treated equally, the existing distribution of each county's households and lower income households, and two indicators of the receiving school districts' ability to accept new students. The latter two were used because the school question emerged as a critical concern whenever low and moderate income housing was mentioned for placement in a given area.

For the purposes of the initial housing plan, the six-factor allocation method has proven relatively satisfactory, although not perfect. For example, the small, land-locked (and land-scarce) community of Oakwood came out with more than 600 dwelling units in the allocation process. A formula sensitive to this problem (a unique one among the planning units) might have resulted in a more realistic figure for this community. Notwithstanding problems like these, however, the important things are: first, that the distribution be made in hard figures; and second, that the formula reflected enough factors to make it sensitive to a few critical characteristics of the planning units. As time goes by and 1970 census data is available, the housing needs figures and the distribution will be re-calculated. Ways can then be sought of refining the allocation method.

Budget and Staff

In 1970, the MVRPC budget was approximately \$250,000. Of this, \$50,000 in 701 Planning funds was earmarked for housing. Another \$45,000 was in the form of a special HUD grant for a "Housing Impact" study. The housing plan formulation, however, was carried out entirely within the \$50,000 housing program: no special project funds were used for this purpose. Of the 22 staff people, a total of four were involved in the development of the plan itself. Consultants provided some aid in conceptualizing and presenting the work. The bulk of the actual calculations and text writing in both the Housing

Needs Report and the housing plan were carried out by two staff people, working sixty to seventy hours a week for a three month period. Much of the background work and input had been developed over the life of the MVRPC housing program, or at that time, about one to one and one-half years.

Presentation of the Plan

Even as all of the staff work was being done and the concepts solidified, indicators of what was coming in the housing plan were being given to the citizens and officials of the region. Early in 1970 the MVRPC director informed the commissioners at a regular meeting that housing would be a major thrust of the year's work program and that they could expect it to be controversial. The commissioners were reminded of this several times and were finally told that the July meeting would consist largely of a major presentation in housing. At the end of January, 1970, the director delivered a major address to the Montgomery County Mayors and Managers Association in which he said, "local governments must resolve first, to accept their share of lower income housing within their boundaries, and second, they must not only strike down all of the real and hidden barricades, (both legal and illegal) which hinder the building of such housing, but actively promote its construction." He was also quoted in several press releases in the first six months of 1970 as saying that the forthcoming MVRPC housing plan would assign a quota of low and moderate income housing units to all areas of the region, and that the A-95 review power would be used to enforce the plan.

Neither public officials nor citizens could say that they had not had fair prior warning of the plan's content. A newspaper article in May said the plan would be unveiled within 60 days. The date of July 22 was set for the formal presentation.

There was no question that the formal presentation had to be out of the ordinary. The usual approach of presenting a report by having a staff person stand up and talk about it was strictly out in this case. It had to be dynamic, to the point, and hit very, very hard. The intention was to make the plan and its recommendations alive and real to the commissioners and the community.

The first step in this process was to commission a graphic designer to work with MVRPC in putting together a slide presentation that would depict the "housing problem" in the region. This employed dramatic photos of bad and good housing, the people who live in it, and some statistics to tell the tale. It lasted 28 minutes and its taped narrative concluded with a charge to its audience to "act as responsible citizens to promote the actions that will ultimately fulfill the promise of a decent home for every Miami Valley household". That theme—

Planners Notebook—April 1971, Volume 1, Number 1
Editor—Gail O'Gorman

The Planners Notebook is published monthly by the American Institute of Planners, 917 15th Street, N.W., Washington, D.C. 20005. Send all manuscripts and subscriptions to this address. Subscription rates are \$10 a year, \$1 for single issues. Application to mail at second-class postage rates pending at Washington, D.C.

"The Promise: A Decent Home for Every Family"—has become the motto for the entire MVRPC Housing Program.

The slide talk was used to introduce the subject of housing as an area of concern. After setting the stage with that, the Housing Needs Report and the housing plan itself were both presented, using slides on which the essence of each was captured in bold text form. When this was concluded and questions answered, the recommended policies were reviewed and discussed.

Altogether, the presentation lasted about 1¼ hours, and different staff people presented each part. Use of the slides served to focus attention on what was being said. It was fast moving, yet clear and direct. Four consultants were present to help the staff in fielding questions.

Altogether, that first presentation was made to almost 140 people.

It had been made in a dress rehearsal earlier the same afternoon to the MVRPC Housing Advisory Group, representing many local public interest groups and agencies which have an interest in housing affairs, but this meeting had been closed to the public and press.

Commission Chairman Thomas A. Cloud announced that additional public hearings would be held at the August and September commission meetings especially to get citizen reactions. He also issued two directives, one of which was to an interim housing committee he had just named, the other to the MVRPC staff. The committee was to review the plan and return to the commission in September with a recommendation as to what action should be taken. The staff was to take the presentation to any group or organization in the region requesting it and thus expose as many people as possible to the housing plan and obtain their feelings about it.

Reaction and Action

At first there was a kind of frightening silence in response to the housing plan, in spite of extensive press coverage and positive editorials in the two Dayton papers. The August meeting drew only a few people and no significant discussion. Chairman Cloud complained loudly about the lack of interest and the papers editorialized on citizen apathy.

In the next month the story changed completely. The staff made some thirty presentations before all kinds of groups, both official and lay citizen. Some audiences embraced the plan, like the League of Women Voters, the local CAP agency and the City of Dayton itself.

Others abhorred it, and one or two meetings verged on violence. The staff was harassed by name calling and rudeness. At these meetings the audience came with a preconceived idea of what was going to be seen and what their attitude toward it was. Nothing that could be said dissuaded them, and in the course of the meetings some of the rawest forms of bigotry and insecurity exposed themselves. Sometimes it was purely racial, sometimes racial and economic; but always the extent and irrationality of it were appalling. The housing plan conjured up visions of hordes of Black and poor people, pouring across the boundaries of whatever the jurisdiction happened to be. As one man shouted, "We didn't ask for

this housing, we don't like it, and just plain don't want it!"

After about a month of concentrated presentations and discussion and a great volume of press coverage of it all, the September meeting was imminent. With surprisingly little fanfare, the commission in a roll call vote voted unanimously to adopt the goals and policies of the plan, as amended by the Interim Housing Committee. One of the chief changes was the elimination of a policy which called for giving preemptive zoning powers to the local housing authority. The staff felt, however, that this was well worth the sacrifice in exchange for the overwhelming approval which the policy package received. The concept of scattering of low and moderate income housing, the suggested distribution of units, a set of broad housing goals, and a host of accompanying policies had been adopted without a single dissenting vote and was thus a part of the MVRPC ongoing housing program as well as official regional policy.

One Dayton paper, in its laudatory editorial, called it "a decision of landmark proportion".

It is impossible to identify one single factor that insured a unanimous, positive vote on the part of the Regional Planning Commissioners. Several key things undoubtedly contributed to it. For one thing, it was not presented out of a clear blue sky, as has been indicated. For months, the staff had been referring to its being in the works and on its way to them.

Also, when the presentation came, action on it that night was not even considered. The message was, "here it is, it is a tremendous amount of material to digest, and it is a very serious matter. Consider it over the next two months. By then, we must have your best possible decision." So it was not ramrodded through the commission.

The initial impression that it made on the members was largely the result of the presentation package itself. It was polished, professional looking, and reflected the months of conscientious work that had gone into it. In no way did it appear sloppy or poorly thought out, or as something that had been thrown together quickly. A faltering or uncertain first exposure probably would have doomed the project. At the end of the presentation, the staff was praised by Chairman Cloud for the job it had done. So the commissioners were primed in a very positive way at the start.

For some of the voting members, however, the next two months must have been difficult. They received calls from constituents telling of their opposition. Sometimes the elected body of which the representative was a part gave him a very hard time, in one case expressly telling him to vote no. (He voted yes anyway and caught hell when he returned to his council.)

The motivations behind the votes of the commissioners, and behind the actions taken by local elected bodies, covered a wide range. For some, it was a matter of pure conscience. They felt that the concept of the plan was right, that supporting it was the only moral thing to do. At the other end of the scale, some took affirmative action purely to save face, because negative action was going to publicly confirm their bigotries and "tarnish" their images. The strength of this motivation was sometimes startling.

For still others, the motivation was highly pragmatic. Moderate income housing construction was already beginning to occur in a few suburban areas, and the deci-

sion makers there viewed the Dispersal Plan as a safeguard against their areas being deluged with such housing. Their concern was whether the quota system could be enforced to the degree that upper limits could be set in order to avoid saturation. Officials of several areas said that they were perfectly willing to accept their share of the housing, but they would not take it all and they wanted to make sure that other areas would take a share also. Thus, a good bit of interjurisdictional pressure developed over acceptance of the plan, and by and large probably contributed to the adoption of it.

Community Resources

Passage of the Housing Dispersal Plan, however, was not wholly a function of the moment. No planning effort can have significance if it is an isolated or irrelevant thing, and a whole network of activities had preceded and moved along parallel to this one.

It was emphasized in the formal presentation that the plan was a part of the overall MVRPC housing program. Several related efforts were going on within that program that ultimately aided in the plan approval and that will continue to be essential as the implementation process proceeds. These can be put into categories of effort, described below.

Public Agencies. In the very beginning stages of the Housing Program, a Housing Advisory Group was called together by MVRPC. It consists mainly of representatives of the various agencies in the area that have some concern with housing. This includes the Dayton Plan Board and Dayton Community Development Department, the Urban League, Model Cities and the CAP agencies, among others. Also represented on the group are the local homebuilders and the real estate interests, which provide a loose tie with the business community. The League of Women Voters is strongly represented here, too. One of the chief values of the Group has been to keep other agencies informed about MVRPC housing activities and find out in turn what they are involved in and what problems they may have. The result of this exchange, in part, was the rapid endorsement of the plan by many of the participating agencies. Their combined support was of no small value as the time for the decision approached.

Citizen Groups. In spite of the outbursts of objection at many public meetings, there was always someone speaking for the plan. This usually came from some group that had gone on record for it and was solidly behind the MVRPC staff in what it was attempting to do. But such support did not suddenly appear when it was needed. The staff had cultivated its relationships with numerous such contacts, and in the final analysis most of these threw their weight to the MVRPC side in a vocal manner. One of the most helpful groups has been the local League of Women Voters, whose housing chairman sits on the Housing Advisory Group. The League sent members to city council meetings throughout the area to read letters of support and urge the elected officials to endorse the plan. Their help was invaluable in spreading the word and mustering support. So, too, was

the help of a myriad of church groups and civic-minded individuals who spoke out courageously in favor of the housing plan. In almost every geographic area of the region, this element of support has been, is, and will continue to be, present and indispensable.

Business Community. This element of support can not be come by in the same way as the preceding two. It has required long efforts, mainly on the part of the Director, to bring together the local business leadership, inform them, and enlist their aid. Assistance in doing this has come from two quarters, one being the Dayton Area Chamber of Commerce, which has extraordinarily sensitive leadership. The other source of assistance has been from a retired board chairman of one of Dayton's major industrial concerns who has a direct line of communication to the top-most business leaders. A group of people meet regularly along with governmental agency heads and the local housing producers to formulate strategy, secure funds, and bring their weight to bear on the housing program efforts in an unobtrusive, but effective way. At no time did this group publicly support the housing plan, or refer to it in any way, but the behind-the-scenes work of the members has been essential to the success of the plan so far.

Local Developers. The Homebuilders Association of Metropolitan Dayton was a co-sponsor of the January, 1970, Housing Conference, and this organization is represented on the MVRPC Housing Advisory Group. Both last year's president and the current president are deeply involved in the low-moderate income housing field and have been instrumental in putting together a coalition of interested builders to do even more in this area. Although there has been some reservation on the part of this group in terms of total plan acceptance, there is a distinct atmosphere of interest and cooperation, and the building community will provide that end of the development activity as it is needed.

Non-Profit Corporations. MVRPC has regarded the non-profits as a vital ingredient in the low-moderate income housing development process. From only eight or nine non-profits in the region two years ago, the number has now increased to more than thirty. To facilitate the formation of these, MVRPC made available technical assistance to any group requesting it. These groups now have about 700 units under construction and hundreds more in the proposal stage. Needless to say, the most active of these have teamed up with interested builders, architects, bankers, and packagers to put projects together, and these development coalitions are proving most successful. These non-profits supported the plan and in turn the plan has helped them by validating their efforts. Several have indicated that they will build only in conformance with the plan.

Seed Money. Two years ago seed money for the non-profits was scarce. To correct this, MVRPC staff helped in the enlistment of several resources. The group of businessmen discussed before, made arrangements for \$50,000 of the PGA profits from summer, 1969, to be put into a seed money pot for sponsors. The corporation that handles this money is called Housing Now, Inc., and its executive directors is officed with the RPC staff. Another source of seed money came from the local Junior League, which formed a non-profit corporation to handle its \$25,000 housing fund. In addition, another retired business executive is personally seeding projects simply because of his interest and eagerness to help. Through the

establishment of all these, seed money for project development is no longer a problem.

Public Housing Authorities. Since these are essential to the building of low income housing, MVRPC has worked closely with the Dayton Metropolitan Housing Authority covering Montgomery County and has assisted in the expansion of the Yellow Springs Housing Authority to cover all of Greene County. Thus the entire metropolitan area is now served by the PHA's. The DMHA has publicly endorsed the plan and is now beginning to negotiate the agreements necessary to put public housing in the suburban communities. An agreement already has been signed with the Montgomery County Commissioners to place 1,100 units in the unincorporated areas of the county. The new Greene County Housing Authority is in the process of securing agreements from the communities there so that development plans can proceed. The creation of PHA's will probably be urged in the other three counties in due course, if the need for it continues to be apparent and not satisfied by Farmers Home Administration and FHA programs.

Elected Officials. Once again, this necessary cooperation and support has come about largely through staff efforts to obtain it. The staff's relationship with public elected officials over the past six years has helped substantially to gain support for the housing plan and program. Most of the region's elected officials have come to know and respect the MVRPC staff and have confidence in their ability. Thus they felt free to communicate with staff people about the plan, their doubts and fears concerning it, what it would mean to them if it were passed. The key here is largely availability, i.e., the fact of MVRPC staff being available to officials for formal and informal meetings. A mutual trust is a necessity here also, and where it develops, cooperation will also. A great number of elected officials openly stated that they favored the housing plan, and many displayed extraordinary courage and confidence in MVRPC and its staff in voting affirmatively for it. Needless to say, the success of implementation efforts rests in large part with these elected officials in whose hands the policies for their respective communities rests.

Positive Publicity. It is difficult to state too strongly the role that the two Dayton newspapers, the *Journal Herald* and the *Daily News*, have played in the success of MVRPC efforts to promote the housing plan and the entire housing program. They have both loudly backed the housing efforts in their editorial pages, and they have done an excellent job of reporting day to day events. A review of the clipping file since the release of the plan will give the reader a blow-by-blow description of most of what has happened in the chain of events. When a community vehemently rejected the plan, the papers chastised it; when one embraced it, they praised its courage: when a proposed project is attacked, they expose the real hatreds lying behind the surface objections. It is likely that without this strong, continuing bulwark of support, the housing plan and the movement of the MVRPC housing program could never have achieved its present high pitch.

Technicians. There are a number of very skilled technical people at work in the five county region. These are the packagers who put projects together, who work with all of the members of the development coalitions to put housing units on the ground. It would be easy to take these people for granted, but it cannot be done, for they

perform an indispensable job. All in this area are knowledgeable, resourceful, skillful in guiding projects through federal red tape, and willing to work closely with MVRPC staff as they develop housing with non-profit and limited dividend corporations. Some of the best packagers locally are real estate men, and this is the most significant way in which that profession is currently active in the local low-moderate income housing field.

Implementation

The Housing Dispersal Plan differs from many other planning reports in that it is intended for immediate implementation. The housing problems of thousands of Miami Valley residents need to be dealt with now, not at some vague future time.

Carrying out the plan, like developing it and gaining approval for it, is not a single-thrust effort, but involves a network of simultaneous activities.

Since the plan was approved in September, the pace of community meetings and presentations has continued at a high level. A total of more than sixty public meetings has been held, and they are continuing at the rate of one or two a week. Audiences usually average about 35 people, with some running considerably larger. It is estimated that about 2,000 people have seen the housing presentation, and about 3,000-4,000 copies of the plan have been distributed. Continuation of this dissemination of information about it is vital, for in every group some allies are gained. For every person who understands and become a proponent, the entire effort is made stronger. Also, the staff and the commission's activities become real to the public and accessible to them.

It is anticipated that staff exposure will be increased still further through the latest addition to the housing staff, a city-county housing expeditor, who has come on board during the last month. This position has been jointly funded by the City of Dayton and Montgomery County. The expeditor's major effort will be to identify hang-ups in the housing production process, and find ways of eliminating them. This will include work with codes and ordinances, and in this way will tie in with an MVRPC work program element on the possible restrictiveness of these regulations locally.

In the area of production, also, the commission is exploring the possibilities for employing the concepts of Operation Breakthrough. This is being done largely through the State of Ohio Department of Urban Affairs. It is hoped that by combining the MVRPC five-county area with the other surrounding metropolitan areas, the Breakthrough idea can be made to work here. In addition to state involvement, discussions have also been held with state officials about the possibility for introducing significant state housing legislation.

The City of Dayton in November adopted its own housing plan which fits within the framework of the regional one. Drafted by the Dayton City Plan Board, it seeks to apply a similar concept to the city and to delineate "opportunity areas" into which low and moderate income housing will be encouraged to go. This action has further strengthened the regional housing plan, and

the two agency staffs are working closely in the implementation efforts.

Another example of inter-agency support and cooperation is the recent action of the Health and Welfare Planning Council to not only endorse the plan, but to put into their work program a study of what social services will be needed in the new housing developments and find ways to deliver those services. MVRPC will work with them on this and the two agencies may well develop a special project proposal to carry the work further than would otherwise be possible.

Similarly, staff work continues with local housing producers including non-profit sponsors, builders, packagers, and the two public housing authorities in the region. The housing authorities and all of the active non-profits are working closely with MVRPC to insure that their efforts are consonant with the Housing Plan. For example, one major non-profit which has committed itself to sponsoring a minimum of 1000 units of assisted housing, came to MVRPC soon after the plan was adopted and asked where, geographically, it should direct its efforts in order to conform to the plan. Since several projects were already being developed in Dayton's northern suburbs, staff recommended that they work toward developing units in the affluent southern suburbs. The non-profit group has now optioned one piece of land in that area and is seeking other sites. Another very active non-profit has followed staff direction and is also seeking sites in the same part of the metropolitan area.

At the same time, the Dayton Metropolitan Housing Authority is seeking to obtain cooperation agreements with a number of suburban communities, including three southern ones, so that the public housing leasing program can be used there. Altogether, there are at least five separate efforts underway to provide either low or moderate income housing in the south Dayton suburbs. These have all come about since the adoption of the Plan and largely a result of it. The plan itself tends to validate these efforts, where previously there was little to base them upon.

A certain amount of project review is carried on by the staff now, and more will be done as the new A-95 review requirements for FHA and Public Housing projects go into effect on April 1, 1971. A major proposal for a 560-unit, 236 coop project came into the office with a request for review and criticism. The elected officials of the community in question indicated that they would place great emphasis on the MVRPC recommendation as to its merits or lack thereof. After considerable examination, a staff memo went to the councilmen, stating that the project should be given favorable consideration. Before a crowd of 300 objecting citizens, council voted to approve the project. The MVRPC was not the deciding factor, but it certainly was one factor in the approval process. An increasing amount of this kind of activity is expected as time goes by.

It is essential that a means be found by which all low and moderate income housing developments being proposed for the five county region will come to MVRPC for review. Only in this way can a satisfactory monitoring process be set up so that the intent of the plan can indeed be realized, and not abused. As noted previously, the new A-95 review requirement for housing proposals will be most helpful, although the numerical restrictions do pose something of a problem in that they exempt truly scattered projects from review. (Under the new regula-

tions, the A-95 review process is limited to proposals for more than 100 units of multiple-family housing or more than 50 units of single family structures in a single development.) It is hoped that a complete review function can be put into effect soon by mutual agreement. MVRPC is negotiating with HUD on this.

There are a number of ways in which HUD cooperation and involvement is seen as critical to the success of the implementation efforts. For one thing it was deemed important that HUD endorsement of the concept as being consistent with federal policy be forthcoming in a public manner. This occurred in a very real sense when in January, 1971, Assistant Secretary Samuel C. Jackson in a speech before the National Association of Homebuilders, praised the MVRPC plan and housing program and said "This action (adoption of the plan goals and policies) illustrates well the kind of local governmental responsibility to which this Administration is committed. And I take this opportunity to publicly commend and endorse their efforts. We, in HUD, will do all we can to help them achieve their housing goals."

Critical to the implementation process in the five-county area is a sufficient reservoir of housing units upon which local developers can draw as they proceed with proposals. Thus discussions are being held with HUD officials to determine what numbers of dwelling units—in the full range of public housing, FHA assisted and Farmers Home Administration programs—can be made available for use in the Miami Valley Region.

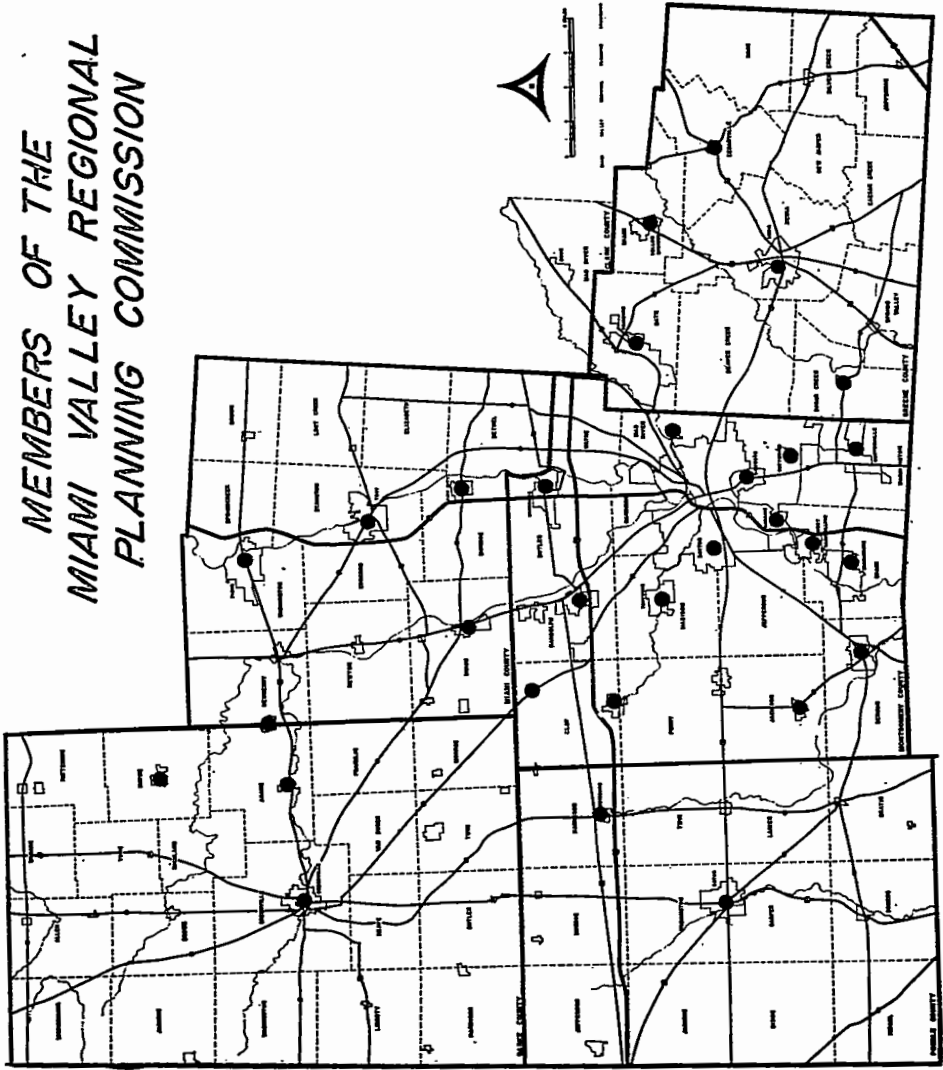
Along with this must also go a way of rewarding suburban communities for accepting the low and moderate income housing units. Here the federal government can assist by giving priority to cooperating communities when they apply for sewer and water funds, park monies, etc.

This discussion illustrates some of the ways in which implementation of the Housing Plan is getting under way. Considering that the plan was approved only five months ago, the progress and the efforts in the mill are most encouraging. It will be extremely important in the months ahead to maintain a high level of local interest and commitment, a great deal of federal involvement, and a continuing aggressive total housing program through MVRPC.

Housing Impact Study

Realizing the import of what it was proposing in the housing plan, MVRPC applied for and received from HUD special project monies in June, 1970, to conduct a study of just what the impacts may be of placing low and moderate income housing in middle income neighborhoods. This is nearly completed now, having been carried out by the consulting firm of Gruen Gruen & Associates of San Francisco. It has determined just what fears, misgivings, and expectations exist on the part of suburbanites in whose neighborhoods the housing may go, and on the part of the types of families who might be moving into the housing. It is hoped that the results of this special project will give MVRPC the extra insight it needs to facilitate the implementation of the plan in ways that will improve the quality of life for everyone in the Miami Valley Region.

*MEMBERS OF THE
MIAMI VALLEY REGIONAL
PLANNING COMMISSION*



THE PROMISE: A DECENT HOME FOR EVERY FAMILY

NARRATIVE FOR MVRPC SLIDE PRESENTATION
 BY ANN M. SHAFOR
 July, 1970

A shelter. A house. A place to live. There is no concept more basic to the lives of men. As long as human history has endured, the process of creating the man-made environment has endured also. And of all the human activities which that environment contains, none is more urgent or mandatory than this: the sheltering of the family so that it may perform in safety the functions of life and thereby sustain itself.

In each society housing serves this same fundamental purpose. Yet in each society also, it takes on a different cultural significance. For us, in a strongly materialistic nation, it has become a symbol of what we want life to be, and most of us work to obtain a dwelling that is a good place for our families to call home. Along with that home goes a neighborhood, and with that neighborhood goes a community, and taken together these things make up our everyday world.

But not everyone's world is the same in America today . . . or in our Miami Valley Region . . . or in Dayton, Ohio. The coveted world of sound attractive dwellings, of green play areas and trees, of safe streets and pleasant neighborhoods is replaced, for many, by a vastly different scene. The overall look of it may vary from very dense urban streets to rural settings, but certain things are the same. The housing here is left over, it is what remains after those who can afford something better have moved out. It is old. It is crowded. It does not have proper heat or ventilation. The plumbing only works part time. The walls and floors and counters are impossible to clean. The electric wiring invites fire. But it is home to those who cannot go elsewhere.

In a world of great complexity, that place called home becomes the last retreat for a family or an individual. When it fails in this, as all bad housing and deteriorating neighborhoods do, where then, does a person go? Perhaps he withdraws farther and farther inside himself. Or perhaps he explodes into violence. Either way, society loses. Every human being possesses an inherent worth, an inherent potential. In this other world, this world of the ill-housed, that precious worth can be lost forever.

A part of the housing scene for Americans is variety. Not all of us hold the same values about what our homes should look like. In the Dayton area and throughout the region, the most popular kind of dwelling is the single family house. The strength of people's feelings about owning such a house, on its own plot of ground, is sometimes overwhelming.

In the past few years, however, apartments have been growing in numbers, and in popularity with certain types of households. Apartments can take on any of several basic forms. Highrise apartment buildings are often built for senior citizens, or for singles, or young couples with no children. Garden apartments and townhouses appeal more to families with growing children. Duplex units combine the appearance of a single family home with the advantages of a rental situation. For one or more of many reasons, the households who chose apartment living do so because this life style suits them better than owning a house. Not everyone wants to own a house.

Another kind of dwelling of which we will be seeing more is the mobile home. Once thought of as a recreational vehicle, it has now become an integral part of the single family housing market. For those of limited funds who want a detached house, the mobile home provides an answer.

There is another dimension to the housing stock in the Miami Valley Region. It is an economic dimension. Since all families do not have equal buying power, the housing we have covers a very wide range of economic levels. Most of us live in middle income neighborhoods in houses or apartments that fall into this same bracket, and which we have chosen for ourselves. They are seldom dramatic, (and in their way they may be a bit drab) but they are safe, comfortable, and adequate, and they allow some individuality.

But our housing, like our society, also has extremes. The rich may choose to live in large, expensive houses and apartments. Families of limited financial means, however, do not get the chance to choose. They live wherever they can find shelter. For lack of choice, they cleave to what housing is left and call it home.

What exactly is the nature of this out-dated housing about which we talk so much? How is it different from the housing that most of us live in? To begin with, a great deal of it is old. Nearly all of the things we buy and use have a certain life span that we expect of them. Housing is no different. Although it may be theoretically possible to maintain a dwelling unit indefinitely, a portion of the housing stock falls into disrepair as the years go by. As any homeowner knows, the things that can go wrong with a house are almost endless. The older a house is, the more likely it is to be simply wearing out. A building may become structurally unsound. That is, its construction has become faulty in some respect and therefore it is unsafe to live in. The foundation or walls may have developed cracks or weaknesses; floor joists or roof rafters may have deteriorated or been damaged until they can no longer

support weight. In areas where health, safety or housing codes are in effect, such buildings are condemned and declared vacant by local authorities. But because there is such a critical housing shortage today, authorities cannot strictly enforce codes because it would force families into the street or into overcrowded housing units. In addition to structural problems, other things may make a building unsafe. Electrical wiring, for example, that was installed forty years ago, cannot withstand today's loads. Worse, it is likely to have worn insulation so that exposed wires contact other exposed wires or some flammable surface.

Central heating systems, as we take them for granted today, are non-existent in much of the substandard housing stock. The original fire-places have been supplanted by space heaters which, when improperly vented, become lethal devices. Cooking stoves are used for heat also, again improperly vented so that deadly fumes may escape into the family living quarters. Plumbing facilities may be obsolete, non-functional, or perhaps non-existent. Code requirements for toilet facilities inside dwelling units are a relatively recent phenomena, although one that has received considerable emphasis and effort. Yet the region, and even the metropolitan area, still has dwelling units with shared toilets, cold water only, no bathing facilities, fixtures that do not work, or no fixtures at all unless the outhouse can be so classified.

These are some of the more basic problems that typify unsound housing. There are others that may be less dramatic, but that never the less severely affect the livability of the dwelling unit. Floors may be splintered and cracked, and thus difficult or impossible to clean. Kitchen work surfaces the same. Plaster may be falling from the walls or ceiling, which in turn have not been painted for decades. Leaks in the roof, walls, and around windows may render any attempt to interior fixing up a waste of time. Rotten window sashes and broken panes may admit the wind and snow as well as the rain. Storage space is likely to be in short supply, thus compounding the housekeeping problems because clothing and belongings can never be put away. Bad housing is seldom appropriate for the families who live in it from the standpoint of size. A family of six living in two or three cluttered rooms cannot expect even the most elementary kind of privacy from one another. Old buildings in old neighborhoods have often become infested with rats and roaches in a way that is no fault of the present tenants. But ridding a neighborhood of them, or even one building, is a never-ending battle.

Now we have looked for a moment at the setting, at what makes up a substandard house or apartment. What effect does all this have on the people whose world it comprises?

It is important here to understand two concepts. First, the inhabitants of bad housing do not live there

by choice. They live there because the opportunities available to them are severely limited and there is no place else to go. The limitations may be economic, they may be racial or they may be cultural, but they are very real and to overcome them requires unimaginable effort. Second, human beings are basically able to adjust to almost any living situation and survive, at least on the surface. They do not outwardly or immediately perish. And the rest of us look at the rotting parts of our community and tell ourselves that the people who live there are happy that way or else they would do something about it. Unfortunately, it is not that simple.

Viewed from the inhabitant's standpoint, the situation he finds himself in may well seem hopeless. For one reason or another, his income is limited, limited in such a way that there is almost no chance of increasing it by very much. As he looks around at the possibilities for moving his family elsewhere he quickly sees that he cannot afford anything better. And one day he realizes that he is nearly powerless to change the situation. He is literally trapped: he is at the end of the line. There is another world which he can plainly see, which is flaunted before him constantly, but which is unreachable for him and his family.

The frustration and resentment that this condition breeds in human beings is incalculable. It cannot be of surprise to anyone that emotional problems are magnified among those who are relegated to live in bad housing. It cannot be of surprise that violence erupts in these neighborhoods on hot summer evenings. If you have ever driven through rundown neighborhoods in summer, you have noted that scores of people are outside on stoops and sidewalks. They are outside because it is a little less debilitating emotionally than being inside. But in the meantime, the pressure builds, indignity is piled upon indignity, and sooner or later, something will give.

In the fabric of our man-made environment, these areas of blight and deterioration are like a cancer. They undermine the strength of the whole and they spread, if unchecked, in everwidening circles. No part of the total environment can be sound if some part of it festers with disease. And by the same token, no segment of society can really be viable if some segment withers beneath the weight of circumstances which it cannot overcome alone. The most basic precept of life in this country is opportunity. For those who cannot meet American middle class criteria, doors close, "opportunity" becomes an empty word, freedom becomes a mockery: and to the extent that this is true, all of our well-intentioned ideals have failed to produce their shining promises.

Who are the people who now occupy this housing? They are identifiable: they are not some great faceless mass of humanity to be collectively classified as undesirable or poor. They are, first of all, individuals like the rest of us, with feelings of aspiration, and hope

(continued on following page)

THE PROMISE: A DECENT HOME FOR EVERY FAMILY (continued)

and despair. They are different from many of us in one respect, and that is that they often do not fit the pattern of the ideal American family — a pattern that is so championed among us that we look with question at any who do not conform to it.

In fact, not everyone can conform to it, for it requires not only that one be honest and hardworking and raise one's children acceptably, but that a certain economic level be achieved. In our present economic state, many families who once were quite able to maintain that level suddenly find themselves priced out of markets in which they once participated. The most critical of these is the housing market. These families still have a wage-earner who works a standard work week or better. They still aspire to obtain a better home and to improve their standard of living. But their incomes do not permit buying or renting a decent home in today's housing market. All kinds of families find themselves in this predicament: servicemen, factory workers, people engaged in service jobs, black and white alike. They are families very like most others in America, but they are the victims of an inflationary economy that will not stop. In addition, there are other families and individuals whose economic situation is effectively limited. Families in which there is no father, for example, and in which the earning power of the mother is curtailed by her responsibilities at home. And families in which the chief wage-earner is disabled by sickness or accident and is forced to quit his job.

A very special problem is faced by senior citizens in their quest for good housing. Most elderly people live on pensions or retirement allowances that may be absolutely fixed. They are caught in an ever-tightening vise between their fixed incomes on the one hand and continually rising prices on the other. As the situation worsens, they are forced to seek a cheaper place to live and that nearly always means a place of lower quality.

The black family, too, faces a particular set of constraints in finding a decent home. Until very recently, housing patterns in America and in our community have been strictly delineated according to race. Although this is slowly beginning to change, there are still very real obstructions to the free movement of black families throughout the community. The housing they have fallen heir to is usually the worst housing, from a physical standpoint, to be found, but they have had no choice but to accept it for lack of opportunities elsewhere.

It is important to note as we examine the kinds of people who need housing that they and all of us have a right to choice in where we live. None of us wants to be told where to live or who our neighbors shall be. The right of choice includes not only the option to live with different people, but also the option to live with people like ourselves. For people like those described, however, the choices are usually few indeed.

In specific numbers, how serious is the housing problem we are describing? Since it is impossible, or at least impracticable, to examine and count every dwelling unit in the region, we can only estimate the extent of the difficulties. Through limited field surveying and statistical analysis, however, a reading on the problem can be obtained.

Of the five counties in the Miami Valley Region, three are predominately rural in character. These are Darke County, Preble County and Miami County. In 1968, the staff estimated the incidence of unsound dwelling unit in these counties as follows:

Darke	4,341 unsound units:	26.5% of total
Preble	2,947 unsound units:	26.9% of total
Miami	5,255 unsound units:	18.7% of total

In these counties the deteriorating housing is divided between rural or farm units and units in and near the small communities within each.

Montgomery and Greene Counties must be classified as urbanizing and their numbers of unsound units are estimated thus:

Greene	5,220 unsound units:	15% of total
Montgomery	20,940 unsound units:	10.9% of total

Altogether, these total 38,703 units or 13.5% of the entire housing stock. "Unsound units" in this estimate consists of both deteriorating and dilapidated housing. Housing that is dilapidated is generally considered to be beyond reasonable repair. Deteriorating housing is in need of repair in greater or lesser degree, but it is salvagable and can still be considered a part of the usable housing stock.

The totals given, then, are not to be disposed of and replaced; rather, the bulk of them are in need of attention and can be returned to a usable state. Only a relatively small portion are in such poor condition that they should be removed from the housing supply.

There is a combination of factors that causes housing to deteriorate and become unfit for human habitation. When it does, it should either be removed from the inventory or it should be reclaimed through rehabilitation. Further, new units in appropriate price ranges should be pumped into the supply to replace losses, alleviate overcrowding and provide a comfortable vacancy rate.

Although these solutions appear to be simple ones, by and large they are not occurring fast enough to really affect the overall problem. With housing programs at our disposal, with technological know-how, with the apparent capability to produce housing for all of our populace, what are the factors that impede significant progress toward this goal?

First of all, there are economic obstacles. The cost of borrowing money — interest rates — has soared over the past two years to unheard-of levels. Coupled with this, the availability of funds has become more and more limited. Funds for housing become available because

someone is willing to invest in that commodity. When investors can place their monies in areas that provide higher returns, they will do so. Investment sources that have been major investors in housing, like insurance companies, are reluctant to put up money for it now unless they become a partner in the deal and receive not only interest on their investment, but also a percent share of the profits. Banks will barely consider loans for housing. Savings and loan institutions have experienced a period of low reserves and have had to curtail loan activity. This one factor alone, then, muzzles significant housing construction.

Another economic consideration is the cost of labor. Recent increases in wages for construction-related jobs have been astronomical. And the costs of materials is on the increase also. Taken together with high interest rates, these things have caused the cost of producing housing units to sky-rocket. In 1966, the average new home in the Dayton area cost \$17,500; last year it had risen to \$25,300. At a ratio of income to cost of house of 2.5, only families with a yearly income of \$10,000 or better can compete for these homes. In the region in 1970, more than 40% of the households are estimated to have incomes below this level.

Land to build new housing on is another restraint that is basically economic. Moderate income housing must be located near certain facilities that are only found in relatively built-up areas. Land in such areas is scarce and therefore high-priced. Once again, this drives the builder's costs higher and hence the price of the unit.

When land is found, it is often improperly zoned for higher density residential use. And there begins another set of roadblocks for the prospective developer. It may take months to secure the zoning change, and it may never be approved at all. If it is, the next group of hurdles lies in securing all of the necessary permits to proceed with construction, and then come the myriad inspections for different phases of the work. If FHA financing is involved — and it is certain to be on the kinds of projects that can fill the present need — another network of red tape must be cut through. All of these things combine to make production painfully slow and frustrating for everyone involved.

The last major block of constraints is couched in something that may be called public attitude. To a certain extent, those of us who have what we need — and who have worked hard to get it — seem to care very little about those who have not fared as well. When a proposal for lower income housing in our neighborhood comes along, however, we suddenly care very much. Suddenly the entire fabric of our lives seems threatened. The reaction to low or moderate income families is much the same as it is to black families: panic.

The fury of our collective objection can be heard throughout the community.

When all of these things must be contended with on any given proposal — and they all must at some point — it is little wonder that last year in our region production of FHA-Assisted Programs totaled less than one tenth of the estimated demand.

When any of us buys a home, it must be financed in some manner. A few people can afford to pay cash, but most of us are not in that category. Many people make a downpayment — probably of 25 or 30% or higher — and make a conventional loan. Many more use FHA or VA insured loans that ease the downpayment burden and lengthen the term of the mortgage. The government has been helping families in this way for years and an uncomplaining public has taken advantage of the program. For years also the government has allowed interest paid on home loans to be written off of income tax obligations and this provides a subsidy to millions of middle and higher income home buyers year after year.

For very low income families and individuals, public housing programs have been available since the late 1930's. Mistakes have been made in those programs, but many of the lessons learned are being put to good use today. These programs are desperately needed. They fill a gap that no other program does, and they must continue. But they must no longer be compounds as they once were; they must no longer be vast concentrations. Now they will be scattered, they will be an integral part of their neighborhoods, and they will result, in many cases, in home ownership for people who could otherwise never achieve that status.

Now we also have another group of programs for families who income falls between public housing levels and those required for participation in the open market. These are FHA Programs that provide either an interest subsidy or a rent supplement that allows the occupant to pay no more than one quarter of his income in rent or mortgage payment. Some are rental programs, some are home ownership; some are for elderly only, some for families, some both. Some involve new units, some rehabilitation, and some both. They may be sponsored by non-profit groups or developed by limited dividend corporations or by profit-motivated corporations.

Together all of these provide a kit of tools with which nearly any kind of housing can be produced for any income bracket and family type that may be in need of it. The "how" of financing or paying for the housing that a family needs should be of concern to no one but that family. It is safe to say that all of us are getting or have gotten some kind of help sometime. It is a matter of kind; it is a matter of degree.

It may sound as if the message of this discussion has been that "we need housing". But that is only part of the message. Before we can achieve the goal of a decent home for every family, before we can achieve the goal of genuine housing opportunity, we also need to achieve a level of concern within ourselves. All of us are vital parts of the total community in which we live, and our perspective must be broad enough to view all aspects of that community. Just now it faces a crisis in housing. We have the resources to deal with that crisis. It need not defeat us. But success depends upon each of us accepting a share of the responsibility, and then acting as responsible citizens to promote the actions that will ultimately fulfill the promise of a decent home for every Miami Valley family.

MIAMI VALLEY REGIONAL PLANNING COMMISSION



Dale F. Bertsch, A.I.P.
Executive Director

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M E M O R A N D U M

Subject: Housing Program Progress Report
Date: January, 1971

January, 1969

Start of Miami Valley Regional Planning Commission Housing Program

Number of Public Housing Units	<u>Standard</u>	<u>Elderly</u>	<u>Total</u>
Within Dayton City	1,963	371	2,334
Outside Dayton City	-----	---	-----

Number of FHA Units and Other

Assisted Projects

Within Dayton City	-----	265	265
Outside Dayton City	-----	---	---

Number of non-profit groups -- 9 (One of these early groups, the Dayton Fund, was formed in 1964 by a group of Dayton businessmen to rehabilitate old housing for low and moderate income families. Lately it has become involved in new construction and in loaning "seed money" to other non-profit groups.)

August, 1969

"FHA Housing Market Analysis for the Dayton Area" cities need for 3,470 subsidized units per year - 451 in Miami, 416 in Greene, and 2,602 in Montgomery County.

January, 1970

Miami Valley Regional Planning Commission sponsors a regional housing conference for potential sponsors and developers of low and moderate income housing projects. The two-day conference draws 300 participants.

Number of Public Housing Units	<u>Standard</u>	<u>Elderly</u>	<u>Total</u>
Within Dayton City	<u>2,063</u>	<u>451</u>	<u>2,514</u>
Outside Dayton City	-----	----	-----
Number of FHA Units and Other Assisted Projects			
Within Dayton City	80	365	445
Outside Dayton City	-----	----	-----

Number of non-profit groups - 16

July 22, 1970

Presentation of Miami Valley Regional Planning Commission Housing Plan to Commissioners and Miami Valley Regional Planning Commission Housing Advisory Committee.

Total Attendance - 146

July 29 - September 22, 1970

Public Hearings on Miami Valley Regional Planning Commission Housing Plan to elicit citizen response and citizen input.

Number of hearings - 22

Number of people attending - 994

September 23, 1970

Miami Valley Regional Planning Commission adopts Housing Plan 26-0 after amending certain policies.

October, 1970 - January, 1971

Housing presentations continue to various citizens groups.

Number of presentations - 22

Number of People attending - 720

November 18, 1970

State Housing Board changes name of Yellow Springs Housing Authority to Greene County Housing Authority and expands the group's jurisdiction to those areas which submit a written agreement to accept public housing.

November 24, 1970

Dayton City Plan Board adopts its own housing plan in accordance with the goals and policies of the Miami Valley Regional Planning Commission Housing Plan.

January 18, 1971

Number of Public Housing Units	<u>Standard</u>	<u>Elderly</u>	<u>Total</u>
Within Dayton City	2,186	609	2,795
Outside Dayton City	-----	---	-----
Number of FHA Units and other Assisted Projects			
Within Dayton City	94	524	618
Outside Dayton City	229	---	229
Number of Public Housing Units - Under construction			
Within Dayton City	265	193	458
Outside Dayton City	50	---	50
Number of FHA Units - Under construction			
Within Dayton City	-----	323	323
Outside Dayton City	575	---	575
Number of Public Housing Units - Proposed by agreement			
Within Dayton City	184	281	465
Outside Dayton City	1,050	---	1,050
Number of FHA Units - Proposed			
Within Dayton City	164	---	164
Outside Dayton City	2,174	289	2,455

Number of non-profit groups - 31 (This number includes two groups whose primary function is to provide "seed money" to other non-profit housing sponsors. Those groups are "Housing Now" and the Housing Committee of the Junior League.)

*Projected Totals - 1971

Number of Public Housing Units	<u>Standard</u>	<u>Elderly</u>	<u>Total</u>
Within Dayton City	2,635	1,083	3,718
Outside Dayton City	1,100	-----	1,100
	3,735	1,083	4,818
Number of FHA and Other Assisted Units			
Within Dayton City	258	847	1,105
Outside Dayton City	2,978	289	3,259
	3,236	1,136	4,364

*Includes all existing units, all units under construction, and all proposals, but does not include units or sold under Section 235 since that information is not available at this time.

MIAMI VALLEY REGIONAL PLANNING COMMISSION

and

DAYTON METROPOLITAN HOUSING AUTHORITY

Housing Impact Study

Ohio P-277

GENERAL DESCRIPTION AND CONCLUSIONS:

In July 1970, the Miami Valley Regional Planning Commission (MVRPC) issued a housing plan that called for the federally assisted construction of 14,125 dwelling units for low and moderate income households in the five-county Region that includes the City of Dayton. These units were to be built over a four-year period throughout all the Region's communities, not just in the run-down neighborhoods of the older cities and towns that have historically furnished locations for most federally assisted lower income housing. The plan pointed to the fact that Dayton now has virtually the entire Region's inventory of public housing and suggested that all of the additionally needed public housing units be built elsewhere.

The plan had these two principal goals: "To adequately house all of the Region's people. To create and/or maintain sound, viable neighborhoods in the process of housing those people."

Analysis of the local housing situation led to the conclusion that these basic goals could not be met unless housing program efforts were bent toward increasing the supply of housing units, especially for low and moderate income households, and expanding the range of housing opportunity for everyone geographically. The plan called for placing low and moderate income housing units in suburban areas where there may be very little or no such housing now.

The plan was approved by the representatives of the Region's communities that sit on the Regional Planning group as its commissioners. The Dayton Metropolitan Housing Authority (DMHA) agreed to cooperate. The staff of the MVRPC was directed to stand ready to work with all community representatives to develop housing in ways that would preserve and enhance the quality of life in the Region's communities.

In many suburban communities, however, the response was not universally enthusiastic. Both the MVRPC and the DMHA recognized that if the plan were to be implemented in a manner that would benefit the entire Region, they needed to find out more about the causes of the resistance they perceived. Furthermore, they recognized that successful implementation would require information about the impact of alternative approaches to placing low and moderate income housing units in the suburbs.

Efforts to ameliorate undesirable conditions and to prevent further degeneration of our housing stock cannot succeed if they continue to be limited to the older neighborhoods of our cities and towns. First, these neighborhoods have relatively little open land and thus the construction of new housing frequently requires the demolition of the older. Such demolition and rebuilding is not only expensive, but also works to inhibit the raising of vacancy rates in the older neighborhoods where the lower income families now live.

This in turn holds back the market forces needed to encourage the private maintenance and rehabilitation of older buildings. In other words, it precludes the double-barreled effect attainable by leaving the older units to compete with new ones.

In addition to avoiding these constraints of land and building, the use of suburban lands permits a scaling down of neighborhood size and the removal of socially and psychologically healthy families from undesirable influences. Most of the central city sites that have attracted subsidized building in the past have been near or within blighted areas. The new buildings can seldom alter the environmental effect created by the larger area. Nor is it easy to build housing in such areas without crowding inhabitants who are able to adjust to the economic and social requirements of our society close to those who cannot.

Still another reason to build such housing in the suburbs is that, to an every increasing extent, that is where the jobs are. Industrial and other employment opportunities have been moving to the suburbs with increasing speed since the mid 1950's. This is certainly true in the greater Dayton area. If the lower income households that used to find jobs in the central city are not allowed to move as their job opportunities do, the result can only be to encourage what H. P. Miller defines as poverty: "Poverty in its truest sense is more than mere want; it is want mixed with a lack of hope."

Finally, it is becoming increasingly clear that a failure to provide housing opportunities for the lower income, primarily black households currently confined to the urban centers will eventually result in a nation of low-income center cities and separate suburban communities inhabited by higher income, primarily white households. Thus, our urban centers will no longer serve their historic function as a catalyst to social interaction. America will be the poorer for the loss. Along with this very important societal loss will be the misuse of valuable land resources. Many suburban communities, in their attempts to keep out the less affluent, will continue to institute large lot zoning, thus using up land which should be kept for future generations.

STUDY CONCLUSIONS

Our research and analysis led to the following set of guidelines to meet the housing needs of the Region's low and moderate income households without inducing neighborhood change or other undesirable impacts in the suburbs:

1. A wide variety of structural and locational options must be offered to the Region's low and moderate income households. These households do not form an undifferentiated mass but differ in their housing preferences in the same way that higher income groups do.
2. Eventual home ownership is generally preferable to continued renting. Home ownership is an important goal of most low/moderate income households and the suburbanite is far more accepting of the owner occupant than renter household.
3. A viable class mix is necessary if neighborhood stability is to be preserved. A viable mix would be one that permits or provides the opportunity for voluntary class integration but does not attempt to impose extensive class heterogeneity on a neighborhood level.
4. Low/moderate income households must be informed, counseled and directed toward housing environments that will serve their needs and to which they can realistically be expected to adjust. Initial placement should be based on the housing needs of those placed and their capabilities to adjust well in the new environment. Such placement should never serve as a substitute for needed social or psychological therapy.
5. The housing packages that are to be constructed and the support programs that must be attached to the packages or to sets of packages should be selected initially and reevaluated periodically in terms of their ability to meet the requirements of low/moderate income groups while simultaneously safeguarding and improving the environmental features that are important to the older suburban residents. This study suggests that suburban communities will accept programs that expand low and moderate income housing opportunities if the suburban features that they now enjoy are safeguarded and improved. This means that the housing "packages" must be developed within a framework of programs that assist financially limited families and individuals to pay for or rent new dwelling units, while simultaneously assisting the community facilities that will be called on to serve the non-housing needs of the residents.

The facilitating programs should include the following:

Provisions to give the lower income occupants the resources and incentives for, or other guarantees of, property maintenance.

- . Support to preclude the imposition of tax burdens or pressures for service reductions upon the suburban community.
 - . Support to preclude a drop in the quality of the local schools.
 - . Provisions for any additionally needed public services, such as child care centers and youth programs, and health, fire and police personnel.
6. Programs to preserve and enhance the suburban environment must be kept credible. Thus initial attempts at implementing must keep faith with the belief that it can be accomplished in a way that will not only provide the Region with a more beneficial development pattern but also work to build, or at least not harm the suburban communities.

The Study concludes with an evaluation of our existing housing programs and their ability to meet the above guidelines. It recommends a series of changes in some of the existing programs to make them more responsive to provide new housing opportunities for the less affluent, while not harming the neighborhood environments of the higher income households. The study also recommends the need for additional programs to facilitate the subsidized construction of small neighborhoods on raw land within our existing central city and suburban communities. Such "mini-neighborhoods" would be less expensive to build than new towns because they could share elements of the existing suburban infrastructure that are not yet operating at full capacity. It would also permit present low/moderate income neighbors to band together should they so desire and live in new houses in a new neighborhood without breaking old social ties.

TABLE 11

SUBURBAN REACTIONS TO LOW/MODERATE INCOME GROUPS

Make-up of Population New Residents	Proportion of Total Population		
	5% Average Score	10% Average Score	20% Average Score
Low Income White Elderly	3.23 =	3.57 -	3.94 -
Low Income Black Elderly	3.55 -	3.88 -	4.20 -
Low Income White Physically Handicapped	3.33 =	3.59 -	3.90 -
Low Income Black Physically Handicapped	3.57 -	3.86 -	4.15 -
Low Income White Family-Husband	3.46 =	3.77 -	3.98 -
Low Income White Family-No Husband	3.64 -	3.98 -	4.29 -
Low Income Black Family-Husband	3.67 -	3.64 -	4.30 -
Low Income Black Family-No Husband	3.91 -	4.16 -	4.38 -
Moderate Income White Family-Husband	3.07 =	3.19 =	3.37 =
Moderate Income White Family-No Husband	3.19 =	3.32 =	3.64 -
Moderate Income Black Family-Husband	3.31 =	3.51 -	3.75 -
Moderate Income Black Family-No Husband	3.53 -	3.77 -	4.01 -

Average Score Definitions:

- 1.00-2.49 = positive
- 2.50-3.50 = neutral
- 3.51-5.00 = negative

TABLE 15

REASONS GIVEN FOR CONSIDERING LOW/MODERATE
INCOME HOUSEHOLDS UNDESIRABLE NEIGHBORS
(percent)

	<u>Very Important</u>	<u>Important</u>	<u>Un- important</u>	<u>No Answer</u>
Property values would drop.	55	29	9	7
Property taxes would increase due to need for increased services.	36	31	26	7
Neighborhood would face a drop in social status.	31	32	30	7
Neighborhood would become less stable.	40	43	9	7
Those people would not fit in with rest of community.	29	37	25	8
Housing maintenance and conditions would decrease.	59	23	9	8
Decrease in law and order.	43	30	20	7
Change in character of neighborhood with shopping facilities catering to new groups' needs.	19	34	40	7
Drop in quality of schools.	38	18	40	7
These people would be a bad influence on my family because they don't believe the same things we do.	15	23	54	8
Other:				
Race	2			
Low income persons would feel insecure in higher income areas.	1			
Low income households have too many children.	1			

TABLE 16

RESPONDENTS WHO QUESTION THE DESIRABILITY OR CREDIBILITY
OF PROGRAMS TO IMPROVE OR PRESERVE VALUED NEIGHBORHOOD FEATURES
(percent)

Programs to Accompany Low and Moderate Income Programs and Also Pre- serve or Improve Neigh- borhood Level of	Not Possible Modal*	Against Federal Programs Modal*
A. Educational Quality	3	13
B. Law and Order	15	3
C. Social Values	20	4
D. Property Values	15	3
E. Local Public Services	12	15

*The percentage of those who felt these programs could not work varied somewhat with the make-up of the low and moderate income groups they were being asked about. For example, the percentage of those who did not believe that programs could assure that crime and delinquency would not show any increase (Program B) went to 16% when the respondents were asked about the acceptability of moderate income white families without husbands under the stipulation that such a program would exist.

TABLE 17

AVERAGE RESPONSE SCORES WHEN FACILITATING PROGRAM ELEMENTS ARE INCLUDED COMPARED TO SCORES REFLECTING EXPECTATIONS CONCERNING THE IMPACT OF LOW AND MODERATE INCOME GROUPS MAKING UP 5% OF THE NEIGHBORHOOD'S POPULATION WHILE NO SUCH PROGRAM ELEMENTS ARE PRESENT

	Programs to Improve or Preserve*					No Programs Low/Moderate Income Group Makes Up 5% of Neighborhood
	A <u>Educational Quality</u>	B <u>Crime and Delinquency</u>	C <u>Social Values</u>	D <u>Property Values</u>	E <u>Public Services</u>	
Low Income White Family-Husband	2.6 =	2.5 =	2.4 +	2.3 +	2.3 +	3.46 =
Low Income White Family-No Husband	2.9 =	2.7 =	NA	2.5 =	2.5 =	3.64 =
Low Income Black Family-Husband	3.0 =	2.7 =	2.6 =	2.5 =	2.5 =	3.67 =
Low Income Black Family-No Husband	3.3 =	3.0 =	NA	2.7 =	2.7 =	3.91 =
Moderate Income White Family-Husband	2.6 =	2.4 +	2.3 +	2.2 +	2.2 +	3.07 =
Moderate Income White Family-No Husband	2.8 =	2.6 =	NA	2.3 +	2.3 +	3.19 =
Moderate Income Black Family-Husband	2.7 =	2.5 =	2.4 +	2.4 +	2.4 +	3.31 =
Moderate Income Black Family-No Husband	3.0 =	2.8 =	NA	2.6 =	2.5 =	3.53 =
Low Income White Elderly	NA	NA	2.4 +	2.3 +	2.3 +	3.23 =
Low Income Black Elderly	NA	NA	2.6 =	2.5 +	2.4 +	3.55 =
Low Income White Physically Handicapped	NA	NA	2.5 =	2.3 +	2.3 +	3.33 =
Low Income Black Physically Handicapped	NA	NA	2.7 =	2.5 =	2.5 =	3.57 =

*Average mean scores: 1.00-2.49 (positive); 2.50-3.50 (neutral); 3.51-5.00 (negative).

NA = questions not asked because felt programs to alleviate were not relevant to these low and moderate income groups

Fair Housing Ordinances as of March 26, 1971

		Yes	No
Bellbrook	848-7581		X
Brookville	833-2001		X
Centerville	885-7411	X	
Cederville	766-2911	X	
Dayton	225-5145	X	
Eaton	456-5561		X
Englewood	836-5106		X
	836-6936		
Enon	864-7342		X
Fairborn	879-1730	X	
Germantown	855-6567	X	
Gettysburg	447-2171		X
	447-2823		
Greenville	548-1482		X
Kettering	298-0361	X	
Lewisburg	962-4377		X
Miamisburg	866-3303	X	
Moraine	299-7312		X
Oakwood	293-7312	X	
Phillipsburg	884-5131		X
	884-5545		
Piqua	773-1284		X
Riverside	252-1011		X
Tipp City	667-8425		X
Trotwood	837-7771	X	
Troy	335-8341	X	
Vandalia	898-3931	X	
	526-3875		
Versailles	526-3431		X
West Alexandria	839-4168		X
West Carrollton	859-5181	X	

Fair Housing Ordinances as of March 26, 1971

		<u>Yes</u>	No
West Milton	698-4191		X
Xenia	372-7611		X
Yellow Springs	767-7202	X	
Bradford			X

	1960 TOTAL POPULATION	1970 TOTAL POPULATION	1960 NON-WHITE POPULATION	1970 NON-WHITE POPULATION	NON-WHITE NUMERICAL CHANGE 1960-1970	1960 NEGRO POPULATION	1970 NEGRO POPULATION	NEGRO NUMERICAL CHANGE 1960-1970
MONTGOMERY COUNTY	527,080	606,148	62,517	85,659	+23,142	61,886	83,672	+21,786
Dayton	262,332	243,601	57,547	75,194	+17,647	57,288	74,284	+16,996
Oakwood	10,493	10,095	55	29	- 26	47	7	- 40
Kettering	54,462	69,599	111	445	+ 334	30	136	+ 106
Vandalia	6,342	10,796	2	14	+ 12	0	3	+ 3
Miamisburg	9,893	14,797	9	42	+ 33	1	12	+ 11
West Carrollton	4,749	10,748	78	47	- 31	72	33	- 39
Centerville	3,490	10,333	1	75	+ 74	1	15	+ 14
GREENE COUNTY	94,642	125,057	6,679	8,749	+ 2,070	6,514	8,241	+ 1,727
Xenia	20,445	25,373	2,922	3,167	+ 245	2,901	3,098	+ 198
Fairborn	19,453	32,267	44	320	+ 276	3	127	+ 124
MIAMI COUNTY	72,901	84,342	1,421	1,792	+ 371	1,386	1,674	+ 288
Troy	13,685	17,186	672	853	+ 181	660	814	+ 154
Piqua	19,219	20,741	444	787	+ 343	432	748	+ 316
DARKE COUNTY	45,612	49,141	268	273	+ 5	259	212	- 47
Greenville	10,585	12,380	35	60	+ 25	34	33	- 1
PREBLE COUNTY	32,498	34,719	116	133	+ 17	111	89	- 22

Exhibit No. 6

U.S. DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D. C. 20233

OFFICE OF THE DIRECTOR

Statement of
Dr. George H. Brown, Director
Bureau of the Census, U. S. Department of Commerce
Before the
U. S. Commission on Civil Rights
(Hearings on Barriers to Minority Suburban Access)
Washington, D. C., June 14, 1971

For the Nation as a whole, the majority of both white and Negro families lived in metropolitan areas in 1970--some 64 percent and 73 percent respectively. However, they differed substantially in their residence patterns. White metropolitan families were largely suburban (60 percent), while Negro families were located in central cities (79 percent).

During the past decade, both white and Negro metropolitan families have become proportionately more suburban within the 1960 metropolitan areas. In 1960, about 52 percent of the white families lived in suburban rings, compared to the 60 percent of 1970. For Negroes, the increase was from 18 percent to 21 percent. The number of Negro families in suburban rings increased from 480,000 to 726,000--an increase of 51 percent--during the 1960's, but comprised approximately the same 4 percent in 1970 as in 1960. Negro families comprised about 19 percent of all families in the central cities in 1970 as compared to 14 percent in 1960.

Between 1960 and 1970 there were increases in the number of Negroes living in central cities and suburbs; increases in the number of whites living

in suburbs; but decreases in the number of whites living in central cities. Overall, the central cities of the Nation increased their population by 6 percent while the suburban rings gained by 27 percent.

In metropolitan areas with a population of 500,000 or over, the number of Negroes living in central cities increased from 8.0 million to 10.8 million, or 35 percent. The number of Negroes in the suburban rings increased by 762,000, or 42 percent. The number of whites in these central cities decreased by 1.9 million, or 5 percent, while their numbers in the suburban rings increased by 12.5 million, or 30 percent. The ratio of the population of these cities which was Negro increased from 18 to 24 percent, and in the suburban areas the proportion increased from 4.2 to 4.5 percent. Negroes comprised 6 percent of the total white-Negro increase in the suburban ring population for these metropolitan areas. About 24 percent of the Negroes living outside the central city of a metropolitan area were in suburban cities of 50,000 or over.

About three-fifths of the increase of the Negro population in the central cities of metropolitan areas was the result of an excess of births over deaths. The remainder was the result of in-migration. In the suburban areas a little over half of the increase was also due to natural increase and a little under half to net in-migration.

Significant changes in the distribution of the black and white population occurred in the decade of the 1960's. Blacks continued to move from

rural to urban areas, especially to the big cities, and from the South to the North and West.

Between 1960 and 1970 the net out-migration of Negroes from the South totaled about 1.4 million. At the start of the decade about 60 percent of all Negroes in the country lived in the South, but in 1970 the proportion had declined to 53 percent. During the same period, there was a net movement of about 1.8 million whites to the region, leading to the South's first overall population gain through in-migration in many decades.

The migration figures suggest that the larger the city, the greater the drawing power for Negroes, both in relative and absolute terms. Cities of 2 million or more population--New York, Los Angeles, and Chicago--gained almost 700,000 Negroes and other races through net migration, or 28 percent of their 1960 black population. Cities of 1 to 2 million population, as a group, had a net in-migration of 260,000 Negroes and other races, or 18 percent. Cities of one-half to 1 million had a 10 percent gain in black population from net in-migration.

The prevailing picture is one of heavy net movement of Negroes into the central cities with substantial black migration to the suburbs.

Let us consider the data for individual metropolitan areas.

New York City gained about 600,000 Negroes, about 53 percent of the number resident in 1960, and there was an increase of 77,000 Negroes in the remainder of the SMSA, also about a 55 percent gain. Los Angeles-Long Beach gained about 170,000 Negroes, or some 50 percent, and their suburban areas gained about 125,000, or more than 100 percent of the

number in 1960. Chicago increased by close to 300,000 Negroes, or about 36 percent, while the area outside the city gained about 50,000, a 62 percent increase over 1960.

Four central cities--Atlanta, Newark, Gary, and Washington, D. C.--now have populations more than half Negro. The percentage in Washington, the only city more than half Negro a decade ago, is 71 percent in 1970. Seven other central cities now have Negro proportions of more than 40 percent. They include Detroit, St. Louis, Baltimore, New Orleans, Wilmington, Birmingham, and Richmond. The 1970 percentages, excepting those in Richmond and Birmingham, were up sharply from 1960.

The Negro population in the central cities is relatively young, suggesting future growth from an excess of births over deaths unless there is a significant change in the rate of migration to the suburbs.

While the proportion of Negroes in the suburban rings as a whole increased during the decade, in some cases it declined because of the heavy movement of whites into the same areas. In the Washington SMSA, Negroes represented 7.9 percent of the suburban total in 1970, up from 6.3 percent in 1960. Other suburban increases were as follows: Los Angeles, up to 6.3 from 3.6 percent; New York suburbs, up to 5.9 from 4.8 percent; and in the Chicago suburbs, to 3.5 from 2.9 percent. In the Detroit suburbs the figures were almost unchanged, 3.7 percent in 1970 and 3.6 percent in 1960. In the Baltimore suburbs, however, the Negro ratio dropped to 6.0 percent in 1970 from 7.0 percent in 1960.

Negroes were more likely to be homeowners in 1970 than in 1960 in both the cities and the suburbs. The percentage of home ownership among whites on the other hand was essentially unchanged in the cities and slightly less than 1960 in the suburbs. Between 1960 and 1970, the percent of housing units occupied by Negroes which they owned themselves or were purchasing increased from 31 percent to 35 percent in the central cities and from 52 percent to 54 percent in the suburbs. For whites in the central cities, the percentage who owned their own homes stayed about the same, 50 percent in 1960 and 51 percent in 1970. For whites in the suburbs there was a decline from 74 percent to 71 percent. In central cities the percent of homes occupied by Negroes in which complete plumbing facilities were available increased significantly from 79 percent in 1960 to 95 percent in 1970. The comparable gain for white households was from 93 percent to 97 percent.

In metropolitan areas with populations of 1 million or more in 1970, there is a much greater tendency for Negroes to live in the central city than in the suburbs, regardless of income. For example, 85.5 percent of all Negro families with incomes of less than \$4,000 lived in the central city compared with 46.4 for whites with incomes of less than \$4,000. With incomes of \$4,000 to \$10,000, 82.5 percent of Negro families lived in central cities compared to 41.6 for white. For families with \$10,000 or more annual income, 76.8 percent of Negro families lived in the central

city compared with 30.9 percent for white families. On the basis of these figures, if the incomes for Negroes were the same as for whites, 78.4 percent would continue to live in the central city instead of 81.1 percent under existing income patterns.

Negro families showed significant income gains in the past decade. For the Nation as a whole, the median income of Negro families in 1969 was \$5,998, which was 61 percent of the median income for all white families. In 1959, the ratio of the medians had been 51 percent. The median incomes of white and Negro families were somewhat more nearly equal in the metropolitan areas than elsewhere. However, the median income for Negro families was about 69 percent of the median for white families in central cities and 63 percent in the suburbs. These ratios have increased since 1959 when they were about 61 percent in the central cities and 52 percent in the suburbs. The dollar difference for white and Negro families was about the same in 1959 and 1969; about \$3,000 for central city families and about \$4,000 for suburban families.

For young husband-wife families, that is, those in which the husband is under 35 years of age, the Negro families in the North and West had a median income which was 91 percent of that of the comparable white families. In the South, it was only 73 percent. Both figures are substantially above those for 1959.

The figures in this statement deal only with a comparison of whites and Negroes. When the full 1970 census results become available, similar

comparisons can be prepared for other minority groups, including Mexican-Americans, Puerto Ricans, and American Indians.

Table 1.—SUMMARY MIGRATION, METROPOLITAN, AND REGIONAL DATA

1. Percent change in 1960 SMSA population between 1960 and 1970 for central cities and suburban rings.

Central cities	<u>6.4</u> %
Suburban rings	<u>26.8</u> %

2. Percentage distribution of the population by region, 1940 to 1970.

		<u>Negro</u>	<u>White</u>	<u>Difference in percentage points</u>
1940:	North	<u>21.6</u> %	<u>61.9</u> %	<u>+40.3</u>
	West	<u>1.3</u> %	<u>11.3</u> %	<u>+10.0</u>
	South	<u>77.0</u> %	<u>26.8</u> %	<u>-50.2</u>
1950:	North	<u>28.2</u> %	<u>58.9</u> %	<u>+30.7</u>
	West	<u>3.8</u> %	<u>13.8</u> %	<u>+10.0</u>
	South	<u>68.0</u> %	<u>27.3</u> %	<u>-40.7</u>
1960:	North	<u>34.3</u> %	<u>56.4</u> %	<u>+22.1</u>
	West	<u>5.8</u> %	<u>16.3</u> %	<u>+10.5</u>
	South	<u>59.9</u> %	<u>27.4</u> %	<u>-32.5</u>
1970:	North	<u>39.4</u> %	<u>54.0</u> %	<u>+14.6</u>
	West	<u>7.5</u> %	<u>17.7</u> %	<u>+10.2</u>
	South	<u>53.2</u> %	<u>28.3</u> %	<u>-24.9</u>

3. Absolute Negro population in SMSA's of 500,000 or more for 1960 and 1970.

1960	<u>9,827,000</u>
1970	<u>12,397,000</u>

4. Percent white and Negro population for central city and suburban

ring for SMSA's of 500,000 or more, 1960 and 1970.

				<u>Change in percentage</u>
				<u>points</u>
City:	white	1960	<u>80.6 %</u>	
		1970	<u>74.0 %</u>	-6.6
	Negro	1960	<u>18.3 %</u>	
		1970	<u>23.7 %</u>	+5.4
Ring:	white	1960	<u>95.8 %</u>	
		1970	<u>94.3 %</u>	-1.5
	Negro	1960	<u>4.2 %</u>	
		1970	<u>4.5 %</u>	+0.3

5. Change in absolute population by white and Negro for central cities and suburban rings of SMSA's of 500,000 or more, 1960 to 1970.

Central cities:	white	<u>-1,920,000</u>
	Negro	<u>2,811,000</u>
Suburban rings:	white	<u>12,468,000</u>
	Negro	<u>762,000</u>

6. Negro population as percentage of whole in central cities of 12 largest metropolitan areas in 1960 and 1970.

New York	1960	<u>14.0 %</u>
	1970	<u>21.2 %</u>

(6 con'd)

Los Angeles	1960	<u>13.5</u> %	Long Beach	1960	<u>2.8</u> %
	1970	<u>17.9</u> %		1970	<u>5.3</u> %
Chicago	1960	<u>22.9</u> %			
	1970	<u>32.7</u> %			
Philadelphia	1960	<u>26.4</u> %			
	1970	<u>33.6</u> %			
Detroit	1960	<u>28.9</u> %			
	1970	<u>43.7</u> %			
San Francisco	1960	<u>10.0</u> %	Oakland	1960	<u>22.8</u> %
	1970	<u>13.4</u> %		1970	<u>34.5</u> %
Washington, D.C.— Md.-Va.	1960	<u>53.9</u> %			
	1970	<u>71.1</u> %			
Boston	1960	<u>9.1</u> %			
	1970	<u>16.3</u> %			
Pittsburgh	1960	<u>16.7</u> %			
	1970	<u>20.2</u> %			
St. Louis, Mo.— Ill.	1960	<u>28.6</u> %			
	1970	<u>40.9</u> %			
Baltimore	1960	<u>34.7</u> %			
	1970	<u>46.4</u> %			
Cleveland	1960	<u>28.6</u> %			
	1970	<u>38.3</u> %			

7. Negro population as percentage of whole in suburban rings of 12 largest metropolitan areas in 1960 and 1970.

New York	1960	<u>4.8</u> %
	1970	<u>5.9</u> %
Los Angeles-- Long Beach	1960	<u>3.6</u> %
	1970	<u>6.3</u> %
Chicago	1960	<u>2.9</u> %
	1970	<u>3.5</u> %
Philadelphia	1960	<u>6.1</u> %
	1970	<u>6.6</u> %
Detroit	1960	<u>3.7</u> %
	1960	<u>3.6</u> %
San Francisco-- Oakland	1960	<u>4.4</u> %
	1970	<u>5.4</u> %
Washington, D.C.-- Md.--Va.	1960	<u>6.3</u> %
	1970	<u>7.9</u> %
Boston	1960	<u>0.8</u> %
	1970	<u>1.1</u> %
Pittsburgh	1960	<u>3.4</u> %
	1970	<u>3.5</u> %
St. Louis, Mo.-- Ill.	1960	<u>6.0</u> %
	1970	<u>7.2</u> %

(7 con'd)

Baltimore	1960	<u>7.0</u> %
	1970	<u>6.0</u> %
Cleveland	1960	<u>0.8</u> %
	1970	<u>3.4</u> %

8. Increase in Negro population as percentage of total increase in suburban ring population of SMSA's of 500,000 or more between 1960 and 1970, by size of SMSA.

		<u>Percent Negro in Suburban Ring in 1960</u>
2,000,000 and over	<u>9.1</u> %	<u>4.0</u>
1,000,000 to 2,000,000	<u>3.7</u> %	<u>4.1</u>
500,000 to 1,000,000	<u>1.2</u> %	<u>4.6</u>

9. Increase in Negro and other races in central cities and suburban rings, for SMSA's of 500,000 or more by net migration and natural increase, 1960 to 1970, in absolute numbers.

Central cities	Net migration	<u>1,342,000</u>
	Natural increase	<u>1,878,000</u>
Suburban rings	Net migration	<u>591,000</u>
	Natural increase	<u>434,000</u>

10. Percentage of whites and Negro in suburban rings of SMSA's of 500,000 or more who live in cities of 50,000 or more, 1970.

white	<u>17.0</u> %
Negro	<u>24.1</u> %

11. Negro-white proportion in suburban rings of SMSA's of 500,000 or more, 1970.

white	<u>94.3</u> %
Negro	<u>4.5</u> %

12. Percentage of whites and Negroes living in suburban rings of metropolitan areas of 1,000,000 or more by level of family income, 1970.

Under \$4,000	white	<u>6.7</u> %
	Negro	<u>16.0</u> %
\$4,000 to \$10,000	white	<u>26.6</u> %
	Negro	<u>40.7</u> %
Over \$10,000	white	<u>66.8</u> %
	Negro	<u>43.2</u> %

Race and income	Metropolitan areas of 1,000,000	Central cities	Suburban rings
White.....	100.0	35.3	64.7
Under \$4,000.....	100.0	46.4	53.6
\$4,000-\$10,000.....	100.0	41.6	58.4
\$10,000 and over...	100.0	30.9	69.1
Negro.....	100.0	81.1	18.9
Under \$4,000.....	100.0	85.5	14.5
\$4,000-\$10,000.....	100.0	82.5	17.5
\$10,000 and over...	100.0	76.8	23.2

Table 2 --TREND IN NET MIGRATION, BY REGION, BY COLOR: 1940 TO 1970

Region and Division	Number (in thousands)			Percent ^{1/}		
	1960-70	1950-60	1940-50	1960-70	1950-60	1940-50
<u>White</u>						
Northeast	-520	-211	-173	-1.3	-0.6	-0.5
North Central.....	-1,272	-690	-948	-2.6	-1.6	-2.5
West	2,269	3,512	3,181	8.8	18.7	23.8
South	1,806	57	-538	4.2	0.2	-1.7
South Atlantic	1,807	1,189	604	9.0	7.4	4.6
East South Central...	-153	-846	-694	-1.6	-9.6	-8.7
West South Central...	152	-286	-448	1.1	-2.4	-4.2
<u>Negro</u>						
Northeast.....	612	496	463	20.2	24.6	33.8
North Central.....	382	541	618	11.1	24.3	43.5
West	301	305	339	27.7	53.5	198.3
South	-1,380	-1,473	-1,599	-12.2	-14.4	-16.1
South Atlantic	-538	-556	-545	-9.2	-10.9	-11.6
East South Central...	-560	-622	-596	-20.8	-23.0	-21.4
West South Central...	-282	-296	-459	-10.2	-12.2	-18.9

^{1/} As percent of beginning population.

Table 3.--DISTRIBUTION OF THE NEGRO POPULATION
BY REGION, 1940 TO 1970

U. S. and Region	1970	1960	1950	1940
United States.....	22,672,570	18,871,831	15,042,286	12,865,518
Northeast.....	4,342,137	3,028,499	2,018,182	1,369,875
North Central.....	4,571,550	3,446,037	2,227,876	1,420,318
South.....	12,064,258	11,311,607	10,225,407	9,904,619
West.....	1,694,625	1,085,688	570,821	170,706
Percent Distribution				
United States.....	100.0	100.0	100.0	100.0
Northeast.....	19.2	16.0	13.4	10.6
North Central.....	20.2	18.3	14.8	11.0
South.....	53.2	59.9	68.0	77.0
West.....	7.5	5.8	3.8	1.3

Table 4.— DISTRIBUTION OF WHITE POPULATION
BY REGIONS, 1940 TO 1970

	1970	1960	1950	1940
United States'	177,612,309	158,831,732	134,942,028	118,214,840
Northeast.....	44,266,721	41,522,467	37,398,684	34,566,768
North Central.....	51,641,183	48,002,617	42,119,384	38,639,970
South	50,327,225	43,476,636	36,849,529	31,658,578
West.....	31,377,180	25,830,012	18,574,431	13,349,554
Percent Distribution:				
United States.....	100.0	100.0	100.0	100.0
Northeast.....	24.9	26.1	27.7	29.2
North Central.....	29.1	30.2	31.2	32.7
South.....	28.3	27.4	27.3	26.8
West.....	17.7	16.3	13.8.	11.3

Table 5.--SUMMARY TOTALS FOR THE '66 SMSA's OF 500,000 OR MORE

(In thousands)

	Total SMSA	Central Cities	Ring
Total Population: 1970	103,041	45,683	57,358
White Population: 1970	87,891	33,794	54,097
Change: 1960 to 1970			
Number	10,544	-1,920	12,468
Percent	11.4	-5.4	30.0
Negro Population: 1970	13,397	10,820	2,577
Change: 1960 to 1970			
Number	3,570	2,811	762
Percent	36.3	35.1	42.0
Percent Negro: 1970	13.0	23.7	4.5
1960	11.3	18.3	4.2

Table 8, --POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970)

SMSA, Central City and Ring	Total Population 1/	White Population				Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960	
			Number	Percent		Number	Percent			
New York, New York	11,529	9,449	42	0.4	1,883	656	53.4	16.3	11.5	
In central city	7,868	6,024	-617	-9.3	1,667	579	53.2	21.2	14.0	
Outside central city	3,661	3,425	659	23.8	217	77	55.1	5.9	4.8	
New York City Boroughs	7,868	6,024	-617	-9.3	1,667	579	53.2	21.2	14.0	
Bronx	1,472	1,081	-175	-13.9	358	194	118.3	24.3	11.5	
Brooklyn (Kings)	2,602	1,907	-339	-15.1	655	284	76.4	25.2	14.1	
Manhattan (N.Y.)	1,525	1,075	-197	-15.5	380	-17	-4.3	24.9	23.4	
Queens	1,974	1,682	27	1.7	258	112	77.1	13.1	8.1	
Richmond	295	278	66	31.1	16	6	63.2	5.3	4.4	
Los Angeles-Long Beach, Calif.	7,030	6,004	550	10.1	764	302	65.5	10.9	7.6	
Los Angeles	2,813	2,171	110	5.3	504	169	50.3	17.9	13.5	
Long Beach	358	329	-1	-0.2	19	9	99.3	5.3	2.8	
Outside central city	3,859	3,504	441	14.4	241	124	106.1	6.3	3.6	
Chicago, Illinois	6,975	5,671	370	7.0	1,228	338	38.0	17.6	14.3	
In central city	3,367	2,208	-505	-18.6	1,103	290	35.7	32.7	22.9	
Outside central city	3,608	3,463	875	33.8	126	48	62.3	3.5	2.9	
Philadelphia, Pa.-N. J.	4,816	3,943	281	7.7	844	173	25.8	17.5	15.4	
In central city	1,949	1,279	-189	-12.9	654	-125	23.5	33.6	26.4	
Outside central city	2,867	2,664	470	21.4	191	48	34.1	6.6	6.1	
Detroit, Michigan	4,196	3,417	222	6.9	756	197	35.3	18.0	14.9	
In central city	1,509	838	-345	-29.2	659	177	36.7	43.7	28.9	
Outside central city	2,687	2,580	567	28.2	97	20	26.1	3.6	3.7	
San Francisco-Oakland, Calif.	3,116	2,581	262	11.3	330	104	46.1	10.6	8.5	
San Francisco	716	511	-93	-15.4	96	22	29.2	13.4	10.0	
Oakland	362	214	-57	-21.1	125	41	49.1	34.5	22.8	
Outside central city	2,039	1,856	412	28.5	109	41	61.0	5.4	4.4	
Washington, D.C.-Md.-Va.	2,861	2,125	567	36.4	704	210	42.5	24.6	23.9	
In central city	757	209	-136	-39.4	538	126	30.6	71.1	53.9	
Outside central city	2,105	1,915	703	57.9	166	84	102.2	7.9	6.3	

Table 2 — POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 Page 2 of 9
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970)(Cont'd.)

SMSA. Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Boston, Mass.	2,754	2,603	94	3.8	127	49	63.3	4.6	3.0
In central city	641	525	-104	-16.5	105	42	65.8	16.3	9.1
Outside central city	2,113	2,078	198	13.6	22	8	52.6	1.1	0.8
Pittsburgh, Pa.	2,402	2,225	-17	-0.7	170	8	5.2	7.1	6.7
In central city	520	412	-90	-18.0	105	4	4.2	20.2	16.7
Outside central city	1,882	1,813	74	4.2	65	4	7.0	3.5	3.4
St. Louis, Mo.-Ill.	2,364	1,976	169	9.4	379	83	28.2	16.0	14.0
In central city	622	365	-169	-31.6	254	40	18.6	40.9	28.6
Outside central city	1,741	1,611	338	26.6	125	44	53.8	7.2	6.0
Baltimore, Md.	2,071	1,569	156	11.0	490	104	27.0	23.7	21.4
In central city	906	480	-131	-21.4	420	95	29.1	46.4	34.7
Outside central city	1,165	1,089	287	35.7	70	10	15.9	6.0	7.0
Cleveland, Ohio	2,064	1,722	75	4.5	333	74	28.5	16.1	13.6
In central city	751	458	-165	-26.5	288	37	14.8	38.3	28.6
Outside central city	1,313	1,264	239	23.4	45	37	45.8	3.4	0.8
Houston, Texas	1,983	1,585	447	39.3	383	106	38.3	19.3	19.5
In central city	1,233	904	184	25.5	317	102	47.4	25.7	22.9
Outside central city	750	680	263	63.0	66	4	6.8	8.8	12.9
Newark, N. J.	1,857	1,494	32	2.2	348	124	55.5	18.8	13.3
In central city	382	168	-97	-36.7	207	69	50.3	54.2	34.1
Outside central city	1,474	1,325	129	10.8	141	55	63.7	9.6	6.7
Minneapolis-St. Paul, Minn.	1,814	1,764	309	21.3	32	11	55.1	1.8	1.4
Minneapolis	434	406	-61	-13.0	19	7	61.3	4.4	2.4
St. Paul	310	296	-8	-2.7	11	3	32.6	3.5	2.6
Outside central city	1,069	1,062	378	55.4	2	2	222.5	0.2	0.1
Dallas, Texas	1,556	1,295	344	36.1	249	83	50.0	16.0	14.8
In central city	844	626	78	14.2	210	81	62.8	24.9	19.0
Outside central city	711	669	266	66.1	38	2	4.8	5.4	8.3

Table 8.—POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 Page 3 of 9
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970)(Cont'd.)

SMSA. Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Seattle-Everett, Wash.	1,422	1,337	283	26.8	42	13	47.2	2.9	2.6
Seattle	531	464	-47	-9.1	38	11	40.8	7.1	4.8
Everett	54	52	13	31.6	-	-	73.5	0.7	0.5
Outside central city	837	821	317	62.9	3	2	194.6	0.4	0.2
Anaheim-Santa Ana-Garden Grove, Calif.	1,417	1,378	684	98.5	10	7	220.4	0.7	0.5
Anaheim	167	164	60	58.0	-	-	254.2	0.1	-
Santa Ana	157	146	48	49.2	7	5	282.7	4.3	1.8
Garden Grove	122	120	36	43.2	-	-	373.5	0.1	-
Outside central city	971	949	540	131.7	3	2	132.9	0.3	0.3
Milwaukee, Wis.	1,404	1,288	76	6.3	107	43	68.6	7.6	4.9
In central city	717	605	-70	-10.4	205	43	68.3	14.7	8.4
Outside central city	687	683	147	27.3	1	1	98.1	0.2	0.1
Atlanta, Georgia	1,390	1,076	291	37.1	311	79	34.2	22.3	22.8
In central city	497	241	-60	-20.0	255	69	36.8	51.3	38.3
Outside central city	893	836	351	72.5	56	11	23.6	6.2	8.5
Cincinnati, Ohio-Ky.-Ind.	1,385	1,229	92	8.1	152	22	16.8	11.0	10.3
In central city	453	325	-67	-17.2	125	16	15.0	27.6	21.6
Outside central city	932	903	160	21.4	27	6	25.9	2.9	2.8
Paterson-Clifton-Passaic, N. J.	1,359	1,275	133	11.7	75	32	74.4	5.5	3.6
Paterson	145	104	-19	-15.2	39	18	84.1	26.9	14.7
Clifton	82	82	-	0.1	-	-	111.9	0.3	0.2
Passaic	55	45	-5	-9.5	10	5	11.6	17.9	8.6
Outside central city	1,076	1,045	156	17.6	26	9	52.1	2.4	1.9
San Diego, Calif.	1,358	1,252	276	28.2	62	23	57.4	4.6	3.8
In central city	697	619	91	17.2	53	19	53.8	7.6	6.0
Outside central city	661	632	185	41.3	9	4	82.7	1.4	1.1
Buffalo, New York	1,349	1,241	13	1.1	109	26	31.2	8.1	6.3
In central city	463	364	-95	-20.7	94	23	33.0	20.4	13.3
Outside central city	886	877	108	14.3	14	2	20.4	1.6	1.6

Table 8. — POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 Page 4 of 9

(In thousands. Ranked by size in 1970. SMSA's as defined in 1970) (Cont'd.)

SMSA, Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Miami, Florida	1,268	1,072	276	34.6	190	52	38.2	15.0	14.7
In central city	335	256	30	13.5	76	11	16.8	22.7	22.4
Outside central city	933	815	245	43.0	114	42	57.6	12.2	11.2
Kansas City, Mo.-Kan.	1,254	1,096	122	12.6	151	34	28.9	12.1	10.7
In central city	507	391	-	-	112	29	34.7	22.1	17.5
Outside central city	747	704	122	21.0	39	5	14.9	5.2	5.5
Denver, Colo.	1,228	1,161	270	30.4	50	19	55.8	4.1	3.4
In central city	515	458	-	-0.1	47	17	55.4	9.1	6.1
Outside central city	713	702	271	62.7	3	2	143.1	0.4	0.3
San Bernardino-Riverside-Ontario, Calif.	1,141	1,067	295	38.3	50	21	69.3	4.4	3.7
San Bernardino	104	87	4	4.6	15	7	80.9	14.0	8.8
Riverside	140	130	51	63.3	7	3	83.4	5.2	4.7
Ontario	64	62	16	35.0	1	1	130.3	1.8	1.1
Outside central city	832	787	225	40.0	27	10	58.8	3.3	2.9
Indianapolis, Ind.	1,110	969	127	15.1	137	36	35.5	12.4	10.7
In central city	745	608	42	7.4	134	34	34.4	18.0	15.0
Outside central city	365	362	85	31.0	3	2	112.9	0.8	0.5
San Jose, Calif.	1,065	1,004	382	61.5	18	14	332.1	1.7	0.7
In central city	446	417	220	111.4	11	9	460.4	2.5	1.0
Outside central city	619	586	162	38.2	7	5	219.7	1.2	0.5
New Orleans, La.	1,046	718	90	14.4	324	46	16.5	31.0	30.6
In central city	593	323	-69	-17.6	267	34	14.4	45.0	37.2
Outside central city	452	394	159	68.0	57	12	27.4	12.5	15.9
Tampa-St. Petersburg, Fla.	1,013	900	217	31.7	109	21	23.5	10.8	11.5
Tampa	278	222	-	-2.8	55	8	18.3	19.7	16.8
St. Petersburg	216	184	27	17.0	32	8	32.5	14.8	13.3
Outside central city	519	494	197	66.0	23	5	24.8	4.4	5.8

Table 8. POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 (In thousands. Ranked by size in 1970. SHSA's as defined in 1970) (Cont'd) Page 5 of 9

SHSA. Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Portland, Oreg.-Wash.	1,009	971	173	21.8	23	7	39.6	2.3	2.0
In central city	383	353	1	0.2	22	6	38.0	5.6	4.2
Outside central city	627	618	173	38.7	2	1	64.9	0.3	0.2
Phoenix, Ariz.	968	914	287	45.8	33	8	30.9	3.4	3.8
In central city	582	543	129	31.2	28	7	33.4	4.8	4.8
Outside central city	386	372	158	74.2	5	1	18.5	1.3	1.9
Columbus, Ohio	916	806	134	20.0	106	24	29.9	11.6	10.9
In central city	540	437	44	11.3	100	22	29.2	18.5	16.4
Outside central city	377	369	90	32.4	7	2	41.8	1.8	1.7
Providence-Pawtucket-Warwick, R.I.-Mass.	911	885	80	9.9	21	7	46.1	2.3	1.8
Providence	179	161	-34	-17.5	16	5	42.3	8.9	5.4
Pawtucket	77	76	-4	-5.2	-	-	-11.0	0.5	0.6
Warwick	84	83	15	22.0	-	-	35.8	0.4	0.4
Outside central city	571	564	103	22.4	4	2	73.0	0.8	0.6
Rochester, N. Y.	883	821	117	16.6	58	30	106.0	6.5	3.8
In central city	296	244	-50	-17.1	50	26	110.5	16.8	7.4
Outside central city	586	576	167	40.9	8	4	82.1	1.4	1.1
San Antonio, Texas	864	794	129	19.4	60	11	23.2	6.9	6.8
In central city	654	598	53	9.8	50	8	20.3	7.6	7.1
Outside central city	210	197	76	62.6	10	3	40.6	4.7	5.5
Dayton, Ohio	850	754	98	14.9	94	24	34.0	11.0	9.6
In central city	244	168	-36	-17.8	74	17	29.7	30.5	21.8
Outside central city	607	586	134	21.7	19	7	53.8	3.2	2.7
Louisville, Kentucky-Ind.	827	724	82	11.8	101	18	21.7	12.3	11.5
In central city	361	275	-46	-12.3	86	16	22.8	23.8	17.9
Outside central city	465	449	128	39.8	15	2	16.1	3.3	3.9

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Table 8#— POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970—Contd.

(In thousands, Ranked by size in 1970. SMSA's as defined in 1970)

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SMSA, Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Sacramento, Calif.	801	728	1,5	21.9	38	17	82.3	4.7	3.3
In central city	254	207	40	23.9	27	15	125.1	10.7	6.3
Outside central city	546	521	105	21.3	11	2	22.7	2.0	2.0
Memphis, Tenn.-Ark.	770	479	60	12.4	289	33	13.1	37.5	37.9
In central city	624	379	66	21.2	243	58	31.6	38.9	37.6
Outside central city	147	99	-6	-5.8	46	-25	-34.8	31.7	40.2
Fort Worth, Texas	762	675	163	31.8	83	23	37.2	10.9	10.6
In central city	393	313	13	4.4	78	22	38.8	19.9	15.8
Outside central city	369	362	150	40.4	5	1	16.5	1.3	2.0
Birmingham, Ala.	739	520	31	6.2	218	-13	-5.8	29.5	32.1
In central city	301	174	-32	-15.4	126	-9	-6.5	42.0	39.6
Outside central city	438	346	62	21.9	92	-5	-4.8	20.9	25.3
Albany-Schenectady-Troy, N.Y.	721	694	54	8.4	24	7	42.8	3.3	2.5
Albany	115	100	-19	-15.8	14	3	31.7	12.3	8.3
Schenectady	78	74	-5	-6.6	3	1	56.4	4.1	2.5
Troy	63	60	-6	-9.0	3	1	52.6	4.6	2.8
Outside central city	465	460	84	22.3	3	2	82.4	0.7	0.5
Toledo, Ohio-Mich.	691	631	46	7.9	57	12	26.4	8.3	7.2
In central city	384	329	51	18.5	53	13	32.2	13.8	12.6
Outside central city	307	302	-5	-1.6	4	-1	-18.5	1.4	1.7
Norfolk-Portsmouth, Va.	681	504	79	18.5	168	18	11.8	24.7	26.0
Norfolk	308	215	-10	-4.5	87	8	10.7	28.3	25.8
Portsmouth	111	66	-9	-2.1	44	5	12.8	39.9	34.2
Outside central city	262	223	98	38.2	36	4	13.1	13.9	20.4
Akron, Ohio	679	623	62	11.0	54	11	24.3	8.0	7.2
In central city	275	226	-26	-10.3	48	11	28.1	17.5	13.0
Outside central city	404	397	88	21.5	6	-	0.6	1.5	1.9
Hartford, Conn.	664	610	90	14.4	51	22	75.3	7.6	5.2
In central city	158	112	-25	-8.4	24	19	77.4	27.9	15.3
Outside central city	507	498	115	22.2	6	2	62.4	1.3	1.0

Table 8.—POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 Page 7 of 9
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970)

SMSA, Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Oklahoma City, Okla.	641	571	107	3.2	54	13	32.6	8.5	8.0
In central city	366	308	26	9.1	50	13	33.7	13.7	11.6
Outside central city	274	263	82	45.0	4	1	21.0	1.6	1.9
Syracuse, N. Y.	636	608	59	10.7	23	11	90.4	3.7	2.2
In central city	197	174	-30	-14.8	21	10	90.7	10.8	5.2
Outside central city	439	434	89	5.8	2	1	86.7	0.5	0.3
Gary-Hammond, East Chicago, Ind.	633	519	33	6.8	112	25	28.7	17.7	15.2
Gary	175	82	-27	-24.9	93	24	34.1	52.8	38.8
Hammond	108	103	-6	-5.8	5	2	92.2	4.3	2.2
East Chicago	47	34	-10	-23.3	13	-1	-6.4	27.4	23.9
Outside central city	303	300	76	34.2	2	-	3.6	0.6	0.8
Honolulu, Hawaii	629	260	81	45.1	7	3	51.5	1.2	1.0
In central city	325	110	30	37.2	2	1	82.0	0.7	0.4
Outside central city	304	149	51	51.6	5	1	40.2	1.6	1.7
Ft. Lauderdale-Hollywood, Fla.	620	540	262	46.1	77	23	41.2	12.5	16.4
Ft. Lauderdale	140	119	55	45.7	20	1	4.1	14.6	23.3
Hollywood	107	102	69	20.2	4	2	80.4	3.7	6.3
Outside central city	374	320	138	75.9	53	20	60.4	14.2	15.4
Jersey City, N. J.	609	542	-27	-4.7	61	20	47.8	10.0	6.8
In central city	261	203	-36	-15.1	55	18	48.8	21.0	13.3
Outside central city	349	339	9	2.9	7	2	40.2	1.9	1.4
Greensboro-Winston Salem, High Point, N. C.	604	484	67	16.1	118	15	14.9	19.6	19.8
Greenboro	144	103	14	16.1	41	10	31.8	28.2	25.8
Winston-Salem	133	87	17	14.5	46	4	10.6	34.3	37.1
High Point	63	49	-2	-3.5	14	3	23.1	21.8	18.0
Outside central city	264	245	37	18.0	18	-1	-7.1	7.0	8.7

Table 8--POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970 Page 8 of 9
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970) (Cont'd.)

SMSA, Central City and Ring	Total Population 1/	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Salt Lake City, Utah	560	548	107	24.2	4	2	108.3	0.7	0.4
In central city	176	170	-15	-8.2	2	1	36.8	1.2	0.8
Outside central city	384	378	122	47.7	2	2	354.0	0.5	0.2
Allentown-Bethlehem-Easton, Pa.-N.J.	544	536	48	9.9	6	3	69.9	1.2	0.8
Allentown	110	107	-	-0.2	2	1	165.8	1.8	0.7
Bethlehem	73	71	-3	-4.4	1	-	34.4	1.9	1.3
Easton	32	30	-	0	2	1	53.0	5.8	3.9
Outside central city	329	328	52	18.9	1	-	51.7	0.4	0.3
Nashville, Tenn.	541	443	65	17.1	96	12	13.9	17.8	18.3
In central city	448	359	36	11.1	88	11	15.0	19.6	19.1
Outside central city	93	84	29	51.9	9	-	3.5	9.2	12.9
Omaha, Nebr.-Iowa	540	500	70	16.3	37	11	40.0	6.8	5.7
In central city	347	311	35	12.8	34	9	35.9	9.9	8.3
Outside central city	193	190	35	23.4	2	1	110.3	1.2	0.7
Grand Rapids, Mich.	539	513	67	15.0	23	9	57.9	4.3	3.2
In central city	198	174	11	7.1	22	8	56.4	11.3	8.0
Outside central city	342	339	56	17.6	1	1	95.0	0.3	0.2
Youngstown-Warren, Ohio	536	484	22	4.7	51	4	8.4	9.4	9.2
Youngstown	140	104	-31	-23.0	35	4	11.4	25.2	19.0
Warren	63	55	2	3.4	9	2	27.6	13.8	11.5
Outside central city	333	325	51	18.6	7	-2	-19.1	2.0	2.9
Springfield-Chicopee-Holyoke, Mass.	530	504	29	6.2	24	9	62.7	4.6	3.0
Springfield	164	143	-19	-11.5	21	8	58.0	12.6	7.5
Chicopee	67	65	4	7.3	1	1	76.5	1.9	1.1
Holyoke	50	49	-3	-6.2	1	1	107.9	2.2	1.0
Outside central city	249	248	47	23.2	1	1	117.9	0.4	0.3
Jacksonville, Fla. 2/	529	408	59	15.8	118	12	11.8	22.3	23.2
In central city	529	408	59	15.8	118	12	11.8	22.3	23.2
Outside central city	-	-	-	-	-	-	-	-	-

Table 8: ---POPULATION CHANGE FOR WHITE AND NEGRO POPULATION IN METROPOLITAN AREAS OF 500,000 OR MORE, BY CENTRAL CITY AND RING: 1960 TO 1970
(In thousands. Ranked by size in 1970. SMSA's as defined in 1970)

SMSA, Central City and Ring	Total Population ^{1/}	White Population			Negro Population			Percent Negro	
		1970 Population	Change 1960 to 1970		1970 Population	Change 1960 to 1970		1970	1960
			Number	Percent		Number	Percent		
Richmond, Va.	518	386	65	20.3	130	16	13.9	25.1	26.2
In central city	250	144	16	11.7	105	13	13.9	42.0	41.8
Outside central city	269	243	49	23.3	25	3	14.0	9.5	10.3
Wilmington, Del.-N.J.-Md.	499	436	70	17.2	61	13	27.6	12.2	11.5
In central city	80	45	-26	-30.5	35	10	40.7	43.6	26.0
Outside central city	419	392	96	32.5	26	3	13.2	6.2	7.2

^{1/} Included white, Negro, and other races.

^{2/} Jacksonville City coterminous with Duval County.

- signifies under 500.

Table 9.—MEDIAN INCOME IN 1969 AND 1959 OF FAMILIES BY SEX AND RACE OF HEAD:
1970 AND 1960

(In 1969 dollars. Number of families in thousands)

Median income and race of head	1969		1959	
	Metropolitan areas		Metropolitan areas	
	Central cities	Suburban rings	Central cities	Suburban rings
UNITED STATES				
<u>White</u>				
All families	11,759	17,576	12,447	13,317
Median income	\$9,797	\$11,155	\$7,881	\$8,486
Families with male head	10,340	16,181	11,152	12,471
Median income	\$10,313	\$11,542	\$8,158	\$8,674
Families with female head ..	1,419	1,395	1,295	846
Median income	\$5,963	\$6,136	\$5,129	\$4,900
<u>Negro</u>				
All families	2,740	726	2,126	480
Median income	\$6,794	\$6,986	\$4,840	\$4,383
Families with male head	1,913	570	1,637	395
Median income	\$8,210	\$7,942	\$5,534	\$5,049
Families with female head ..	828	156	489	85
Median income	\$3,748	\$3,713	\$2,688	\$2,281

Table 9.--cont.

Median income and race of head	1969		1959	
	Metropolitan areas		Metropolitan areas	
	Central cities	Suburban rings	Central cities	Suburban rings
<u>Ratio--Negro to White</u>				
All families:				
Median income	69.3	62.6	61.4	51.6
Families with male head:				
Median income	79.6	68.8	67.8	58.2
Families with female head:				
Median income	62.9	60.5	52.4	46.6
NORTH AND WEST				
White families				
Median income	8,882 \$9,949	13,739 \$11,320	9,521 \$8,076	10,766 \$8,660
Negro families				
Median income	1,763 \$7,285	374 \$8,333	1,300 \$5,521	230 \$5,889
Ratio--Negro to white	73.2	73.6	68.4	68.0

Table 10.—INCOME PER FAMILY MEMBER IN 1969 AND 1959

(In 1969 dollars)

Sex of head and race	1969		1959	
	Central cities	Suburban rings	Central cities	Suburban rings
UNITED STATES				
<u>White</u>				
All families	\$3,329	\$3,412	\$2,691	\$2,725
Families with male head	3,445	3,486	2,736	2,767
Families with female head ..	2,351	2,343	2,205	1,964
<u>Negro</u>				
All families	\$1,841	\$1,866	\$1,354	\$1,131
Families with male head	2,147	2,081	1,493	1,197
Families with female head ..	1,127	1,040	869	783
<u>Ratio: Negro to White</u>				
All families	55.3	54.7	50.3	41.5
Families with male head	62.3	59.7	54.6	43.3
Families with female head ..	47.9	44.4	39.4	39.9
NORTH AND WEST				
White families	\$3,355	\$3,444	\$2,739	\$2,787
Negro families	1,981	2,112	1,521	1,517
Ratio: Negro to white	59.0	61.3	55.5	54.4

Table 11.—MEDIAN INCOME IN 1969 AND 1959 OF ALL FAMILIES AND HUSBAND-WIFE FAMILIES BY REGION, RACE AND AGE OF HEAD

(In 1969 dollars)

Region and age of head	1969			1959		
	White	Negro	Ratio: Negro to white	White	Negro	Ratio: Negro to white
ALL FAMILIES						
<u>Total</u>						
United States	\$ 9,794	\$5,998	61	\$7,458	\$3,787	51
North and West	10,202	7,408	73	7,860	5,545	71
South	8,763	4,987	57	6,325	2,901	46
<u>Head Under 35 Years</u>						
United States	9,032	6,001	66	6,964	3,739	54
North and West	9,330	6,938	74	7,269	4,923	68
South	8,367	5,146	62	6,088	3,048	50
HUSBAND-WIFE FAMILIES						
<u>Total</u>						
United States	10,217	7,329	72	7,711	4,430	57
North and West	10,598	9,142	86	8,100	6,156	76
South	9,192	5,944	65	6,591	3,298	50
<u>Head Under 35 Years</u>						
United States	9,384	7,488	80	7,118	4,446	62
North and West	9,703	8,859	91	7,419	5,780	78
South	8,649	6,286	73	6,274	3,441	55

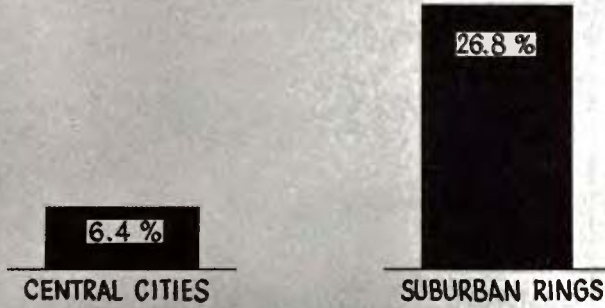
Table 12.—TENURE AND PLUMBING FACILITIES OF OCCUPIED HOUSING UNITS: 1970 AND 1960

(Metropolitan areas as defined in respective censuses)

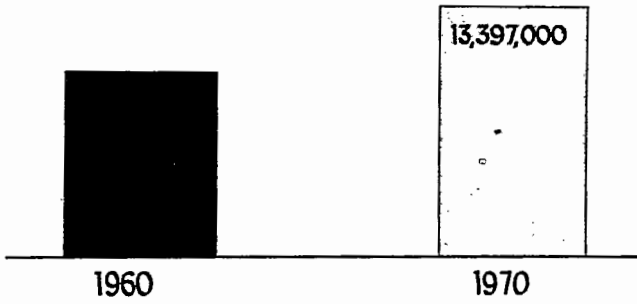
Residence	Negro ^{1/}		White and other races	
	Percent owner occupied	Percent lacking some or all plumbing facilities	Percent owner occupied	Percent lacking some or all plumbing facilities
1970				
United States.....	41.5	16.9	65.2	4.8
Metropolitan areas.....	38.5	7.2	62.0	2.7
Central cities.....	34.8	4.8	51.1	2.9
Outside central cities.....	54.0	17.3	71.0	2.5
Outside metropolitan areas.....	51.5	48.6	71.9	9.3
1960				
United States.....	38.4	40.7	64.4	11.9
Metropolitan areas.....	35.1	24.1	61.7	6.3
Central cities.....	31.4	20.7	50.3	6.7
Outside central cities.....	51.7	39.5	73.6	5.9
Outside metropolitan areas.....	45.2	75.7	69.2	21.7

^{1/} 1970 data are presented separately for "Negro" households and for households of "white and other races" combined; 1960 data are presented separately for "white" households and for households of "Negro and other races" combined.

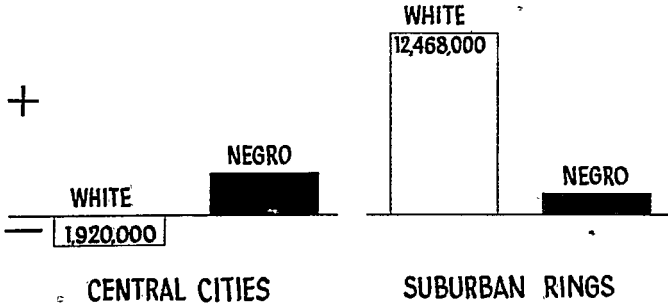
**PERCENT CHANGE IN SMSA POPULATION FROM
1960 TO 1970
FOR CENTRAL CITIES AND SUBURBAN RINGS**



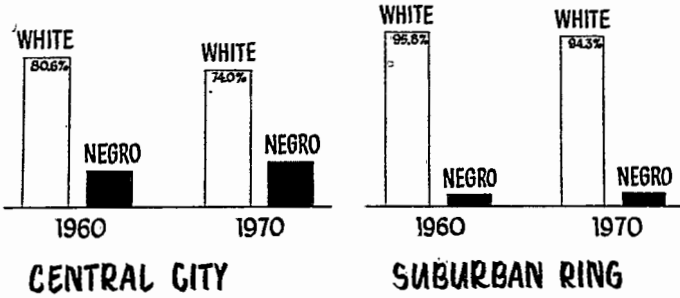
**NEGRO POPULATION IN SMSA'S OF
500,000 OR MORE
1960 AND 1970**



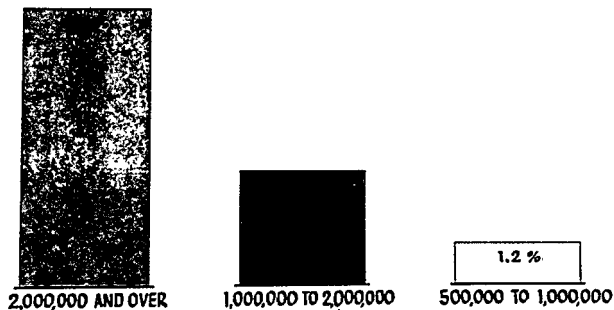
**CHANGE IN POPULATION BY WHITE AND
NEGRO CENTRAL CITIES AND SUBURBAN
RINGS OF SMSA'S OF 500,000 OR MORE
1960 TO 1970**



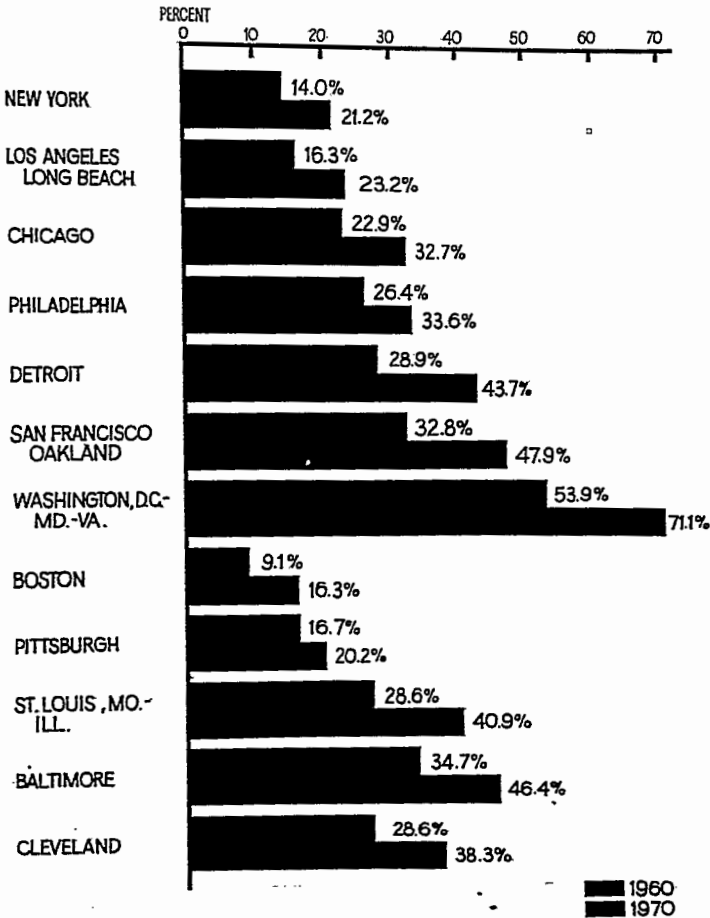
PERCENT WHITE AND NEGRO
POPULATION CENTRAL CITY AND SUBURBAN
RING SMSA'S OF 500,000 OR MORE,
1960 AND 1970



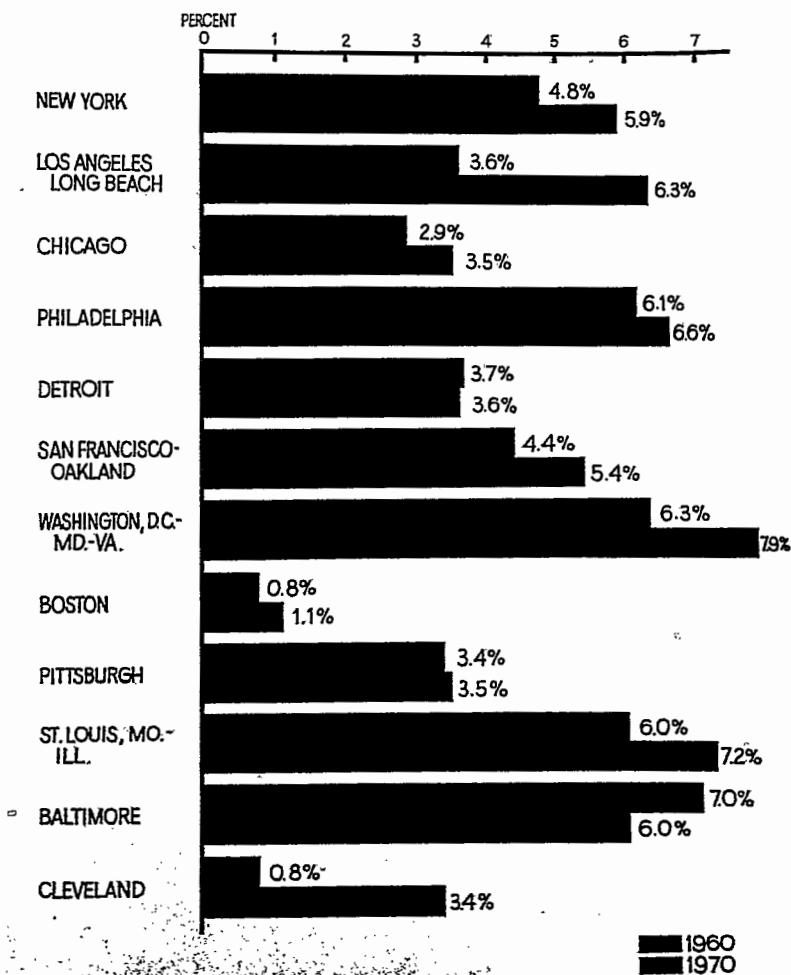
**INCREASE IN NEGRO POPULATION AS
PERCENTAGE OF TOTAL CHANGE IN
SUBURBAN RING POPULATION OF SMSA'S
OF 500,000 OR MORE BETWEEN 1960 & 1970**



NEGRO POPULATION AS PERCENTAGE OF TOTAL-CENTRAL CITIES OF 12 LARGE METROPOLITAN AREAS IN 1960 AND 1970.

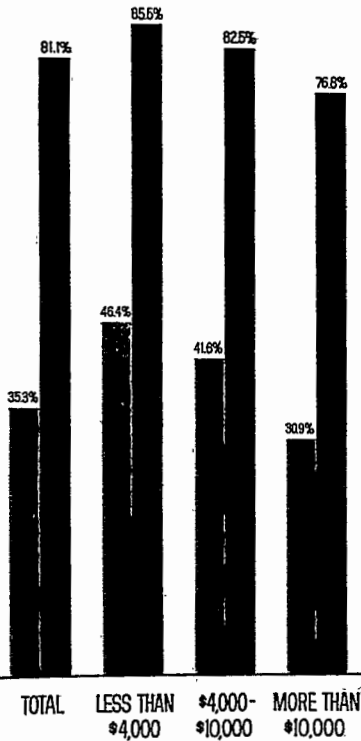


NEGRO POPULATION AS PERCENTAGE OF WHOLE IN SUBURBAN RINGS OF 12 LARGE METROPOLITAN AREAS IN 1960 AND 1970.

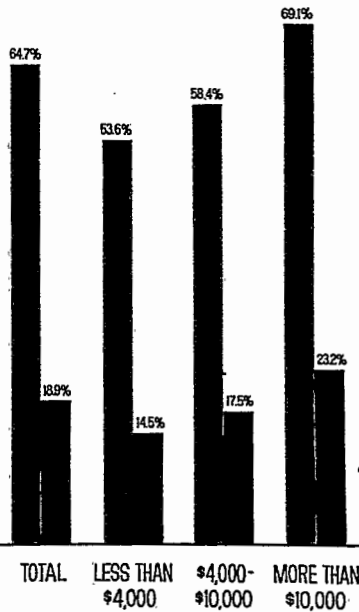


PERCENTAGE OF WHITE AND NEGRO RESIDENTS
OF METROPOLITAN AREAS OF 1,000,000 OR MORE LIVING IN CENTRAL CITY
AND SUBURBAN RING BY INCOME LEVEL, 1970

CENTRAL CITY

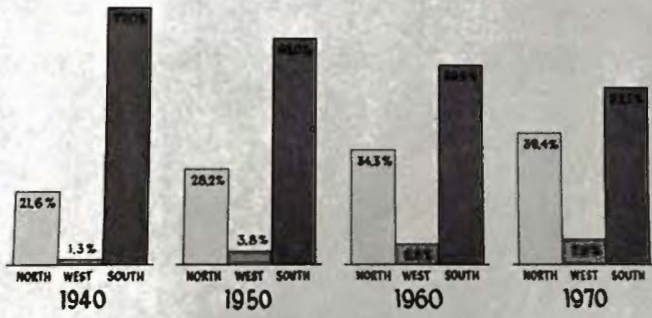


SUBURBAN RING



■ WHITE
■ NEGRO

PERCENTAGE DISTRIBUTION OF NEGRO POPULATION BY REGION 1940 TO 1970



**INCREASE IN NEGRO AND OTHER RACES
IN CENTRAL CITIES AND SUBURBAN
RINGS FOR SMSA'S OF 500,000 OR
MORE BY NET MIGRATION AND NATURAL
INCREASE, 1960 TO 1970**

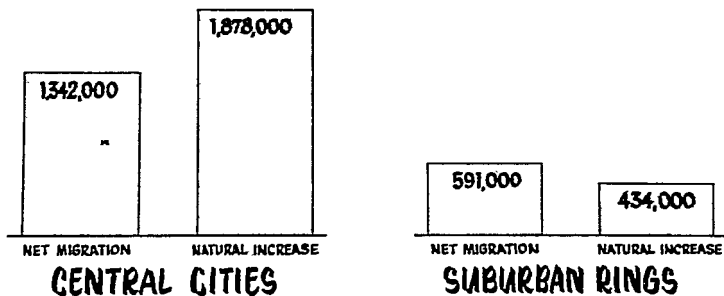
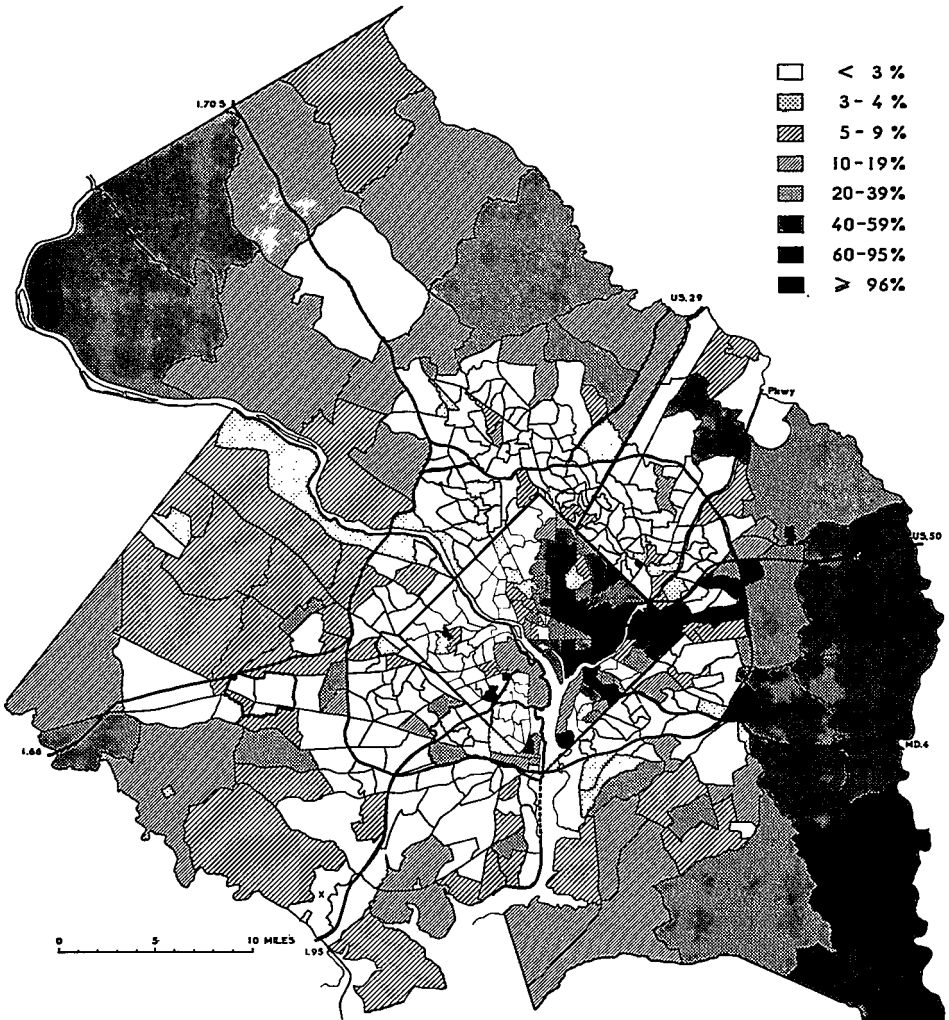


Exhibit No. 7*

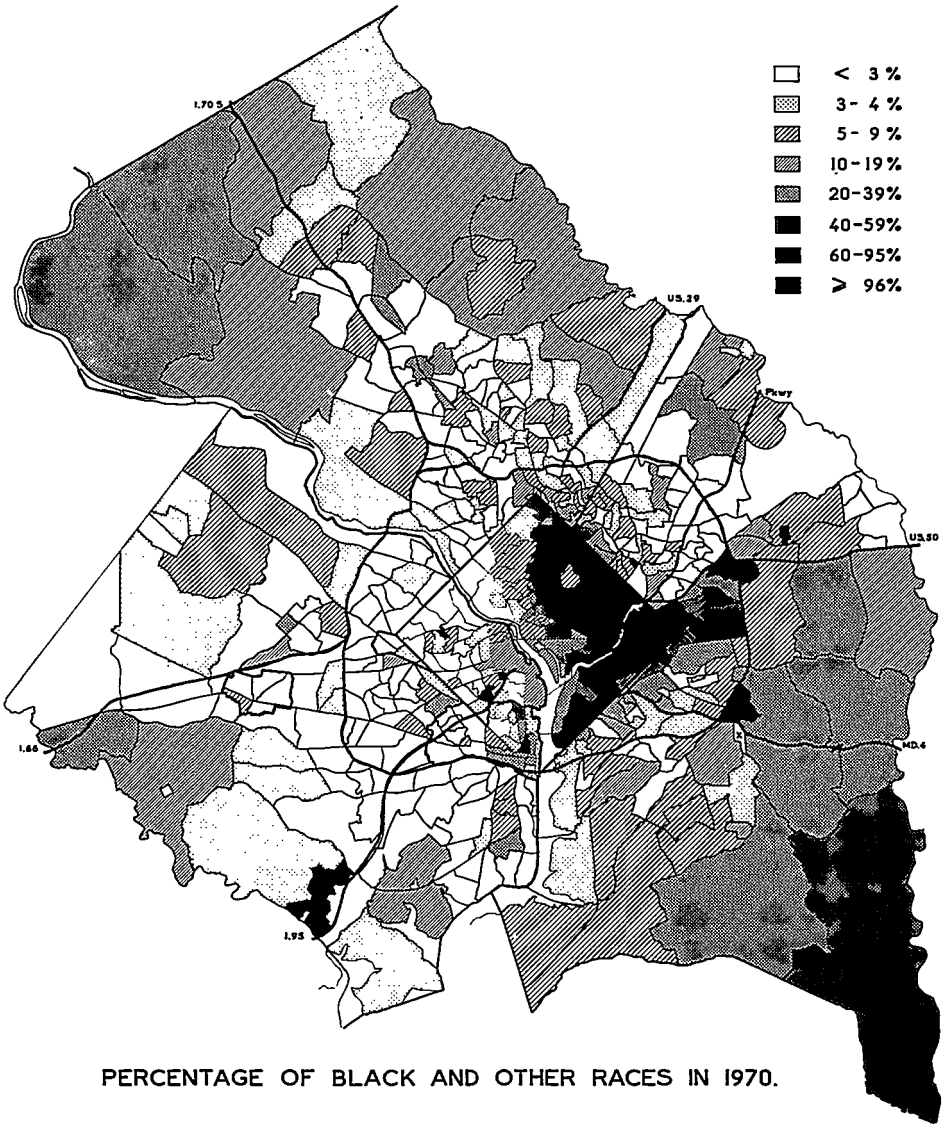
Report of the District of Columbia State Advisory
Committee to the U.S. Commission on Civil Rights on
the Movement of Federal Facilities to the Washington, D.C.
Suburbs.

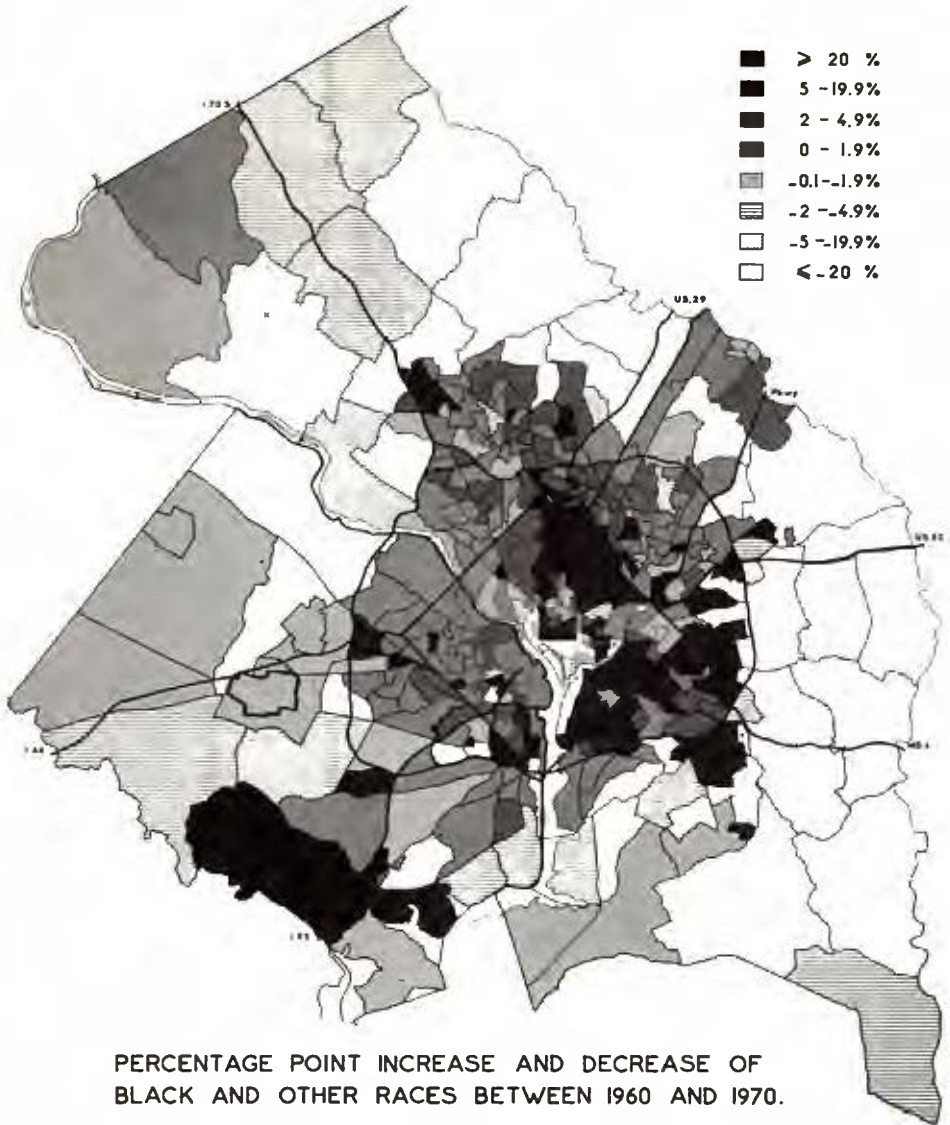
Maps of Washington, D.C. Metropolitan Area

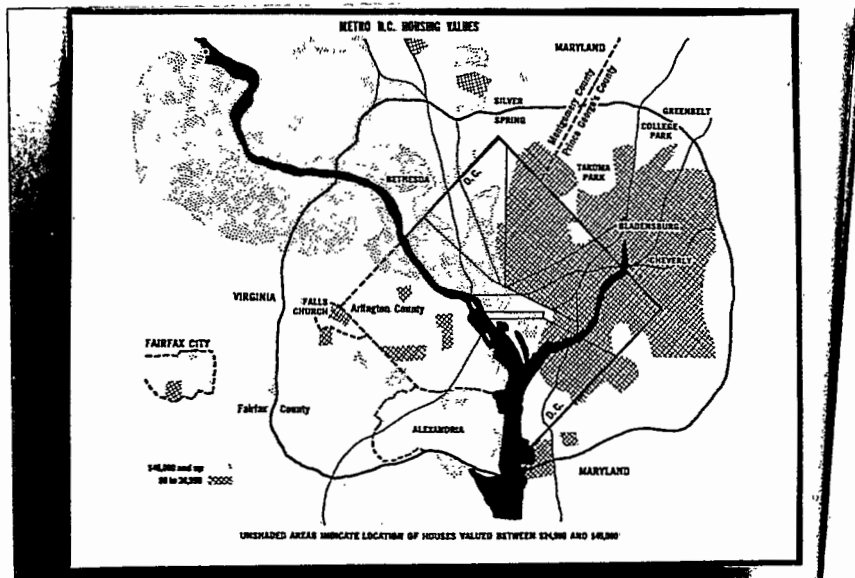


PERCENTAGE OF BLACK AND OTHER RACES IN 1960.

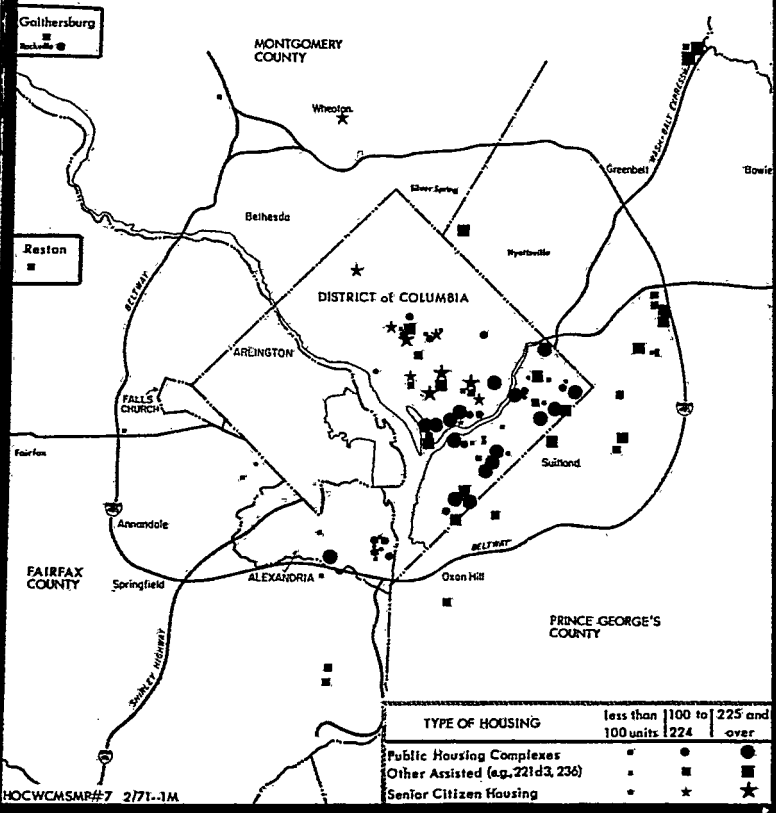
Jean-Claude THOMAS
 Washington Center for
 Metropolitan Studies of
 Catholic University of America







FEDERALLY ASSISTED HOUSING IN THE D. C. METRO AREA



TYPE OF HOUSING	less than 100 units			100 to 224	225 and over
	•	◻	◻	◻	●
Public Housing Complexes	•	◻	◻	◻	●
Other Assisted (e.g., 221d3, 236)	•	◻	◻	◻	◻
Senior Citizen Housing	•	◻	◻	◻	★

HOCWCMSMR#7 2771-1M

Exhibit No. 9

FOR IMMEDIATE RELEASE

June 11, 1971

Office of the White House Press Secretary

THE WHITE HOUSESTATEMENT BY THE PRESIDENT ON
FEDERAL POLICIES RELATIVE TO EQUAL HOUSING OPPORTUNITY

Of all the services, facilities and other amenities a community provides, few matter more to the individual and his family than the kind of housing he lives in -- and the kind of neighborhood of which that housing is a part. Through the ages, men have fought to defend their homes; they have struggled, and often dared the wilderness, in order to secure better homes.

It is not surprising, therefore, that public policies affecting the kind and location of homes available should be the subject of intense and widespread interest, and also of intense, far-ranging and sometimes passionate debate.

One of the achievements of this administration of which I am most proud has been the dramatic progress we have made in increasing the supply of housing, including particularly low- and moderate-income housing, so as to expand the range of housing opportunities for Americans in search of a decent home. Housing starts are currently at the highest levels in 20 years. While our primary emphasis is on stimulating private construction, the number of federally assisted low- and moderate-income housing starts planned for fiscal year 1972 will be more than four times what it was as recently as fiscal 1968 -- an increase from some 150,000 to some 650,000. The remaining needs are still enormous. But this represents a giant step toward fulfilling the goal set forth in the Housing Act of 1949, of "a decent home and a suitable living environment for every American family."

The very fact that so much progress is being made, however, has sharpened the focus on what has come to be called "fair housing" -- a term employed, but not defined, in the Civil Rights Act of 1968, and to which many persons and groups have ascribed their own often widely varied meanings.

In this statement, I shall set forth the policies, as they have been developed in this administration, that will guide our efforts to eliminate racial discrimination in housing, to enlarge housing opportunities for all Americans and to assist in stable and orderly community development. It is important to understand the laws that govern those policies, the limits within which they operate, the complexities they seek to address, and the goals they seek to achieve.

My purpose is not to announce new policies, but to define and explain the policies we have -- setting forth what we will do and what we will not. The factors determining patterns of housing and community development are immensely complex and intricately balanced, many are uniquely local in nature, and the Federal Government operates in important but limited ways and under limited authorities. Within those limits, we intend to continue to move vigorously -- not to restrict free choice, but to expand and protect it.

Underlying our housing policies -- and embodied in our laws and our Constitution -- are certain basic principles:

more

- Denial of equal housing opportunity to a person because of race is wrong, and will not be tolerated.
- Such denial will not be tolerated whether practiced directly and overtly, or under cover of subterfuges, or indirectly through such practices as price and credit discrimination.
- To qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way.
- In terms of site selection for a housing development, the Federal role is one of agreeing or not agreeing to provide Federal subsidies for projects proposed by local authorities or other developers.
- A municipality that does not want federally assisted housing should not have it imposed from Washington by bureaucratic fiat; this is not a proper Federal role.
- Local communities should be encouraged in their own voluntary efforts to make more housing more widely available, and to reduce the extent of racial concentration.
- Putting an end to racial discrimination, and building toward the goal of free and open communities, is a responsibility shared by Federal, State and local governments, by business and private institutions, by civic leaders and by individual people everywhere.

A HISTORY OF HARDSHIP

The history of racial discrimination in housing in America runs deep; but, to the Nation's credit, so do efforts to correct it.

In earlier years, some local ordinances actually forbade minority group members to purchase property in blocks where they did not constitute a majority. Such ordinances were invalidated by the Supreme Court in 1917.

Covenants running with the land were widely used to restrict minority citizens in their access to housing. The efficacy of these covenants rested on their possible enforcement by courts and the awarding of damages for their breach. Judicial enforcement was invalidated by the Supreme Court in 1948.

Federal policy itself, quite unsurprisingly, in past eras reflected what then were widespread public attitudes. Policies which governed FHA mortgage insurance activities for more than a decade between the middle thirties and the late forties recognized and accepted restrictive covenants designed to maintain the racial homogeneity of neighborhoods.

Compounding the plight of minority Americans, locked as many of them were in deteriorating central cities, was the Federal urban renewal program. It was designed to help clear out blighted areas and rejuvenate urban neighborhoods. All too often, it cleared out but did not replace housing which, although sub-standard, was the only housing available to minorities. Thus it typically left minorities even more ill-housed and crowded than before.

more

Historically, then, the Federal Government was not blameless in contributing to housing shortages and to the impairment of equal housing opportunity for minority Americans. Much has been done to remedy past shortcomings of Federal policy, and active opposition to discrimination is now solidly established in Federal law. But despite the efforts and emphasis of recent years, widespread patterns of residential separation by race and of unequal housing opportunity persist.

RACIAL CONCENTRATION TODAY

In terms of racial concentration, the facts on housing occupancy revealed by the 1970 Census are compelling. In our 66 largest metropolitan areas, accounting for more than half the U.S. population -- of which 49 are in the North and West -- the central city white population declined during the decade of the sixties by about 2 million (5%) -- while the black population increased almost 3 million (35%). This meant overall black population in central cities increased from 18% in 1960 to 24% in 1970.

In the suburban areas of these cities, however, the story was different. White population increased by 12.5 million (30%) and black population increased by less than 1 million (44%). The result was that the total black proportion of suburban population increased only from 4.2% in 1960 to 4.5% in 1970.

In city after city the figures tell the same story. In New York City the white population declined by 617,000 while the black population rose by 579,000. In St. Louis whites declined by 169,000; blacks rose by 40,000. Thus the central cities grow ever more black, while the surrounding areas, for the most part, remain overwhelmingly white.

It is important to remember, of course, that simple divisions into "central city" and "suburban" can be misleading in this context. It makes a great deal of difference how large the city is, and what the patterns of distribution within the metropolitan area are in terms not only of housing, but of business, industry, recreational facilities, transportation, and all the many factors that enter into its internal dynamics as a functioning community.

One thing this points to is that no single set of rigid criteria can be laid down that will fit a wide variety of local situations. To speak of "opening up the suburbs," for example, may have widely differing implications in different metropolitan areas, just as the term "central city" means something quite different in New York or Chicago than it does in New Haven or Fresno.

To some extent, the persistence of racially separate housing patterns reflects the free choice of individuals and families in both the majority and minority communities. Economic factors have also played a part, since average income levels -- even though the disparity is being narrowed -- remain lower for minority Americans than for the Caucasian majority.

It also is inescapable, however, that continuing, often covert housing discrimination is thwarting or discouraging the efforts of many minority citizens to find better housing in better neighborhoods. This is wrong, constitutionally indefensible, and pragmatically unwise.

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THE COSTS OF RACIAL SEPARATION

Separation of the races, particularly when it is involuntary, has damaging consequences. One is racial isolation -- the social isolation of the races from each other -- an estrangement that all too readily engenders unwarranted mistrust, hostility and fear.

Another consequence of involuntary racial separation is the waste of human resources through the denial of human opportunity. No nation is rich enough and strong enough to afford the price which dehumanizing living environments extract in the form of wasted human potential and stunted human lives -- and many of those living environments in which black and other minority Americans are trapped are dehumanizing.

Another price of racial segregation is being paid each day in dollars: in wages lost because minority Americans are unable to find housing near the suburban jobs for which they could qualify. Industry and jobs are leaving central cities for the surrounding areas. Unless minority workers can move along with the jobs, the jobs that go to the suburbs will be denied to the minorities -- and more persons who want to work will be added to the cities' unemployment and welfare rolls.

Clearly, both outright racial discrimination and persisting patterns of racial concentration combine to create a serious set of problems that public policy must seek to meet. These problems are human, they are economic, they are social -- and they pose a challenge of the first magnitude to the community of the metropolitan area that tries to meet them in a way most nearly fair to all those affected. It is encouraging that many communities are meeting this challenge, and meeting it successfully.

THE FEDERAL ROLEThe Law

The Federal Government's responsibilities for eliminating racial discrimination in housing derive partly from the Constitution, partly from the Government's own extensive involvement in housing and community development programs, and partly from a number of statutes and Executive orders.

The broad outlines of the law are contained in our Constitution, which in its 5th, 13th and 14th amendments guarantees basic civil rights, including the right to seek shelter free from any racial discrimination fostered by Federal, State or local governments.

Executive Order 11063, issued in 1962, expressly states that housing discrimination and segregation prevent the Nation from attaining the housing goals declared by the 1949 Housing Act. It further directs all Federal departments and agencies "to take all action necessary and appropriate to prevent discrimination" as to race, color, religion or national origin in federally assisted housing and related projects.

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Congress followed up this initiative two years later with the Civil Rights Act of 1964. A critical provision of that law, Title VI, provides that no person shall, "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." As a penalty for such discrimination, it provides for a cutoff of Federal funds to the program in which the discrimination occurs. The clear intent of the Congress in enacting this legislation was to insure that no program utilizing Federal financial aid should be tainted by racial, ethnic, or religious discrimination. A careful review of the legislative history indicates that the Congress intended that the cutoff of Federal funds resulting from a violation should apply only to the particular activity in which the unlawful racial discrimination took place, and not to all activities undertaken by the violator.

In the Civil Rights Act of 1968, the Congress declared that "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States."

Title VIII of the 1968 act goes beyond the previous statutes (which in terms of housing, had dealt only with that which was federally assisted) to prohibit discrimination on account of race, color, religion or national origin in most private real estate actions, whether sale or rental and regardless of whether Federal assistance is involved or not. In addition, this title also makes it the responsibility of "all executive departments and agencies" and the specific responsibility of the Secretary of Housing and Urban Development, to "administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this title."

Antidiscrimination Enforcement

The provisions of the law aimed at barring racial discrimination in housing are administered primarily by the Departments of Justice and of Housing and Urban Development.

HUD's role under Title VI in the 1964 act is to guard against racial discrimination in any program or activity to which HUD gives financial assistance. Title VIII of the 1968 Civil Rights Act requires HUD to investigate complaints of housing discrimination and, where appropriate, to attempt to resolve such complaints through persuasion or conciliation. In calendar year 1970, HUD completed processing of 169 complaints; in 89 of these cases conciliation was successful. In the same year, HUD referred 19 of these cases where conciliation failed to the Department of Justice.

Under the terms of Title VIII of the 1968 Civil Rights Act, the Attorney General is empowered to bring suits in Federal court where he finds that racial discrimination in housing constitutes a "pattern or practice," or where housing discrimination cases raise issues of general public importance. Since January 1969, the Attorney General has brought or participated in 85 such suits against more than 250 defendants in 22 States and the District of Columbia. In addition, the Justice Department has negotiated out of court with several hundred other persons and companies and brought them into voluntary compliance.

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These cases have involved not only outright racial discrimination in the sale or rental of homes, but also such practices as discriminatory real estate advertising and exclusion of minorities from multiple listing services. Several of the suits have been against municipal authorities. Several others have been against major companies controlling tens of thousands of dwelling units, and have resulted in orders that they take dramatic remedial efforts to attract minority families into buildings from which they have previously been barred or discouraged.

Not only have these suits directly opened to nonwhites a great deal of housing previously available only to whites; they also have had a significant wider impact in stimulating others to come into voluntary compliance with the antidiscrimination laws. This vigorous enforcement as required by law will continue.

Unlawful racial discrimination in housing extends beyond the barring of individuals from particular buildings or neighborhoods because of race. The courts have also held that, when its reasons for doing so are racial, a community may not rezone in order to exclude a federally assisted housing development. In such cases, where changes in land use regulations are made for what turns out to be a racially discriminatory purpose, the Attorney General, in appropriate circumstances, will also bring legal proceedings.

How Federal Programs Operate

In order to understand the way in which the broad "fair housing" mandates translate into specific actions, it is important to understand what some of the Federal housing programs are and how they operate.

HUD provides direct financial assistance in three broad areas:

- Housing for low- and moderate-income families. This includes the Home Ownership and Rental Housing Assistance subsidy programs ("Section 235" and "Section 236" housing, respectively), the rent supplement program enacted in 1965, and assistance to low-rent public housing.
- Grants for State, areawide and local planning.
- Aid for community development activities, such as urban renewal and water and sewer grants.

In addition, of course, HUD plays a major role in providing mortgage insurance and in facilitating the overall flow of mortgage funds.

In each of these areas, the Federal program role -- as the governing statutes make clear -- is essentially one of responding to local or private initiatives, rather than one of imposing its programs on State and local governments.

In none of HUD's grant programs does the Department act directly. The Department builds no housing, develops no land use plans, clears no slums and constructs no sewers. Instead, HUD provides, within its statutory and regulatory framework, financial assistance to local developers and agencies, both public and private, who build and manage housing, and engage in planning and community development activities.

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The extent to which HUD program activity is dependent on local initiative and execution is frequently overlooked, but is an important element in considering policy issues. Sites for HUD-assisted housing must be selected and acquired by local sponsors -- public or private -- and housing developed on those sites must conform to local zoning and local building codes. Planning performed with HUD assistance is done by State and local governmental bodies. Community development activities -- urban renewal, water and sewer, or open space projects, for example -- are initiated and executed by local government.

In short, HUD's role in the location of assisted housing is one not of site selection, but of ultimate site approval. It does not initiate local housing projects. With more applications than it can fund, it must select those for funding which it determines most fully satisfy the purposes of the enabling legislation -- and in doing so it says "yes" or "no" to local requests for financial assistance for projects that have been locally planned and will be locally executed.

In responding to local and private initiatives, of course, the Department must follow the statutory mandates. For example:

-- As noted earlier, HUD may not make a grant under any of its programs if the recipient will discriminate or otherwise deny the benefits of the assisted activity or project to persons on account of race.

-- Where the "workable program" requirement -- imposed on local communities by the Housing Act of 1949, as amended in 1954, in connection with urban renewal and related programs -- is a condition of eligibility, HUD may not make a grant in the absence of a HUD-certified workable program for community improvement. The program must make reasonable provision for low- and moderate-income housing, which must of course be available on a non-discriminatory basis.

-- Where comprehensive planning is supported by a Federal grant under the 1954 Housing Act, as amended in 1968, the plan must include a "housing element" to insure that "the housing needs of both the region and the local communities studied in the planning will be adequately covered in terms of existing and prospective in-migrant population growth." This provision has broad application, since such planning grants are often used to prepare the areawide plans which are a prerequisite for Federal financial assistance under the water and sewer, open space, and new communities programs.

Similarly, the statutory requirement of "fair housing" applies in the area of private housing construction, where the Federal role is substantial. The Federal Government provides billions of dollars in assistance and guarantees of mortgage credit for housing financing. The Federal Government sets standards widely used by industry, such as minimum property standards, credit standards, appraisal standards, and construction standards. The Federal Government makes market analyses which materially influence the private sector. The Federal Government approves mortgagees, builders, developers and brokers with respect to their doing business with HUD. Local government and private initiative and Federal standards work together to produce new housing. And under the law, that new housing -- like all the Nation's housing stock -- must be open equally to all Americans regardless of race, religion or national origin.

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In approaching questions of "fair housing" for low- and moderate-income persons, it is important to remember that we are dealing with a rather imprecise term and with two separate matters.

One is the elimination of racial discrimination in housing. On this, the Constitution and the laws are clear and unequivocal: racial discrimination in housing will not be tolerated.

In public discussions of "fair housing" or "open housing," however, another issue has often become confused with that of racial discrimination. This is sometimes referred to as "economic integration." Frequently it arises in debates over whether subsidized low-rent public housing should be placed in the suburbs as a means of moving poor people out of the inner city and, if so, where, to what extent, and by what means.

One of the arguments frequently advanced is that poor people are often disadvantaged by living in low-income neighborhoods; that poverty thus perpetuates itself; and that the remedy therefore is to scatter the poor among the more affluent. Another argument often heard is that blacks and other minorities tend to be disproportionately poor, and that "economic segregation" is therefore equivalent to racial segregation.

It is important to remember, however, that the terms "poor" and "black" are not interchangeable. A higher percentage of blacks than of whites lives below the poverty line -- but there are far more poor whites in America than there are poor blacks. Much of the Nation's most dismally inadequate housing is occupied by blacks; much of it is occupied by whites. Many of the worst slums are black; many are white. And by the same token, the skilled trades, the businesses and professions increasingly are populated by affluent blacks whose children go to the best schools and colleges and who themselves have taken their deserved place in the leadership, not simply of inner-city neighborhoods, but of urban, suburban and rural communities all across America.

To cite only one statistic, a recent special census study showed that in the North and West, black husband-wife families headed by persons under 25 had a median income equal to that of their white contemporaries. Although the income disparities among other ages and categories is still far too wide, this is one measure of how far we have come; also, because these young families represent the future, it is an indication of where we are heading. To equate "poor" with "black" does a disservice to the truth, and it blinks the fact -- fundamental to anything so intensely personal as housing -- that we are dealing with the needs not of an undifferentiated mass, but of millions of individual human beings, each separate and unique.

In many cases -- when dealing with poor people who happen to be members of a racial minority -- questions of where to locate housing for poor people and where to locate housing for members of the minority are related. But the issues involved are separate, and those who would treat effectively with race and poverty must take care to maintain the distinction. What is true of blacks in this regard is also true of Mexican-Americans, Indians and members of other minorities.

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When predominantly poor members of a racial minority are concentrated heavily in one particular area of a central city, the question of where to build housing designed to accommodate some but not all of them is often not easily answered. On the one hand, for example, concentrating the subsidized housing in the predominantly black area could have the effect of reinforcing the racial separation that already exists. On the other hand, failure to build at least a portion of it there could be unfair to the people who choose to live there, as well as reinforcing the housing blight that often prevails in such areas. Quite apart from racial considerations, residents of outlying areas may and often do object to the building in their communities of subsidized housing which they fear may have the effect of lowering property values and bringing in large numbers of persons who will contribute less in taxes than they consume in services. Beyond this, and whether rightly or wrongly, as they view the social conditions of urban slum life many residents of the outlying areas are fearful that moving large numbers of persons -- of whatever race -- from the slums to their communities would bring a contagion of crime, violence, drugs, and the other conditions from which so many of those who are trapped in the slums themselves want to escape.

In many other respects, the balances to be struck are often close and the considerations complex: for example, how are the interests of one part of a metropolitan area to be weighed against those of the area as a whole? What other housing opportunities are available? How do transportation patterns, job patterns, school locations, enter into the choice? What related efforts are being made to expand opportunity and end racial discrimination? And how and by whom are the determinations to be made?

By establishing "fair housing" as a policy but leaving the term undefined, Title VIII of the 1968 act added a complexity of its own: a lively debate about just what it means, and especially about the meaning of its requirement that Federal officials take "affirmative action" to promote it.

This and the other laws make abundantly clear that the Federal Government has an active, affirmative role to play in eliminating racial discrimination in either the sale or rental of housing. They also make it clear that those communities which seek Federal assistance for most housing and community development programs must work honestly and constructively to meet the housing needs of their low- and moderate-income families. The debate has arisen over the extent to which Federal agencies are either required or authorized to go beyond anti-discrimination efforts, and to use their program money leverage as a means of requiring local communities to subordinate their land use policies to the goal either of breaking up racial concentrations or of promoting "economic integration."

POLICIES OF THIS ADMINISTRATION

It will be the firm purpose of this administration to carry out all the requirements of the law fully and fairly.

Racial discrimination in housing is illegal, and will not be tolerated. In order to fulfill their responsibility for eliminating this discrimination, the Department of Housing and Urban Development and the Justice Department have been developing and elaborating a wide-ranging program aimed at creating equal housing opportunity.

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By "equal housing opportunity," I mean the achievement of a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion or national origin.

At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated.

The administration is embarked upon this course. It must and will press forward firmly.

The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity; the development of appropriate equal housing opportunity criteria for participation in programs affecting housing; the development of information programs; and the development of policies relating to housing marketing practices.

It is obvious that not all individuals will exercise the full range of choices made available to them. Those are matters for individual decision.

What is essential is that all citizens be able to choose among reasonable locational alternatives within their economic means, and that racial nondiscrimination be scrupulously and rigorously enforced.

We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination.

When such an action is called into question, we will study its effect. If the effect of the action is to exclude Americans from equal housing opportunity on the basis of their race, religion or ethnic background, we will vigorously oppose it by whatever means are most appropriate -- regardless of the rationale which may have cloaked the discriminatory act.

Access to federally assisted housing, like access to all housing, must be nondiscriminatory as to race. But simply to apply this principle will not answer all the practical problems raised by our national commitment to expanded and equal housing opportunity.

Pressures for the construction of new housing and the rehabilitation of existing housing are growing all across the Nation -- in central cities, in suburbs, in small towns, in rural America. Demand for housing at all income levels is increasing dramatically.

As a major part of our national effort to meet these housing needs -- an effort which is both private and governmental -- federally assisted housing is being built at a rate approaching 3/4 of a million units a year. These units are needed. They are being built. And they must be built someplace. The question is where.

If all the federally assisted units are packed together in one type of community or one kind of location, we will only exacerbate the social and, in all probability the racial isolation of our people from each other.

If we build federally assisted instant ghettos, we fail both our communities and the people we are trying to help.

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If we impact or tip the balance of an established community with a flood of low-income families, we do a disservice to all concerned.

The answers to these practical considerations are not simple -- but they are of great importance.

Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the "affirmative action" mandate of the 1968 act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

In furtherance of this policy, not only the Department of Housing and Urban Development but also the other departments and agencies administering housing programs -- the Veterans Administration, the Farmers Home Administration and the Department of Defense -- will administer their programs in a way which will advance equal housing opportunity for people of all income levels on a metropolitan areawide basis.

This administration will not attempt to impose federally assisted housing upon any community.

We will encourage communities to discharge their responsibility for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries.

We will encourage communities to seek and accept well-conceived, well-designed, well-managed housing developments -- always within the community's capacity to assimilate the families who will live in them.

We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people.

In these efforts we will be aided by a change that already is taking place in the way subsidized low- and moderate-income housing is planned, built and managed: in terms of new construction, the old-style, massively concentrated high-rise public housing "project" is largely a thing of the past; the trend now is strongly toward low-rise dwellings, many of them one-, two-, three- or four-family, on scattered sites, so that they can blend in with the community without detracting from nearby properties. Under the newer Federal programs of financial assistance to low- and moderate-income housing of other sorts, the pattern has been one of variety, enabling the community to fit the development to its own needs.

By approaching local questions of land-use planning in a creative and sophisticated manner, local authorities should in most cases be able to work out site-selection problems in ways that provide adequate housing opportunities for those who need them without disrupting the community.

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In other ways as well, we are and will be working to promote better and more open housing opportunities. For example:

-- By Executive Order 11512, issued in February 1970, I ordered that in the selection of sites for Federal facilities consideration should be given to the availability of adequate low- and moderate-income housing -- and I have ordered that all agencies take specifically into account whether this housing is in fact available on a nondiscriminatory basis.

-- Guidelines have recently been issued by the Office of Management and Budget under the provisions of the Uniform Relocation Assistance Act of 1970, to assure that adequate housing is provided on a nondiscriminatory basis and within the financial means of persons displaced by federally financed projects.

-- The Department of Housing and Urban Development has been actively pressing the major Federal agencies regulating lending institutions to establish effective, affirmative measures against racial discrimination in home mortgage financing. The Federal Home Loan Bank Board, which regulates savings and loan institutions, has been the first to undertake the development of new rules and procedural safeguards. The Board is also working closely with industry leaders to improve financial services offered to members of minority groups.

-- HUD also engages in a number of other Title VIII activities intended to eliminate racial discrimination in housing. It publishes advisory guidelines to aid those subject to the jurisdiction of the law in understanding their responsibilities; it undertakes studies of housing practices and collects racial data on all of its housing programs in order to determine areas of noncompliance; it conducts continuing community education programs to inform individuals of their rights under law; it encourages national, State and local private organizations in undertaking programs designed to expand housing options for minority group and low-income individuals; it works closely with State and local agencies having fair housing laws substantially equivalent to Title VIII and refers complaints to these agencies.

A FREE AND OPEN SOCIETY

On March 24, 1970, I issued a statement setting forth in detail the administration's policies on school desegregation. In a portion of that statement that applies equally to housing, I said the goal of this administration is "a free and open society" -- and I added:

In saying this, I use the words "free" and "open" quite precisely.

Freedom has two essential elements: the right to choose, and the ability to choose. The right to move out of a mid-city slum, for example, means little without the means of doing so. The right to apply for a good job means little without access to the skills that make it attainable. By the same token, those skills are of little use if arbitrary policies exclude the person who has them because of race or other distinction.

Similarly, an "open society is one of open choices -- and one in which the individual has the mobility to take advantage of those choices.

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In speaking of "desegregation" or "integration," we often lose sight of what these mean within the context of a free, open, pluralistic society. We cannot be free, and at the same time be required to fit our lives into prescribed places on a racial grid -- whether segregated or integrated, and whether by some mathematical formula or by automatic assignment. Neither can we be free, and at the same time be denied -- because of race -- the right to associate with our fellow-citizens on a basis of human equality.

An open society does not have to be homogeneous, or even fully integrated. There is room within it for many communities. Especially in a nation like America, it is natural that people with a common heritage retain special ties; it is natural and right that we have Italian or Irish or Negro or Norwegian neighborhoods; it is natural and right that members of those communities feel a sense of group identity and group pride. In terms of an open society, what matters is mobility: the right and the ability of each person to decide for himself where and how he wants to live, whether as part of the ethnic enclave or as part of the larger society -- or, as many do, share the life of both.

We are richer for our cultural diversity; mobility is what allows us to enjoy it.

Economic, educational, social mobility -- all these, too, are essential elements of the open society. When we speak of equal opportunity we mean just that: that each person should have an equal chance at the starting line, and an equal chance to go just as high and as far as his talents and energies will take him.

The Federal Government bears an important share of responsibility for achieving fair housing for all Americans. But fair housing is not the responsibility of the Federal Government alone, and not of government alone. Its achievement depends on all of us -- on the States and localities, on business and industry, on civic and professional leadership, and on each of us in his daily life.

For its part, the Federal Government will discharge fully its own particular responsibilities and offer example and leadership for others in the discharge of their responsibilities. We will be vigorous in enforcing both the constitutional mandate and the statutory requirements that there not be housing discrimination on grounds of race. In the more complex and difficult area of providing subsidized housing in areas where it is needed, we will encourage communities and local developers to take into account the broad needs of the various groups within the community and of the metropolitan area.

But we all must recognize that the kinds of land use questions involved in housing site selection are essentially local in nature: they represent the kind of basic choices about the future shape of a community, or of a metropolitan area, that should be chiefly for the people of that community or that area to determine. The challenge of how to provide fair, open and adequate housing is one that they must meet; and they must live with their success or failure.

To local officials are entrusted the initial, and often the final, determinations as to how much low- and moderate-income housing is to be built, how well it is to be built and where

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it is to be built. They operate under the same antidiscrimination strictures that apply to Federal officials. And in terms of site selection and residential zoning -- both sensitive and complex matters, and yet both central to the goal of truly open housing in truly open communities -- they operate in an area little charted by the Supreme Court but increasingly being navigated by the lower courts, as land use restrictions come under mounting challenge on constitutional grounds.

Two recent court cases suggest the boundaries within which other courts will be wrestling with these questions in the months and years just ahead. In one of these cases (James v. Valtierra), the U. S. Supreme Court decided that, absent any evidence of racially discriminatory intent, a State law requiring prior approval of low-rent housing projects by community referendum does not, on its face, violate the Constitution. Noting California's long tradition of using referenda on a wide range of issues of public policy and the factual finding in the lower courts that legitimate economic considerations were involved in the referendum in question, the court concluded that there was no factual basis for a claim that the California law was "aimed at a racial minority." On the other hand, in another case presenting sharply contrasting circumstances (Kennedy Park Homes Association v. City of Lackawanna, N.Y.), a Circuit Court of Appeals recently held illegal certain zoning and other municipal restrictions used to block a subsidized low-income housing development in an all-white neighborhood. In that case the municipal practices were determined to be subterfuges and part of a pattern of racially motivated discrimination by municipal officials; the Supreme Court denied certiorari. In short, the one case did not present evidence of racially discriminatory intent; the other did.

If these cases define the outer limits, they also indicate the broad range within which cases will be pressed in the courts by those who would seek the mandate of judicial decree in setting aside local restrictions to achieve social purposes: for example, the right of a community to impose large-lot zoning, even in the absence of any racial discrimination, has lately been under court challenge.

If the infinitely varied individual questions that arise as our thousands of local governments hammer out their individual local land use policies are not appropriate for Federal determination -- and they are not -- neither would it be wise to allow a situation to develop in which they have to be hammered out in the courts. But they no doubt will end up in the courts if they are not satisfactorily dealt with outside the courts through timely and enlightened local action.

This administration will offer leadership in encouraging local and State governments and housing authorities to address this question creatively and imaginatively, and to address it with a keen understanding of the needs of those persons for whom the housing is being provided as well as the needs of the community at large.

Local and State authorities, for their part, should continue to respond constructively, pressing forward with innovative and positive approaches of their own. For it is they -- and beyond them, it is millions of Americans individually -- with whom the challenge primarily rests. We are dealing here in a realm in which Federal authority, while substantial in terms of enforcement, is very limited in terms of the many choices that must be made in each community.

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There are some who assume that the Federal Government has the power to do anything it wants -- or that they want. But we have maintained our freedom for nearly two centuries by insisting that the Federal Government's exercise of power not exceed its authority.

I believe in that principle. And because the authority of the Federal agencies is limited -- quite properly, I believe -- with respect to the essentially local and individual choices involved in local community planning, their power will be used in only limited ways.

This does not reduce the challenge to the States, the localities and the people; it heightens it. For the task of making our communities livable, not for some but for all -- of achieving our goals of decent homes and of open communities in a free and open society -- this task summons the best that is in each and every one of us, in a cause that touches our soul as a Nation. We cannot afford to fail. I believe that together we can succeed.

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An Analysis of the
Montgomery County Housing Stock

*Exhibit No. 11*STATEMENT OF THE WASHINGTON SUBURBAN INSTITUTE BEFORE THE
UNITED STATES COMMISSION ON CIVIL RIGHTS, JUNE 14, 1971The Suburban Institute

The Washington Suburban Institute is a private, non-profit research and educational organization which was founded in the fall of 1969 by an integrated, predominantly white group of Washington area citizens who had been active in a number of the local civil rights and anti-poverty campaigns of the 1960s. We felt it was time to move beyond the more dramatic aspects of these campaigns and begin a deeper examination of the institutionalized sources of the injustices in our society. Specifically, we defined our task as analyzing and generating strategies of action to change the institutional arrangements which perpetuate racism and poverty, and identifying the ways these arrangements hurt suburban whites as well as blacks. We have received several small foundation grants and a number of contributions from individuals to conduct this work. Most of our investigations have been focused on Fairfax County, Virginia, the suburb in which our office is located.

Unfortunately, we do not have anything particularly new to report about the existence or the extent of racial injustice here. The facts in Fairfax and in the other suburban sections of Washington and other metropolitan areas are already well known to anyone who reads the newspapers and wants to know them.

More Federal Activity, Less Equal Opportunity

We do believe we have learned something about the causes of the injustices. It has become evident to us that the operation of Federal

government programs in suburban communities has for some time been one of the major sources of the inequities which prevail in so many of them.

Housing and employment, the two main subjects of this hearing, and transportation, which connects housing to employment, are all facets of metropolitan community life which have become more and more directly regulated and indirectly influenced by Federal legislation and programs in recent years. This increase of Federal influence, however, has not brought with it an increase in equal treatment for all citizens. If anything, the extension of Federal influence in these and other areas of suburban life has served to perpetuate and strengthen existing patterns of injustice in these rapidly growing communities.

In the thirty years since 1940, the population of the American suburbs has nearly tripled until it now stands at 76 million people, four out of every ten Americans, twelve million more than the central cities themselves. The size and the character of this growth have been strongly influenced by Federal legislation. Because these Federal laws have most often been designed to support and expand the influence of institutions most responsible for social inequities in the first place, traditional patterns of exploitation and discrimination have been extended en masse by Uncle Sam into these huge "new" communities.

Fairfax County History

Fairfax County's history offers some particularly distressing examples of the way this process has worked. The County has not always been a suburb. Proliferating highways, shopping centers and expensive housing developments have not always dominated its landscape and economy. In 1920, before the onset of the depression, the New Deal, the World War, the postwar boom and the great enlargements of population and of Federal

activity which have accompanied them, Fairfax was essentially a rural community, an area of rolling farmland interspersed with small, self-contained towns. In 1920 it had a population of only 22,000 and had 2,253 farms. In 1928 it was the state's leading dairy county and the sixth in wheat production.

The changes since then have been tremendous. Agriculture declined, and the rate of population growth accelerated. In the 1940's, the total population grew from 41,000 to 99,000; in the 1950's to 275,000, and by 1970 to 465,000. By 1959 only 428 farms were left, of which only 180 were commercial. By 1969, 80% of the existing housing units had been constructed since 1950. And the housing is expensive. The average cost of a new home in the County is \$35,000, approximately 10% more than in the metropolitan area as a whole.

The County's transportation system has been radically altered as well. In 1928 the County communities of Alexandria, Mount Vernon, Falls Church, Vienna, Dunn Loring, Oakton, Fairfax, Herndon, Great Falls, McLean and Prospect Hill all had freight and passenger rail service to Washington. Only Alexandria does now. The County Chamber of Commerce bragged in 1928 that, "Of 34 communities and points shown on County maps ... railroads serve 22 of 34 points: three have two railroads; buses run through 18 of the 34 points on regular schedules ... in all, eleven transportation companies, with thirteen separate lines, serve Fairfax County with either steam or electric railway or bus facilities. Today, of course, the County's transportation "system" is totally dominated by the automobile; it is an exhausting struggle at best and an absolute impossibility at worst to get around the County without a car. A look at Route 50 or one of the other main arteries on a weekday morning will demonstrate that Fairfax is no exception to the recent Gallup Poll finding that 81% of Americans use their cars to get to work.

Population Composition

Along with the big changes in the size, housing, occupation and transportation of the County's population, there has been a significant shift in its racial composition. In 1921, 20% of the residents were black, but by 1970 this proportion had declined to 3.5%. This same 50-year period saw the overall racial composition of the Washington metropolitan area remain roughly static, while the proportion of black residents in the center city of Washington increased dramatically. The table below shows the changes in Fairfax and Washington.

Percent of Total Population That Was Black

<u>Year</u>	<u>District of Columbia</u>	<u>Fairfax County</u>
1920	25.1	20.7
1930	27.1	19.0
1940	28.2	15.9
1950	35.3	10.0
1960	54.8	5.4
1970	71.0	3.5

SOURCE: U.S. Census for years indicated.

Unequal Income and Shelter

On the surface the County today is a wealthy one. Its citizens had a median family income after taxes of \$15,234 in 1969, second highest of any jurisdiction in the Washington area and one of the highest in the country. This high income level, however, is not shared equally by everyone. While 72% of the white families get over \$10,000 a year, only 42% of the black families do. More than a quarter of the black families

have incomes under the \$6,000 level which the County's Planning Department defines as "low-income" for the community.

Considering this and the high cost of housing in the County, it was not surprising for a conservative estimate by the County government two years ago to show a demand for nearly 10,000 units of low-cost housing in the County which was not being met by either public or private construction. The County's 9,646 low-income families were thus forced into beyond-their-means, dangerous, unsanitary, or otherwise inadequate housing. The estimate would have been considerably higher if it had taken overcrowding into account in determining the need. This housing shortage still exists, and has probably gotten worse since 1969. It is by no means limited to black families, but black families are affected by it in numbers significantly over their proportion in the County's population as a whole.

A Federally-Created Community

The major changes in the life of Fairfax County over these recent years have been in large part due to the direct and indirect influence of the Federal government. The changes literally could not have happened without the FHA mortgage and the VA mortgage, the Federal highway programs, and the tremendous expansion of Federal civil service, Federal contract, and Federally inspired employment in both Washington and the County itself. The power which Federal laws and programs have to create social change is dramatically evident in the County. Unfortunately, the negative ways in which this power has been exercised are also quite evident.

The Federal government significantly shaped the creation of an almost totally new community in Fairfax County over the past 40 years. The population now is more than 18 times what it was in 1930. Very few people

in the County now were here then. The homes the people live in, the schools they attend, the roads they travel on, and the jobs they work are likewise almost completely new. Their aspirations, perceptions, and values, shaped by these facts of their lives, are also quite different from those of the County's people 40 years ago. The state of race relations, the equality of opportunity for all citizens, could have been significantly changed along with all the other momentous changes. But because the Federal government chose to side with and endorse inherently unequal, discriminatory patterns of development in the County, the last 40 years have produced an extension and amplification of traditionally racist practices into the institutions of this whole new community. A brief review of Federal housing, employment and transportation programs makes this evident.

HOUSING

As has been noted, the phenomenal growth of the housing supply in Fairfax County and other American suburbs could not have happened without the existence of Federal housing support programs. These began on a significant scale with the creation of the Federal Housing Administration in 1934. The National Housing Act which created FHA gave it the mission of establishing "a new mortgage instrument that will: a) afford ample security to private lending institutions, b) lower the cost of mortgage money to the borrower, and (c) eliminate the need for second mortgage financing."

Before the creation of the long-term amortized mortgage which the FHA pioneered on a mass scale, financing home ownership of the huge housing supply such as has been built in Fairfax County was unthinkable. The pre-depression straight-term mortgage frequently required a down

payment of 30% to 50%, had a maturity period of three to five years, and interest rates which commonly ranged up to 10%. The Housing Act of 1934 created FHA to stop losses, near chaos and severe curtailment of the housing industry caused by the failure of the straight-term mortgage in the depression. And in those terms, it has had some success. In terms of equality of opportunity, however, it has been a dismal failure.

The clear priority which the Act placed on aiding private financial institutions has remained the keystone of Federal housing policy ever since. FHA and subsequent Federal housing programs have used Federal insurance and guarantees to protect and expand the operations of private lenders and developers in the housing market.

The Housing Act of 1949, which formalized the still unmet national goal of "a decent home in a suitable living environment for every American family," stated explicitly that the goal was to be met this way: "(1) private enterprise shall be encouraged to serve as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need." Beyond that, public housing was to serve a limited portion of the market where private enterprise was unable or unwilling to make a profit even after Federal subsidization.

A Commitment to Racism

When the Federal government committed itself to supporting the private financing and building institutions as the mechanism for meeting the nation's housing needs, it also committed itself to these institutions' deep-seated assumptions about where and how and for whom the housing should be built.

In order to establish its insured mortgages as reliable in the

eyes of the financial institutions, FHA adopted those institutions' conservative, inherently biased assumptions about which loans are safe.

The official 1969 Virginia Real Estate Manual sums up some of these assumptions: "The location of the property is of prime consideration to any lender. The stability of the neighborhood and other influences have considerable affect on the desirability of a loan ... the credit rating of a borrower is another prime factor in the consideration."

(Emphasis added.) The first corollary to these assumptions has always been that racial integration of a neighborhood would unfavorably affect its "stability." The second has been that black people are bad credit risks.

As the Commission knows, the FHA formally endorsed this racist concept for many years. As late as 1949 one of its manuals recommended the use of restrictive covenants to maintain residential segregation, and some earlier editions even provided a model restrictive covenant for those who didn't know how one should read.

In the supposedly more enlightened period since then, the public posture of FHA and the other Federal housing agencies has not been so overtly racist, but their practices have continued to produce the same practical results. According to the Washington Post, the report which the Commission will soon release on HUD says that "FHA appraisers are still recording -- for bank purposes, not for antidiscrimination purposes -- whether a prospective FHA-mortgage house is in a neighborhood marked by 'change in income and social characteristics.'"

This is the process by which Federal involvement in the housing market has significantly expanded the racism, discrimination and injustice in the market's operations. Gunnar Myrdal, in An American Dilemma, his classic study of American race relations, put it this way nearly 30 years ago:

It is one thing when private tenants, property owners, and financial institutions maintain and extend patterns of racial segregation in housing. It is quite another matter when a Federal agency chooses to side with the segregationists. This fact is particularly harmful since the FHA has become the outstanding leader in the planning of new housing. It seems probable that the FHA has brought about greatly increased use of all sorts of restrictive covenants and deed restrictions, which are the most reliable legal means of keeping Negroes confined to their ghettos. It may even be that those income groups of the white population which are particularly served by the FHA formerly lived in areas which were much less covered by such restrictions. (These) recent government policies have, on the whole, served as devices to strengthen and widen rather than to mitigate residential segregation.

These policies were "recent" when Myrdal wrote this, but by now they are old hat. Since then, as the National Committee Against Discrimination in Housing has pointed out, "FHA and the Veterans Administration together have financed more than \$120 billion worth of new housing since World War II. Less than two percent of it has been available to non-white families, and much of that on a strictly segregated basis."

Impact in Fairfax

In Fairfax County, the impact of these Federal housing activities has been tremendous. Since FHA's inception in 1934 the Veterans Administration's entry into the housing guarantee field in 1944, these two agencies have together insured and guaranteed more than a billion and a quarter dollars worth of mortgage loans, covering over 70,000 single-family and 10,000 multi-family units of housing in Fairfax County. The VA's unequal opportunity policies and practices have essentially mirrored FHA's. The vast majority of this housing has been located in rigidly segregated neighborhoods, available to whites only.

The Institute has not located figures to show the share of the

total home financing business which was covered by FHA and VA for the whole 1934-1950 period. From 1965 to 1968 the FHA-VA portion of the County mortgage volume was 30%. Realtors have told us that the Federal share of the County's mortgage market has roughly reflected the national picture over the years, fluctuating somewhere between 20% and 50% of the total, depending on financial conditions at the time.

Even considering that some of the units and dollars in these figures represent homes which have been refinanced one or more times to different buyers, this represents a huge volume of Federally financed segregation in our suburb, as in so many others.

Nor has the damage been limited to the portions of the market directly covered by FHA and VA insurance and guarantees. The appraisal values, interest rates, terms, and credit standards set by FHA and VA for their mortgages are important factors in what values, terms, rates and standards will be set for conventional mortgages in the County during the same period. FHA's specific appraisments of a particular property are widely accepted as reliable by County lending institutions and real estate brokers.

Thus the Federal laws and Federal agencies which made possible the stabilization and expansion of the mortgage credit market and the huge growth of housing in Fairfax County also guaranteed that these would happen on a discriminatory, exclusionist basis. The results are now plain for all to see. As has been mentioned, the average price of a new home in the County is \$35,000 and there is a shortage of nearly 10,000 units of decent, affordable housing for the County's low-income families, not to mention the thousands more families which metropolitan housing practices have forced into the deteriorating, overcrowded, dangerous housing in the central city of Washington.

Federally-Created Fears

Even the limited steps which have been taken to alleviate this situation through Federal low- and moderate-income projects have resulted in more segregation and ghettoization. Of 1,079 units of housing in Fairfax County last November built or leased under the 221(d)(3), 235, 236, and public housing programs, 743 (69%) are located in or within half a mile of existing black communities. With the Federal government thus acquiescing in the use of these programs to further entrench the pattern of ghettoization, it is little wonder that nearby residents in Fairfax County and Montgomery County and other communities like them all over the country have come out to express their fears of "ghettos" and what their presence will do to the value of their property. Their fears should not surprise us. They are only the same fears which the Federal government itself has promoted over the last 40 years. Why should we expect more of individual citizens than we expect of the Federal government? Their fears are only a reflection of the racist cast which Uncle Sam himself has imposed on the whole suburban housing market. They will change when it changes.

EMPLOYMENT

A great many of the new people who have come to Fairfax County in the years of its tremendous growth have come because of the job opportunities created directly and indirectly by the Federal government's presence in Washington. A few years ago, Fairfax was known as a "bed-room" suburb for people working in the city itself. There are still thousands of such people, and lately they have been joined by still more people who also work in the County at one of the Federal installations which has been decentralized outward, or at one of the many

R & D or building contractors which do most of their business with the government.

In employment, as in housing, however, the great expansion of Federal activity has not been beneficial to all citizens. Figures compiled by the U.S. Civil Service Commission in 1967 and 1969 show that while there have been some minor gains in recent years, black Federal employees in the Washington metropolitan area remain overwhelmingly concentrated in the lowest levels of the Federal service. Table II, on the next page, summarizes these figures.

TABLE II

Negro Federal Employment, Washington Metropolitan Area
November 1967 and November 1969

Pay Category	Percent of Negro Employees	
	1967	1969
<u>Total, all pay plans</u>	<u>25.8</u>	<u>26.7</u>
Total, General Sched. or similar	18.9	20.4
GS-1 thru 4	46.2	51.5
GS-5 thru 8	24.3	28.7
GS-9 thru 11	9.4	12.4
GS-12 thru 18 (1967)	2.5	
GS-12 thru 13 (1969)		14.4
GS-14 thru 15 (1969)		2.0
GS-16 thru 18 (1969)		1.3
<u>Total Wage Board</u>	<u>54.7</u>	<u>55.8</u>
Up thru \$4,499 ('67) or \$5,499 ('69)	93.1	88.1
Above thru \$6,499 ('67) or \$6,999 ('69)	80.4	80.5
Above thru \$7,999 (both years)	42.6	66.7
\$8,000 and over (1967)	11.2	
\$8,000 thru \$8,999 (1969)		37.1
\$9,000 thru \$9,999 (1969)		26.8
\$10,000 thru \$13,999 (1969)		11.2
\$14,000 thru \$17,999 (1969)		7.1
\$18,000 and over (1969)		36.4
<u>Total Postal-Field Services</u>	<u>59.3</u>	<u>59.6</u>
PFS-1 thru 4* ('67), 1 - 5 ('69)	63.1	64.0
PFS-5 thru 8 ('67), 6 - 9 ('69)	41.4	44.5
PFS-9 thru 11 ('67), 10 - 12 ('69)	9.7	12.1
PFS-12 thru 20 (1967)	4.8	
PFS-13 thru 16 (1969)		6.4
PFS-17 thru 19 (1969)		4.3
PFS-20 thru 21 (1969)		0.0
<u>Total Other Pay Plans</u>	<u>6.7</u>	<u>6.8</u>
Up thru \$4,499 (1967)	24.2	
\$4,500 thru \$6,499 (1967)	29.1	
Up thru \$6,499 (1969)		17.8
\$6,500 thru \$7,999 ('67), \$9,999 ('69)	13.7	12.8
\$8,000 and over (1967)	2.8	
\$10,000 thru \$13,999 (1969)		5.4
\$14,000 thru \$17,999 (1969)		3.2
\$18,000 thru \$25,999 (1969)		2.5
\$26,000 and over (1969)		1.6

SOURCE: U.S. Civil Service Commission, 1968 and 1970

*Includes 4th class Postmasters and Rural Carriers

Employment Discrimination in Fairfax

The Fairfax County sites of Federal employment have the same basic discriminatory employment pattern as Federal offices throughout the region. Both this year and last the Suburban Institute asked all of the known Federal civilian installations in the County for information on the number and grade level of their Negro employees as compared with all employees. The Defense Department, which is reportedly the largest Federal employer in the County with over 7,000 civilian employees, has consistently failed to produce this public information, despite repeated requests by the Institute extending over a period of 15 months. Of the other agencies with more than ten employees stationed in the County, the General Services Administration and the Interior Department, each of which employes about 450 people in Fairfax, reported they did not have the statistics on the County level. The reports from the other agencies contacted are shown in Table III on the next page.

TABLE III

Negro Employment in Federal Offices
Fairfax County, Virginia, 1970

AGENCY	Internal Rev. Service (Treas. Dept.)			Post Office Franconia Warehouse			Office of Emergency Preparedness			Dept. of Commerce Bur. Stds.		
	#	#N	%N	#	#N	%N	#	#N	%N	#	#N	%N
1 thru 4	12	0	0	3	1	33%	2	0	0	14	18	13%
5 thru 8	14	1	7%	12	11	92%	10	1	10%	123	21	17%
9 thru 11	49	0	0	0	0	0	12	4	33%	32	4	13%
12 thru 18	34	0	0	2	1	50%	23	2	9%	32	1	3%
TOTAL	109	1	1%	17	13	76%	47	7	15%	328	44	13%

AGENCY	Post Office Department (**)			Department of Defense			G.S.A. and Dept. of Interior			TOTAL, all reporting agencies		
	#	#N	%N	#	#N	%N	#	#N	%N	#	#N	%N
1 thru 4	71	43	61%							229	62	27.1%
5 thru 8	104	118	11%							1203	152	12.6%
9 thru 11	40	1	3%							133	9	6.8%
12 thru 18	9	0	0							100	4	4.0%
							GSA Int.					
TOTAL	1164	162	14%	7,241	('69)		484	418		1465	227	15.5%

SOURCE: Reports to Suburban Institute from individual agencies.

* Includes General Schedule, Postal Field Service, and Wage Board, as divided in 1967 Civil Service Commission data, Table II.

** Includes employees of Post Offices in the City of Alexandria; this is likely to increase the number and percentage of Negro employees in the figures.

A similar discriminatory employment pattern -- in which black workers are concentrated in the lowest-paid, lowest-status jobs -- also prevails in the large sector of the County's economy which depends on the Federal government for its existence. Uncle Sam is the major customer of over 85% of the County's research and technical manufacturing industries, which are the fastest expanding sector of industry in the County, or at least were until some of the recent cut-backs in this field. The government is also the major customer of roughly one-third of all the other industries in the County, according to the recent Hammer, Greene, Siler Associates' Industrial Analysis of Fairfax County. Approximately 60% of all the black workers employed in the County in 1966 were employed by Federal contractors. Figures which the U.S. Equal Opportunity Commission supplied to the Institute for that year showed that they constituted 11.6% of the total work force of the Federal contractors. The vast majority of these workers (77.7%) were holding blue collar jobs. They held 32.5% of all the blue collar jobs, but only 4.5% of the craftsman positions and 3% of the white collar positions in this major, Federally dependent segment of the County employment market.

The Federal Failure

Here again is a situation in which the Federal government had the chance to create an equal opportunity employment climate in this booming new suburban community but failed to do so. Practically none of these Federal jobs existed when the County began to grow 40 years ago. If it had wanted to, and if it had sufficient moral or political courage, there is no question but what the Federal government could have insured that this vast expansion of the employment market in the County

benefitted all citizens equally. A rigorous enforcement of anti-bias measures, careful attention to subtle discriminatory factors such as the design and content of qualifying tests, and the provision of training for people victimized by previous discrimination would all be needed to make that vision a reality. The difficulty or complexity of the task has not kept the government from undertaking other, far more costly and questionable ventures. Instead of taking the leadership for equal opportunity, however, the Federal government has actually insured that discriminatory employment patterns will be perpetuated and expanded into Fairfax and other new areas of Federal employment.

The opportunity still exists. Fairfax County is not finished growing, and the Federal government's role in its growth will continue to be large. A recent report by George Shermer & Associates pointed out that, "While private employment in the (metropolitan) area is expected to grow much faster than government, the main 'export' industry will continue to be the Federal government. The principal growth in private employment will be in Federal government-related industry such as research and development, associated specialized manufacturing, and printing and publishing." The same study found that the Federal employment trend was strongly toward decentralization into the suburbs. "In 1963, 73% of the (Federal) jobs were in D.C. By 1967 that proportion had dropped to 64%. While D.C. jobs increased in number, 87% of all new Federal jobs were located in the suburbs."

The Commission's own recent report on Federal installations and equal housing opportunity recognized that employment opportunities for minority group members were restricted by the lack of housing opportunities when Federal offices relocated into suburban locations. The report recommended that new Federal site selection criteria include

demonstration by the community in question that there is a sufficient supply of housing available to low-income and minority group personnel.

Continuing Evasions

Less than three weeks ago, however, a Federal attorney argued successfully in court that the U.S. Geological Survey move to Reston in Fairfax County should be allowed to proceed despite the fact that housing is not available now and is not firmly committed for Survey employees in the lower grade levels where black workers have been concentrated by Federal employment discrimination.

The logic in the government's court presentation was something out of Alice In Wonderland, a depressing demonstration of how far the Federal establishment will go to avoid living up to its own equal opportunity guidelines. According to the Washington Post, the attorney argued that Gulf-Reston could not determine the number of low- and moderate-income units needed until Geological Survey employees are questioned. Then he said the questioning could not begin until the construction contract for the headquarters is signed. He also argued, in 1971, that the government shouldn't have to live up to an equal opportunity pledge made to its black workers in 1969 because the Reston land for the offices was acquired in 1966, when the government was less progressive than it is now.

As the Queen told Alice, "The rule is jam tomorrow, and jam yesterday -- but never jam today."

If this attitude of evasion and erosion of equal opportunity commitments continues to prevail (and there is every indication that it will) there is no doubt that the growth of Federal and Federally-inspired employment in the County will be as thoroughly tainted by the cancer of

racism as the employment growth of the last 40 years.

TRANSPORTATION

Without reliable, affordable transportation, people cannot get from their housing to their employment. This is particularly true in the suburbs, which have been purposely built so that industrial and commercial areas are segregated by zoning from residential areas. Federal transportation policies over the years, have played a significant role in insuring that suburban employment centers are for most practical purposes completely inaccessible except by private automobile.

Once again, this is a situation in which the Federal government played a central, crucial part in the development of the transportation system in suburbs such as Fairfax over the past 40 years, and once again, the system which resulted from this Federal involvement is one which does not serve the needs of all citizens.

Jobs Moving to Suburbs

The importance of the suburban transportation system to the job opportunities of low-income and minority group citizens of the metropolitan region lies chiefly in the fact that the great majority of the areas's new jobs are opening up in the suburbs. Figures released by the Bureau of Labor Statistics last April showed these developments in the last decade:

* During the decade, the number of jobs in the District increased by 26%, while the number of jobs in the suburbs increased 118%;

* The number of new suburban jobs exceeded new District jobs in every category except government employment, and in government employment the rate of suburban job growth (126%) greatly exceeded the

District rate (35%);

* In one major category, trade, District jobs actually declined; retail and wholesale employees in Washington dropped from 89,400 to 87,400 from 1960 to 1970, while suburban retail and wholesale jobs rose from 68,900 to 149,900 in the same period;

* Overall, the District dropped from having 72% of the metro area's jobs in 1960 to having 59% in 1970, and there are no signs that the trend is changing.

Because of the history of Federal support for highways as opposed to any other form of transportation, suburban communities such as Fairfax are now literally built around the automobile. I have pointed out that Fairfax once had a balanced transportation system in which rail and bus passenger service was readily available to every major community or focal point in the County. Since then, however, millions of Federal dollars and a great deal of bureaucratic pressure has gone into creating a new transportation system based entirely on the automobile. Today there is no rail service in the County, and the passenger bus service is expensive, slow and inconvenient.

Federal Highway Investment

Since 1956 over \$147 million in State and Federal highway funds has been spent in Fairfax County for construction of Interstate, primary and secondary roads. The Virginia Department of Highways has been unable to give us a breakdown between Federal and state funds, but it is certain that the Federal portion considerably exceeds \$100 million. This is a massive public investment in a transportation system which only some members of the public are able to use.

The Commission's report on Federal installations and equal housing

opportunity noted that while nearly 80% of all American households owned one or more cars, only 57% of families with incomes less than \$5,000 owned a car in 1967 and only one in four owned a reliable car less than five years old. In Fairfax and Washington, where discrimination in employment has meant that Negroes as a group have less per capita income than whites, this means Negroes also have fewer automobiles. The Metropolitan Washington Council of Governments released figures last year which showed that 13% of the black families in Fairfax County has no car while only 4% of the white families did. 59% of black families had only one car, while 42% of white families did. In the District, 49% of the black families had no car and 41% had only one. White figures were very similar (44% and 44%).

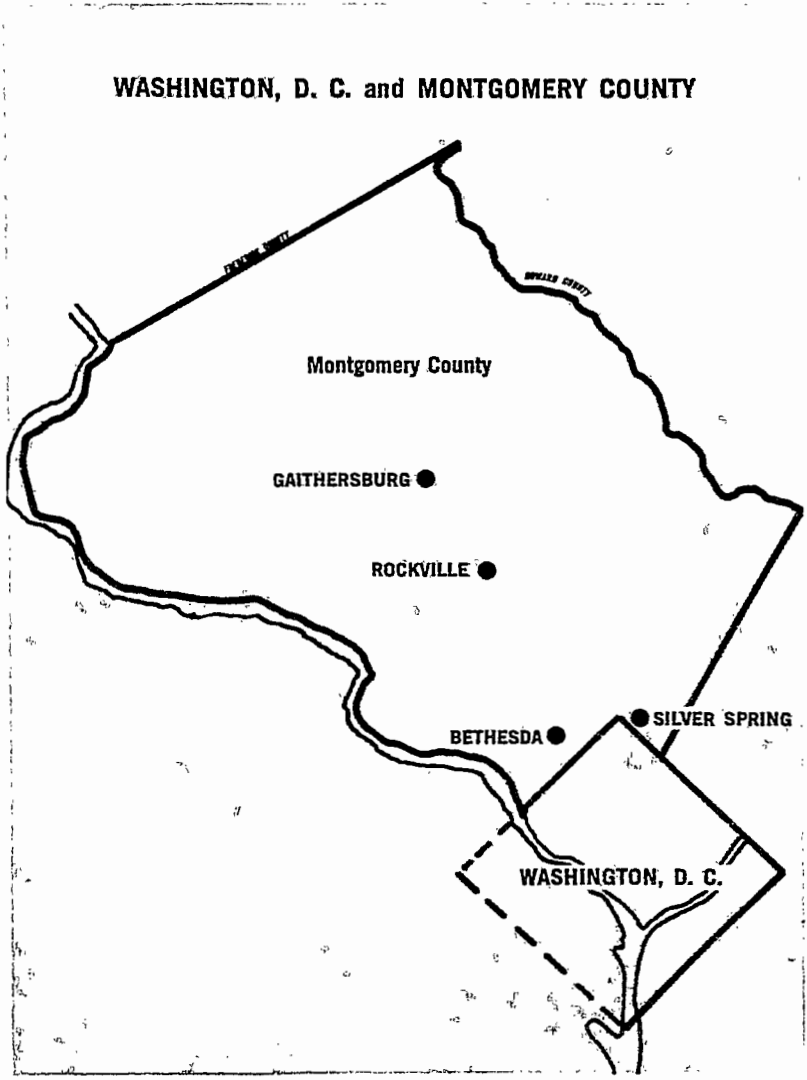
It is said that the metro system, if it is ever allowed to be built by the highway interests in Congress, would alleviate the severe disadvantage at which the suburban highway transportation systems now place black and low-income white job-seekers who live in both the District and the suburbs.

But the metro is actually as much a product of the suburban highway system as anything else in the transportation picture. In the suburban areas, it is clearly designed to move suburban residents to jobs and shopping downtown rather than vice versa. It assumes most people will be able to get to and from the metro stations in cars. The 11,000 parking places around metro stations in Virginia are hardly designed for use by Washington residents coming out to their jobs in the suburbs. The metro stations in Fairfax are not placed near the major industrial parks and other employment centers, but in spots where they can serve as collectors of cars from the major residential areas. The proposed Route 7 station, for instance, is halfway between

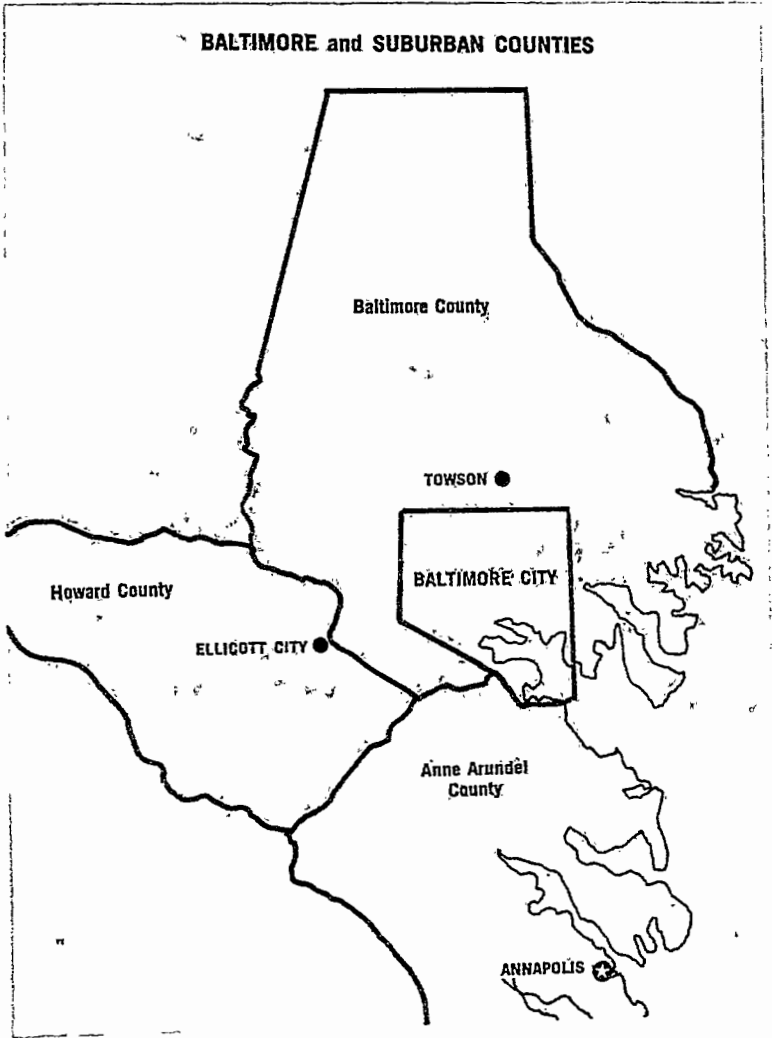
Tyson's Corners and Seven Corners and within walking distance of neither.

Fairfax County's new transportation system, financed and influenced largely by the Federal government, adds a further injurious insult to the injuries already heaped on black and low-income residents of the Washington metropolis by Federal housing and employment practices.

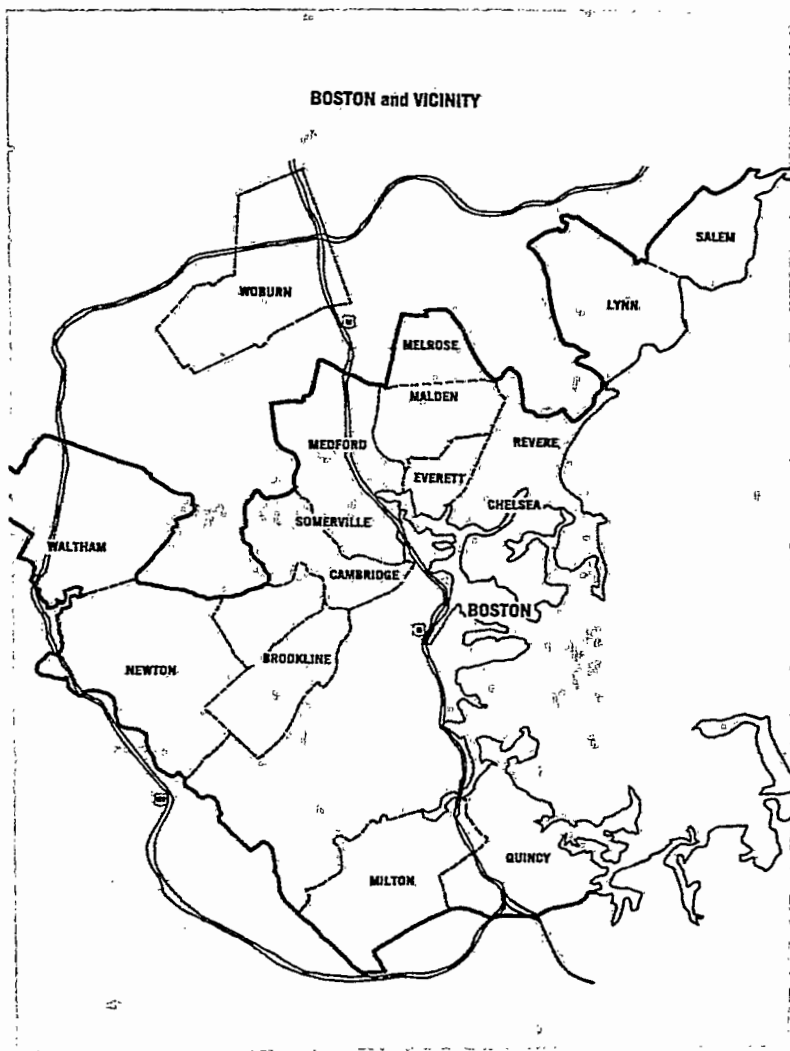
Map of Montgomery County



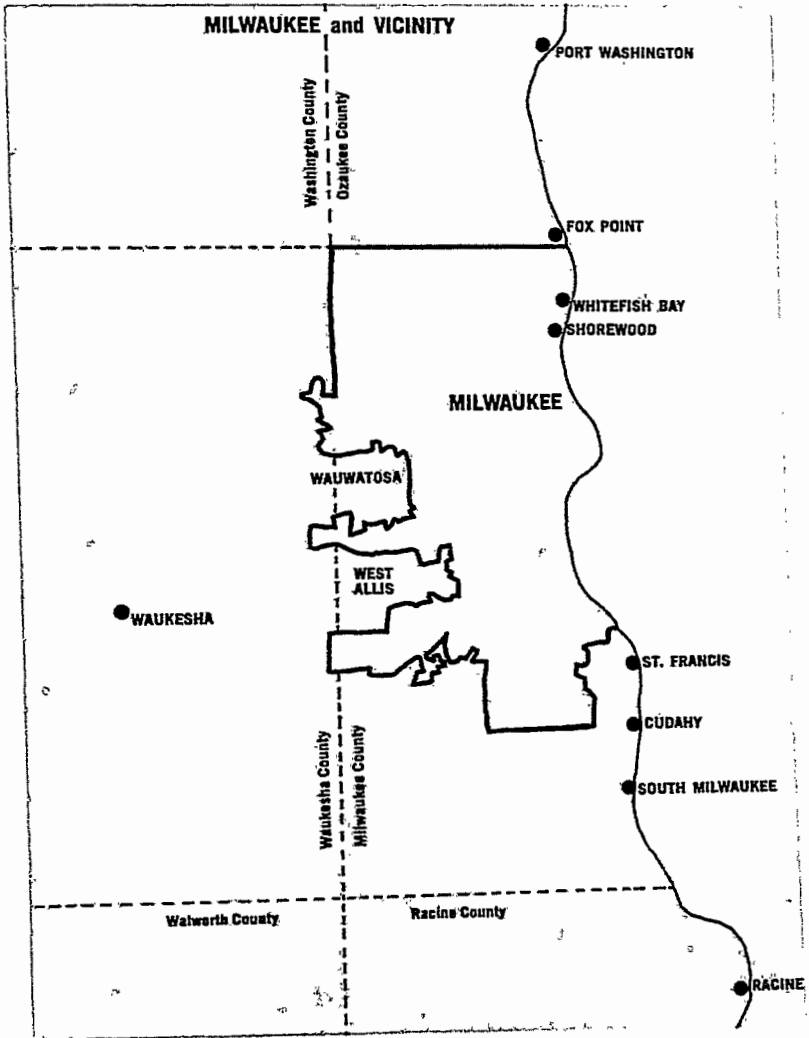
Map of Baltimore Metropolitan Area



Map of Boston



Map of Milwaukee



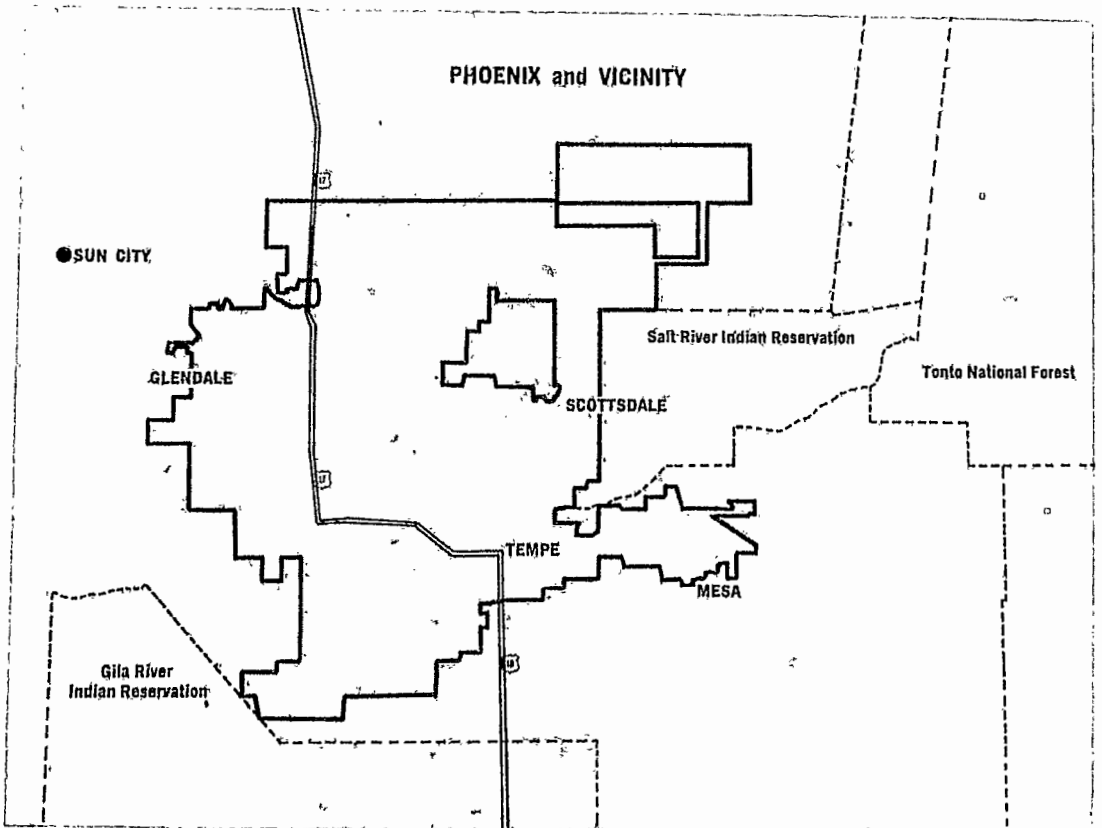


Exhibit No. 18

40B Mass. Gen. Laws Ann.
8820-23

Massachusetts "Anti-Snob Zoning" Statute

LOW AND MODERATE INCOME HOUSING [NEW]

Caption added by St. 1969, c. 774, § 9.

§ 20. Definitions:

The following words, wherever used in this section and in sections twenty-one to twenty-three, inclusive, shall, unless a different meaning clearly appears from the context, have the following meanings:

"Low or moderate income housing", any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization

"Uneconomic", any condition brought about by any single factor or combination of factors to the extent that it makes it impossible for a public agency or nonprofit organization to proceed in building or operating low or moderate income housing without financial loss, or for a limited dividend organization to proceed and still realize a reasonable return in building or operating such housing within the limitations set by the subsidizing agency of government on the size or character of the

development or on the amount or nature of the subsidy or on the tenants, rentals and income permissible, and without substantially changing the rent levels and units sizes proposed by the public, nonprofit or limited dividend organizations.

"Consistent with local needs", requirements and regulations shall be considered consistent with local needs if they are reasonable in view of the regional need for low and moderate income housing considered with the number of low income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if such requirements and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Requirements or regulations shall be consistent with local needs when imposed by a board of zoning appeals after comprehensive hearing in a city or town where (1) low or moderate income housing exists which is in excess of ten per cent of the housing units reported in the latest decennial census of the city or town or on sites comprising one and one half per cent or more of the total land area zoned for residential, commercial or industrial use or (2) the application before the board would result in the commencement of construction of such housing on sites comprising more than three tenths of one per cent of such land area or ten acres, whichever is larger, in any one calendar year; provided, however, that land area owned by the United States, the commonwealth or any political subdivision thereof, the metropolitan district commission or any public authority shall be excluded from the total land area referred to above when making such determination of consistency with local needs.

"Local Board", any town or city board of survey, board of health, board of subdivision control appeals, planning board, building inspector or the officer or board having supervision of the construction of buildings or the power of enforcing municipal building laws, or city council or board of selectmen.

Added by St. 1969, c. 774, § 1.

1969 Enactment. St. 1969, c. 774, § 1, was approved Aug. 23, 1969. Section 3 was a severability provision.

St. 1969, c. 774, § 3, provided: "The provisions of this act are severable and, if any provision shall be held unconstitutional,

al by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions."

§ 21. Low or moderate income housing; applications for approval of proposed construction; hearing; appeal

Any public agency or limited dividend or nonprofit organization proposing to build low or moderate income housing may submit to the board of appeals, established under section fourteen of chapter forty A, a single application to build such housing in lieu of separate applications to the applicable local boards. The board of appeals shall forthwith notify each such local board, as applicable, of the filing of such application by sending a copy thereof to such local boards for their recommendations and shall, within thirty days of the receipt of such application, hold a public hearing on the same. The board of appeals shall request the appearance at said hearing of such representatives of said local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue permits or approvals as any local board or official who would otherwise act with respect to such application, including but not limited to the power to attach to said permit or approval conditions and requirements with respect to height, site plan, size or shape, or building materials as are consistent with the terms of this section. The board of appeals, in making its decision on said application, shall take into consideration the recommendations of the local boards and shall have the authority to use the testimony of consultants. The provisions of section seventeen of chapter forty A shall apply to all such hearings. The board of appeals shall render a decision, based upon a majority vote of said board, within forty days

after the termination of the public hearing and, if favorable to the applicant, shall forthwith issue a comprehensive permit or approval. If said hearing is not convened or a decision is not rendered within the time allowed, unless the time has been extended by mutual agreement between the board and the applicant, the application shall be deemed to have been allowed and the comprehensive permit or approval shall forthwith issue. Any person aggrieved by the issuance of a comprehensive permit or approval may appeal to the court as provided in section twenty-one of chapter forty A.

Added by St.1969, c. 774, § 1.

1969 Enactment. St.1969, c. 774, § 1, was approved Aug. 21, 1969. Section 3 was a severability provision.

§ 22. Appeal to housing appeals committee; procedure; judicial review

Whenever an application filed under the provisions of section twenty-one is denied, or is granted with such conditions and requirements as to make the building or operation of such housing uneconomic, the applicant shall have the right to appeal to the housing appeals committee in the department of community affairs for a review of the same. Such appeal shall be taken within twenty days after the date of the notice of the decision by the board of appeals by filing with said committee a statement of the prior proceedings and the reasons upon which the appeal is based. The committee shall forthwith notify the board of appeals of the filing of such petition for review and the latter shall, within ten days of the receipt of such notice, transmit a copy of its decision and the reasons therefor to the committee. Such appeal shall be heard by the committee within twenty days after receipt of the applicant's statement. A stenographic record of the proceedings shall be kept and the committee shall render a written decision, based upon a majority vote, stating its findings of fact, its conclusions and the reasons therefor within thirty days after the termination of the hearing, unless such time shall have been extended by mutual agreement between the committee and the applicant. Such decision may be reviewed in the superior court in accordance with the provisions of chapter thirty A.

Added by St.1969, c. 774, § 1.

Housing appeals committee, department of community affairs, see c. 23B, § 5A. 1969 Enactment. St.1969, c. 774, § 1, was approved Aug. 21, 1969. Section 3 was a severability provision.

§ 23. Hearing by housing appeals committee; issues; powers of disposition; orders; enforcement

The hearing by the housing appeals committee in the department of community affairs shall be limited to the issue of whether, in the case of the denial of an application, the decision of the board of appeals was reasonable and consistent with local needs and, in the case of an approval of an application with conditions and requirements imposed, whether such conditions and requirements make the construction or operation of such housing uneconomic and whether they are consistent with local needs. If the committee finds, in the case of a denial, that the decision of the board of appeals was unreasonable and not consistent with local needs, it shall vacate such decision and shall direct the board to issue a comprehensive permit or approval to the applicant. If the committee finds, in the case of an approval with conditions and requirements imposed, that the decision of the board makes the building or operation of such housing uneconomic and is not consistent with local needs, it shall order such board to modify or remove any such condition or requirement so as to make the proposal no longer uneconomic and to issue any necessary permit or approval; provided, however, that the committee shall not issue any order that would permit the building or operation of such housing in accordance with standards less safe than the applicable building and site plan requirements

of the Federal Housing Administration or the Massachusetts Housing Finance Agency, whichever agency is financially assisting such housing. Decisions or conditions and requirements imposed by a board of appeals that are consistent with local needs shall not be vacated, modified or removed by the committee notwithstanding that such decisions or conditions and requirements have the effect of making the applicant's proposal uneconomic.

The housing appeals committee or the petitioner shall have the power to enforce the orders of the committee at law or in equity in the superior court. The board of appeals shall carry out the order of the hearing appeals committee within thirty days of its entry and, upon failure to do so, the order of said committee shall, for all purposes, be deemed to be the action of said board, unless the petitioner consents to a different decision or order by such board.

Added by St.1969, c. 774, § 1.

Housing appeals committee, department of community affairs, see c. 23B, § 5A. 1969 Enactment. St.1969, c. 774, § 1, was approved Aug. 21, 1969. Section 3 was a severability provision.

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Exhibit No. 19*

Phoenix 1990 Plan

Exhibit No. 20

Testimony of
H. Jackson Pontius, Executive Vice-President
National Association of Real Estate Boards

Hearing Before
The United States Commission on Civil Rights, Washington, D.C.
July 14, 1971

Thomas Jefferson Memorial Auditorium, Department of Agriculture
Washington, D.C.

Mr. Chairman:

My name is H. Jackson Pontius, and I am here to testify and answer questions relating to the experiences, policies, and actions of the National Association of Real Estate Boards in combatting racial discrimination in housing.

The president of the National Association of Real Estate Boards, Bill N. Brown, Albuquerque, New Mexico, expresses his regrets at not being able to appear here today because of previous commitments. He asked me, as the executive officer of the National Association, to represent him on this occasion.

Beginning in 1963 as executive vice-president of the California Real Estate Association, I was instrumental in establishing an equal rights program aimed to achieving voluntary compliance with a Code of Practices drawn up and adopted by all the local realty boards within the state. A copy of the Code is included in the exhibits I am leaving with you today.

In essence it declares that as a member of the local board of Realtors the member will disregard race, religion, and national origin as a factor in his services to clients treating everyone equally.

The National Association of Real Estate Boards, is made up of approximately 94,000 Realtor members representing in excess of 500,000 real estate licensees who belong only by joining a local board of Realtors. There are 1,590 such member boards throughout the nation.

A number of boards in other states have set forth programs expressing the equal opportunity in housing concept. Among the exhibits you will find the plan from the Illinois Real Estate Association and the Real Estate

(more)

Board of Greater Baltimore which is also supporting a series of radio announcements in support of their program and as a guide for buyers, sellers, landlords and tenants, and community neighborhood associations. The St. Louis Board of Realtors, in working with the Department of Justice in a matter relating to several members alleged to have violated the Civil Rights Act, has offered as a part of a consent decree the code of practices concept, a program which we are advocating to the state and member boards.

Ours is a voluntary organization, as are most trade associations; members pledge to uphold a rather strict Code of Ethics when they join the local board, the state association, and National Association. Authority to discipline an individual member, however, rests with the local board, not with the state or national.

The National Association, however, may discipline member boards by revoking the charter of the local board for failure to uphold the Code of Ethics, policies, and practices of the National Association. It is my hope that we can implement the equal rights commission concept among each of our member boards nationwide. This does require, however, a tremendous amount of financing. However, the assistance of the National Association which could certainly serve the best interest of the public and the administration in the field of housing and management of low-income properties could be expedited were we to be able to augment our income with other than our minimal dues structure through foundation or federal grants. We have sought out the aid of several foundations who mistakenly have considered the National Association prejudiced in this cause and therefore have failed to fund foundation grants to further support the efforts of the Association to encourage and develop greater voluntary efforts in providing housing for low-income and minority groups. It is RECOMMENDED that:

1. That the National Association activity be supported through a federal or private fund to encourage Realtors and builders in rehabilitating existing properties.

(more)

2. That the concept of management of low-income properties be further developed through the services of the National Association which offers the services of its members through member boards and through the institutes, societies, and councils, representing managers, appraisers, counselors, investors, and brokers knowledgeable in promotion and sales.

3. Encourage legislation to provide incentives to the owners of multiple units which could be rehabilitated and not be permitted to become abandoned.

4. Support legislation which would create greater security measures for the occupants of multiple-unit family structures. There are presently many families living in fear of possible bodily injury and destruction of property as a result of limited security measures.

5. This Commission, if it has not already researched the problem of overcrowding, give immediate attention to the alleged overcrowding which is not necessarily due in many instances to a lack of facilities but due to the desire of many individuals to stretch income to provide many of the fringe benefits of life and thereby neglect the necessity of proper housing accommodations.

For example, it is alleged that some families will display a W2 income tax form representing earnings of less than \$7,000 annually, when in reality, more than one party in the family is working and the family could afford better housing facilities. It is further alleged that in some instances where one family obtains a housing facility, they are soon joined by one or more additional families creating excessive overcrowding, deterioration of the property, unsanitary conditions, and a major security problem.

6. A visual aids program be made available to focus attention to business men throughout the nation, to service clubs, and other organizational meetings that housing conditions as they exist in some areas can be improved and enhance economic business atmosphere in the respective communities. The movie, "New Fires in Watts," is an exciting

(more)

visual aid developed by an organization known as Community Pride. This was somewhat of a self help program which I believe has become defunct due to lack of sufficient finances.

It is my plea to have the opportunity to display to the Commission members the two movies, "A House to Live In," developed by the Realtors of California, and "New Fires in Watts," to share with the members of the Commission what has been accomplished in the area of visual aids and the tremendous potential that exists through a graphics program.

I appreciate and express on behalf of the National Association of Real Estate Boards this opportunity to appear before the Commission.

* * * * *

**MATERIALS ATTACHED TO THE STATEMENT OF THE NATIONAL
ASSOCIATION OF REAL ESTATE BOARDS****

EQUAL RIGHTS HANDBOOK

for
Member Real Estate Boards

Published by

CALIFORNIA REAL ESTATE ASSOCIATION

520 South Grand Avenue, Los Angeles, California 90017

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Published May, 1965
Revised November, 1969

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Foreword

The California Real Estate Association dedicates this handbook in the spirit of earnestly seeking equal opportunity for all in the acquisition and use of real estate in California.

The Equal Rights Committee of CREA has prepared this handbook for use by local boards to give them guidance in this field, and recommends implementation of the policies and guidelines contained herein, so that a unified, positive policy may prevail throughout the State among our Realtors and so that we may set a good example in this sensitive field.

CREA reaffirms its belief that voluntary efforts to help resolve minority housing problems, such as set forth in this handbook, will genuinely lead the way toward more meaningful, harmonious and lasting progress than could ever be achieved through force of government action.

“UNDER ALL LIES THE LAND.” Realtors are ever cognizant of the profoundness of that simple statement; also the significance of land use in America. Equal opportunity in its acquisition and use, parallel with continuance of American freedoms, is fundamental and consistent with CREA policies. Realtors will carry this banner forward, along with the torch of freedom and liberty.

CREA Equal Rights Committee Functions

The California Real Estate Association believes that the only long term gains for equal housing opportunities will be through voluntary action of the housing industry and the public. It was to implement such belief that formation of Equal Rights Committees within member boards of CREA was recommended in 1963. This handbook is prepared as a guide for the use of local board Equal Rights Committees.

It is a basic premise of the committee in its work that mutual cooperation and voluntary acceptance of responsibility by the community in solving current minority housing problems are the keys to any meaningful gains toward a permanent solution. The committee is organized to function for education, information, policy recommendations and guidelines. It is not organized to support or oppose any legislation.

It is suggested that each member board's Equal Rights Committee implement the goals and purposes of the CREA committee.

Purposes of CREA Equal Rights Committee:

1. Inform and assist members of the Association in their understanding and responsibilities in giving equal services to all clients.
2. Inform and assist member real estate boards in their understanding of CREA policy regarding their responsibility in evaluating applicants for Realtor membership without regard to race, color, religion or national origin.
3. Inform and assist member boards in understanding how to meet with leaders of responsible groups or organizations for the purpose of establishing a cooperative and harmonious relationship in the fields of property rights and other individual human rights.

4. To encourage and urge member boards to inform the public and community organizations of the Equal Rights program through promotion and use of films and other educational aids developed by CREA.

CREA Standard Committee Structure:

The CREA Equal Rights Committee is composed of a chairman, two vice-chairmen and not more than 47 additional members, 32 of whom represent each of the 32 CREA districts throughout the state, and 15 of whom are members-at-large. A steering committee of not more than 15 may be designated from these members. The total number of members appointed to the local board committee will probably vary according to the size of the board.

Operation:

1. Policy for the State Committee shall be formulated by the Steering Committee, subject to approval of the full committee and the CREA Board of Directors.
2. State policy is recommended to local board committees.
3. The member board committee should meet and operate within its jurisdictional area or, by mutual agreement with other boards on particular matters, may operate on a district or county or other unit level.
4. The CREA committee will disseminate information to all levels about Equal Rights activities.
5. Member boards may submit recommendations on matters of policy and information to the CREA committee.

Recommendations for Local Board Action

1. Main an Equal Rights Committee.
 - a. Establish liaison with other Equal Rights Committees in the district for interchange of information.
2. Adapt information from the CREA Equal Rights Committee for local board use.
3. Inform the public and community organizations of the Equal Rights program through promotion and use of films and other educational aids developed by CREA.
4. Prepare for and participate in meetings with responsible organizations wishing to discuss minority housing problems of the area.
5. Hold educational meetings at local boards covering the Code of Practices, CREA's counsel's legal opinions, and other phases of the Equal Rights Committee's work.
6. Prepare publicity releases for local board dissemination to local news media.
7. Report to CREA Equal Rights Committee, via district representative, local board problems, methods of resolving problems, and other activities in this field; also make suggestions to the state committee for activity at that level, so that "grass roots" thinking may influence the state committee's work.

Community Liaison Is Important

Experience has shown that meeting with local groups to discuss minority housing problems is an excellent way of avoiding misunderstandings. Fair housing councils, church groups, minority organizations and others sometimes are influenced by misinformation, hearsay or unsubstantiated opinion in interpreting the Realtor's role in serving minority clients.

An open, sincere discussion between representatives of the local board and of these groups gives Realtors an opportunity to correct such errors. Often the revelation that Realtors in California have an effective Equal Rights program dating back to 1963 is a surprise. The Code of Practices, Code of Ethics, and the Realtor's obligations under law to give equal service to all clients should be discussed.

When these and practical economic factors a Realtor must consider are talked about in the give and take of such a meeting, animosities usually dissipate. The person who is militant for militancy's sake is becoming increasingly rare.

In many cases, the liaison created by such meetings has made it easy for local board officers and outside groups to discuss situations immediately, as they come up, where discrimination is alleged. Most situations of this kind are a result of misunderstandings. In those few instances which are not, the board can take whatever action is called for.

If a board does not have such effective liaison with groups who involve themselves in minority housing problems, it may find itself tried in the news columns instead of in an informal discussion, rightly or wrongly. It may find itself a target for unjust and unfounded accusations, much to the detriment of its members and the image of the Realtor in the community.

For these reasons, and to help resolve the housing problems of persons in your community, whatever their color or race, we urge that local boards establish such effective liaison with other groups and adopt a definite procedure for resolving any complaints that involve charges of discrimination.

Pamphlets, brochures, the Equal Rights Speaker's Guide, and the film, "A House To Live In," all developed by CREA, have proved helpful to many local boards in accomplishing this purpose. Your board should use them.

Code of Practices

(Recommended by CREA for adoption by member boards)

The _____ Board of Realtors subscribes to the policy that a favorable public attitude for equal opportunity in the acquisition of housing can best be accomplished through leadership, example, education and the mutual cooperation of the real estate industry and the public.

The following is hereby stated as the Code of Practices of this board:

1. It is the responsibility of a Realtor to offer equal service to all clients without regard to race, color, religion, or national origin in the sale, purchase, exchange, rental, or lease of real property.
 - a. A Realtor must stand ready to show property to any member of any racial, creedal, or ethnic group.
 - b. A Realtor has a legal and ethical responsibility to receive all offers and to communicate them to the property owner.
 - c. A Realtor should exert his best efforts to conclude the transaction.
2. Realtors, individually and collectively, in performing their agency functions have no right or responsibility to determine the

racial, creedal, or ethnic composition of any neighborhood or any part thereof.

3. Any attempt by a Realtor to solicit or procure the sale or other disposition in residential areas by conduct intended to implant fears in property owners based upon the actual or anticipated introduction of a minority group into an area shall subject the Realtor to disciplinary action. Any technique that induces panic selling is a violation of law and ethics and must be strongly condemned.

4. Each Realtor should feel completely free to enter into a broker-client relationship with persons of any race, creed, or ethnic group.

- a. Any conduct inhibiting said relationship is a specific violation of the rules and regulations of this board, and shall subject the violating Realtor to disciplinary action.

Code of Practices' Background

The Code of Practices reproduced in this handbook is the revised version approved in October, 1968, to reflect developments in state and federal law and Supreme Court decisions.

The CREA Code of Practices was originally developed in 1964 as a result of the increasing realization that there was a need for guidance for California Realtors in providing equal service to all regardless of race, color, religion, or national origin. It covers the Realtor's posture as it relates to buyers, sellers, the general public, fellow Realtors, and to CREA and local board policy.

By mid-1965, all local boards which were members of CREA had adopted it.

It is the recommendation of the CREA Equal Rights Committee and the CREA Board of Directors that each local board include the Code of Practices in their by-laws. It is also their recommendation that each board include the following in their by-laws and/or rules and regulations:

1. That the Equal Rights Committee of each board, or an equivalent body, rather than the Grievance Committee or similar, make a thorough preliminary investigation of any discrimination complaint, interviewing all parties involved, and making an evaluation.
2. In the event that the Equal Rights Committee determines that the complaint warrants further action, it should be referred to the Court of Ethics, Professional Standards Panel, or other committee hearing disciplinary cases within the board, for disposition.

Legal Opinions

Moses Lasky, senior partner in the law firm of Brobeck, Phleger and Harrison of San Francisco, General Counsel to CREA, was asked by CREA what effects the U.S. Supreme Court's opinion of June 17, 1968 in *Jones v. Mayer* and the Federal Fair Housing Act (Title VIII, Civil Rights Act of 1968) has on real estate licensees and property owners. Pertinent parts of his letter of reply dated Sept. 23, 1968, follow:

“. . . Wherever federal law is applicable, it is paramount. Ordinarily the basis of federal law is interstate commerce. This is not true of *Jones v. Mayer* or, in my opinion, of Title VIII.

“In *Jones v. Mayer* the Supreme Court interpreted and applied an Act of Congress, first enacted in 1866 (now 42 U.S. Code § 1982), and rested its constitutionality on the Thirteenth Amend-

ment to the Constitution of the United States; the amendment prohibiting slavery. As so interpreted, Section 1982 applies everywhere, to everyone in the United States, regardless of the nature of the commerce.

“Title VIII declares that its purpose is to provide “within constitutional limitations” “for fair housing throughout the United States.” In short, the Act applies as thoroughly and as widely as is permissible under the broadest applicable provision of the Constitution.

“The Senate Report on the bill that became the Civil Rights Act (S.R. No. 721) indicates that the Act was intended to rest on whatever constitutional provision could be mustered to support it. Doubtless, no one thought of the 13th Amendment as a basis for the bill, but the reasoning upon which the Supreme Court found the 13th Amendment to support 42 U.S. Code § 1982 also supports Title VIII. In short, Title VIII applies even to the most local transactions.

“*Jones v. Mayer* holds that Section 1982 is not confined to state action but operates directly on every person. Title VIII purports to do so, and I have no doubt that the Supreme Court will hold that it does.

“The sum of the matter is that every prohibition of the Unruh and Rumford Acts remains in effect, and what discrimination they did not prohibit federal law now does. There are now no exceptions.

“The short of the matter is that no one may refuse to sell, lease or rent to another because of race or color, and no real estate licensee may do so, regardless of his principal’s directions. Should a principal seek to restrict a listing according to race or color, the licensee must refuse to accept the listing.

“I see no practical differences between Section 1982 and Title VIII. It is true that there are several theoretical differences but in my judgement it is either unwise to stand on them or not worth while to do so.

“For example, Section 1982 relates only to discrimination because of color. It declares that every citizen shall have the same rights as “white citizens.” But in *Jones v. Mayer*, the Court held

that Section 1982 'bars all racial discrimination.' Title VIII prohibits discrimination because of 'race, color, religion or national origin' and theoretically 'religion and national origin' are not the same concepts as 'race.'

"But I venture to say that the courts will not be receptive to distinctions of this kind. Moreover, it is hardly likely that anyone will now wish to discriminate against a white person because of his religion or because he was born in one European country instead of another, when it is no longer lawful to discriminate against one because he is black, yellow or brown. . . .

"Every interpretation will be taken by courts in favor of the fullest application of the law. It is also true that Title VIII relates only to 'dwellings' and land intended to be used for a 'dwelling,' but the Act enforced in *Jones v. Mayer* applies to any real and personal property.

"There are also some theoretical differences between the two Acts as regards the means of enforcement. Section 1982 provides only for an injunction, whereas Title VIII also provides for damages and a penalty plus attorney's fees, and for enforcement by the Attorney General. But a footnote in *Jones v. Mayer* indicates to me that damages will be awarded for violation of Section 1982.

"Another provision of Title VIII deserves mention. After December 31, 1968, it prohibited denial of membership or participation in a real estate board or multiple listing service to a person because of race, color, religion or national origin, or discrimination against him in terms or conditions of membership. That, however, has been CREA's policy. . . .

"In conclusion: It would be possible to go into detail, but, for all practical purposes *Jones v. Mayer* and Title VIII sum up to this, so far as real estate licensees are concerned: They must not discriminate, and to that end should not accept restrictive listings or make, print, or publish any notice, statement or advertisement with respect to a sale or rental of a dwelling which suggests discrimination because of race, color, religion or national origin."

Civil Rights Act of 1968

TITLE VIII — FAIR HOUSING

(Section of Public Law No. 90-284)

POLICY

SEC. 801. It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

DEFINITIONS

SEC. 802. As used in this title—

(a) "Secretary" means the secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806.

(g) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

EFFECTIVE DATES OF CERTAIN PROHIBITIONS

SEC. 803. (a) Subject to the provisions of subsection (b) and section 807, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 shall apply:

(1) Upon enactment of this title, to—

(A) dwellings owned or operated by the federal government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the federal government, under agreements entered into after Nov. 20, 1962,

unless payment due thereon has been made in full prior to the date of enactment of this title;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the federal government, under agreements entered into after Nov. 20, 1962, unless payment thereon has been made in full prior to the date of enactment of this title: *Provided*, that nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a state or local public agency receiving federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after Nov. 20, 1962.

(2) After Dec. 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b).

(b) Nothing in section 804 (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided*, that such private individual owner does not own more than three such single-family houses at any one time: *Provided further*, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale

the exemption granted by this subsection shall apply only with respect to one such sale within any 24 month period: *Provided further*, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further*, that after Dec. 31, 1969, the sale or rental of any such

single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

Sec. 804. As made applicable by section 803 and except as exempted by sections 803 (b) and 807, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any per-

son in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

DISCRIMINATION

IN THE FINANCING OF HOUSING

Sec. 805. After Dec. 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 803 (b).

DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

Sec. 806. After Dec. 31, 1968, it shall be unlawful to deny any person access

to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin.

EXEMPTION

Sec. 807. Nothing in this title shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this title prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

ADMINISTRATION

Sec. 808. (a) The authority and responsibility for administering this act shall be in the secretary of Housing and Urban Development.

(b) The Department of Housing and Urban Development shall be provided an additional assistant secretary. The Department of Housing and Urban Development Act (Public Law 89-174, 79 Stat. 667) is hereby amended by—

(1) striking the word "four," in section 4(a) of said Act (79 Stat. 668; 5 U.S.C. 624b (a)) and substituting therefor "five,"; and

(2) striking the word "six," in section 7 of said Act (79 Stat. 669; 5 U.S.C. 624 (c)) and substituting therefor "seven."

(c) The secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this title. The persons to whom such delegations are made

with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with section 3105, 3344, 5362, and 7521 of title 5 of the United States Code. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this title and shall cooperate with the secretary to further such purposes.

(e) The secretary of Housing and Urban Development shall —

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies;

(3) cooperate with and render technical assistance to federal, state, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices; and

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title.

EDUCATION AND CONCILIATION

Sec. 809. Immediately after the enactment of this title the secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may

pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5 of the United States Code. He shall consult with state and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their state or locality, and whether and how state or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the secretary's enforcement of this title. The secretary shall issue reports on such conferences and consultations as he deems appropriate.

ENFORCEMENT

SEC. 810. (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the secretary. Complaints shall be in writing and shall contain such information and be in such form as the secretary requires. Upon receipt of such a complaint the secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under subsection (c), the secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any

time. A respondent may file an answer to the complaint against him and with the leave of the secretary, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) Wherever a state or local fair housing law provides the rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title, the secretary shall notify the appropriate state or local agency of any complaint filed under this title which appears to constitute a violation of such state or local fair housing law, and the secretary shall take no further action with respect to such complaint if the appropriate state or local law enforcement official has, within 30 days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

(d) If within 30 days after a complaint is filed with the secretary or within 30 days after expiration of any period of reference under subsection (c), the secretary has been unable to obtain voluntary compliance with this title, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this title, insofar as such rights relate to the subject of the complaint: *Provided*, that no such civil action may be brought in any United States district court if the person aggrieved has a judicial remedy under a state or local fair housing law which provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this title. Such actions may be brought without regard to the amount in controversy in any United States district court for the district in which the discriminatory housing practice is alleged to have occurred or be about to occur or in which the respondent resides or transacts business. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may, subject to the provisions of

section 812, enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual, in either federal or state court, pursuant to this section or section 812, shall come to trial the secretary shall immediately terminate all efforts to obtain voluntary compliance.

INVESTIGATIONS; SUBPENAS; GIVING OF EVIDENCE

SEC. 811. (a) In conducting an investigation the secretary shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: *Provided, however*, that the secretary first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The secretary may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The secretary may administer oaths.

(b) Upon written application to the secretary, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the secretary to the same extent and subject to the same limitations as subpoenas issued by the secretary himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the secretary shall be entitled to the same witness and mileage fee as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(d) Within five days after service of a subpoena upon any person, such person may petition the secretary to revoke or modify the subpoena. The secretary shall grant the petition if he finds that the

subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so in obedience to the subpoena or lawful order of the secretary, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the secretary pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(g) The Attorney General shall conduct all litigation in which the secretary participates as a party or as amicus pursuant to this act.

ENFORCEMENT BY PRIVATE PERSONS

SEC. 812. (a) The rights granted by sections 803, 804, 805, and 806 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred: *Provided, however*, that the court shall continue such civil case brought pursuant to this section or section 810(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the secretary or a state or local agency are likely to result in satisfactory settlement of the discriminatory housing practice com-

plained of in the complaint made to the secretary or to the local or state agency and which practice forms the basis for the action in court: *And provided, however*, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this act, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this act shall not be affected.

(b) Upon application by the plaintiff and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs, or security. A court of a state or subdivision thereof may do likewise to the extent not inconsistent with the law or procedures of the state or subdivision.

(c) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: *Provided*, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

ENFORCEMENT BY THE ATTORNEY GENERAL

Sec. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this title.

EXPEDITION OF PROCEEDINGS

Sec. 814. Any court in which a proceeding is instituted under section 812 or

813 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

EFFECT ON STATE LAWS

Sec. 815. Nothing in this title shall be construed to invalidate or limit any law of a state or political subdivision of a state, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any law of a state, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be discriminatory housing practice under this title shall to that extent be invalid.

COOPERATION WITH STATE AND LOCAL AGENCIES ADMINISTERING FAIR HOUSING LAWS

Sec. 816. The secretary may cooperate with state and local agencies charged with the administration of state and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this title. In furtherance of such cooperative efforts, the secretary may enter into written agreements with such state or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

INTERFERENCE, COERCION, OR INTIMIDATION

Sec. 817. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806. This section may be enforced by appropriate civil action.

APPROPRIATIONS

Sec. 818. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

SEPARABILITY OF PROVISIONS

Sec. 819. If any provision of this title or the application thereof to any person

or circumstances is held invalid, the remainder of the title and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**TITLE IX
PREVENTION OF INTIMIDATION
IN FAIR HOUSING CASES**

SEC. 901. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate, or interfere with —

(a) any person because of his race, color, religion, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any

class of persons from —

(1) participating, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in subsection 901(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organization, or facilities described in subsection 901(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate —

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both; and if death results shall be subject to imprisonment for any term of years or for life.



CODE OF ETHICS

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

Preamble

UNDER all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. The Realtor is the instrumentality through which the land resource of the nation reaches its highest use and through which land ownership attains its widest distribution. He is a creator of homes, a builder of cities, a developer of industries and productive farms.

Such functions impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which the Realtor should dedicate himself, and for which he should be diligent in preparing himself. The Realtor, therefore, is zealous to maintain and improve the standards of his calling and shares with his fellow-Realtors a common responsibility for its integrity and honor.

In the interpretation of his obligations, he can take no safer guide than that which has been handed down through twenty centuries, embodied in the Golden Rule:

"Whatsoever ye would that men should do to you, do ye even so to them."

Accepting this standard as his own, every Realtor pledges himself to observe its spirit in all his activities and to conduct his business in accordance with the following Code of Ethics:

Part I

Relations to the Public

ARTICLE 1.

The Realtor should keep himself informed as to movements affecting real estate in his community, state, and the nation, so that he may be able to contribute to public thinking on matters of taxation, legislation, land use, city planning, and other questions affecting property interests.

ARTICLE 2.

It is the duty of the Realtor to be well informed on current market conditions in order to be in a position to advise his clients as to the fair market price.

ARTICLE 3.

It is the duty of the Realtor to protect the public against fraud, misrepresentation or unethical practices in the real estate field.

He should endeavor to eliminate in his community any practices which could be damaging to the public or to the dignity and integrity of the real estate profession. The Realtor should assist the board or commission charged with regulating the practices of brokers and salesmen in his state.

ARTICLE 4.

The Realtor should ascertain all pertinent facts concerning every property for which he accepts the agency, so that he may fulfill his obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts.

ARTICLE 5.

The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.

ARTICLE 6.

The Realtor should not be a party to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

ARTICLE 7.

The Realtor should not engage in activities that constitute the practice of law and should recommend that title be examined and legal counsel be obtained when the interest of either party requires it.

ARTICLE 8.

The Realtor should keep in a special bank account, separated from his own funds, monies coming into his possession in trust for other persons, such as escrows, trust funds, client's monies and other like items.

ARTICLE 9.

The Realtor in his advertising should be especially careful to present a true picture and should neither advertise without disclosing his name, nor permit his salesmen to use individual names or telephone numbers, unless the salesman's connection with the Realtor is obvious in the advertisement.

ARTICLE 10.

The Realtor, for the protection of all parties with whom he deals, should see that financial obligations and commitments regarding real estate transactions are in writing, expressing the exact agreement of the parties; and that copies of such agreements, at the time they are executed, are placed in the hands of all parties involved.

Part II

Relations to the Client

ARTICLE 11.

In accepting employment as an agent, the Realtor pledges himself to protect and promote the interests of the client. This obligation of absolute fidelity to the client's interest is primary, but it does not relieve the Realtor from the obligation of dealing fairly with all parties to the transaction.

ARTICLE 12.

In justice to those who place their interests in his care, the Realtor should endeavor always to be in-

formed regarding laws, proposed legislation, governmental orders, and other essential information and public policies which affect those interests.

ARTICLE 13.

Since the Realtor is representing one or another party to a transaction, he should not accept compensation from more than one party without the full knowledge of all parties to the transaction.

ARTICLE 14.

The Realtor should not acquire an interest in or buy for himself, any member of his immediate family, his firm or any member thereof, or any entity in which he has a substantial ownership interest, property listed with him, or his firm, without making the true position known to the listing owner, and in selling property owned by him, or in which he has such interest, the facts should be revealed to the purchaser.

ARTICLE 15.

The exclusive listing of property should be urged and practiced by the Realtor as a means of preventing dissension and misunderstanding and of assuring better service to the owner.

ARTICLE 16.

When acting as agent in the management of property, the Realtor should not accept any commission, rebate or profit on expenditures made for an owner, without the owner's knowledge and consent.

ARTICLE 17.

The Realtor should not undertake to make an appraisal that is outside the field of his experience unless he obtains the assistance of an authority on such types of property, or unless the facts are fully disclosed to the client. In such circumstances the authority so engaged should be so identified and his contribution to the assignment should be clearly set forth.

ARTICLE 18.

When asked to make a formal appraisal of real property, the Realtor should not render an opinion without careful and thorough analysis and interpretation of all factors affecting the value of the property. His counsel constitutes a professional service.

The Realtor should not undertake to make an appraisal or render an opinion of value on any property where he has a present or contemplated interest unless such interest is specifically disclosed in the appraisal report. Under no circumstances should he undertake to make a formal appraisal when his employment or fee is contingent upon the amount of his appraisal.

ARTICLE 19.

The Realtor should not submit or advertise property without authority and in any offering, the price quoted should not be other than that agreed upon with the owners as the offering price.

ARTICLE 20.

In the event that more than one formal written offer on a specific property is made before the owner has accepted an offer, any other formal written offer presented to the Realtor, whether by a prospective purchaser or another broker, should be transmitted to the owner for his decision.

Part III**Relations to His Fellow-Realtor****ARTICLE 21.**

The Realtor should seek no unfair advantage over his fellow-Realtors and should willingly share with them the lessons of his experience and study.

ARTICLE 22.

The Realtor should so conduct his business as to avoid controversies with his fellow-Realtors. In the event of a controversy between Realtors who are members of the same local board, such controversy should be arbitrated in accordance with regulations of their board rather than litigated.

ARTICLE 23.

Controversies between Realtors who are not members of the same local board should be submitted to an arbitration board consisting of one arbitrator chosen by each Realtor from the real estate board to which he belongs or chosen in accordance with the regulations of the respective boards. One other member, or a sufficient number of members to make an odd number, should be selected by the arbitrators thus chosen.

ARTICLE 24.

When the Realtor is charged with unethical practice, he should place all pertinent facts before the proper tribunal of the member board of which he is a member, for investigation and judgment.

ARTICLE 25.

The Realtor should not voluntarily disparage the business practice of a competitor, nor volunteer an opinion of a competitor's transaction. If his opinion is sought it should be rendered with strict professional integrity and courtesy.

ARTICLE 26.

The agency of a Realtor who holds an exclusive listing should be respected. A Realtor cooperating with a listing broker should not invite the cooperation of a third broker without the consent of the listing broker.

ARTICLE 27.

The Realtor should cooperate with other brokers on property listed by him exclusively whenever it is in the interest of the client, sharing commissions on a previously agreed basis. Negotiations concerning property listed exclusively with one broker should be carried on with the listing broker, not with the owner, except with the consent of the listing broker.

ARTICLE 28.

The Realtor should not solicit the services of an employee or salesman in the organization of a fellow-Realtor without the knowledge of the employer.

ARTICLE 29.

Signs giving notice of property for sale, rent, lease or exchange should not be placed on any property by more than one Realtor, and then only if authorized by the owner, except as the property is listed with and authorization given to more than one Realtor.

ARTICLE 30.

In the best interest of society, of his associates and of his own business, the Realtor should be loyal to the real estate board of his community and active in its work.

CONCLUSION

The term *Realtor* has come to connote competence, fair dealing and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instructions from clients ever can justify departure from this ideal, or from the injunctions of this Code.

The Code of Ethics was adopted in 1913. Amended at the Annual Convention in 1924, 1928, 1950, 1951, 1952, 1955, 1956, 1961, and 1962.

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS SPEAKER'S KIT FOR PROFESSIONAL STANDARDS

(One Card From This Kit is Reproduced Below)

ARTICLE 5

The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.

Comment:

Article 5 is probably the easiest of all Articles to misinterpret, and is one that every Board would do well to closely scrutinize the interpretations and relate more precisely to neighborhoods in its own area. There are three primary words in this article that contribute to the confusion. They are: (1) introduce (2) neighborhood and (3) use. When do you introduce or no longer introduce? After the 1st, the 2nd or the 3rd time? Is a neighborhood a general area of many blocks or only a few? What is the use or character as it relates to a neighborhood—a ranch home in a section of 1½ or 2 story homes—or a trailer court in a row home area?

Problem:

Following the widening of one of the principal arteries into Realtor A's city, three lots in an unzoned area were developed in small commercial structures for retail business. Realtor A proposed that his Buyer who was seeking a filling station location, buy a small home across the highway from this new commercial development, raze it, and use the lot

for his filling station. Realtor A presented figures on density of automobile traffic, along with cost estimates, showing that this would be more economical than buying a vacant lot in another area that his client had in mind. The Buyer approved and Realtor A, acting in behalf of this Buyer approached the owner of the home and arranged for its purchase by his client, the Buyer.

As construction of the filling station began the owner of a home next to the filling station site complained to the real estate board that Realtor A had violated his own Code of Ethics by introducing the filling station into a residential area, charging that the action would be detrimental to values of surrounding property.

Realtor A's defense was that widening of the highway had precipitated a trend of commercial development in this area, as evidenced by newly introduced commercial structures directly across the highway; that the unincorporated area was within the jurisdiction of a county government having zoning powers which it had not used and, as far as could be determined, had not been urged by property owners in the area to use; that his action as a Realtor had constructively served community growth and needed extension of commercial land in the area.

Conclusion:

Realtor A's defense was *valid* and he was found not guilty of unethical conduct in this situation.

What Every Citizen Should Know:

- It's the law NOW - sellers - landlords
brokers - are required to treat all
prospects alike.

EQUAL OPPORTUNITY IN HOUSING

AS TO SELLERS:

The Supreme Court of the United States has ruled in the Jones vs. Mayer case that *all sellers* (owners) must treat *all prospective home buyers alike*, irrespective of race, color, or creed. This applies equally whether or not the seller is represented by a broker. The aggrieved party may seek remedy in any Federal Court.

AS TO LANDLORDS:

The same Supreme Court in Jones vs. Mayer has ruled the same way about prospective renters in all rental housing.

In addition the Congress enacted a 1968 Civil Rights Law under which conciliation processes are available. It applies in a lesser degree than the 1866 law cited in the Jones vs. Mayer case.

AS TO BROKERS:

The ruling of the Supreme Court in Jones vs. Mayer applies equally to licensed brokers employed by the seller or landlord.

The Illinois Department of Registration has ruled that any act of discrimination based on race, color, or creed, is reason to revoke a broker's license. The Illinois Supreme Court has ruled that they will not interfere with this regulation.

LOCAL CITY ORDINANCES:

Many city governments in Illinois have enacted laws variously applicable to brokers only or to brokers, landlords and sellers as well. But the absence of a local law does not change the fact that *Federal Law does apply*.

THE REALTORS OF ILLINOIS:

Illinois Association of Real Estate Boards has prepared this brief description of existing laws as a public service. For detailed information on these laws see your attorney or the Human Relations Agency in your area.

The Real Estate Board of Metropolitan St. Louis believes that the only long-term gains for equal housing opportunities will come about through voluntary actions of the housing industry and the public.

Further, that it is a basic premise of the Real Estate Board of Metropolitan St. Louis that mutual cooperation and voluntary acceptance of responsibility by the entire community in solving current minority housing problems are the keys to meaningful gains toward a permanent solution.

In the spirit of this belief the Real Estate Board of Metropolitan St. Louis proposes to immediately recommend to its membership an addition to its By-Laws which will call for the following actions:

1. That the Real Estate Board of Metropolitan St. Louis adopt, publish and circulate within its jurisdiction the following Code of Practices:

CODE OF PRACTICES

The Real Estate Board of Metropolitan St. Louis subscribes to the policy that a favorable public attitude for equal opportunity in the acquisition of housing can best be accomplished through leadership, example, education and the mutual cooperation of the real estate industry and the public.

The following is hereby stated as the Code of Practices of this Board:

1. It is the responsibility of a Realtor to offer equal service to all clients without regard to race, color, religion, or national origin in the sale, purchase, exchange, rental, or lease of real property.
 - a. A Realtor must stand ready to show property to any member of any racial, creedal, or ethnic group.

- b. A Realtor has a legal and ethical responsibility to receive all offers and to communicate them to the property owner.
 - c. A Realtor should exert his best efforts to conclude the transaction.
2. Realtors, individually and collectively, in performing their agency functions have no right or responsibility to determine the racial, creedal, or ethnic composition of any neighborhood or any part thereof.
3. Any attempt by a Realtor to solicit or procure the sale or other disposition in residential areas by conduct intended to implant fears in property owners based upon the actual or anticipated introduction of a minority group into an area shall subject the Realtor to disciplinary action. Any technique that induces panic selling is a violation of law and ethics and must be strongly condemned.
4. Each Realtor should feel completely free to enter into a broker-client relationship with persons of any race, creed, or ethnic group.
 - a. Any conduct inhibiting said relationship is a specific violation of the rules and regulations of this Board, and shall subject the violating Realtor to disciplinary action.

Further, that each Associate (Salesman) member of the Real Estate Board of Metropolitan St. Louis shall be required to file with the Board a signed membership card. Said card, which shall be retained at the Board Offices, shall include a statement indicating that the Associate member has been fully apprised

of the contents and full meaning of the Code of Practices and the Code of Ethics of the Real Estate Board of Metropolitan St. Louis, the Federal Fair Housing Act (Title VIII) and the Jones vs Mayer decision,

2. (a) That each member firm shall be required from the adoption of this announcement forward to include in their listing contracts, exclusive or non-exclusive, in a conspicuous type size, that homes and other dwellings will be shown and made available for sale to all persons without regard to race, color, religion, or national origin.
3. To establish an "Equal Rights Committee" This committee shall serve, rather than the Grievance Committee, for the purpose of making a thorough preliminary investigation of any discrimination complaint, interviewing all parties involved and making an evaluation of the complaint.

In the event that the Equal Rights Committee determines that the complaint warrants further action, it should be referred to the Ethics and Standards Committee for disposition.

Equal Opportunity In Housing -



You and Your Realtor

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It is unlawful to discriminate in the sale or rental of property by the following:

1. Property owner
2. Landlord
3. Property manager
4. Real estate licensee

The U. S. Supreme Court decision in the case of *Jones v. Mayer*, June 17, 1968, and the Civil Rights

THE CREA CODE OF PRACTICES

All local boards of Realtors (more than 172), members of the California Real Estate Association, adopted the CREA Code of Practices shortly after it was recommended in 1964. As revised to reflect changes in federal law, it follows:

CALIFORNIA REAL ESTATE ASSOCIATION

Code of Practices

The

(name of Board of Realtors)

subscribes to the policy that a favorable public attitude for equal opportunity in the acquisition of housing can best be accomplished through leadership, example, education and the mutual co-operation of the real estate industry and the public.

The following is hereby stated as the Code of Practices of this Board:

1. It is the responsibility of a Realtor to offer equal service to all clients without regard to race, color, religion, or national origin in the sale, purchase, exchange, rental, or lease of real property.
 - a. A Realtor must stand ready to show property to any member of any racial, creedal, or ethnic group.
 - b. A Realtor has a legal and ethical responsibility to receive all offers and to communicate them to the property owner.

Act of 1968 make it unmistakably clear that discrimination because of race, color, religion or national origin by *anyone* in the sale or rental of property is illegal.

Federal laws are the supreme law of the land. In addition, several California laws regarding discrimination in the sale and rental of real property remain in effect, and are being enforced by state agencies.

TRUE FALSE

It is unlawful for a real estate licensee to answer a question from an owner about the race, color, or national origin of a prospective renter or purchaser. X

A licensee may voluntarily disclose

Continued

c. A Realtor should exert his best efforts to conclude the transaction.

2. Realtors, individually and collectively, in performing their agency functions have no right or responsibility to determine the racial, creedal, or ethnic composition of any neighborhood or any part thereof.

3. Any attempt by a Realtor to solicit or procure the sale or other disposition in residential areas by conduct intended to implant fears in property owners based upon the actual or anticipated introduction of a minority group into an area shall subject the Realtor to disciplinary action. Any technique that induces panic selling is a violation of law and ethics and must be strongly condemned.

4. Each Realtor should feel completely free to enter into a broker-client relationship with persons of any race, creed, or ethnic group.

a. Any conduct inhibiting said relationship is a specific violation of the rules and regulations of this board, and shall subject the violating Realtor to disciplinary action.

	TRUE	FALSE
the race, color, religion or national origin of a prospective purchaser or tenant.		X

If an owner is willing to carry a trust deed on property being sold, he may not question the race, color, religion or national origin of the prospective borrower.

X

A property owner selling or renting his own property without the aid of an agent may discriminate.

X

An unlicensed manager may discriminate if directed to do so by the property owner.

X

The CREA Code of Practices is a reflection of the current laws regarding a Realtor's responsibility, the violation of which subjects him to discipline by the local board of Realtors.

Property owners, as well as licensees, renting or selling, are covered under the Civil Rights Act of 1968, the U. S. Supreme Court ruling of 1968, California's Unruh Act and Rumford Act, and rulings of the California Attorney General, and are subject to penalties for discriminating.

NOT ALL REAL ESTATE BROKERS ARE "REALTORS"

The term "Realtor" is a registered service mark that only members of the National Association of Real Estate Boards may use. In California, this means that "Realtor" may be used only by members of the California Real Estate Association, which represents the majority of the state's active licensed real estate brokers, and their salesmen.



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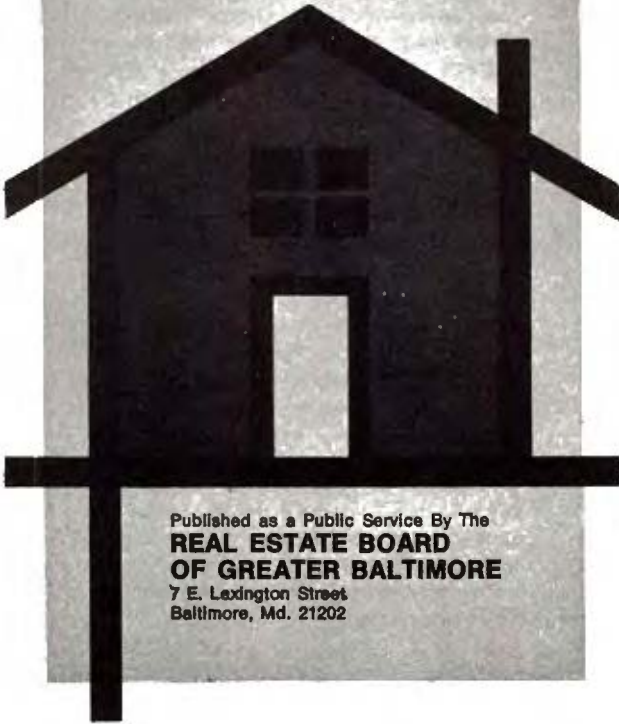
California Real Estate Association

520 South Grand Avenue
Los Angeles, California 90017

EQUAL RIGHTS COMMITTEE

**EQUAL
OPPORTUNITY
IN HOUSING**

**A GUIDE FOR
BUYERS • SELLERS
LANDLORDS • TENANTS
COMMUNITY AND
NEIGHBORHOOD
ASSOCIATIONS**



Published as a Public Service By The
**REAL ESTATE BOARD
OF GREATER BALTIMORE**
7 E. Lexington Street
Baltimore, Md. 21202

THE RIGHTS OF EVERY CITIZEN ARE PROTECTED BY LAW

All buyers and renters are entitled, by law, to equal treatment. The Real Estate Board of Greater Baltimore is committed to this standard and pledged to uphold it.

AS TO BUYERS, SELLERS, LANDLORDS AND TENANTS

The Supreme Court of the United States ruled in the case of *Jones vs. Mayer* (June, 1968) that all racial discrimination, private as well as public, in the sale or rental of property is barred. This means that all owners (including sellers and landlords) must treat all prospective buyers or tenants alike, *regardless of their race.*

The fair housing provisions of the Federal Civil Rights Act of 1968 as well as certain State and local laws also prohibit discrimination (because of race, creed, color or national origin) blockbusting, tactics which tend to induce panic selling, and misrepresentation.

AS TO BROKERS:

The ruling of the Supreme Court (*Jones vs. Mayer*), the fair housing provisions of the Federal Civil Rights Act of 1968, and most State and local housing laws apply to licensed brokers.

WHERE TO REPORT DISCRIMINATION

If you have reason to believe that you have been a victim of discrimination because of your race, creed, color or national origin, in the purchase, rental or sale of real estate, a victim of blockbusting or misrepresentation, or that you were induced by panic tactics into selling your home, contact the Real Estate Board of Greater Baltimore, 7 E. Lexington Street, Baltimore, 752-8532, and you will be referred to an agency which can be of assistance.

AS A SELLER OR BUYER IN A RESIDENTIAL NEIGHBORHOOD REMEMBER

* Throughout Baltimore and the United States one encounters neighborhoods with families of varying ethnic and racial backgrounds. Neighborhood stability and integrity can best be maintained by residents who treat all other residents and prospective residents in the same manner.

* *The presence of a minority group member in your neighborhood is not the reason for declining values. Decreasing values are caused by panic on the part of a few individuals who act alone in an ill-advised and shortsighted manner.*

* Housing values may decline when many owners try to sell simultaneously, regardless of the area in which they live. Supply and demand always has demonstrated in a practical way that the natural appeal of a property will be diminished when the market place is flooded with offerings.

* If you plan to sell, consult your Realtor about pricing, financing and the use of a "For Sale" sign. A large number of "For Sale" signs in one neighborhood can make buyers apprehensive. This can slow sales which in turn will cause prices to decline.

* Local neighborhood associations help preserve a neighborhood's standards and handle its problems. Urge all old and new neighbors to join and play an active role in your association. *Everyone* is interested in maintaining his neighborhood's appeal.

* Promptly report all rumors to your association and encourage all qualified prospective residents to consider your neighborhood for their new home.

THE ROLE OF THE REALTOR

The services of Realtors® are available to everyone. Realtors are pledged to show properties to any qualified prospect and to comply with both the spirit and the letter of the law. Realtors have been working for years with community groups to discourage blockbusting, panic sales, discrimination, misrepresentation and all other forms of malpractice.

Should you have any questions concerning real estate procedures or practices dealing with buying, selling or leasing property, a Realtor will be glad to meet with your organization. Arrangements for a Realtor to attend your meeting can be made by contacting the Real Estate Board of Greater Baltimore, 752-8532.

REALTOR®: A professional in real estate who subscribes to a strict code of ethics as a member of the local and state boards and of the National Association of Real Estate Boards.

STATEMENT OF POLICY

(1971)

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

ADOPTED BY THE DELEGATE BODY

NOVEMBER 19, 1970

CHICAGO, ILLINOIS



MAKE AMERICA BETTER

The continuing decay of the moral, economic and physical climates of our society demands a renewal of efforts, directed toward the attainment of solutions to these problems. Needed is a revitalization of existing programs and initiation of new and viable programs to Make America Better. Included should be methods to halt the wholesale pollution of our natural environment and to eliminate the underlying causes of the self-destructive abuse of drugs by present and future generations of Americans. We take satisfaction in the solid progress made through the efforts of our member boards toward the following objectives of our Make America Better Program:

- 1) Encourage widespread rehabilitation and construction with emphasis on private housing, through the use of tax incentives, subsidies for low-income families, code enforcement and expanded mortgage financing programs;
- 2) Provide for education and training of families in living habits which will avoid excessive property destruction that inhibits both private and public investment;
- 3) End restrictive practices that unduly increase costs of construction and inhibit employment therein;
- 4) Require exploratory courses and provide incentives so that elementary and high school pupils who may be vocationally inclined will receive an appropriate balance between academic courses and vocational and technical training that will lead to certification or degrees in vocational and technical skills;
- 5) Rededicate the nation to the observance of law with emphasis on reducing crime, vandalism and juvenile delinquency, strengthening law enforcement and improving rehabilitation and parole procedures;
- 6) Further appropriate programs to assist property owners in marketing housing on a non-discriminatory basis.

We urge immediate and continued implementation of activities to achieve these objectives consistent with proposals adopted by this Association as its Make America Better program.

REAL ESTATE EDUCATION

Education is one of the primary objectives of NAREB. We recommend that local boards, state associations, and the institutes, societies and councils of NAREB, continue to increase educational opportunities leading to a high degree of professional competence.

We recognize our responsibility to encourage and assist colleges and universities to offer courses leading to degrees with a specialization in real estate and to encourage undergraduate and graduate students to enroll in real estate courses.

THE ENVIRONMENT

The progressive deterioration of our physical environment dictates a national commitment to correction of a condition which is without parallel in the history of this nation.

As Realtors whose daily concern is the land and the environment of which it is a part, we accept this emergency as real, immediate, and personal.

We call upon all society and all levels of government, in cooperation, to undertake the most heroic effort to reverse the trend toward the ecological disaster which looms as our tragic legacy to the next generation.

We urge the legislatures of the 50 states and the Congress to enact effective legislation to curb the pollution of our environment, by placing restrictive controls on facilities which are polluting the land, air, and water.

We urge Realtors in their daily concern with the land to become involved in environmental decision-making, to accept leadership in the emerging environmental coalition of concerned people, and to assist commerce, industry, and government in the monumental task of making their operations compatible with improvement of our total environment.

PROPERTY OWNERSHIP

We hold that the private ownership of real property is the keystone of our free-enterprise system, and we aspire to fulfillment of that goal for every citizen. We note with special concern the decreasing proportion of new single- and multi-family home production destined for owner occupancy. Home ownership contributes to community responsibility and family well-being, and deserves a preferred place in our system of values. We urge all citizens to respect the law of the land prohibiting discrimination on account of race, color or creed in the sale or rental of real property.

URBAN RENEWAL

The basic objective of the federally-assisted urban renewal program must continue to be the elimination of slums and upgrading the housing standards of the American people. However, because the crises in our cities are economic as well as environmental, and the problems differ from community to community, we urge that local communities be permitted discretion in shaping urban renewal programs to the land use most appropriate to accomplish the total objective of renewal whether such be residential, commercial or industrial.

We urge that urban renewal programs require acquisition of all properties not later than three years from date of public announcement of such projects.

We applaud the action of those communities which have urban renewal programs that are conducted locally without federal assistance.

THE MORTGAGE MARKET

The present excessive cost of mortgage money is but one in a series of crises which underscores the grave defects in the structure of the mortgage market. The nation is now faced with alarming budget deficits in this and the coming fiscal year which portend future crises at a time when a glimmer of hope is beginning to appear. To neutralize the disproportionate burden shouldered by housing in tight money periods, we urge in addition to maximum reliance on fiscal as opposed to monetary measures to provide funds sufficient for the federal government to meet its budget, the following:

1) Immediate funding of Title I of the Emergency Mortgage Credit Act of 1970 to provide funds to the Federal Home Loan Bank Board which will enable member institutions to borrow at moderately lower rates thereby minimizing the need of these institutions to pay off previous advances out of savings inflows;

2) Exempt FHA and VA loans from the application of any state usury laws;

3) (a) Free the interest rates on FHA-insured and VA-guaranteed mortgages, or

(b) Permit the buyer and seller to negotiate the payment of the required discount, if any, between them in any transaction financed by an FHA-insured or VA-guaranteed mortgage;

4) Increase the minimum denominations of Treasury notes and gov-

ernment agency obligations to minimize depositor withdrawal of funds from mortgage-oriented thrift institutions;

5) Remove the statutory limitations that pertain to long-term government bonds so that the Treasury will have greater financing flexibility and will not be limited to short-term financing which maximizes the likelihood of substantial disintermediation;

6) Consider privately insured residential mortgage loans on the same basis as FHA-insured and VA-guaranteed loans in determining the required reserves of any lender;

7) Require that private pension funds with assets over \$4 million, as a condition for continued tax exemption of their earnings, invest a portion of their annual increase in assets in residential mortgages.

8) Extend Regulation Q for one year beyond its present termination date to minimize competition for savings between commercial banks and mortgage oriented thrift institutions.

We deplore the trend whereby mortgage lenders are demanding equity positions as a condition to making mortgage loans. We feel this policy jeopardizes historically sound lending practices.

SECTION 235 PROGRAM

We vigorously oppose further funding for FHA Section 235 unless and until the program is in fact reoriented by legislative act and administrative implementation to serve exclusively and solely its welfare function of providing adequate new and existing housing for low-income families clearly and unmistakably unable to obtain adequate housing without subsidy.

We abhor the widespread current abuses, some examples of which are:

1) dissipation of taxpayers' funds in subsidies for families clearly able to obtain available housing without subsidy;

2) contribution to slum conditions by qualifying sub-standard housing; and

3) reducing the value of existing housing.

We applaud the present Congressional investigation of the plague of abuses undermining public confidence in this program.

HOUSING FOR LOW-INCOME FAMILIES

We endorse the use of programs such as the Turnkey III program which assist families occupying public housing units to become home owners, and to this end we recommend that a specific goal be established by the Congress or HUD which would allocate at least 50 per cent of all future funds, which are authorized for federal public housing contribution payments, to programs designed to bring about home ownership opportunities for the occupants.

For low-income families who require rental housing, we urge adequate funding of existing programs for rent supplements, for the leasing of privately-owned housing for this purpose, and the Section 236 program for interest rate subsidies. These programs should be continued as substitutes for government-owned public housing.

For senior citizens who require assistance under Section 236 we urge the adoption of legislation or administrative directives that shall disqualify any person or family whose gross annual income averaged in excess of 70% of the median income in the applicable market area, and further that such applicants be required to certify that they have not dissipated their wealth within the last three years to relatives or otherwise.

INTEREST SUBSIDIES FOR MODERATE-INCOME FAMILIES

We believe that interest rate subsidies for moderate-income families are unwarranted. Accordingly, we recommend against the funding of the Section 243 mortgage insurance program which provides an interest rate subsidy for families of moderate income.

FEDERAL TAXATION

Curtailement of accelerated methods of depreciation on buildings and limitations on the capital gains tax treatment on the sale of buildings have further impaired real estate's already weak competitive position in the investment market. We urge the Congress to restore the 150% method of

depreciation of existing buildings and to permit full capital gains tax treatment on real estate after an eight-year holding period.

We call upon the Treasury Department to reduce the useful lives guidelines for buildings to reflect technological obsolescence.

We also urge the Treasury Department to avoid making proposals for changes in the tax law until such proposals can be mutually understood and evaluated by the Department and by the industry affected by the proposals.

STATE AND LOCAL TAXATION

In most areas real estate is required to bear an excessive share of the constantly increasing cost of local government. We urge each state to impose a limit on the total tax rate which may be levied on real estate by all jurisdictions combined, and that sources of revenue for such jurisdictions be broadened.

We express deep concern over the method whereby state and local governments establish Authorities to circumvent statutory limitations on their borrowing powers through the issuance of revenue bonds against which is indirectly pledged the guarantee and taxing powers of the respective state and local governments.

We urge state governmental agencies to restrain the creation of further tax-exempt areas and to study programs for elimination of the tax exemption of existing properties.

Properties of the federal and state governments which receive the benefit of local government services should be required to pay to local government the cost of such services on a parity with private property.

Because assessment procedures in many jurisdictions have not corrected inequities, we urge greater use of recognized appraisal techniques in local assessment of real property.

VARIABLE INTEREST RATE HOME MORTGAGE

We note the developing trend toward the establishment of variable interest rates as an element in financing real estate. Any expansion of this trend requires further study which will establish appropriate guidelines.

TRUTH-IN-LENDING

We believe that all consumers have the right to understand fully all the terms and conditions of all credit instruments they execute, and that explanations of credit terms should be uniform. However, certain aspects of the federal Truth-in-Lending Act and the implementing regulations go further than is necessary to afford consumers and home buyers this protection. Accordingly, we favor elimination of real estate advertising from the scope of Truth-in-Lending inasmuch as purchasers are fully protected by virtue of their right to full disclosure before the consummation of any mortgage and real estate transaction. In addition, we believe that the credit sale of home sites should be treated the same as the credit sale of homes for Truth-in-Lending purposes.

FISCAL RESPONSIBILITY IN GOVERNMENT

The economic stability of the nation's real estate market is dependent upon the nation's fiscal well-being and governmental policies. A balanced budget and a stable dollar value are necessary to a healthy supply of credit to the housing industry. Excessive inflation is eroding the nation's economy and its effects have been shouldered to a disproportionate degree by home building, residential sales, and other real estate activity. We call upon federal, state, and local governments to reduce their expenditures to a level within their income in order to curb their ever expanding demands on the money market.

We further call upon the federal government to assign the highest priority to the fight against inflation through fiscal and expenditure control measures.

POLITICAL RESPONSIBILITY

We recommend active participation on the part of Realtors in all phases of political activity. We encourage them to participate in local, state and

national political affairs. We further recommend their physical, moral and financial support to candidates and issues of their choice.

FARMERS HOME ADMINISTRATION

The extension of the Farmers Home Administration direct and insured mortgage loan program to rural nonfarm housing at rates and with loan criteria substantially at variance with the mortgage insurance program administered by the Federal Housing Administration represent an uneconomic duplication of government housing activity.

We recommend that the programs of the Farmers Home Administration be redirected to their original purpose—farm housing—and that the Federal Housing Administration conform its existing programs to meet the needs of rural nonfarm housing.

OWNER-TENANT RELATIONS

While we deplore the practices of some unconcerned property owners in the non-maintenance of their rental property, the rights given each party under basic contract law should not be abrogated for the purpose of creating causes of action which could be used for harrassment. Any reform of the owner-tenant laws must contain safeguards to provide for the protection of the owner's investment as well as a remedy for a tenant's grievance. It must also insure that the conscientious owner is not penalized by the practices of the wrongdoer. Any revision of owner-tenant law must reflect a new legal responsibility, that of the tenant to maintain and take care of his use of the property.

Further, we view with alarm the proliferation of rent control laws and other onerous legislation or acts which inhibit the right of open contracts between parties and severely discourages the construction of new rental units so necessary to meet the national housing goals.

PUBLIC LANDS

We recommend retaining in the public domain only land which are clearly charged with a public interest. With respect to public lands that now lie in the path of urban development, all or part of which are not required for public use, we urge the enactment of legislation which would expedite transfer to private ownership at market value. In contemplation of such transfer, adequate consideration should be given to the preservation of the environment.

LICENSE LAWS

We support adequate license laws as instruments for the promotion of high ethical and educational standards in the practice of the real estate business. We urge the respective state legislatures to strengthen these laws and to this end recommend utilization of NAREB's pattern license law.

LAND AND AGRICULTURE

We support a long-term land retirement program to reduce crop surpluses. The present system of allotments on specific crops and payments under the Feed Grain Program should be gradually phased out to allow conditions that more nearly approach a free market.

We applaud the pending action of the Congress in reducing to \$55,000 the maximum farm subsidy payable to any qualified recipient. We urge continued study of the farm subsidy program which will lead to further reduction and eventual elimination of all subsidies and elimination of present abuses which tend to circumvent existing limitations.

We encourage the economic, industrial and recreational land development of rural areas by private enterprise.

Agricultural organization should be allowed to evolve from the most efficient manner of the production of food and fibre.

We call upon the Congress to promptly and fairly settle land claims made by the aboriginal residents of Alaska and lift the land freeze on Alaska within the next 6 months so as to insure the proper growth and development of this great state.

LAND USE CONTROLS

The constitutional right of state and local governments exclusively to implement and enforce land use controls for the benefit of its citizens should be preserved without federal intervention.

We strongly oppose any attempt by the federal government to make as a condition for participation in federal programs their surrender of such powers.

CONCLUSION

This Association commits itself and its functions to the reestablishment in America of an economy geared to a sound dollar, a freedom of honest enterprise, and equitable reward of intelligent industry.

RESOLUTION OF THANKS

In appreciation for the thoughtful planning and untiring effort that has made this sixty-third annual convention of the National Association of Real Estate Boards a stimulating and rewarding experience, we express our thanks and appreciation to Rich Port, president of the Association; to Frank J. Burke, chairman of the convention; to our hosts, the Chicago Real Estate Board and the Illinois Real Estate Association; to the speakers and participants in our convention program; to representatives of press, radio, and television for their able reporting of our sessions; and to our competent staff.

Exhibit No. 21

STATEMENT OF THE NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, INCORPORATED

PRESENTED TO

THE UNITED STATES COMMISSION ON CIVIL RIGHTS' HEARINGS

ON HOUSING OPPORTUNITIES IN THE SUBURBS

JUNE 14, 1971

WASHINGTON, D. C.

Mr. Chairman and Members of this Hearing Panel,

I am Daniel W. Spaulding of Baltimore, Maryland, appearing before you as Chairman of the Public Affairs Committee of the National Association of Real Estate Brokers, Inc., whose headquarters is located at 1025 Vermont Avenue, Northwest, Washington, D. C. The members of our Association and affiliated local boards serve largely the low and moderate income and minority group residents as they seek to improve their housing situation.

Mr. Chairman, we appreciate your Commission's invitation affording this opportunity to present the views of our National Association on the subject of these Hearings, and shall endeavor to make our presentation brief and comprehensive rather than detailed, but hopefully responsive to the seven items outlined in your invitation to our Association.

With respect to your Items (1) "Discrimination" and (2) "Fair Housing", we feel it would be like "carrying coal to New Castle" for us to spend time elaborating the deplorable facts of their status which are already amply available to you in your own documentations and reports as well as other exemplary studies and reports, such as those of the Paul H. Douglas Report of the National Commission on Urban Problems and the Edgar F. Kaiser Report of Presidents Committee on Urban Society, both in 1968.

In passing, we would merely observe in all candor that in our view the situation respecting "Discrimination" and "Fair Housing" today in fact and in result is not substantially improved over what it was on April 9, 1866 when the Congress enacted a Civil Rights Statute on Property Rights stating

"All citizens of the U. S. shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property".

This Statute was virtually ignored and nothing was done to implement it for over a hundred years until 1968 when it was revitalized by the U. S. Supreme Court's Jones v. Mayer decision holding that this law prohibits racial discrimination in the sale or rental of all property, real and personal. Enforcement, however, involves expensive litigation instituted by the plaintiff.

Also, the Title VIII Fair Housing Statute of the 1968 Civil Rights Act was enacted prohibiting discrimination in the sale, rental, financing and marketing of most housing properties, including provisions for enforcement. This Fair Housing Title VIII places a mandate on all Executive Departments and Agencies to "administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of

this Title and shall cooperate with the Secretary to further such purposes." It further places a specific mandate on the Secretary of Housing and Urban Development to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this Title."

We now comment on your Item (4) "Experience on what the Federal Government has or has not done to open housing opportunities in the suburbs." It is a sad and frustrating commentary to have to confess that the Federal Government appears presently to be engaged in Civil Rights retreat respecting open housing opportunities in the suburbs.

The voices of the Secretary and Assistant Secretaries of HUD which were actively fostering open metropolitan communities in 1969-1970 and prodding suburbs to provide low and moderate income housing located within easy access to expanding sources of lower skilled job opportunities going begging in the suburbs are no longer heard in 1971. Today the Secretary's voice echoes the White House position that "forced integration" of the suburbs would be counter productive.

Can this present position of the Administration square with the spirit and tenor of the 1968 Fair Housing Statute, particularly the legislative mandates (cited above) on the Secretary of HUD and all Departments and Agencies of the Federal Government to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the policies and purposes of this Title? Moreover, who is advocating "forced integration of the suburbs"? Is "forced integration" a real or a spurious issue? Is not the real issue indicated in the 1866 Statute requiring that all citizens shall have the same rights, options and access as is enjoyed by white citizens respecting all real and personal property?

Without a diffusion of low and moderate income housing within the suburbs surrounding inner city, can the provision of the Federal Fair Housing Laws be fully implemented? Can the Nation's endeavor to solve the complex housing and urban development problems, which pollute the total metropolitan environment, succeed through piecemeal and compartmentalized measures, ^{any} better than can the pollution of the air or of a stream be dealt with through piecemeal and compartmentalized treatment?

The practice of the Administration respecting the funding of programs relating to Housing and Urban Development is a source of distress and frustration to us. The Legislative Committees of the Congress are not in the habit of enacting excessive funding authorization to implement the programs that Congress enacts. The Administration usually submits request to the Appropriation Committees for a lower level of funding than the authorized funding level, and the Appropriation Committees usually grant a level lower than the Administration's request.

All this is distressing enough, but the present Administration has proceeded to impound a substantial proportion of the funds actually appropriated by the Congress. For example, as of last March, some over \$1.3 billion of HUD program funding appropriated for FY.1971 was being withheld from spending by the White House Office of Management and Budget, comprising \$200 million Urban Renewal Funds, \$192.5 Public Housing, \$200 million Water and Sewer Grants and for Model Cities - \$575 million plus ^{are} another \$157 million. These/funds actually appropriated by the Congress for spending in current FY.1971 which the Administration are withholding from spending, not because the need and demands for these programs are not urgent.

Equally, if not more, tragic and distressing is the failure of the Administration to request funding for authorization addressing the human aspects of housing, particularly, these three Sections of the Housing and Urban Development Act of 1968:

- A. Section 237 - providing for counseling and assisting low and moderate income households on budget and debt management, and homeownership problems and responsibilities.
- B. Section 106 (a), as subsequently amended in 1970 provides for information, advice and technical assistance to sponsors and management, on construction, rehabilitation, and operation of non-profit low and moderate income housing.
- C. Section 204 - provides grants for tenant services.

Funding of these three programs extending a helping hand to those never reached before with decent housing can make the difference between successful transition to making it or failing to make it. This makes good sense economically, socially and politically. To deny funding and rely on voluntary action is pennywise and pound foolish. Failure to fund these outreach programs extending ^{a helping hand} to those lowest on the totem pole can only serve to foster and compound frustration and confrontation and is likely to be taken as connoting insensitivity to human needs and equal opportunity.

It is ^{an} extremely crucial and deplorable fact that HUD's Equal Opportunity Office has never been adequately funded to carry out its responsibilities for implementing Federal equal opportunity and fair housing laws and Executive Orders relating to housing and urban development. It is distressing to note that HUD requested \$10,500,000 and received \$6,260,000 for F.Y. 1970

and requested \$11.3 million and received \$8,406,000 for F.Y. 1971 - all inadequate for discharging HUD's equal opportunity responsibilities -- and now find it has requested only \$8,850,000 for F.Y. 1972. How can the Administration expect the Equal Opportunity Office to do its job adequately with less funds in F.Y. 1972 than was requested in 1971 while at the same time HUD is expanding its six Regions to ten Regions and setting-up subregional area offices in all Regions except one?

This further indication of distressing retreat in the Administration's Civil Rights and Equal Opportunity thrust seems unconscionable in the face of the mandate of the 1968 Federal Fair Housing Statute upon the HUD Secretary to administer its programs and activities in a manner affirmatively to further the policies of that Act.

We find it difficult to believe that these and other apparent indications of HUD's retreat on Civil Rights and Equal Opportunity reflect the unfettered conviction and judgement of the Secretary and his Aides rather than the dictates of the White House and its Office of Management and Budget. Our belief is attested by the President's deplorable White House Release 6/11/71.

We now turn to your Items 3 and 5 which are closely related. Item (3) concerns efforts of our Association to promote non-discrimination and Fair Housing and (5) our Association's responsibility to take affirmative action in opening suburbia.

At the national level, our Association, spearheaded by its Public Affairs Committee of which I am Chairman, undertakes continuously to influence Housing and Urban Development Legislative and Executive action and decisions affecting programs and policies so as to advance equal opportunity and fair housing in fact and result.

We confer periodically with HUD Officials regarding policy and program planning and operations of HUD and our assessment of needed changes and revisions so as to afford low and moderate income and minority groups the

same options and access as others now enjoy from HUD assisted programs and activity throughout metropolitan communities. We also give testimony before the House and Senate Legislative and Appropriation Committees dealing with housing and urban development programs and funding for the same purpose. A copy of the most recent example of our Testimony before the House Committee on Appropriations, May 13, 1971, is attached as a supplement to this statement to your Commission.

Our Public Affairs Committee convenes in Washington regularly each month and additionally on call as needed. It also works in close alliance with like-minded National groups such as the Leadership Conference on Civil Rights and the Urban Alliance Organizations.

Our local affiliates follow-up with similar endeavors at the local level, especially with respect to working in close alliance with like-minded leadership groups and conferring with housing officials, including Field Representatives of HUD, State and Municipal Officials as well as housing industry and finance leadership. As a real estate broker in Baltimore, Maryland, and a member of our Association's local affiliate, for example, during the past decade I have worked closely with Baltimore Neighbors, Incorporated, which is a metropolitan area-wide citizens leadership organization seeking to advance equal housing opportunity and fair housing throughout the Baltimore metropolitan area. Obviously, the follow-up local level activity by our Association's local affiliates will vary in accordance with the varying types and structures of leadership organization and capability.

From what has been said regarding our Association's activity to advance non-discrimination and fair housing it is obvious that our Association feels a positive responsibility to make affirmative endeavors to transform suburbia into open metropolitan communities that afford the same options and access for members of lower income and minority groups

to suitable housing within their means as now enjoyed by others throughout the metropolitan areas. Indeed, our Association sees such affirmative action as a prime obligation and responsibility of all persons, especially those in leadership roles, concerned with or involved in housing and urban development problems and activity.

Concerning the effects of HUD's new advertising guidelines upon our Association, we would see these guidelines as a modicum of additional leverage toward implementing equal opportunity and fair housing and possibly facilitating open metropolitan communities, but, as falling far short of the requisite affirmative administration of HUD programs and activity called for in the Title VIII Fair Housing mandate upon HUD.

In our view, HUD can discharge its fair housing and equal opportunity responsibilities only to the extent that its approval of each application for HUD assistance is conditioned on:

1. Submission by the applicant of a satisfactory outline of positive steps he will take in his activity to provide equal opportunity and fair housing affording the same employment and housing options and access to low and moderate income and minority groups as others now enjoy.
2. HUD's periodic monitoring of applicant's activity and progress reports for full compliance with the approved applicant's positive action plan, from his initial planning and site selection stage through the process of occupancy and management of the facility or activity.

In fact, this proposed procedure in implementing equal opportunity and fair housing requirements would be no different than HUD's procedure in implementing other HUD requirements relating to physical aspects such as architectural requirements. Just as HUD reviews applicant's architectural plans, in advance of approval, for compliance with requirements, it is no less imperative to review equal opportunity and fair housing for compliance with requirements prior to approval. HUD does not hand the applicant its architectural guidelines and allow a building to be constructed and merely rely on complaints followup in implementing compliance with requirements, as it does in giving the equal opportunity and fair housing guidelines to applicants and relying on complaints followup to implement compliance.

Finally, with respect to your item 7, regarding our Association's experience with the Veterans Administration's acquired properties, we would assess some of it good, some of it bad, and some of it indifferent. We have the impression, however, of some tendency of V.A. improvement respecting equal opportunity and fair housing.

/SUPPLEMENT OF THIS
ATTACHED / STATEMENT

NOT FOR RELEASE UNTIL PRESENTED

STATEMENT OF THE NATIONAL ASSOCIATION OF REAL ESTATE BROKERS, INCORPORATED

PRESENTED TO

SUB-COMMITTEE ON HUD - SPACE - SCIENCE

OF THE

HOUSE COMMITTEE ON APPROPRIATIONS

MAY 13, 1971

Mr. Chairman and Members of the Committee,

I am William J. Hamilton of Cleveland, Ohio, and the President of the National Association of Real Estate Brokers, Inc., whose headquarters is located at 1025 Vermont Avenue, N. W., Washington, D. C. The members of our association and affiliated local boards serve largely the low and moderate income and minority group citizens as they seek to improve their housing situation.

We appreciate this opportunity, Mr. Chairman, to present the views of our National Association in behalf of F.Y. 1972 appropriations for HUD.

Our cumulative experience as the National Association of Real Estate Brokers serving minority groups and largely low and moderate income citizens, seeking to up-grade their housing situation, has taught us one paramount necessity - namely - to have a deep appreciation for, and a continuing concern with, the human aspects of housing.

We are sorely distressed that this necessity has been more the object of neglect than of emphasis and concern in our nation's housing endeavor. Such neglect is unfortunate because only to the extent that human aspects and needs are adequately emphasized and addressed equally with physical shelter needs can we succeed in solving the acute housing problems of deprived lower income and minority groups. Indeed, human revitalization must be addressed coordinately with physical revitalization.

In other words, Mr. Chairman, this nation's housing efforts will succeed only in the degree that these two primary conditions are met:

1. A full housing supply suited the entire range of household size and income requirements.
2. Full and effective access for all members of the public to that total housing supply, which means effective steps to see that lower income and deprived minority groups have, in fact and in result, the same options and access as others now enjoy in housing as well as, in employment too.

To stop short of taking requisite steps to fulfill these primary conditions, while seeking easy solutions through halfway measures, is to engage in self-delusion and to pave the road to further compound

devisive frustration and confrontation on all sides. To implement such steps requires ample funding not only to provide the physical construction of a full housing supply but, also, equally for effective outreach services to provide pertinent advice, guidance and technical assistance for low and moderate housing sponsors, tenants and homeowners. No less imperative is ample funding for a requisite staff of Equal Opportunity Specialists to see that HUD's responsibility for implementing Fair Housing and Equal Opportunity is fully discharged. This is necessary, if we are to ensure that all members of the public have full and equal access to the total housing supply.

We are somewhat encouraged, Mr. Chairman, with the expanding production of low and moderate income housing, but we feel very strongly that the full \$200,000,000 authorization for Section 235 and, also, for Section 236 should be appropriated for F.Y. 1972, instead of the \$175,000,000 requested by HUD for each of them.

Also, we urge the full \$153,000,000 rent supplement authorization be funded for F.Y. 1972, instead of HUD's request of only \$60,000,000.

Likewise, we urge that HUD's requested Contract Authority for 95 thousand public housing units be increased by your Committee to at least 150 thousand public housing units for F.Y. 1972, especially, in light of the existing back-log need of close to a half million such units.

These are the essential funding for major programs necessary to meet the nation's low and moderate income housing requirements, so as to, attain the production of a full supply of housing suited to all the household size and income requirements for all members of the public.

Now, Mr. Chairman, if all members of the public are to have full and equal access to that total housing supply, it is quite imperative that HUD's Equal Opportunity Office be amply funded to provide requisite staff to discharge it's responsibility to implement the Federal Fair Housing and Equal Opportunity Laws, Executive Orders and requirements including the following:

1. The 1968 Housing and Urban Development Act - Section III. requiring opportunities for training, employment, private business contracts for area residents of HUD assisted project developments.
2. The 1968 Civil Rights Act, Title VIII. Federal Fair Housing Statute.
3. The 1964 Civil Rights Act, Title VI. requirement of non-discrimination in Federally Assisted Programs and Activities.
4. Executive Order - 11063 - requiring non-discrimination in the sale or rental of Federally Assisted Housing.
5. Executive Order - 11246 - requiring Federal Contract Compliance of non-discrimination.
6. Executive Order - 11478 -- non-discrimination of Federal Employment In-House.
7. Contracts with local funded agencies - L.H.A.'s, L.P.A.'s - requiring affirmative action by them to prevent discrimination in their employment.

HUD's Equal Opportunity Office has never been adequately funded to carry out it's crucial responsibilities. To note, that HUD requested

\$10,500,000 and received \$6,260,000 for F.Y. 1970 and requested \$11.3 million was granted \$8,406,000 for F.Y. 1971 - all inadequate for discharging HUD's equal opportunity responsibilities - and now to find HUD requesting only \$0,850,000 for F.Y. 1972 is down right distressing. At the same time HUD is expanding it's six (6) regions to ten (10) and setting-up sub-regional area offices in all regions except one (1) where the workload does not warrant area offices. Can such de-emphasis in equal opportunity staffing reflected in HUD's request for F.Y. 1972 be interpreted other than attesting the findings of the U. S. Civil Rights Commission that HUD is engaged in a serious retreat on the Civil Rights and Equal Opportunity fronts? This unfortunate situation is heightened in face of the mandate of the 1968 Federal Fair Housing Statute requiring HUD to administer it's programs and activities affirmatively to further the policies of that Act.

Indeed, without adequate funding of HUD's Office of Equal Opportunity, it is impossible for HUD to carry out it's civil rights and equal opportunity mandates under the Federal Laws and Executive Orders cited above.

Mr. Chairman, such apparent indication of HUD back-tracking on civil rights and equal opportunity is both tragic and crucial. We are convinced, Mr. Chairman, that the HUD F.Y. 1972 Budget Requests in this and other instances do not reflect the decision of the Secretary and his aides but rather was dictated by the White House Office of Management and Budget.

To alleviate this tragic and crucial dilemma, we earnestly urge the minimal of \$12.5 million funding for HUD's Equal Opportunity Office in F.Y. 1972, \$10,000,000 for staffing in the Washington and Field Offices and \$2.5 million for contract assistance to state and local Civil Rights

Agencies.

Equally tragic and distressing is the failure of HUD to request funding for authorizations addressing the human aspects of housing, particularly, these three sections of the 1968 Housing and Urban Development Act:

- A. Section 237 - providing for counseling and assisting low and moderate income households on budget and debt management, and homeownership problems and responsibilities.
- B. Section 106 (a), as subsequently amended in 1970 provides for information, advice and technical assistance to sponsors and management, on construction, rehabilitation, and operation of non-profit low and moderate income housing.
- C. Section 204 - provides grants for tenant services.

Mr. Chairman, as you well know, adequate housing is a great deal more than mere physical shelter. Deprived people at the lower end of the totem-pole who have never had the chance to live in decent housing deserves the benefit of a helping hand, if, they are to make the adjustment successfully. The Congress enacted these programs for that purpose and we appeal to the human impulse of the Members of this Committee to fund these programs to provide the vital help in coping with these human needs.

To provide the funding we have urged, for addressing human needs and equal opportunity aspects of housing, represents both sound economics and good politics. Not to do so is likely to be taken by many as connoting insensitivity to human needs and equal opportunity.

Finally, Mr. Chairman, we again thank you for this opportunity to present our views and recommendations and hopefully for your Committee's favorable consideration.

Exhibit No. 22

Statement by Robert L. Carter, President
National Committee Against Discrimination in Housing (NCDH)

Before the

UNITED STATES COMMISSION ON CIVIL RIGHTS
HEARINGS ON
SUBURBAN ACCESS FOR LOW-INCOME AND MINORITY CITIZENS

Presented June 15, 1971

NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING (NCDH)
1865 Broadway, New York, N. Y. 10023 (212) 265-2780

AddendumResponse to President Nixon's June 11 Statement
on Housing/Civil Rights Policy

(Since the testimony which follows was prepared prior to the President's most recent statement on the Federal Government's housing civil/rights policy, a brief response to that statement is called for at the outset.)

On June 11, 1971, the President issued a major policy statement dealing with the Federal Government's role in securing equal housing opportunities for low-income and minority citizens. Although this statement spells out in much greater detail the Administration's view of its duties and responsibilities on suburban access for the poor and minorities, basically it reiterates the President's previous statements made at several press conferences that the Federal Government will not "force" economic integration on local communities. Once again the President has drawn a distinction between "racial" and "economic" segregation - - in his view the first is unconstitutional and the latter, while unfortunate, does not involve a violation of existing law.

NCDH cannot condemn the President's statement too strongly. We see it as one of the most specious efforts by this Administration to avoid its statutory and constitutional responsibilities to insure equal housing, equal employment and equal educational opportunities for all citizens. I have in my formal statement already dealt with the inherent dishonesty of the race/poverty distinction. It simply makes no sense at this point in time to attempt to separate race and poverty when the great proportion of our nation's minority citizens are poor and our metropolitan areas are becoming each day more racially-segregated. Economic discrimination and racial discrimination are indivisible, and this Administration knows it. Secretary Romney continually stressed this point, at least in the first years of President Nixon's term before possible political hazards seem to have overridden all other considerations. Now, as we approach another Presidential election, the Black and brown people of this nation once again are told that their rights must be sacrificed - - manifestly, in order that the President will not be "embarrassed" when campaigning in the

suburbs.

We find absolutely no protection or meaning in the pious announcement in the President's statement that while the Administration will not "impose economic integration upon an existing local jurisdiction; at the same time we will not countenance any use of economic measures as a subterfuge for racial discrimination." NCDH submits that the imposition of economic barriers is a continuing subterfuge for racial exclusion and one can never separate the two. How, may we inquire, will the Administration know, for example, when seemingly non-racial explanations are asserted by local governments to block low-income housing, whether racial discrimination is involved? Local communities always point to possible adverse impact on property tax rates, possible overcrowding of schools, elimination of open spaces, potential strain on sewers and water supplies and overburdening of community services generally when housing for the poor is proposed. These seemingly neutral justifications are forever present, and we deal with local officials who have been tutored sufficiently to avoid studiously any statements or actions which in any way may imply racial discrimination.

President Nixon's statement makes it abundantly clear that his Administration has no intention of dealing forthrightly with the basic problems of the nation's cities and their people. The Administration is quite prepared to support artificial jurisdictional barriers in metropolitan areas which enable suburban officials to create areas of economic privilege, while at the same time imposing upon the inner city a permanent status of economic disadvantage. Endorsement of a system whereby suburban jurisdictions may use the police power to shape zoning, land use and residential development to establish economic privilege to the detriment of any part of the metropolitan area constitutes a perversion of this nation's commitment to equality and democracy.

The President's sanctification of economic segregation is nothing less than an open endorsement of apartheid in the United States.

June 14, 1971

Chairman Hesburgh and

Members of the U.S. Commission on Civil Rights:

The engulfing sweep of the separation of American society along racial, ethnic, economic and city/suburban lines constitutes a federally-supported apartheid that is increasingly destructive of this nation's human and material resources. It is rooted in housing discrimination and segregation which is illegal under the laws of the United States. It is the result of action by the Federal Government and of the private sector which is in flagrant violation of national law.

The laws on the books are clear and unequivocal: a black man shall have the same housing rights as a white man; every American family shall have a decent home in a suitable living environment; Federal funds and powers may not be used to support discrimination and segregation; every Federal department and agency is required to administer its programs in a manner to affirmatively advance fair housing throughout the United States. The responsibility for enforcing these laws rests squarely on the Executive branch of the Federal Government.

Any inquiry into civil rights in housing today must seek the answers to three essential questions:

1. What progress has been made in enforcing the laws and realizing the national goal of a decent home for every American on an open market without regard to race, color, creed, or national origin?
2. What are the obstacles to making national housing policy and law a reality?
3. What must be done to overcome these obstacles?

I. Record of Progress

The answer to the first question is that there has been no meaningful progress. As a matter of documented fact, the situation has worsened during the past decade. The racial ghettos have grown. Entire cities are becoming ghettos and others are rapidly approaching that condition. The vast suburban seas of white settlement have been extended. No longer simple bedroom communities for commuting executives, suburban growth duplicates the functions of the central city and equals or surpasses it in population, jobs, retail sales and other activity indices of our industrial and urban society.

That which is new and dynamic in urban America takes place mainly in the growth areas outside the metropolitan core. In this new outlying world of opportunity, black and brown faces are rarely seen. The racial and ethnic minorities are inheriting what is being cast off and abandoned as worn-out and obsolete, encompassing ever larger portions of our central cities, with their de-limited economic functions, their shrinking tax base, their deteriorated facilities, their mounting social problems, and their uncertain futures.

In 1960, blacks composed 18 per cent of the population of the nation's central cities. By 1970, this figure had jumped to 24 per cent. Blacks now compose the majority of the populations of Washington, D.C.; Newark, N.J.; Gary, Ind.; and Atlanta, Ga. They exceed 40 per cent of the population in cities such as Detroit, Baltimore, St. Louis, New Orleans, and Wilmington, Del.

The emergence of black majorities in cities, or even states, would be no cause for alarm, were this the consequence of free choice of place of residence by black Americans expressing their preference as to housing and environment, or in pursuit of opportunities to develop their full potential as individuals, and were black Americans on an equal economic footing with whites. However, the emergence of ever larger concentrations of blacks in our cities expresses exactly the opposite of this; viz., the segregation and entrapment of minorities and the poor in ghettos whose boundaries are pushed out under the pressure of mounting densities until they encompass entire cities. Cities composed of impoverished, frustrated and embittered populations inevitably will find themselves at war with those who erect and maintain the barriers that contain them. The danger is exacerbated by the economic disparities between the inner and outer cities.

How tight and effective these barriers are is evidenced by the Census finding that the proportion of whites living in the nation's suburbs remains virtually unchanged from 1960, when they constituted 95.8 per cent, to 1970, when it was 95.5 per cent. This miniscule increase of nonwhites outside of core cities by three-tenths of one percent should not be misread as an increase of blacks in new suburban housing. The census figure giving racial data on housing occupancy in outlying communities includes segregated sections in old industrial towns, mini-ghettos that house farm

workers and household help for high-income residents, and areas where city blight spills over into old suburbs.

II. Obstacles to Progress

To answer the second question we must identify the major barriers to equal opportunities in housing for racial minorities. These barriers are not obscure, and hardly need profound social science investigations to identify them. Every black, Puerto Rican, Chicano and other minority family that has assessed its options in the housing market, and especially those that have followed-up what appeared to be options, can testify to the nature of the obstacles. The barriers that are clear from the perspective of the man in the ghetto apparently continue to remain obscure to society's decision-makers, even the well-intentioned ones whose consciences are pricked by the continuation of racially and ethnically segregated housing.

I suggest that, among other reasons, this difference in comprehension is rooted in the circumstance that the man of color examines the question of housing in terms of his own family needs and resources and sees the barriers that affect his own situation as integrally linked. His understanding is shaped by attitudes and expectations formed by a hundred years of broken promises, deceit, exploitation and deflated hopes; by limited assets and earning power; by lack of information about opportunities beyond the ghetto; and by uncertainties as to his reception in a predominantly white community.

In contrast, the white who examines the question of suburban barriers to minorities gets lost in a maze of seemingly unrelated factors: mortgage rates, rental prices, land cost, zoning, enforcement of open housing laws, etc. He seems unable to comprehend the simple truth that all of these factors persist as barriers only because they are tightly interwoven into an institutionalized racism that will not yield to partial remedies. As a matter of fact, experience shows that where the ghetto confinement is breached with regard to one factor white resistance has the remarkable ability to quickly improvise new obstacles to fill the gap.

Cost is obviously a major impediment to improved housing for the overwhelming majority of black and Spanish-speaking Americans. "Ah-hah," is the rejoinder. "So the problem is economic, and not racial." That rejoinder

der is dead wrong. It bespeaks the ignorance or the dishonesty (or a combination of both) that distorts whites' ability to comprehend the nature of the problem of race and housing.

In the first place, cost is a major barrier to improved housing for most Americans, regardless of race, in today's market. With single-family house construction priced at \$20 per square foot, a modestly-sized structure of 1,200 square feet costs \$24,000 to build, exclusive of lot and site improvements. The latter are likely to begin at \$10,000 in our larger metropolitan areas. This adds up to a \$34,000 house with monthly carrying charges usually in excess of \$300. Normal prudence in household budgeting would dictate that one assume such an obligation only on the basis of an annual income of over \$15,000. In 1968, only some 16 per cent of all white families had an income of over \$15,000. Cost, therefore, has become a universal barrier to housing, affecting over 85 per cent of the nation's families. It can hardly suffice to explain why the growing Negro population can find housing only by pushing out the boundaries of ghettos.

In the second place, the inability of a segment of America's families to compete in the market place for housing has been recognized by Congress since at least 1937. Such recognition has been the basis for legislation designed to assist families who are unable to afford safe, decent and sanitary housing. The Omnibus Housing Act of 1968 considerably expanded the programs and funding for publicly-assisted housing for families of low and moderate income. As a consequence, the number of publicly-assisted housing units has increased every year since 1968, and estimates project that some 500,000 units, fully 25 per cent of all starts, will be built this year.

The estimated 2,000,000 units to be built this year will constitute the largest volume of housing construction in our history, with the exception of a single year in the early 1950's. The half million units of publicly-assisted housing for low- and moderate-income families will set a new record for this category. Since Negroes, Puerto Ricans and Chicanos are overwhelmingly in low- and moderate-income categories, the half million units should provide them with dramatically increased options for housing improvement.

Regrettably, the removal of cost as a barrier for access to one-quarter of the new housing units does not constitute removal of the barriers that

confine racial and ethnic minorities to ghettos and facilitate white concentration in suburbs. The location of most of the publicly-assisted units will be in ghettos or at their edge or in places and under circumstances that will permit low- and moderate-income whites to preempt and occupy the units before any appreciable number of ghetto dwellers will know about them or be in a position to act definitively to secure them.

Public housing projects are located, with few exceptions, in ghettos. A Federal Court in Chicago has told the Housing Authority of that city to stop building public housing in ghettos, as they have for three decades, because it constitutes a violation of the civil rights of black applicants to be denied residential options outside the ghetto. Mayor Daley has responded by stopping construction of federally-subsidized public housing.

Moderate-income housing underwritten by Federal guarantees has also been built mainly in ghettos or areas on their way to becoming ghettos. The latest figures available for the 221 (d) (3) program of moderate income housing show that of 563 projects (containing some 64,000 units) completed by 1968 precisely 330 projects were in such ghetto or ghettoizing areas. Of the remaining 233 projects built outside the ghetto, 25 per cent were lily-white and 33 per cent had fewer than 5 per cent of their units occupied by minority tenants. (However, it is also encouraging and instructive to note that some 70 projects -- one out of seven -- were located outside of the ghetto and had a racially-integrated occupancy that apparently was stable.)

The Commission's recent exposure of HUD's flagrant violation of civil rights laws in permitting FHA to continue its promotion of racially-segregated housing under the Section 235 moderate-income home ownership program further confirms that race is the overriding factor in shaping our segregated society.

Finally, we submit that cost is a racial factor, and will remain such until the three-centuries old economic inequality between the races has been eliminated. Perhaps some progress has been made since Congress voted to permit Negroes to serve in the Federal Army at half the pay of white soldiers during the Civil War. However, in 1968 the median income of whites was \$8,589 and that of blacks and other minority races was \$5,377, or about 2/3's of the income of whites. In that same year, some 53 per cent of all Negro families had incomes below \$7,000 per year, as compared with 34 per

cent of all white families. Every conceivable social and economic index with respect to the two races, whether in occupations, unemployment, savings, condition of housing, years of school completed, skills attained, health care, or life span, shows the Negro in a disadvantaged position. With the causes of this disparity clearly traceable to 200 years of slavery and 100 years of segregation and discrimination, is it not sheer mockery and rank dishonesty to say that the cost of housing, to the extent that it constitutes a barrier to minorities, is purely an economic problem and not racial discrimination?

A man is a man; he cannot be divided into "economic man" and "racial man." The black man who earns \$2.50 per hour and lives in substandard housing in a ghetto cannot be programmed for under the separate headings of "low income" and "civil rights." The barrier to better housing which he confronts cannot be divided and overcome in stages; first as black or Chicano or Puerto Rican or American Indian or Oriental, then as low wage earner, nor vice versa.

The Federal Government, however, seems unwilling to understand and act upon this common sense appreciation of the low- and moderate-income minorities' situation, though it would seem that the constitutional mandate for "equal protection of the law" and the language of the Civil Rights Act of both 1964 and 1968 admit no other interpretation.

What barriers prevent publicly-assisted housing, 25 per cent of the current starts, from being utilized mainly to create housing opportunities for minorities outside of ghettos or ghettoizing areas? A systematic answer to this question will lay bare once more that which has been so thoroughly researched by the Kerner, Douglas, Kaiser and Milton Eisenhower Commissions dealing, respectively, with race relations, community development, housing, and violence.

The starting point would be the Kerner Commission's finding that ours is a racist society. Attitudes, practices and institutions that reflect the thrust of 300 years of white assumption of superiority and right to dominance operate to ignore and by-pass the needs and interests of minority races, and, when challenged by affirmative action to assure equal opportunity, the majority resorts to all available means to resist minority "in-

trusions" upon their assumed prerogatives in employment, local schools and, above all, residential areas.

The means resorted to most widely and successfully to assure white residential exclusiveness during the past 25 years is utilization of the suburban community's unilateral authority to control land use within its boundaries. This authority permits the suburban community to exclude housing construction within the means of most blacks and other minority groups.

The historic reason for allocating this authority at the local level, whatever its original merit, no longer has relevance in our urbanized nation with almost 75 per cent of our population living in metropolitan areas. (It is interesting to note, however, that the earliest zoning ordinances, those of Los Angeles and New York City, were used to regulate the location of Chinese laundries, in one case, and to discourage immigrant workers in needle trade shops from mingling with "carriage trade" shoppers on Fifth Avenue, in the other.)

Fragmentation of land use and construction controls by allocation to a large number of small suburban municipalities frustrates efforts at rational metropolitan development affecting transportation, waste disposal, water supply, flood control, air pollution, open space conservation, and police and fire protection. The resulting waste and inefficiency threatens to become unworkable and intergovernmental devices are improvised to avoid chaos. However, local control of land use and construction is never lessened. It is enshrined with a sanctified status as the essence of "home rule" and defended by white suburbanites with a zeal that borders on hysteria. In our racist society "home rule" power over land use and construction constitutes the wall around each suburban community that blocks entry by those of minority races and low income.

Why should blacks want to live in these communities? The answer, of course, is because they contain opportunities sought by all human beings: the chance to realize their potentials in income, education, recreation, and enjoyment of environmental amenities. Of every four new jobs created in the nation's metropolitan areas between 1960 and 1970, three were located in suburbs. During the same period, one-half of all industrial-commercial construction in dollar volume was located in suburbs. New jobs in central

cities tended to be either in professional-technical-managerial or other skilled white collar positions, or were at the other end of the occupational scale with low-paying, deadend jobs in service positions in laundries, restaurants, hotels, hospitals, etc. Between 1959 and 1967, New York City lost over 100,000 production-site jobs in manufacturing. During the same period, its suburbs gained 156,000 blue collar jobs, 41 per cent semi- and unskilled.

By 1985, half again as many Americans will be living in metropolitan areas as today. This increase of some 55 million persons will be almost entirely outside of central cities. Is this outlying growth to be 95 per cent white, as the suburbs are today, while blacks continue to be concentrated in cities because suburban barriers are unyielding? Is white America prepared to face the consequences of separation between the races on the scale of entire black cities and entire outer belts of white communities? The National Commission on Violence, headed by Dr. Milton Eisenhower, sought to project the consequences of such polarization in these vivid descriptive paragraphs:

- * Central business districts in the heart of the city, surrounded by mixed areas of accelerating deterioration, will be partially protected by large numbers of people shopping or working in commercial buildings during daytime hours, plus a substantial police presence, and will be largely deserted except for police patrols during night-time hours.

- * High-rise apartment buildings and residential compounds protected by private guards and security devices will be fortified cells for upper-middle and high-income populations living at prime locations in the city.

- * Suburban neighborhoods, geographically far removed from the central city, will be protected mainly by economic homogeneity and by distance from population groups with the highest propensities to commit crimes.

- * Lacking a sharp change in federal and state policies, ownership of guns will be almost universal in the suburbs, homes will be fortified by an array of devices from window grills to electronic surveillance equipment, armed citizen volunteers in cars will supplement inadequate police patrols in neighborhoods closer to the central city, and extreme left-wing and right-wing groups will have tremendous armories of weapons which could be brought into play with or without any provocation.

- * High-speed, patrolled expressways will be sanitized corridors connecting safe areas, and private automobiles, taxicabs, and commercial vehicles will be routinely equipped with unbreakable glass, light armor, and other security features. Inside garages or valet parking will be available at safe buildings in or near the central city. Armed guards will "ride shotgun" on all forms of public transportation.

* Streets and residential neighborhoods in the central city will be unsafe in differing degrees, and the ghetto slum neighborhoods will be places of terror with widespread crime, perhaps entirely out of police control during night-time hours. Armed guards will protect all public facilities such as schools, libraries and playgrounds in these areas.

* Between the unsafe, deteriorating central city on the one hand and the network of safe, prosperous areas and sanitized corridors on the other, there will be, not unnaturally, intensifying hatred and deepening division. Violence will increase further, and the defensive response of the affluent will become still more elaborate.

It is neither a rhetorical exaggeration nor an alarmist prediction to identify the foregoing as a prescription for civil war. The power to predict, one of the attributes of scientific method, is abundantly available to Government in the United States. However, the power to remedy seems so circumscribed by our political process that the Federal establishment sits immobilized as we move relentlessly toward clearly foreseen and scientifically predicted disaster. Or can this nation rouse itself to action on a scale and with a timeliness capable of reversing the trend toward wholesale catastrophe?

III. Remedies

The black man in his ghetto prison cannot but scoff cynically when he is told that the Government of the United States is committed to providing him with equal opportunity to improve his housing and neighborhood environment but, unfortunately, the Government is frustrated and perplexed in its search for remedies. He knows that this is the same Government that stiffened its spine and stamped its foot in 1941, and that aircraft plants, shipyards and munition works rose from the ground to pour out planes, ships and materials of war to overwhelm its enemies; the same Government that when it needed black hands to work, recruited, trained and housed tens of thousands of Negroes during the war effort; the same Government that fueled a gigantic building boom between 1946 and 1966 to provide suburban housing for millions of upward mobile low- and moderate-income white families who abandoned the central cities; the same Government that planned and underwrote a vast, multi-billion dollar highway system to facilitate suburbanization of the white population; the same Government that decided to put a man on the moon and spent billions in overcoming every barrier to achievement of its goal.

But this same Government, faced with the challenge to provide equal opportunities for its minority citizens by building publicly-assisted housing amidst the urban growth opportunities outside of central cities, suddenly becomes the helplessly tied giant, emmeshed in alleged legal entanglements that all spell out a single answer: subsidized housing for minorities can be built in the ghetto, but not in the suburbs. The suburbs dictate that they shall remain white, and the Federal Government bows to that position. The suburbs want to feed at the Federal trough, but on their terms. And the Government says, "Write your ticket, suburbia, and all of us, including black city dwellers, will pay the bill."

This powerful affluent nation presents an incredible spectacle as it goes through the motions of creating a Department of Housing and Urban Development; studying race and housing through in-depth research by no less than four Presidential Commissions; solemnly enacting legislation that declares fair housing to be the law of the land; formulating and funding an elaborate housing program to achieve a goal of 26 million units within a decade; devising new housing technologies to achieve a "breakthrough" to volume production; gravely enacting a national urban growth policy, complete with provision for new cities and towns -- and then subverts every one of the programs by placating suburban governments that deny permission to build. Suburban governments cannot operate in restraint of trade, or transportation, or drainage, or postal services, or defense. Why are they permitted to frustrate the Federal Government's program for urban development and housing? Are we, as a people, prepared to tolerate political expediency that invites inevitable disaster?

It is NCDH's contention that the Administration has at its disposal substantial legal authority to carry out effectively its housing programs to provide the same opportunities in housing to minorities now enjoyed by whites. Indeed, it is required by law to do so. Such opportunities would be secured if departments and agencies of the Federal Government complied with the provisions of the Civil Rights laws, including the affirmative action directive of Congress.

NCDH specifically recommends the following actions by Federal departments and agencies as essential to practical progress in enforcing existing law:

1. The conditioning of all Federal assistance to communities, including Federal facility site selection, on the provision of housing at all levels of income, open to all, and conceived and planned to expand housing choice throughout every Standard Metropolitan Statistical Area (SMSA) as well as within every individual community.

a) The operative power of HUD, the Department of Transportation, and the General Services Administration is enormous because demands for funds for Federal programs such as water and sewer grants, community facilities, open space, metropolitan planning, highways, and public works far exceed appropriations. Thus all departments continually must choose among communities according to various standards for award of funds.

Section 808(d) of the Fair Housing Act of 1968 states that "All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this title..." Section 808(e)(5) of the Act also imposes directly on the Secretary of HUD the same duty to administer the programs of that agency "affirmatively to further the purposes of this title." Section 801 declares "the policy of the United States to provide... for fair housing throughout the United States."

It is shocking that regulations implementing the affirmative action requirement still have not been issued. This should be done at once. Such regulations ought to embody a minimum standard of compliance with all provisions of the 1968 Fair Housing Act and Title VI of the 1964 Civil Rights Act, including positive evidence of acceptance of federally subsidized low- and moderate-cost housing, and should be applied without exception to all communities of all sizes and in all areas of the nation. The minimum standard would require elimination of all restrictive land-use devices such as large-lot zoning, minimum cost requirements, bars to multi-family units, and restrictive building codes which could operate to exclude lower-income households and minority residents.

When further choices must be made among complying communities for award of Federal funds, those communities which have according to quantitative standards most fully implemented the mandate of open housing and open communities should be given preference.

b) As your Commission has so forcefully documented, the particularly powerful role of the General Services Administration as the selector of sites for federally owned or leased facilities places a special responsibility on that agency. The Executive Order for GSA site selection (No. 11512) should be strengthened to require that a community provide a fully open housing market and housing -- with HUD cooperation as needed -- for low- and moderate-income employees and potential employees of any Federal agency or department locating in a community. The provision of such housing should be a minimum standard which, unless adhered to, would bar the selection of a community as the site of any Federal installation.

c) The Justice Department has an obligation to seek a remedy in court when a community refuses to accommodate low- and moderate-income housing or otherwise affirmatively comply with the requirements of the Fair Housing Act of 1968 and the Civil Rights Act of 1964.

The Attorney General is specifically charged to act in cases of patterns or practices of discrimination in violation of the 1968 act. To date, the Department has channeled its resources to challenges of practices of discrimination -- usually by one or more realtors in the private market. Patterns of discrimination, which are most often a combination of public and private action or inaction, have not been widely challenged.

The Department ought to intervene wherever such a pattern of discrimination, particularly that caused by zoning and land-use and construction practices, effectively excludes federally assisted housing for low- and moderate-income families. The refusal of the Justice Department to intervene in such flagrant cases of housing discrimination as Black Jack, Mo., and Union City, Calif., as urged by HUD and NCDH, is, in our judgment, an outrageous abdication of responsibility and the most cynical type of political accommodation.

2. The next most powerful tools in the Federal arsenal for enforcement of the open housing law are the federally assisted housing programs under HUD's administration.

a) HUD must without exception be governed in selection of sites and of tenants and/or owners by a single standard that requires expansion of housing opportunity outside racial concentrations and economically disadvantaged areas throughout SMSAS as well as within communities within SMSAS.

Equal opportunity site and tenant selection regulations now apply only to low-rent public housing. Such regulations must be applied uniformly to all assisted housing programs. Most crucial to an open communities policy are the Section 235 and 236 programs because of Federal reliance on these to provide the greatest share of lower-income housing specified in the 1968 housing goals.

Present policy permits HUD to require opportunity-producing sites for one Federal program while at the same time permitting segregation-producing sites for other programs, as this Commission's report on 235 housing confirms.

b) Successful application of equal opportunity tenant/owner selection policies requires a creative and comprehensive metropolitan affirmative marketing program designed to expand greatly the contact of minority citizens throughout the area with available housing options. Specific affirmative marketing plans must be a pre-condition of award to all developers -- community, non-profit, or private -- of all federally assisted housing.

c) Every Model Cities program must be required to include specific housing alternatives for the model neighborhood's residents outside the neighborhood as well as a program to inform the community of these options and the benefits, such as employment and educational possibilities, which may accrue. Sponsors of federally assisted housing must be required to market their developments in model neighborhoods as part of this program.

d) Operation Breakthrough regulations should be enforced to ensure that its innovative developments are planned and executed to include persons of all races and incomes and thereby contribute to the inclusiveness of the community in which the project is located.

e) HUD Mortgage Insurance Program benefits to private developers have continued relatively free of Federal regulation respecting discriminatory practices and policies. It is incumbent (and past due) on the Federal government under Title VIII and Executive Order 11063 to move beyond mere receipt of assurances of nondiscrimination to specific affirmative actions designed to reach the minority homeseeker.

FHA developers must be required affirmatively to market their housing among minority consumers according to a plan approved by HUD.

FHA developers must be required to hire minority salesmen and promotional staff to effectuate the affirmative marketing program. (The consent order entered in Federal district court in Richmond, Va., in the Lake Caroline case included requirements similar to these.)

FHA should monitor all developers, brokers, and lenders utilizing the mortgage insurance program and bring action where violations of law are found.

3. HUD and Justice carry specific responsibilities concerning the private market in the existing housing supply which is regulated by the complaint and pattern and practice sections of the 1968 open housing law. These responsibilities are not being met.

Title VIII requires that "wherever a state or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies of this title, the Secretary (of HUD) shall notify the appropriate state or local agency of any complaint filed...." The Secretary must then give the state or local enforcement agency 30 days to take action. Title VIII also provides that "in no event shall the Secretary take further action unless he certifies that in his judgment...the protection of the rights of the parties or the interests of justice require such action."

Expedient handling of complaints is, of course, vitally important. Individual rights under law must be protected, and violations of those rights redressed. However, NCDH experience has shown that primary reliance on the individual complaint procedure as the means of ending discrimination is unrealistic and ineffective.

Title VIII makes provision for a variety of additional implementation procedures, including informational and educational activities and, most importantly, institution by the Department of Justice of court actions to eliminate "patterns or practices" of housing discrimination.

In order to achieve maximum progress in opening the private market, regulations governing the referral of individual complaints to state and local agencies, and the basis upon which such complaints may be recalled for action by HUD should be widely publicized.

4. Priority should be given to the operation of the federally supervised mortgage finance industry. Savings and loan associations and commercial and mutual banks are almost all chartered, regulated, and supervised by one or another of the Federal banking agencies. Yet, no significant action has been taken by the Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, and the Treasury Department under Title VIII.
 - a) Such Federal agencies should be required to monitor their member institutions to eliminate and prevent discriminatory practices and policies with respect to the making of loans and the terms and conditions applied.
 - b) Those agencies which regulate the mortgage finance industry must also be required to adopt affirmative programs to promote equal opportunity among their member institutions.
5. The Office of Federal Contract Compliance of the Department of Labor in a February 5, 1970 order (No. 4) set forth 10 items to be analyzed by non-construction contractors in analyzing problem areas for development of action programs. Listed as inhibiting minority employment are "lack of access to suitable housing" and "lack of suitable transportation."

The dollar and personnel power of service and supply contractors to all government agencies requires that they be brought under affirmative action requirements of Title VIII of the 1968 Civil Rights Act. Special regulations ought to be issued and enforced which require the overcoming of lack of access to suitable housing as part of contract compliance.

6. The HUD Secretary, as indicated above, has authority under the statute to require affirmative administration to further the purpose of fair housing in all housing and urban development-related programs by all agencies and departments. However, it is unlikely that all agencies of government will, in fact, accept the operating authority of the one department chief over vital elements of their programs. Therefore, NCDH's final recommendation is addressed to the President of the United States.
7. In view of the magnitude and complexity of the Federal establishment, we regard as absolutely essential the issuance of an Executive Order requiring the formulation, implementation, and adherence by all departments and agencies to a Federal open housing/open communities program as mandated by law, and the establishment of an effective mechanism to insure compliance.

A new alarm of the impending collapse of municipal governmental operations was sounded recently by the mayors of a number of the nation's largest cities, gathered in conference in New York City. We see evidence on every hand of the deterioration of urban conditions. Programs to combat poverty and help the disadvantaged are being reduced or dismantled. The rumblings of discontent are beginning to surface. It is clearly necessary to launch a new national effort of a magnitude capable of restoring forward motion to the nation's remedial measures against poverty, urban blight and racism. The reduction and, hopefully, immediate termination of American involvement in Viet Nam provides a timely release of major resources to be applied to domestic remedies. Decent open housing for all Americans must be our first priority.

This new national effort should allocate massive sums to rebuilding our cities and to housing low- and moderate-income families in the outer growth portions of the nation's metropolitan areas. Such large-scale housing construction should be designed, packaged, and marketed to provide maximum options for minorities to live where they choose to enhance to the fullest their opportunities. The goal in this national effort must be to end ghettos as prisons and create neighborhoods of free choice throughout metropolitan regions, both within and outside central cities. Nothing less will halt the present destruction of this nation's human and material resources.

In this undertaking, the watchword of "equal opportunity in housing" should replace the discriminatory criteria of market place. This would be the realization of the nation's commitment to its citizens in the historic

1949 Housing Act with its promise of a safe, decent and sanitary home in a suitable living environment for every American family. Housing would be available as a right and payment would be a reasonable percentage of income.

To assure the attainment of these goals, the Federal Government should become the "housing supplier of last resort" by entering directly into housing production and community development where this is necessary to carry out national policy. In this regard we commend Cleveland's Mayor Carl Stokes for taking the initiative in proposing a direct Federal role in housing production.

There is ample historical precedent for such a Federal role. Public housing was built by the Federal Government's Public Works Administration in the 1930's in many parts of the country -- in cities, towns and rural areas. The Federal Government also built three new "greenbelt" towns in Maryland, Ohio and Wisconsin. The Supreme Court in 1945 (Federal Public Housing Authority v. Guckenberger) bluntly dismissed the complaint that a direct Federal role in housing was unconstitutional, and held it to be an obvious exercise of Federal power in behalf of the national welfare. If the magnitude of the crisis that threatens the national welfare is the criterion, then certainly the need of a direct Federal role to build housing where most needed for those most in need is greater today than ever in the past.

But, as of now, beginning with yesterday, the entire Federal establishment should reverse every program and every policy that aids in any manner whatsoever the building of racial and ethnic ghettos and white restricted enclaves. It is the business and the legal responsibility of the Government of the United States to promote equal housing opportunities and open communities throughout this land. It is long past time to "bring us together."

June 10, 1971

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Exhibit No. 23



CITY OF SAN JOSE
CALIFORNIA

CITY HALL
SAN JOSE, CALIFORNIA 95110
TELEPHONE 292-3147

STATEMENT OF
NORMAN Y. MINETA
MAYOR ELECT OF SAN JOSE, CALIFORNIA

BEFORE THE
U.S. COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C.

JUNE 15, 1971

Mr. Chairman, and Members of the U. S. Commission on Civil Rights:

I am Norman Y. Mineta, Mayor elect of San Jose, California. It is my pleasure to appear before you this afternoon to discuss the problems facing us in my city as we attempt to provide for our low-income residents, housing which is decent, safe and sanitary, and is located in a suitable living environment within a reasonable distance from the occupant's places of daily endeavor.

Messrs. Commissioners, may I suggest that that goal is very difficult to achieve. To be honest, my appearance before this Commission at the point in your hearings where you hope to hear about the problems of the central city in relation to suburban growth is not exactly the proper heading under which San Jose's problems fall. For you see, the City of San Jose is both an old center city and a suburban community within itself.

Our area has led the nation in growth for the last 15 years. A statistical indication of our growth is the fact that in just one decade the City's population has more than doubled from 204,196 in 1960 to the new high of 445,779 as reported in the 1970 Census. During that period we moved up from the position of 57th largest to 31st largest city in the Nation and fourth largest in the state. In San Jose we have built an average of 6,732 new homes each year for the

past 10 years and yet we are still way behind the need for new housing in our area. Until this past year the vacancy rate in our City had not exceeded 2 percent for the preceding 5 years. Even with the high unemployment situation we have in San Jose at the present time, which affects vacancy rates, the present vacancy rate, as of a November 1970 postal survey, is 3.5 percent. The highest it has been in six years.

Yes, San Jose is a growing City both in numbers and in area. Where our old center city once embraced 17 square miles in 1950, we now, just 20 years later, have some 140 square miles of topography within our boundaries, and our ultimate size of some 340 square miles has already been agreed to by the jurisdictions within our regional area.

It would be nice to believe that with this growth, and all this newness, came the ability to adequately house the people of our community. Unfortunately, such is not the case.

I am sure the Commission is aware, that the Valtierra case involving the right of a referendum vote on public housing, is a case which grows out of the unsuccessful referendum on public housing held in San Jose in June of 1968. For the record, I should state that at that time the majority of the San Jose City Council was in favor of constructing public housing. I am sure that we still are. But the disappointing

ruling of the high court has perpetuated the difficulties we face as we try to eliviate our low-rent housing problem.

Let me just take a few minutes to set the stage so that you can better understand the problems we face in San Jose.

1. We have a need for low-rent housing in San Jose.
Our most recent study (the March 1970 Kaiser Report) showed our unmet need for low-income families and elderly persons in 1969 to be 14,500 units. Our total low-rent housing requirement at that time was some 28,000 units, but some of this would be accommodated by the private housing market. The 14,500 unit figure, therefore, was the need which at that time could not be met through the private supply.

2. The housing programs which we can obtain without referendum (the Section 23 leased low-rent housing program and the 235 and 236 programs) do not reach the needs of the low-income market.
The 1969 Kaiser Study showed, for example that 9.4 percent of our population earned less than \$3,000 per annum income; 9.9 percent earned between \$3,000 and \$5,000; and 21.2 percent fell into the \$5,000 -- \$8,000 per annum bracket.

In San Jose the basic rent on a 236-three bedroom unit for a family of four or more rents for between \$135-\$140 per month. Now, assuming that 25 percent of income would be paid for rent, the local housing costs make it impossible for a family with an income of less than \$6,720 per year to participate in this program. Rent supplement payments reduce the effective income for participation in some cases. But the combination of 236 - rent supplements is not a practical way to address the problem. We need low rent public housing.

3. In San Jose there is a correlation between being poor and being a member of a minority group. In our area we not only have Black Americans (10,955 reported in 1970 Census), but we have a substantial Mexican American population as well. (17,478 "other" reported in 1970 Census). Of the approximately 14,500 persons whom the Kaiser report identified as having an unmet low-rent housing need, our city staff estimates upwards of 85% of that number are members of minority groups.

4. In 1968 we have tried to obtain a referendum for public housing from the citizens of our community and failed. The Valtierra case resulted from that election. The commission should know that prior to that election we tried to stress the positive

side of low-rent housing. We campaigned on the basis of a dispersal or scattered site program to assure the community that we would not concentrate in one area the 1,000 units of housing for which we were seeking voter approval.

We also talked about quality construction, and esthetics. Examples of nice looking garden type low-rent apartment projects were published in the newspaper in our effort to arrest any fears the citizens might have that the City Council might be contemplating construction of some of the institutional looking public housing that had been built in other parts of the country.

Hindsight being what it is, I am sure that there is always room to say we could have sold harder, or spent more money on a more sophisticated public information campaign. But the point is we did have our 250 citizen member Better Housing Committee campaign in the neighborhoods. Approximately \$10,000 was raised locally and spent for publicity, primarily through the newspaper, radio and television media. A city-wide forum was conducted under the citizen committee's sponsorship, and the Mayor and the majority of the City Council campaigned actively for its approval. But we still lost the election. The voters would not permit us to construct 1,000 units of housing.

As a Mayor, I believe we the city, working with our City and County Housing Authorities have a responsibility to try and promote the development of adequate housing for all citizens

within our economy, including the low income..

But the fact remains that this income group has been singled out by the State of California and the Supreme Court, by requiring the city to take special and unusual action before we, the city, can see to this housing need.

I am not a lawyer, but to my mind this constitutes discrimination, not only against the poor, which is bad enough; but due to the correlation between being poor and being of a racial minority, it constitutes discrimination against our racial minority citizens as well. The fact that our city is largely suburban creates a situation whereby the total community can deny to a smaller portion of that community the low-rent housing it needs. Another problem the special referendum treatment for low-rent housing causes is a financial one. I will not burden this commission with the problems we face as we try to finance our basic municipal services. But like so many cities, our resources are stretched beyond their limits, and the burden for providing a referendum costs us money.

In San Jose our next regular election will be the State Primary in June of 1972. To simply hold a special election between now and then would cost between \$52,000 and \$67,000. This means we will either have to incur such an expense, or postpone even beginning to try to eliviate our low-rent housing problem through construction, for another year. Further, as this

commission well knows, no municipal endeavor ever received voter approval without some form of public information program being carried out. Such an effort could run the costs far beyond the basic cost of the special election itself.

As Mayor-elect, I am not at all sure at this time that we as a city are financially capable of carrying out such an obligation. Because of this, we face the grim prospect of being forced to ignore even the basic issue of trying to obtain the voters consent necessary to enable us to begin to face our low-rent housing responsibilities for a minimum of another year. That, gentlemen, seems to me to be Un-American.

What is the answer. I don't really know.

In San Jose, since we are talking about solving our own existing low-rent housing problems, in our own city, we do not represent a case where, at least as far as the city is concerned, we are proposing to export our low-income citizens to another jurisdiction. Therefore, the question of who pays for the municipal services these citizens use, but due to the non-taxable nature of their housing, do not pay for, is not germane. I am sure that some tax relief in terms of a greater tax contribution by the HUD low-rent programs would constitute a selling point for low-rent housing in our community; but, in the final analysis, we in San Jose cannot hide behind that issue since the people we hope to house are

already living in San Jose. Their present housing is simply substandard, and we want to do something about it.

Maybe HUD should advance us the money required to hold the special elections and to mount the necessary public information campaign and then consider this expenditure as an eligible project cost. If the referendum failed, the funds so advanced would be considered as a grant.

Gentlemen, I really do not know what the answers are. But I can tell you that in our city we are going to need both guidance and assistance to meet the burdens placed upon us as we try to meet our low-rent housing responsibilities; or these burdens which have been legislatively placed upon this single program in California will have to be lifted.

Exhibit No. 24

Statement by Hon. Carl B. Stokes, Mayor of Cleveland

Before United States Commission on Civil Rights

Washington, D. C.

June 15, 1971

IT IS A PRIVILEGE TO APPEAR BEFORE THIS
DISTINGUISHED COMMISSION ON BEHALF OF THE NATIONAL
LEAGUE OF CITIES AND THE U. S. CONFERENCE OF MAYORS.

THE NATIONAL LEAGUE OF CITIES, FOUNDED IN
1924, REPRESENTS 14, 883 MUNICIPAL GOVERNMENTS IN ALL
50 STATES. INCLUDED IN ITS MEMBERSHIP ARE ALL MUNI-
CIPALITIES WHICH ARE MEMBERS OF STATE MUNICIPAL LEAGUES
AND -- AS DIRECT MEMBER CITIES -- THE VAST MAJORITY OF
CITIES OVER 30, 000 POPULATION.

THE UNITED STATES CONFERENCE OF MAYORS WAS
ORGANIZED IN 1933. IT REPRESENTS THE ELECTED CHIEF
EXECUTIVES OF CITIES HAVING POPULATIONS OVER 30, 000, OF
WHICH THERE ARE 750 IN THE UNITED STATES.

WHILE TWO SEPARATE AND DISTINCT ORGANIZATIONS, THE NATIONAL LEAGUE OF CITIES AND THE U. S. CONFERENCE OF MAYORS CARRY ON JOINT ACTIVITIES IN RESEARCH, LEGISLATION AND POLICY DEVELOPMENT, AND ALSO SHARE AN INTERLOCKING DIRECTORATE.

THE POLICY OF THE NATIONAL LEAGUE OF CITIES IS EXPRESSED IN THE NATIONAL MUNICIPAL POLICY, FORMULATED THROUGH A YEAR-LONG COMMITTEE PROCESS WHICH CULMINATES IN ITS UP-DATING AND ADOPTION BY MUNICIPAL DELEGATES TO THE ANNUAL NATIONAL LEAGUE OF CITIES CONGRESS OF CITIES. THE U. S. CONFERENCE OF MAYORS MEETS ANNUALLY TO ADOPT RESOLUTIONS ESTABLISHING CONFERENCE POLICY; THAT CONFERENCE IS NOW TAKING PLACE IN PHILADELPHIA. BETWEEN THE ANNUAL CONFERENCE MEETINGS, THE EXECUTIVE COMMITTEE AND ADVISORY BOARD ARE THE GOVERNING AUTHORITIES.

THE PROBLEMS CAUSED BY SUBURBAN EXCLUSION

HAVE ALREADY BEEN DISCUSSED AT LENGTH BEFORE THIS COMMISSION. LET ME OFFER SOME GENERAL OBSERVATIONS FROM THE CITIES' PERSPECTIVE.

IN-MIGRATION FROM RURAL AREAS AND NATURAL POPULATION GROWTH SWELL THE NUMBERS OF THE POOR AND NON-WHITE IN THE CENTRAL CITIES. THE TERM "GHETTO" IS HERE APPROPRIATE, BECAUSE SUBURBAN EXCLUSION PREVENTS PUBLIC HOUSING, MULTIPLE DWELLINGS, AND GOVERNMENT ASSISTED HOUSING PROGRAMS FOR LOW AND MODERATE INCOME PEOPLE FROM BEING BUILT OUTSIDE THE CENTRAL CITIES, FORCING THE POOR AND NON-WHITE TO STAY IN THE CITY GHETTOS. THE RECENT SUPREME COURT DECISION IN JAMES' v. VALTIERRA HAS ADDED NEW LEGITIMACY TO THESE RESTRICTIVE PRACTICES.

THE BUREAU OF LABOR STATISTICS HAS FOUND THAT MORE THAN ONE-HALF OF ALL NEW EMPLOYMENT IN THE 1960'S

IN LARGE STANDARD METROPOLITAN STATISTICAL AREAS WAS RECRUITED TO WORK OUTSIDE CENTRAL CITIES. IN LARGE METROPOLITAN AREAS, BETWEEN 75% AND 80% OF ALL NEW EMPLOYMENT IN TRADE AND INDUSTRY IS OUTSIDE THE CENTRAL CITIES. IN THE TWENTY LARGEST SMSAs, 54% OF THE LABOR FORCE WORKS IN THE SUBURBS; OF THAT LABOR FORCE, 95% IS WHITE.

THE POOR AND NON-WHITE ESPECIALLY, BUT REALLY A GROWING PORTION OF A CITY'S LABOR FORCE FIND THEMSELVES TRAPPED IN CENTRAL CITIES WITH A SHRINKING ECONOMIC BASE, UNABLE TO MOVE TO THE SUBURBS WHERE THE JOBS ARE, UNABLE TO FIND TRANSPORTATION OUT TO THE SUBURBAN JOBS AT A REASONABLE PRICE.

AS THE CITIES BECOME POINTS OF CONCENTRATION FOR THE POOR AND DEPRIVED -- ONE OF SEVEN IN NEW YORK CITY IS ON WELFARE -- THE DEMANDS FOR MUNICIPAL SERVICES GROW AT A RATE FAR EXCEEDING THE CITIES' ABILITY TO

PROVIDE SERVICES. FOR SOME CITIES, REVENUES ARE GROW-
 ING AT ONLY 1% A YEAR, WHILE EXPENSES ARE INCREASING
 FROM 7% TO 17% ANNUALLY.

TO FURTHER NARROW A CITY'S OPTIONS, REVENUE
 RAISING CAPACITY IS SEVERELY RESTRICTED BY STATE LAW.

-- STATES TELL CITIES WHAT TAXES THEY MAY RAISE;
 AND IN SOME CASES, HOW HIGH THEY MAY RAISE THEM.

-- STATES DESIGNATE WHO MAY AND WHO MAY NOT BE
 TAXED, AND IN SOME INSTANCES, STATE EXEMPTION
 HAS STRIPPED MORE THAN ONE-HALF OF THE LOCAL
 PROPERTY VALUE OFF THE TAX ROLLS:

-- STATES SET LIMITS ON HOW MUCH DEBT MAY BE
 INCURRED AND WHAT INTEREST RATES MAY BE PAID;
 AND

-- STATES SOMETIMES MANDATE SERVICES WHICH MUST
 BE PERFORMED AND SALARIES PEOPLE MUST BE PAID
 TO PERFORM THEM.

WHERE CITIES DO HAVE SOME FREEDOM TO RAISE TAXES ON THEIR OWN, THE PRIMARY TAX THEY HAVE TO USE IS THE PROPERTY TAX. INCREASING THIS TAX DISCOURAGES PEOPLE FROM IMPROVING THEIR PROPERTIES OR FORCES THEM TO MOVE OUT OF THE CITY ALTOGETHER, AND TENDS TO DRIVE OUT BUSINESS. THE PROPERTY TAX IS A HIGHLY REGRESSIVE TAX, FALLING ON THE POOR WITH MUCH GREATER SEVERITY THAN ON THE NON-POOR. THE POOR ARE FACED WITH HAVING NOT ONLY TO PAY FOR THEIR OWN INADEQUATE LEVEL OF SERVICES, BUT ALSO SUBSIDIZE THE SUBURBS AS WELL.

THE SUBURBS HAVE REAPED FINANCIAL BENEFITS FROM THEIR EXCLUSIONARY ZONING PRACTICES OF KEEPING OUT FAMILIES WHO SUBURBAN RESIDENTS CONSIDER TO BE FISCAL AND SOCIAL LIABILITIES. BUT THEY ARE NO LONGER IMMUNE FROM THE PRESSURES OF URBANIZATION. THE DEMAND FOR MORE HOUSING AND THE DETERIORATION AND

AND UNINHABITABILITY OF CENTRAL CITY HOUSING HAVE CONTRIBUTED TO THE SPILL OVER THE CITY'S PROBLEMS ACROSS POLITICAL BOUNDARIES.

THE OLDER SUBURBS, THE SUBURBS IN THE PATH OF URBANIZATION ARE OFTEN INDISTINGUISHABLE FROM THEIR LARGER BRETHREN WE CALL CENTRAL CITIES. "MINI GHETTOS" HAVE BEEN ADDED TO OUR URBAN VOCABULARY. THE SHOCK WAVES OF SOCIAL UPHEAVAL IN OUR CITIES KNOW NO POLITICAL BOUNDARIES. THE PROBLEMS WILL ENGULF US ALL UNLESS WE ACKNOWLEDGE OUR SHARED RESPONSIBILITY TO ALL OUR PEOPLE.

THIS AWARENESS OF OUR INTERDEPENDENCE AND ACKNOWLEDGEMENT OF THE PROBLEM IS WHAT WE HOPE THESE HEARINGS MAY ACCOMPLISH. THAT IS WHY WE HAVE COME HERE TODAY, WHILE OUR FELLOW MAYORS ARE MEETING IN PHILADELPHIA TO ADDRESS THEMSELVES TO THESE VERY SAME PROBLEMS.

BOTH THE NATIONAL LEAGUE OF CITIES AND THE U. S. CONFERENCE OF MAYORS HAVE SPOKEN OUT REPEATEDLY AND FORCEFULLY TO THE PROBLEMS OF SUBURBAN RESTRICTIONS ON THE ABILITY OF THE POOR AND MINORITIES TO FIND ADEQUATE HOUSING OUTSIDE THE CENTRAL CITY. ALTHOUGH THERE ARE SOME DIFFERENCES BETWEEN THE POLICIES OF THE TWO ORGANIZATIONS, THEY ARE DIFFERENCES OF DEGREE RATHER THAN SUBSTANCE. THERE IS FUNDAMENTAL AGREEMENT ON THE FOLLOWING PRINCIPLES:

- AN ESSENTIAL PRE-REQUISITE FOR DEALING WITH ANY OF OUR URBAN PROBLEMS IS A NATIONAL GROWTH POLICY, A MAJOR COMPONENT OF WHICH SHOULD BE THE PROVISION FOR A MORE EQUITABLE DISTRIBUTION OF POPULATION, BOTH THROUGHOUT THE NATION AND WITHIN METROPOLITAN AREAS;
 - SUBURBAN EXCLUSIONARY LAND USE PRACTICES ARE ONE OF THE MAJOR IMPEDIMENTS TO RESIDENTIAL
- .

MOBILITY AMONG THE POOR AND NON-WHITE, HAVING
SEVERE CONSEQUENCES ON THE CENTRAL CITY:

- EVERY COMMUNITY MUST ACCEPT ITS RESPONSIBILITY
TO PROVIDE A FULL RANGE OF HOUSING OPPORTUNITIES
FOR ALL INCOME AND RACIAL GROUPS;
- FEDERAL POLICIES AND PROGRAMS SHOULD BE USED
IN AN AFFIRMATIVE MANNER TO ACHIEVE A BALANCED
HOUSING SUPPLY IN CENTRAL CITIES AND SUBURBS.

IN ADDITION, THE EXECUTIVE COMMITTEE OF THE
CONFERENCE OF MAYORS IN JANUARY ADOPTED A POLICY
STATEMENT CALLING UPON THE FEDERAL GOVERNMENT TO
INTERVENE IN THE BLACKJACK, MISSOURI CASE, AND ALSO
CALLING FOR THE CUTTING-OFF OF ALL FEDERAL ASSISTANCE
WHERE A COMMUNITY FAILS TO DEMONSTRATE MEANINGFUL
PROGRESS TOWARD PROVIDING A FULL RANGE OF HOUSING
OPPORTUNITIES.

THE ULTIMATE OBJECTIVE OF THE NATIONAL LEAGUE OF CITIES AND THE U.S. CONFERENCE OF MAYORS IS TO MAKE A REALITY OF THE 1949 HOUSING ACT'S GOAL OF "A DECENT HOME AND A SUITABLE LIVING ENVIRONMENT FOR EVERY AMERICAN FAMILY." THAT GOAL WILL NEVER BE REACHED IF PRESENT SUBURBAN ATTITUDES, POLICIES AND PRACTICES PERSIST.

THE KERNER COMMISSION REPORTED IN MARCH 1968 THAT "OUR NATION IS MOVING TOWARD TWO SOCIETIES, ONE BLACK, ONE WHITE -- SEPARATE AND UNEQUAL." THE TWO "SOCIETIES" ARE THE CENTRAL CITIES AND THE SUBURBS.

I AM NOT AT ALL IMPRESSED WITH 1970 U.S. CENSUS FIGURES WHICH SHOWS AN INCREASED NUMBER OF NON-WHITES LIVING IN SUBURBAN LOCATIONS. WHEN YOU START WITH ONE AND ADD ANOTHER, THAT IS A 100 PERCENT INCREASE. ACTUALLY, THE LATEST CENSUS FIGURES INDICATE THAT

POPULATION. TEN YEARS AGO, BLACKS MADE UP 4.2 PERCENT OF THE SUBURBAN POPULATION. IF THAT IS A MEASURE OF PROGRESS, THE PROGRESS HAS BEEN MINIMAL.

THE STATISTICS FOR THE CITY OF CLEVELAND AND ITS METROPOLITAN AREA INDICATE THAT THE SUBURBAN RING OR NOOSE AROUND CLEVELAND PROPER CONTAINS 59 PERCENT OF ALL WHITE FAMILIES IN THE AREA AND 39 PERCENT OF ALL WHITE FAMILIES WITH INCOMES UNDER \$3,000, SO YOU SEE THAT THE GHETTOIZATION OF THE CENTRAL CITY INCLUDES THE ELDERLY AND APPALACHIAN WHITES, WHO DO NOT QUALIFY FOR FHA MORTGAGES IN THE SUBURBS AS WELL AS THE NEGRO AND THE PUERTO RICAN. ONLY THREE PERCENT OF THE BLACK FAMILIES LIVE IN THE CLEVELAND SUBURBS; JUST 2.4 PERCENT OF ALL BLACK FAMILIES WITH INCOMES UNDER \$3,000 LIVE IN THE CLEVELAND SUBURBS.

WE HAVE NEITHER RACIAL NOR ECONOMIC INTEGRATION IN THIS COUNTRY, AND YOU CAN TAKE YOUR CHOICE AS TO WHICH

IS TO BE DEPLORED MORE. I DEPLORE BOTH.

LET ME SUBMIT FOR YOUR CONSIDERATION A RE-
PRINT OF AN ARTICLE FROM THE JANUARY-FEBRUARY, 1971
ISSUE OF CITY, THE MAGAZINE OF THE NATIONAL URBAN
COALITION. THE ARTICLE BY ROLDO BARTIMOLE, A CLEVE-
LAND JOURNALIST AND SOCIAL CRITIC, IN MY OPINION,
ACCURATELY DESCRIBES PRESENT RELATIONSHIPS BETWEEN
THE CITY OF CLEVELAND AND THE SURROUNDING SUBURBS,
THE ATTITUDES INVOLVED, THE THREAT POSED NOT ONLY TO
THE FUTURE OF THE CENTRAL CITY ITSELF BUT ALSO TO THE
ABILITY OF OUR SOCIETY EVER TO ACHIEVE THE GOALS OF
DECENT HOUSING FOR EVERY FAMILY, EQUAL OPPORTUNITY
FOR ALL OF OUR CITIZENS AND HARMONEY AMONG THE DIVERSE
GROUPS OF INDIVIDUALS INVITED, HAULED OR DRAGGED, AS
THE CASE MAY HAVE BEEN, TO OUR SHORES.

CLEVELAND, YOU SHOULD UNDERSTAND, IS THE
CENTRAL CITY OF CUYAHOGA COUNTY. IT IS ONE OF 38

MUNICIPALITIES, 18 VILLAGES AND FOUR TOWNSHIPS IN THE COUNTY THERE ARE NEARLY AS MANY SCHOOL DISTRICTS WHICH ARE SEPARATE TAXING AUTHORITIES. THE STANDARD METROPOLITAN STATISTICAL AREA INCLUDES ALL OR PORTIONS OF ADJACENT COUNTIES -- LAKE, GEAUGA, LORAIN AND MEDINA -- AS WELL.

EVERYONE GÄNGS UP ON THE CENTRAL CITY. THE PARANOIA I AM ENTITLED TO AS AN ELECTED OFFICIAL SUGGESTS THE SITUATION IS AGGRAVATED BY THE COLOR OF MY SKIN, AS THE CITY ARTICLE MENTIONS, BUT DISCUSSIONS WITH OTHER MAYORS CONVINCED ME THE PROBLEM IS BY NO MEANS UNIQUE TO THE FIRST PREDOMINATELY WHITE CITY TO ELECT AND RE-ELECT A BLACK MAYOR.

LET ME BRIEFLY PRESENT A CASE HISTORY FROM OUR CLEVELAND EXPERIENCE WHICH WILL INDICATE TO YOU HOW DIFFICULT IT IS, ATTITUDES BEING WHAT THEY ARE, TO IMPROVE HOUSING OPPORTUNITIES FOR MINORITY GROUP

INDIVIDUALS IN SUBURBAN LOCATIONS. (BY MINORITY GROUP INDIVIDUALS I MEAN BOTH NON-WHITE AND POOR BECAUSE THE POOR ARE A MINORITY IN THIS COUNTRY.)

THE CASE IS A SPECIAL ONE IN THAT THE CITY OF CLEVELAND FOR MANY YEARS HAS OWNED A LARGE, UNDEVELOPED TRACT OF LAND OUTSIDE ITS OWN BOUNDARIES, A CIRCUMSTANCE NOT EXISTING, SO FAR AS I KNOW, IN OTHER METROPOLITAN AREAS. THE ATTITUDES DISPLAYED, THE OBSTACLES THROWN IN THE PATH OF PROGRESS, ARE ALL TYPICAL, HOWEVER, OF THE CENTRAL PROBLEM THIS COMMISSION IS ADDRESSING ITSELF TO.

WHAT IS INVOLVED IN THIS CASE IS A PROPOSAL BY THE CITY OF CLEVELAND, APPROVED BY OUR CITY PLANNING COMMISSION, FOR THE CREATION OF A NEW TOWN, WARREN'S RIDGE, ON 865 ACRES OF LAND, OWNED BY THE CITY OF CLEVELAND IN WARRENSVILLE TOWNSHIP AND ORANGE VILLAGE. THE SITE IS SOME TWO MILES EAST OF THE CITY OF CLEVELAND'S

BOUNDARY AND APPROXIMATELY SIX MILES FROM OUR DOWNTOWN BUSINESS DISTRICT.

THE TERRAIN IS GENTLY ROLLING HILLS, WOODS AND OPEN FIELDS. THE EASTERN PORTION OF THE SITE IS CROSSED BY INTERSTATE HIGHWAY 271 WITH MAJOR INTERSTATE LINKAGES TO INTERSTATE 80 AND THE OHIO TURNPIKE, WHICH IS IMMEDIATELY SOUTH OF THE SITE. EXISTING RAPID TRANSIT, THE CITY OF SHAKER HEIGHTS RAPID TRANSIT, COULD SERVE THE SITE WITH A SHORT EXTENSION.

NOW, OUR PLANNERS UNDER THE ABLE DIRECTION OF NORMAN KRUMHOLZ, DIRECTOR OF THE CLEVELAND CITY PLANNING COMMISSION, CONCEIVED THE IDEA OF SELLING OR LEASING THIS LAND TO PRIVATE DEVELOPERS FOR THE CREATION OF 8,150 DWELLING UNITS, RANGING FROM SINGLE, DETACHED UNITS TO APARTMENTS WITH ELEVATORS, WITH 5,350 OF THE UNITS TO BE SOLD AND 2,800 TO BE PUBLIC HOUSING FOR LOW AND MODERATE-INCOME FAMILIES.

THIS WOULD BE A "NEW TOWN", WITH FEDERAL ASSISTANCE AVAILABLE FOR DETAILED PLANNING AND WATER AND SEWER FACILITIES AND OPEN SPACE UNDER TITLE IV OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968. IT WOULD BE A "LEARNING CITY", OUR PLANNERS PROPOSED, WHICH WOULD ATTEMPT TO VEST REAL DECISION-MAKING POWERS AT THE NEIGHBORHOOD LEVEL, EXPLORE THE BENEFITS OF A VOUCHER SYSTEM FOR PUBLIC EDUCATION; ACHIEVE ECONOMIC AND SOCIAL INTEGRATION; AND OBVIOUSLY ENHANCE THE HOUSING AND LIVING OPPORTUNITIES FOR THE METROPOLITAN AREA.

SO WHAT HAPPENED WHEN THIS IMAGINATIVE AND PROGRESSIVE PROPOSAL WAS ADVANCED BY THE CLEVELAND CITY PLANNING COMMISSION? I DOUBT IF YOU CAN IMAGINE HOW SOLID SUBURBAN OFFICIALS AND SUBURBAN RESIDENTS ARE IN THEIR OPPOSITION.

THE MAYOR OF WARRENSVILLE HEIGHTS, ONE OF

THE ABUTTING COMMUNITIES, CALLED A MEETING, AND 700 PERSONS TURNED UP TO CHEER HIM ON IN HIS OPPOSITION.

THE MAYOR OF BEACHWOOD NOTIFIED THE NORTH-EAST OHIO AREA WIDE COORDINATING AGENCY OF HIS UNEQUIVOCAL OPPOSITION.

THE VILLAGE OF NORTH RANDALL THROUGH ITS MAYOR URGED NOACA TO REFUSE APPROVAL OF OUR APPLICATION FOR A DETAILED PLANNING GRANT UNDER THE "NEW COMMUNITIES ACT."

THE WARRENSVILLE HEIGHTS BOARD OF EDUCATION ON MARCH 15 ADOPTED A RESOLUTION AGAINST THE NEW TOWN ON GROUNDS THAT IT WOULD HAVE MORE CHILDREN TO EDUCATE.

THE VILLAGE OF ORANGE RESOLVED ITS "UNALTERABLE" OPPOSITION.

THE TRUSTEES OF WARRENSVILLE TOWNSHIP "URGENTLY" REQUESTED NOACA TO DENY CLEVELAND'S APPLICATION FOR A PLANNING GRANT.

AND SO ON, AND SO ON.

THE GROUNDS FOR OPPOSITION WERE REPORTED TO BE THE POPULATION DENSITY -- 25,000 PERSONS - 8,150 DWELLING UNITS - ON 865 ACRES; SEWER AND WATER FACILITIES WOULD BE NEEDED; THERE WOULD BE ADDITIONAL CHILDREN GOING TO SCHOOL; THERE WOULD BE TRANSPORTATION NEEDED.

THESE ARE THE SPOKEN GROUNDS FOR OPPOSITION, AND EACH CAN BE ANSWERED. THIS WOULD BE A PLANNED COMMUNITY, AND THE MOST EXPERT PLANNERS WOULD TACKLE TRAFFIC, SEWER, SCHOOL, SHOPPING AND EMPLOYMENT CONSIDERATIONS. THE DENSITIES AND PARKING PROVISIONS WOULD BE NO WORSE AND CONCEIVABLY WOULD BE AN IMPROVEMENT UPON THE STANDARDS OF THE PRIVATE APARTMENT AND OFFICE BUILDING DEVELOPMENTS NEWLY BUILT AND UNDER CONSTRUCTION IN IMMEDIATELY ADJACENT AREAS.

NO, THE REAL OPPOSITION IS A RESULT OF THE KNOWLEDGE THAT THIS WOULD BE AN INTEGRATED COMMUNITY -- ECONOMICALLY AND SOCIALLY INTEGRATED -- BECAUSE IT HAS BEEN PROPOSED BY AND WOULD PROCEED UNDER PUBLIC AND GOVERNMENTAL AUTHORITY.

THAT, BRIEFLY, IS THE CASE HISTORY OF "WARREN'S RIDGE", A NEW TOWN PROPOSAL THAT STANDS IN A KIND OF LIMBO NOW BECAUSE NOACA, THE AREA-WIDE REVIEW AGENCY, IS UNDER THE DOMINATION OF COUNTY AND SUBURBAN OFFICIALS, (NOACA IS ANOTHER CASE HISTORY I COULD RELATE), AND WE MAY NEED ANOTHER ROUTE.

IF I MAY SUMMARIZE ALL OF THE POINTS I WOULD HOPE TO MAKE, I WOULD SAY THAT I AM VERY CONCERNED ABOUT THE FUTURE OF OUR COUNTRY BECAUSE OF THE ATTITUDES AND PRACTICES THAT PREVAIL AND THAT DENY, DESPITE ALL OF THE LEGISLATIVE AND LEGAL STRIDES IN THE AREA OF CIVIL RIGHTS, THE AMERICAN DREAM TO SO

MANY OF OUR CITIZENS.

THE GOAL IS NOT A MELTING POT WHERE DIFFERENCES
IN SPEECH PATTERNS, SKIN COLOR AND CUSTOM DISAPPEAR
BUT A COUNTRY WHERE OPPORTUNITY IS EQUALLY AFFORDED,
WHERE PREVIOUS LACK OF OPPORTUNITY IS COMPENSATED
FOR, WHERE A QUALITY OF LIFE AND UNITY OF PURPOSE ARE
FOSTERED AND DEVELOPED THAT ABSOLUTELY OUTLAW
POVERTY FOR ANYONE, THAT ELIMINATE HUNGER AND
MALNUTRITION, THAT PROHIBIT UNEMPLOYMENT AND GUARANTEE
DECENT HOUSING AND DIGNITY FOR ALL.

NATIONAL URBAN COALITION, CITY MAGAZINE, THE
SUBURBS: FRONTIER OF THE 70's (FEBRUARY 1971)*

*This issue is available from the National Urban Coalition, 2100 M Street NW., Washington, D.C. 20037.

Exhibit No. 26

June 8, 1971

FEDERAL POLICY AND EQUAL HOUSING OPPORTUNITY

By Martin E. Sloane
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U.S. Commission on Civil Rights

A number of agencies have been involved in administering Federal programs relating to housing and home finance in the nearly 40 years since the Government first became an active participant in the national effort to enable families to obtain decent housing in suitable living environments. Although the policies and practices of these agencies regarding equal housing opportunity have varied over the years, overall Federal policy in this regard falls into three distinct chronological phases.

1. From the early 1930's until shortly after the end of the Second World War, the Federal Government was an active exponent of residential segregation and discrimination.
2. From 1947 until 1962, Federal policy on equal housing opportunity was one of neutrality, leaving to private brokers, builders, and lenders with whom the Government dealt, the decision whether the Federal housing programs would be carried out in a discriminatory manner.

3. From 1962, when President Kennedy issued the Executive Order on Equal Opportunity in Housing, until the present, the Federal Government has been under an increasingly strong legal mandate to prevent discrimination both in the operation of its programs of housing and urban development and in the private housing market as well.

The basic conclusion of this paper is that the zeal with which Federal officials carried out policies of discrimination in the early days of the Government's housing effort has not been matched by a similar enthusiasm in carrying out their current legal mandate of equal housing opportunity. Housing discrimination and residential segregation, which the Federal Government helped to foster, remain a fact of life in the Nation's metropolitan areas.

Federal Policy from the early 1930's until shortly after the end of the Second World War

Major Federal involvement in housing began in 1932 with creation of the Federal Home Loan Bank System to provide assistance to the Nation's major home financing institutions, savings and loan associations. Over the next 6 years, the principal agencies and programs that would determine the emphasis of governmental involvement in housing over the next three decades were created. Thus in 1933 Congress authorized Federal charters for savings and loan associations as a means of further facilitating the availability of mortgage credit. In 1934, the system of savings and loan associations was again strengthened by legislation providing for insurance of accounts in these institutions. As part of the same 1934 legislation, the Federal

Housing Administration was created with authority to insure housing loans made by private credit institutions.

Each of these measures provided for indirect involvement of the Federal Government in housing. That is, the Federal agencies were not directly involved in the construction of housing nor even in the direct provision of housing loans. Rather, their function was to facilitate housing credit through the ordinary channels of the housing market. Thus the Federal Home Loan Bank Board was concerned with strengthening and assisting private mortgage lending institutions. The Federal Housing Administration was concerned with underwriting housing loans as an incentive for private lending institutions to make them. In short, these early measures, enacted during the economic depression of the 1930's, sought to accomplish housing goals by revitalizing the Nation's credit machinery.

In 1937, the Federal Government turned to a more direct approach in the effort to provide decent housing. The United States Housing Act of 1937 established the low-rent public housing program, providing for the construction, ownership, and operation by State agencies (local housing authorities) of housing for families too poor to afford decent housing at market prices and rents. The Federal assistance was in the form of loans and annual contributions sufficient to pay off the cost of the projects. In 1938, the Federal National Mortgage Association was created to provide a ready secondary market for FHA-insured loans as a means of strengthening the existing programs of mortgage insurance.

By the early 1930's, when the Federal Government first undertook long-range involvement in housing, discriminatory practices among members of the private housing and home finance industry already were well established. Discrimination, however, previously had been carried on without Government participation. Thus the entrance of the Federal Government onto the housing scene provided an opportunity to alter these practices. It was an opportunity that was entirely lost. The Federal Government became a willing and active participant in the perpetuation of housing discrimination.

The Federal Housing Administration, which was the major Federal agency involved in housing, also was a leader in promoting housing discrimination and segregation. Its Underwriting Manual during the 1930's and early 1940's spoke of the adverse effects on neighborhoods of the "infiltration of ... inharmonious racial groups"^{1/} and warned that "a change in social or racial occupancy generally contributes to instability and a decline in values."^{2/} FHA also was concerned with

^{1/} FHA, Underwriting Manual, sec. 937, (1938).

^{2/} Id.

the effect of the racial composition of schools on neighborhoods.

Its Manual contended:

[If] the children living in such an area (otherwise favorable) are compelled to attend schools where the majority or a considerable number of the pupils represent a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and ^{3/} desirable than if this condition did not exist.

As a means of assuring against residential desegregation, the Manual recommended the filing of restrictive covenants providing for the "prohibition of the occupancy of properties except by the race for which they are intended."^{4/}

The impact of FHA policies during its early years was enormous and is still being felt. The agency was a major factor in the suburban housing boom that began during the 1930's. Further, FHA was looked to for leadership by members of the private housing and home finance industry, and many of its policies were adopted by that industry. Thus FHA helped liberalize mortgage terms generally by making available long-term, low-interest rate, high loan-to-value

^{3/} Id. Sec. 951 (emphasis added).

^{4/} Id. Sec. 980(3)(g).

ratio loans. Its policy on housing discrimination and segregation also was a strong influence on industry. One observer characterized this policy as "separate for whites and nothing for blacks".^{5/}

Other Federal agencies dealing with the private housing industry adopted similar policies. The Federal Home Loan Bank Board and the Home Owners' Loan Corporation^{6/} openly followed policies favoring racial homogeneity. When HOELC acquired houses in white neighborhoods and offered them for sale, black families were not permitted to buy them. HOELC's policy was to make loans only on the basis of preserving racial segregation.

The only agency that deviated significantly from the policy of racial exclusion and discrimination was the United States Housing Authority, which administered the low-rent public housing program. From the outset, this agency operated under a policy of assuring equitable participation of minorities, not only as tenants, but also in construction and management. The agency established a racial relations service with responsibility to review public housing programs for the purpose of promoting racial equity. The policy of USHA, however, did not extend to insisting on racially integrated public housing projects. This was a matter left entirely to the

^{5/} Abrams, Charles, Forbidden Neighbors 237 (1955).

^{6/} HOELC was created in 1933 with the purpose of taking over and refinancing mortgages on dwellings that either were delinquent or held by lending institutions whose assets were frozen.

discretion of local public housing authorities. Nonetheless, USHA policies, unlike those of its sister housing agencies, did succeed in assuring that minority families were afforded opportunities for decent housing under the program, even if under segregated conditions.

1947-1962

Some changes in Federal policy toward the housing needs of minorities occurred during the second World War. A new super housing agency, called the National Housing Agency, created to oversee the activities of the various agencies concerned with the provision of housing, established a policy against discrimination aimed at assuring an equitable share of housing for Negroes, although on a segregated basis. Following the end of the Second World War, increasing criticism of FHA's policy of racial homogeneity resulted in the elimination, in 1947, of the Underwriting Manual statements warning against "inharmonious racial groups" and of the recommendation for racially restrictive covenants. FHA also established a Racial Relations Service to serve the minority segment of the housing market.

At the end of the Second World War Congress established various programs of veterans benefits, including the loan guaranty program, administered by the Veterans Administration, to assist veterans in obtaining homes through liberal mortgage terms. VA policy from the outset, unlike that of FHA, was one of neutrality on the matter of racial discrimination. It neither advocated such discrimination nor did the agency take any action to prohibit it.

The impetus for significant change in the policies of FHA and VA came from the courts. In 1948, the Supreme Court of the United States held in Shelley vs. Kraemer^{7/} that judicial enforcement of racially restrictive covenants violated the equal protection clause of the 14th amendment to the Constitution. As a result of this decision, FHA and VA announced that they would refuse to insure or guarantee mortgage loans on property carrying racially restrictive covenants filed of record after February 15, 1950. FHA also announced that the racial composition of a neighborhood no longer would be a consideration in establishing eligibility. Further, in 1951 FHA established a policy that all housing repossessed by the agency would be administered and sold on a nonsegregated basis. Two years later, FHA announced the intention of taking active steps to encourage the development of demonstration open occupancy projects. Still later, FHA and VA both adopted policies of refusing to insure loans for discriminatory builders in States which maintained non-discrimination laws in housing.

Thus in a period of less than a decade FHA, the key Federal agency involved in the national housing effort, turned around its policy, from one of actively encouraging housing discrimination and segregation to one of encouraging open occupancy. The change, however, had little practical effect. The decision concerning housing discrimination was still left to individual builders and neither

7/ 334 U.S. 1 (1948).

FHA nor VA would interfere in cases of discrimination. Even in those States with fair housing laws, where FHA and VA policy both theoretically called for debarment of discriminatory builders, neither agency ever actually disqualified a builder for discriminatory practices.

FHA and VA were dominant forces in the suburban housing boom of the post-Second World War years, but little of that housing went to minority families. As of 1959, it was estimated that less than 2 percent of the new homes provided through FHA insurance since 1946 had been available to minorities.^{8/}

In 1961, the U.S. Commission on Civil Rights examined the policies of the four Federal agencies (Federal Home Loan Bank Board, Comptroller of the Currency, Federal Reserve Board, and Federal Deposit Insurance Corporation) that supervise and benefit lending institutions responsible for most of the conventional (non-FHA or VA) financing for housing. The institutions are savings and loan associations, commercial banks, and mutual savings banks. Of the four agencies, only one--the Federal Home Loan Bank Board (which supervises savings and loan associations)--had taken any action to prevent discrimination among its member institutions. In June 1961, the Board adopted a resolution against racial discrimination

^{8/} 1961 Report of the United States Commission on Civil Rights, Housing 63 (1961) /hereinafter cited as 1961 Commission Report^{7/}.

in mortgage lending by its member institutions. The other three agencies not only had taken no similar action, but were uniformly^{9/} opposed to taking it.

During the same period, the Public Housing Administration (successor to the United States Housing Authority) continued its policy of permitting the establishment of segregated low-rent public housing projects by local housing authorities. Since the 1954 decision in the School Desegregation Cases, it had been clear that legally compelled or sanctioned segregation by State agencies, including local housing authorities, was in violation of the Constitution. In fact, two United States Courts of Appeals had expressly ruled that segregation in public housing violated the Constitution.^{10/} Nonetheless, the Public Housing Administration continued to permit this obviously unconstitutional practice.

1962-Present

Executive Order on Equal Opportunity in Housing

On November 20, 1962, President Kennedy issued the Executive Order on Equal Opportunity in Housing, directing all departments and agencies having functions related to the provision of housing to eliminate discrimination in federally assisted housing. The order was limited in at least two important respects.

^{9/} See 1961 Commission Report 31-53.

^{10/} Detroit Housing Commission vs. Lewis, 226 F. 2d 180 (6th Cir. 1955); Hayward vs. Public Housing Authority 238 F. 2d 689 (5th Cir. 1956).

First, although its command of nondiscrimination was directed to all departments and agencies having housing functions, it did not include within its terms housing that was conventionally financed (non-FHA or VA) by federally supervised mortgage lenders. These institutions-- savings and loan associations, commercial banks, and mutual savings banks--are responsible for the great majority of the Nation's home financing. As noted earlier, almost all are benefited and subject to close supervision by Federal agencies. The order, however, covered the practices of these institutions and the housing provided through their funds only insofar as FHA and VA financing was involved. The bulk of the housing financed by these institutions is non-FHA or VA and was excluded from the order's requirement of nondiscrimination. Similarly, the lending practices of the institutions, themselves, were outside the scope of the order.

Second, it drew a distinction between housing provided under Federal aid agreements executed after the date of the order and housing provided under agreements executed before the date of the order. With respect to the former, agencies were directed to "take all action necessary and appropriate to prevent discrimination." Regarding the latter, agencies were directed "to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required, to promote the abandonment of discriminatory practices"

Experience under the "good offices" provision of the order demonstrated that no action more stringent than persuasion ever was taken to eliminate discrimination in the existing housing market. Even with respect to the direct command of the Executive Order--"to prevent discrimination"-- the agencies responded timidly and ineffectively. FHA and VA limited their

enforcement activity to requiring assurances of nondiscrimination by assisted builders and processing the handful of complaints that came their way. The two agencies took no action of an affirmative nature to carry out the President's directive. The order had comparatively little impact in opening up new housing opportunities for minority families. A 1967 FHA survey of minority occupancy in subdivisions built after the date of the Executive order and subject to its provisions, found that of the more than 400,000 units surveyed, only 3.3 percent had been sold to black families.

The Public Housing Administration responded to the Executive order by prohibiting deliberate segregation by local housing authorities, a practice already clearly in violation of the Constitution. Instead, PHA recommended use of a "freedom of choice" plan of the kind that already had been demonstrated as ineffective in the area of education. The four agencies that supervised mortgage lending institutions--Federal Home Loan Bank Board, Comptroller of the Currency, Federal Reserve Board, and Federal Deposit Insurance Corporation--maintained their pre-executive order positions of neutrality. The Federal Home Loan Bank Board failed to implement its 1961 policy against discrimination by its member institutions and the other three agencies remained entirely silent on this issue.

Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination in programs or activities receiving Federal financial assistance by way of loan or grant, but expressly excludes from coverage financial assistance provided solely through insurance or guarantee.^{11/} The principal effect of Title VI has been to broaden coverage of such programs as public housing and

^{11/} Sec. 602.

urban renewal to include projects for which Federal agreements were executed prior to the effective date of the law.^{12/} Title VI also had the value of providing clear Congressional support to the principle of nondiscrimination in federally assisted programs.

Under Title VI, the Public Housing Administration reversed its policy of encouraging "freedom of choice" tenant assignment plans and insisted instead on a form of first-come, first-served plan by local housing authorities. PHA also instituted site selection policies, seeking to avoid exclusive location of public housing in areas of existing racial concentrations. The Urban Renewal Administration carried out its mandate under Title VI by insisting on the filing of restrictive covenants against discrimination with respect to urban renewal land, to assure against such discrimination by private builders. FHA and VA, whose mortgage insurance and guarantee programs were excluded from the mandate of Title VI, did nothing to strengthen their enforcement of the Executive order on Equal Opportunity in Housing.

^{12/} See Justice Department memorandum, "Application of Title VI of the Civil Rights Act to Future Payments under Existing Grants and Loans," Aug. 3, 1964.

Title VIII of the Civil Rights Act of 1968

In April 1968, Congress enacted the Nation's first Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968. Title VIII, which went into full effect on January 1, 1970, prohibits discrimination in most of the Nation's housing, public as well as private.^{13/} The law also prohibits discrimination in mortgage lending and the advertising of housing. Further, it directs "all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this title."^{14/} It specifically directs the Secretary of Housing and Urban Development to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title."^{15/}

The following is an analysis of how key Federal agencies are carrying out their responsibilities under Title VIII.

1. Department of Housing and Urban Development (HUD)

HUD has principal responsibility for administering the Federal Fair Housing Law. Its main activity in carrying out this responsibility has been to process individual complaints of discrimination. The Department has failed to establish sufficiently broad goals to govern its activities under Title VIII. Despite the express directive of Title VIII, it has largely failed to take the steps necessary to assure

^{13/} In Jones vs. Mayer & Co., 392 U.S. 409 (1968), the United States Supreme Court held that a provision of an 1866 civil rights law "bars all racial discrimination, private as well as public in the sale or rental of property," at 413.

^{14/} Sec. 808(d).

^{15/} Sec. 808(e)(5).

that its programs of housing and urban development are administered in a manner that will further the purposes of fair housing.

a. Fair housing goals

By February 1970, nearly 2 years after Title VIII had been enacted, the Department had not established goals toward which its Title VIII activities would be directed. In August 1970, HUD informed the Commission that its goal under the Fair Housing Law was the creation of open communities, both economically and racially.^{16/} By April 1971, the Department had retreated from this goal and now^{17/} opposes use of Federal leverage to promote economic integration. In view of plain facts of housing economics, it is doubtful that racial integration can be achieved unless economic integration also is achieved.

b. Collection of racial and ethnic data on program participation

Until early in 1971, nearly 3 years after the Federal Fair Housing Law had been enacted, HUD had failed to take the basic steps of collecting and making use of racial and ethnic data on minority participation in its programs. In April 1970, the Secretary of Housing and Urban Development announced his decision to collect such data. Not until 9 months later did the collection actually begin.

^{16/} U.S. Commission on Civil Rights, Federal Civil Rights Enforcement Effort 145 (1971).

^{17/} U.S. Commission on Civil Rights, The Federal Civil Rights Enforcement Effort--Seven Months Later (1971) /hereinafter cited as Seven Months Later/.

Full analysis and use of these data for purposes of enabling HUD to carry out its Title VIII responsibility more effectively lie in the future.

c. Site selection

HUD is currently in the anomalous position of urging other agencies to adopt uniform site selection policies governing the location of their installations to assure adequate housing for lower-income and minority families, while failing to establish uniform site selection policies for its own programs. As of June 1, 1971, equal opportunity site selection policies were in effect for the low-rent public housing program, but were totally lacking in other HUD programs, including lower-income housing programs that serve the same class of families as public housing.^{18/}

d. Tenant selection

As of June 1, 1971, equal opportunity tenant selection policies were in effect only for the low-rent public housing program. For other HUD housing programs, particularly those that serve lower-income families, these policies were totally lacking.^{19/}

^{18/} See Seven Months Later.

^{19/} Id.

e. The Section 235 program

The Commission on Civil Rights recently completed a report evaluating the impact of the FHA 235 program of home ownership for lower-income families on opening up housing opportunities for minority families. The Commission found that the very same pattern that exists in the housing market generally--new housing provided mainly in the suburbs and occupied largely by white families, with existing housing in the central cities occupied by minority families--is being repeated in the 235 program, despite the fact that the usual economic rationale used to explain housing patterns generally has no application to the 20/ 235 program.

The principal reason the Commission found for this phenomenon in the 235 program is that the Federal Housing Administration, which administers the program, has virtually abdicated its responsibility. It provides little in the way of counseling to eligible families or to civic groups that seek to assist them and has, in effect, turned over operation of the program to members of the private housing and home finance industry.

Brokers have steered minority families to inferior existing housing in ghettos or "changing" neighborhoods. Builders of new 235 housing have either failed to advertise at all or have used code terms in their ads to discourage minority home seekers. FHA has done

20/ U.S. Commission on Civil Rights, Home Ownership for Lower-Income Families: A Report on the Impact of the Section 235 Program (1971).

virtually nothing to intervene. As a result, the traditional pattern of racially segregated residence is being perpetuated and the program is failing to fulfill its enormous promise of providing new housing opportunities to minority families who previously have had little housing choice.

2. Federal Financial Regulatory Agencies

Although lending institutions supervised by the four financial regulatory agencies are subject to the nondiscrimination provisions of Title VIII, the agencies have done nothing to implement these requirements other than to inform their member institutions of their existence and of possible sanctions for violations. None of the four agencies has yet incorporated procedures that would facilitate monitoring of mortgage lending policies through the examination process, nor has any taken the rudimentary step of requiring that notices be posted by member institutions informing members of the public of their rights under the Fair Housing Law. Of the four agencies, the Federal Home Loan Bank Board is the only one that has indicated active plans to take any affirmative action to implement ^{21/} its responsibilities.

21/ See Seven Months Later.

3. General Services Administration and Site Selection for Federal Installations

In its 1970 report on "Federal Installations and Equal Housing Opportunities",^{22/} the Commission on Civil Rights pointed out that the Federal Government was following the trend of private industry by locating or relocating its installations outside central cities in suburban or outlying parts of metropolitan areas to which minority employees, particularly those of lower-income, have little access. The Commission also pointed out that the Federal Government was failing to use the significant persuasive leverage frequently afforded through the economic benefits generated by its installations to assure adequate housing opportunities for lower-income families generally and for minority families in particular.

In 1969, the General Services Administration, the agency responsible for acquiring space for most Federal departments and agencies, adopted a policy of avoiding locations which did not have an adequate supply of low- and moderate-income housing accessible to them. In the 2 years since GSA adopted that policy, it has done virtually nothing to implement it. It has provided no specific guidelines nor instructions to its staff other than merely to recite the broad language of the policy itself.^{23/} Further, GSA policy remains totally silent on the matter of availability of open,

^{22/} U.S. Commission on Civil Rights, Federal Installations and Equal Housing Opportunity (1970).

^{23/} See Seven Months Later.

nondiscriminatory housing as a condition to Federal site selection. In its report, the Commission recommended that Federal site selection should be governed by policies which would assure an adequate supply of lower-income housing, open, in fact, to all without discrimination in communities in which Federal installations were to be located. HUD has supported adoption of these criteria as uniform Federal policy and has prepared draft recommendations along these lines. As of May 1971, however, GSA was not in favor of adoption of such a policy on grounds that it would detract from its flexibility and interfere with agency needs, missions, or programs.^{24/}

The Federal Government, after years of openly advocating housing discrimination and segregation, now is under a clear legal and constitutional mandate to prevent such discrimination and segregation. All three branches of Government have spoken on this point--the Executive Branch through the Executive Order on Equal Opportunity in Housing; Congress through Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968; and the Supreme Court through its decision in Jones v. Mayer & Co. The response of the Federal Government to its legal mandate, however, has been timid and ineffective. It has been content to do only the minimum in assuring

^{24/} See Seven Months Later.

against the continuation of current discriminatory practices. It has totally failed to take the steps necessary to eliminate the effects of past discrimination, for which it shares a large part of the responsibility. Above all, Federal agencies, and particularly the Department of Housing and Urban Development, have failed to gear their substantive programs of housing and urban development to their civil rights programs so as to achieve the goal of equal housing opportunity. In many cases programs either ignore civil rights concerns or serve to undermine civil rights programs. The goal of equal housing opportunity remains far from achievement.

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Exhibit No. 27



HUD NEWS

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
WASHINGTON D.C. 20410

Phone (202) 755-7174

FOR RELEASE AFTER:
4:00 P.M. Tuesday
June 15, 1971

STATEMENT OF
SECRETARY GEORGE ROMNEY
TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C.
JUNE 15, 1971

I am pleased to be here to discuss with you the subject of civil rights and housing. It is a subject in which I have been involved directly and personally many times over the last 30 years.

As Vice-President of the Detroit Victory Council, I fought segregated war housing during World War II. As a delegate to Michigan's Constitutional Convention, I helped lead the fight for a state Civil Rights Commission. And as Governor I worked to build the Commission into a well-staffed, aggressive agency, and to expand its powers, particularly in the housing field.

My fundamental convictions on housing discrimination have not changed; if anything, they have intensified over the years. What has changed, hopefully, is the breadth and depth of my understanding of the unequalled complexity of issues and problems which have come to be associated with housing and race.

The President's statement last Friday, I believe, goes a long way toward laying out these issues candidly and thoroughly. It tries to separate facts from myths, recognizing that myths about race and housing must be put on the table and faced. It strives for objectivity, realizing that emotions on all sides are likely to influence events for a long time to come.

The President's statement articulates the commitments and policies which have guided the Administration so far. Most important, it is -- as should be already clear -- a springboard for action.

I am convinced we can move forward now -- faster, more firmly and effectively than ever before. And surely, the pace of our progress will be quicker if all who share the vision of an open society with open communities can join in devising and implementing strategies which will make that vision a reality.

An open community cannot be defined primarily in physical terms. We cannot prescribe its size or contours; the precise combination of houses, apartments, parks, streets, and factories. Nor can we prescribe the "right" physical characteristics of people who live in any given location.

An open community must be defined primarily in human terms. We have an open society with open communities when each citizen has freedom of movement, and opportunity to live and work with dignity; and when public and private institutions protect and enhance his freedom and opportunity.

Measured in these human terms, our nation's great metropolitan areas are not open communities for many minority Americans. These Americans are caught in an intricate web of public policies and private prejudices which severely limit their opportunities to live and work wherever they might choose.

Our historic failure as a society to provide truly equal opportunity for all has now placed its stamp on the physical and political map of our cities and suburbs. Deep divisions exist. According to new census data, racial concentration is intensifying, as the President detailed in his message. The President also spelled out the consequences:

"Separation of the races, particularly when it is involuntary, has damaging consequences. One is racial isolation -- the social isolation of the races from each other -- an estrangement that all too readily engenders unwarranted mistrust, hostility and fear.

"Another consequence of involuntary racial separation is the waste of human resources through the denial of human opportunity. No nation is rich enough and strong enough to afford the price which dehumanizing living environments extract in the form of wasted human potential and stunted human lives ...

"Another price of racial segregation is being paid each day in dollars; in wages lost because minority Americans are unable to find housing near the suburban jobs for which they could qualify ..."

The President then concluded:

"Clearly, both outright racial discrimination and persisting patterns of racial concentration combine to create a serious set of problems that public policy must seek to meet."

The question of public policy is not left hanging in the air, but is addressed squarely by the President:

"At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated.

"The administration is embarked upon this course. It must and will press forward firmly.

"The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity; the development of appropriate equal housing opportunity criteria for participation in programs affecting housing; the development of information programs; and the development of policies relating to housing marketing practices. "

The President further elaborates his position in his broad reading of the "affirmative action" mandate of Title VIII.

"I interpret the 'affirmative action' mandate of the 1968 Act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

"In furtherance of this policy, not only the Department of Housing and Urban Development but also the other departments and agencies administering housing programs -- the Veterans Administration, the Farmers Home Administration and the Department of Defense -- will administer their programs in a way which will advance equal housing opportunity for people of all income levels on a metropolitan areawide basis. "

In the face of such explicit affirmation of national policy, it is difficult to understand a persistent misconception of the President's position. It has been alleged that the President takes a "passive" view of the Federal role in housing, and that he is unwilling to wield what some perceive as "the enormous leverage" of the Federal Government to make low- and moderate-income housing available throughout metropolitan areas on a nondiscriminatory basis.

The root of the misunderstanding appears to lie in differing perceptions of the Federal role in housing and community development generally. Because of the tragic dislocations and injustices which have tormented our nation during its recent history of explosive urbanization, it is tempting to look for villains and scapegoats.

The Federal Government with agencies like FHA, the old urban renewal agency, and others assumed this malevolent role in the eyes of many. It follows, of course, that the Federal Government can and should now assume the role of omnipotent hero - righting all wrongs, knocking down all barriers with a flourish,

and redrawing the crazy quilt map of our metropolitan areas.

This scenario simply does not fit the facts. Without minimizing the federal role in either creating problems or solving them, and without defending federal policies which were clearly indefensible, we should at least recognize that, for example, the vast majority of suburban homes were built without any FHA involvement at all.

The presumed "enormous leverage" of HUD programs should also be kept in perspective. For example, the water and sewer program, which is often cited as a powerful lever, has provided partial assistance to only about one in ten suburban jurisdictions during the entire five-year life of the program. Although we do have some leverage HUD programs are in fact of marginal interest to most well established suburbs, and it is sheer illusion to think that HUD can bring about startling overnight changes in the existing suburban physical and social landscape by turning federal money on or off.

What the President has said is that the federal government is not going to create an army of federal zoning officials to march through thousands of individual suburbs, substitute federal zoning for local zoning, and thus impose low- and moderate-income housing or "economic integration" by "bureaucratic fiat."

But the President also said:

"We will encourage communities to discharge their responsibility for helping to provide decent housing opportunities to the Americans of low- and moderate-income who live or work within their boundaries.

"We will encourage communities to seek and accept well-conceived, well-designed, well-managed housing developments -- always within the community's capacity to assimilate the families who live in them.

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

And how does the Federal Government "encourage" positive action in this field? It does so by administering its programs and its limited resources to achieve stated national policies and purposes. That is what my department has done and will continue to pursue vigorously in the future.

I would now like to outline for you a kind of status report on what we have already done, and what further actions we have underway. First, I will cover policies involving federally assisted housing, and then comment briefly on policies involving community development projects affecting housing.

Last August, when I appeared before Senator Mondale's Select Committee, I called attention to the huge new volume of federally assisted housing and indicated that we were working with the Department of Justice to develop site selection policies governing FHA assisted housing programs. I testified that:

"Pending adoption and publication of such policies the FHA is pursuing an informal policy designed to avoid further concentrations of federally assisted housing in large, institutional settings or in areas of minority racial concentration."

This informal, but explicit policy was first instituted in late 1969, and we are beginning to see some preliminary results. You should bear in mind, of course, that because of the several months lag between application and housing completion, there is a corresponding lag in visible results. I believe, however, that the maps I am about to show you indicate an encouraging trend toward a broader variety of locational choice throughout metropolitan areas. Clearly, the maps do not show the detail on racial and economic characteristics which is necessary for a complete evaluation, but they do indicate an incipient trend.

BALTIMORE

The Baltimore map shows that before January 1970, 22 projects were built inside the city limits (shown inside the red line) while only 2 projects were located outside the city limits. The black circles identify all subsidized housing of 20 units or more, including public housing, rent supplements, 221(d)(3), Sections 235, 236, and 202 elderly. During the next six-month period 20 projects were completed in the city and 9 were located elsewhere in the metropolitan area, showing some progress in dispersal. Between July and December 31, 1970, only 4 projects were started in the city while 12 new projects were located outside the city limits. The Baltimore metropolitan area is quite large, as shown in the small inset map.

WASHINGTON, D. C.

While the rate of construction of federally assisted projects has declined recently in the Washington, D.C. metropolitan area, the location of the projects has been directed to areas beyond the city's boundaries.

As of January 1, 1970, the map shows an equal distribution of projects within and outside of the city limits -- 21 projects each. During the next 6 months, 5 projects were started inside the city and 14 were located in other parts of the metropolitan area. Only 3 projects were started inside the city in the six-month period which runs from July to December 1970, as compared with 9 projects in surrounding areas.

I should point out, that many of the projects started in 1970 were processed and approved earlier, so we should show an even better distribution in 1971.

SAN DIEGO

San Diego shows a large amount of subsidized housing located outside the city boundaries in widely scattered parts of the metropolitan area. Only 8 projects were located in the city as of December 31, 1970; five existed prior to January 1, 1970 and three were added between July 1 and December 31, 1970. Prior to January 1, 1970, only three projects had been located outside the city. During the six-month period from January 1 to July 1, 1970, 25 projects were built in outlying parts of the metropolitan area. An additional 21 projects were completed and located in the remaining portion of the SMSA, particularly to the east of the city.

SAN ANTONIO

Activity in the San Antonio area has been strong and the effect of the instructions given to the field office concerning the location of assisted housing projects can be seen. As of January 1, 1970, 42 projects were within city limits; only one project outside. In the next six months, 7 projects were started within the city limits, none outside. During the third period, 12 projects were started outside the city limits and 11 were started inside.

PITTSBURGH

The Pittsburgh metropolitan area contains a large volume of federally assisted housing. As of January 1, 1970, 33 projects had been started inside the city limits and approximately 50 projects were scattered throughout the remainder of the four-county metropolitan area. Construction activity decreased during the next six months when 17 projects were started within the city and 5 projects were located in the area immediately outside the city. During the six-month period ending December 31, 1970, 9 projects were started in Pittsburgh city, while 16 projects were begun in various parts of the SMSA.

A number of projects are clustered in the eastern and western sections of Pittsburgh inside the city limits. This shows the first results of Project Rehab, the Department's special effort to stimulate use of its assisted programs to finance the large scale rehabilitation of absentee-owned substandard housing. In Pittsburgh, HUD and a private organization created and financed by a large number of industrial firms have been cooperating aggressively to rehabilitate substandard housing on a volume basis using the Section 236 and rent supplement programs primarily. We think it is vital that federal housing assistance programs be used to rebuild slum areas at the same time they are being used to create housing opportunities for minorities outside of the center city. Both approaches, I am convinced, are fully consistent with our overriding objective of creating freedom of housing choice for all Americans.

JACKSONVILLE

Jacksonville, Florida, has demonstrated an effort to achieve a variety of locations for federally assisted housing.

A total of 19 projects had been started within city boundaries as of January 1, 1970, compared with 7 projects outside the city limits. During the next six months, twice as many projects (12) were built outside the city as within its boundaries. During the last 6 months of 1970, 4 projects were located in Jacksonville proper; 8 were located in other parts of Duval County.

These results have been achieved under the Department's informal policy, which was not reduced to writing. Now that the President has issued his statement, we are in a position to give more explicit policy guidance to our field personnel.

We have developed project selection criteria covering the major assisted housing programs. Because of their importance, we will not make them immediately effective, but will first circulate them for 30 days for public comment. Copies are available for your review and suggestions.

There are separate forms for use in evaluating homeownership projects under Section 235, for rental projects under Section 236 or rent supplement, and for public housing. While there are some variations resulting from program differences (the homeownership form has no management criterion, for example) the basic format and approach is the same in each case.

A proposed project will be rated "superior", "adequate" or "poor" with respect to criteria ranging from "community need" to "improved environmental location for low income families" to "effect of proposed housing upon neighborhood environment." A key item is "nondiscriminatory location". Here a proposed project will earn a "superior" rating if it is outside an area of minority concentration. It can earn a "superior" or "adequate" rating if it is inside an area of minority concentration only if it is either a part of a major new development like Fort Lincoln or the Southwest urban renewal area (where the HUD building is located), which will be racially inclusive, or if it responds to overriding need which can't feasibly be met any other way. If a project doesn't rate at least "adequate" on the nondiscriminatory location criterion it will be disapproved.

This clear statement of policy should be very helpful both to our field personnel in rating proposed housing projects, and to developers and sponsors in guiding them as to project characteristics which will enhance the prospects for approval. I think I can anticipate a question by saying that as a general proposition, all other factors being equal, projects outside areas of minority concentration will be given preference.

Now I would like to cover the matter of policies relating to marketing of federally assisted housing. As some of you may know, we recently published in the Federal Register for comment guidelines which we propose governing the advertising of housing for sale or rent. These guidelines are directed to newspapers, but they will also be helpful to housing sponsors, owners, sellers and renters.

We have for many years imposed a general requirement of non-discrimination in the sale or rental of FHA assisted housing. But in response to the "affirmative action" requirement of Title VIII of the 1968 Civil Rights Act, and in furtherance of the equal opportunity policies set forth in the President's statement, we now propose additional regulations designed to ensure that there truly is equal opportunity for eligible persons of all races to buy or rent federally assisted housing. These regulations govern such things as advertising practices, non-discrimination in the employment of sales personnel, informing relocation agencies of housing availability, consideration of persons referred by HUD, and the like. The requirements cover subdivisions, multifamily projects, and mobile home courts wherever 25 or more units are involved. One further significant requirement is that HUD field offices will make available to interested persons and groups (including for example, minority brokers and fair housing organizations) upon request, every 30 days, lists of FHA subdivisions or projects on which FHA has issued commitments. This should help to spread the word regarding availability of FHA assisted housing more broadly, as recommended by your Commission in its report on 235 housing last week.

These affirmative marketing guidelines are also being published for 30 days for comments before they become effective. Copies are available for your review and suggestions.

In addition to these new program standards and guidelines, HUD is continuing its support of innovative efforts to end the invidious dual housing market which prevails in almost all metropolitan areas. We have three contracts in force -- in Chicago, San Francisco, and Washington, D.C. -- to develop and test the most effective techniques for achieving an open housing marketing system. These efforts will demonstrate methods which can be duplicated in other metropolitan areas to increase housing opportunities for minority citizens by eliminating segregated dual real estate markets.

Now, another aspect of our effort to expand housing opportunities relates to the availability of low- and moderate-income housing in the vicinity of newly located Federal facilities. Last week GSA and HUD signed an agreement covering this matter which we think is very significant.

The purpose of the agreement is to provide an effective, systematic arrangement under which the Federal Government, acting through HUD and GSA, will fulfill its responsibilities under law, and as a major employer.

Under the agreement, HUD will investigate the availability of low- and moderate-income housing on a nondiscriminatory basis and make findings and provide advice to GSA as to such availability with respect to proposed locations for a federally-constructed building or leased space. In the event that GSA has no reasonable alternative to a site where the supply of low- and moderate-income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the agency involved, GSA and HUD will develop an affirmative action plan designed to assure an adequate supply of housing within six months after the building or space is to be occupied.

Turning now to the Department's various community development grant programs, I want to re-emphasize that we will continue to apply the law and this Administration's policies to those programs. This does not mean that we will apply a rigidly simplistic one-dimensional criterion to all program applications; however, it does mean that communities which actively pursue the expansion of housing opportunities have an advantage in the competition for limited program dollars.

In this connection, the President's statement of June 11 set forth three important statutory mandates, as follows:

" -- As noted earlier, HUD may not make a grant under any of its programs if the recipient will discriminate or otherwise deny the benefits of the assisted activity or project to persons on account of race. "

" -- Where the "workable program" requirement -- imposed on local communities by the Housing Act of 1949, as amended in 1954, in connection with urban renewal and related programs -- is a condition of eligibility, HUD may not make a grant in the absence of a HUD-certified workable program for community improvement. The program must make reasonable provision for low- and moderate-income housing, which must of course be available on a nondiscriminatory basis. "

" -- Where comprehensive planning is supported by a Federal grant under the 1954 Housing Act, as amended in 1968, the plan must include a "housing element" to insure that "the housing needs of both the region and the local communities studied in the planning will be adequately covered in terms of existing and prospective in-migrant population growth." This provision has broad application, since such planning grants are often used to prepare the areawide plans which are a prerequisite for Federal financial assistance under the water and sewer, open space, and new communities programs. "

These statutory requirements impose basic conditions of eligibility.

As I noted earlier, the President has also said:

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

To implement that policy with respect to the water and sewer grant program, we have a project selection system which takes into account, in addition to such factors as public health and financial need, the accessibility of low- and moderate-income housing in the area to be served by the project. Copies are available for your review.

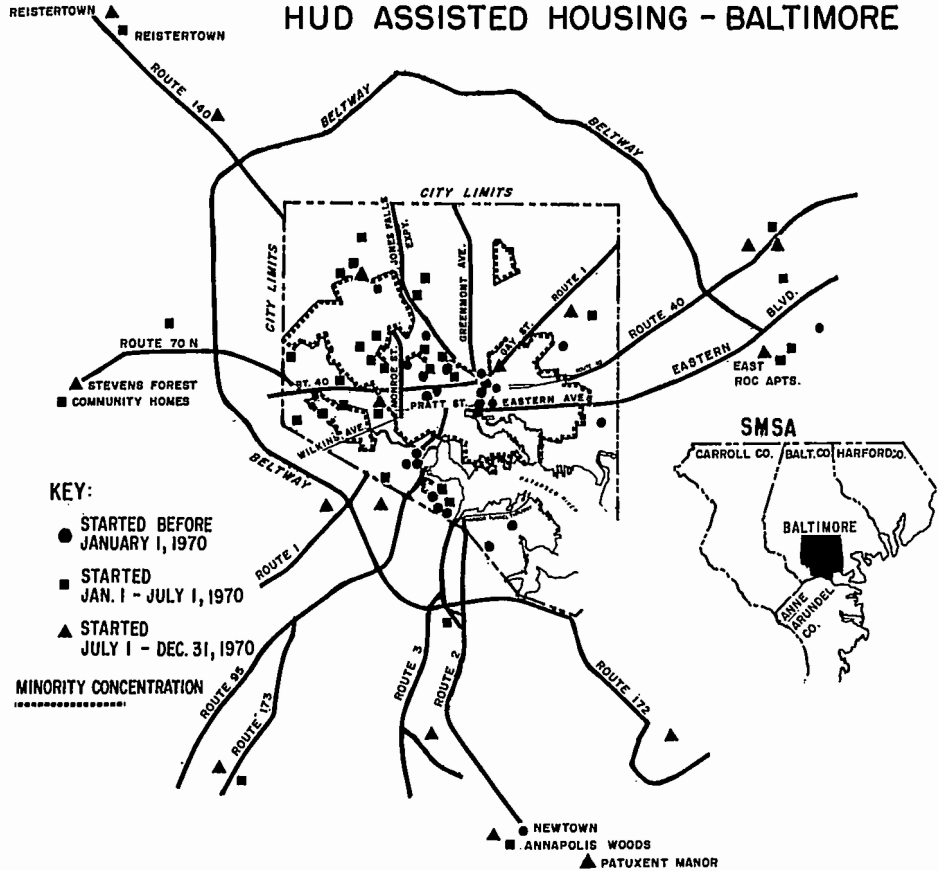
Finally, I want to say a word about long-range prospects for metropolitan open communities. I believe that most Americans; fundamentally, are receptive to the kind of constructive change we have been discussing here today. Much depends, however, on the approach of those who are charged with the responsibility for public and private leadership. If we permit or encourage the tough issues involved to be posed in over-simplified terms of racial polarization, the cause of open communities will be set back. This has already cost valuable time.

Furthermore, when there is too much pressure for what "ought to be," it prevents what can be." But if we convince Americans of all races that there are comprehensive approaches which can harness continuing metropolitan growth and turn it to the welfare of all citizens, we can yet succeed.

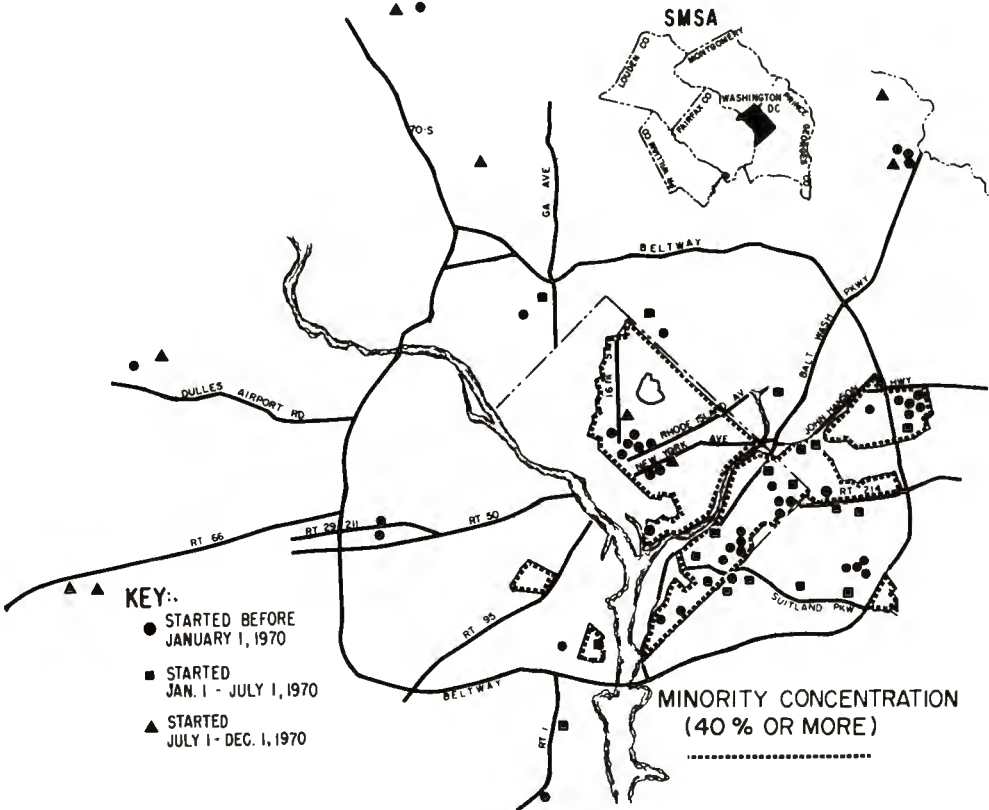
It is vital to the future of all America -- yes and to the world -- that we do succeed in accelerating progress toward providing every American with his inalienable constitutional rights of equal opportunity and freedom of choice.

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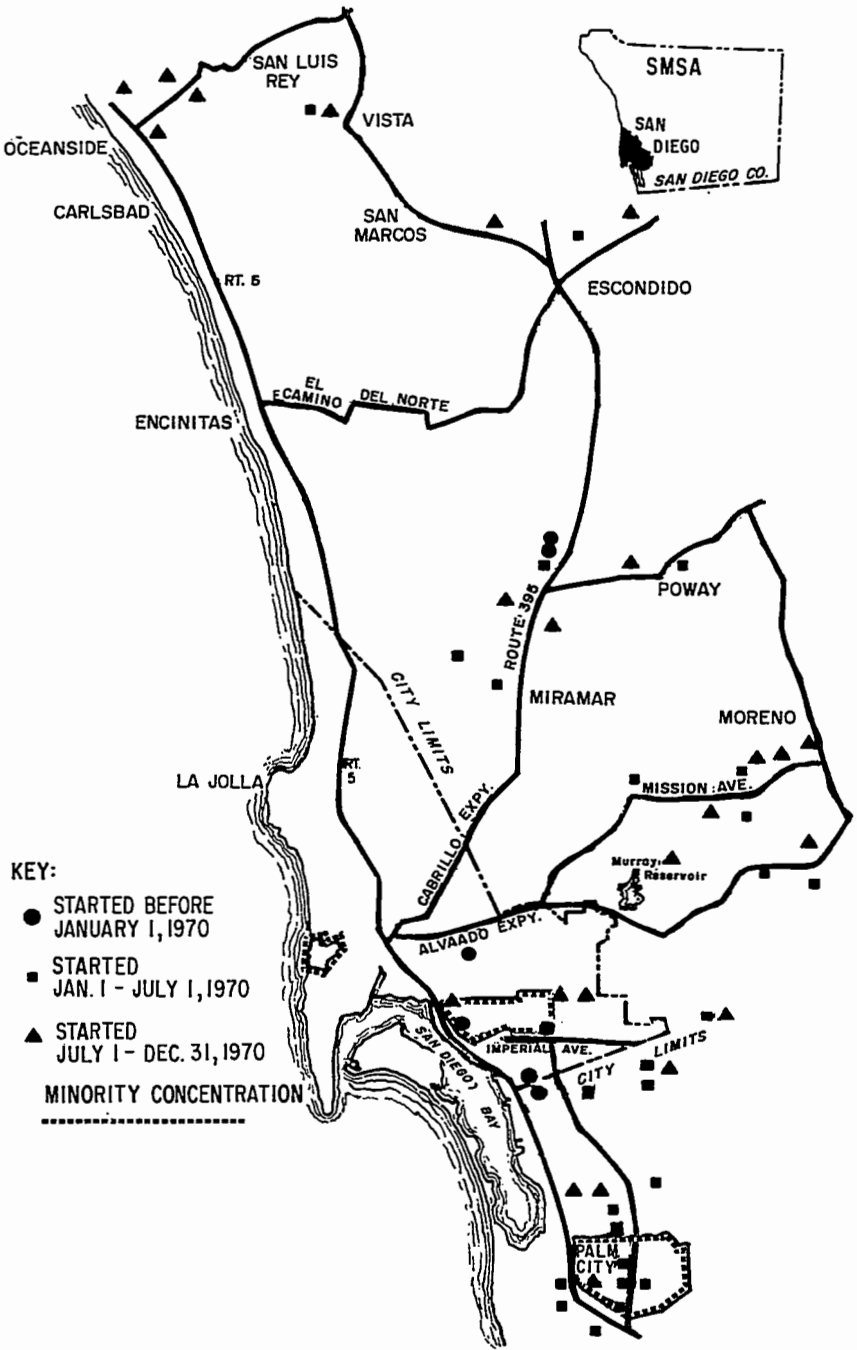
HUD ASSISTED HOUSING - BALTIMORE



HUD ASSISTED HOUSING - WASHINGTON, D. C.



HUD ASSISTED HOUSING - SAN DIEGO



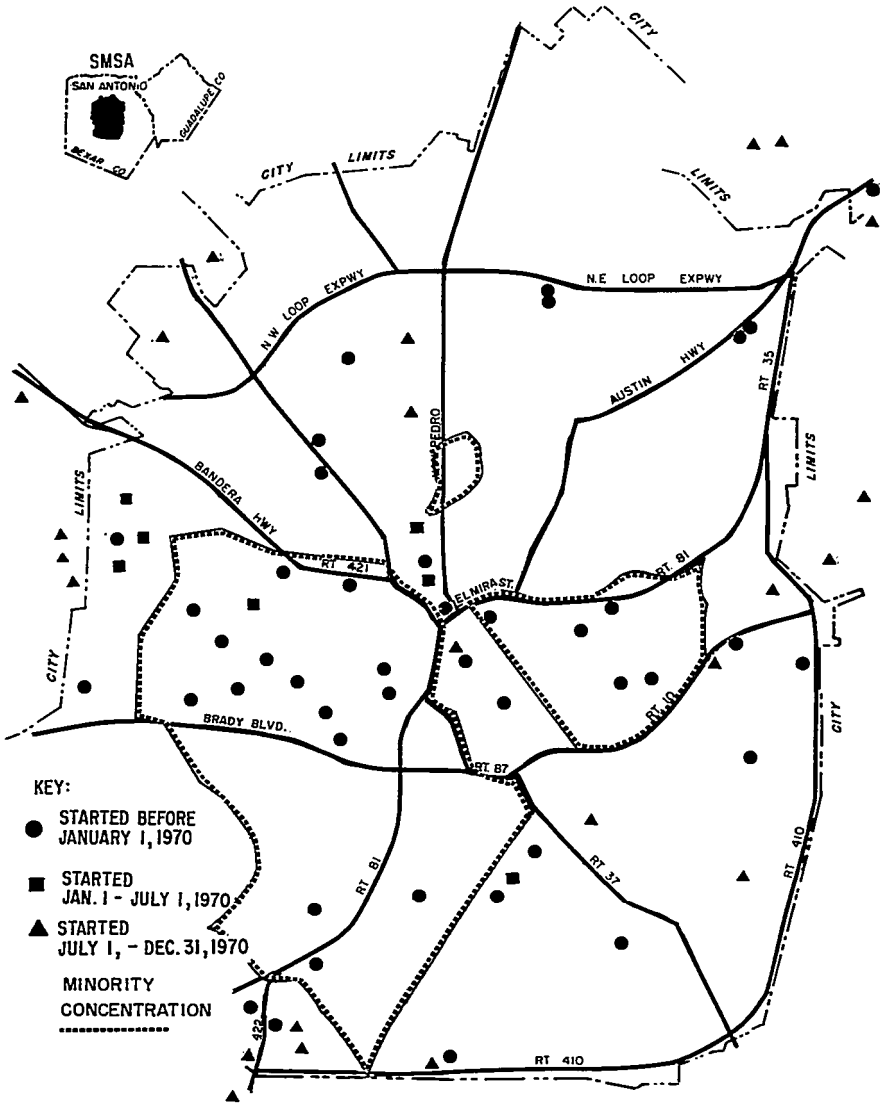
KEY:

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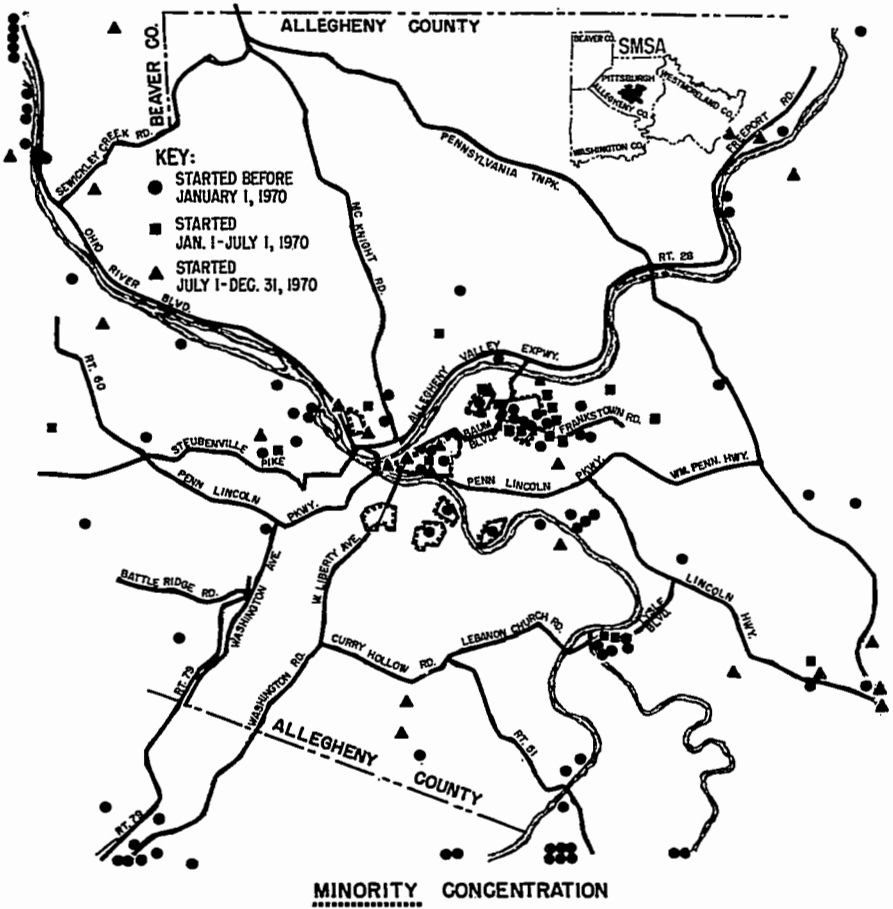
MINORITY CONCENTRATION



HUD ASSISTED HOUSING - SAN ANTONIO



HUD ASSISTED HOUSING - PITTSBURGH



HUD ASSISTED HOUSING - JACKSONVILLE

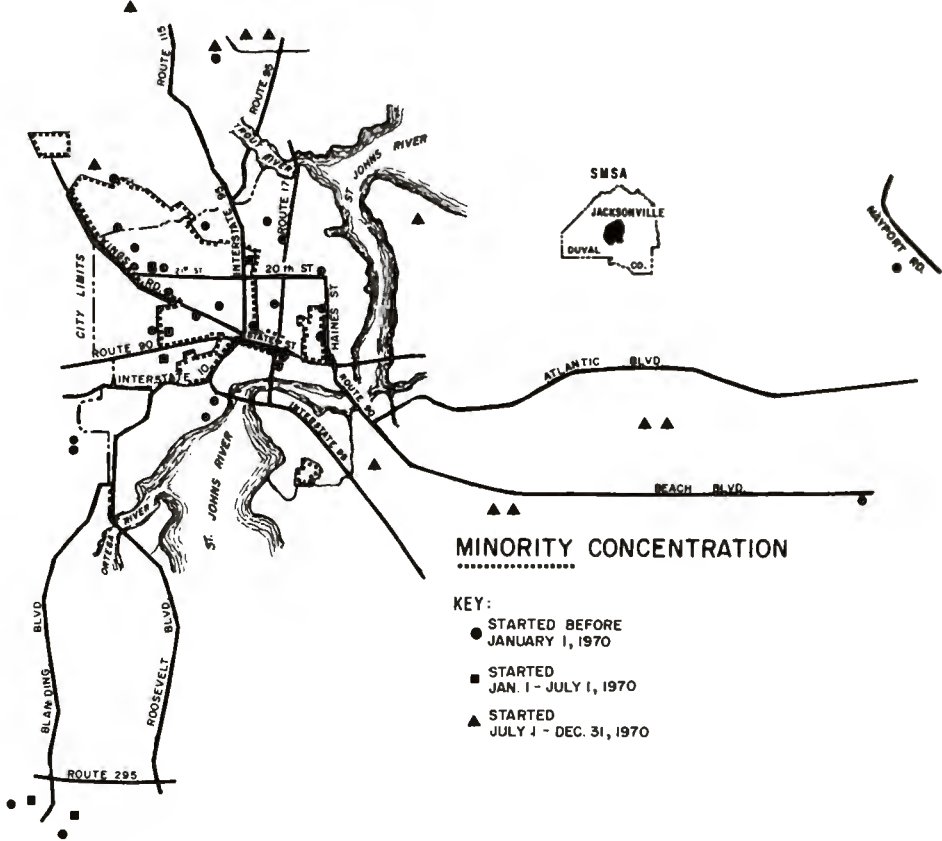


Exhibit No. 28

FOR IMMEDIATE RELEASE

JUNE 11, 1971

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
PRESS CONFERENCE
OF
JOHN EHRLICHMAN, ASSISTANT TO THE PRESIDENT
AND
LEONARD GARMENT, SPECIAL CONSULTANT TO THE PRESIDENT
THE BRIEFING ROOM

AT 12:05 PM EDT

MR. ZIEGLER: You have the President's statement and you have had it for close to an hour now. You have had a chance to at least read it one time through.

John Ehrlichman, Assistant to the President, is here, together with Len Garment, Consultant to the President, to discuss the statement you have. Their comments should be attributed to White House officials.

Q Why, Ron? Why do we have to do this on that sort of basis? Why can't we name them?

MR. ZIEGLER: That is the way I stated the ground rules. That is the way they will be.

Q Is there any particular reason for having the ground rules that way?

MR. ZIEGLER: That is what we said.

Q May we use direct quotes?

MR. ZIEGLER: Yes, you can.

Q Don't you feel you owe an explanation as to why this has to be on a BACKGROUND basis?

MR. ZIEGLER: Let's proceed, gentlemen, with the briefing on this Message. It will be on the basis which I stated to you.

MR. EHRLICHMAN: Good afternoon. The Secretary of Housing and Urban Development and the Attorney General will hold a press conference on Monday at 3:00 p.m. with relation to this policy statement and its prospective aspects.

Today, in this BACKGROUNDER, we will be available to talk with you about the retrospective aspects of it, how it was developed, and so forth, but we will not take questions today on specific applications of the policy either to pending cases or to future decisions or how this might affect future decisions, or things of that kind.

As you all know, the pattern that has been followed in this statement of policy is analogous to the policy statement which the President made in March of last year with regard to

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the school integration situation. It was frankly an experiment at that time to see whether or not a clear statement of policy, a review of applicable law, and an announcement of Administration policy on a subject would get results. I think at that time we frankly stated that we were not warranting results in the use of that technique but we were hopeful.

It has permitted, we feel, a more directed, more coordinated, more result-oriented operation of the Executive Branch in the school area. We feel that some of the expectations which the President had for that technique have been fulfilled.

We have the same sort of hope and expectation about issuing a policy statement on this subject at this time. The statement is issued at this time because this is the first time in which the statement has been available to be issued. That is, the work has been in progress more or less constantly since last November on this, and it is being brought to the Executive Branch at the first available moment.

I might just trace the phases of development of the policy statement for your BACKGROUND.

A Domestic Council Committee on Civil Rights was formed and has existed, as you know, virtually since the time of the policy statement on schools. It is that committee and a subcommittee of that committee, and a staff working group supporting that committee, that has been at work in bringing to the President recommendations and a broad description of the various elements of this problem over the period of the last several months.

The formal work actually began last November. The first phase of it culminated in a substantial body of material going to the President on March 26 when he went to San Clemente. He spent a good deal of his time in San Clemente subsequent to that date in reviewing this material. Quite a lot of it consisted of the views of individuals and groups outside of the government, but also included the views of Departments, operating agencies of the Government with responsibilities in the housing area.

That particular phase culminated in the President giving the Domestic Council Committee certain directional decisions, certain broad decisions, and in some cases some fairly specific decisions on questions of what should and should not be treated in the statement, and the direction and policy thrust of the statement.

Then through the spring, starting in early April and culminating in the first week in May, the working group and the subcommittee, consisting of the Attorney General and the Secretary of Housing and Urban Development, had a series of individual meetings and in some cases meetings with the President.

I think the President has met with the Attorney General and the Secretary on this four or five times, possibly as many as six, to discuss this subject. There have been a

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number of other meetings of those two gentlemen together with the Under Secretary, Mr. Van Dusen, and Dave Norman, the Acting Head of the Civil Rights Division of the Justice Department, and Domestic Council staff people, culminating in a proposed draft which went from them to the President as a recommended draft.

In point of fact, that draft was assigned to and worked out by the staff of the Department of Housing and Urban Development. It came over in the first week in May. That then formed the basis for the President's personal involvement in language, and he has been working through a series of drafts on that statement over here since then. It has gone through four changes from that draft since then. Quite a lot of the original language has been substituted in one way or another.

The President asked that his draft then go to the Domestic Council Committee, and that committee convened here yesterday to review the draft, and made some suggestions, fairly minor suggestions, to the President. He then reviewed their suggestions and finally approved the policy statement. So that is generally the procedural process.

Len Garment has been the staff man in the White House with responsibility for the staff working group and can give you some background as far as content is concerned.

MR. GARMENT: Very generally, the statement involves three main substantive areas which follow an introductory section that states some relevant history, within what I believe to be the various affirmative requirements as well as constraints of the civil rights laws relating to housing and the various housing and community development programs which contain requirements for consideration, evaluating the low- and moderate income components of such projects.

Three basic rules are made in the President's Message:

First, of course, is that racial discrimination in housing will be moved against vigorously under the laws by court action where appropriate, and by administrative action where appropriate.

That the Department of Housing and Urban Development and the Department of Justice will undertake to carry on existing enforcements programs in this area and develop appropriate procedures and techniques that will make more effective the affirmative aspects of programs designed to curtail and eliminate racial discrimination or the effects of racial discrimination in housing.

The proposition is also stated very explicitly that quite apart from individual acts of racial discrimination in housing, which will be the subject of continuing enforcement action, where the action is determined to be racially discriminatory and is undertaken by a municipality under one or another subterfuges, economic or otherwise, that, too, of course, comes within the ban of the law, specifically the Lackawanna decision which the President refers to, and will

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be, again, the subject of corrective action by the appropriate Departments and agencies of the Federal Government where the circumstances indicate that such action should be taken.

The second major policy area might be described in general terms as the area that puts substantive flesh on the statutory outline of fair housing and affirmative action to carry out the purposes of fair housing as required by Title 8 of the Civil Rights Act of 1968.

As you know, that law is quite general in its definitions, and has very little in the way of legislative history. It has been the subject of fairly continuous and largely unresolved debate with respect to the appropriate construction of its language.

In any event, the Message makes clear that the Departments and agencies of the Federal Government, including, of course, the lead agency, HUD, will be expected to devise and carry out housing policies, particularly in the area of equal opportunity in housing, in such a way as to reduce the effects of racial discrimination in housing, and particularly in regard to the principal effect of such discrimination through the abatement of racial concentration, or in any event through the avoidance of any increase in racial concentration. I should say avoiding increasing, and undertaking to, abate racial concentration in housing.

In that regard, the Message states that consideration shall be given, as one of a number of criteria, to the extent to which any particular proposal, plan or application for Federal assistance does in fact make provision for this objective, and that such application should be weighed in the light of the issue of racial concentration.

The third major area involves the reiteration, again within the framework of existing statutory and case law restraints, of the proposition that the Federal Government will not impose any particular prescribed plan of economic integration on a municipality or other community.

In that connection, it should be pointed out that the Message which has as one of its principal objectives an explanation of the limitations as well as the mandates of various laws pertaining to equal opportunity in housing, does undertake to indicate housing policy is largely responsive to local governmental and local private initiatives with respect to housing projects or housing developments, or other programs involving the construction of housing that may be qualified for Federal assistance.

In that regard, the principal activity of the Federal Departments, particularly HUD, is to evaluate various proposals in the light of criteria, and, accordingly, while very clearly indicating that there will be no imposition of requirements for economic integration the Message does indicate that the communities will be encouraged through the administration of the various housing programs to undertake to expand housing opportunities for all income groups on a metropolitan area-wide basis.

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I think those are the three major substantive divisions in the Message.

Q I assume, first, Mr. Ehrlichman, that from what you said you are not speaking now to the application of this policy?

MR. EHRLICHMAN: That is correct. I will not take that question today.

Q Then I have a question for Mr. Garment.

You talk about HUD being the lead agency in your second area, but it seems to me that the statement indicates that Justice is the agency with the real responsibility because the Attorney General is to determine whether there is a pattern of discrimination that will warrant a case going into court.

MR. GARMENT: The second group would be involved more in the nature of affirmative action programs where certainly HUD would be the lead agency. I think in all areas relating to housing and equal opportunity in housing, I would judge that HUD is the lead agency.

Q But apart from persuasion and conciliation in these areas that you have talked about, the affirmative action is suing, is it not, and the Attorney General determines whether there is a pattern of discrimination which justifies bringing a Federal suit?

MR. GARMENT: There are two broad areas of affirmative action. One involves the institution of litigation, where either on the basis of a Department of Justice initiated examination that appears to be appropriate, or on the basis of a HUD recommendation that appears to be appropriate.

Q On the basis of a HUD recommendation it appears to be appropriate? Can you show me that?

MR. GARMENT: That may not appear, but it is an established procedure.

Q But it does say that the Attorney General will make the decision.

MR. GARMENT: The Attorney General makes the decision with respect to the litigation. So that is one area of affirmative action. Another area of affirmative action, of course, is the determination and carrying out of programs designed to reduce the effects of racial discrimination in housing through the deployment of the various program resources of the Department and the development of criteria and the approval of particular projects.

I think that is coming to be seen as perhaps the more important facet of affirmative action.

MR. EHRLICHMAN: I think you will find on page 11 a reference to that. I think it is very important to understand that. In the third paragraph, the last sentence or two, "in

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choosing among the various applications for Federal aid, consideration should be given to the impact", and so on. I think it is very important to understand that the authorization and appropriation simply are not great enough to grant every single application that comes in. HUD has a very broad range of choice. While they do not initiate site selection and that kind of thing, this is a very affirmative aspect of the HUD function.

Q Are you saying, then, that those communities that present the best plans in terms of breaking up racial concentrations will be at the top of the list for available Federal money?

MR. EHRLICHMAN: No. I am saying that in the selection of which applications will be granted, the policy considerations that you find in this document will play a leading part in the selection, certainly not an exclusive part. But it is one of the very important considerations for HUD in deciding which applications will be granted.

These are not ordinarily applications by municipalities. They are applications by individual developers, either for profit or not for profit corporations.

Q Where in the report or the Message does the President address himself to the U. S. Civil Rights Commission Report issued yesterday?

MR. GARNMENT: It obviously doesn't address itself to that proposition because of the almost complete concurrence of the timing of the issuance of the two Messages.

Q I don't understand you when you say the concurrence. What do you mean?

MR. GARNMENT: I am saying that the Civil Rights Commission Report was issued yesterday and this Message was completed for issuance at about the same time.

Q You mean coincidence, is that what you mean?

MR. GARNMENT: Coincidence; thanks very much.

Let me just go beyond that to say that the Message doesn't deal with what I take to be the general proposition of the Civil Rights Commission Report, namely that whereas the 235 and 236 programs have resulted in the production of significant increases of housing for low income groups, and particularly for minority groups, that the actual distribution of the subsidized housing from the standpoint, again, of racial concentration, and the actual quality of units, leaves something to be desired, and that this is a matter that does call for affirmative action with respect to the information, counselling and marketing policies on the part of the Federal Housing Administration.

I might draw to your attention that Secretary Romney yesterday, concurrently with the issuance of the Civil Rights Commission Report, made known that the report did not, perhaps as a matter of timing, include a number of

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procedures and other matters that had been recently developed by HUD in that connection, and that these would be developed in the testimony before the Civil Rights Commission next week.

The President's Message, however, does lay very considerable stress on the importance of the development of the institutional machinery for improving the various marketing practices -- this is at page 10 -- which refers to the chief components of a program including the firm enforcement of laws relating to equal housing opportunity and development of appropriate equal housing opportunity criteria, participation affecting housing, and the development of information programs and the development of policies relating to housing and marketing practices.

I think that is very much the subject matter of the Civil Rights Commission Report.

Q When did the President develop this distinction between economic and racially forced integration? In January he said on television that "The forced integration in the suburbs is unrealistic. I think it would be counter productive and not in the interest of better race relations."

MR. GARMENT: I think that distinction is one that has been developed and recognized as a matter of general law and quite specifically in the Valtierra case very recently. In other words, there is a body of law relating to racial discrimination. There have been various policy propositions that have been urged by legislative and other groups involved in this area to carry out a dispersal policy without reference to the law.

If I might just conclude that point, the Supreme Court of the United States in the Valtierra case made clear that the decisions with respect to the location of assisted housing that are nonracial are essentially a matter of local option, so long as there is no racially discriminatory purpose involved.

Just to conclude, there apparently is no existing law that authorizes, much less mandates, economic integration.

Q Could I follow up on that one question? When the President stated here, he meant race, when he talked about forced integration, didn't he, and then somewhere along the line --

MR. GARMENT: No, I wouldn't speculate on that.

Q Could I follow that point on forced integration?

The President has frequently used that to summarize his view that he was against forced integration, meaning racial integration of neighborhoods.

Why wasn't that phrase used here? Is it because the situation has changed, or is it that you just didn't want to

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use the phrase, or what?

MR. GARMENT: I would really challenge the assumption that is involved in your question, namely that the President meant forced racial integration.

The President was referring, and did refer very explicitly, to the distinction between the administration of the laws so as to require a particular pattern of economic integration, and to be very carefully and very precisely distinguished from the administration of local laws or carrying out of individual housing decisions in a way that involves racial discrimination.

He has made quite clear that the former, from the standpoint of both policy and the limitations of law, is something that the Administration will not pursue, whereas the latter is something that would be pursued very energetically.

Q You said that communities will be encouraged to expand low income housing on a metropolitan-wide basis. How will they be encouraged, if not by priority treatment, as Mr. Ehrlichman seems to have suggested, that they won't get priority?

MR. GARMENT: I don't think John suggested one way or the other.

MR. EHRLICHMAN: This is a whole bundle of arrows in the quiver. I think you have some cases around the country where, either through councils of government or through other regional activities, this has actually come about. You can use those kind as laboratory case studies of how one goes about this. The Federal involvement in that is by way of counsel, by way of planning, by way of other forms of encouragement, but not by punitive means.

Q Or by giving favorable treatment in the dispensation of funds, as you suggested, in making the choices at HUD, to those communities that do this?

MR. EHRLICHMAN: I don't think it arises that way. This is more properly a question directed to Secretary Romney on Monday. But I think the point here is if you have Communities A, B, C, D, E, F and G all around a metropolitan area, and you have applications, let's say, from all of them, if on a regional basis the needed housing is located in Communities A and G you are not going to penalize B, C, D, E and F because they don't have that housing as long as the region supports the need on a concerted basis, you see. So I have to beg your question a little bit because your question was very precise in terms of yes or now on an application and that is not the way it really works in a region.

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Q If none of them support a pattern of breaking up racial concentration, however, will they all then be turned down?

MR. EHRlichMAN: They are in competition for approval with other communities, presumably. But I think we would have to make a number of hypothetical assumptions as to whether they would be turned down or not, bearing on a lot of other factors.

Your previous question went to the singularity of this factor as determinative. I tried to indicate to you before that this is not the single determining factor.

Q I will make it even simpler. Suppose a single developer or developing agency proposes four site locations, none of which would have a useful effect in breaking up racial concentrations.

Would that developer or developing agency then be told to come back and submit something that does if he wants assistance?

MR. EHRlichMAN: I am not going to take the question. I think that is precisely the kind of question you should ask Secretary Romney on Monday with regard to the application of this policy statement to the functions in his department. I think the statement should stand for itself until you have had the chance to ask him that question.

Q What does consideration mean on page 11?

MR. GARMENT: In the context of the statement, which makes clear that as a matter of policy the reduction of racial concentration is a matter of real concern, and that the extent to which a particular proposal or comprehensive plan of which the proposal as a part deals with the matter of expanding the housing opportunity for minority concentration areas would lead one to conclude that since that factor will be a factor weighed among others it is, therefore, one that has some preference as opposed to other factors that are not going to be included.

I think John's point is that it is very hard to prescribe very precisely what the particular result is going to be in a particular case, that one has to know all the facts and know all the criteria. Secretary Romney on Monday will be able to discuss that kind of detail from which a reasonable evaluation of the operational significance of the message can be drawn.

Q How is this different or like freedom of choice? You mentioned the analogy with the school message. How is this like or different than the freedom of choice concept for school integration?

MR. EHRlichMAN: Freedom of choice is a little like fair housing. It is one of those phrases into which a lot of different meanings can be poured. This policy statement incorporates some important language from the school statement.

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On page 12 and following, relating to a free and open society, "Freedom has two essential elements: the right to choose and the ability to choose. The right to move means little without the means of doing so. The right to apply for a good job without access to the skills", and so on and so forth.

I am sure this goes to your question precisely. I think you will find in that language the President's view of the meanings of those terms in terms of choice.

Q It seems to me you are giving local communities, the majority of which are white, the right to choose whether or not to admit low income and/or black.

MR. EHRLICHMAN: Let me really straighten you out there, please. We are not giving anybody anything. The Constitution gave them that right, because in the beginning the founding fathers in the Constitution separated governmental functions as between the Federal Government and the State Governments.

One of the things that was left to the State Governments was the control over land use, and the States, in turn, have delegated by State enabling acts and statutes this land use control to counties and cities. We call it zoning. The Federal Government never was in that business.

So this is simply a restatement of Constitutional precepts.

Q So you are saying the Constitution does give communities the right to choose whether or not they shall admit minority or low income groups?

MR. EHRLICHMAN: You see, you slipped again, because you equated low income with minority. We have to think very, very precisely about the terms that we are dealing with here. We have said with as much precision here as we know how that there is a difference between racial discrimination on the one hand and discrimination on other bases. Zoning, really, is literally discrimination on another basis, the various laws on land use.

We have said that the Constitution and the laws of this country are very clear on the subject of racial discrimination.

Q But isn't it true that in the cities a large percentage, a great percentage of the poor, are black?

MR. EHRLICHMAN: Have you read the statement?

Q Yes.

MR. EHRLICHMAN: I think we will stand on that.

Q Mr. Ehrlichman, I wonder if you would try to paraphrase what the message of this is supposed to be to some suburbs, say, in this community, like Chevy Chase or Bethesda or McLean. Is there a message beyond that that says, "You have the local decision and power to do whatever you want"?

Or is there a kind of moral or leadership position that says, "You should or should not accept low income in public housing"?

MR. EHRlichMAN: The last part is quite hortatory in that regard, I think.

The last paragraph says there is a real challenge: to the States, the localities and the people of achieving our goals of decent homes and open communities in a free and open society. "This task summons the best that is in each and every one of us, in a cause, and so on.

That is simply a summary of a number of other places in here where it says that the Constitution divides responsibilities. We are going to fully discharge those responsibilities that are Federal and we think that the localities have to discharge the responsibilities that are local.

Q Are you in any way attempting to very specifically encourage communities like those I mentioned or others around the country --

MR. EHRlichMAN: I think you will find that running all the way through here, that the provision for low income housing, the provision dispersal and so on, has to be made by the local communities. There is a lot the Federal Government can do to encourage that. But there is nothing the Federal Government can do under our system to require it.

Q On page 14, would you look at the next to the last paragraph? "This Administration will offer leadership." You used to be a zoning lawyer. Out of that experience and out of your more recent experience, can you tell us what possible leadership the Government can provide in the land use field that is not a violation of the Constitution as you just recited it?

MR. EHRlichMAN: There is all kinds of leadership that is even now being provided in my certain knowledge in this area. The whole 701 Program, which affords money to localities to do land use planning is a great encouragement. It causes localities to think about the allocation of their real property resources in the whole spectrum. It causes a kind of organization of thought in the community, about where we are going to provide for this use, that use and the other use.

In communities where you don't have that kind of planning and you don't have that kind of organized land use control is where you generally find the sort of exclusionary practices that make it most difficult to bring about this kind of result. That is one tiny example.

The HUD people out in the regions and out in the local offices are literally advisors to many communities that can't afford to hire a full-time planner or for one reason or another don't have one. They are kind of circuit riders. They go from community to community and they are very persuasive on the local communities as to what good land use allocation is.

Here is a clear statement of policy so that those circuit riders, to so speak, have an understanding of the public policy of this Nation, the direction that we should be moving in the allocation of our land.

Q That is not contradictory to the general theme that this is a local function?

MR. EHRLICHMAN: No. It is analogous to what we have been doing in the South on schools.

MR. GARMENT: I might add to that the Miami-Dayton plan involving the voluntary action of a group of communities who came together and decided how to divide up low and moderate income housing on an area-wide basis, recognizing, number one, that there were common interests involved in deciding how this should be done, what weight should be given to particular educational problems, cost problems and general public service problems and the like.

Secondly, that the law as it is developing, places very real restrictions on the kind and quantity of assisted housing that can go into areas of racial concentration under the recent Third Circuit decision, the Shannon case and; third, that there is a very basic economic and social interdependence between the central city and the suburban ring, and that unless the communities begin to deal with these problems in a very realistic fashion their problems will be such that the Federal Government would never be able to help.

I mention these points because all of these points are discussed in the President's Message and I think are very central to the theme.

MR. EHRLICHMAN: Friends, I will have to cut and run in a minute. I think Len has to go to the same place I do. Can we take three more questions?

Q John, on page 8, you cite a statistic saying that black husband-wife families headed by persons under 25 in the North and the West have a median income equal to that of their white contemporaries.

Who conducted the survey?

MR. EHRLICHMAN: That is part of the 1970 Census.

Q Specifically what areas?

MR. EHRLICHMAN: I think that can be made available to you through Ron so you would have the precise report.

Q What do you mean by black husband-wife families?

MR. EHRLICHMAN: That is a family that has both a husband and wife in it rather than just a widow or just a divorcee. It is a Census classification. People are carried in the Census in those kinds of single, husband and wife, and so on.

Q What is there in this Message to discourage communities in places like New York that do not now have a local option law to adopt a local option law and say, "We

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will keep people out of here because the housing is low income. They said we can do that?"

MR. EHRLICHMAN: I don't know what you mean by local option law.

Q Referendum.

MR. EHRLICHMAN: Referenda ordinarily are constitutionally enabled. Some States have constitutions where the right of referendum on subjects of land use exist, like California. Others, by constitution, do not provide for that, like the State of Washington where I come from.

So it would require constitutional amendment and constitutional enablement for that kind of proceeding. There is no inherent right of referendum, as I understand it.

Q I understand the mechanics. The people in Lackawanna now could have the same effect they were trying to get before by adopting a referendum law.

MR. GARMENT: That one might say is theoretically possible under Valtierra, where the United States Supreme Court said these were matters of local choice and, therefore, become matters largely of public wisdom and debate.

The President's Message at page 14 does say, after discussing Valtierra and the Lackawanna case, that there are a great many cases that are now pending and that will be developing in the months and years ahead that will begin to push at problems of this sort. And if the communities don't begin to resolve these problems they are going to be hammered out on a case-by-case basis in the courts, which is not the place for a national growth policy to be developed. Therefore, the President says in this portion of the Message, and I think it is basically expressed in the entire Message, that this is an urgent matter for the communities to deal with in concert with the various departments and agencies of the Federal Government so as to have a consciously determined growth policy in the community rather than to have it determined on a case-by-case basis in the courts.

Q On page 13, the President says, "The challenge of how to provide fair, open and adequate housing is one that they" -- meaning the people of that community -- "must meet and they must live with their success or failure."

Is it fair, in view of the totality of this Message, to interpret the President's use of the word "success" to mean widespread dispersal of racial minorities and poor people throughout the metropolitan areas, including the relatively affluent suburbs?

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MR. EHRLICHMAN: No, I think you can't go beyond the term of the phrase.

The whole phrase is "to provide fair, open and adequate housing." On what he means by fair and open, of course, you can refer back to the language I cited to you that is quoted out of the School Message, which is right up at the top of the page.

I think you have to read those two together to get the real essence of it.

Q The question is what does he mean by success?

MR. EHRLICHMAN: Success? I guess we could go to the beginning of it and talk about the remaining needs are still enormous and then it goes on to describe what the remaining needs are. I guess we succeed to the extent that we fulfill those needs.

THE PRESS: Thank you, gentlemen.

END (AT 12:50 P.M. EDT)



HUD NEWS

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FOR RELEASE AFTER:
3:00 P.M. Monday
June 14, 1971

STATEMENT OF
SECRETARY GEORGE ROMNEY

AT PRESS CONFERENCE

ON

EQUAL HOUSING OPPORTUNITY

JUNE 14, 1971

As you know, my Department and the Department of Justice have been working closely together for over a year on policy questions relating to equal opportunity in housing.

Now that the President has issued his statement on this subject, the Attorney General, the General Services Administrator, Robert Kunzig, and I are pleased to be able to discuss with you actions which our respective organizations will be taking to implement the President's statement.

It has been agreed that I will lead off. Mr. Kunzig and the Attorney General will then follow with statements, after which we will all be available for questions.

First, I am delighted with the President's statement and decisions. He has forthrightly faced our most complex, emotionally sensitive and explosive domestic situation. That situation arises from the combination of the nation's long overdue

racial revolution, the crisis in our metropolitan areas, and our desperate need for a greater supply of less costly housing for American families -- particularly the poor and those of below average income. The President's policy statement is a positive meshing of two inalienable constitutional rights -- equal opportunity for all and freedom of choice for all. In pointing the way toward what ought to be it is a timely and superior example of statesmanship in defining what can be. I will always be proud of the part our Department played in its development.

I want to emphasize my enthusiasm for the President's very positive statement, because some of the early reports suggested that it was at variance with my earlier views and actions, and represented a retrenchment of this Department's policies or activities. Such reports are not based on accurate knowledge and could not have been based on a careful reading of the Presidential statement.

I hope one product of this conference may be to prompt some of those who rushed to judgment to check the record and read the statement with care.

As the President said, the statement does not announce new policies, but seeks to define and explain those we have.

Let me cite three short, but critical paragraphs of the President's statement:

"At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated."

"The administration is embarked upon this course. It must and will press forward firmly."

"The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity; the development of appropriate equal housing opportunity criteria for participation in programs affecting

housing; the development of information programs; and the development of policies relating to housing marketing practices."

I think it would be most useful if I cover briefly the "equal housing opportunity criteria for participation in programs affecting housing", and "policies relating to housing marketing practices."

In discussing program criteria I will first cover policies involving sites for Federally-assisted housing, and then cover policies involving community development projects affecting housing, such as urban renewal and water and sewer grants.

Last August, when I appeared before Senator Mondale's Select Committee, I called attention to the huge new volume of Federally-assisted housing and indicated that we were working with the Department of Justice to develop site selection policies governing FHA assisted housing programs. I testified that:

"Pending adoption and publication of such policies the FHA is pursuing an informal policy designed to avoid further concentrations of Federally

assisted housing in large, institutional settings or in areas of minority racial concentration."

The President has now spoken with respect to this point, and has said:

"As a major part of our national effort to meet these housing needs -- an effort which is both private and governmental -- federally assisted housing is being built at a rate approaching 3/4 of a million units a year. These units are needed. They are being built. And they must be built someplace. The question is where."

"If all the federally assisted units are packed together in one type of community or one kind of location, we will only exacerbate the social and, in all probability the racial isolation of our people from each other."

"If we build federally assisted instant ghettos, we fail both our communities and the people we are trying to help."

"If we impact or tip the balance of an established community with a flood of low-income families, we do a disservice to all concerned."

"The answers to these practical considerations are not simple -- but they are of great importance."

"Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the "affirmative action" mandate of the 1968 Act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in

choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration."

We have now developed project selection criteria for use by our field personnel which will enable them to apply these policies. Because of their importance, we will not make them immediately effective, but will first circulate them for 30 days for public comment. Copies are available for your review.

There are separate forms for use in evaluating homeownership projects under Section 235, for rental projects under Section 236 or rent supplement, and for public housing. While there are some variations resulting from program differences (the homeownership form has no management criterion, for example) the basic format and approach is the same in each case.

A proposed project will be rated "superior", "adequate" or "poor" with respect to criteria ranging from "community need" to "improved environmental location for low

income families" to "effect of proposed housing upon neighborhood environment".

A key item is "non-discriminatory location". Here a proposed project will earn a "superior" rating if it is outside an area of minority concentration. It can earn a "superior" or "adequate" rating if it is inside an area of minority concentration only if it is either a part of a major new development like Fort Lincoln or the Southwest urban renewal area (where this building is located), which will be racially inclusive, or if it responds to overriding need which can't feasibly be met any other way. If a project doesn't rate at least "adequate" on the nondiscriminatory location criterion it will be disapproved.

This clear statement of policy should be very helpful both to our field personnel in rating proposed housing projects, and to developers and sponsors in guiding them as to project characteristics which will enhance the prospects for approval. I think I can anticipate a question by saying that as a general proposition, all other factors being equal, projects outside areas of minority concentration will be given preference.

Now let me turn to community development projects such as urban renewal and

water and sewer. Here again, I think it is instructive to note that when I appeared before the Mondale Committee last August, I called attention to such statutory requirements as the "workable program" and the "housing element" in federally financed local planning. I then said:

"Except where statutes, operating in combination, impose conditions of eligibility, HUD has not adopted the approach recommended by a recent Presidential Task Force, of denying Federal funds to a community which does not take steps to make housing available to low and moderate-income families. However, most HUD grant programs have far more applications for grants than can be accommodated with available funds. Project selection criteria have been developed for some programs, and are being developed for others, as appropriate, which will take account of the local effort to meet housing needs in assigning relative priority to ~~otherwise~~ qualifying applications."

The President's statement also contains a careful review of these statutory requirements. And while the President has made clear (and I have also consistently sought to make clear) that the Federal government will not force a reluctant community to accept low income housing, he has also said:

"To qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way."

That is the policy we have followed, are following and will follow. It was this legal requirement that was applied in considering the workable program submitted by Warren, Michigan in connection with its urban renewal application last Summer.

The President has also said:

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

To implement that policy with respect to the water and sewer grant program, we have a project selection system which takes into account, in addition to such factors as public health and financial need, the accessibility of low and moderate income housing in the area to be served by the project. Copies are available for your review.

Before I leave this discussion of program criteria I want to call attention to two other points in the President's statement which will guide us in our relationships with local communities:

"We will be vigorous in enforcing both the constitutional mandate and the statutory requirements that there not be housing discrimination on grounds of race. In the more complex and difficult area of providing subsidized housing in areas where it is needed, we will encourage communities and local developers to take into account the broad needs of the various groups within the community and of the metropolitan area."

* * * * *

"We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination."

Finally, I'd like to cover the matter of policies relating to marketing of federally-assisted housing. As some of you may know, we recently published in the Federal Register for comment guidelines which we propose governing the advertising of housing for sale or rent. These guidelines are directed to newspapers, but they will also be helpful to housing sponsors, owners, sellers and renters.

We have for many years imposed a general requirement of non-discrimination in the sale or rental of FHA assisted housing. But in response to the "affirmative action" requirement of Title VIII of the 1968 Civil Rights Act, and in furtherance of the equal opportunity policies set forth in the President's statement, we now propose additional regulations designed to ensure that there truly is equal opportunity for eligible persons

of all races to buy or rent federally-assisted housing. These regulations govern such things as advertising practices, non-discrimination in the employment of sales personnel, informing relocation agencies of housing availability, consideration of persons referred by HUD, and the like. The requirements cover subdivisions, multi-family projects, and mobile home courts wherever 25 or more units are involved. One further significant requirement is that HUD field offices will make available to interested persons and groups (including for example, minority brokers and fair housing organizations) upon request, every 30 days, lists of FHA subdivisions or projects on which FHA has issued commitments. This should help to spread the word regarding availability of FHA assisted housing more broadly, as recommended by the United States Commission on Civil Rights in its report last week.

These affirmative marketing guidelines are also being published for 30 days for comments before they become effective. Copies are available for your review.

Now, another aspect of our effort to expand housing opportunities relates

to the availability of low and moderate income housing in the vicinity of newly located Federal facilities. Last week GSA and HUD signed an agreement covering this matter which we think is significant, and I'm pleased that the Administrator of the General Services Administration, Mr. Robert L. Kunzig, is here to tell you about it. After Mr. Kunzig's statement, the Attorney General will have a statement.

TRANSCRIPT OF PRESS CONFERENCE

June 14, 1971

HON. GEORGE ROMNEY, SECRETARY OF HOUSING AND URBAN
DEVELOPMENT

HON. JOHN N. MITCHELL, ATTORNEY GENERAL

STATEMENT OF
SECRETARY GEORGE ROMNEY

AT NEWS CONFERENCE

on

EQUAL HOUSING OPPORTUNITY

Washington, D.C.
June 14, 1971

As you know, my Department and the Department of Justice have been working closely together for over a year on policy questions relating to equal opportunity in housing.

Now that the President has issued his statement on this subject, the Attorney General, the General Services Administration, Robert Kunzig, and I are pleased to be able to discuss with you actions which our respective organizations will be taking to implement the President's statement.

It has been agreed that I will lead off. Mr. Kunzig and the Attorney General will then follow with statements, after which we will all be available for questions.

First, I am delighted with the President's statement and decisions. He has forthrightly faced our most complex, emotionally sensitive and explosive domestic situation. That situation arises from the combination of the nation's long overdue racial revolution, the crisis in our metropolitan areas, and our desperate need for a greater supply of less costly housing for American families -- particularly the poor and those of below average income. The President's policy statement is a positive meshing of two inalienable constitutional rights -- equal opportunity for all and freedom of choice for all. In pointing the way toward what ought to be it is a timely and superior example of statesmanship in defining what can be. I will always be proud of the part our Department played in its development.

I want to emphasize my enthusiasm for the President's very positive statement, because some of the early reports suggested that it was at variance with my earlier views and actions, and represented a retrenchment of this Department's policies or activities. Such reports are not based on accurate knowledge and could not have been based on a careful reading of the Presidential statement.

I hope one product of this conference may be to prompt some of those who rushed to judgment to check the record and read the statement with care.

As the President said, the statement does not announce new policies, but seeks to define and explain those we have.

Let me cite three short, but critical paragraphs of the President's statement:

"At the outset, we set three basic requirements for our program to achieve equal housing opportunity: It must be aimed at correcting the effects of past discrimination; it must contain safeguards to ensure against future discrimination; and it must be results-oriented so its progress toward the overall goal of increasing housing opportunities can be evaluated."

"The Administration is embarked upon this course. It must and will press forward firmly."

"The chief components of such a program include the firm enforcement of laws relating to equal housing opportunity; the development of appropriate equal housing opportunity criteria for participation in programs affecting housing; the development of information programs; and the development of policies relating to housing marketing practices."

I think it would be most useful if I cover briefly the "equal housing opportunity criteria for participation in programs affecting housing," and "policies relating to housing marketing practices."

In discussing program criteria I will first cover policies involving sites for federally-assisted housing, and then cover policies involving community development projects affecting housing, such as urban renewal and water and sewer grants.

Last August, when I appeared before Senator Mondale's Select Committee, I called attention to the huge new volume of federally-assisted housing and indicated that we were working with the Department of Justice to develop site selection policies governing FHA assisted housing programs. I testified that:

"Pending adoption and publication of such policies the FHA is pursuing an informal policy designed to avoid further concentrations of federally-assisted housing in large, institutional settings or in areas of minority racial concentration."

The President has now spoken with respect to this point, and has said:

"As a major part of our national effort to meet these housing needs -- an effort which is both private and governmental -- federally-assisted housing is being built at a rate approaching 3/4 of a million units a year. These units are needed. They are being built. And they must be built someplace. The question is where."

"If all the federally-assisted units are packed together in one type of community or one kind of location, we will only exacerbate the social and, in all probability the racial isolation of our people from each other."

"If we build federally-assisted instant ghettos, we fail both our communities and the people we are trying to help."

"If we impact or tip the balance of an established community with a flood of low-income families, we do a disservice to all concerned."

"The answers to these practical considerations are not simple -- but they are of great importance."

"Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the 'affirmative action' mandate of the 1968 Act to mean that the administration of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally-assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration."

We have now developed project selection criteria for use by our field personnel which will enable them to apply these policies. Because of their importance, we will not make them immediately effective, but will first circulate them for 30 days for public comment. Copies are available for your review.

There are separate forms for use in evaluating homeownership projects under Section 235, for rental projects under Section 236 or rent supplement, and for public housing. While there are some variations resulting from program differences (the homeownership form has no management criterion, for example) the basic format and approach is the same in each case.

A proposed project will be rated "superior", "adequate" or "poor" with respect to criteria ranging from "community need" to "improved environmental location for low income families" to "effect of proposed housing upon neighborhood environment." A key item is "non-discriminatory location." Here a proposed project will earn a "superior" rating if it is outside an area of minority concentration. It can earn a "superior" or "adequate" rating if it is inside an area of minority concentration only if it is either a part of a major new development like Fort Lincoln or the Southwest urban renewal area (where this building is located), which will be racially inclusive, or if it responds to overriding need which can't feasibly be met any other way. If a project doesn't rate at least "adequate" on the non-discriminatory location criterion it will be disapproved.

This clear statement of policy should be very helpful both to our field personnel in rating proposed housing projects, and to developers and sponsors in guiding them as to project characteristics which will enhance the prospects for approval. I think I can anticipate a question by saying that as a general proposition, all other factors being equal, projects outside areas of minority concentration will be given preference.

Now let me turn to community development projects such as urban renewal and water and sewer. Here again, I think it is instructive to note that when I appeared before the Mondale Committee last August, I called attention to such statutory requirements as the "workable program" and the "housing element" in federally financed local planning. I then said:

"Except where statutes, operating in combination, impose conditions of eligibility, HUD has not adopted the approach recommended by a recent Presidential Task Force, of denying Federal funds to a community which does not take steps to make housing available to low- and moderate-income families. However, most HUD grant programs have far more applications for grants than can be accommodated with available funds. Project selection criteria have been developed for some programs, and are being developed for others, as appropriate, which will take account of the local effort to meet housing needs in assigning relative priority to otherwise qualifying applications."

The President's statement also contains a careful review of these statutory requirements. And while the President has made clear (and I have also consistently sought to make clear) that the Federal Government will not force a reluctant community to accept low income housing, he has also said:

"To qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially non-discriminatory way."

That is the policy we have followed, are following and will follow. It was this legal requirement that was applied in considering the workable program submitted by Warren, Michigan in connection with its urban renewal application last Summer.

The President has also said:

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."

To implement that policy with respect to the water and sewer grant program, we have a project selection system which takes into account, in addition to such factors as public health and financial need, the accessibility of low- and moderate-income housing in the area to be served by the project. Copies are available for your review.

Before I leave this discussion of program criteria I want to call attention to two other points in the President's statement which will guide us in our relationships with local communities:

"We will be vigorous in enforcing both the constitutional mandate and the statutory requirements that there not be housing discrimination on grounds of race. In the more complex and difficult area of providing subsidized housing in areas where it is needed, we will encourage communities and local developers to take into account the broad needs of the various groups within the community and of the metropolitan area."

"We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination."

Finally, I'd like to cover the matter of policies relating to marketing of federally-assisted housing. As some of you may know, we recently published in the Federal Register for comment guidelines which we propose governing the advertising of housing for sale or rent. These guidelines are directed to newspapers, but they will also be helpful to housing sponsors, owners, sellers and renters.

We have for many years imposed a general requirement of non-discrimination in the sale or rental of FHA assisted housing. But in response to the "affirmative action" requirement of Title VIII of the 1968 Civil Rights Act, and in furtherance of the equal opportunity policies set forth in the President's statement, we now propose additional regulations designed to ensure that there truly is equal opportunity for eligible persons of all races to buy or rent federally-assisted housing. These regulations govern such things as advertising practices, non-discrimination in the employment of sales personnel, informing relocation agencies of housing availability, consideration of persons referred by HUD, and the like. The requirements cover subdivisions, multifamily projects, and mobile home courts wherever 25 or more units are involved. One further significant requirement is that HUD field offices will make available to interested persons and groups (including for example, minority brokers and fair housing organizations) upon request, every 30 days, lists of FHA subdivisions or projects on which FHA has issued commitments. This should help to spread the word regarding availability of FHA assisted housing more broadly, as recommended by the United States Commission on Civil Rights in its report last week.

These affirmative marketing guidelines are also being published for 30 days for comments before they become effective. Copies are available for your review.

Now, another aspect of our effort to expand housing opportunities relates to the availability of low- and moderate-income housing in the vicinity of newly located Federal facilities. Last week GSA and HUD signed an agreement covering this matter which we think is significant, and I'm pleased that the Administrator of the General Services Administration, Mr. Robert L. Kunzig, is here to tell you about it. After Mr. Kunzig's statement, the Attorney General will have a statement.

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STATEMENT OF
JOHN N. MITCHELL
ATTORNEY GENERAL

AT NEWS CONFERENCE

on

EQUAL HOUSING OPPORTUNITY

Washington, D.C.
June 14, 1971

ATTORNEY GENERAL MITCHELL: Ladies and gentlemen, I would like to join the Secretary and Mr. Kunzig in expressing my complete approval of the contents and the thrust of the President's statement.

With respect to the participation and functions of Justice that are delineated under that statement, I would like to point out what the Secretary has said, that it is not announcing a new policy.

We will, in Justice, continue to carry out what we have been doing before under the mandate of the President's statement. This, of course, provides that Justice strive in the area of open housing, and we have been doing this, and we will continue to do so through lawsuits and through the negotiation of voluntary compliance, which is becoming more and more extensive now that we have established a program of litigation and principles of law.

Also, as the statement says, we will continue to use the powers that we have available to us, to eliminate unlawful racial discrimination which is brought about by community action in the field of zoning or land-use regulations.

And thirdly, to carry out these endeavors, we will continue to work very closely with the people in HUD, because in the last analysis, they have the prime responsibility in these areas; certainly in the initiation of them, and in many cases we act as their lawyer.

There are other cases which are referred to us through other means, and we will continue to use our legal powers to accomplish the desired results as set forth in the President's statement.

* * * *

QUESTION: Mr. Mitchell, what are you going to do about Black Jack, Missouri?

MR. MITCHELL: I was afraid nobody would ask me. I can say that, as of today, I have authorized the filing of a suit in the Black Jack case, along with eight other housing discrimination cases.

Exhibit No. 31

Proposed HUD Project Selection Forms

U. S. Department of Housing and Urban Development EVALUATION OF APPLICATIONS FOR LOW-RENT PUBLIC HOUSING		Date received _____
Local Housing Authority _____	Locality _____	Project # _____
		Number of Units _____

INSTRUCTIONS: In evaluating applications for low-rent public housing, the Area Office shall take into consideration the following selection criteria. Each criterion should be evaluated upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the attached Instruction Sheet.

1. COMMUNITY NEED FOR LOW INCOME HOUSING - SUPERIOR ADEQUATE POOR

(a) Relative need for housing by low income families in the Neighborhood and Market Area to be served. _____

(b) Proposed Unit Types
Conform with the Composition of the Low Income Housing need in the Neighborhood and Market Area to be served. _____

(c) Housing will serve as a Relocation Resource for families displaced by Governmental Action. _____

(d) Waiting list for public housing. _____

2. EFFICIENT PRODUCTION - SUPERIOR ADEQUATE POOR

(a) Time expected to be required from date of application approval to construction start, acquisition, or lease. _____

(b) Cost of housing relative to prototype costs. _____

3. NONDISCRIMINATORY LOCATION - SUPERIOR ADEQUATE POOR

(a) Outside an area of minority concentration _____

(b) Area substantially racially mixed _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing _____

4. IMPROVED ENVIRONMENTAL LOCATION FOR LOW INCOME FAMILIES

SUPERIOR ADEQUATE POOR

The opportunity for Low Income Families to live in Neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to Job Opportunities. _____

(c) Provided with good transportation at reasonable cost. _____

(d) Accessible to good Educational, Commercial, and Recreational Facilities.

5. EFFECT OF PROPOSED HOUSING UPON NEIGHBORHOOD INTEGRITY -
 SUPERIOR ADEQUATE POOR

(a) Compatibility of the land use concept and Architectural design of the proposed housing with the existing Neighborhood.

(b) Use of scattered sites.

(c) Compatibility of Density Levels of the proposed housing with existing and projected plans for the Neighborhood.

6. RELATIONSHIP TO ORDERLY GROWTH AND DEVELOPMENT -
 SUPERIOR ADEQUATE POOR

(a) Neighborhood is undergoing Comprehensive Improvement via Urban Renewal, Model Cities or Rehabilitation - either Federal, State or Locally Assisted

(b) Proposed housing is compatible with A-95 area-wide planning and/or other established local planning.

(c) Project will contribute to orderly and economical community growth.

7. EMPLOYMENT AND UTILIZATION OF EMPLOYEES AND BUSINESS IN PROJECT AREA. -
 SUPERIOR ADEQUATE POOR

Project will provide an opportunity for training and employment of Lower Income Persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by Persons residing in the area.

8. PROVISION FOR SOUND HOUSING MANAGEMENT - SUPERIOR ADEQUATE POOR

(a) Administrative capacity.

(b) Financial position.

(c) Crime prevention encouragement.

(d) Provision of community services.

(e) Administration of tenant selection plan and good faith efforts to achieve integration.

(f) Management-tenant relations.

FOR SUPERIOR ADEQUATE POOR

(a) Homeownership opportunity of the proposed project.

(b) LHA has other homeownership projects existing or under development.

(Check as applicable)

Score on Required

Criteria 1, 2, 3, 4, 6, 8

Total Score

Priority Group

Superiors _____

Superiors _____

1. a/ No Poor ratings and six or more Superior ratings.

Adequates _____

Adequates _____

b/ One Poor rating and seven or more Superior ratings.

Poors _____

Poors _____

2. a/ No Poor ratings and up to five Superior ratings.

b/ One Poor rating and five or six Superior ratings.

3. a/ One Poor rating and up to four Superior ratings.

b/ Two Poor ratings and five or more Superior ratings.

4. a/ Two Poor ratings and up to four Superior ratings.

b/ Three Poor ratings and five or six Superior ratings.

5. Three Poor ratings and up to four Superior ratings.

Disapproved. More than 3 ratings of Poor, or one rating of Poor on a required criterion.

A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6, 8 shall be disapproved. Proposals in higher ranking priority groups shall be processed ahead of those in lower priority groups. Within each group, proposals shall be processed in order of date of receipt in the office.

Signature _____ Reviewers (Name, Title, Date)

1 _____

3 _____

4 _____

INSTRUCTION SHEET

EVALUATION OF APPLICATIONS FOR
LOW-RENT PUBLIC HOUSING
(Form)

GENERAL - Appropriate Area Office staff shall review the criteria which relate to their responsibilities. Statements and other evidence of intent on the part of the applicant to comply at a "superior" or "adequate" level may be accepted in the absence of specific information needed to rate a criterion. If the terms of a statement of intent are not met, the scheduling of the application for future action shall be affected accordingly. Final application approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. Community Need for Low Income Housing.

A superior rating shall be given under the following conditions: proposed unit types conform to the needs of the low income population; there is a shortage of standard housing to meet the needs of the low income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; and the ratio of the number of families within public housing admission income limits to the existing and potential supply of public and rent supplement housing units is greater than 5:1; or, the housing will serve as a relocation resource for families displaced by Governmental action.

An adequate rating shall be given if the proposed unit types conform to the needs of the low income population; there is not a substantial supply of standard housing available to the low income population, taking into account existing employment and employment opportunities; and the ratio of the number of families within public housing admission income limits to the supply of public and rent supplement housing units is greater than 2:1 (An exception to this required ratio is allowed for suburban communities willing to provide public housing for central city poor).

A poor rating shall be given if the proposed unit types do not conform to the needs of the low income population; or if there exists a substantial supply of standard housing available to the low income population, taking into account existing employment and employment opportunities; or the ratio of eligible families to the supply of subsidized low-rent housing is less than 2:1.

2. Efficient Production.

A superior rating shall be given if it appears likely that the established Production Milestones will be met, and that the housing will be produced at a cost at least 10 percent below the applicable prototype costs.

An adequate rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 18 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the prototype costs by more than 5 percent (unless the Area Director, through the Regional Administrator, secures the approval of the Assistant Secretary, HEPMC, for a specific project).

A poor rating shall be given if it appears likely that more than 18 months will be required from approval of program reservation to start of construction or rehabilitation, and the housing will be produced at a cost which exceeds the prototype costs by more than 10 percent.

3. Nondiscriminatory Location.

A superior rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An adequate rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to non-minority families, or (2) if the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise

feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socio-economic information supporting both the overriding need and the availability of alternate housing.

A poor rating shall be given to any proposed project if the conditions specified above are not met.

4. Improved Environmental Location for Low Income Families.

A superior rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good educational, commercial, and recreational facilities.

An adequate rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A poor rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a one-half mile radius from the site of a proposed project.

5. Effect of Proposed Housing Upon Neighborhood Environment.

A superior rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An adequate rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A poor rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. Relationship to Orderly Growth and Development.

A superior rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via Urban Renewal, Model Cities, or Project Rehab -- either Federal, State or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood, or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either in reference to A-95 planning or otherwise.

An adequate rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A poor rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project Area.

A superior rating shall be given if the LHA has definite plans to: (1) actively encourage developers, contractors and subcontractors to train and employ lower income persons residing in the proposed project area; (2) actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) actively implement plans for the training and employment of lower income persons residing in the project area in the management of the project.

An adequate rating shall be given if the LHA has agreed to give special consideration to: (1) proposals from developers, etc., providing opportunities for training and employment of lower income persons residing in the project area; (2) proposals from business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) the training and employment of lower income persons residing in the project area in the management of the project.

A poor rating shall be given if the LHA has not agreed to give special consideration to: (1) proposals from developers, etc., providing opportunities for training and employment of lower income persons residing in the project area; (2) proposals from business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) the training and employment of lower income persons residing in the project area in the management of the project.

8. Provision for Sound Housing Management.

Rank separately as superior, adequate, or poor, the following specific criteria, (1) administrative capacity; (2) financial position; (3) maintenance; (4) crime prevention encouragement; (5) provision of community services; (6) administration of HUD-approved tenant selection plan and good faith efforts to achieve desegregation; and (7) management-tenant relations. If the rating of an LHA is poor on any of these items, no application should be approved unless: (1) the LHA has a satisfactory plan to improve in its area of deficiency; (2) it can be shown that the new project will not be plagued by this deficiency; or (3) the provision of the new project will aid the LHA in overcoming this deficiency. Under no circumstances should a project be approved if the LHA is rated poor in administrative capacity. The definitions of superior, adequate, or poor for these criteria shall be consistent with Housing Management policy.

In the case of an application from an LHA with no units under management, an adequate rating ordinarily will be given, unless there is information available which would justify a superior or poor rating. A poor rating shall always be assigned if there is any question regarding management feasibility. This is an especially important consideration in connection with a new LHA proposing a small program.

9. Homeownership.

A superior rating shall be given if the proposed project is to be developed as an authority-owned (Turnkey III) or leased (Turnkey IV) homeownership project.

An adequate rating shall be given if the LHA has other homeownership projects in some stage of development, or if it can be determined that the design of the project is such that eventual ownership by the tenants would be facilitated (e.g., detached, semi-detached, townhouse construction).

A poor rating shall be given if it appears unlikely that the proposed project will be converted to a homeownership program, and the design of the project is such that eventual ownership by the tenants will not be facilitated.

CIRCULAR

SUBJECT: Public Housing Application Approval Rating System

1. PURPOSE. This Circular transmits HUD Form No. "Evaluation of Applications for Low Rent Housing" which shall be used in accordance with the Instruction Sheet attached to the form for the following purposes:
 - a. To determine the order in which public housing applications are to be approved.
 - b. To help in the screening of approved program reservations for further actions.

It replaces RHA Circular 12-20-67 titled "Priority Considerations in Approval of Applications for Low-Rent Housing Programs" and HAA Circular 3-26-69 titled "Housing the Elderly and the Family with Children--A Need for Balance".

2. SCOPE. It is intended that those applications which best fulfill the basic objectives of the Department's subsidized housing programs be scheduled to receive program reservations ahead of lower rated applications. Applications which do not receive an acceptable rating in meeting the basic objectives shall be identified and returned to the LHA's for corrective actions. Final application approval is dependent, of course, upon satisfying all statutory and administrative requirements which are a normal part of processing.

The evaluation form attached to this Circular shall be used to screen all applications which are currently on hand or subsequently received in Area or Regional Offices. It shall be attached to each copy of the Application routed through the Area Office.

3. USE OF THE RATING SYSTEM. All applications meeting the minimum requirement for assignment to a priority group shall be separated by the category of housing applied for (e.g., conventional, turnkey, leased-new construction). Within each production category, applications in higher ranking priority groups shall be processed ahead of those in the lower ranking priority groups. Within each priority group, applications shall be ordered by the date the applications were received in the office.

The Multifamily Housing Representative shall obtain the information necessary to evaluate the criteria, and shall arrange for review by appropriate Area Office staff of the criteria which relate to their responsibilities. If sufficient information is not available to determine how well a particular criterion is met, that criterion shall not be rated, except for Nondiscriminatory Location which shall be rated as to every proposed project. Of course, if an application does not meet the minimum score, it must be returned to the LHA.

4. EXCEPTIONS TO THE RATING SYSTEM.

- a. At the discretion of the Area Office Director, an application meeting the minimum score may be placed in a higher priority group. The reasons for such special consideration shall be recorded.
- b. Lower ranking applications for Indian Housing or Homeownership Programs may be processed out-of-turn when necessary to meet the production targets in these categories.
- c. Applications for units to be used as a residence for relocating displacees from urban renewal projects may be processed out-of-turn when necessary to assure that an Annual Contributions Contract will be executed by the time the Part II Loan and Grant Application is ready for approval.
- d. Applications for units to be located in an urban renewal area may be processed out-of-turn when necessary to meet the urban renewal requirement that evidence of a Program Reservation must be submitted with the Part II Loan and Grant Application.
- e. Lower ranking applications may be processed out-of-turn when necessary to meet our national goal of a balanced public housing program consisting of two-thirds family units and one-third elderly units.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Federal Housing Administration

THA Form No. 3122b

EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY - SECTION 235(i)	<input type="checkbox"/> Reservation <input type="checkbox"/> Priority Registration	Date of Request
Builder or Developer:	Identification of Subdivision:	Registration Number, if Approved

INSTRUCTIONS: In evaluating requests for reservation of funds, the insuring or area office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the attached Instruction Sheet.

1. COMMUNITY NEED FOR LOWER INCOME HOUSING - SUPERIOR ADEQUATE POOR

(a) Relative need for Housing by Lower Income Families in the Neighborhood and Market Area to be served. _____

(b) Proposed Unit Types
Conform with the Composition of the Lower Income Housing need in the Neighborhood and Market Area to be served. _____

(c) Housing will serve as a Relocation Resource for families displaced by Governmental Action. _____

2. EFFICIENT PRODUCTION - SUPERIOR ADEQUATE POOR

(a) Experience and Resources of the Sponsor/Developer to proceed promptly to construction and completion. _____

(b) Ability of the Sponsor/Developer to provide Housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. NONDISCRIMINATORY LOCATION - SUPERIOR ADEQUATE POOR

(a) Outside an area of minority concentration _____

(b) Area substantially racially mixed _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing _____

4. IMPROVED ENVIRONMENTAL LOCATION FOR LOWER INCOME FAMILIES. SUPERIOR ADEQUATE POOR

The opportunity for Low Income Families to live in Neighborhoods which are:

- (a) Outside areas which have an excessive concentration of subsidized housing.

(b) Accessible to Job Opportunities.

(c) Provided with good transportation at reasonable cost.

(d) Accessible to good Educational, Commercial, and Recreational Facilities.

5. EFFECT OF PROPOSED HOUSING UPON NEIGHBORHOOD ENVIRONMENT - SUPERIOR ADEQUATE POOR

- (a) Compatibility of the land use concept and Architectural design of the proposed housing with the existing Neighborhood.

(b) Ability of Project to uphold or improve Existing Property Values.

(c) Compatibility of Density Levels of the proposed housing with existing and projected plans for the Neighborhood.

6. RELATIONSHIP TO ORDERLY GROWTH AND DEVELOPMENT - SUPERIOR ADEQUATE POOR

- (a) Neighborhood is undergoing Comprehensive Improvement via Urban Renewal, Model Cities or Rehabilitation - either Federal, State or Locally Assisted

(b) Proposed housing is compatible with A-95 area-wide planning and/or other established local planning.

(c) Project will contribute to orderly and economical community growth.

7. EMPLOYMENT AND UTILIZATION OF EMPLOYEES AND BUSINESS IN PROJECT AREA. SUPERIOR ADEQUATE POOR

Project will provide an opportunity for training and employment of Lower Income Persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by Persons residing in the area.

SUMMARY

<u>Score on Required</u> <u>Criteria 1, 2, 3, 4, 6</u>	<u>Total Score</u>	<u>Priority Group (Circle</u> <u>Appropriate group number)</u>
Superiors _____	Superiors _____	1. At least 5 Superior ratings and no Poor ratings, or 6 Superior ratings and 1 Poor rating.
Adequates _____	Adequates _____	2. Up to 4 Superior ratings and no Poor ratings, or 5 Superior ratings and 1 Poor rating.
Poors _____	Poors _____	3. Up to 4 Superior ratings and 1 Poor rating, or 5 Superior ratings and 2 Poor ratings.
		4. Up to 4 Superior ratings and 2 Poor ratings.

Disapproval. More than 2 Poor ratings, or one Poor rating on a Required Criterion.

NOTE: A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6 shall be disapproved. Proposals in priority group No. 1 shall be processed ahead of those in a lower priority group. Proposals in priority group No. 2 shall be processed ahead of those in groups No. 3 and No. 4, and those in group No. 3 ahead of those in No. 4. Within each group proposals shall be processed in order of date of receipt in the office.

Criteria Reviewer's (Name, Title, Date)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

F. STRUCTURE SHEET

EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT
AUTHORITY -- SECTION 235(i)
(Form 3122b)

GENERAL - Appropriate Area or Insuring Office staff shall review the criteria which relate to their responsibilities. Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. Community Need for Lower Income Housing.

A superior rating shall be given under the following conditions: proposed unit types conform to the needs of the lower income population; there is a shortage of standard housing to meet the needs of the lower income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; or, the housing will serve as a relocation resource for families displaced by Governmental action.

An adequate rating shall be given if the proposed unit types conform to the needs of the lower income population; there is not a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

A poor rating shall be given if the proposed unit types do not conform to the needs of the lower income population; or if there exists a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

2. Efficient Production.

A superior rating shall be given if it appears likely that the targeted production dates will be met, and that the housing will be produced at a cost at least 70 percent below the cost of comparable units being produced in the area.

An adequate rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 9 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the cost of comparable units being produced in the area by more than 5 percent.

A poor rating shall be given if it appears likely that more than 9 months will be required from date of approval of reservation to start of construction or rehabilitation, and/or the housing will be produced at a cost which exceeds the comparable costs by more than 10 percent.

3. Nondiscriminatory Location.

A superior rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area or insuring office director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An adequate rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to non-minority families, or (2) if the proposed project will provide housing in, or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socio-economic information supporting both the overriding need and the availability of alternate housing.

A poor rating shall be given to any proposed project if the conditions specified above are not met.

4. Relationship of Proposed Project Location to Neighborhood Environment.

A superior rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good education, commercial, and recreational facilities.

An adequate rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A poor rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a one half mile radius from the site of a proposed project.

5. Effect of Proposed Housing Upon Neighborhood Environment.

A superior rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An adequate rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A poor rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. Relationship to Orderly Growth and Development.

A superior rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via Urban Renewal, Model Cities, or Project Rehab -- either Federal, State or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood; or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either by reference to A-95 planning or otherwise.

An adequate rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A poor rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project area.

A superior rating shall be given if the developer, contractor, and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An adequate rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons residing in the project area in the management of the project.

A poor rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Federal Housing Administration

FHA Form No. 3126a & 2500a

EVALUATION OF REQUEST FOR RESERVATION OF CONTRACT AUTHORITY FOR RENT SUPPLEMENT AND SECTION 236 PROJECTS	<input type="checkbox"/> Sec. 236 <input type="checkbox"/> Rent Supplement	Date of Request
---	---	-----------------

Builder or Developer:	Location of Proposed Project:	Registration Number, if Approved
-----------------------	-------------------------------	-------------------------------------

INSTRUCTIONS: In evaluating requests for reservation of funds, the insuring or area office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the attached Instruction Sheet.

1. COMMUNITY NEED FOR LOWER INCOME HOUSING - SUPERIOR ADEQUATE POOR

(a) Relative need for Housing by Lower Income Families in the Neighborhood and Market Area to be served. _____

(b) Proposed Unit Types
Conform with the Composition of the Lower Income Housing need in the Neighborhood and Market Area to be served. _____

(c) Housing will serve as a Relocation Resource for families displaced by Governmental Action. _____

2. EFFICIENT PRODUCTION - SUPERIOR ADEQUATE POOR

(a) Experience and Resources of the Sponsor/Developer to proceed promptly to construction and completion. _____

(b) Ability of the Sponsor/Developer to provide Housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. NONDISCRIMINATORY LOCATION - SUPERIOR ADEQUATE POOR

(a) Outside an area of minority concentration _____

(b) Area substantially racially mixed _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing _____

4. IMPROVED ENVIRONMENTAL LOCATION FOR LOWER INCOME FAMILIES. SUPERIOR ADEQUATE POOR

The opportunity for Low Income Families to live in Neighborhoods which are:

- (a) Outside areas which have an excessive concentration of subsidized housing.
-
- _____
-
- _____

- (b) Accessible to Job Opportunities. _____
-
- _____

- (c) Provided with good transportation at reasonable cost. _____
-
- _____

- (d) Accessible to good Educational, Commercial, and Recreational Facilities.
-
- _____
-
- _____

5. EFFECT OF PROPOSED HOUSING UPON NEIGHBORHOOD ENVIRONMENT. SUPERIOR ADEQUATE POOR

- (a) Compatibility of the land use concept and Architectural design of the proposed housing with the existing Neighborhood. _____
-
- _____

- (b) Ability of Project to uphold or improve Existing Property Values. _____
-
- _____

- (c) Compatibility of Density Levels of the proposed housing with existing and projected plans for the Neighborhood. _____
-
- _____

6. RELATIONSHIP TO ORDERLY GROWTH AND DEVELOPMENT. SUPERIOR ADEQUATE POOR

- (a) Neighborhood is undergoing Comprehensive Improvement via Urban Renewal, Model Cities or Rehabilitation - either Federal, State or Locally Assisted.
-
- _____
-
- _____

- (b) Proposed housing is compatible with A-95 area-wide planning and/or other established local planning. _____
-
- _____

- (c) Project will contribute to orderly and economical community growth. _____
-
- _____

7. EMPLOYMENT AND UTILIZATION OF EMPLOYEES AND BUSINESS IN PROJECT AREA. SUPERIOR ADEQUATE POORProject will provide an opportunity for training and employment of Lower Income Persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by Persons residing in the area.

_____8. PROVISION FOR SOUND HOUSING MANAGEMENT. SUPERIOR ADEQUATE POORSponsor presents a plan to assure good management, social services and counseling, and to develop constructivetenant relations. _____

Score on Required
Criteria 1, 2, 3,
4, 6, 8

Total Score

Priority Group
(Circle appropriate group
number)

Superiors _____

Superiors _____

1. 5 or more ratings of Superior and no Poor ratings, or one Poor and at least 6 Superior ratings.

Adequates _____

Adequates _____

2. Up to 4 ratings of Superior and no Poor ratings, or 5 Superiors, 2 Adequates and one Poor rating or 6 Superiors and two Poor ratings.

Poors _____

Poors _____

3. Up to 4 Superior ratings and one Poor rating, or 2 Poor ratings and at least 4 Superior ratings.

4. Up to 3 Superior ratings and 2 Poor ratings.

Disapproval. More than 2 ratings of Poor, or one rating of Poor on a required criterion.

Note: A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6, 8 shall be disapproved. Proposals in priority group No. 1 shall be processed ahead of those in a lower priority group. Proposals in priority group No. 2 shall be processed ahead of those in groups No. 3 and No. 4, and those in No. 3 ahead of those in No. 4. Within each group, proposals shall be processed in order of date of receipt in the office.

Criteria Reviewers (Name, Title, Date)

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____

INSTRUCTION SHEET

EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT
AUTHORITY FOR RENT SUPPLEMENT OR SECTION 236 PROJECTS

(Forms 3126a and 2500a)

GENERAL - Appropriate Area or Insuring Office staff shall review the criteria which relate to their responsibilities. Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. Community Need for Lower Income Housing.

A superior rating shall be given under the following conditions: proposed unit types conform to the needs of the lower income population; there is a shortage of standard housing to meet the needs of the lower income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; or, the housing will serve as a relocation resource for families displaced by Governmental action.

An adequate rating shall be given if the proposed unit types conform to the needs of the lower income population; there is not a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

A poor rating shall be given if the proposed unit types do not conform to the needs of the lower income population; or if there exists a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

2. Efficient Production.

A superior rating shall be given if it appears likely that the targeted production dates will be met, and that the housing will be produced at a cost at least 10 percent below the cost of comparable units being produced in the area.

An adequate rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 9 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the cost of comparable units being produced in the area by more than 5 percent.

A poor rating shall be given if it appears likely that more than 9 months will be required from date of approval of reservation to start of construction or rehabilitation, and/or the housing will be produced at a cost which exceeds the comparable costs by more than 10 percent.

3. Nondiscriminatory Location.

A superior rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area or insuring office director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An adequate rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to non-minority families, or (2) if the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socio-economic information supporting both the overriding need and the availability of alternate housing.

A poor rating shall be given to any proposed project if the conditions specified above are not met.

4. Improved Environmental Location for Lower Income Families.

A superior rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good educational, commercial, and recreational facilities.

An adequate rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A poor rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a one-half mile radius from the site of a proposed project.

5. Effect of Proposed Housing Upon Neighborhood Environment.

A superior rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An adequate rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A poor rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. Relationship to Orderly Growth and Development.

A superior rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via Urban Renewal, Model Cities, or Project Rehab — either Federal, State or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood, or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either by reference to A - 95 planning or otherwise.

An adequate rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A - 95 planning or otherwise.

A poor rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. Employment and Utilization of Employees and Business in Project Area.

A superior rating shall be given if the developer, contractors and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An adequate rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons residing in the project area in the management of the project.

A poor rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

8. Provision for Sound Housing Management.

A superior rating will be given if the sponsor presents an outstanding plan to assure good management of the project when completed, and to provide social services and tenant counseling; and provides evidence of ability to carry out the proposed management plan.

An adequate rating shall be given if an acceptable plan is presented to accomplish the objectives outlined above.

A poor rating shall be given if there is any question regarding management capability to accomplish the above objectives.

Exhibit No. 32

Will State Courts and Legislatures
Eliminate Exclusionary Land Use
Controls?

David M. Trubek
Yale Law School

Testimony Before

The United States Commission
On Civil Rights

Washington, D.C.

June 16, 1971

1. Introduction

State and local laws and policies have contributed to the trends in metropolitan polarization which these hearings are examining. Both by action and inaction, state and local governments have contributed to the growing economic and racial cleavages which are dominant characteristics of American metropolitan regions. These cleavages have made more difficult the task of achieving equal opportunities for all citizens, and a better life for the disadvantaged groups in the society.

Imagine a country whose leadership announced that it wished to provide its poorer citizens with (i) better housing (ii) in decent neighborhoods and (iii) wider access to job opportunities. Let us assume that after announcing this policy, the leaders of our imaginary nation also passed a law which said that housing for low income families could not be constructed in any area (i) where there was vacant land or (ii) in or near attractive residential areas or (iii) which was near job sites. The passage of such a law would cause one to question either the leaders' commitments to their stated goals, or their sanity.

Yet this imaginary situation is not so far from the plight of much of urban America today. While we are pledged to ambitious goals in housing and employment, we tolerate a system of land use controls that functions to impede, if

not bar, construction of low and moderate income housing in some of the more attractive parts of our metropolitan regions, on the available developable land, and near the sites of expanding job opportunity. And we have developed no positive housing policy to ameliorate the effects of this system. What experts have known for years about our land use control system, and our housing subsidy programs - that they work to keep the poor and minority groups bottled up in the urban ghettos - is now common knowledge. Yet little has been done to reform the programs or the controls. Our ability to overhaul this system may serve as a measure of the genuineness of our commitment to our citizens.

In my testimony I shall examine the legal structure of our land use control system, indicate the major features of the system which contribute to "exclusionary" practices, and speculate on the prospects for reform at the state level. While of necessity I shall refer to federal level actions, my main concern is with analysing trends and evaluating possibilities for change by state legislatures and judiciary.

2. The Land Use Control System

Land development in the United States is heavily regulated. While no one tells the developer what kinds of products he should produce, government regulation of the types of uses that can be constructed in given

areas effectively constrain decisions about location, density, housing mix, size, etc. Americans, generally confident that the free market is the most efficient mechanism to allocate scarce resources, show no such faith in the case of the private land market, and have partially supergeded the market with a detailed and complex set of regulations.

These regulations are generally called the "land use control system." This system involves broad regulatory powers to constrain private decisions.

These powers are:

- (i) established at the state level;
- (ii) exercised at the local level by tens of thousands of local governments;
- (iii) utilized to further local interests as these are perceived by the governing bodies of towns and cities.

The land use control system is established by state statutes. In most states, local levels of government do not have inherent power to control land use, and these powers must be delegated by the state. Except for Hawaii, which has state zoning laws, and a few minor and limited exceptions in other states, all the states have chosen to create the necessary powers, and then delegate them completely to local government. While a few states have recently created very limited forms of state level review, or given state agencies

limited zoning powers, in most of the country state government has retained no supervisory or review power.

The state enabling statutes today still bear a very close resemblance to the original statutes that were passed fifty years ago when zoning was first adopted on a nationwide basis. The original Standard Zoning Enabling Act authorized the "legislative body of cities and incorporated villages . . . to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes."¹ Similar language can be found in most state acts today. These broad powers are to be exercised for four purposes: "health, safety, morals or the general welfare."² The draftsmen of the original zoning enabling act specifically made the purposes very broad and vague, and courts have by and large supported that decision by reading the purposes clause in the ample way it was intended.

The state laws grant powers, set forth broad purposes for which the powers can be used, and specify procedures for local exercise of the powers. The laws do not set up any machinery for review of local policies

nor articulate any standards by which local decisions could be judged. At best, in some areas, regional entities may have an advisory review power.

Given the governmental structure of our metropolitan regions, this means that land use policies are determined by the thousands of jurisdictions at the local level, unconstrained by any other governmental power. In the case of the suburban cities and towns we are specifically concerned with, the result is that land use controls are used to further the suburbs' "general welfare" as that is perceived by the governmental structure of the suburb.

It has recently become apparent that policies that maximize the interests and values of suburban residents may not advance the interests of other groups in society. Both the policies adapted and the means chosen to achieve them have brought suburbs into conflict with groups trying to implement national and state civil rights, housing, and anti-poverty goals.

These groups have pointed out that suburbs have used the powers granted them by the state to limit residential development to the construction of expensive, single family homes at low densities. This policy is designed to further the interests of the existing local residents by:

- keeping local taxes low by excluding the "bad ratables," i.e. uses which allegedly require more services per unit than the real estate taxes they pay can finance;
- conserving or enhancing existing property values by ensuring that existing homes will be surrounded by uses which will increase their values;
- maintaining existing patterns of economic class exclusivity.

The main measures which are employed to further these policies are:

- (i) density controls, especially large minimum lot size requirements;
- (ii) prohibition of specific uses, primarily multi-family dwellings and mobile homes; and
- (iii) cost-increasing standards for construction, including minimum house size requirements and excessive building code requirements.

These measures are reasonably successful in achieving the policy objectives of the suburban residents. At the same time, they have deleterious effects on national goals. They increase the minimum cost of new dwelling units in the towns. Since suburban jurisdictions control

much of the developable land in America, this means that the suburbs set the minimum prices for most new housing that can be constructed. They make it impossible or difficult for private and public entities to construct subsidized housing for lower income groups in these areas, since the minimum costs that result from these regulations frequently exceed the maximum costs allowable under regulations for subsidized housing. Thus they effectively exclude large groups in the population from suburban areas. Many believe that by so doing, suburban policies also reduce access to job opportunities and types of educational experiences that might help break the vicious circles of poverty.

If the harmful external effects of suburban decision making is to be offset, some change must be made in the present situation. The possible changes are:

- (i) change suburbanites perception of their self interest. If suburban majorities became aware of the social costs of their decisions, they might voluntarily abandon their autarkic policies.

(ii) eliminate economic motivation

for exclusionary zoning. To the extent that low and moderate income housing units are "bad ratables," suburbanites have economic motivations to maintain exclusionary barriers. If municipal budgets were less dependent on property taxes, these motives would be eliminated.

(iii) create higher levels of review. State or regional review boards could be empowered to override local decisions where these decisions clashed with clearly articulated state policies. If clear standards were articulated, state courts might be included in the "reviewing" agencies.

(iv) transfer land use control powers to higher levels of government. As an alternative to state or regional review of local decisions, land use control powers could be transferred to state or regional boards. These entities would make policy for much larger areas, and could be responsive to a broad range of geographic and political interests.

(v) create countervailing powers and policies at higher levels of government. If state housing authorities were empowered to

construct low and moderate income housing when suburban policies blocked the efforts of private and non-profit developers, state action could offset the impact of local parochialism.

(vi) eliminate zoning altogether. This would leave all development decisions to the free market.

All these changes would require legislation of one type or another. Before evaluating the prospects for such legislation, however, I must examine the current and potential role of the state judiciary. For under the current system the only entity which actually exercises any supervisory power over local decisions are the state courts. The volume of state zoning decisions is high, and courts have struck down local regulations in many cases. Some opponents of "exclusionary land use controls" have expressed hope that the state courts will invalidate such practices as large lot zoning and minimum house size requirements, and others have professed to see trends in this direction already.

3. The Actual and Potential Role of the State Courts

Throughout the history of zoning, the courts have played a major role. The only two zoning cases of any importance decided by the United States Supreme Court set the tone for all the subsequent litigation, which

has almost exclusively been conducted in the state courts. In the first case, Euclid v. Ambler Realty Corp., 272 U.S. 365 (1926) the Supreme Court legitimated zoning as a governmental tool by declaring that the Village of Euclid's zoning ordinance was, on its face, a valid exercise of the police power. In the second, Nectow v. City of Cambridge, 277 U.S. 183 (1928) the court struck down an ordinance of the Massachusetts city on the ground that it was unreasonable as applied to the specific property owned by Mr. Nectow. These two decisions established the basic parameters of subsequent judicial action. These are:

- (i) courts may scrutinize local ordinances to see if they further a valid legislative purpose;
- (ii) while occasional local policies and regulations may be declared invalid they will normally be held to be constitutionally legitimate;
- (iii) specific applications will be carefully screened to see that the impact of zoning on individual property owners will be fair and non-confiscatory.

It is important to note that much of the judicial review of local zoning is and must necessarily be in constitutional terms. This is the inevitable result of the structure of the zoning enabling statutes. The draftsmen of the enabling act carefully delegated to the towns all power that government might constitutionally employ in land use regulation.³ The powers and purposes for which towns may act are the outer limits of governmental power to regulate the use of private property. Thus any local purpose which furthers health, safety, morals or the general welfare must be declared both constitutionally valid and within the scope of the town's delegated powers.

In the absence of any clear legislative standards governing the delegation of power to local governments, the courts are faced with a dilemma: they must either avoid any significant review of local decisions or control local abuse through the use of substantive due-process doctrines under which undesirable local actions must be declared unconstitutional. If they choose the former, the courts leave landowners to the mercy of the local governments; if they elect the latter they are forced to second guess "legislative"

judgments, as well as place irreversible limits on governmental power to regulate land.

Given the inherent problems of judicial activism in such an area, and the evolution of doctrines of judicial restraint at the federal level it is no surprise that the state courts have announced a doctrine of presumed constitutional validity for local decisions, and have indicated that they will intervene only in egregious situations.⁴ The doctrine of presumptive validity has been invoked in many of the cases that have upheld such "exclusionary" measures as large minimum lot sizes, minimum residential building sizes, and exclusion of lower cost uses. As a result, at least one critic of exclusionary practices has pointed to the presumption as a major obstacle to judicial intervention in this area, and called upon the state courts to reverse the presumption in cases where important civil rights are affected.⁵

However, a closer analysis of the cases reveals that the "presumption of validity" masks a much more complex decision-making process. Before analyzing recent cases or attempting to predict what state courts will do if further challenges to exclusionary practices are mounted, we must see what lies behind this so-called "presumption," as well as exploring the problems involved in curbing exclusionary practices.

One of the most striking things about the area of judicial review of state zoning powers is not how few cases in the courts take, - which is what one would predict from the existence of the presumption of validity - but rather how many they take, and the number of times that local restrictions are overturned. Observing the substantial volume of constitutional litigation in zoning, one of the leading zoning commentators pointed out:

"The availability of constitutional challenge would, of course, not yield a large amount of litigation if the device were not effective in a significant number of cases. It has been, and it remains, a promising remedy for a landowner who wishes to resist regulations which diminish the value of his property."^{5a}

a. actual criteria of judicial review

It is impossible to make a succinct summary of trends in state zoning cases. The cases are legion, and there are vast differences in attitudes, doctrines, judicial sophistication, and results among the several states. Courts in some states, notably

Pennsylvania, have consistently construed zoning powers narrowly, while others, as in neighboring New Jersey, have adopted a much more liberal stance on the validity of local regulations. Any effort to generalize must of necessity simplify and overlook significant features of the picture.

However, I believe that it is fair to say that the main concern of most courts that have struck down local zoning ordinances has been with two factors: the fairness of regulations as applied to individual landowners, and the possibility that zoning powers will be used effectively to confiscate property. If a town treats an individual landowner in a way that is materially different - and more onerous - than it has treated other landowners the judge believes to be similarly situated, then courts will find the ordinance runs afoul of the due process clause. Or if the regulation so limits the use of land that the owner is denied any or almost any prospect of return from it, the ordinance will also be found invalid. But outside of these areas the courts in most states have moved with great hesitation. Rarely have evenhandedly applied, non-confiscatory ordinances been struck down. As long as local policies can be implemented without trenching on these fundamental interests, they have a good chance of survival.

An example of this tendency can be seen in the area of minimum building size requirements. These are one of the most effective tools of an exclusionary policy, since there is an almost 1:1 correlation between floor size and cost. With soaring building costs, minimum floor space requirements that a few years ago might have seemed modest, now operate to exclude construction of any housing within the reach of even moderate income families.

A number of challenges have been brought against these requirements. Courts have divided on whether they are valid exercises of the police power. Yet a close look at the cases indicates that many of the decisions that overturned such requirements involved ordinances that were not generally applicable throughout a jurisdiction, or were inconsistent with the land uses surrounding the land in question. On the other hand, if local floor space requirements are uniformly applied, courts have been more tolerant. Despite extensive criticism of the exclusionary policies reflected even in fairly administered restrictions,⁶ courts have shown little inclination to invalidate such local provisions.

If state courts have generally limited themselves to reviewing local policies to ensure that individual landowners are "fairly" treated, then they may be quite reluctant to lead a wholesale attack on exclusionary practices. For if regulations are carefully and fairly

drawn, and avoid extremes (e.g. 10 acre zoning) or obvious intra-local unfairness (e.g. 2000 sq. ft. floor size minima in one part of a town, lower limits in another, against a pattern of existing uses averaging 1000 ft.), then the traditional issues of judicial concern will not arise. In this case, a state court asked to overturn an "exclusionary" practice will have to confront the local policies themselves. I do not think the state judiciary will attempt to take on this issue.

I reach this conclusion for several reasons. First, as the discussion of the enabling acts makes clear, there are no standards and criteria which can be used to attack local policies. Indeed, if one can find any policy direction in the typical enabling act, it might be seen as supporting local decisions. For the enabling acts have a profoundly conservative tone; it is clear that zoning powers were created to stop development, or at least that type of development which is perceived as harmful to existing property values. The original zoning ordinances were in large measure conceived and justified as devices to preserve the single family residential district against the inroads of the apartment house and commercial uses. As our urban populations expanded beyond the borders of the traditional city, this policy - hallowed in explicit

language by the Supreme Court in Euclid - has simply been applied to entire municipal units. Courts could, of course, develop rules and standards in a trial and error fashion to govern local autonomy, but it is a dubious task when they must do so employing constitutional doctrine in a way that runs against forty years of zoning decisions and major trends in constitutional theory. In other areas where state courts have used constitutional doctrine to limit local powers, the courts have stressed a case by case approach in which they merely declare the ordinance invalid as applied to a given landowner. In this area, on the other hand, they would have to declare types and classes of legislation permanently invalid.

Of course, if the Federal courts shaped a clear equal protection doctrine that could be applied to the zoning area, state courts would undoubtedly join in the implementation of such a body of law. Despite the vigorous effects of civil rights groups and academic commentators, it is still an open question whether such a federal remedy will emerge. Speculation on these possibilities is beyond the scope of my testimony. What I can say with some confidence is that state courts will not take the lead in constructing such a doctrine.

The mere absence of guidelines has not deterred state courts from deciding cases in other areas. But I believe that given the political implications of the zoning battle, and the nature of the problem itself, they will be extremely hesitant to enter into the exclusionary zoning issue without more explicit legislative direction. First, the issues are profoundly political, involving sharp conflicts of interest between groups in the society. While the state courts have been willing to scrutinize zoning decisions to eliminate individual hardships, they have not taken on issues where the passions of organized groups run strong. Secondly, if the state courts are to fashion solutions to the problems of exclusion without simply outlawing zoning altogether, they must be prepared to analyze and evaluate all the complex fact and value issues presented and devise solutions which at best will be considered solomonic. If one gives careful thought to the nature of the problem, and the types of solutions that appear most feasible, it becomes clear that the state courts are ill-equipped and ill-advised to become the vehicles for reform. It is little surprise that they have done so little to date.

b: The exclusionary problem, likely solutions,
and judicial review

One of the most difficult features of the "exclusionary" area is that there are no clear cut practices or rules that can easily be identified and declared invalid. Influences, perhaps, by successes in civil rights legislation, the opponents of local policies have searched for the land use equivalent of the segregated school or park, or looked for the covert motive behind the apparently neutral policy or practice. But motives are difficult to detect, let alone prove, and the major defect of policies is not that they are categorically invalid or undesirable, but that restrictions are excessive and policies inadequate to meet housing needs. Unlike the simple problem of de jure segregation, in the exclusionary area a law or regulation cannot be deemed invalid without a complex assessment of its relative impact on imprecise and controversial needs and goals.

Let me try to illustrate this by taking the problem of density controls. Both large lot zoning and the prohibition of multi-family uses are examples of the impact of density controls. Despite all the criticism of the noxious effects suburban residential density policies have on civil rights goals, few have argued that the Constitution forbids, or should be construed to forbid, any government regulation of density whatsoever.

Rather, it is argued that when density controls seriously affect the achievement of housing and employment goals, and thus bear more heavily on the poor and minority groups, then and only then should they be considered "exclusionary" and thus invalid. But little thought has been given to the problem of how to decide when this condition exists.

Both as a matter of principle, and for political reasons, I believe that policies designed to curb exclusionary practices should curb local powers only to the extent necessary to achieve positive housing and employment goals. As a matter of principle I believe that local communities should retain as much autonomy as is feasible. We have come to see the value of greater community control in our inner cities, and what is good for Harlem should be good for Scarsdale as well. The problem - in both cases - is to figure out how to make local autonomy compatible with the general welfare. In the case of local land use policies, we clearly see that complete local autonomy can only be purchased at the price of sacrificing other, more important goals, and thus should be limited. But we should limit local powers only to the extent that is necessary to achieve our broader aims.

This principle is also a sound political guide in the case at hand. Suburban interests represent a powerful

political force, and one whose power will undoubtedly increase. Any effort to limit suburban autonomy is bound to generate conflict and create countervailing political pressures. If these measures are demonstrated to be necessary for the achievement of national goals, they have some chance to be accepted. But if they are perceived to be unduly restrictive of local powers, or unrelated to important goals, the resistance will be fierce. The carefully drawn measure, which limits local powers as little as possible, is not only the right solution; it is also the most feasible.

Let us return then, to the density problem to see how these principles might be applied. As I have indicated, the problem is not that towns regulate density, it is that the overall impact of local density decisions can threaten housing goals. If Town A had three acre, single family zoning in one part of town, yet conducted an active program of constructing subsidized housing and allowed a variety of uses elsewhere, would the three acre zone be excessive, or seriously affect the goals we wish to further? On the other hand, Town B might allow only single family houses on half acre plots. This could bar most subsidized housing and increase unit costs of all housing. Would we wish to uphold Town B's decision because it "only" has a half acre rule? If Town B was near job sites or contained land "ripe" for development, its policy would seem exclusionary.

But what if Town B was a remote suburb far from any job sites and public transport? Should it then be required to have the same policy towards subsidized housing as another town which was located near major employment centers? And what if in the region in question there was little need for subsidized housing?

A satisfactory solution to the problem of defining an "exclusionary policy" which is consistent with the basic principles I have set forth should have several key elements. First, it should provide a way to define clearly each town's obligations to accept certain types of housing. These obligations should reflect real regional needs for various types of housing, and should be allocated after careful consideration of local conditions. This should be done in such a way that towns can shape their basic land use plans with full awareness of their obligations to the larger community. Secondly, town policies should be scrutinized against these clearly defined obligations, and on the basis of the overall plan and performance, not on a purely case-by-case basis. Finally, towns which meet their obligations should be otherwise free to shape their land use policies.

It seems to me that the best way to meet these criteria is to follow the model established in Miami Valley, Ohio. Under such a solution, regional housing needs are determined and allocated to each town through a formula which takes into account key local variables. This

process leads to the establishment of a quota for each town which defines its obligations to provide for certain types of low and moderate income housing. Such a solution also implies a maximum quota as well, under which towns know the limit of their obligations to the wider community. Of course, in addition to such a quota system it would still be desirable to curb certain kinds of extreme density controls such as very large lot zoning, but this would be less important since a town could meet its quota by any reasonable density mix it wanted, but could never bar subsidized housing on density grounds unless it had fulfilled its quota.

It should be apparent that courts are ill-suited to frame and implement a policy of this nature. Courts can only sit back and wait for cases. Yet the key decisions in this kind of solution cannot be made on a case-by-case basis. And the litigation process is ill-suited to bring to light the type of factual data needed to make the necessary judgments. Finally courts will find it difficult to frame policies that will both adequately resolve the conflicts inherent in the problem and also be accepted as legitimate by the contending parties.

It should be apparent that courts, with no legislative guidelines and standards, will be hard pressed to set minimum quotas. Not only must such quotas be established after a careful review of the entire regional situation; local performance can only be evaluated on an overall basis, taking into account all local decisions within a given time period. The one court that has seriously tried to deal with this problem, the Federal District Court in Sasso v. Union City⁷ recognized that the only way to implement its decision was to maintain jurisdiction and review the totality of local planning, zoning and housing decisions over a period of time to see if the town was meeting its obligation to the local poor. The task is infinitely more difficult when one begins to create obligations to ill-defined groups who reside outside the town.

And if courts will have problems finding standards and determining the facts necessary to set minimum quotas, and will be repelled by the administrative costs of attempting to be super-regional planning agencies, how can they conceivably set maximum quotas? For this latter task involves making truly solomonic judgments and having relative certainty about regional needs and resources in the future.

I am not saying that courts in some ultimate sense are not "capable" of tackling these problems, nor that, if no other agency acts, they won't attempt to, nor even that if legislative and administrative solutions are forthcoming, they will not play an important role. I am saying that it would be unwise for anyone to assume that the state courts will take on the issue except in extreme circumstances, and wrong to establish a policy that would try to make them do this without a major legislative change of the basic land use control system which would create standards and rules that courts might usefully apply.

Moreover, we have to recognize that under the current land use control system there are inherent limitations on judicial review even if courts were willing to blaze broad doctrinal paths. As any experienced zoning lawyer will tell you, a victory at the appellate level may be of limited utility if a town wishes to frustrate a developer. There are so many points during the process where local officials can cause delay and hamper a builder that a developer armed with a stunning victory at the appellate level has only begun the fight. For example, in one case where the state court threw out a four-acre minimum, it is reported that the town rezoned the land for two acres and in effect said to developer "sue us."⁸

The time and money costs of litigation are tremendous, each and if a small issue has to be litigated, developers will either stay out or acquiesce in local policies.

c. Do recent judicial trends suggest a change in state court attitudes?

In recent years courts have generally upheld local regulations which further exclusionary policies. Large lot sizes, minimum house sizes, and exclusion of multi-family uses have fared rather well in the courts. In the last two years, however, several decisions have appeared that run counter to the general trends. Some observers see these cases as harbingers of a new era of judicial activism, in which state courts will take the lead in limiting local autonomy. If they are correct, my predictions and prescriptions are wrong.

I do not see the most recent decisions as indicating a major shift in judicial attitudes. The cases have produced some broad dicta which indicate judicial recognition of the exclusionary problems. In National Land and Investment Co. v. Eastown Township Board of Adjustment, 419 Pa. 504, 215 A.2d 597 (1965) the Pennsylvania Supreme Court said:

"A zoning ordinance whose primary purpose is to prevent the entrance of newcomers in order to avoid future burdens, economic and otherwise, upon the administration of public services and facilities cannot be held valid."

However, there are a number of important things to note about the cases that are relied on as evidence of a new trend. First, the most important decisions have been those handed down by the Pennsylvania Supreme Court. This court has traditionally construed local zoning powers in a very restricted fashion, while the majority of states take a more expansive view of local power. Secondly, even in Pennsylvania the holdings have been narrower than the dicta. And finally, these cases tell us as much about the limits of judicial action as they do about its possible reach.

Take, for example, Appeal of Girsh, 263 A.2nd 395, 437 Pa.237 (1970). Plaintiff wished to construct a luxury apartment house in a suburban town, but his request was denied by the town, whose ordinance did not allow for apartment uses. The Pennsylvania Supreme Court declared that an ordinance that does not permit any apartment houses was unconstitutional.

Relying on a previous Pennsylvania case that had suggested that local regulations must be appraised in light of regional needs, three members of the majority indicated that the apartment ban was unreasonable because it reflected an attempt to curb urban growth pressures. This opinion suggests that the Pennsylvania court will scrutinize local policies in light of regional needs and growth patterns, and evolve a flexible planning code under constitutional aegis.

However, there are strong indications that the Pennsylvania court has no such intentions. First, the court did not hold that the town had to grant the permit for the project requested. Rather, it simply said that the town could not bar all apartments anywhere. The Zoning Digest reports that the town responded by zoning a quarry for apartment uses; ¹⁰ if this satisfies the Pennsylvania court then the precedent is a slim reed indeed. Secondly, a close look at the opinions suggests that the elaborate review of regional needs hinted at by the opinion may be unnecessary to the decision. Thus the concurring opinion of Justice Bell rejects regional concerns as relevant at all. He feels apartments cannot be banned anywhere. And the other three Justices who make up the opinion point out that the very fact that someone wishes to build an apartment is strong evidence of regional need; thus if the case arises, ipso facto the town must be doing something wrong.

The Pennsylvania cases really seem to reflect a landowner-oriented court responding to local policies that seem extreme (no apartments, four acre zoning) with rhetorical decisions which have little actual effect on local policies. The court has simply continued to espouse a limited concept of zoning powers, but does not seem to be prepared to seriously study local patterns and ultimate practices.

Moreover, none of the Pennsylvania cases have reached the real core of the exclusionary problem, since they have dealt with luxury apartments and relatively expensive developments. While we can cheer the results and applaud the dicta, we can hardly cite them as evidence that state courts are willing to take on the immense task I have indicated is involved in the exclusionary field.

The number of cases that deal with local decisions directly affecting subsidized housing are very few. In the most widely discussed, DiSimone v. Greater Englewood Housing Corporation No. 1 267 A.2d 31, 56 N.J. 428 (1970), the New Jersey Supreme Court upheld a variance granted by a local town to allow a subsidized project to be built in a previously middle class, white section of Englewood. While the case shows that the New Jersey court understands the issues involved, its impact is limited, since the court was called on to uphold a positive decision of the local government against complaints by local residents. Unfortunately, this is not the typical situation that one expects will arise.

Thus I think my original conclusions are borne out even by the most recent litigation. State courts may respond to changes in the state statutes, or to shifts in federal constitutional doctrine which must be primarily developed at the federal level. If properly educated to housing needs and problems, they will, as in DeSimone, certainly support local policies aimed at increasing housing for minority groups and the poor, and limiting the effects of exclusion. In some states they may strike down more obvious and extreme policies. And they will always be alert to cases where exclusionary policies involve arbitrary and unfair treatment of individual landowners. But they will not spearhead a major change in the current system.

4. State Legislative Trends

My pessimistic appraisal of the future role of state courts leads me to consideration of the possibilities of legislative action. In this section I shall survey recent developments in state legislation affecting the land use controls system. Legislators are aware of the problem. A number of bills introduced in several states reflect growing awareness of a need for legislative action. In a few states concrete measures have been taken. However, to date more legislation has been drafted than has been passed, and what legislation has been passed has had a very limited effect. While legislatures have no inherent limits on their capacity to deal with the problems, there are obviously strong political pressures which have limited legislative efforts to date. Even where legislative efforts have been successful, political pressures have either (i) caused proponents to accept potentially crippling amendments, or (ii) curbed exercise of powers created to deal with the problem.

In the following analysis of state legislative efforts, I shall examine the extent to which efforts have been made to implement the major types of structural changes in the land use control system which I identified in section 2, and the effects, if any, such changes have brought about.

4a. Eliminate Economic Motivations For Exclusionary Zoning

There are generally two classes of reasons given as causing the local exclusion of low and moderate income housing; social and economic. The economic "justification," known as fiscal zoning, is based on the belief that certain land uses, primarily low and moderate income housing, cost localities more in expenditures than they produce in revenues. Therefore, their entry into the community will increase taxes, lower the level of services, or both. This belief is extremely widespread, and is based on the findings of a large number of studies of costs and revenues. It would follow from these conclusions that substantial changes in state aid formulae would significantly affect local land use policies.

The methodology of most, if not all, of the studies, is open to considerable criticism which would vitiate the conclusion that low and moderate income housing is a drain on the local fiscal budget." Nevertheless, criticism has been largely confined to scholarly journals, and it is clear that the decision making bodies and the voters of many localities offer and accept the fiscal argument as a justification for municipal zoning decisions which create substantial, if not insurmountable barriers to entry for new low and moderate income residents.

Although such reasons are often cited to justify exclusionary zoning measures, little is really known about the actual effects of fiscal considerations on zoning. There is no reason to believe that such measures would not be undertaken in the absence of the fiscal argument. There is, however, an indication that fiscal considerations do not play a significant role in the creation of exclusionary zoning ordinances.

In some states, such as New Jersey and Nebraska, the effect of intergovernmental fiscal policy is to impose the bulk of incremental costs caused by new citizens on the local government. In other states, such as Delaware, New Mexico, and North Carolina, the state government bears the major portion of the incremental cost through state aid. The result is that many types of housing which are a fiscal burden to a community in the first type of state actually produce net revenues in the second type of state. Thus, cost-revenue studies of the type I referred to, when done in the first type of state, are likely to advise the local decision makers to discourage a development of, say, \$20,000 three bedroom houses on one-half acre lots. The same study, done in the second type of state, is likely to advise encouragement of such a project.

Therefore, if fiscal considerations are a true cause of the erection of barriers to low and moderate income housing, and not just an excuse for decisions based on social considerations, states of the first class should be found to contain more such barriers than states of the second class, particularly with respect to moderate income housing.

We would like to have more data to test this hypothesis, but what evidence there is fails to indicate any relationship between the actual net cost of new residences to towns, and their land use policies. I would therefore tentatively conclude that changes in state aid formulas in themselves may have little effect on land use decisions. This would not be a great surprise, for it is generally recognized that homeowners control local decision making and will choose to maximize the socio-economic homogeneity of their community if free to do so.

This tentative conclusion does not mean that changes in state aid formulae are not desirable. For obviously fiscal considerations do play a real role in some areas. Moreover, until the "fiscal smoke screen" is eliminated there is little hope that the real issues which underlie suburban exclusiveness can be brought to the surface.

Moreover, one possible strategy that should be considered would be to provide a bonus to communities which accept low and moderate income housing. Some reasonable level of financial incentives is likely to induce substantial acceptance of land uses otherwise shunned. Just as suburbia has recently welcomed industry--for the fiscal benefits it confers, it might do so with low and moderate income housing if acceptance had the same beneficial fiscal effect (through a special grant program linked to housing). A bill setting forth such a system was introduced in Connecticut, but was rejected.

4b. Create Higher Levels of Review; Transfer Land Use Control Powers to Higher Levels of Government.

The most obvious structural change in the land use control system is to remove or limit local autonomy. A major reason why local policies place heavy emphasis on exclusion is that only suburban interests are considered in the decision making process. Zoning policies are set by local legislatures, and zoning is a major issue in suburban politics. If land use decisions were taken at a state or regional level, or if local decisions were reviewed by state or regional agencies, arguably the net result would be to reduce exclusionary policies.

While there has been much talk about the need for state involvement, little has been done to date. A few states have instituted limited state land use controls, but these have been largely designed to curb development, and have had no impact on the housing problem. Massachusetts has instituted a review system aimed at the exclusionary problem, and similar legislation has been introduced in other states. The Massachusetts law, however, has had little effect so far, and other state legislatures have recently rejected efforts to pass similar legislation. Finally, some efforts have been made to redefine the purposes of zoning under the state enabling acts, in the hope that, given more precise standards, courts may function as reviewing agencies.

(i) state and regional zoning. The cases in which state-wide zoning has been enacted offer little hope to those concerned with curbing exclusionary practices and increasing construction of subsidized housing. Three states, Hawaii, Vermont, and Maine, have established various forms of state zoning. The Hawaii system established a general purpose state agency charged with setting major policies and major use zones, with case-by-case decisions made at the county level.¹² Vermont and Maine have set up limited purpose state "zoning boards," empowered to regulate certain major types of development which are thought to have general effect on the state environment.¹³

For example, the Maine Environmental Improvement Commission, a state agency, may bar any commercial or industrial development involving a land area in excess of 20 acres or involving structures in excess of a ground area of 60,000 square feet where there is an adverse effect on natural environment, traffic movement, or under certain other conditions.¹⁴ In addition, there are some county-wide zoning systems, but these are relatively recent, and little is known about them.

These statutes creating state authorities do show that a few states have recognized that local autonomy can seriously jeopardize state goals. But the nature of the efforts, and the type of state involved, far from giving hope to those concerned with exclusionary problems, underscores the depth of the obstacles to legislative action in most areas. Hawaii, by history and geography, is really a special case. Even there, a recent study shows that state-wide zoning has had no affect on the low income housing problem.¹⁵ But if we look at the Vermont and Maine cases, what do they tell us? Simply that relatively undeveloped states with substantial tourist interests and little or no local zoning can mobilize political support for state agency designed to curb new construction. It is a far cry indeed from these situations to the cases that count in the exclusionary area, i.e. reform in (i) large, heavily

urbanized states with well entrenched local zoning bodies, and (ii) designed to increase construction. In the former case the state is placed on the side of the status quo, filling a vacuum in the regulatory scheme; in the latter the state must supersede local regulations in order to change the status quo.

(ii) state review of local decisions

One of the rare instances of actual legislation aimed squarely at curbing exclusionary practices is the so-called "Massachusetts Anti-Snob Zoning" statute. ¹⁶ The Massachusetts statute provides limited state review of local zoning decisions. A state review board is established to hear appeals from local decisions in cases involving low and moderate income subsidized housing. If a town rejects an application from a qualified public or non-profit developer, or imposes conditions that render the project "uneconomic," the developer may appeal the decision to ¹⁷ the state appeals committee. The committee is empowered to override the local decision and order the issuance of a comprehensive building permit.

The Massachusetts statute has several crucial features. First, it provides for a special "one-stop" comprehensive permit superseding the normally separate building permit, zoning and subdivision approval, health certificate, etc.

This simplifies the application process and in theory should reduce builders' costs. It also means that once a state overrides the local decision denying a builder's application, the local jurisdiction cannot exercise other regulatory powers to penalize unwanted developments.

The second feature of the Massachusetts bill is that it provides low and moderate income housing quotas for each town. The quota system is complex, and ambiguities in the system constitute one of the main weaknesses in the bill. Basically, the statute creates flat, uniform numerical quotas for each city or town. These establish the maximum amount of subsidized housing which the town must accept. If 10% of the town's dwelling units are low and moderate income housing, or such housing occupies 1.5% of the land zoned for residential, commercial, or industrial uses, the town is thereafter free to deny any application. Moreover, the town need accept only a limited amount of housing each year until it reaches these limits.

Besides these maximum obligations, the statute indicates that in certain cases towns may deny permits even when they have not met the numerical obligations. Permits may be denied if the denial is "consistent with local needs." The meaning of this term is vague. The statute does, however, suggest that where regional — needs for housing are low, a town may not be held

to the higher figures. Moreover, under this criterion, towns may also deny permits on certain planning grounds, including "the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces . . ." as long as the standards are applied equally to subsidized and unsubsidized housing. ¹⁸ The statute provides no clearcut minimum quotas, and gives no indication of how these aspects of the "consistent with local needs" criterion affect the maximum figures.

A third feature of the Massachusetts bill is that it does not supersede the local process, or remove the question from judicial review, but adds a state level between the local decision and the ultimate judicial appraisal of the controversy. Thus, while it makes some effort to reduce the time involved in securing a permit, in reality the approval process will be an extremely long and drawn out one if towns force developers to appeal to the state level and then litigate each issue.

To date, the Massachusetts Act seems to have had little direct impact on exclusionary policies in the state. While passage of the bill has spurred local governments to think more seriously about housing needs, the appeals system has not yet been used to overturn

any local decisions, and there is little hard evidence that local policies or plans have been materially altered as a result of the statute.

Internal deficiencies in the statute have hindered its effectiveness. Some of these can be attributed to the conflicts which arose in the legislature over the original bill; others seem to be purely technical defects. Vague criteria and internal inconsistencies have created confusion about the statute's scope, and imperfect drafting has created doubts about the jurisdiction of the appeals board and even its basic power to overturn local decisions. These problems, coupled with the costs in time, money and potential loss of local good will associated with any attempt to invoke the statute, have apparently discouraged all but a few builders from invoking the special procedures. Until and unless the ambiguities are clarified and the doubts resolved by administrative and judicial action, the statute will have little effect in deterring towns that are determined to exclude subsidized housing.

Even if the doubts and ambiguities are clarified, there are some inherent problems with the Massachusetts law. In the first place, it is limited to public and non-profit sponsors, thus excluding some aspects of current subsidy programs. Moreover, the statute still makes it very difficult and costly for any developer

to challenge an adverse local decision. And the maximum quotas at least are quite arbitrary - there seems little reason to suppose that flat uniform numerical quotas for all towns in a state like Massachusetts represents an adequate response to the housing problem as I have described it. Certainly no careful study of needs and resources preceded the decision to select these figures, and there is no indication of why the actual numbers were selected.

Nevertheless, the Massachusetts statute is an important first step, and has served as a model for other bills which have been introduced in several states. These bills have avoided some of the technical errors inherent in the Massachusetts bill; none, however, have been passed as yet and prospects for passage in most states in the immediate future are not bright.

A bill along the lines of the Massachusetts Act was recently introduced into the Wisconsin legislature. 19 There are two chief differences between this bill and the Massachusetts Act. First, standards which permit towns to deny requests for permits are very narrow. Only two grounds are permitted: (i) the locality has met its fair share of the "regional market area" need for low and moderate income housing as the need is determined by the state appeals board, or (ii) the proposed project "may reasonably be expected to cause serious harm to the health or safety of the occupants of the proposed project." (emphasis supplied).

A second difference is that profit-making organizations may apply under this section, "when such housing will be occupied by persons receiving housing assistance or subsidy."

Another bill based on the Massachusetts concept was introduced into the Connecticut legislature this year. ²⁰ This bill follows the Massachusetts and Wisconsin pattern in leaving local powers untouched except as they act to bar construction of subsidized housing. Like the Wisconsin bill, it narrows the criteria which permit towns to reject requests. The Connecticut bill, however, envisions the establishment of set local quotas based on an appraisal of regional needs. These will be established through a complex process by which towns, regional planning agencies and the state government would set minimum quotas for every town in the state. Once these quotas are set, the bill effectively requires towns to accept all applications by developers of projects meeting state and federal design standards until the quota is filled. If construction standards and land use aspects of the project meet the criteria of the subsidizing agency, the town must approve the project. Thus this bill removes much of the potential for delay inherent in the Massachusetts scheme.

The Connecticut bill differs from both the other approaches in the system of setting local quotas. It encourages towns and regional planning agencies to cooperate in fixing voluntary quotas, but would empower the State Department of Community Affairs to fix quotas if necessary. Quotas will be assigned by a formula similar to that employed in the Miami Valley plan. Finally, the Connecticut bill also provides for grants to municipalities to offset additional costs involved in introducing the subsidized projects. The grants include a "bonus" for those towns which voluntarily adopted high minimum quotas.

The Connecticut and Wisconsin bills follow Massachusetts in trying to set up a limited purpose system by which state and regional housing goals can be defined and local obligations established. All three establish quota systems which would define each town's obligations clearly. Despite this limited approach, both bills met strong opposition. The Connecticut bill died in Committee and the Wisconsin bill faces a stiff floor fight.

(iii) redefinition of legitimate local purposes

Another line of attack on the exclusionary problem is to redefine the legitimate purposes for which zoning powers may be employed. What the state legislature has granted it may take away, and thus state legislatures are free to explicitly outlaw certain zoning practices or mandate certain policies which local governments must follow. This approach will normally employ the state judiciary as the main agency to ensure local compliance with new goals.

California has a provision in its planning code which indicates that local plans should endeavor to make adequate provisions for the housing needs of all economic segments of the community.²¹ This section is more exhortative than mandatory, and conditions planning rather than actual land use control powers, but it is the type of legislation I have in mind. To date, no California court has referred to this provision, and there is no way of knowing what effect, if any, it may have on local decisions.

Recently, more precise efforts of this type have been drafted and introduced in the New York and Illinois state legislatures. These bills have encountered the same resistance as other efforts to legislate on the exclusionary problem; both were rejected in this year's legislatures and will be resubmitted in the fall. If passed, they would add further weapons to the arsenal of powers

designed to deal with the problem.

The New York legislation, the more comprehensive ²² of the two, involves three basic types of provisions. The first are general specifications of zoning policy which are made mandatory for all local governments. Regulations that discriminate on racial, ethnic, or economic class lines are forbidden, and towns are placed under an affirmative duty to use zoning powers to provide for housing for all groups in the community.

The second class of provisions are those that outlaw specific practices or require specific action in certain cases. Thus towns are normally forbidden to set density levels above one-half acre and to set minimum floor size requirements higher than state standards. Moreover, the towns are required to set aside certain minimum percentages of their land area for multiple dwellings, and to set aside land for low and moderate income housing whenever they zone for industry.

The third type of provision consists of those that change the judicial process as it affects zoning. Procedures are simplified, and persons who do not reside in the community but whose "right to use, acquire, or enjoy property" might be affected by local regulations are given standing to appear before the local zoning board as well as to challenge local decisions in court.

The three-pronged attack of the New York bills is a promising approach. Rather than assuming that the courts will respond to challenges of local practices under the present statutes, the New York bills recognize that the courts will need more specific guidelines if they are to make a significant impact on the problem. At the same time, by enlarging the standing requirements the bills ensure that those parties who may be aggrieved by local parochialism will be able to challenge local decisions. Under present law, only the affected property owner can question local exclusionary decisions, and he is frequently an inappropriate party to raise these issues.

However, the New York bills raise the question whether even with more precise standards courts are the best instrument to review local decisions. Unlike the state review approach, these bills set no precise quotas. Although they bar policies which would have the "effect" of discriminating against racial or economic groups, they do not indicate what acts might be construed to have such effect. If a town met all of the specific requirements, could a court nonetheless find that the town was discriminating? If so, what is the purpose of the specific criteria? And if towns with half-acre zoning, the required number of multiple dwellings, etc. can still be open to a charge of "discrimination,"

what standards will courts use to measure whether local policies constitute racial or economic "discrimination"? It seems to me that many of the basic problems of judicial review under the current statutes could be recreated under this system, for these are inherent in the concept of "discrimination."

The Illinois bills also rely on judicial action, but are less comprehensive. They empower the courts to order any zoning body to permit the construction of any low income housing meeting federal standards in a residential zone, providing that the court finds that the body is using its zoning powers to prevent the construction of low income housing within its jurisdiction or cause low income housing to be isolated from other residential areas. They retract part of the zoning power, by stating that housing meeting FHA standards is conclusively presumed to meet the health and safety requirements of the community.

Although more narrowly focused to deal with subsidized housing, these bills have some of the same problems as the New York bills. However, like the New York bills, the Illinois proposals could make a significant change in the climate affecting local decisions.

4c. Create Countervailing Power at the State Level -
The New York UDC Strategy

All of the proceeding approaches have two basic deficiencies: they provide no money to subsidize housing and they require private and non-profit entities to take the initiative in challenging local decisions. An alternative approach is to create a state housing authority, empowered to build low and moderate income housing. This approach has been tried in at least three states, New York, Vermont and Delaware. The New York experiment is by far the most significant. The New York Urban Development Corporation (UDC) ²⁴ not only has authority to raise funds and construct housing; it also is empowered to override local zoning ordinances, so long as the state building codes are observed.

On paper, the UDC has the power to create low and moderate income housing in sufficient quantities in the suburbs. But the paper powers must be viewed against the political background relating to the UDC. Governor Rockefeller made unusually vigorous efforts to secure passage of the bill. Since the passage, there have been many attempts to curtail the "zoning override" powers of the UDC. Perhaps as a result, the UDC has acted with extreme caution, placing projects where they will likely meet a high rate of local acceptability, rather than placing them where, if accepted, they would result in substantial economic or racial integration. It would rather

build than fight.

Of the 7000 or more units on which construction has begun or been completed, 95% have been in cities. The override power has proven quite useful in cities where construction is desired locally. Where zoning changes would otherwise take months, the override power, invoked with the blessing of the cities involved, is a great time-saver. The power has also aided negotiations with otherwise reluctant communities, but has never been used against the wishes of a local government.

The UDC has had its greatest success around the larger upstate cities. A 300 unit project is being built in a Rochester suburb (The support of Kodak and Xerox leaders was a valuable asset in obtaining local acquiescence)- and new town plans are underway near Syracuse and Buffalo.

Public opposition to the UDC has no doubt been lessened by its 70-20-10 policy: Each site contains, with slight exceptions, 70% units for moderate income families, 20% for low income, and 10% for the elderly. (Moderate income is around \$9,000 to \$11,000 per year). This balance was chosen in the belief that moderate income families would not choose to live in a project with a low income population in excess of 20%, and in order to prevent the "overwhelming" of schools with low income, largely black, children. While the quota makes the projects more politically palatable, the lessened emphasis on low income housing prevents them from

having as great an integrating effect, both economically and racially, as they would otherwise have.

Whether or not the UDC's fear of political retaliation (through crippling amendments or funding cuts) is justified, one thing is clear: this fear has operated to prevent the UDC from acting to integrate the suburbs, and from providing low and moderate income housing in accordance with regional, rather than local needs. Thus, this instrumentality, in theory ideally adapted to providing housing where it will do the most good for the people of the state, has found itself providing housing in accordance chiefly with local desires.

The Vermont²⁵ and Delaware²⁶ statutes lack the crucial zoning override power possessed in New York. What is more, neither Housing Authority is given direct state funds. The Vermont program, which only takes effect where there is no local public housing authority (there are only five), uses federal funds under the low-rent program. The Delaware authority is given the power to issue tax-free revenue bonds.

The state-wide authority of the UDC type is an attractive model at first glance. It seems to combine two things that are needed: power to build and power to override local decisions. Ideally, this two-pronged attack would neutralize local parochialism more effectively than the Massachusetts model which relies on developer initiative.

But the New York experience gives one pause. When an agency is given two goals which must of necessity conflict with one another, it will tend to forget about the more difficult one. An operating agency like the UDC will have little hope to survive if it used its energies to fight local towns, and failed to build homes. A single purpose, appellate review agency like the Massachusetts Appeal Board, with no conflicting goals, may in the long run be a more suitable vehicle to implement a policy of racial and economic integration than the multi-purpose UDC.

4d. Eliminate Zoning

Perhaps the most radical approach to elimination of the adverse effects of local exclusiveness would be to abolish land use controls entirely, leaving the market free to operate, as it did in the entire country before the 1920's, and does even today in many areas, including Houston, the nation's sixth largest city. In fact, the voters of Houston have twice turned down a referendum proposing the adoption of zoning ordinances.

It is clear that permitting freer play of market forces would serve to lower the price and increase the availability of low income housing, which has been thwarted by governmental controls. The experience of Houston has shown that the absence of zoning does not result in total chaos. There are very few examples

of factories moving into single family neighborhoods, and the like. It is possible, however, that this is largely due to extensive series of restrictive covenants which were created when most properties were first subdivided. Other areas, which have already been subdivided, might not succeed in preventing the juxtaposition of incompatible land uses. No one really knows what results might flow from "decontrolling" land use decisions.

Whatever the merits or demerits of such a proposal, it is too all-inclusive a weapon for attack on the rather narrow problem of suburban access. It is hardly calculated to win political support in the suburbs. It would also be in contravention of the trend, both in the United States and elsewhere, that as land becomes more densely used and built-up, regulation seems to increase. And it would limit our capacity to deal with such problems as environmental protection at a time when a consensus has emerged that market forces do not adequately protect the public interest in a decent environment.

5. Summary and Conclusions

The social problem summed up by the slogan "exclusionary zoning" is immensely complex. It reflects strong conflicts of interest in our society. Attempts to change the present situation must of necessity generate tension between social groups and classes. Such tensions will inevitably be reflected in the political area. No "solution" of the problem that does not take account of these tensions and political pressures will ever be anything more than a paper solution.

There are many technical changes in our land use control system that might affect the problem. Although the state courts can play a limited role, absent legislative changes in the land use control system, little can be expected from the state judiciary. State legislatures have ample powers to make significant changes which would undoubtedly materially affect the land use policies and patterns that create the "exclusionary problem." However, few have been willing to exercise those powers to date, and those that have done so have fashioned only half-hearted remedies.

Whether state legislatures will take any action at all in the future is a question no one can answer. I believe that this will depend at least in part on the type of proposals that come forward as well as the nature of federal action. If proponents of reform put

type reflected in the Massachusetts law and the bills that it has spawned, there is some hope that legislatures, prodded perhaps by forthright executive leadership like that shown by New Jersey's Governor Cahill, may take some steps in the right direction. I doubt, however, that in the final analysis state legislatures, in which suburban representatives have substantial and increasing powers, will act on their own unless firm policy is set at the national level by the Congress, the Executive and perhaps the Federal Courts.

1. U.S. Department of Commerce, A Standard State Zoning Enabling Act, Section 1. (1926).
2. *ibid*
3. *ibid*, p. 4 note 3; Robert M. Anderson, 1 American Law of Zoning 144 (1968).
4. Robert M. Anderson, 3 American Law of Zoning, 584-589 (1968).
5. Norman Williams Jr. and Edward Wacks, "Segregation of Residential Areas Along Economic Lines: Lionshead Lake Revisited," 1969 Wis. L. Rev. 827, 847.
- 5A. Robert M. Anderson, 1 American Law of Zoning 60 (1968).
6. See, e.g. Charles M. Haar, "Zoning for Minimum Standards: The Wayne Township Case," 66 Harv. L. Rev. 1051 (1953); Charles M. Haar, "Wayne Township: Zoning for Whom? - In Brief Reply," 67 Harv. L. Rev. 986 (1954); cf. Richard W. Cutter, "Legal and Illegal Methods for Controlling Community Growth on the Urban Freeze," 1961 Wis. L. Rev. 370, 383, Report of the National Commission on Urban Problems, Building the American City 213-214 (1969).
7. Southern Alameda Spanish Speaking Organization v. City of Union City, U.S. Dist. Ct., Northern District of California, Memorandum Decision No. 51590, July 31, 1970, Sweigert, J. See also SASSO v. City of Union City, 314 F. Supp. 967 (N.D. Cal. 1970), SASSO v. City of Union City, 424 F. 2d 291 (9th Cir. 1970).
8. According to Professor Jan Krasnowecki, this is what occurred in the case of National Land and Investment Co. v. Easttown Township Bd. of Adjustment, 419 Pa. 504, 215 A. 2d 597 (1965).
9. Lakeland Bluff Inc. v. County of Will, 252 N.E. 2d. 265, 114 Ill. App. 2d. 267 (1969); G. & D. Holland Const. Co. v. City of Marysville, 91 Cal. Rptr. 227, 12 Cal. App. 3rd 389 (1970); Lakewood Homes, Inc. v. Bd. of Adjustment, 258 N.E. 2d 270 (Oh. com. Pl. 1970); DeSimone v. Greater Englewood Housing Corp. No. 1, 56 N.J. 428 (1970); National Land and Investment Co. v. Easttown Twp. Bd. of Adjustment, 419 Pa. 504, 215 A. 2d 597 (1965); Appeal of Girsh, 263A. 2d 395, 437 Pa. 237 (1970); Appeal of Kit-Mar Builders, 439 Pa. 466, 268 A. 2d. 765 (1970); Westwood Forest Estates, Inc. v. Village of South Nyack, 23 NY 2d 424, 244 N.E. 2d. 709 (1969).
10. 22 Zoning Digest 100a (1970)
12. Act 187, Session Laws of Hawaii 1961, Act 208 Session Laws of Hawaii 1963; Hawaii Rev. Stat. 1967 §§46-4.
13. Vermont Act 250 of the Acts of 1970, Maine Statutes, Title 38, §§481-488.

14. Maine Statutes, title 38, §§482,484
15. Eckbo, Dean, Austin, and Williams, State of Hawaii Land Use Districts and Regulation Review 95 (1969).
16. 40B Mass. Gen. Laws Ann. §§20-23.
17. 40B Mass. Gen. Laws Ann. §22.
18. 40B Mass. Gen. Laws Ann. §20.
19. H.B. 509
20. S.B. 1355
21. Cal. Govt. Code §65302(c).
22. A.B. 4947, 6373, 6377.
23. H.B. 1191-1193.
24. McKinney's Cons. Laws of New York ch. 24 §§6254-6266.
25. Vermont Stat. Ann. T. 24 §4004a.
26. Delaware Stat. T. 31 §4053(5).

**The
National
Urban
Coalition**

June 1971

THE MEANING OF THE SUPREME COURT DECISION
IN
JAMES V. VALTIERRA

The United States Supreme Court, in a 5-3 decision, recently reversed a lower court ruling that California's mandatory public housing referendum law was unconstitutional. The National Urban Coalition submitted a friend of the court brief, in which numerous other professional, civil rights, consumer, labor and business organizations joined, urging the affirmance of the lower court decision.

We are deeply disappointed by the narrow majority ruling. This case appeared to offer the Court the opportunity, consistent with past decisions, of reaching a result that would have countered trends toward racial and economic polarity in metropolitan areas.

Perhaps the explanation for the result is found in the fact that for forty years the Court has turned away cases challenging building and zoning regulations of local government or deciding the few cases pertinent to this area on a perfunctory or procedural ground.

Two lines of cases had developed over the years. One, involving racial discrimination in housing, saw the Court strike down: racially restrictive covenants, private racial discrimination in the sale or rental of housing, attempted state outlawing of open-occupancy laws, and a local requirement that such open-occupancy laws be submitted to referendum before taking effect. A different line

of cases, not involving explicit racial discrimination, had also developed in recent years. In these cases, official "discrimination against the poor" in regard to certain basic rights was forbidden by the Court. Many lawyers believed these cases, which outlawed the poll tax and required states to permit indigent criminal defendants to appeal their cases without paying for trial transcripts, could easily merge with the race cases in the housing area where economic and racial discrimination are often combined.

It is well known that localities use discrimination against low-income housing as a means to exclude racial minorities. But these techniques, by and large, do not involve the use of referendums, which became the focus of the Valtierra case. In that sense, it was unfortunate that this case was the first to arise in the Supreme Court because it seemingly pitted the reality of local economic/racial discrimination against the values inherent in the electoral process.

Now that a decision has been rendered, the question arises as to its meaning for future efforts to overcome the exclusion of the poor and minorities from decent housing in a suitable environment. Future litigation, and the policies of public officials and private parties, should be based on a clear understanding of what the Supreme Court did not decide as well as what it did decide. A great deal of initial comment on the decision was not able to draw the distinctions that become apparent on more mature consideration.

Many leading legal experts have been consulted in analyzing the decision. The following conclusion, however, is that of The National Urban Coalition and does not necessarily reflect the views of all of those consulted.

In our view the Supreme Court specifically decided that the mandatory referendum on public housing required by California law does not single out persons advocating low-income housing for procedural burdens which no other group in California must face in seeking to influence public decisions. In other words, the poor are not so uniquely disadvantaged by California law as to have been denied equal protection. The Court observed, in support of this conclusion, that mandatory referendums are required for approval of state constitutional amendments and certain other local public actions; moreover "California statute books contain much legislation first enacted by voter initiative, and no such law can be repealed or amended except by referendum." We believe that the Court's legal conclusion was erroneous. But that is clearly the Court's holding and it was clearly influenced by the peculiarities of California law and history.

The majority opinion, however, also implied that even had the poor been singled out and disadvantaged by the mandatory referendum, the equal protection clause might not forbid such a special electoral burden, presumably on the ground that California's interest in assuring a high degree of plenary voting on local and state affairs was rational, particularly in the light of its rich history of referendums on many issues.

Some experts believe the majority's statement that a "lawmaking procedure that 'disadvantages' a particular group does not always deny equal protection" means that this decision undermines the claim of the poor, as distinct from that of racial minorities, to special protection against state-imposed disadvantages in regard to basic rights.

Although this is a possible interpretation, a much more limited reading may be justified. The Valtierra opinion was concerned only with a challenge to a state law on its face, a law that dealt with political procedures for allocating local decision-making power in making local public policy. The decision has established that such a procedure is not constitutionally challengeable, on its face and without consideration of its motive or its impact in particular localities or without some showing that the procedure itself rests on racial distinctions. The majority, by referring repeatedly to the case as an attack on a "procedure", or a "lawmaking procedure", or a "governmental structure" -- and not as an attack on a denial of housing opportunities to the poor -- emphasizes this critical distinction between process and result.

The distinction may be illustrated in another way. The Court has held, for example, that a locality or state may not deprive the poor of the right to vote through the imposition of a poll tax, and that it may not in effect deprive the indigent criminal defendant of his rights to appeal by charging for trial transcripts. Whether this deprivation were decided upon by a referendum, or by a local legislative body, or a mayor, would be irrelevant. We can now conclude that on the question of the access of the poor to decent housing, the manner in which a locality makes decisions that may deprive them of their rights is constitutionally irrelevant. In other words, the issue remains: Are there actions which a governmental jurisdiction must take, or previous official acts it must reverse, regardless of who within the jurisdiction -- mayor, council, zoning board or electorate -- makes decisions?

The decision tells us, then, that whatever may be the basic underlying rights of the poor with respect to access to decent housing, the mere submission of such an issue to the electorate does not deprive them of those rights without an examination of surrounding facts in regard to their needs and the housing policy of the locality. Of course, in situations where race is explicitly involved in the submission of issues to the electorate, such a referendum on its face does have a stigmatizing impact which impairs the rights of racial minorities without regard to the substantive injury to the rights of such a minority. Therefore, in brief, the Valtierra decision may say nothing more than that a referendum requirement that does single out the interests of a group other than a racial minority does not on its face "add insult to injury" -- that is, deny equal protection of the law.

The Court, having disposed of the case on the process issue, never reached the question of "injury" -- the core question that will ultimately have to be confronted: What are the constitutional obligations of localities to provide decent housing for the poor and racial minorities, either by affirmative action or by undoing the results of negative governmentally imposed landuse controls that frustrate private efforts to meet these needs?

The decision, moreover, is also limited in other ways. First, it deals only with public housing, where the locality exercises affirmative entrepreneurial efforts to produce low-income housing. Footnote 4 of the Court's opinion indicates that a major premise for the result is the assumed cost to the local community of public housing (which is not on the tax rolls), assumptions that do not apply to

moderate-income housing which is taxed as any other privately owned and managed property.

Second, in the light of California history -- the law in question dated back to 1950 when the non-white occupancy in public housing was much lower than today and when federal civil rights policy was non-existent in housing -- the question remains open as to whether new laws similar to California's would be immune from challenge, given the racial climate and federal policy now applicable to subsidized housing. Nor do we regard this opinion as shutting off challenges to specific referendums -- under either old or new laws -- in factual situations where the discrimination against minorities and the poor can be shown in the motivation or the effect on a particular occasion.

And, as has been generally observed, where local exclusionary policy is motivated to deny, or acts in effect to deny, decent housing for racial minorities, the equal protection clause is as potent as ever in overcoming such constraints.

In summary, then, legal strategies available to overcome local exclusion of the poor and minorities remain manifold in both state and federal courts. Where substantive rights to decent housing in a suitable living environment have been injured and the courts have found them to be, no referendum will "cure" a violation of those rights.

Exhibit No. 34

U.S. Commission on Civil Rights

Congressional Power to Prohibit Exclusion of Low and Moderate
Income Housing

The use by suburbs of zoning regulations, subdivision control, building codes and the granting of building permits as devices to exclude or restrict low or moderate income housing and federally subsidized housing has been documented. See National Commission on Urban Problems (Douglas Commission) Building the American City 199 (1968). This memorandum considers the constitutionality of proposed Congressional legislation which would restrict these discriminatory practices. An amendment to H.R. 16643 prohibits local governments from using their zoning or planning powers to prevent in certain areas the "reasonable provision in such areas of low and moderate income housing eligible for Federal assistance in a manner inconsistent with any State or local comprehensive master plans for such areas." The legislation also prohibits local government bodies from discriminating "against low and moderate income housing on the basis of its eligibility for federal assistance." This latter provision seems clearly within Congress' power under the necessary and proper clause, U.S. Constit. Art. I, §1, in order to insure the effective operation of Congress' subsidy program under 42 U.S.C. §1401 (1964). Congress must have the power to prevent localities from discriminating against the recipients of the program

or from interfering with the overall congressional scheme. The former provision involving Federal efforts to prevent local jurisdictions from excluding low and moderate income housing that is not federally subsidized is authorized under Section 5 of the 14th Amendment.

Section 5 of the Amendment grants Congress "power to enforce, by appropriate legislation, the provisions of this article." The mode of enforcement is to be chosen by Congress. In Virginia v. Rives, 100 U.S. 313, 318 (1880), a case which involved interpretation of a Federal removal statute, the Court in discussing the authority of Congress, stated: "Congress, by virtue of the fifth section of the 14th Amendment may enforce the prohibitions whenever they are disregarded by the State. Mode of enforcement is left to its discretion." The fifth section of the 14th Amendment has also been interpreted as an affirmative grant of power to Congress. In Ex Parte Virginia, 100 U.S. 339, 345 (1879), the Court in upholding a Federal law regulating jury selection stated: "They [the 13th and 14th Amendments] were intended to be, what they really are, limitations on the power of the States, enlargements of the power of Congress."

In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court affirmed the constitutionality of section 4(e) of the Voting Rights Act of 1965. That section provides that persons who have obtained a sixth grade education at any American-flag school cannot be prevented from registering to vote because of a State English literacy requirement. New York State's constitution required an ability to read and write in English. N.Y. Const. Art. II, §1 (1922). The District Court for the District of Columbia had found section 4(e) unconstitutional, as exceeding the authority granted to Congress. 247 F. Supp. 196 (D.C. 1965) (3-judge court). In overruling the district court the Supreme Court defined section 5 of the 14th Amendment as a proper basis for enforcing the Equal Protection Clause. The Court further held that Congress could determine a denial of equal protection and design legislation to deal with the problem. The Court would not have to judge independently that State action did or did not violate the Constitution. The Court stated:

A construction of §5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional resourcefulness and congressional responsibility for implementing the Amendment. 384 U.S. at 648.

Congressional legislation, the Court explained, Id. at 650, would only have to meet the test of McCulloch v. Maryland, 4 Wheat. 316. 421 (1819):

Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

It has been argued that the discriminatory practices of local zoning boards against low-income housing violate three separate sections of the 14th Amendment. First, the Boards are accused of violating the equal protection clause since they are making housing available to some within the board's jurisdiction on the basis of wealth. See Sager, Tight Little Islands: Exclusionary Zoning, Equal Protection, and the Indigent, 21 Stan. L. Rev. 767 (1968). The use of such a suspect criterion by the State has been condemned in other contexts: See Harper v. Virginia Bd. of Elections, 383 U.S. 663(1966); Griffin v. Illinois, 351 U.S. 12 (1956). In addition to wealth, another impermissible consideration, race, is also often present. In Dailey v. City of Lawton, 296 F. Supp. 266 (1969), aff'd, F. 2d (10th Cir. 1970), the court found the denial of a rezoning requisition to be the direct result of bias and prejudice designed to keep Negroes and other minority groups from living in a certain area. The second section of the 14th Amendment which discriminatory zoning violates is due process. From the landowner's point of view an arbitrary refusal to zone for low-income housing amounts to a taking of property without due process. Several cases have developed the thesis that zoning with an exclusionary purpose or result violates due process. In National Land & Investment Co. v. Kohn, 419 Pa. 504, 215 A.2d 497 (1965), the court stated that "a zoning ordinance whose primary purpose is to prevent the entrance of newcomers in order to avoid burdens, economic and otherwise, upon

the administration of public services and facilities cannot be valid." Id. at ____ . See also Nectow v. City of Cambridge, 277 U.S. 183 (1928); Dailey v. City of Lawton, 296 F. Supp. 266 (1969), aff'd, ____ F. 2d ____ (10th Cir. 1970); In re Appeal of Kit-Mar Builders, Inc. ____ Pa. ____, ____ A.2d ____ (1970).

The third section of the 14th Amendment which discriminatory zoning also may violate ^{is} the privileges and immunities section of the 14th Amendment. This clause has been cited as the source of a constitutional right to travel. See Twining v. New Jersey, 211 U.S. 78, 97 (1908); Crandall v. Nevada, 6 Wall. 35 (1868).

In Shapiro v. Thompson, 394 U.S. 618 (1969), the Court held unconstitutional the conditioning of welfare payments on residency requirements. The Court stated: "An indigent who desires to migrate, resettle, find a new job, and start a new life will doubtless hesitate if he knows that he must risk making the move without the possibility of falling back on State welfare assistance during his first year of residence when his needs may be most acute. But the purpose of inhibiting migration by needy persons into the State is constitutionally impermissible. This Court long ago recognized the nature of our Federal Union and our Constitutional concepts of personal liberty require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules or regulations which unreasonably burden or restrict this movement. Id. at 629. The Court added: "More fundamentally, a State may no more try to fence out those indigents who seek high welfare benefits than it may try to fence out indigents

generally." Id. at 631. Congress could reasonably find that the use of zoning and other land use controls prevents low income families living in one State from moving to a suburb in another State. Indeed many metropolitan areas encompass the boundaries of several States.

Aside from the 14th Amendment, Congress has power under the Commerce Clause, Article I, Section 8, to restrict the use of zoning and other land use controls which would block the access of blacks and poor people to suburban municipalities. Local land use regulations have a significant effect on interstate commerce. They make it more difficult for employers located in suburban areas to find workers. They also make it more difficult for potential workers who are forced to live in the central city to find employment. They also impair the construction industry and the home finance industry. By this rationale Congressional power under the Commerce Clause was used to uphold the public accommodations section of the Civil Rights Act of 1964. 42 U.S.C. §2000a (1964). In Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964), the Court stated that: "The determinative test of the exercise of power by the Congress under the Commerce clause is simply whether the activities sought to be regulated is 'commerce which concerns more than one State' and has a real and substantial relation to the national interest." Id. at 255. Congress could reasonably make such a finding in this case. The use of planning and zoning tools by local municipalities is not purely a local matter. Moreover, the Court in Heart of Atlanta pointed out that "if it is interstate commerce that feels the pinch, it does not matter how local the operation that applies the squeeze." U.S. v. Women's Wear Manufacturers Assn., 336 U.S. 460, 464 (1949).

Exhibit No. 35

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Dear Mr. [President/Speaker]:

Enclosed is a draft of a proposed bill "To establish a national land use policy to authorize the Secretary of the Interior to make grants to encourage and assist the States in the preparation and implementation of land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

This legislative proposal was referred to in President Nixon's message on the environment, which was submitted to the Congress on February 8, 1971. In it President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the

institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

The proposed bill encourages the States to exercise their responsibility more fully to deal with certain critical land use problems of more than local impact. Under the proposal Federal grants would be made to assist States in developing and managing land use programs. Grants for up to 50% of cost would be made to develop State land use programs, including plans covering selected areas, and laws or regulations necessary to implement the programs.

Grants would also be made for up to 50% of the cost of managing State land use programs which meet certain requirements set forth in the draft bill. For example, the programs should include methods for inventorying, designating and exercising control over the use of land within areas of critical environmental concern or areas impacted by key facilities, as well as methods for controlling large-scale development and methods for assuring that local laws and regulations do not restrict development of regional benefit, and for controlling land use around new communities.

The proposed bill authorizes the President to designate an agency to issue guidelines to assist Federal agencies in carrying out the requirements of this Act. I understand that the President intends to give this responsibility to the Council on Environmental Quality.

While the Department of the Interior is assigned the primary responsibility for the administration of this program, the Department of Housing and Urban Development will share this responsibility with regard to those aspects of the State land use program

dealing with large-scale development, key facilities, development and land use of regional benefit and new communities.

A section-by-section analysis of the bill is enclosed.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

/s/ Rogers C.B. Morton
Secretary of the Interior

Honorable Spiro T. Agnew
President of the Senate
Washington, D.C. 20510

Honorable Carl B. Albert
Speaker of the House of Representatives
Washington, D.C. 20515

A BILL

To establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,
That this Act may be cited as the "National Land Use Policy Act of 1971."

FINDINGS AND DECLARATIONS OF POLICY

Section 101. (a) The Congress hereby finds and declares that decisions about the use of land significantly influence the quality of the environment, and that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate, with the result:

(1) that important ecological, cultural, historic and aesthetic values in areas of critical environmental concern which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(2) that coastal zones and estuaries, flood plains, shorelands and other lands near or under major bodies or courses of water which possess special natural and scenic characteristics are being damaged by ill-planned development that threaten these values;

(3) that key facilities such as major airports, highway interchanges, and recreational facilities are inducing disorderly development and urbanization of more than local impact;

(4) that the implementation of standards for the control of air, water, noise and other pollution is impeded;

(5) that the selection and development of sites for essential private development of regional benefit has been delayed or prevented;

(6) that the usefulness of Federal or federally-assisted projects and the administration of Federal programs are being impaired;

(7) that large-scale development often creates a significant adverse impact upon the environment.

(b) The Congress further finds and declares that there is a national interest in encouraging the States to exercise their full authority over the planning and regulations of non-Federal lands by assisting the States, in cooperation with local governments, in development land use programs including unified authorities, policies, criteria, standards, methods and processes for dealing with land use decisions of more than local significance.

DEFINITIONS

Section 102. For purposes of this Act: (a) "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to important historic, cultural, or aesthetic values, or natural systems or processes, which are of more than local significance; or life and safety as a result of natural hazards of more than local significance. Such areas shall include:

(1) Coastal zones and estuaries: "Coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and which extend seaward to the outer limit of the United States territorial sea and include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, in-shore waters, channels, and all other coastal wetlands. "Estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(2) shorelands and flood plains of rivers, lakes, and streams of State importance;

(3) rare or valuable ecosystems;

(4) scenic or historic areas; and

(5) such additional areas of similar valuable or hazardous characteristics which a State determines to be of critical environmental concern.

(b) "Key facilities" are public facilities which tend to induce development and urbanization of more than local impact and include the following:

- (1) any major airport that is used or is designed to be used for instrument landings;
- (2) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; and
- (3) major recreational lands and facilities.

(c) "Development and land use of regional benefit" includes land use and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(d) "State" includes the 50 States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

PROGRAM DEVELOPMENT GRANTS

Section 103. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make not more than two annual grants to each State to assist that State in developing a land use program meeting the requirements set forth in section 104 of this Act. Such grants shall not exceed 50 percent of the costs of program development. Prior to making the first grant, the Secretary shall be satisfied that such grant will be used in development of a land use program meeting the requirements set forth in section 104. Prior to making a second grant, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding with the development of a land use program meeting the requirements of section 104.

(b) States receiving grants pursuant to this section shall submit to the Secretary not later than 1 year after the date of award of the grant a report on work completed toward the development of a State land use program. A State land use program meeting the requirements of section 104 of this Act shall satisfy the requirements for such a report.

(c) The authority to make grants under this section expires three years from date of enactment.
PROGRAM MANAGEMENT GRANTS

Section 104. Following his review of a State's land use program, the Secretary is authorized to make a grant to that State to assist it in managing the State land use program. Successive grants for this purpose may be made annually to any State resubmitting its land use program for review by the Secretary. Grants made pursuant to this section shall not exceed 50 percent of the cost of managing the land use program. Grants authorized by this section shall be made by the Secretary only if, in his judgment:

- (a) the State's land use program includes:
- (1) a method for inventorying and designating areas of critical environmental concern;
 - (2) a method for inventorying and designating areas impacted by key facilities;
 - (3) a method for exercising State control over the use of land within areas of critical environmental concern and areas impacted by key facilities;
 - (4) a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit;
 - (5) a policy for influencing the location of new communities and a method for assuring appropriate controls over the use of land around new communities;
 - (6) a method for controlling proposed large-scale development of more than local significance in its impact upon the environment;
 - (7) a system of controls and regulations pertaining to areas and developmental activities previously listed in this subsection which are designed to assure that any source of air, water, noise or other pollution will not be located where it would result in a violation of any applicable air, water, noise or other pollution standard or implementation plan;
 - (8) a method for periodically revising and updating the State land use program to meet changing conditions; and
 - (9) a detailed schedule for implementing all aspects of the program.
- For purposes of complying with paragraphs (1)-(7) of this subsection (a), any one or a combination

of the following general techniques is acceptable:
 (i) State establishment of criteria and standards subject to judicial review and judicial enforcement of local implementation and compliance; (ii) direct State land use planning and regulation; (iii) State administrative review of local land use plans, regulations and implementation with full powers to approve or disapprove.

(b) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern to the Nation.

(c) in controlling land use in areas of critical environmental concern to the Nation, the State has procedures to prevent action (and, in the case of successive grants, the State has not acted) in substantial disregard for the purposes, policies and requirements of its land use program.

(d) State laws, regulations and criteria affecting areas and developmental activities listed in subsection (a) of this section are in accordance with the policy, purpose and requirements of this Act; and that State laws, regulations and criteria affecting land use in the coastal zone and estuaries further take into account:

(1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation; sedimentation control, and shoreland storm protection; and

(2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities.

(e) the State is organized to implement its State land use program.

(f) the State land use program has been reviewed and approved by the Governor.

(g) the Governor has appropriate arrangements for administering the land use program management grant.

(h) the State, in the development, revision, and implementation of its land use program, has provided for adequate dissemination of information and for adequate public notice and public hearings.

(i) the State has: (1) coordinated with metropolitanwide plans existing on January 1 of the year in

which the State use program is submitted to the Secretary, which plans have been developed by an area-wide agency designated pursuant to regulations established under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966;

(2) coordinated with appropriate neighboring States with respect to lands and waters in interstate areas;

(3) taken into account the plans and programs of other State agencies and of Federal and local governments.

(j) the State utilizes for the purpose of furnishing advice to the Federal Government as to whether Federal and Federally-assisted projects are consistent with the State land use program, procedures established pursuant to Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968.

FEDERAL REVIEW OF GRANT APPLICATIONS AND STATE LAND USE PROGRAMS

Section 105. (a) The Secretary before making a program management grant pursuant to section 104, shall consult with the heads of all Federal agencies which conduct or participate in construction, development or assistance programs significantly affecting land use in the State, and shall consider their views and recommendations. The Secretary shall not approve a grant pursuant to section 104 until he has ascertained that the Secretary of Housing and Urban Development is satisfied with those aspects of the State's land use program dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104 for funding of a program management grant.

(b) The Secretary shall take final action on a State's application for a grant authorized under section 104 not later than six months following receipt for review of the State's land use program.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

Section 106. (a) Federal projects and activities significantly affecting land use shall be

consistent with State land use programs funded under section 104 of this Act except in cases of overriding national interest. Program coverage and procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with State land use programs funded under section 104 of this Act.

(b) After December 31, 1974, or the date the Secretary approves a grant under section 104, whichever is earlier, Federal agencies submitting statements required by Section 102(2)(C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land use program which has been found eligible for a grant pursuant to section 104 of this Act.

FEDERAL ACTION IN THE ABSENCE OF STATE LAND USE PROGRAMS

Section 107. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after December 31, 1974, in a State which has not been found eligible for a program management grant pursuant to section 104 of this Act, the responsible Federal agency shall hold a public hearing in that State at least 180 days in advance of the proposed action concerning the effects of the action on land use taking into account the relevant consideration set out in section 104 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary or the Secretary of Housing and Urban Development shall be part of the detailed statement required by Section 102 (2) (C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq). This section shall be subject to exception where the President determines that the interests of the United States so requires.

AVAILABILITY OF FEDERAL EXPERTISE

Section 108. (a) The Secretary shall provide advice upon request to States concerning the designation

of areas of critical environmental concern to the Nation.

(b) Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures; subject to appropriate arrangements for payment or reimbursement, to make such data or expertise available to States for use in preparation, implementation, and revision of State land use programs,
GUIDELINES

Section 109. The President is authorized to designate an agency or agencies to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act.

ALLOCATION OF FUNDS

Section 110. (a) Funds for grants authorized by sections 103 and 104 of this Act shall be allocated to the States based on regulations issued by the Secretary which shall take into account State population and growth; nature and extent of coastal zones and estuaries and other areas of critical environmental concern and other relevant factors.

(b) No grant funds shall be used to acquire real property.

(c) A refusal by the Secretary to provide a program development or program management grant authorized by this Act shall be in writing.

MISCELLANEOUS

Section 111. (a) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by sections 103 and 104 as may be necessary to carry out the provisions of this Act.

(b) A State receiving a grant under the provisions of section 103 or 104 of this Act, the agency designated by the Governor to administer such grant, and State agencies allocated a portion of a grant shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management program as the Secretary may require, and shall keep and make available such records as may be required by the Secretary

for the verification of such reports and evaluations.

(c) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received under the provisions of section 103 or 104 of this Act.

(d) Nothing herein shall be interpreted to extend the territorial jurisdiction of any State.

(e) Nothing herein shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

APPROPRIATION AUTHORIZATION

Section 112. (a) There are hereby authorized to be appropriated not to exceed \$20,000,000 in each fiscal year, 1972 through 1976, for grants authorized by sections 103 and 104 of this Act, such funds to be available until expended.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of the Interior and the Secretary of Housing and Urban Development to administer the program established by this Act.

*Exhibit No. 36*STATEMENT OF DONALD E. JOHNSON
ADMINISTRATOR OF VETERANS' AFFAIRS
BEFORE
UNITED STATES COMMISSION
ON CIVIL RIGHTS

June 16, 1971

Mr. Chairman and Commissioners:

I am pleased to be afforded this opportunity to present for your consideration a resume of the actions taken or planned which reflect Veterans Administration policy and practice in our efforts to obtain nondiscrimination in housing obtained with GI financial assistance.

The Veterans Administration's home loan program assists eligible veterans to become homeowners by guaranteeing loans made by private lenders and, in non-urban areas, by making direct loans to veterans where private capital is not available. The dimensions of this program are far from insignificant even in the full context of the nation's total housing program. Since its inception the number of such home loans for veterans has totalled nearly 8 million.

One of the side-effects of this program has been to put the VA directly into the housing market as a result

of loan defaults followed by foreclosures and property acquisitions. In this aspect of the program, the VA acquires and sells, at the current level, between 1,100 and 1,200 houses a month.

Equal opportunity in the administration of the program had its formal inception with Executive Order 11063 in November 1962. This order provides a convenient point in time to begin a detailed account of the VA's fair housing efforts.

Under Executive Order 11063, the VA took the following fair housing measures:

- o A series of agreements were negotiated for the purpose of establishing cooperative and coordinated programs with state and local agencies. Memoranda of understanding were signed with 10 states and seven cities that had fair housing laws on the books. The activities consequent upon such agreements, essentially were confined to the processing and settlement of complaints.
- o The VA issued in 1963 detailed guidelines aimed at coping with conditions caused by force or

- o threats of force against minority purchasers of VA houses located in all-white neighborhoods.
- o Certification procedures were introduced for sales and property management brokers that pledged them to a nondiscrimination policy in VA transactions. Violation of the certification makes participants subject to suspension.
- o Site and subdivision planning procedures were modified to require builders and developers to sell properties on a nondiscriminatory basis. Violations here, also, could result in suspensions.
- o VA regulations concerning lenders were amended to provide for the suspension of those who discriminated in making loans to veterans in violation of the executive order.
- o Procedures were developed to provide for processing and resolution of complaints.
- o A sampling program was initiated to elicit information from veterans receiving certificates of eligibility concerning discriminatory

incidents in connection with their efforts to obtain loans or purchase homes. This program was discontinued a few years ago because it did not reveal any real problems.

- o A program was instituted with the cooperation of the former President's Committee on Equal Housing Opportunity to support the efforts of Federal agencies in finding housing for minority employees. This effort is aimed at making information about VA's inventory of acquired properties available to newly hired or currently employed minority persons. Additionally, information about properties coming on the market through processing of master certificates of reasonable value was also included.
- o Following the outbreaks of civil disorders, the VA, in 1968, issued special instructions to assure that ghetto areas were not arbitrarily excluded from eligibility for loan guaranties or rejected for appraisal processing.

- o Special signs were manufactured and distributed for posting on lawns of VA owned houses that announced "No Discrimination - Anyone Can Buy."
- o Rules were promulgated advising brokers that any advertising of VA acquired properties, whether paid for in whole or in part by the broker, was required to include language stating offerings were made without regard to race, color, religion, or national origin of the prospective purchaser.

The passage of the Civil Rights Act of 1968, followed only a few months by the Supreme Court's decision in Jones v. Mayer Company, ushered in a new set of VA fair housing measures aimed at providing additional impetus to the nation's expressed commitment to equal housing opportunity for all. To start with, two full-time experienced employees were added to the staff of the Director of the Loan Guaranty Service. Their responsibilities were to make manifest the Agency's commitment to fair housing for veterans. In the years following, substantial gains can be

pointed to:

- o In respect to acquired properties, a procedure was introduced (not without arousing criticism and complaints from various segments of the housing industry), calling for the collection of "hard" ethnic and racial data about prospective purchasers. Later this was extended to cover the race of the broker, as well.
- o The problem of racial restrictive covenants was finally disposed of by amendments to the regulations which had the effect of rendering restrictive covenants meaningless in VA transactions.
- o Minorities were afforded a wider chance to participate in the purchase of VA properties by a change in the procedure that extended the time for submitting offers from 3 to 5 days with a guaranteed weekend included in the interval.
- o Also, for the same purpose, the VA embarked on a program of paid advertising in the ethnic press in all cities with large minority

populations which included, under the official nondiscrimination legend, listings of acquired houses currently on the market. In Spanish publication, the ads are run in that language.

- o The most sophisticated step in the racial data program was taken in 1969 requiring the assignment of a "Property Location Code" on all property acquisitions that describe the racial character of the neighborhood where the property is located.
- o The most recent step taken in the racial data program will, for the first time, provide information about the race or ethnic origin of veterans making application for home loan guaranties and direct home loans. This has been accomplished through a revision of the application form. Results are expected to become available for analysis by September 1971.

The VA believes that, to a measurable extent, the success of an equal opportunity program hinges on the involvement of minorities themselves in the program's

implementation. For this reason, as well as because it facilitates administration, the Loan Guaranty Service has embarked on a deliberate program to attract more minority persons as sales brokers, property management brokers, fee appraisers, and repair and maintenance contractors.

- o These efforts are expected to produce a double-barreled success by not only effecting greater participation by minority purchasers but by contributing to the increased participation of minority business enterpreneurs in Federal programs. Minority contractors alone, for example, accounted for about 20% of the dollar value of contracts awarded for repair and maintenance of acquired properties during the first three months of this calendar year.
- o Close liaison has been established between the Loan Guaranty Service and the major national organizations in the fair housing field, including the NAACP, the Urban League, and the National Committee Against Discrimination in Housing. In Chicago and Washington, D. C., we

have arranged for the cooperation between local fair housing organizations and our regional offices in connection with special fair housing projects.

- o Of fairly recent vintage is a counselling program being offered on an experimental basis to provide assistance in a way expected to attract minority veterans to participate more actively in the benefits of the home loan guaranty program. As now introduced, it provides technical assistance in the financial and technical aspects of homebuying at locations chosen for convenience of access by minorities and during the early evening hours.
- o For some time past the VA has recognized the desirability of requiring a certification of future nondiscrimination from veteran or other individual eligible applicants for GI home financing assistance but entertained serious doubt as to our authority to take this step. We have recently concluded a restudy in depth

of the possibility. Based upon the advice of our General Counsel, I am now prepared to impose a requirement for a certification against discrimination on the basis of race, color, creed, or national origin in the future sale or rental of properties as a prerequisite to obtaining a VA direct or guaranteed loan. An identical certification will also be required of those seeking to purchase VA acquired properties. Regulations to this end are in preparation and I contemplate inauguration of this procedure in about sixty days. In the long view, this should have some affirmative effect in the elimination of housing discrimination by individual sellers or renters both urban and suburban.

Because the VA recognizes the parallelism of its home loan program to that of the Federal Housing Administration, joint measures have been taken by both agencies to eliminate administrative duplication in enforcement proceedings. These include a mutual agreement to disbar or suspend

builders, lenders or sellers based on findings made by either agency and barring of sellers from the right to request property appraisals if disbarred by either agency.

Obviously, the program I have described in some detail does not purport to provide a total solution to problems of discrimination in housing that face the minority veterans. Our jurisdiction, by virtue of its being confined to veterans, places very special limits on our impact on the lending industry and the real estate business. The housing industry, after all, is a single entity. The problems encountered by its customers, be they availability of loans, housing shortages, construction, or what have you, are the same, whether the buyer or borrower be veteran or non-veteran.

I believe, however, that our equal housing opportunity activities have made important strides toward the elimination of discrimination in the sale or rental of housing.

Exhibit No. 37

STATEMENT OF ROBERT L. KUNZIG
ADMINISTRATOR OF GENERAL SERVICES
BEFORE THE
UNITED STATES COMMISSION ON CIVIL RIGHTS
JUNE 16, 1971

Mr. Chairman and Members of the Commission:

I welcome this chance to appear before you to explain the General Services Administration's policies and practices designed to aid members of minority groups and persons with low incomes, with particular attention to our activities in leasing and constructing Federal facilities.

GSA COMMITMENT TO CIVIL RIGHTS

In March of 1969, when I became Administrator, I inherited what I considered to be a highly unfortunate and unresponsive situation in the area of civil rights, both in terms of the agency's internal organization and its relationship to outside parties. The basic attitude and record had, at best, been one of barely meeting the requirements of the law. The attention to internal programs for recruitment, and training and promotion of minority group members was limited. Externally, in terms of exercising our construction and procurement authority to assist minority group members, the agency's record was even more meager.

I have done my best to change this--to change attitudes, practices and programs. I am proud of the record of GSA in the area of civil rights over the past 27 months. More can be done, and more should be done, but I think our record demonstrates that we have come a long way since those early days.

A pattern has now been developed in this agency's concern, sensitivity and treatment of civil rights considerations which I hope has become apparent not only to our own employees, but to those with whom we deal on the outside.

Appointments and Promotions

The changes I made in the Equal Employment Opportunity Office at GSA soon after being sworn in set the tone for the direction in which GSA was to move. I upgraded the Executive Director of EEO to my immediate staff and placed counterparts on the staffs of each of my 10 Regional Administrators. This initial move was followed by direction to our personnel officers and Central Office and Regional supervisors to give special attention to the recruitment and advancement of minority personnel. The number of minorities in jobs in GSA at GS-10 or above has increased from 266 to 372 in the last 18 months, a 39.8% increase. This includes the first 2 GS-17's in GSA history. In addition, minorities have gained 2008 of 5870 (34.1%) general schedule promotions from July 1, 1969, to June 14, 1971, and have been appointed to 2481 of 8032 (30.9%) general schedule vacancies.

Recruiting and Training

An intensified recruiting program at minority colleges, including my personal visits to Clark College and California State College, resulted in minorities filling one fourth of GSA's recruited positions in FY 1970. As of June 14, 1971, 98 of 533 (18%) college graduate trainees recruited since January 1, 1970, are minorities. We have also instituted special programs designed to increase upward mobility and to eliminate dead-end jobs for minorities at lower levels.

Executive Seminar on Equal Employment Opportunity

To make our management team more sensitive to the special problems and frustrations of minority group members, we have undertaken a program of seminars dealing with the management of an integrated work force and the dynamics associated with intergroup relations. This was one of the first efforts in this regard in the federal government and the first to have been developed totally within house by our EEO staff. Since the initiation of this program, a total of 1,322 GSA supervisory personnel have attended these seminars including 212 at the director's level (GS-15) or its equivalent. This also makes GSA the first agency in the federal government to have completed exposure to this training of our entire top level work force.

Contract Compliance

GSA's new direction is also apparent in the changes which we have made in the GSA contract compliance program. On September 9, 1970, the contract compliance effort was reorganized and consolidated into one office under the General Counsel. The Department of Labor had directed that GSA accomplish 1122 compliance reviews in fifteen industries by the end of FY 1971. The GSA Compliance Staff has completed 1283 reviews for the period from July 1, 1970, to June 14, 1971. This represents a 114% completion of the Agency's review commitment to the Office of Federal Contract Compliance.

Prior to the reorganization, the Agency had not issued a single show cause order to a contractor. Since the reorganization the Contract Compliance Staff has issued twenty-eight show cause orders.

I also have moved to strengthen the contract compliance staff in GSA. During FY 1971 the Program has had a staff of 52 persons. Our budget request for FY 1972 is for 121 persons and an increase in budget from \$713,000 to \$1,648,000.

Minority Business Program

Another indication of GSA's new direction is the GSA Minority Business Program which, under section 8(a) of the Small Business Act, gives preference to the minority entrepreneur in obtaining Government contracts. I serve as Chairman of the President's Task Force on Procurement from Minority Business Enterprise for the entire Government, and have devoted a great deal of my own time to meeting and working with minority businessmen. To give you some idea of how this has grown, in FY 1969 GSA awarded 2 contracts to minority businesses worth \$346,676. In FY 1971, to June 1, there have been 169 contracts awarded at a value of \$9.3 million. To further aid minority contractors who are often operating a new business with a tight cash flow, we have also set up special pay procedures permitting the payment of their invoices immediately upon receipt.

A key to this program is the counseling of minority contractors and publicizing the opportunities available to them. To meet this need, GSA and the President's Task Force have arranged for and conducted 30 Federal Procurement Seminars for minority businessmen in major cities across the country during calendar year 1970; as of this date 18 more have been held this calendar year and 23 more are scheduled. We have extended the activities of our Business Service Centers located in 12 major cities to emphasize counseling of minority members (some 12,000 during FY 1970) on Federal contracting.

To further highlight and publicize the program, we have developed a GSA booklet entitled "Partners in Progress," which has had a wide distribution, and we have produced a 27-minute film under the same title for showing to private groups and during public service television time.

I have brought the foregoing facts to your attention at the outset to suggest the climate regarding civil rights which currently prevails at GSA. Let me now turn to the matters of specific interest to you today, those concerning housing for low income minority group members.

HOUSING AS A FACTOR IN SITE SELECTION

The present role of housing as a factor in the GSA site selection process has developed primarily because of two major steps which we have initiated since I took office. These two steps are (1) the issuance by GSA on May 28, 1969, of an amendment to the Federal Property Management Regulations designed to alleviate hardship to employees by reason of lack of adequate housing and transportation and (2) Executive Order 11512 sponsored by GSA and issued by President Nixon on February 27, 1970, designed to contribute to the improvement of social and economic conditions in the community where a Federal facility is to be located.

To communicate clearly the role of housing as a factor in GSA's site selection process it is necessary to explain the background, text, and implementation of these two documents.

Avoidance of Hardship to Employees

In March 1969, I directed that the Federal Property Management Regulations be amended in order to avoid to the extent possible the obvious hardship on employees who are unable to obtain suitable housing within a reasonable proximity of their place of work. This amendment, signed on May 28, 1969, said in essence that in selecting sites for Federal facilities GSA would avoid locations which would work a hardship

on employees because (1) there is a lack of adequate housing available for low and middle income employees within a reasonable proximity and (2) the location is not readily accessible from other areas of an urban center. I would like to emphasize that then as now we consider housing to be available only if it is available to all employees on a non-discriminatory basis.

An illustration of the application of this regulation arose in September of 1969 when GSA blocked a proposed transfer of the Government Printing Office from the District of Columbia to an area 27 miles out in the Maryland countryside. At that time, I stated:

"People are more important than buildings... It must be made perfectly clear that the Government in general, and this Administration in particular, are more interested in people being close to their work, or finding easy access to it, than in beautiful buildings constructed some 27 physical miles and too often unsurmountable sociological miles away from the employees who deserve to work in them."

I want to make it quite clear that our policy has been to keep Government operations located in the Washington, D. C., area housed in facilities located within the District, particularly where the low income employees of the occupying agency or agencies live primarily in the District. On June 11 and 12, we advertised the Federal Government's interest in leasing 450,000 square feet of space for

consolidation of certain Federal activities now located principally within the District of Columbia. The area within which offers will be considered will be specifically confined to the District of Columbia.

Improvement of Community Social and Economic Conditions

Let me now turn to the new provisions of Executive Order 11512 in which you also have special interest. In late 1969 a series of prospective site selections came to my attention in which it was quite clear that the best interests of the Federal Government would not be served by consideration solely of factors of price and the convenience of the occupying agency. In a memo to the Urban Affairs Council (now the Domestic Council) in December 1969, I said:

"In the selection of sites for Federal facilities, we believe the impact of location on the socio-economic development of a community should be upgraded to a point of equality with the internal considerations of the resident agencies. Returns to the community from an improved physical environment and stimulation of local employment should be weighed against whatever loss in internal efficiency an agency may suffer.

The Federal Government should attempt to secure 'double duty' from its construction and leasing dollars by location of Federal facilities in such a manner as to reinforce Federal programs in the social and economic areas. Coordination should be assured not only with the prospective resident agencies and local planning authorities, but also with Federal agencies such as HUD and HEW having programs for community betterment which could be directly benefited by Federal construction. Such coordination can contribute not only to formal urban renewal, model city, and new town programs, but also to broader efforts directed toward the reduction in the number of our citizens who are unemployed or tied to public welfare.

In determining the priorities to be accorded Federal construction projects, we further believe the urgency of a building planned for an urban renewal or development area to the life of the overall renewal plan should be given weight equal to the need for new or additional Federal office space in a given area. Delay in completing a Federal facility may jeopardize or perhaps completely undermine a renewal or development program. Yet this factor does not now enter into the priority equation on a significant level. Thus, the Federal Government is placed in the position of failing to support through its construction program the achievement of goals it has set for its social and economic programs."

From the recommendations which accompanied this statement, Executive Order 11512 evolved and was signed by President Nixon on February 27, 1970. Section 2(a)(2) of that order states:

"consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of new communities and the impact a selection will have on improving social and economic conditions in the area."

In addition to adding these new factors the Executive Order also reduced from "primary" to "material" the weight to be attached to the internal efficiency of operation of the resident agency or agencies.

In considering these factors GSA is specifically directed to consult with and receive advice from the Secretaries of Housing and Urban Development; Health, Education and Welfare; Commerce; and others as appropriate. In addition to specific consultation with these Federal departments, GSA is also to consider consistency with State and local

plans and programs, and in this connection to consult with Governors, elected local officials and regional and local planning bodies.

Application of Executive Order 11512

It is obvious that only in very rare cases, if ever, will all of the factors bearing upon the potential for improving social and economic conditions in the area be satisfied to the optimum extent by any one site selection. What is required is a consideration of all of the factors drawn together in the Executive Order, balanced with each other, and a reasoned determination in selecting a site that will best serve the overall interests and programs of the Government. One or more factors may--and in most cases will--be less than fully satisfied. The purpose of the Executive Order is, however, to achieve the optimum overall benefit and value for the Federal Government in terms of price, agency efficiency and reinforcement of social and economic program objectives.

Executive Order 11512 is designed to aid in accomplishing a number of social and economic goals. I personally feel that this "unitary" approach to site selections is the correct one, weighing together the housing situation with the ability to relieve unemployment, to aid in physical development of new towns or rehabilitation of deteriorating areas,

and to reinforce other Federal programs such as model cities efforts. I believe that sole concentration on one of these factors, such as housing, to the exclusion of all others, would be in error.

The amendment to the Federal Property Management Regulations which I had issued 9 months earlier relating to avoidance of hardship to employees by reason of inadequate housing and transportation was incorporated in the Executive Order as section 2(a)(6). To illustrate briefly the interrelationship between sections 2(a)(2) and 2(a)(6) of the Executive Order, suppose there exists an area where adequate low and moderate income housing will be made available to employees of a proposed Federal facility, but there is not adequate low and moderate income housing for other persons in the community. This area would meet fully the requirements under section 2(a)(6) for employee housing. However, the lack of other housing would be one of the several factors-- and a negative one--considered under section 2(a)(2), the section dealing with community social and economic factors.

If circumstances were such that it was necessary to locate in an area where the factors on balance were negative under section 2(a)(2), GSA would then use its influence to attempt to have the defects remedied. In the case of housing, a recently executed agreement with HUD provides that GSA and HUD will develop an affirmative action plan designed to ensure that an adequate supply of such housing will be made available.

Circumstances where site selections not in accordance with the social and economic objectives of the Executive Order might be necessary include, for example, the fixed, locational requirements of certain facilities such as border patrol stations and agricultural experimental facilities, and the legitimate time frame requirements of certain lease procurements such as those for newly created agencies, when no space meeting the guidelines is available for lease to the Government within those time limits.

Consultation with HUD

Both sections of Executive Order 11512 require determinations of adequacy and availability of housing. As I have indicated earlier, GSA is obligated to consult with the Departments of HUD, HEW and Commerce under section 2(a)(2) whenever the facility might have material impact on community social and economic factors. In making the judgments called for under section 2(a)(6) and its predecessor Federal Property Management Regulation, it has become clear to us that GSA lacks the necessary expertise as to housing, and that we should also rely upon the advice of HUD in this regard. On June 11, 1971, we signed an agreement with HUD formalizing a procedure whereby they will advise us on both aspects of the Executive Order. This will obviate the need for GSA to otherwise duplicate and overlap HUD's already existing expertise in this area.

Therefore, the advice of HUD will be uniformly obtained on all housing questions under the Executive Order, except of course where a prospective lease is so small as to have minimal impact of any kind.

Fresno IRS Data Processing Center

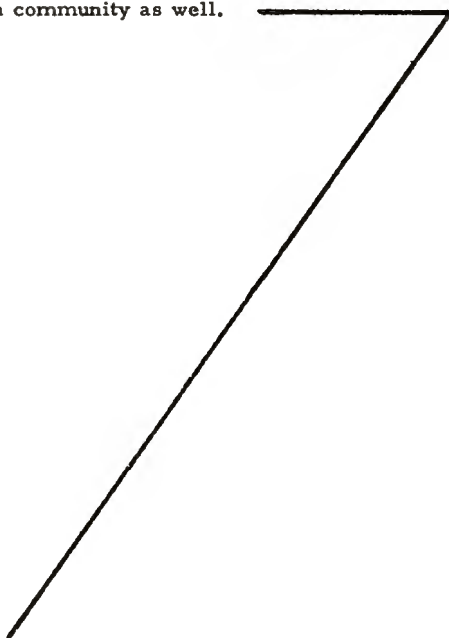
The landmark case in the application of Executive Order 11512 was the selection of a site for a new IRS data processing center in Fresno, California. This selection was also the prime example used by GSA in its presentation to the Urban Affairs Council in December of 1969, which led to the issuance of the Executive Order.

In the course of selecting the site for this facility, we examined 21 different offers and received advice from the occupying agency (Internal Revenue Service) and from the Departments of Housing and Urban Development; Health, Education and Welfare; and Commerce. We also considered the report of the Fresno Community Development Program, which was produced with the cooperation of city and county planning officials.

Basically, three areas of the city were under consideration. The occupying agency preferred the Northeast section of Fresno, predominantly white middle and upper middle class in character, on the grounds of its proximity to a large potential source of part time labor, Fresno State College. The three federal departments and the community supplied study strongly favored both the southwest area, predominantly black and almost rural in character, and the southeast area, a declining section inhabited primarily by Mexican-Americans, over the Northeast area.

A southeast site was eventually selected as compatible with the needs of both the occupying agency and the community. The selected site is

expected to contribute substantially to the alleviation of social blight and provide economic opportunity for the unemployed and under-employed in the area. It also is in proximity to a major portion of the Mexican-American community which is the largest minority group in metropolitan Fresno. Selection of this site will also aid in minimizing the growing racial and ethnic conflict between the Mexican-American, black, and white communities by balancing on-going Federal program assistance in Southwest Fresno with new evidence of Federal determination to meet the problems of the Southeast Fresno Mexican-American community as well.



Philadelphia Social and Economic Services Center

Another significant instance where Executive Order 11512 has come into play was in Philadelphia. There we signed a lease for a large block of space in a building under construction at the University City Science Center to house the regional operations of several socio-economic agencies. If the factors of price and convenience of the occupying agencies were the sole determinants in the site selection process, space in the business and financial district would undoubtedly have been selected. However, under the Executive Order, we were able to consult with the Departments of Commerce; Health, Education and Welfare; Housing and Urban Development; the Delaware Valley Regional Planning Commission; the City of Philadelphia; and the Pennsylvania State Clearing House. The comments received indicated that the University City Science Center had very good access to transportation, that it was immediately adjacent to the city's second highest concentration of low income and minority population, and that the site offered the greatest promise for community improvement. We also determined that the Federal government was already investing \$18.6 million in this immediate area to overcome severe problems of over-crowded housing, low family income and low educational attainment. It was also determined that there was substantial low and moderate income housing readily accessible to the site and that such housing was available on an open non-discriminatory basis. The selection of this site was also determined

to be completely consistent with the plans of the regional and local planning agencies.

There are other examples of the effective operation of Executive Order 11512 which I could cite, but I think these two illustrations should give you the flavor of what we are doing at GSA in this area.

Relocation Assistance

Before concluding let me turn briefly to another example of GSA's concern for the availability of moderate and low income housing on a non-discriminatory basis. In West Palm Beach, Florida, approximately 30 minority families are living in buildings slated for demolition to make way for a new Post Office and Federal Building. GSA entered into a contract with the State of Florida, Department of Community Affairs, to provide relocation assistance and counseling service to all the affected families. Under the contract a staff of three professionals moved onto the site to work directly with the families to relocate them into suitable replacement housing. In taking this action, GSA is the first Agency to implement the Relocation Assistance Act signed by President Nixon on January 2, 1971.

This concludes my prepared remarks. I hope the foregoing has given you a picture of the types of changes we have made at GSA in areas affecting civil rights, particularly with regard to our activities in leasing and

constructing Federal facilities. As I have said, more can be done and more will be done, but I am proud, and I believe justifiably so, of our record over the past 27 months. I welcome your comments and questions.

*Exhibit No. 38*UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405

JUN 4 1971

Honorable Theodore M. Hesburgh
Chairman, Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Chairman:

We are pleased to furnish the data requested in the letter of May 11 from Mr. John H. Powell, Jr. This information does not include the number of white and minority employees as we do not maintain statistics of this type in our information system.

The attached fact sheets provide data for the calendar years 1969, 1970, and the first quarter 1971 for Atlanta, Boston, Chicago, Detroit, Houston, New York City, San Francisco-Oakland and Washington, D.C. This information includes the number of agencies and Federal employees moved from a central city location to a suburban location within the same metropolitan area; number of employees of new facilities (agencies) moved into the metropolitan area; and number of Federal employees within the community's city limits and suburban area.

I trust that this is satisfactory. Please let me know if I may be of further assistance.

Sincerely,



Robert L. Kunzig
Administrator

Enclosures

Atlanta, Georgia
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the central city to a suburban location:			
a. Agencies	0	1	0
b. Employees	0	2	0
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	136	147	11
b. Suburban	250	5	21
3. Number of Federal employees in Central city and suburbs:			
a. Central city	10,991	11,190	11,200
b. Suburban	<u>5,108</u>	<u>5,065</u>	<u>5,080</u>
c. Total	<u>16,099</u>	<u>16,255</u>	<u>16,280</u>

Boston, Massachusetts
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the Central city to a suburban location:			
a. Agencies	0	3	0
b. Employees	0	105	0
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	376	0
b. Suburban	0	0	0
3. Number of Federal employees in central city and suburbs:			
a. Central city	7,544	8,154	8,218
b. Suburban	<u>3,041</u>	<u>1,679</u>	<u>1,797</u>
c. Total	<u>10,585</u>	<u>9,833</u>	<u>10,015</u>

Chicago, Illinois
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the central city to a suburban location:			
a. Agencies	0	0	0
b. Employees	0	0	0
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	66	0
b. Suburban	0	0	0
3. Number of Federal employees in central city and suburbs:			
a. Central city	20,616	20,695	19,941
b. Suburban	<u>1,208</u>	<u>1,258</u>	<u>1,326</u>
c. Total	21,824	21,953	21,267

Detroit, Michigan
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the central city to a suburban location:			
a. Agencies	0	1	0
b. Employees	0	1,259	0
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	0	0
b. Suburban	0	0	0
3. Number of Federal employees in central city and suburbs:			
a. Central city	7,278	6,179	6,236
b. Suburban	<u>495</u>	<u>1,730</u>	<u>1,737</u>
c. Total	7,773	7,909	7,973

Houston, Texas
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the Central city to a suburban location:			
a. Agencies	0	1	1
b. Employees	0	8	15
2. Number of employees of new facilities (agencies) moved into Metropolitan areas:			
a. Central city	0	0	0
b. Suburban	0	0	0
3. Number of Federal employees in central city and suburbs:			
a. Central city	2,771	2,895	2,963
b. Suburban	<u>63</u>	<u>62</u>	<u>62</u>
c. Total	2,834	2,957	3,025

San Francisco-Oakland, California
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the Central city to a suburban location:			
a. Agencies	0	2	2
b. Employees	0	14	8
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	30	13
b. Suburban	74	71	15
3. Number of Federal employees in Central city and suburbs:			
a. Central city	19,936	18,775	18,673
b. Suburban	<u>3,204</u>	<u>3,329</u>	<u>3,411</u>
c. Total	23,140	22,104	22,084

Washington, D.C.
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the Central city to a suburban location:			
a. Agencies	5	4	3
b. Employees	6,337	12,417	641
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	90	30
b. Suburban	0	0	0
3. Number of Federal employees in Central city and suburbs:			
a. Central city	144,482	137,172	137,434
b. Suburbs	<u>92,348</u>	<u>104,761</u>	<u>100,895</u>
c. Total	236,830	241,933	238,329

New York, New York
(Metropolitan Area)

	<u>1969</u>	<u>1970</u>	<u>1971</u> (First Quarter)
1. Number of agencies and Federal employees moved from the Central city to a suburban location:			
a. Agencies	0	0	0
b. Employees	0	0	0
2. Number of employees of new facilities (agencies) moved into Metropolitan area:			
a. Central city	0	0	0
b. Suburban	0	0	0
3. Number of Federal employees in central city and suburbs:			
a. Central city	38,350	36,135	35,892
b. Suburbs	<u>1,760</u>	<u>1,394</u>	<u>1,730</u>
c. Total	40,110	37,529	37,622

Exhibit No. 39

MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE
GENERAL SERVICES ADMINISTRATION CONCERNING LOW AND MODERATE INCOME HOUSING

PURPOSE: The purpose of the Memorandum of Understanding is to provide an effective, systematic arrangement under which the Federal government, acting through HUD and GSA, will fulfill its responsibilities under law, and, as a major employer, in accordance with the concepts of good management, to assure for its employees the availability of low and moderate income housing without discrimination because of race, color, religion or national origin, and to consider the need for development and redevelopment of areas and the development of new communities and the impact on improving social and economic conditions in the area, whenever Federal government facilities locate or relocate at new sites, and to use its resources and authority to aid in the achievement of these objectives.

1. Title VIII of the Civil Rights Act of 1968 (42 USC 3601) states, in Section 801, that "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." Section 808(a) places the authority and responsibility for administering the Act in the Secretary of Housing and Urban Development. Section 808(d) requires all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of Title VIII (fair housing) and to cooperate with the Secretary to further such purposes. Section 808(e)(5) provides that the Secretary of HUD shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of Title VIII.
2. Section 2 of the Housing Act of 1949 (42 USC 1441) declares the national policy of . . . "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family. . . ." This goal was reaffirmed in the Housing and Urban Development Act of 1968 (Sections 2 and 1601; 12 USC 1701t and 42 USC 1441a).
3. By virtue of the Public Buildings Act of 1959, as amended; the Federal Property and Administrative Services Act of 1949, as amended; and Reorganization Plan No. 18 of 1950, the Administrator of General Services is given certain authority and responsibility in connection with planning, developing, and constructing Government-owned public buildings for housing Federal agencies, and for acquiring leased space for Federal agency use.

4. Executive Order No. 11512, February 27, 1970, sets forth the policies by which the Administrator of General Services and the heads of Executive agencies will be guided in the acquisition of both federally-owned and leased office buildings and space.
5. While Executive Order No. 11512 provides that material consideration will be given to the efficient performance of the missions and programs of the Executive agencies and the nature and functions of the facilities involved, there are six other guidelines set forth, including:
 - the need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area; and
 - the availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking.
6. General Services Administration (GSA) recognizes its responsibility, in all its determinations with respect to the construction of Federal buildings and the acquisition of leased space, to consider to the maximum possible extent the availability of low and moderate income housing without discrimination because of race, color, religion or national origin, in accordance with its duty affirmatively to further the purposes of Title VIII of the Civil Rights Act of 1968 and with the authorities referred to in paragraph 2 above, and the guidelines referred to in paragraph 5 above, and consistent with the authorities cited in paragraphs 3 and 4 above. In connection with the foregoing statement, it is recognized that all the guidelines must be considered in each case, with the ultimate decision to be made by the Administrator of General Services upon his determination that such decision will improve the management and administration of governmental activities and services, and will foster the programs and policies of the Federal Government.
7. In addition to its fair housing responsibilities, the responsibilities of HUD include assisting in the development of the nation's housing supply through programs of mortgage insurance, home ownership and rental housing assistance, rent supplements, below market interest rates, and low-rent public housing. Additional HUD program responsibilities which relate or impinge upon housing and community development include comprehensive planning assistance, metropolitan area planning coordination, new communities, relocation, urban renewal, model cities, rehabilitation loans and grants, neighborhood facilities grants, water and sewer grants, open space, public facilities loans, Operation BREAKTHROUGH, code enforcement, workable programs, and others.

8. In view of its responsibilities described in paragraphs 1 and 7 above, HUD possesses the necessary expertise to investigate, determine, and report to GSA on the availability of low and moderate income housing on a nondiscriminatory basis and to make findings as to such availability with respect to proposed locations for a federally-constructed building or leased space which would be consistent with such reports. HUD also possesses the necessary expertise to advise GSA and other Federal agencies with respect to actions which would increase the availability of low and moderate income housing on a nondiscriminatory basis, once a site has been selected for a federally-constructed building or a lease executed for space, as well as to assist in increasing the availability of such housing through its own programs such as those described in paragraph 7 above.

HUD and GSA agree that:

- (a) GSA will pursue the achievement of low and moderate income housing objectives and fair housing objectives, in accordance with its responsibilities recognized in paragraph 6 above, in all determinations, tentative and final, with respect to the location of both federally-constructed buildings and leased buildings and space, and will make all reasonable efforts to make this policy known to all persons, organizations, agencies and others concerned with federally-owned and leased buildings and space in a manner which will aid in achieving such objectives.
- (b) In view of the importance to the achievement of the objectives of this memorandum of agreement of the initial selection of a city or delineation of a general area for location of public buildings or leased space, GSA will provide the earliest possible notice to HUD of information with respect to such decisions so that HUD can carry out its responsibilities under this memorandum of agreement as effectively as possible.
- (c) Government-owned Public Buildings Projects:
 - (1) In the planning for each new public buildings project under the Public Buildings Act of 1959, during the survey preliminary to the preparation and submission of a project development report, representatives of the regional office of GSA in which the project is proposed will consult with, and receive advice from, the regional office of HUD, and local planning and housing authorities concerning the present and planned availability of low and moderate income housing on a nondiscriminatory basis in the area where the project is to be located. Such advice

will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). A copy of the prospectus for each project which is authorized by the Committees on Public Works of the Congress in accordance with the requirements of Section 7(a) of the Public Buildings Act of 1959, will be provided to HUD.

2. When a site investigation for an authorized public buildings project is conducted by regional representatives of GSA to identify a site on which the public building will be constructed, a representative from the regional office of HUD will participate in the site investigation for the purposes of providing a report on the availability of low and moderate income housing on a nondiscriminatory basis in the area of the investigation. Such report will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a).

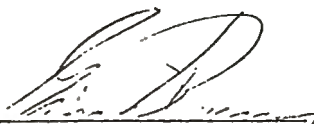
(d) Major Lease Actions Having a Significant Socio-Economic Impact on a Community:

At the time GSA and the agencies who will occupy the space have tentatively delineated the general area in which the leased space must be located in order that the agencies may effectively perform their missions and programs, the regional representative of HUD will be consulted by the regional representative of GSA who is responsible for the leasing action to obtain advice from HUD concerning the availability of low and moderate income housing on a nondiscriminatory basis to the delineated area. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). Copies of lease-construction prospectuses approved by the Committees on Public Works of the Congress in conformity with the provisions of the Independent Offices and Department of Housing and Urban Development appropriation acts, will be provided to HUD.

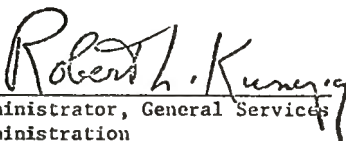
- (e) GSA and HUD will each issue internal operating procedures to implement this memorandum of understanding within a reasonable time after its execution. These procedures shall recognize the right of HUD, in the event of a disagreement between HUD and GSA representatives at the area or regional level, to bring such disagreement to the attention of GSA officials at headquarters in sufficient time to assure full consideration of HUD's views, prior to the making of a determination by GSA.

- (f) In the event a decision is made by GSA as to the location of a federally-constructed building or leased space, and HUD has made findings, expressed in the advice given or a report made to GSA, that the availability to such location of low and moderate income housing on a nondiscriminatory basis is inadequate, the GSA shall provide the HUD with a written explanation why the location was selected.
- (g) Whenever the advice or report provided by HUD in accordance with paragraph 9(c)(1); 9(c)(2) or 9(d) with respect to an area or site indicates that the supply of low and moderate income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the agency involved, GSA and HUD will develop an affirmative action plan designed to insure that an adequate supply of such housing will be available before the building or space is to be occupied or within a period of six months thereafter. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low and moderate income housing available to the agency's personnel on a non-discriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provision of such housing, when such obstacles exist, and to take effective steps to assure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housing. As part of any plan during, as well as after its development, HUD agrees to give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

10. This memorandum will be reviewed at the end of one year, and modified to incorporate any provision necessary to improve its effectiveness in light of actual experience.


 Secretary, Department of
 Housing and Urban Development

Dated: June 11, 1971


 Administrator, General Services
 Administration

Dated: June 11, 1971

*Exhibit No. 40*U. S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20590

STATEMENT OF JOHN A. VOLPE, SECRETARY OF TRANSPORTATION,
BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS,
WASHINGTON, D. C., WEDNESDAY, JUNE 16, 1971.

Mr. Chairman and Members of the Commission:

I appreciate this opportunity to appear before the Commission to discuss the Department of Transportation's activities under the Civil Rights Acts of 1964 and 1968, as they relate to housing. I am accompanied by Mr. Francis C. Turner, Federal Highway Administrator and Mr. Richard F. Lally, Departmental Director of Civil Rights.

I share the Commission's concern for the problems involved in providing increased housing opportunities for minorities and low-income citizens, particularly in our suburban areas. We believe the law on this topic is clear. Fair housing without regard to race, color, religion, or national origin is a basic right of all people in this Nation. This right was re-enforced with the passage of the 1968 Civil Rights Act, title VIII of which established a national fair housing policy. The President's recent statement on fair housing re-enforces this basic right and makes clear that appropriate Federal programs can make a significant contribution toward the achievement of our fair housing goal.

The law requiring nondiscrimination in Federal financial assistance programs is just as clear. Title VI of the 1964 Act provides that no person on the basis of race, color, or national origin shall be denied

the benefits of or the opportunity to participate in programs or activities receiving Federal financial assistance.

We believe the policies and practices governing the financial assistance programs of the Department of Transportation to be in compliance with these legal requirements. We believe our programs have contributed significantly toward the achievement of national goals of nondiscrimination and equal opportunity in housing. We believe, also, that they can contribute even more, particularly in the light of the President's recent policy statement.

The Department of Transportation provides grants-in-aid of almost \$6 billion annually. This is the second largest financial assistance program in the Federal Government, exceeded only by that of the Department of Health, Education and Welfare. The provisions of title VI of the Civil Rights Act of 1964 are woven into the administration and operation of the Department's grant programs. Being the newest cabinet department, our title VI regulations were approved by the President and published just one year ago on June 18 1970. We were informed by the Office of Management and Budget that these regulations, with their broader and more specific coverage, now constitute the model for the executive branch. We are in the process of issuing a standard title VI assurance designed to cover all of our grant-in-aid programs. We are also preparing uniform title VI

compliance procedures for use by all elements of the Department in dealing with recipients of grants in aid. These actions will significantly strengthen our compliance program, and assure a consistent approach to compliance problems.

During calendar years 1969 and 1970, we conducted almost 6,000 title VI compliance reviews or an average of 240 reviews per month. These totals do not include specific compliance reviews in connection with the Federal-aid highway program. The general review procedures followed by the Federal Highway Administration (FHWA) with regard to the State highway-aid functions are such that violations of title VI would ordinarily be discovered without specific reviews for that sole purpose. FHWA field personnel work closely with State operating personnel in all areas affected by title VI, such as relocation, right-of-way, planning, etc., so that any discriminatory practices and policies followed by the States would be readily apparent. Nevertheless, in order to reinforce and highlight the emphasis on the nondiscrimination requirements of title VI, the FHWA is developing a specific title VI compliance review program which will be placed in effect shortly.

Other specific actions to further title VI objectives have already been taken by FHWA. In January 1971, all FHWA Regional Administrators were briefed on the FHWA title VI responsibilities. Among the items covered were (1) the impact of title VI on highway program activities;

(2) creating greater awareness among program personnel of how title VI affects their activities; (3) the importance of close coordination among FHWA offices with title VI responsibilities, at both staff and operational levels; and (4) the necessity for a strong enforcement program.

In following up on that meeting, the Federal Highway Administrator recommended specific title VI procedures and practices to each Regional Administrator relative to the development by each State Highway Department of an enforcement program covering both external and in-house activities. That program is to be submitted and approved by the FHWA. The Administrator also asked that provision be made for each FHWA division office to monitor State Highway Department activities from a title VI viewpoint, with specific attention to the following areas:

1. Contract award procedures.
2. Long-range planning processes.
3. Relocation assistance programs.
4. Right-of-way acquisition and property management programs.

Various instructional materials were also made available to Regional Administrators.

On March 17, 1971, the Federal Highway Administrator recommended that each Regional Administrator establish a Regional Civil Rights Steering Committee composed of top regional officials directly concerned with the various areas of responsibility associated with monitoring and implementing the civil rights laws and executive orders. A counterpart committee was

recommended for each division office. The primary purpose of these committees is to assist the field civil rights officers in providing guidance and consultation to the Regional Administrators and the Division Engineers.

As of June 16, 1971, every FHWA region has taken positive action to implement the Administrator's requests. At least two regions have developed detailed guidelines for the enforcement of title VI obligations. In several regions the Steering Committees are not only appointed, but operational to the point where they have made specific formal recommendations to the Regional Administrators in the areas of (a) establishing positions for Civil Rights Specialists in the division offices, (b) implementing Regional title VI guidelines, and (c) expanding the personalized service made available to persons relocated by highway projects.

Other actions taken in the FHWA Regional Offices include the following:

1. Preparation of an extensive compendium of civil rights material ~~relating to right-of-way and~~ related activities.
2. Preparation by Highway Program Officers of specific title VI guidelines relating to their operational activities.

3. Special title VI seminars for Division Engineers and key members of their staffs relating to State and FHWA enforcement responsibilities.

The Department has also taken significant actions in the area of fair housing. In October 1969, we established the policy that any construction projects assisted by the Department which involved the displacement or relocation of people would not be approved unless and until adequate replacement housing had been provided -- built if necessary. The policy requires that all such housing must be fair housing -- available to all persons regardless of race, color, religion, sex, or national origin. When it is considered that each year approximately 70,000 people are displaced as a result of DOT construction activities -- 50,000 by highway construction alone -- the impact of this policy on the housing patterns throughout the Nation is apparent.

With regard to the acquisition, construction, expansion or relocation of Departmental facilities, even stronger civil rights requirements have been in effect since January 1970. Factors ~~required~~ for consideration with regard to our own facilities include not only fair housing but also low- and moderate-income housing, the availability of public transportation, the existence of integrated school systems, and the minority population in the area involved.

In his statement of June 11, the President set forth the policies that would guide the Administration in its efforts "to eliminate racial discrimination in housing, to enlarge housing opportunities for all Americans and to assist in stable and orderly community development." DOT programs, particularly Federal-aid highway and urban mass transportation assistance programs, can contribute significantly to the achievement of these objectives, and we will make every effort to assure that they do.

While detailed criteria and procedures have yet to be worked out, we are considering at this time some type of a requirement that applicants for DOT assistance to projects in metropolitan areas supply a specific analysis as to whether a proposed project would have a positive impact on any existing patterns of racial concentration in the area involved. This analysis might include a breakdown of the existing housing patterns and practices, an estimate of the anticipated positive changes in the direction of fair housing, and a description of how this would be accomplished. Without this analysis, such projects would not be approved. For those projects having a positive impact, there would be a followup evaluation of the extent to which the project succeeded in encouraging the goal of fair housing. Both steps would include the collection and analysis of racial-ethnic data pertinent to the area involved. These new procedures would probably not be applied to all projects in metropolitan areas but only to those which would appear significant in social, environmental or economic terms. In this endeavor, we would expect to work closely with the Department of Housing

and Urban Development, and other interested Federal agencies, to assure consistency in approach, to avoid duplication of effort or requirements, and to assure maximum effectiveness in carrying out the President's policies.

In requiring this assessment of the impact of transportation programs on housing and urban development, we are in fact acting in a manner consistent with the approach the Department has already undertaken. Several major urban highway projects have either been significantly modified, or are currently held in abeyance and being reviewed in order to determine the social, environmental, and human impact on the affected communities which in large measure are made up of minorities and the poor -- such as Boston, Philadelphia, Baltimore, Charleston, West Virginia, and the District of Columbia. In establishing new procedures to evaluate more effectively the impact of projects on patterns of racial concentration, we will be giving additional emphasis to an existing area of great concern.

The civil rights ~~interest~~ and activities of the Department of Transportation are not limited to the areas covered by title VI and title VIII, the focal points of this particular hearing. The Department is conducting a strong civil rights program across the board. This

includes placing great emphasis on equal opportunity for minorities and women-within DOT, a vigorous contract compliance effort pursuant to Executive Order 11246, and an aggressive minority business enterprise program to increase opportunities for existing and potential minority firms.

In our Departmental equal employment program, minority employment over the past 2 years increased approximately 2,000 to 8,675 or 8.4 percent. Nineteen minorities, including 16 Negroes, now hold supergrade positions. Two minorities and one woman hold executive level positions. Minorities in DOT professional grades GS-10 through GS-18 increased from 794 to 1,300. The number of women holding professional level jobs GS-10 through GS-18 increased from 498 to 743, and the number of women in grades GS-14 and 15 increased from 22 to 46.

We also feel we have made significant accomplishments in our contract compliance program. As you may know, DOT's construction contract activities are the largest in the Federal Government. In fact, one of every three Federal dollars spent for construction comes from DOT. In March 1969, specific equal opportunity provisions were established for inclusion in the advertised specifications for all Federal-aid highway construction projects, thereby putting all potential bidders on advance notice as to the affirmative action requirements that must be made if they become successful bidders.

Surveys of total and minority employment on Federal-aid highway construction projects, conducted as of July 1969 and July 1970, showed an increase of total employment from 150,000 to 176,000, or 16 percent, and an increase in minority employment from almost 28,000 to 35,000, or 25 percent.

On July 21, 1970, plans were announced for a nationwide Federal-State program to train 10,000 workers a year for skilled highway construction jobs with special emphasis on minority trainees. The order placing this program in effect was issued September 2, 1970.

Last October, we published in the Federal Register our proposed contract compliance program regulation. We hope to have a final regulation published within the next month. We have taken special affirmative action to combat discriminatory practices by skilled craft unions in Buffalo, New York, and Mobile, Alabama. Special requirements were imposed on DOT construction contracts in those areas with the result that minorities were employed in skilled job classifications in which they had previously been denied employment.

We also have a record of progress in our program to promote minority business enterprise. In fiscal year 1970, we awarded 20 supply or service contracts, amounting to almost \$900,000, to minority firms. In fiscal year 1971, we will more than double that accomplishment. As

of April 30, 1971, we have already awarded 38 supply or service contracts, amounting to almost \$1,400,000, to minority firms. During the first quarter of this calendar year, 166 contracts or sub-contracts were awarded to minority contractors in our Federal-aid highway program. These contracts totaled almost \$30 million and range in dollar value from \$1,000 to almost \$3 million. We have also awarded grants totaling over \$450,000 to three predominantly black colleges.

In closing, I would like to comment on one other major effort the Department is making to lessen the polarization between the races, the matter of such great concern to us all. This is our attempt to revitalize public transportation in urban areas. Much of my energy was expended during the first year of this Administration in getting a new, adequately funded mass transportation program enacted. We were successful. We now have the opportunity to develop public transportation systems which will permit persons to move from the suburbs to the central city and from the city to the suburbs, quickly and at reasonable costs. These systems will benefit not only the poor, but also the old, the young, and the infirm.

These systems need not be and, in most cases, will not be rapid rail systems. Rather, they will be bus systems running over improved roads, perhaps with exclusive bus lanes. With careful planning and a

proper concern for the role of transportation as a function of urban development, these systems can be developed both to promote the movement of people and to facilitate the achievement of other major objectives of our society, such as fair housing. It is in this spirit that the Department will attempt to carry out its responsibilities.

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Exhibit No. 41



Department of Justice

FOR RELEASE AT 4:00 P.M. (EDT)
WEDNESDAY, JUNE 16, 1971

STATEMENT
OF
ATTORNEY GENERAL
JOHN N. MITCHELL
BEFORE THE
UNITED STATES COMMISSION ON CIVIL RIGHTS
ON
ENFORCEMENT OF FAIR HOUSING LAWS

JUNE 16, 1971

Father Hesburgh, members of the Commission and Mr. Glickstein, I am pleased to have this opportunity to discuss with you the role of the Department of Justice in enforcement of laws relating to fair housing.

My prepared remarks, which outline the steps taken by our Department to implement Title VIII of the Civil Rights Act of 1968, will be brief, so that the balance of the time can be devoted to answering your questions.

The policy of the Department of Justice is to enforce the Fair Housing Act vigorously and fairly and to secure effective nationwide compliance. This policy was reaffirmed in the June 11 statement of the President.

Since suits by the Attorney General are but one of the techniques of enforcement provided by the 1968 Act, the others being suits by aggrieved individuals and investigation and conciliation by the Secretary of Housing and Urban Development and

by state and local agencies, the Department must gear its enforcement activities to priorities which will most effectively eliminate discrimination in housing. In general, priority has been given to cases in large cities and suburban areas with significant nonwhite populations and to suits involving important legal questions arising under the Fair Housing Act.

During the three years since the enactment of Title VIII, the Department has, as recognized in the Commission's reports, taken effective action to promote these ends.

The three principal accomplishments of the Department of Justice in the area of housing discrimination have been:

1. Aggressive litigation and other action to secure widespread compliance with the Act;
2. Favorable development of case law, with particular reference to comprehensive affirmative relief to correct the effects of past discrimination; and

3. Education of the victims of discrimination with respect to their rights, primarily through coordination with other agencies and with private organizations.

1. Litigation and other action.

Since January 1969 the Department of Justice has brought or participated in 92 suits against more than 250 defendants in 23 states and the District of Columbia. Many of these suits involve major defendants, for example, cases involving 21,000 units in New York City, 9,000 units in Los Angeles, and fourteen large real estate companies in Cleveland, Ohio. The suits have involved virtually every kind of discrimination arising under the Fair Housing Act, except discriminatory financing, and several possible suits in the area of financing are now being developed.

Almost all of our housing suits to date have involved discrimination against blacks, but we are fully prepared to litigate on behalf of other minorities whenever we have a basis for such litigation.

So far, the Civil Rights Division has not lost a single fair housing suit on the merits.

In addition to its litigation, the Department of Justice has corresponded with almost 600^{1/} landlords or real estate companies to advise them that the Attorney General has evidence that they have engaged in discriminatory practices. Virtually all of the recipients of such letters with whom negotiations are complete have agreed to comply with the law. Particularly significant notice letters of this kind were sent to eighteen major title insurance companies, which agreed to eliminate racially restrictive covenants from their title insurance policies, and to several major management companies, which have agreed to take comprehensive affirmative steps to promote desegregation.

^{1/} Almost 400 of these involve recent letters to landlords in the Los Angeles area who had listed with a rental agency. The rental agency's records indicated that these landlords had given the agency instructions not to rent on a nonracial basis.

2. Favorable development of case law

The United States has been almost uniformly successful in the pattern or practice litigation to which it has been a party and has assisted the courts to establish legal principles helpful to effective enforcement.

While all of the results of its litigation are not easy to capsulize, the following are among the most significant:

(a) The constitutionality of federal fair housing laws was indicated in Jones v. Mayer, 392 U.S. 409 (1968), in which the United States filed an amicus curiae brief closely paralleled by the Court decision.

(b) The Department has secured a number of holdings applying principles of liberal construction to the Act. For example, the prohibition against racial inducement to sell or rent (blockbusting), was held to encompass indirect references to race, such as "changing neighborhood."^{2/} The prohibition

^{2/} United States v. Mintzes, 304 F. Supp. 1305 (D. Md. 1969).

against discriminatory advertising was held to apply to media carrying the advertising as well as to the person advertising the property.^{3/} In a series of consent decrees, beginning with United States v. Lake Caroline, Inc.,^{4/} the Justice Department established the proposition that discriminatory solicitation of purchasers violates the prohibition against making dwellings unavailable on account of race. This principle has led to particularly comprehensive affirmative relief in such cases. In the letters to title insurance companies noted above, and in several consent decrees, the United States has also made the point that the publication and use of racially restrictive covenants violates the fair housing statute. Finally, the Department has taken the position in an amicus brief that incumbent tenants have stand-

^{3/} United States v. Hunter, C.A. No. 70-816 T (D. Md. April 13, 1971).

^{4/} 432-69-R (D. Va. Oct 13, 1969).

ing to complain of injury to their right of voluntary interracial association resulting from their landlord's discriminatory rental practices.^{5/}

(c) In the area of discrimination by suburban communities in zoning or land use planning, the Department litigated to a successful conclusion the case of Kennedy Park Homes v. City of Lackawanna.^{6/}

Our suit against Black Jack, Missouri was filed earlier this week. Also, we filed in the Supreme Court briefs urging certiorari in Ranjel v. City of Lansing,^{7/} and affirmance in Valtierra v. Housing Authority of San Jose.^{8/} However, in neither of the

^{5/} Brief in Trafficante v. Metropolitan Life Ins. Co., No. 71-1325, pending in the Court of Appeals for the Ninth Circuit.

^{6/} 436 F.2d 108 (2d Cir., 1970), cert. den. 39 L.W. 3434 (1971).

^{7/} 417 F.2d 321 (6th Cir. 1969), cert. den. 397 U.S. 980 (1970).

^{8/} 313 F.Supp. 1 (N.D. Cal. 1970), rev'd sub nom. James v. Valtierra, 39 L.W. 4488 (1971).

cases was our position adopted by the Court.

(d) Relief in fair housing cases requires that the defendant not only discontinue discriminatory practices and instruct employees to do so, but also that he adopt objective and reviewable standards and take affirmative steps to correct the effects of past discrimination.^{9/} A series of consent decrees in various parts of the country have included expansive provisions for affirmative relief, such as inclusion of fair housing statements in advertising, advertising in nonwhite media, solicitation of purchasers in black areas, and furnishing of vacancy lists to fair housing groups. Where blacks have allegedly been "steered" to predominantly black buildings, one major consent decree has required that preferential notification be given to them of vacancies in white buildings, and that they be offered a financial inducement to move.^{10/}

^{9/} United States v. West Peachtree Tenth Corp., 437 F.2d 221 (5th Cir. 1971).

^{10/} United States v. Life Realty, Inc., C.A. No. 70-C-964 (E.D. N.Y. Jan. 31, 1971).

3. Education of victims of discrimination as to their rights.

Civil Rights Division attorneys have developed close working relationships with fair housing groups in various parts of the United States, and have provided members of the public with information about the Department's activities through press releases and direct contact. Departmental attorneys have also accepted invitations from real estate organizations, bar associations, and other groups to explain legal requirements and to promote voluntary compliance.

The Department also maintains close contact with equal opportunity personnel in the Departments of Defense and of Housing and Urban Development, and has made contact with a number of state and local agencies with fair housing responsibilities to promote cooperation in the enforcement of fair housing laws. One consequence has been referrals of individual complaints from our Department to such agencies and of "pattern or practice" evidence from these agencies to our Department.

In conclusion, we have endeavored to make effective use of our authority under Title VIII and we shall continue to do so. We shall also continue our cooperation with the Department of Housing and Urban Development and the other federal agencies with responsibility in the area of housing. In implementing Title VIII, Title VI and other pertinent laws and executive orders, our goal shall be to accomplish the objective of equal housing opportunity as set forth by the President.

Thank you again for the opportunity to be here. I would be happy at this time to respond to any questions which you may have.




 NATIONAL ASSOCIATION OF HOME BUILDERS
National Housing Center

1625 L STREET, N.W., WASHINGTON, D. C. 20036

JOHN A. STASTNY
PRESIDENT

June 17, 1971

STATEMENT OF
 NATIONAL ASSOCIATION OF HOME BUILDERS
 OF THE UNITED STATES
 to the
 UNITED STATES COMMISSION ON CIVIL RIGHTS

Mr. Chairman and Members of the Commission:

I am John A. Stastny, this year's President of the National Association of Home Builders (NAHB). I am a third-generation builder in the Chicago area and have been active in the home building business over twenty-five years.

NAHB was organized in 1942 and is the trade association of the men who build the overwhelming majority of homes and apartments in America. It consists of 494 autonomous but affiliated state and local associations chartered in all 50 states and in Puerto Rico, with a total membership of over 54,000.

To assist the Commission in its incredibly complex task, we have set forth below a very condensed review of those efforts of the organized home building industry over almost two decades, which we believe pertinent to the subject of your inquiry.

In 1953, this Association set as its goal the production of "nothing less than livable homes, privately financed and produced, for every American family, including the aged, minorities, and lower income groups." (NAHB Annual Policy Statement 1953.)

That policy has been reiterated frequently since and has always remained our goal and our objective. For example, two years later we expressed our determination "to place the full resources of the home building industry behind the effort to raise the standard of housing conditions of citizens of minority groups." (NAHB Annual Policy Statement 1955.)

These were not mere words, soon forgotten in our every day struggle with the myriad of problems which seem constantly to beset the home building industry. The programs of the Association, steadily through the years, have at least made a conscious effort to attain this expressed objective. We sincerely believe that we have met some success although, of course, considering the enormity of the problem, what we have accomplished is admittedly comparatively very, very little.

The question of producing housing available to blacks and other minorities is inextricably intertwined with the tremendous problems of producing homes and apartments within the means of low and moderate income families.

The inflationary conditions of the past several years have not made this most difficult task any easier. Under pressure of steeply rising costs of land and materials and sharply escalating wage rates and borrowing costs, home prices and apartment rents have, of course, climbed. Each of these

elements of the problem merits extensive discussion in itself. Each of these is a powerful factor which helps to frustrate our stated objective of producing housing for all the American people. For purposes of the subject of the Commission's inquiry I will merely note them in passing.

These difficulties are compounded by the ambivalence of most communities in applauding the idea of good housing for low-income families but, at the same time, fiercely opposing any attempt to make land available for that purpose. We have fought for years for appropriate zoning and to make some sense out of obsolete, unrealistic, and (in many cases) highly restrictive building codes which needlessly add thousands of dollars to the cost of producing homes.

In 1966 we began to urge legislation, finally enacted in 1968 for the establishment of national goals to focus attention of Government and of the public on the priority we earnestly believe must be given to housing if our objective to house American properly is ever to be attained. We challenged the national will to properly order priorities in the allocation of national resources to accomplish this vital goal.

It often seems to us that public opinion in this country is fervently interested in constant discussion of housing problems -- but will not follow through to the point of demanding that practical action be taken to solve them. I have dwelt so long on this aspect because NAHB believes racial lack of opportunity in housing today is part of an even larger problem which should

be termed "economic discrimination." Economic discrimination sometimes occurs indirectly as an inevitable although unintended result of foolish zoning decisions or of unnecessarily restrictive building codes; sometimes (as in the case of some zoning determinations) deliberately.

We are convinced that racial discrimination in housing by individuals is happily steadily diminishing -- perhaps slowly but nonetheless surely. Public opinion in this regard has advanced a long, long way in the last 10 years. We believe this trend will accelerate.

In 1961 we said:

"We sincerely believe and earnestly hope that education, tolerance, and understanding will gradually lessen and eventually remove, the community attitudes which have kept builders from further progress toward meeting the needs of this portion of the home building market. We urge development of community group efforts to bring this about." (NAHB Annual Policy Statement 1961)

We have acted on that principle. As early as the Fall of 1962 NAHB co-sponsored a meeting at Princeton with the National Association of Inter-group Relations Officials and others prominent in the Civil Rights field. It was the first discussion of its kind between producers of homes and apartments and those concerned with social problems on the issue of equal opportunity in housing.

Also, for the NAHB Convention in 1962 in cooperation with the White House we produced a special film carrying a message from President Kennedy explaining Executive Order 11063 of November 20, 1962 on Equal Opportunity in Housing and urging the cooperation of the home building industry in carrying

it out. This filmed message was widely distributed throughout NAHB's affiliated associations as an educational effort of the Association and to assist in making this Executive Order more effective and understood.

Our purpose in 1962, 1963 and subsequently has been to participate in and help where possible nationwide and long-term educational programs which would attempt to lessen the basic prejudices which create the problem in the first place. This was reinforced by the policy position of the Association over these years. For example, when the Congress enacted the Fair Housing Act of 1968, our Board of Directors, meeting shortly thereafter in Washington on May 8, 1968, noted that legislation for the purpose of preventing discrimination in housing had become the law of the land and, by a unanimous resolution, declared and reaffirmed that: ". . . it is the policy of the National Association of Home Builders to abide by the law and to encourage all those sincerely concerned with housing American people to join with us to the end that we attain the basic objective of a decent, safe, and suitable environment for all families of America."

Throughout the years we have worked closely with all groups including HUD and its predecessor agency. Even more importantly, we have worked and are working with black home builders, both members of NAHB and others, to extend to them whatever help and information is available within this Association; to have them in attendance at our gatherings at which are presented panels, discussions and programs on many aspects of home building; and, in our turn, to learn from them -- and to obtain their

cooperation in solving -- the many problems of housing all American families, including particularly the special problems of housing minority families.

In cooperation with representatives of HUD, for example, at our last two Annual Conventions we had present as guests of the Association a group of over 100 black men and women interested in home building and, again, at our Board of Directors Meeting a few weeks ago here in Washington we had a similar group of approximately 70. We expect to continue and expand this relationship with the black building community both those who are NAHB members and those who choose to work independently.

We also have worked cooperatively over the years as noted above, with black or interracial organizations such as the National Association of Real Estate Brokers, the National Association of Minority Contractors, the National Committee Against Discrimination in Housing, and with the housing efforts of the National Council of Negro Women, the Urban League and the National Association for the Advancement of Colored People. Further, a number of our leading builders and staff have participated actively in the affairs and projects of these organizations.

We still believe, more strongly than ever, that voluntary cooperative efforts by community leaders of all races, to educate and inform must be developed to lessen and eventually to completely eliminate racial prejudice.

It should be emphasized that the concern of builders is primarily with the economics of the problem. But we nevertheless believe that an important element in these economic concerns is that the attitude of the community as a whole must change -- and we believe it has substantially changed and -- in almost all areas -- is continuing to change.

As stated above, we believe that presently the real problem is not active resistance to desegregation (except possibly in isolated areas) but rather is to be found in Governmental actions and lack of action -- both at the national and local levels -- which leave the production of housing subject to constant harassment and beset by constant added costs.

The two outstanding examples of this are exclusionary zoning and obsolete and expensive building codes. Many other examples could be cited. One such, for instance, is a recent set of Federal regulations issued by the Labor Department which, under the laudable purpose of establishing "construction safety standards" will substantially -- and in our view needlessly -- increase the cost of residential construction. Another example would be the "prevailing wage requirements" imposed on Government multi-family housing programs. Originally designed to prevent exploitation of workmen in an era of labor surplus, today this provision serves only to further stimulate the upward spiral in labor costs and to make more difficult any attempt to build housing for families of modest income.

With respect to zoning, long before housing desegregation was even thought of home builders were usually faced with serious resistance in the rezoning of land for higher density use. Everyone agrees that it is a

disgrace that more housing is not being provided for low and moderate income families -- but too often no one wants them on his block or on the block next to him. Practically every municipality welcomes industry to swell its tax rolls -- but none wants to rezone to provide land on which can be constructed the type of housing that lower income workers can afford.

This has been a major and growing problem for years. Perhaps in most cases this attitude does not necessarily reflect racial bias, although of course in some it either stems from prejudice or has the same result.

NAHB has constantly called on state and local communities abandon exclusionary zoning and subdivision regulations which, in our words of a few years ago, "distort the cost of land, reduce the supply, raise housing costs, and effectively bar lower and middle income families from housing." (NAHB Annual Policy Statement 1970.)

Last year we strongly supported legislation, proposed by the Secretary of HUD, to provide a legislative basis by which the Federal Government and affected citizens could overturn exclusionary zoning. We urged that the proposal go even further, saying in testimony before the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking and Currency (July 1970):

"We approve the request of the Secretary of HUD that there be added to this year's housing legislation a provision which would give the Department of Justice and affected citizens the right to go to court to overturn actions by local government which are aimed at keeping out federally assisted housing for low and moderate income families. We only question whether the proposal goes far enough.

"Why should this provision be limited to decisions affecting land use in areas that are undeveloped or predominately undeveloped? We understand that this proposal is directed at suburban areas that frequently do all under their power to keep out federally assisted housing for low and moderate income families. However, there are many of these areas which would be hard to classify as undeveloped or predominately undeveloped but in which there are significant amounts of land that could be made available for low and moderate income housing. This limitation should be removed."

We are continuing to try to cope with the growing problems of exclusionary zoning and new legislative proposals for national land use policies. These are now pressing and immediate matters in the Congress. We have just formed a special committee, composed of some of our most able members, which we hope will help to further develop sound zoning and land use policies for our industry and for modern America.

This Committee has had only a preliminary meeting at which was raised the question whether zoning, as practiced today, is obsolete -- whether zoning has been transformed from its constitutional basis of a device to protect the health, safety and welfare of a community, into an instrument of reaction to inhibit social progress. While we cannot at this time predict what this Committee will report, and of course NAHB's resources of money and manpower are relatively limited, it is not unlikely it will recommend that NAHB should attempt to lead an attack in the courts to try to put an end, once and for all, to this abuse of the zoning process.

Let me note that NAHB joined in the effort of several groups to intervene as amicus curiae in the appeal of the Valtierra case to the U. S. Supreme Court in an effort to prevent imposition of a referendum as a

condition precedent to public housing. We were concerned that such a requirement, if upheld, could provide to municipalities seeking to bar or limit Section 235 or Section 236 housing still another device to make even more difficult the production of housing for moderate income families. The Court rejected our petition to intervene and, as the Commission knows, went on to uphold that California law.

Ever since World War II we have fought for realistic local building codes. We have begun to despair that this can be accomplished without intervention by state or local governments. Thus in the same July 1970 testimony above cited we took a strong stand for the denial of HUD benefits to any community whose building code was more restrictive than provided in an established national standard. We said:

"We have a special interest in and policy on building codes. We suggest . . . legislation which would require that, as a condition for Federal assistance for the HUD programs, a community must have codes affecting construction within it which are not more restrictive than nationally recognized model code standards. Frequently, outmoded and restrictive codes are as much responsible for the inability to produce housing for low and moderate income families as is the affirmative effort to deny zoning or other needed actions for this type housing."

Underlying the entire problem of producing homes for low and moderate income families is the question of the availability of suitable financing at terms within their ability to pay. Perhaps the most effective tools yet devised to bridge the gap between the economic cost of homes and apartments which can be produced under today's conditions and the costs which purchasers and renters of limited income can afford are FHA Section 236 (for apartments) and Section 235 (for sales housing). The Commission is, we are sure, familiar with these Sections which provide

what amounts to a subsidy to moderate income families. With all due modesty this Association can claim a large share of the credit for conceiving and advocating enactment of these provisions.

These Sections are reshaping housing production to make available an increasing share of annual production at terms which lower income families can afford. Thus Section 235 in 1970 produced 116,200 homes or 13 1/2 percent of that year's production and it is projected that for the current year 1971 this will rise to 185,000 or 18 1/2 percent of expected private production. Section 236 in 1970 produced 104,820 units or 16.9 percent of that year's production and for the current year is projected to rise to 200,000 units or 22.2 percent of expected production.

It must be remembered that production under these Sections has, since their inception, been inhibited by lack of adequate funding. In 1969, only one year after enactment, we felt constrained to point out that "none of these potentially effective tools for low-income housing production has yet been adequately funded." That complaint persists.

As is evident from all of the above, in our view, the problem of producing in the suburbs any volume of housing available to minority groups is basically synonymous with the problem of producing new housing for persons of modest income.

We find, by and large, that the same problems with which we have wrestled for decades not only persist in the face of our strenuous efforts but seemingly become more complicated. We do not think these problems

will be solved until Federal, State and local governments -- compelled and buttressed by public opinion -- understand these highly complicated and interrelated factors and take vigorous action to place the full weight of Government and of the people behind practical moves to do something about them. If this can be done -- if housing supply can be increased -- we are convinced an increasing share will be available to minority groups. If, however, the collective society of America continues to talk about the problem -- but acts only to worsen it -- then we cannot hope to improve housing opportunities for minorities -- nor, for that matter, to provide adequate housing for all American families, whether white or black.

Our views are perhaps more succinctly stated in the following two paragraphs from our 1968 Annual Policy Statement:

"It is not enough to retell endlessly the housing problems of the disadvantaged. The immense challenge of the urban slums will not yield to conversation. Required is an attack for more comprehensive, and an allocation of our national resources far greater, than this Nation has yet mounted. Every builder must concern himself in developing, in collaboration with all interested citizens, the particular approach best suited to his locality.

"Quick and effective results can only be achieved by unleashing through appropriate incentives, the great creative force of private enterprise with only that assistance necessary to accomplish the broad objective."

I appreciate this opportunity to appear and to present this Statement to the Commission. We commend your efforts and will be happy to respond to any questions you may have. Thank you.



NATIONAL ASSOCIATION OF HOME BUILDERS

National Housing Center

1625 L STREET, N.W., WASHINGTON, D. C. 20036

JOHN A. STASTNY
PRESIDENT

June 17, 1971

SUPPLEMENTAL STATEMENT
of
JOHN A. STASTNY
PRESIDENT
NATIONAL ASSOCIATION OF HOME BUILDERS
to the
UNITED STATES COMMISSION ON CIVIL RIGHTS

Mr. Chairman and Members of the Commission:

I submitted a prepared statement to this Commission last week and I would like to have that statement placed in the record of these proceedings, with your permission.

Since my statement was submitted, President Nixon has issued a formal statement on Federal Policies Relative to Equal Housing Opportunity. I have therefore prepared a supplemental statement which I would like now to read.

The President's delineation of national housing policy, together with the ensuing Administration actions, represents a long step forward in efforts to end racial discrimination in housing.

While the President's definition and explanation of that policy stops short of directing active use of all available Federal means of ending such discrimination, subsequent actions of the Department of Housing and Urban Development, the Department of Justice, and the General Services Administration are encouraging.

The President drew a line, however, between 'racial discrimination' and 'economic discrimination' in the application of the Administration's policy, and therein lies a problem. All too often they are indistinguishable. In the ultimate sense, there's the question of why they should be distinguished. The basic result of the use of either is to deny a class of the citizenry -- low and moderate income families, black and white -- access to decent housing and environments.

We believe that unless the increasing problem of economic discrimination is met determinedly and forcefully it will not be possible to produce the necessary homes and apartments for families of low and moderate means, whether white or black. This position has been made in my statement submitted heretofore to the Commission (and which I understand will be printed in the record of these proceedings).

Fewer than 50 years ago zoning was held constitutional to the extent that it was reasonable in promoting the health, safety, and welfare of residents of a community.

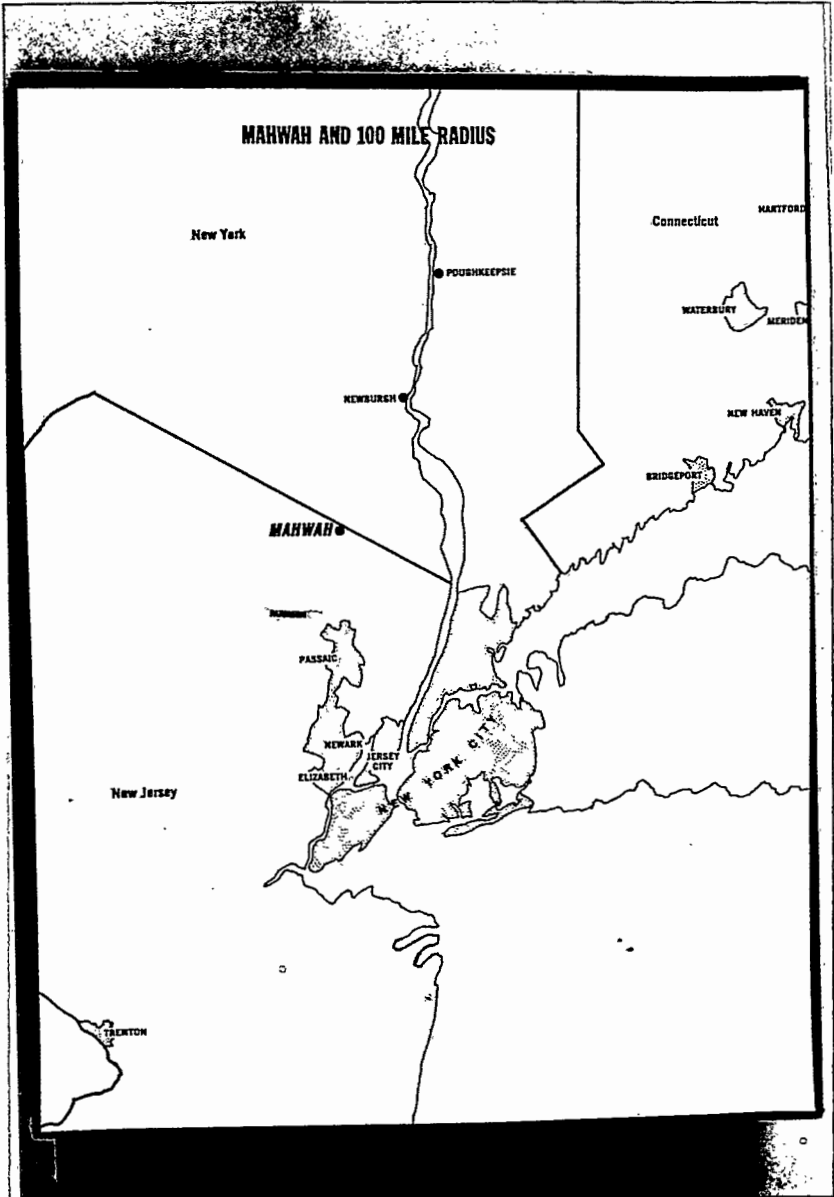
It is our view that now, in far too many cases, zoning is being used to protect the narrow self-interests of the particular community without regard to the health, safety, and welfare of the community and the National as a whole -- and frequently in contradiction to it. When it is used this way, a situation develops in which it is possible for local communities to frustrate national housing goals.

The problem of economic discrimination by zoning is, in our opinion, of fundamental and overwhelming importance; it can only be solved by positive leadership -- Federal, state, and local; public and private.

This, however, does represent a formidable task and, as the President has said, no single set of rigid criteria can be laid down that will fit a wide variety of local situations. Therefore, we are immensely encouraged by the President's statement that racial discrimination will not be tolerated and that the Department of Justice and the Department of Housing and Urban Development have been developing and elaborating a wide-ranging program aimed at creating equal housing opportunity.

I appreciate this opportunity to appear before the Commission. We commend your efforts and will be happy to respond to any questions you may have. Thank you.

FORD MOTOR COMPANY SURVEY OF EMPLOYEE TRAVEL AT
MAHWAH, NEW JERSEY PLANT



Mahwah, N.J. Ford Plant



HUMAN RESOURCES CORPORATION

OF CLAY, JACKSON AND PLATTE COUNTIES OF MISSOURI
PLATTE COUNTY HUMAN DEVELOPMENT CORPORATION
NEIGHBORHOOD SERVICE CENTER

Box H • Platte City, Missouri 64079 • 431-2178

June 23, 1971

Mr. Bill Sudow
United States on Civil Rights
1121 Vermont Avenue, N.W.
Washington, D. C. 20425

Dear Mr. Sudow:

Enclosed is the statement with the one change you suggested during our conference in Washington Tuesday, June 15, 1971. You had suggested an opening paragraph which is the only change from the original.

Also enclosed is a copy of a news article from the Kansas City Star Wednesday, June 16, 1971, and a copy of a follow-up article from the Kansas City Times, Wednesday, June 23, 1971. I am sending copies of these news articles to Mr. Sandy Ross of the Department of Justice.

Again let me thank you for all of your assistance while in Washington.

Sincerely,



G. E. Rittenhouse
Coordinator, Area IX

encl: statement
news articles

GER/jr

cc: Reverend Blair
Mr. Stovall
Mr. Wilson
File

HUMAN RESOURCES CORPORATION

OF CLAY, JACKSON AND PLATTE COUNTIES OF MISSOURI
PLATTE COUNTY HUMAN DEVELOPMENT CORPORATION
NEIGHBORHOOD SERVICE CENTER

Box H • Platte City, Missouri 64079 • 431-2178

June 17, 1971

Mr. Bill Sudow
 Civil Rights Commission
 Washington, D. C.

The following is a statement briefly outlining the problems encountered with a Self-Help Housing project for low income rural families in Platte County, Missouri. The Self-Help Program is promoted by the Platte County Human Resources Development Corporation.

Platte County, Missouri is a part of a three county CAP Agency comprised of Jackson, Clay, and Platte. The Agency is incorporated under the name Human Resources Corporation.

Geographically Platte County is bounded on the north by Buchanan County, on the east by Clinton and Clay Counties with the west and south boundaries determined by the Missouri River. These boundaries encompass 440 square miles.

There are approximately 20 political subdivisions or incorporated communities none of which exceed 5,000 population with the exception of Kansas City which in recent years annexed approximately one-fifth of the county, completely surrounding nine of the incorporated areas. The county seat is Platte City, Missouri, located as nearly in the center of the county as geographically possible. The portion annexed by Kansas City is in the south-eastern corner of the county and is known as Kansas City North.

The population of Platte County is a little over 32,000, 99.4% caucasian and .6% black. The most recent figures available indicate 13% of the population meet the O.E.O. poverty guidelines.

Until recent years Platte County was primarily rural with its major industry being agriculture. Due to Kansas City constructing a new International Airport in the southern part of the county and TWA establishing their international overhaul base there on, related industry has started to acquire sites for future construction bringing with it a rapid growth both industrially and in population. Many sources have predicted the population of Platte County to be well above 100,000 within the next 25 years.

During the past few years the picture of southern Platte County has changed from rural to suburban. Bringing with it a serious housing shortage. Housing costs have spiraled. Recent figures indicate 35% of the houses in Platte County are substandard pointing to the need for housing projects.

The northern two-thirds of the county remain rural and zoned agriculture. The chief agricultural products of the county are tobacco, cattle, and small grains.

Transportation poses a problem particularly for the poor. There are no public transportation facilities making it almost impossible for the poor to move from his position of tenant farmer, etc., to a place in the growing industrial picture.

The county is served by two telephone companies; Southwestern Bell and United Telephone, three electric utilities; Kansas City Power and Light, Missouri Public Service, and R.E.A. Natural gas is available in about one-half of the county with water available from either the political subdivisions or cooperative water districts.

Educationally the county is served by four school districts with four high schools, four junior highs, and 12 elementary schools. One college is located in the southern part of the county at Parkville, Missouri, Park College.

There is no hospital in the county and a shortage of medical facilities.

Economically Platte County ranks fourth in the state in family income exceeded only by Clay, St. Louis, and Jackson Counties.

The high level of income of the affluent, the rapid population growth, the lack of public transportation facilities, shortage of standard housing, shortage of medical facilities, and the shortage of competitive grocery outlets creates a high cost of living which puts a tighter squeeze on those who find themselves disadvantaged.

The Platte County Human Resources Development Corporation, a part of the tricounty CAA, started in June, 1969, to develop a Self-Help Housing Program as a means of alleviating the housing shortage of the poor. The self-help program would provide housing, financed by the Farm Home Agency, for those in the low income category.

Families who could qualify for such loans were contacted and organizational meetings held and the group met regularly learning all the facets of the program.

A search for building sites began in the Spring of 1970, and a site was located and made available approximately four miles southwest of Platte City, Missouri. The property was surveyed and platted. Application was made to the Planning and Zoning Commission of Platte County, Missouri, for rezoning from Agricultural to "R-1A", single family dwellings, and a hearing was scheduled. Contact was made with the president of the local water district and it was his feeling that the district could supply the water for the subdivision. The coordinator of the local CAA attended a meeting of the water district board and the board stated that they would take action on the request and notify the CAA of its decision. The notification was received forty-five days later, on the day of the hearing before the Planning and Zoning Commission. The notification stated that the district facilities were inadequate and therefore the district would be unable to supply water for the proposed housing site.

At the hearing before the Planning and Zoning Commission it was discovered that opposition, to the proposed zoning change, had been organized and the zoning commission turned down the application for rezoning. This action was upheld by the County Court.

Another search, for property, was started with several alternatives; 1) find building lots in subdivisions already rezoned, 2) find building lots in the several incorporated communities, or 3) another site for rezoning and subdivision. In each of the alternatives when the realtor or landowners learned the nature of the project which involved people from the ranks of the poor and families that were "black" the property was either over priced or made unattainable.

In February, 1971, a 22 acre site, six miles north of Platte City, Missouri, and 1 1/2 miles west of Camden Point, Missouri, was made available by a nonresident owner at a reasonable price per acre.

A contract to purchase was drawn conditioned on the ability to rezone from Agricultural to "R-1A".

The property was surveyed and platted and application made to the Planning and Zoning Commission of Platte County Missouri for said rezoning. At this juncture, a different approach was made to the landowners surrounding the proposed property. Each of them was contacted individually, the nature of the program explained, and literature concerning the program was given them to hopefully stem off opposition. At this time several of them stated they had no opposition to the program. Most all of them asked if there would be "Blacks" in the group. Some stated that no "niggers" has ever lived in the community and they were not going to now.

Opposition developed and organized and once again rezoning was denied by the Planning and Zoning Commission and upheld by the County Court.

The exhibits contained in the several folders attached indicate arbitrary action on the part of the Planning and Zoning Commission as well as definite discrimination.

At the present time we are seeking assistance from whatever source available to give us direction in reversing the decision of the Planning and Zoning Commission and the County Court.

It is the feeling of this writer that the recommendations taken from COUNTERBUDGET, A BLUEPRINT FOR CHANGING NATIONAL PRIORITIES, 1971-1976 (National Urban Coalition publication), *should be enforced.*

"Localities which either prevent or make no allowance for the provision of federally subsidized housing programs should suffer a cutoff of all other federal aid. If the cutoff does not provide the desired results, we recommend that the federal government be given the power to suspend local ordinances that prevent the building of federally subsidized housing."

Sincerely,


G. E. Rittenhouse, Coordinator

ADDITIONAL DOCUMENTS ENTERED INTO THE HEARING RECORD

Exhibit No. 47



Office of the County Council

MONTGOMERY COUNTY, MARYLAND

COUNTY OFFICE BUILDING, ROCKVILLE, MARYLAND 20850 • 301 279-1231

June 15, 1971

Mr. Howard A. Glickstein, Staff Director
U.S. Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Glickstein:

Mrs. Idamae Garrott, President of the Montgomery County Council, has asked that I forward to you a copy of her statement which was prepared for presentation at your June 14, 1971, hearing on employment and housing in suburban areas. Since she had no opportunity to read parts of her statement at yesterday's hearing, she would appreciate your making her entire statement a matter of record.

In addition, we would appreciate receiving a copy of any reports and recommendations which result from this series of hearings.

Thank you very much.

Sincerely yours,

(Mrs.) Frances L. Abrams
Planning Policy Coordinator

FLA/vla

Enclosure

STATEMENT OF MRS. IDAMAE GARROTT, PRESIDENT
MONTGOMERY COUNTY, MARYLAND COUNTY COUNCIL
JUNE 14, 1971

BEFORE THE UNITED STATES CIVIL RIGHTS COMMISSION AT ITS HEARING ON HOUSING AND EMPLOYMENT IN SUBURBAN AREAS, 1:15 P.M., at the THOMAS JEFFERSON AUDITORIUM OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, INDEPENDENCE AVENUE AND 14th STREET, N. W., WASHINGTON, D. C.

Good afternoon ladies and gentlemen.

I understand you have asked me here today because Montgomery County has received nationwide publicity on our efforts to solve the housing problems of our low and moderate income families.

When the present County Council took office just over six months ago, we were all aware of, and concerned about, the problem of providing housing within the financial reach of persons presently living in the County in substandard housing and for persons working in our own government, such as teachers, police and firemen, who are unable to afford a home or an apartment in Montgomery County.

In addition, we were and are, concerned about a number of other problems facing our County today, including drug abuse, crime and our fiscal situation. To get our thoughts in order, and to serve as a yardstick against which to measure our progress, the Council prepared and adopted a resolution stating our goals, objectives and priorities.

I believe you will be particularly interested in our statement on the housing problem. I would like to read that section of our resolution to you.

"a. Balance Supply. We are concerned about the crisis in housing -- particularly at the moderate income level. For a county such as ours to be viable, vigorous and liveable, we must provide a variety of housing styles and costs to meet the desires and needs of our people. We must make it possible for our citizens to be able to live and work in the same county, to reduce the time and distance for travel, and to raise their children in a proper environment. Equally important is the need

for such housing to accommodate the variety of employees of the growing business and industrial base within the County.

- b. Action. We will examine all possible methods to increase the housing supply, including modifications to zoning ordinances and related regulations, negotiations with developers, the possible establishment of non-profit development corporations, and procedures to reduce land and development costs. We will seek the advice of business and industry and concerned organizations and individuals in forwarding these concepts."

Before examining in detail methods of increasing the housing supply, the Council was determined to get a better grasp of the problem. On March 16, 1971, the Montgomery County Department of Community Development presented to the Council an exhaustive study of the current housing supply in the County titled An Analysis of the Montgomery County Housing Stock. The study was prepared for the County by Mr. Eugene Sieminski of Market Metrics, Inc. This report, a copy of which I have for you today, includes data on building permits authorized, housing sales transactions, new subdivisions being constructed, and all major apartment projects. Some of the highlights of this report are:

- The median sales price for all housing sold in Montgomery County in 1969 was \$35,700. However, the median price for new housing was \$41,342.
- Only 4 new homes were sold for under \$25,000 in 1969.
- Only 29 percent of used housing sales in the County were under \$25,000.
- Of approximately 87,000 building permits issued between 1960 and the first six months of 1970, almost two-thirds were for apartment units.
- Of 51,441 apartment units surveyed in the County, about 10,600 or 21 percent rent for under \$150.

Following the receipt of this report, we established a Council Committee on Housing whose aim it is to prepare a legislative package through which the Council could move to alleviate the shortage of lower priced sale and lower cost rental units.

I certainly would have liked to have had that legislative package to present to you today. However, the concepts which we have under consideration are complex and require additional study before being molded into the language of the law. We are determined to present a package to our citizens which represents a feasible and viable approach to solving the problem. We, of course, also are interested in finding an approach which is acceptable to all interests in the County--those in need of housing, developers, and the citizens at large.

We are fortunate in Montgomery County to have a large number of citizens organizations which are vitally interested in the housing problem. Some of the concepts which we have under consideration have been brought to us by citizens groups who have encouraged the adoption of zoning regulations in the County which would bring about the construction of low and moderately priced housing in every subdivision and in every multi-family development.

Other concepts which we are considering were first set forth in the Housing Element of our Updated General Plan which was approved by the prior Council last year. The 1964 General Plan did not include a Housing Element. The Updated Plan reflects our increasing awareness of the lack of adequate housing resources in the County.

I would like to describe for you a number of the proposals which we have under consideration.

One proposal which is being considered for the regulation of new multi-family developments is to establish a minimum amount of gross floor area which must be devoted to lower cost rental units. This approach includes the possibility that in high density, mixed use developments, the larger the amount of commercial floor area permitted to be combined with residential uses, the larger the amount of lower priced housing units that would be required, since the financial gain from the commercial uses would tend to offset any loss from the lower priced residential units.

Another approach under consideration isto offer a bonus in additional floor area to the developer in exchange for providing additional floor area or additional

units devoted to lower priced housing. This method appears to be applicable to both a rental and a purchase situation. However we are concerned about the problem of establishing rent and purchase price guidelines. For example, how does one establish guidelines for the price of a house upon its resale and prevent the first owner from reaping a windfall benefit?

A third proposal suggests that in each residential subdivision, a certain portion of each site be designed to accommodate smaller homes on smaller lots at a slightly higher density than permitted in the remainder of the subdivision. Some means is being sought to establish guidelines for the selling price of these homes to assure that they are within the reach of moderate-income families.

These three proposals appear to require a governmental mechanism for their implementation. Being considered is the creation of a County housing agency with the power to buy and sell, and lease and manage, moderately priced dwelling units. Such an agency also might have the authority to acquire scattered sites for the construction of housing. This offers the possibility that a developer who does not wish to meet the housing requirements otherwise imposed on his subdivision would be able to offer an "in lieu payment" to the housing agency which would use it to build the needed housing. Such an agency might make use of Federal programs for financing housing developments and might also monitor the construction of Federally-funded housing projects built by private developers to assure that low and moderately priced housing is dispersed throughout the County. If such a mechanism is established, I hope Federal housing officials will work closely with us in our efforts.

Another aspect of the legislation which the Council is actively pursuing is the preparation of a mobile home park zone. The present ordinance in our County regarding mobile homes talks about "trailer parks". It is outdated and of little use to persons desiring to settle in a mobile home in Montgomery County. Since mobile homes clearly offer lower priced housing, this is a case of existing ordinances working

to thwart the objectives of the legislative body. Therefore, a mobile home ordinance is high on our list of priorities. The new ordinance will provide for what will be, in effect, mobile home subdivisions requiring, for example, that the sale of mobile homes occur only where displayed on a finished lot such as would be found in the model homes section of any other subdivision.

Another approach which the Council is anxious to bring to bear on the housing problem is the Planned Unit Development ordinance. As you may know, the objective of such zoning ordinances is to bring creative and innovative ideas to the design of subdivisions. In this type of ordinance, performance standards replace the rigid requirements of conventional zoning regulations. Such standards would include, for example, preservation of the natural terrain and scenic value, and the provision of a full range of housing opportunities. I am sure that you are aware that our present zoning regulations, for the most part, establish certain minimum requirements which then become the standards. Instead of this, we hope to establish zoning regulations which would be designed to create a maximum rather than a minimum of livability. One of the aspects of this environment which we feel is essential is the provision of housing for families of all income levels.

In addition to the use of the zoning and subdivision regulations as an approach to solving our housing problem, the Council also is considering the direct purchase of land on which to have built, either by a public agency or a private developer, a community which would include low and moderately priced housing. The feasibility of such a project currently is being studied for the property known as the University of Maryland Research Farm which has been offered for sale to the County by the University. The Council already is committed to buying portions of the site for a Community College and two public schools, and hopes to be able to purchase the remainder of the site for the construction of housing.

One further note should be inserted here. The Council is ever mindful of its responsibility to the community to assure that discrimination in any form is avoided. On June 22, the Council will hold a public hearing on a bill which I introduced titled "Prohibition against recordation of racial, etc. restrictive covenants and certification thereof." Although we have had a fair housing ordinance in our County for almost four years now, we are always looking for ways to assure that forms of discrimination which may have existed in the past are not carried into the future.

Economic discrimination is not a new problem for those who have suffered its consequences. The interest which local government is showing in this form of discrimination is new. We are hopeful that we will be able to take the lead in solving some of the problems which are involved in economic discrimination, just as we took the lead in adopting fair housing laws.

You can see from the ideas that I have presented here today that we have a number of rather complex regulations under consideration. We hope to be able to polish these ideas and present them in the form of legislation within the near future. We will be happy to supply you with copies of the legislative proposals as soon as they become available, and would be happy to have you participate in our public hearings on this legislation.

1001

Exhibit No. 48

ENVIRONMENTAL PROTECTION AGENCY

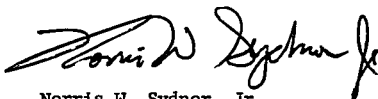
WASHINGTON, D. C. 20460

Date: June 29, 1971
Reply to Director
Attn of: Office of Equal Opportunity

Subject: Testimony of William Ruckelshaus before Civil Rights Commission
on June 15, 1971
To: John Powell
General Counsel

Attached is a copy of the statement of William Ruckelshaus, Administrator, EPA, which is to be submitted for the Commission's record clarifying his testimony of June 15, 1971.

We regret the delay in forwarding this statement to you and apologize for any inconvenience the delay may have caused.



Norris W. Sydnor, Jr.

Enclosure

DRAFT STATEMENT OF
WILLIAM D. RUCKELSHAUS
BEFORE U.S. CIVIL RIGHTS
COMMISSION JUNE 15, 1971

On behalf of the Environmental Protection Agency, I wish to express my gratitude to this Commission for being given the opportunity to discuss with you our efforts in seeking an effective civil rights program. The Environmental Protection Agency is committed to the position that only through a strong affirmative civil rights program on the part of the federal government can we eliminate many of the social, political, and economic inequities which exist for many minorities in this country. This Agency is also aware of the role it must play in order to ensure that in the execution of its responsibilities both the letter and the spirit of the civil rights legislation to which its programs are subject, are enforced.

I have with me today, Mr. Norris Sydnor, who is the Director of the Office of Equal Opportunity in EPA, and Mr. Alex Greene who is in charge of EPA's Grants Program.

As you are aware, EPA is a new federal agency which was formed last December from organizational units drawn from the Departments of the Interior, HEW, Agriculture and the AEC and CEQ. Although we inherited some capacity in the equal employment, contract compliance, and Title VI areas, it has been clear to me that these areas, like a number of other areas of the Agency, must be strengthened if EPA is to perform the mission given it by the President and the Congress. Mr. Sydnor's appointment here in Washington is one step in this process. And, since we will be entrusting significant responsibilities to

our ten Regional Offices, building a strong equal employment, contract compliance, and Title VI capacity into those Regional Offices is a forthcoming necessary step.

I understand that the Commission's primary interest this morning is with Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. EPA is concerned with these Titles primarily because of its construction grants assistance program under the Federal Water Pollution Control Act for the development of water pollution control facilities. In the course of our discussions this morning, it is very important to keep in mind that EPA's grants, unlike those of some of the other federal agencies who will be testifying here, are made directly to the States which in turn pass the money out among their communities. At the same time, EPA does not pass on the eligibility of particular construction projects for federal grant assistance.

I think it will be helpful if we discuss EPA's role under Title VI and VIII separately--at least at the start.

TITLE VI

Title VI, Section 601, provides that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VI goes on to direct each Federal agency that extends financial assistance in the form of grants, loans, or contracts to have a program for assuring achievement of the objectives of the statute.

In our regional offices, as they are presently structured, the Contract Compliance Officer is responsible for assuring compliance with Title VI as

well as the equal employment provisions of Executive Order 11246. The regional Contract Compliance Officer reports directly to the regional grant administrator. At Headquarters in Washington, Title VI compliance is presently the responsibility of the Contract Compliance Officer who reports to the Director, Office of Equal Opportunity.

Pursuant to its responsibility under Title VI, the Environmental Protection Agency requires that each applicant for a construction grant for water pollution control facilities show that he is in compliance with Title VI and promises to abide by its provisions. Prior to the award of a grant, the applicant is required to sign a Statement of Assurance in which he promises to comply with Title VI, and prior to receiving payment he must submit a form T-128. This form requires the recipient to describe how much of the town is serviced by the proposed project and explain if any part not serviced contains racial minorities. In the latter instance, if more than 10% of a racial minority is not receiving service, an explanation and a statement of intention from the community to provide service is required. Traditionally, the contractor submits this form only after a grant application has been received and approved. Therefore, in the typical case, review may begin after the project has already started. At present, there are no provisions for review beyond this paper assurance; that is to say, there are no procedures for pre-award or post-award conferences or on-site inspections.

When it comes to EPA's attention that areas containing a substantial portion of minorities do not receive such sewerage or sewage treatment service, and that there is no satisfactory plan and timetable for providing such service, the

grant is not made until such a satisfactory plan and timetable are supplied. A recent example of such a situation occurred in Sealy, Texas, where a proposed plan for a wastewater treatment facility did not include plans for extending sewerage services to the Northeast section of the city, largely inhabited by blacks whose wastes were handled by highly unsatisfactory septic tanks. Only after the city agreed to extend sewerage to the Northeast section, was the grant application approved.

And recently in Boca Raton, Florida, a grant was given by EPA for the construction of a sewage treatment plant and a statement of assurance was received indicating that the town was in compliance with Title VI. We also issued a form T-128 to the town which was completed and indicated that 5% of the population was made up of a minority, but that 100% of the minority population would not be serviced by the plant. The plant itself had the capacity to service the minority community; however, this community did not have connecting sewer lines. Through negotiation, we were able to receive assurance from the town that connecting lines would be installed for this community.

We have found to date that problem situations arising under Title VI can be successfully handled by negotiation. At the same time we recognize that more can be done and can foresee some changes in the present system which should lead to greater effectiveness of our Title VI compliance efforts.

These steps include:

1. Formulation and effectuation of Title VI regulations for the Environmental Protection Agency;
2. Appointment of a Title VI Compliance Officer;

3. Appointment of a Title VI Compliance Officer in each regional office who will report to the Regional Director, Office of Equal Opportunity;
4. Establishment of procedures for pre-grant review of project applications, including on-site inspections and/or conferences;
5. Establishment of procedures for post-grant review of recipients, including on-site inspections and periodic reporting;
6. Establishment of procedures for the collection and analysis of data concerning racial compositions of project communities to be used in the selection of applicants;
7. Institution of debarment proceedings where a violation of Title VI is shown;
8. Deferment of funding where it appears that an applicant cannot or will not conform to the requirements of Title VI;
9. Scrutiny of State allocation policies to determine conformity with Title VI.

The goal of our Title VI effort shall be to insure compliance prior to the grant of financial assistance, so that the necessity for any group or individual to file a complaint on the grounds of racial discrimination will be eliminated. However, in the enforcement of the provisions of Title VI, this Agency must be cognizant of possible conflicts with our mandate to protect and enhance the environment. As a regulatory agency, EPA must enforce the provision of the laws upon which its authority is based. In the fulfillment of this mandate, this Agency is often called upon to issue grants in a particular locality so that the community will be in a possible to conform to anti-pollution standards and laws. At the same time, we must insure that

the recipients of our grants comply with Title VI. If a violation of Title VI occurs we must be called upon to deny financial assistance to a community which could result in the suspension of compliance with anti-pollution standards and timetables. Where there is a clear violation of Title VI, we intend to follow the mandate of that law by deferring and debarring funds as the case may warrant. However, we must recognize that each case must be decided on its own merits and that the needs of the community will be important in the determination of what mandate receives priority. Where possible, the requirements of all laws to which the Agency is subject will be read together in an effort to seek compliance with our civil rights and environmental goals.

It is important to note that although the Federal Water Pollution Control Act provides that the Administrator of the Environmental Protection Agency may recommend to the Attorney General that suit be brought to enforce the provisions of the Act, violators must be notified within 180 days prior to such action. The injunction remedy, therefore, maybe inappropriate in certain cases because of the lengthy and cumbersome process required to obtain it. Moreover, it is questionable whether or not this remedy can be used as leverage for the enforcement of Title VI, since the injunction remedy granted under the Federal Water Pollution Control Act is specifically limited to those cases in which there has been a violation of statutory water quality standards.

The Environmental Protection Agency shares with the Department of Housing and Urban Development and the Civil Rights Commission the goal of open housing for all citizens of the United States. We believe, however, that the primary responsibility for enforcing Title VI as it relates to discrimination in housing is with the Department of Housing and Urban Development, and that other federal agencies should look to HUD for leadership in this area. The Environmental

Protection Agency fully intends to follow HUD's direction in attempting to eliminate barriers to open housing, and to work with HUD to develop unilateral planning agreements in those metropolitan areas in which both agencies have commitments.

It is important to note, however, that EPA often funds projects which are designed to clean up an entire river or river basin. This means that EPA must provide for planning and funding on a regional rather than a metropolitan basis, and therefore, cooperation with HUD may not be possible or feasible. Clearly our most significant area of cooperation with HUD will be in metropolitan areas in which HUD and EPA have related projects or where both are part of a greater metropolitan plan. Under these circumstances we intend to fully utilize the leverage of Title VI to eliminate discrimination on the grounds of race, color, or national origin in housing opportunity.

Cooperation with HUD can be most significant on a regional basis. Beginning in fiscal year 1972, EPA will decentralize much of its authority to reorganized regional offices. With the appointment of a Title VI Compliance Officer for each regional office, many of the responsibilities which have been heretofore performed by our Washington office will now be performed closer to the areas involved. This redelegation of authority could be the basis for a regional cooperative effort with HUD and other federal agencies to insure compliance with Title VI.

TITLE VIII

Title VIII of the Civil Rights of 1968, Section 801 states that:

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States;

Section 808(a) provides that:

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

Section 808(d) provides that:

All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Title and shall cooperate with the Secretary to further such purposes.

As President Nixon noted in his Housing Statement of Friday, June 11:

"Based on a careful review of the legislative history of the 1964 1968 Civil Rights Acts, and also of the program context within which the law has developed, I interpret the "affirmative action" mandate of the 1968 act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. This does not mean that no federally assisted low- and moderate-income housing may be built within areas of minority concentration. It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

In furtherance of this policy, not only the Department of Housing and Urban Development but also the other departments and agencies administering housing programs--the Veterans Administration, the Farmers Home Administration, and the Department of Defense--will administer their programs in a way which will advance equal housing opportunity for people of all income levels on a metropolitan areawide basis."

In fulfillment of the mandate of Title VIII of the Civil Rights Act of 1968, which directs "all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this title," we intend to follow the interpretation of the President in his policy statement of June 11, 1971. In this statement, the President interpreted the "affirmative action" mandate of the 1968 Act to mean that program administrators should include, among the various criteria by which applicants for assistance are judged "the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination."

The principal program in our Agency affected by Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968 is our construction grant program for waste treatment works. Under Section 8(b) and (c) of the Federal Water Pollution Control Act, as amended, we are authorized to make grants not to exceed 30% of the estimated reasonable costs of construction for sewage treatment works. This amount may be increased to 50% if the State agrees to provide 25% of the costs of all projects for which federal grants are made, and if enforceable water quality standards have been established for waters into which the project discharges. Additionally, under Section 8(f) of the Act, we are authorized to increase grants for such purposes by 10% of the amount of such grant for any project certified as being in conformity with a comprehensive plan developed for the metropolitan area in which the project is located.

For the purposes of this provision, the term "metropolitan area" includes any urban area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities, which in the opinion of the President lends itself as being appropriate for the purposes thereof.

To assist our Agency in making determinations under this provision, we have entered in an agreement with the Department of Housing and Urban Development by which that Department will review information furnished by our grantees with their applications for grant increases to determine whether the plan meets HUD's criteria.

Since the Department of Housing and Urban Development must approve both the plan and the projects to which the plan relates, HUD could establish criteria, as advocated by the President, providing for a point system which would give preferential consideration to those communities which advance equal housing opportunities to people of all income levels on a metropolitan area-wide basis. To the extent that HUD makes such housing provisions part of the criteria for an approved metropolitan plan, our 10% increase grant will be conditioned by such criteria.

These 10% incentive grants, of course, occur only after an original grant of 30% has been offered to the community. With respect to initial grants of 30% as authorized by our statute, it must be understood that EPA does not engage in unilateral selection of projects for which it can make grants. Our

sewage treatment grants program is required by statute to work in cooperation with State water pollution control agencies in selecting which projects are to receive grants. The project to be assisted is first approved by the State agency, then certified to us by that agency as being entitled to consideration for a grant on a priority basis over all other applications then on hand by the State agency.

Thus, the provisions of Title VIII of the Civil Rights Act of 1968 that "all executive departments and agencies administering their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this title" does not have the impact on our waste treatment works program that it might have on other programs where the selection of projects to be assisted rests solely with the agency providing the assistance.

It is questionable whether EPA can unilaterally establish Title VIII criteria for the awarding of grants where a metropolitan plan is not involved. This is due in large measure to the peculiar nature of our grant process. However, we intend to study the means by which states allocate EPA money to local communities in an effort to determine whether or not states should be required to consider the provisions of Title VIII as part of their criteria in awarding funds to particular localities within their jurisdiction. Under the President's interpretation of Title VIII, federal agencies are to consider Title VIII in their criteria for awarding grants. This interpretation presupposes that grants are awarded on a competitive basis. EPA does not generally have to consider competitive proposals before it allocates funds, since the prospective recipient is often a community for which the state has already given preference

for a construction project. Therefore, competitive selection is most often the province of the states, and, under our present grant structure, it is to the state that we must direct our energies for the establishment of Title VIII selection criteria.

Exhibit No. 49

THE UNDER SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

July 6, 1971

Mr. Howard A. Glickstein
Staff Director
U. S. Commission on Civil Rights
1304 4th Street, S. W.
Washington, D. C. 20024

Dear Mr. Glickstein:

During Secretary Romney's testimony at the Commission's hearings on Tuesday, June 15, Dr. Horn asked that our General Counsel identify which projects assisted by this Department are required to be part of a plan which expands the supply of low- and moderate-income housing in a racially nondiscriminatory way. Such projects were mentioned in the third paragraph on page two of the President's recent statement on Federal policies relative to equal housing opportunity. The President stated there:

"To qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way."

The answer to Dr. Horn's inquiry is contained in the attached memorandum from our General Counsel, which I assume you will want to make part of the permanent record of the hearing:

Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard C. Van Dusen".

Richard C. Van Dusen



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

JUL 1 1971

MEMORANDUM FOR: Secretary Romney

SUBJECT: Federally Assisted Local Housing and Community Development Projects Which Are Legally Required to be Part of a Plan Which Expands the Supply of Low- and Moderate-Income Housing in a Nondiscriminatory Way

The President in his statement on June 11, 1971 on Equal Housing Opportunity stated:

"To qualify for Federal assistance, the law requires a local housing or community development project to be part of a plan that expands the supply of low- and moderate-income housing in a racially nondiscriminatory way."

You have asked that I set forth in detail laws, local housing projects, community development projects and plans to which the above paragraph relates.

I. Housing Projects

In his statement, the President makes it clear that Title VIII -- Fair Housing -- of the 1968 Civil Rights Act requires that this Department have a policy, or plan, to expand the supply of housing in a nondiscriminatory manner. He said:

"Based on a careful review of the legislative history of the 1964 and 1968 Civil Rights Act, and also of the program context within which the law has developed, I interpret the 'affirmative action' mandate of the 1968 act to mean that the administrator of a housing program should include, among the various criteria by which applications for assistance are judged, the extent to which a proposed project, or the overall development plan of which it is a part, will in fact open up new, nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination. . . . [This] does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration."

In accord with that statement and pursuant to the requirement that the Department have a fair housing policy, HUD is instituting a departmental plan to expand the supply of low- and moderate-income housing in a nondiscriminatory way. This plan takes the form of a project selection system which this Department will use in determining whether an application for 235(i), 236, rent supplement or low-rent public housing projects is acceptable and, among acceptable applications, the priority of funding.

In evaluating a project application, the Department will consider, among others, the following three criteria which are directed to expanding the supply of low- and moderate-income housing in a nondiscriminatory manner: "Nondiscriminatory Location," "Improved Environmental Location for Lower Income Families" and "Relationship to Orderly Growth and Development." Although proposed project applications may be rated "superior," "adequate" or "poor" on each criterion, projects must receive at least an "adequate" rating on these three criteria before the application will be considered for Federal assistance. Because of this threshold requirement and because applications with superior ratings stand a better chance of being funded than those rated adequate, this project selection system will tend to expand the supply of low- and moderate-income housing in a nondiscriminatory way.

II. Community Development Projects

For Urban Renewal and related programs, the statute requires (1) that communities seeking assistance adopt a "workable program for community improvement," including plans for "residential neighborhoods," and (2) that on the basis of such program, or plan, Federal assistance may be made available to the community.* Because this program is directed to curing urban blight, slums and deterioration, the geographical area covered by the "workable program" is virtually always in need of an expanded supply of low- and moderate-income housing, which the plan is required to provide for. Federal assistance can only be made available if the plan is nondiscriminatory.** Hence, the plan is required to expand the supply of low- and moderate-income housing in a nondiscriminatory way.

Projects under each of the following three community development programs are required by statute to be part of an areawide plan of some kind.

* Section 101(c) of Title I of the Housing Act of 1949, as amended.

** Section 601 of Title VI of the Civil Rights Act of 1964.

Open Space program grants can be made only if a project is "part of the comprehensively planned development of the urban area."* "Urban area" in the Open Space statutes is defined to include not only what is narrowly considered the urban area, but also surrounding economically and socially related regions.

For New Communities programs, grants must be for projects which are part of a plan which includes "provision for housing within the means of persons of low- and moderate-income."**

After October 1, 1971, Water and Sewer facilities grants will be required to be part of "the comprehensively planned development of the area."*** Prior to October 1, 1971, grants will be made if such plans are under active preparation.

Often the plan which the community uses to qualify under one of these development programs is a Comprehensive Plan formulated with funds provided by the Department under Section 701 of the Housing Act of 1954. A plan pursuant to Section 701 is required to have a "housing element" and deal with the housing needs of the area.**** If the area will need an expanded supply of low- and moderate-income housing, Title VI of the 1964 Civil Rights Act requires that the plan for expanding it be nondiscriminatory. Of course in some cases there may not be any need for low- and moderate-income housing, in which case a plan obviously will not provide for an expanded supply.

In some cases Section 701 comprehensive planning is not used. When it is not, Open Space and New Communities projects, by the very wording of their respective statutes, are required to be part of a plan which provides for any needed expansion of low- and moderate-income housing. Pursuant to the requirement in Section 808(e)(5) of Title VIII of the Civil Rights Act of 1968 that the Department administer its programs to further fair housing, the Department requires that the planned expansion be nondiscriminatory.

Although some Water and Sewer projects which are not part of a Section 701 plan may be part of a plan which does not provide for increased amounts of low- and moderate-income housing,

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- * Section 703(a) of Title VII of the Housing Act of 1961, as amended.
 - ** Section 712(a)(7) of Title VII of the Housing and Urban Development Act of 1970.
 - *** Section 702(c) of Title VII of the Housing and Urban Development Act of 1965, as amended.
 - **** Section 701(a) of the Housing Act of 1954, as amended.

pursuant to the mandate of Title VIII of the 1968 Civil Rights Act, the Department is instituting a point system for awarding priority of consideration among Water and Sewer applications. In this system, applications for projects which are planned to serve areas containing nondiscriminatory low- and moderate-income housing will receive more points than otherwise similar projects, thus increasing the likelihood that projects serving such housing will be funded.

David O. Maxwell

David O. Maxwell

*Exhibit No. 50*UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405

JUL 19 1971

John H. Powell, Jr., Esquire
General Counsel
U.S. Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Powell:

During the hearings before the U.S. Commission on Civil Rights, held on June 16, 1971, the General Services Administration (GSA) was requested to furnish certain information for the record.

Enclosure No. 1 lists those authorities pursuant to which GSA may acquire interests in real property and assign and reassign space therein, as well as a listing of those Federal agencies known by GSA to have independent authority to acquire interests in real property. Enclosure No. 2 contains GSA minority employment statistics as of November 30, 1969, and June 14, 1971.

It would be appreciated if you could furnish us a copy of that part of the hearing transcript relating to GSA's appearance when it becomes available.

If we may be of further assistance, please do not hesitate to let us know.

Sincerely,

Rod Kregger
Acting Administrator

Enclosures

The General Services Administration's acquisition authority for space is derived from the following:

1. 40 U.S.C. 601 et seq, The Public Building Act of 1959, as amended, authorizes acquisition of real property by purchase, condemnation, donation, exchange or otherwise.
2. 40 U.S.C. 490, The Federal Property and Administrative Services Act of 1949, as amended, authorizes acquisition of real property by purchase, condemnation or otherwise as well as leasing for periods not to exceed 20 years. Acceptance of gifts of land and buildings for Presidential archival depositories is also authorized by this Act. 44 U.S.C. 2108(a).
3. 40 U.S.C. 298a authorizes acceptance of unconditional gifts of real property.
4. 28 U.S.C. 142 authorizes the furnishing of quarters to the courts.
5. 50 U.S.C. 1151 authorizes acceptance of gifts of real property for defense purposes.
6. 31 U.S.C. 291 authorizes the GSA to acquire space for the Secretary of the Treasury.
7. 40 U.S.C. 304 authorizes GSA to take custody of lands acquired by devise for disposal as excess property.
8. 40 U.S.C. 122 authorizes transfer of jurisdiction over properties between the United States and the District of Columbia.
9. 40 U.S.C. 301 gives GSA charge of all lands assigned, set off or conveyed to the U.S. for debts.
10. 31 U.S.C. 901(b) authorizes GSA to accept property to be sold and proceeds used to reduce the national debt.
11. 60 Stat 896 authorized the acquisition of land for the Washington Hospital Center.

12. 40 U.S.C. 490(b) authorizes GSA at the request of any Federal agency or mixed-ownership corporation to acquire land for buildings and projects authorized by Congress.

13. In several instances GSA has been authorized to acquire property for specific organizations. An example is 74 Stat 9 which authorized acquisition of the site for the Pan American Health Organization.

14. Annual GSA Appropriations Acts - Independent Offices and Department of Housing and Urban Development Appropriation Acts - include funds for acquisition of sites and payment of leases.

15. 1950 Reorganization Plan No. 18 vested in GSA all functions with respect to acquiring and assigning space both in Government-owned and leased buildings with enumerated exceptions.

16. Executive Order No. 11508 requires GSA to survey space to assure full utilization.

17. Executive Order No. 11512 requires GSA to initiate and maintain plans for the effective and efficient acquisition and utilization of federally owned and leased space.

The following Executive Departments and agencies have acquisition authority, either by lease, purchase, condemnation, donation, exchange, or otherwise:

Department of Agriculture

Agriculture Research Service
Commodity Credit Corporation
Farmers Home Administration
Forest Service
Soil Conservation Service

Department of Defense

Department of the Army
Department of the Navy
Department of the Air Force

Department of the Interior

Bureau of Indian Affairs
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Geological Survey
Bonneville Power Administration
International Boundary and Water Commission
Southwestern Power Administration

Department of the Interior (Continued)

Office of Saline Water

Bureau of Reclamation

Bureau of Mines

Office of Coal Research

National Park Service

Department of the Treasury

Bureau of Customs

Internal Revenue Service

Bureau of the Mint

Department of Justice

Department of Transportation

Urban Mass Transportation Administration

Federal Railroad Administration

Federal Highway Administration

Federal Aviation Administration

United States Coast Guard

Saint Lawrence Seaway Development Corporation

Department of Health, Education, and Welfare

Public Health Service

Surgeon General

Office of Education

Department of Commerce

China Trade Act Corporation

Department of Housing and Urban Development

Department of Labor

Department of State

United States Postal Service

American Battle Monuments Commission

Appalachian Regional Commission

Atomic Energy Commission

Canal Zone Government

Central Intelligence Agency

Civil Aeronautics Board

Delaware River Basin Commission

Environmental Protection Agency

Equal Employment Opportunity Commission

Farm Credit Administration

Federal Communications Commission

Federal Deposit Insurance Corporation

Federal Home Loan Bank Board
(using services of GSA)

Federal Power Commission

Federal Reserve System

Office of Economic Opportunity

District of Columbia Government

Administrative Conference of the United States

National Aeronautics and Space Administration

National Foundation on the Arts and the Humanities

National Science Foundation

Panama Canal Company

Securities and Exchange Commission
(Thru: Corporation of Foreign Security Holders)

Small Business Administration

Smithsonian Institution

Tennessee Valley Authority

United States Information Agency

United States Tariff Commission

Veterans Administration

Water Resources Council

GENERAL SERVICES ADMINISTRATION

Minority Employment Statistics
G S-9 and Above

Listed below are the employment figures of minorities GS-9 and above for November 30, 1969 and June 14, 1971. For each grade level in which minorities were employed in November 1969, both the number and percentage had increased by June 1971.

November 30, 1969

<u>GS -</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>Total</u>
Minority	178	13	128	73	37	12	3	0	1	0	444
Total	1,213	56	1,553	1,429	1,057	566	313	39	25	5	6,256
Percent Minority	14.7	23.2	8.2	5.1	3.5	2.1	1.0	.0	4.0	0	7.1

June 14, 1971

Minority	207	23	174	93	55	21	5	0	2	0*	580
Total	1,268	60	1,788	1,665	1,171	594	325	39	27	4	6,941
Percent Minority	16.3	38.3	9.7	5.5	4.6	3.5	1.5	0	7.4	0	8.4

* Minority candidate has been submitted to Civil Service Commission for approval

Exhibit No. 51

Statement of Mr. Snyder Garland
President, Greene County, Ohio Branch, NAACP

My name is Snyder Garland, President of Greene Co, NAACP which is located in Wilberforce, Ohio. I've been deeply involved in the Civil rights arena for approximately 20 years in the area of housing, education, employment, and non-partisan political action. I would like to share with you my views on the Miami Valley Regional Planning Commission's Housing Plan and others. I have examined the contents of this plan and others and I do not believe it will be workable for the following reasons: (1) the interests of all people are not represented (2) this proposal, the same as many others, was formulated and proposed by the power structure (3) many of the communities will not be receptive to open housing because of the perpetuation of discrimination and intellectual criminology from the Attorney General's level, such as the allegations presented by Attorney John Mitchell in denouncing the NAACP as being a pawn to the Democratic Party in his recent press release (D.D.N. June 6, 1971). I believe that those allegations were malicious, defamatory, and inaccurate. This opinion is based upon 20 years of experience in representing and presenting complaints alleging racial discrimination in the interests of black and white people, per se.

A number of the townships and communities with which I have been involved have failed to pass a fair housing ordinance. A number of blacks and minorities have been dehumanized and murdered by trickery and loopholes known as intellectual criminology, denied an equal

opportunity in housing such as the Airman Ted Williams' case at Wright Patterson Air Force Base in Fairborn, Ohio; The Air Force, DOD, and HUD failed to act on the said case in a timely fashion after the Ohio Civil Rights Commission ruled that Airman Williams was denied an opportunity for an apartment of his own choosing. Mr. Springer and others were similar. We have case files and documentation to present. Another glaring example of why the MURPC's plan will not work is because of the Hewitt Mullins and Dr. Melvin Johnson case of Amlin Heights and Beverly Hills in Xenia, Ohio (Greene Co.). Mr. Mullins, who is a City Commissioner in Xenia stated openly before the Council on May 20, 1971, that he was denied a home of his choosing, reasons which were unexplained other than in terms of racial discrimination. He also had difficulties in obtaining a loan locally to purchase a home in Beverly Hills, Xenia, Greene Co., Ohio. Mr. Mullins is employed at DESC in Kettering, Ohio. Dr. Melvin Johnson, a scientist at Central State University, and his wife, an educator and Director in the Xenia school system, initially were denied the home of their choosing, and in 1971 they were denied a membership to swim in a pool which is located in their back yard, yet Dr. Johnson and his wife possess more education than any other white family in Amlin Heights, Xenia, Greene Co., Ohio. Again, the above mentioned action is unexplainable in terms other than racial discrimination.

I would like to have the opportunity to personally present more detailed facts. More formal complaints of discrimination should be filed through the administrative and legal arenas. The power structure

is not going to address itself to equal opportunity because the number one problem in America confronting black people is the maladministration of justice in the courts. If blacks report discrimination and the party's hand is caught in the cookie jar, they will not be spanked by the courts. The number two problem confronting blacks is white racism as stated in the Kerner Report. Again, I would like the opportunity to testify before the U.S. Commission on Civil Rights in order to present relevant, factual information relative to this cause.

Dayton is still looked upon as the ideal model city compared to others. But perhaps the others do not have the Greene County NAACP Civil Rights Advocate "watch dogs" to pursue discrimination in EEO.

Snyder Garland

1031

Exhibit No. 52



FAIR HOUSING FOUNDATION OF LONG BEACH • 4108 EAST SEVENTH STREET,

LONG BEACH, CALIFORNIA 90804 • (714) 438-6717

June 3, 1971

Dr. Stephen Horn
President, CSLB
6101 E. 7th Street
Long Beach, Ca. 90801

Dear Dr. Horn:

Enclosed is an advance copy of the FHF special report which will be mailed to our members in a few days. It details the long, sad story of foot-dragging by the Justice Department in regard to housing discrimination pattern or practice suits.

I hope you will feel that it's worth forwarding to the Civil Rights Commission in Washington.

Although the list of witnesses for the June hearings is no doubt complete, we would be happy to appear to testify if the Commission so desired. Barring that, we would like to have this report included in the record of those hearings.

Sincerely,

Shirley Blumberg

Shirley Blumberg

JUNE, 1971

A Special Report from the Fair Housing Foundation of Long Beach

W I T H A L L D E L I B E R A T E D E L A Y ?

THE WHEELS OF JUSTICE (U. S. DEPARTMENT OF)
STOP MOVING IN LONG BEACH DISCRIMINATION CASES

WHY has the U. S. Department of Justice failed for the past nine months to act upon clear evidence of large-scale violation of federal open housing laws in the Long Beach area? Why did a representative of the Justice Department request the results of FHF investigations which documented illegal racial discrimination practices in 114 apartment buildings? Why did this Justice Department representative predict "virtually immediate" legal action early last fall? within "a matter of days" last January? and "within the next week" last March? And why is the present U. S. Attorney for this area currently unable, or unwilling, to announce any Justice Department action whatever in this case?

These are among the questions which the Fair Housing Foundation of Long Beach now publicly addresses to the Department of Justice. And it is also time that FHF supporters and volunteers knew the full story behind those questions.

THE STORY BEGINS in June, 1970. As reported in Newsletter 34, FHF investigators had checked into complaints of minority-group clients regarding alleged discriminatory practices of advance-fee rental agencies in the Long Beach area. The information developed by FHF led to a successful legal action against these agencies by the Office of the State Attorney General.

In process at about the same time was a massive federal suit (filed by the then U.S. Attorney, Matthew Byrne--now a federal judge) against individual and corporate owners of 8,000 rental units in Los Angeles County (reported in Newsletter 35). Richard Green, an attorney with the U. S. Department of Justice and in Los Angeles because of this case, was greatly impressed by the quality of the investigation FHF had conducted into the advance-fee rental agency operations. In conversations with Curt Moody, then Executive Director of FHF, Mr. Green indicated that his department would be "definitely interested" in any evidence developed by FHF on patterns of discriminatory practices in Long Beach area apartment rentals. (At this time Mr. Green was attached to the Housing Section of the Civil Rights Division, Department of Justice, Washington.)

GIVEN THIS KIND of encouragement--and aware of the great need for dramatic, large-scale legal action to induce compliance with state and federal fair housing laws--the Fair Housing Foundation went into high gear in June, July, and August. Under the direction of Curt Moody, 75 volunteers undertook an intensive investigation of actual rental practices in 243 apartment buildings.

Procedures: The buildings checked were only those with posted or advertised vacancies. The standard "bracket" method was followed: white couple, black couple (or, sometimes, a mixed couple), another

white couple--and sometimes a fourth couple (black or white) as a final check on the rental policies and practices in each particular building.

IF AN APARTMENT which was available to the first (white) couple at a given rental and cleaning fee turned out to be suddenly "rented" or much more expensive when the second (black) couple came along, further investigation was indicated. And if the "sorry, just rented" apartment became immediately vacant again and very much available to the third (white) couple, the presumption of racial discrimination became very strong. Finally, if there was clear evidence of a pattern of illegal discrimination, all of the facts were systematically assembled and sent to Washington.

(During the investigation, it should be noted, there were several conferences between Mr. Green of the Justice Dept. and Mr. Moody of FHF regarding the techniques involved. Further, Mr. Green asked that reports be sent on to Washington as soon as they were completed by FHF personnel so that immediate processing could begin in the Justice Department--with a view to the earliest possible legal action. We were told that we had put together the finest cases in the country, and so impressed was Mr. Green with the quality of FHF investigation that he recommended it as a model to other groups around the U. S.)

Persons checking the apartment buildings were carefully matched with respect to age, family status, financial status, etc. The only significant differences were in the race or color of the various inquirers.

Results of investigation: Out of 243 buildings covered in the investigation, fully-documented evidence of racially discriminatory practices emerged for 114 buildings. These represented a total of 1,450 units; and the owners of these properties also owned an additional 875 units not included in the investigation. There was a grand total, then, of 2,325 units directly or indirectly involved in the reports sent to the Justice Department--all in the immediate Long Beach area. The last reports went to the Housing Section, Civil Rights Division, on September 15, 1970. FHF was assured that prompt action would follow.

AT HIS DECEMBER 10 press conference, President Nixon responded to a question about federal policy toward racial discrimination in housing by stating, quite ambiguously, that government action would be taken. "only to the extent that the law requires." President Nixon further stated that it was not the policy of the government to use federal funds or powers "in ways not required by the law, for forced integration of the suburbs."

In a press conference on January 19, Attorney General Mitchell echoed the peculiar "forced integration" theme and seemed to indicate that the Justice Department would do as little as possible in enforcement of open housing laws: "...if we have responsibilities, we will carry them out and if we don't have the responsibilities imposed upon us, we won't assume them."

Also on January 19, coincidentally, Mr. Green telephoned the FHF office and told Associate Director Mike Rocklein that he had just finished the draft of the complaint on the Long Beach cases for submission to Mr. Schwelb, Chief of the Housing Section; if approved by Mr. Schwelb, he said, the matter would be forwarded to Mr. Jerris Leonard, Chief of the Civil Rights Division. If Mr. Leonard approved, the complaint would go to Attorney General Mitchell for signature and filing. Mr. Green thought that legal action could begin "within a matter of days or a week or two."

ON JANUARY 20, the day the newspapers carried the report of the Attorney General's January 19 press conference, FHF legal counsel Myron Blumberg called Mr. Green in Washington to check on the status of the Long Beach case. Mr. Green said that the comments of both the President and the Attorney General had really been in reference to the "Blackjack Case," a low-cost federal housing development which had been proposed in an affluent St. Louis suburb. Their remarks did not mean, said Mr. Green, that the Justice Department was closing the door on anti-discrimination lawsuits. FHF could still expect action, he felt, "within the next couple of weeks."

On March 2, Mr. Blumberg again called Mr. Green, who reported that the complaint had been approved by Mr. Schwelb (Section Chief) and by Mr. Leonard (Division Chief) and was now on the desk of the Attorney General awaiting signature. Mr. Green expected the complaint to be filed in the Federal District Court, Los Angeles, within the next week.

On March 4, Mr. Blumberg's law office received a telephone call from an irate property owner--a person named in the FHF investigation as the owner of one of the buildings involved in racial discrimination. This caller reported, angrily, that he had been visited by an FBI agent who had (a) disclosed the substance of the complaints regarding his property and (b) further disclosed FHF as the source of the report! The irate property owner further stated that he had denied to the FBI agent that he engaged in racial discrimination, had showed the agent two black tenants in one apartment building, and had been, in effect, given "a clean bill of health" by the FBI man. A review of the reports in this particular case shows clearly--for the specific properties covered in the investigation--that blatant discrimination by the apartment manager against black inquirers did in fact occur, as confirmed by reliable and independent witnesses.

IT WAS THEN LEARNED that an FBI representative had visited still other apartment owners and managers named in the complaint and had made similar disclosures of the confidential FHF reports. In all of these "investigations" conducted by the Justice Department, not a single inquiry was made of any one of the 75 witnesses to the discriminatory acts covered in various FHF reports. Not a single inquiry was made of FHF by FBI agents relating to any of these investigations, nor was FHF ever apprised of the disclosures being made to the discriminating apartment owners and managers. And there has since been no communication from the Justice Department to FHF about the status of the case.

On May 16, Mrs. Shirley Blumberg, FHF Chairman, attended a program on which U. S. Attorney Robert Meyer happened to be a panelist. (Mr. Meyer is the U. S. Attorney in charge of the Central District of California, with headquarters in Los Angeles.) After the program, Mrs. Blumberg took advantage of the opportunity to ask Mr. Myer about the current status of the Long Beach case.

Mr. Meyer turned out to be quite familiar with the Long Beach case--which, he said, poses "lots of problems." One of the "problems"--never mentioned to FHF by any of the officials in the Housing Section of the Civil Rights Division--was that the case involved many owners of various apartment buildings rather than one owner of huge apartment holdings or a large subdivision, thereby lacking community "impact." Mrs. Blumberg observed that the impact of a suit involving many owners and many buildings would be very great in a city like Long Beach. Whereupon Mr. Meyer cited another "problem"--i.e., that if the Justice Department did file such a suit, "we could have the mayor, the City Council, and the Realty Board on our necks".

Richard Green, who encouraged the FHF investigation in the first place and who confidently predicted early legal action, is no longer with the Justice Department. Jerris Leonard, former head of the Civil Rights Division--who was on record as favoring "patterns of practice" lawsuits against illegal racial discrimination--is no longer with the Justice Department. What this all means with respect to the willingness or unwillingness of the present Attorney General to enforce federal fair housing laws we do not venture to say.

What the Fair Housing Foundation does say is that if Mr. Meyer and the Justice Department are not deliberately delaying and dodging the issue in this case, we think the time has come for them to prove it by action. If those responsible in the Justice Department now fail the people in Long Beach entitled to "equal protection of the law," and if there is to be, in fact, no action at all in these clear-cut cases of illegal discrimination, then we will have to draw the obvious conclusions.

Exhibit No. 53

Assistant Secretary of Labor Arthur A. Fletcher's
STATEMENT FOR U. S. COMMISSION ON CIVIL RIGHTS
HEARINGS ON HOUSING
June 14, 1971

We, of course, are intimately and personally aware of the problems which confront minority group members due to discrimination in the sale and rental of housing, and we consider it to be a very serious problem. However, it is important to remember that the program we administer under Executive Order 11246 is directed toward equal employment opportunity. As a practical matter, we have to date found very few cases where the lack of adequate housing has been a cause of underutilization of minorities by a Government contractor. Naturally, we do have a responsibility when the problems that minorities have in obtaining decent housing present obstacles to equal employment opportunity by a Government contractor. On the other hand, when housing problems are not related to the employment problems of Government contractors, we have no authority to deal with them.

With that prologue, let us look at the connection between housing opportunities and employment. In developing an affirmative action program under OFCC Order No. 4, a contractor must analyze the utilization of minorities in his work force. If he determines, using the factors spelled out in Order No. 4, that there is underutilization of minorities in his work force, he must develop goals and timetables to correct the underutilization. In order to meet his goals, a contractor must analyze the causes of his past underutilization. It must be recognized that in some instances the lack of adequate housing has been related to employment of minorities. If an employer is not meeting his equal employment obligations, we can and do ask him to

analyze his problem to determine whether the lack of housing is a cause of his equal employment opportunity problems. In those cases where the underutilization of minorities is related to a housing problem, contractors have dealt with it through their affirmative action programs developed pursuant to OFCC Order No. 4. Examples of the kinds of commitments we can ask from contractors or which contractors are making in their affirmative action programs are as follows:

1. Appointing a company official as housing coordinator to assist employees in obtaining housing and oversee the company's positive housing program.

2. Following up on listings with the company by apartment owners and real estate agents to ensure that such rentals or sales are on a non-discriminatory basis. The company may also conduct surveys of actual rentals and sales made through listings with the company to verify that all employees are served nondiscriminatorily. The company would refuse to list housing opportunities where owners or agents refuse to rent or sell to minority groups.

3. Working with and taking positions before public and private organizations such as educational and financial institutions, zoning boards, fair housing agencies, housing authorities, housing developers, and real estate agent, to encourage the development of low cost housing and eliminate discrimination in housing.

4. Lowering loan requirements by company credit unions to assist employees in home financing.

It must be emphasized, however, that housing may not be the only way to deal with the problem of minority underutilization in a given situation. An effective affirmative action program might, alternatively, provide for creative solutions for overcoming transportation difficulties such as providing, at company expense, bus service from the center city to the suburban facility or obtaining special bus lines to provide similar transportation services.

*Exhibit No. 54***

NATIONAL LEAGUE OF CITIES



UNITED STATES CONFERENCE OF MAYORS

July 23, 1971

Mr. David Hunter
Assistant General Counsel
U. S. Commission on Civil Rights
Washington, D.C. 20425

Dear Dave:

I am enclosing the copy of the transcript of the testimony of Mayor Carl B. Stokes and Mayor Norman Mineta, with a few minor changes.

In addition, to enlarge upon the Mayors' testimony regarding the plight of the central cities and the role of the property tax, I am submitting for the Record the testimony of the Legislative Action Committee of the United States Conference of Mayors before the Senate Subcommittee on Intergovernmental Relations, June 3, 1971.

Also for the Record, I am enclosing excerpts from the National Municipal Policy of the National League of Cities, and Resolutions #23, "Housing Opportunities", adopted at the 1971 Annual Meeting of the U. S. Conference of Mayors, the relevant policy statements of both organizations on open housing and suburban access.

Sincerely,

A handwritten signature in cursive script that reads "Larry".

Larry Snowwhite
Legislative Assistant

Enclosures

**TESTIMONY OF THE LEGISLATIVE ACTION COMMITTEE OF THE
UNITED STATES CONFERENCE OF MAYORS BEFORE THE SENATE
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, JUNE 3,
1971***

*Retained in the Commission files. This testimony is available from the Subcommittee.

National Municipal Policy

Adopted at the
47th Annual
CONGRESS
OF CITIES
December 7-10, 1970
Atlanta, Georgia

*National League of Cities
1612 K Street, N.W.
Washington, D.C. 20006
(202) 293-7300*

COMMUNITY DEVELOPMENT

1.000 COMMUNITY DEVELOPMENT GOALS

The city is a critical institution in our governmental system. The environment which cities mold determines the quality of daily life for most Americans.

Physical development is, therefore, of necessity closely tied to the personal development of a city's inhabitants. All programs related to community development must be carried out with a clear understanding that the physical climate in which an individual exists is largely responsible for his attitude toward the community and his place in it. Physical development activities should be coordinated with human resources to achieve maximum harmony.

Urban deterioration — the spread of slums and blight — is a continuing process. It cannot be checked through token rehabilitation and renewal programs. The solution must be a comprehensive, total commitment to providing a wholesome, viable urban community. This approach requires massive federal and state financial assistance to supplement inadequate local resources. Coordinated local, metropolitan and regional planning must be the responsibility of elected local officials. Planning at all governmental levels must complement the development and implementation of a national urbanization policy, through which orderly patterns of national growth can be achieved.

Housing and community development problems must be viewed in a metropolitan context. Central cities and surrounding suburbs must undertake cooperative efforts to remove obstacles which hinder resolution of problems on a metropolitan basis. These efforts must be directed at upgrading the quality of facilities and services in central cities, while at the same time developing greater opportunities for expansion of population into newly-developing areas.

Appropriate actions must be taken at all levels of government to assure an equal opportunity for good housing in a suitable living environment for all Americans, and to insure that choice of housing, opportunities and options in housing locations are available to all.

Federally aided programs for community development should enhance sound local planning, and all programs must be funded at a level which is consistent with a comprehensive total commitment to solving urban problems. Authorizations must be fully funded, and the delays between the time an authorization is approved, an appropriation is passed, and the funds are finally allocated to communities must be eliminated.

While many existing federal programs have been responsible for the involvement of the private sector in meeting community development needs, closer links must be established between public and private resources. Federal, state and local policies and practices which discourage investment of private capital should be modified, and innovative methods should be devised which will lead to the maximum involvement of private enterprise in programs for community development.

NATIONAL URBANIZATION POLICY

1.100 NATIONAL URBANIZATION POLICY GOALS

Explosive population growth and mobility, technological development, diminishing natural resources and economic and social disarrangement present this nation with staggering challenges.

These forces seriously threaten the future quality of the human environment in America. The potentially disastrous consequences of unguided and unchecked urbanization demand unprecedented federal action. These changes must be met through immediate action by the federal government to formulate a National Urbanization Policy which will provide for a balanced, viable, attractive human environment in metropolitan and non-metropolitan America, social and economic opportunity for all our people, the best use of our land and resources, and the strengthening of the capacities of our governmental institutions to respond to the urbanization challenge.

A National Urbanization Policy must include:

- A. A specific policy for the settlement of people throughout the nation to balance the concentration of population among and within metropolitan and non-metropolitan areas while providing social and economic opportunity for all persons.
- B. Adjustment of social and economic policies, programs and institutions to ensure their consistency with urbanization policy.
- C. Imaginative, innovative and efficient uses and conservation of land and other natural resources.
- D. Revitalization of existing communities and careful planning and support of new communities as integral parts of regions or metropolitan areas.
- E. Programs to develop a strong urban governmental structure and to improve the responsiveness of institutions of general government to the requirements of balanced urban growth.
- F. Programs to expedite the adaptation of technological advances to improvement of the human environment and the requirements of urban growth.
- G. A process to assure objective evaluation of proposed new or modified policies and programs in terms of their consistency with the National Urban Policy.

HOUSING

1.500 NATIONAL HOUSING POLICIES AND GOALS

In order to correct the inadequacies of the present housing supply, Congress declared in 1968 that at least six million new and rehabilitated low and moderate income housing units must be provided in the next ten years. Statistics show we are far behind the goal in terms of annual housing production. The achievement of the goal is dependent upon the provision of an adequate level of funding by Congress and positive support from the Administration. This production must be part of an articulated national housing policy designed to make reality of the 1949 Housing Act's goal of a "decent home and a suitable living environment for every American family."

Federal policies and practices which in effect restrict assistance for low income housing to central cities must be changed so that assistance is available and in fact encourages such housing throughout metropolitan areas and in rural areas and new communities. In addition, suburbs and new communities must assume more responsibility for increasing the supply of low and moderate income housing. Metropolitan areas should develop housing strategies which will achieve a balanced housing supply in central cities and suburbs.

In connection with increasing the housing supply, the federal government should provide incentive grants for the development of complementary public facilities and public service needs which will be required in expanding central city and suburban responsibilities. This assistance must be directed at preventing the imposition of excessive capital demands on a community in which increased housing development has taken place.

Municipal governments must play an active role in assuring equal housing opportunities and options in housing location for all citizens.

1.504 ENCOURAGING BETTER HOUSING THROUGH LOCAL CODES AND ZONING

Adequate municipal housing and building codes must be adopted and realistically administered in order to maintain decent, safe, and sanitary housing. Such programs should be planned and carried out on an areawide basis and should complement other municipal redevelopment programs.

State and local governments should cooperate to encourage better housing by authorizing uniform housing and building codes to help reduce housing costs and by revising zoning ordinances to permit construction of housing for a wide range of income groups.

HOUSING OPPORTUNITIES

WHEREAS, there are inadequate housing opportunities for low and moderate income families in many metropolitan areas; and

WHEREAS, zoning and land use restrictions are sometimes used to impede equal housing opportunities throughout metropolitan areas; and

WHEREAS, some cities do not have adequate land and few cities have the additional financial resources necessary to provide adequate housing, education, police and fire protection, public works, health, and other public services; and

WHEREAS, the U. S. Constitution, the Housing Act of 1949, and Fair Housing legislation has established that the provision of and access to and adequate supply of low and moderate income housing regardless of income or race in all parts of our country is a vital national goal; and

WHEREAS, in furtherance of this goal, each level of government, whether it be federal, state, county, or municipal, has an affirmative duty to assure that a full range of housing opportunities becomes a functional reality; and

WHEREAS, the Federal Government, pursuant to the Civil Rights Act, has an affirmative obligation to administer its programs and to allocate its resources with this national policy firmly in mind; and

WHEREAS, President Nixon's policy on equal housing opportunities announced on June 11, 1971 raises great concerns about its potential effectiveness in achieving such opportunities; and

WHEREAS, low and moderate income groups, including blue and white collar workers, returning war veterans, the elderly, the young and minorities, cannot afford new single family housing, for all of which in 1970 median sales price was \$23,500 including subsidized 235 lower income housing,

NOW, THEREFORE, BE IT RESOLVED that the United States Conference of Mayors strongly urges President Nixon to support the incremental initiative taken by Secretary George Romney of the Department of Housing and Urban Development (HUD) and direct all other appropriate federal agencies to cooperate with HUD to promote the development of low and moderate income housing throughout all Standard Metropolitan Statistical Areas, including suburban communities; and

BE IT FURTHER RESOLVED that President Nixon or, where appropriate Secretary Romney direct federal agencies administering programs such as, but not limited to, highway appropriations, public works projects, and FHA mortgage loan guarantees, as well as community development projects to advise all communities that the future availability of federal funds for these projects will depend upon the applicant-community's commitment to provide low and moderate income housing and that to refuse to cooperate in this regard will serve to terminate all such federal assistance; and

BE IT FURTHER RESOLVED that the Federal Government should take great care in analyzing the availability of housing opportunities when locating a government facility or when awarding a federal contract to a private company and that where cooperation is not forthcoming from the community or company in question, the Federal Government should refuse to so locate the facility or approve the contract; and

BE IT FURTHER RESOLVED that the United States Conference of Mayors requests that a delegation of Mayors meet with the President to discuss the ramifications of his policy on the development of low and moderate income housing for the nation.

Adopted, Annual Convention, United States Conference of Mayors

June 16, 1971

Philadelphia, Pa.

Exhibit No. 55

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

AUGUST 2 1971

The Honorable
Theodore M. Hesburgh
Chairman, United States
Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Chairman:

The transcript of our testimony before your Commission during the recent hearing has been corrected and is returned herewith, together with certain material which was requested for inclusion in the record.

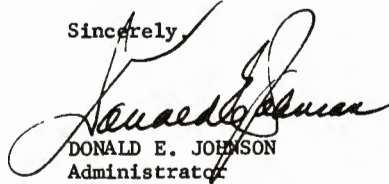
These items include an opinion by our General Counsel responsive to the request and colloquy which appears on page 67 of the transcript. Statistical data reflecting the race composition of VA Construction Analysts and copies of job descriptions for our two Loan Guaranty Staff Assistants for civil rights matters for insertion at pages 74 and 93 are also enclosed.

The Commission requested that a survey be made to obtain information about the racial characteristics of persons whose applications do not result in loans because private lending does not materialize. Before the end of August of this year, we expect to have the results of a special survey that will provide data on the racial characteristics of veterans whose guaranteed loan applications have been processed in 13 Standard Metropolitan Statistical Areas. We will send this data to the Commission as soon as it is available. A more comprehensive report will be furnished upon completion of the first computerized run of nationwide

racial data on loan applicants, which is expected to be ready before the end of this year. These methods for obtaining and supplying the desired information were described to Mr. John Powell, General Counsel to the Commission.

We understand that the Department of Housing and Urban Development recently enlisted the assistance of Federal regulatory agencies such as the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the Treasury Department in obtaining responses by private lending institutions to a questionnaire on the effect of the policies of such institutions in the light of equal opportunity objectives. The Commission may wish to consider the results of such a survey.

Sincerely,



DONALD E. JOHNSON
Administrator

Enclosures

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : The Administrator (00)

DATE: JUL 30 1971

FROM : Acting General Counsel (021)

SUBJECT: Certification Requirement for Contract Real Estate Brokers

1. In the course of hearings conducted by the United States Commission on Civil Rights on June 16, 1971, a question arose as to your legal authority to require execution of a certification of nondiscrimination in the sale or rental of all properties, both VA acquired and non-VA, from real estate brokers, as a condition to their employment by the Veterans Administration. You requested my opinion on this matter.
2. Nothing contained in title 38, United States Code, affirmatively bars imposition of such requirement. To the contrary, the Administrator is given wide latitude and almost unrestricted authority under section 1820 to engage and utilize the services of brokers to "maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter."
3. In my recent opinion of June 4, 1971, Op. G.C. 5-71, dealing with the inclusion of a nondiscrimination certification in applications for home loan assistance, it was pointed out that the mandate of the 1968 Civil Rights Act, PL 90-284, read in the light of the Supreme Court decision in Jones v. Mayer Company, 392 US 409, 20 L ed 1189, requires that steps must be taken by the Veterans Administration to effectively implement the national law and policy against discrimination in housing.
4. Among those things proscribed by both the decisional and statutory law are the refusal to sell or rent to any person because of race, color, religion, or national origin or to discriminate, in any manner, with respect to terms, conditions, advertising, inspections or financial arrangements in connection with sales or rental. It would be anomalous to

require nondiscrimination by a broker solely with respect to his handling of VA properties while passively acquiescing in his employment of illegal racially discriminatory practices in the rental or sale of other than VA properties.

5. Your authority to utilize the services of brokers in the sale or management of VA properties permits the establishment of any reasonable prerequisite, not otherwise barred by law, as a condition to such personal service contracts. It is my view that it would not be unreasonable to require execution by a broker of an appropriate certification against discrimination because of race, color, religion, or national origin in the sale or rental of any and all properties which he handles, both VA and non-VA, as a condition to his employment by the Veterans Administration, and it is my opinion that you have the legal authority to do so.



A. T. BRONAUGH

CONSTRUCTION ANALYSTS
VA FIELD STATIONS

	<u>BLACK</u>	<u>SPANISH AMERICAN</u>	<u>WHITE</u>	<u>TOTAL</u>
GS-5	0	0	1	1
GS-9	0	0	8	8
GS-11	0	1	68	69
GS-12	1	0	8	9
GS-13	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>
TOTALS:	1	1	86	88

POSITION DESCRIPTIONMR. LEON COX, STAFF ASSISTANTI. PRINCIPAL DUTIES AND RESPONSIBILITIES

Incumbent formulates and recommends policies, procedures and standards for obtaining compliance with and enforcing the provisions of Executive Orders 10925, 11063 and 11246; the Fair Employment Practices Section of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, in respect to the substantive operations of the Loan Guaranty and Direct Loan Programs. Also formulates and recommends policies and procedures relating to Equal Opportunity in Housing (EOH) and Equal Employment Opportunity (EEO) as such objectives apply to all facets of Program administration and operations, except that the incumbent does not have any responsibilities in relation to EEO matters as they apply to salaried VA employees.

Develops measures to be taken Program-wide whereby compliance with EOH and EEO is measured and evaluated. Develops methods and techniques to be used to enforce compliance with the principles of EOH and EEO within the Program, including the development of administrative guidelines, performance standards, and techniques for sampling products or services produced.

Formulates and recommends policies, procedures and standards to be used in maintaining at field stations a service of counselling minority group persons who are seeking to become homeowners through the financial assistance afforded by the VA home loan program. The counselling of such persons, both veterans and non-veterans, extends to (a) advising them on the duties and responsibilities of homeownership, including the care and maintenance of their homes, (b) assisting in the resolution of problems identified in the course of counselling interviews with the view of maximizing the success of efforts to afford minority group persons full opportunity to become homeowners.

On a regular basis, incumbent visits field stations to review EOH and EEO activities and makes assessments of compliance. The incumbent does not confine his reviews to checking DVB field station practices. In addition, he performs on-site inspections of new housing construction to gauge builder compliance with the principles of EOH and EEO. Similarly, visits the offices of VA sales brokers and evaluates compliance by using such devices as the techniques of testing.

Incumbent participates fully in the coordination of all activities of the Loan Guaranty Service in the areas of EOH and EEO. He is frequently delegated authority to act for the Director in dealing with Loan Guaranty employees on EOH and EEO matters.

Participates fully in the coordination of the Loan Guaranty and Direct Loan Programs with officials of VA and other departments and agencies of the Government on EOH and EEO matters.

When designated, incumbent serves as the VA staff liaison with other Government departments, agencies and commissions involved with implementing and effectuating the principles of EOH. These include the United States Civil Rights Commission, the Civil Service Commission, the Department of Justice, the Department of Housing and Urban Development, the Federal Housing Administration, etc.

II. SUPERVISORY CONTROLS OVER THE POSITION

Under the general guidance of the Director, Loan Guaranty Service, the incumbent exercises wide latitude of judgment in resolving problems with respect to the Service's conduct of the EOH and EEO Programs.

Generally the Director refers work assignments to the incumbent without instructions or guidelines. The Director expects the incumbent to formulate proper courses of action, to carry assignments to completion on a timely basis and to ensure proper coordination with interested officials. It is expected that such acting will be performed by the incumbent usually without consulting the Director except in unusual or complex situations.

The incumbent is expected to identify problems or areas in need of attention and to recommend necessary action.

III. OTHER SIGNIFICANT FACTS

The Loan Guaranty and Direct Loan Programs are major Federal credit programs which underwrite the extension of credit by private lenders and also directly extend credit in the form of direct loans to veterans and to purchasers of VA-owned properties. The Program manages and liquidates one of the largest portfolios of loans and properties in the United States, either in the Government or the private sector.

The incumbent must be alert to all factors necessary to assure that this large and important Program is conducted in full conformity with both the letter and the spirit of the Government-wide thrust for Equal Opportunity, particularly Equal Opportunity in Housing. In order to properly and effectively relate these endeavors to this Program, the incumbent must apply a comprehensive knowledge of the statutes, regulations, Programs, and a fundamental and Progressive knowledge of the methods and techniques employed by both Government and private industry in the mortgage loan and real estate fields.

Incumbent must have the ability to recognize external conditions, influences and attitudes which require the establishment or refinement of EOH and EEO policies. Specifically, he must be thoroughly familiar with the multi-year background or problems associated with the subject of discrimination in housing, such as:

- a. the attitudes of lending institutions toward making loans to minority group members;
- b. the attitudes of builders and sellers toward selling houses to minority group members;
- c. the problem of location (available properties and prospective homebuyers are not often located in the same area); and
- d. the relationship of housing to job opportunities.

Incumbent must have an extensive knowledge and understanding of management principles, practices, methods and techniques. He must be a self-starter, and must have a marked degree of originality, creativity and ingenuity. Because of his frequent contacts with top management personnel within the VA and other Government agencies, the incumbent must be expert at securing cooperation from, and cooperating with, others, particularly in the area of obtaining concurrences on important policy and procedural matters. Therefore, tact, judgment, objectivity and persuasiveness must be prime characteristics.

POSITION DESCRIPTIONMR. AARON ENGLISHER, STAFF ASSISTANTI. PRINCIPAL DUTIES AND RESPONSIBILITIES

Incumbent formulates and recommends policies, procedures and standards for obtaining compliance with and enforcing the provisions of Executive Orders 10925, 11063 and 11246; the Fair Employment Practices Section of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, in respect to the substantive operations of the Loan Guaranty and Direct Loan Programs. Also formulates and recommends policies and procedures relating to Equal Opportunity in Housing (EOH) and Equal Employment Opportunity (EEO) as such objectives apply to all facets of Program administration and operations, except that the incumbent does not have any responsibilities in relation to EEO matters as they apply to salaried VA employees.

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On a regular basis, incumbent visits field stations to review EOH and EEO activities and makes assessments of compliance. The incumbent does not confine his reviews to checking DVB field station practices. In addition, he performs on-site inspections of new housing construction to gauge builder compliance with the principles of EOH and EEO. Similarly, visits the offices of VA sales brokers and evaluates compliance by using such devices as the techniques of testing.

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The incumbent must be alert to all factors necessary to assure that this large and important Program is conducted in full conformity with both the letter and the spirit of the Government-wide thrust for Equal Opportunity, particularly Equal Opportunity in Housing. In order to properly and effectively relate these endeavors to this Program, the incumbent must apply a comprehensive knowledge of the statutes, regulations, Programs, and a fundamental and progressive knowledge of the methods and techniques employed by both Government and private industry in the mortgage loan and real estate fields.

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**Census Bureau Data Re: Information on Cleveland and
Washington, D.C.**

Special Study on Suburban Access

1



U.S. DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233
OFFICE OF THE DIRECTOR

August 17, 1971

Mr. David H. Hunter
Assistant General Counsel
United States Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Hunter:

Enclosed herewith is the transcript of Dr. Brown's statement in connection with your hearings on Barriers to Minority Suburban Access.

The material called for on page 93 is submitted herewith. The material called for on page 105 is not yet available, but will be submitted later.

Sincerely,

Conrad Taeuber

CONRAD TAEUBER
Associate Director
Bureau of the Census

Enclosures

NEGRO POPULATION CHANGES IN THE WASHINGTON, D.C. SMSA^{1/}

The Washington metropolitan area is one of the fastest growing areas in the country. Since 1960, its population has increased by 36 percent. As in other metropolitan areas, however, the growth has not been evenly distributed among its constituent parts. For example, the total population of the city of Washington declined slightly over the past decade, but the population of the Maryland and Virginia suburbs increased by 58 percent during the same period.

The changes in the racial distribution of the area's population are even more striking. While the Negro proportion of the area's population has increased only slightly, from 24 percent in 1960 to 26 percent in 1970, Negroes now constitute 71 percent of the District's population and only 8 percent of the suburban population. The District, which was the first major city to have a Negro majority, has experienced an increase of 126,000 in its Negro population and a corresponding decrease of 136,000 whites. The suburbs also saw a large increase in the number of Negroes over the past decade; in fact, the number of suburban Negroes more than doubled. In 1970, 23 percent of the area's Negroes resided in the suburbs, as compared to only 15 percent in 1960. Three-fourths of this increase occurred in Prince Georges County, Maryland, where there appears to be a large concentration of Negroes in neighborhoods adjoining the Negro section of the District. The increase in the number of suburban whites was considerably larger than that for Negroes, however, resulting in only a slight increase--from 6 to 8 percent--in the Negro proportion of the suburban population.

^{1/}SMSA as defined in 1960. Excludes Prince William and Loudoun Counties, which were added to SMSA definition in 1967.

Until the figures on residence 5 years ago are available, it is not possible to say much about the characteristics of the migrants but it is possible to estimate roughly how much of the population change in the metropolitan area is due to migration from other States and how much is due to natural increase or movement within the metropolitan area. The large drop in the white population of the District is unquestionably due to the movement of whites away from the city. Much of this movement was to the suburbs where the number of whites increased by over 600,000. There apparently was significant movement of Negroes to the suburbs, also. This out-migration, however, was not sufficient to offset the natural increase and the movement of Negroes from other areas to the District. About half of the increase in the number of Negroes in the District during the past decade can be accounted for by the excess of births over deaths rather than by in-migration.

By at least one measure of racial segregation, Negroes within the city of Washington have become more segregated from whites over the past decade. In 1960, 70 percent of the city's Negroes resided in census tracts that were at least three-fourths Negro. By 1970, this proportion had risen to 88 percent, and only 2 percent of the city's Negroes lived in tracts that were less than one-fourth Negro.

In the suburban ring, the distribution of the Negro population is considerably different. In 1970, only 30 percent of the Negroes outside the city lived in tracts that were more than 75 percent black and 41 percent were in tracts where Negroes were less than 25 percent of the population. There was relatively little change in this distribution between 1960 and 1970 for the suburban ring as a whole. In Prince Georges County, however, the proportion of the Negro population residing in tracts that were at least 75 percent Negro increased from 31 percent in 1960 to 36 percent in 1970.

The population of the city's current poverty area and its neighborhood subdivisions, which were delineated by the Bureau in consultation with local agencies, has become almost entirely Negro. In 1970, nearly 7 of every 10 Negroes in the District of Columbia lived in the poverty area and within this area, over 9 of every 10 persons are Negro. Thus, while the number of Negroes living outside the poverty area increased by over 100 percent, over half of the Negroes in the metropolitan area reside in the central city poverty area.

Although the seven neighborhoods within the poverty area vary somewhat in their basic population and housing characteristics, the population of each, like the poverty area as a whole, has become increasingly Negro over the past decade. In 1960, only two of these neighborhoods were as much as 80 percent Negro and none were as high as 90 percent. By 1970, Negroes constituted at least 80 percent of the population in all seven neighborhoods and in five of the seven, this proportion was over 90 percent.

All seven poverty neighborhoods experienced a decline in the number of whites while only the three "inner city" neighborhoods, those immediately surrounding or including the "downtown" and Capitol Hill portions of the city, experienced declines in their Negro populations. However, while many whites left the city during the sixties, it should not be inferred that all of these departed from the poverty area. In fact, nearly half of the decline occurred in the more affluent portions of the city. Of the population residing in the city but outside the poverty area, nearly half was Negro in 1970 as compared with only one-fourth in 1960.

Age distribution.--The Washington area's Negro population has become younger since 1960. During the decade, the median age of the Negro population in the Washington metropolitan area declined by roughly two years. Because of

the concentration of older persons in the central city, the median age of the city's Negro population is nearly 3 years higher than that for Negroes residing in the suburban ring. For Negroes within the city, the median age for residents of the poverty area is almost 5 years lower than that for non-poverty area residents, reflecting the fact that children under 14 years of age constitute one-third of the poverty areas Negro population and only one-fourth of the Negro population outside the poverty area.

As implied by the lowering of the median age, significant shifts in the age distribution of the metropolitan area's Negro population occurred in the last ten years. However, the median age was not lowered by a disproportionate increase in the number of young children. The proportion of children under 5 years of age actually fell from 14 percent in 1960 to only 10 percent in 1970. The most significant increase was the doubling in the number of Negroes in the 15 to 24 age group, the group that was born during the post-World War II "baby boom" years, 1946 to 1955.

The growth of the 15 to 24 age group was shared by both the city and the suburban ring, but this growth was accompanied by the relative decline of different age groups in these two areas. In the city, this decline centered on the under 5 and the 25 to 44 age groups, which together comprised 36 percent of the total Negro population in 1970, as compared with 44 percent in 1960. The major portion of this relative decline can be accounted for by the decrease in absolute numbers, as well as relative proportion, of these two age groups in the poverty area portion of the city, suggesting a shift of young Negro families from the city into the suburbs. In the suburban ring the relative decline was concentrated among persons 45 years and older, even though the absolute number of persons in this age group increased. This group was only about 15 percent of the Negro population in 1970, down from 20 percent in 1960.

Families with a female head.--One possible effect of the changing age distribution of the Negro population, particularly the relative increase in the number of teenagers and young adults, is the large increase in the number of families lacking an adult male as head. While the number of Negro families in the area increased by almost one-half over the decade, the number of female-headed families rose by 89 percent. Nearly four-tenths of the net increase in the number of Negro families is accounted for by the increase in those with a female head. This has resulted in a corresponding increase in the percentage of families with a female head, from 20 percent in 1960 to 26 percent in 1970.

While the number and percentage of families with a female head rose in the suburbs as well as in the city, the disparity between these portions of the SMSA increased. The proportion of Negro families with a female head in the suburban ring rose only slightly, from 15 to 17 percent. This proportion was higher in the city in both years and rose considerably, from 21 percent in 1960 to 29 percent in 1970. These data, and the fact that the number of families headed by a male actually decreased in the poverty area, would seem to indicate that husband-wife families are financially more able to leave the inner city and are taking advantage of the opportunity.

The central city poverty area experienced an increase of about 9,000 Negro families during the sixties. However, the number of families with female heads rose by nearly 10,000 and the number of families with male heads actually decreased. Families with female heads now account for roughly one-third of the poverty area's families, as compared with less than one-fourth in 1960. The poverty area, as contrasted with the suburban ring and the more affluent portions of the city, is the only section of the SMSA that contains a disproportionate share of Negro families with female heads. The poverty area

contains slightly over one-half of the SMSA's Negro families, but nearly two-thirds of the families with female heads.

Housing.--The decade of the sixties has witnessed a sharp increase in the number of housing units occupied by Negroes in the Washington area. In fact, the number of units rose faster than the Negro population, suggesting that overcrowding in Negro units has been somewhat alleviated. The proportion of units occupied by Negroes and having more than one person per room has decreased from one-fourth in 1960 to one-sixth in 1970.

About three-fourths of the increase in Negro occupied units occurred in rental housing. Owner-occupied units, those units occupied by owners or those who are purchasing their units, rose by nearly one-half but declined slightly as a proportion of all Negro units because of the even larger increase in the number of rental units occupied by Negroes. In 1970, about three out of every 10 Negro housing units were owner-occupied. This proportion is as low as two of every ten in the central city poverty area, rises to four of every ten in the non-poverty area portion of the city, and approaches five of every ten in the suburban ring. Only in the suburban ring, where the increase in the number of Negro owner-occupied units was nearly as great as for renter-occupied units, did this proportion actually rise.

While the increase in the number of owner-occupied Negro units was divided about equally between the city and the suburban ring, all of the city's increase occurred outside the poverty area. Due in large part to urban renewal and the subdivision of single-family dwellings into multiple-family units, the poverty area experienced a slight decrease in the number of owner-occupied units.

By at least one measure of housing quality, the presence of complete plumbing facilities, the condition of Negro housing in the Washington area

has improved considerably over the past 10 years. In 1960, the occupants of 11 percent of Negro housing units in the SMSA lacked hot water, a flush toilet or a bathtub, or did not have exclusive use of these facilities. By 1970, this proportion had decreased to only 3 percent. There are fewer Negro units without complete plumbing facilities in the suburban ring than in the city but as a percentage of all Negro units, the suburban ring has proportionately more units with deficient plumbing. This disparity between the suburban ring and the city has lessened since 1960, however, and will probably continue to decrease as newer and denser suburban growth reaches the more rural and isolated portions of the area where many of the deficient units are located.

Table 1.--POPULATION BY RACE FOR THE WASHINGTON, D.C., SMSA, BY POVERTY AREA STATUS: 1970 AND 1960
(Numbers in thousands)

Area	1970			1960			Change: 1960 to 1970			
	Total	Negro		Total	Negro		Total		Negro	
		Number	Percent of total		Number	Percent of total	Number	Percent	Number	Percent
SMSA, total ^{1/}	2,713	693	25.6	2,002	485	24.2	711	35.5	208	42.9
Washington, D.C.	757	538	71.1	764	412	53.9	-7	-1.0	126	30.6
In poverty areas	396	366	92.4	422	323	76.4	-26	-6.2	43	13.4
Far East	74	73	97.9	68	58	86.4	7	10.1	14	24.7
Anacostia	44	42	96.0	34	25	73.7	9	27.2	17	65.6
Congress Heights	34	32	92.6	27	3	9.7	8	29.8	29	1134.2
Near South	34	30	87.1	41	32	79.1	-6	-15.4	-2	-6.8
Near Northeast	82	78	95.7	98	86	87.4	-16	-16.7	-8	-8.8
South Cardozo	53	45	83.3	72	58	79.4	-19	-26.3	-13	-22.6
North Cardozo	74	66	89.8	82	60	73.5	-9	-10.6	6	9.2
Outside poverty areas	360	172	47.7	342	89	26.1	19	5.5	83	93.1
Suburban ring	1,956	156	8.0	1,238	74	5.9	718	58.0	82	111.6
Prince Georges County, Md. .	661	92	13.9	357	31	8.7	303	84.8	61	196.2

^{1/} SMSA as defined in 1960.

Table 1a.--PERCENT OF ALL NEGROES LIVING IN CENSUS TRACTS GROUPED ACCORDING TO PROPORTION NEGRO, FOR THE WASHINGTON, D.C. SMSA: 1970 AND 1960

Year	Census tracts				
	Total	Negro proportion of population			
		75 percent or more	50 to 74 percent	25 to 49 percent	Less than 25 percent
Washington, D.C.:					
1970	100	88	8	2	2
1960	100	70	18	7	5
Suburban ring, total:					
1970	100	30	5	24	41
1960	100	28	4	23	45
Prince George's County:					
1970	100	36	8	28	28
1960	100	31	10	28	31

Note: SMSA as defined in 1960.

Table 2.--AGE OF THE NEGRO POPULATION FOR THE WASHINGTON, D.C. SMSA, BY POVERTY AREA STATUS: 1970 AND 1960
(Numbers in thousands)

Age	1970					1960				
	SMSA ^{1/} total	Washington, D.C.			Suburban ring	SMSA ^{1/} total	Washington, D.C.			Suburban ring
		Total	In poverty area	Outside poverty area			Total	In poverty area	Outside poverty area	
Total	693	538	366	172	156	485	412	323	89	74
Under 5 years	70	52	38	14	18	66	56	46	10	10
5 to 14 years	153	114	83	31	39	99	83	66	16	17
15 to 24 years	132	103	71	32	29	66	55	44	11	11
25 to 44 years	187	142	91	50	46	146	125	96	29	21
45 to 64 years	116	97	62	35	19	85	73	56	17	12
65 years and over	35	30	20	10	5	23	20	15	5	3
Median age	24.4	25.0	23.7	28.3	22.2	26.5	26.9	26.0	29.9	24.1
<u>Percent Distribution</u>										
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Under 5 years	10.1	9.6	10.4	8.0	11.9	13.6	13.6	14.1	11.8	13.7
5 to 14 years	22.1	21.2	22.7	18.2	24.9	20.4	20.1	20.6	18.2	22.6
15 to 24 years	19.0	19.2	19.4	18.7	18.5	13.6	13.4	13.8	12.1	15.0
25 to 44 years	27.0	26.4	25.0	29.3	29.4	30.1	30.4	29.7	33.1	28.2
45 to 64 years	16.7	18.0	17.1	20.2	12.0	17.4	17.7	17.2	19.3	16.3
65 years and over	5.1	5.5	5.5	5.6	3.4	4.7	4.8	4.6	5.4	4.3

^{1/}SMSA as defined in 1960.

Table 3 .--NEGRO POPULATION CHANGE BY AGE FOR THE WASHINGTON, D.C. SMSA, BY POVERTY AREA STATUS: 1960 TO 1970

(Numbers in thousands)

Age	SMSA 1/ Total	Washington, D.C.			Suburban ring
		Total	In poverty area	Outside poverty area	
<u>Number</u>					
Total	208	126	43	83	82
Under 5 years	4	-4	-7	3	8
5 to 14 years	54	32	17	15	22
15 to 24 years	66	48	27	21	18
25 to 44 years	41	16	-5	21	25
45 to 64 years	31	24	7	17	7
65 years and over	12	10	5	5	2
<u>Percent</u>					
Total	42.9	30.6	13.4	93.1	111.6
Under 5 years	6.3	-7.4	-16.4	31.3	83.0
5 to 14 years	54.2	38.4	24.9	93.7	133.0
15 to 24 years	99.3	86.9	60.1	196.9	161.3
25 to 44 years	28.3	13.0	-4.9	70.9	121.2
45 to 64 years	36.5	33.5	12.4	101.2	55.3
65 years and over	53.3	51.0	35.3	100.0	67.6

1/ SMSA as defined in 1960.

Table 4.--NEGRO FAMILIES WITH A FEMALE HEAD FOR THE WASHINGTON, D.C. SMSA, BY POVERTY AREA STATUS:
1970 AND 1960

(Numbers in thousands)

Area	Total		Female head				Percent change, 1960 to 1970	
	1970	1960	Number		Percent of all families		Total	Female head
			1970	1960	1970	1960		
SMSA ^{1/} , total	154	105	40	21	26.0	20.1	45.7	88.7
Washington, D.C.	120	90	34	19	28.7	21.2	33.5	80.6
In poverty area	80	70	26	16	32.1	22.6	13.2	61.0
Outside poverty area ..	40	19	9	3	22.0	16.3	107.0	179.4
Suburban ring	34	14	6	2	16.7	14.6	135.6	169.8
Prince Georges Co., Md.	21	6	3	1	14.7	12.7	242.2	296.1

^{1/} As defined in 1960. The 1960 figures for the total SMSA and the suburban ring include a small number of other nonwhite families.

Table 5.--NEGRO OCCUPIED HOUSING UNITS BY TENURE AND PRESENCE OF PLUMBING FACILITIES, FOR THE WASHINGTON, D.C. SMSA, BY POVERTY AREA STATUS: 1970 AND 1960
(Numbers in thousands)

Area	All occupied units			Percent owner-occupied		Percent lacking some or all plumbing facilities	
	1970	1960 ^{1/}	Percent change, 1960 to 1970	1970	1960 ^{1/}	1970	1960 ^{1/}
SMSA ^{2/} , total	203	124	63.6	30.8	33.9	3.0	11.2
Washington, D.C.	164	109	50.3	27.3	32.6	2.3	8.2
In poverty area	107	87	23.9	20.8	26.3	2.8	9.1
Outside poverty area	57	22	152.4	39.6	57.0	1.3	4.9
Suburban ring	39	15	159.7	45.5	43.4	6.2	32.9
Prince Georges County, Md.	23	7	251.7	50.1	58.3	6.3	(NA)

^{1/} Figures for 1960 include a small number of units occupied by other nonwhites.

^{2/} SMSA as defined in 1960.

(NA) Not available.

NEGRO POPULATION CHANGES IN THE CLEVELAND, OHIO SMSA

As in most of the nation's largest urban areas, the Cleveland metropolitan area has experienced significant changes in the characteristics of its population over the last decade. The latest Census figures indicate striking shifts in the geographical distribution, age composition and family structure of the area's population. Many of these shifts are similar in kind, though not always in degree, to those previously mentioned for the Washington, D.C. metropolitan area.

The population of the Cleveland metropolitan area as a whole increased by 8 percent during the sixties, somewhat less than the rate of change for the nation as a whole. The growth in population was equally divided between whites and Negroes, each group increasing in number by about 75,000. However, the various portions of the metropolitan area did not share equally in this growth. As has happened in city after city across the nation, substantial numbers of whites left the central city during the decade, many apparently resettling in the suburban portion of the metropolitan area. In contrast, the Negro population of the central city continued to grow during the decade and its proportion of the total central city population increased from 29 percent in 1960 to 38 percent in 1970. The growth of the Negro population in the suburban ring was equal in numbers to the Negro population increase in the central city, but because of the tremendous rise in the numbers of whites outside the central city, the proportion of the suburban population that is Negro remains less than 4 percent.

The growth of the suburban Negro population should be further qualified because of its limited geographical extent. Of the 37,000 increase, less than 1,000 occurred in the three metropolitan counties bordering on Cuyahoga County, the county in which Cleveland is located. Within Cuyahoga County the increase was almost entirely centered in three incorporated places--East Cleveland, Shaker Heights, and Warrensville Heights--that are adjacent to the eastern portion of Cleveland. Within these three small cities, Negroes constituted only one percent of the population in 1960; in 1970, this figure rose to 34 percent and was more than 50 percent in East Cleveland alone. In the balance of the suburban portion of the metropolitan area, Negroes continue to constitute only one percent of the total population.

Substantial changes in the racial distribution of the population also occurred within the city of Cleveland. For example, within the poverty area and its neighborhood subdivisions (as defined by the Census Bureau in 1965 with the cooperation of local agencies), the proportion of the population that is Negro increased from less than two-thirds in 1960 to over three-fourths in 1970. The population of the balance of the city remains overwhelmingly white although the number of whites decreased by over 90,000 and Negroes increased by nearly 60,000. There is also a high degree of racial separation within the poverty area. In six of the poverty area neighborhoods, Negroes constitute 94 percent of the population; in the other three neighborhoods, only 3 percent of the residents are Negro.

By at least one measure of racial segregation, Negroes within the city of Cleveland have become more segregated from whites over the past decade. In 1960, about 72 percent of the city's Negroes resided in census tracts that were at least 75 percent Negro. By 1970, this proportion had risen to 82 percent and only 2 percent of the city's Negroes lived in tracts that were less than 25 percent Negro. Data from a 1965 special census of Cleveland indicate that most of this change had occurred between 1960 and 1965.

In the suburban ring, the distribution of the Negro population is considerably different. Only 40 percent of the Negroes outside the city lived in tracts that were more than 75 percent black and nearly one-fourth were in tracts where Negroes were less than 25 percent of the population. It should be noted that the differences between the city and the suburban ring in the pattern of residential segregation could be due to the fact that, as of 1970, relatively few of the metropolitan area's Negroes resided in the suburban ring. There is some evidence that this difference is narrowing. For example, in the three suburban cities where the majority of the suburban Negroes reside, the Negro population increased by 31,000 since 1960 whereas the white population decreased by 22,000 during the same period.

In summary, Negroes in the metropolitan area remain concentrated within the city of Cleveland in 1970. The city's Negroes are located primarily in the poverty area, although the proportion that reside outside the poverty area increased from one-tenth in 1960 to three-tenths in 1970. The number of Negroes in the suburban ring grew slightly during the sixties but most of

this growth occurred in areas immediately adjacent to the central city. During this period, the white population of the central city poverty area and the balance of the city decreased by about one-half and one-fifth, respectively, while the number of whites in the suburban ring increased by nearly one-quarter.

Age distribution

As a result of migration and changing birth rates, some interesting changes have occurred in the age distribution of the Cleveland area's Negro population in the past decade. In general, the median age of the area's Negro residents has declined by about two years since 1960. However, the decrease in median age in the suburban ring and that portion of the city outside the poverty area was about five years or over three times as great as that for Negroes living in the central city poverty area. This is at least partially due to the fact that much of the 22,000 decrease in the number of Negroes in the poverty area can be accounted for by the exodus of young Negro families with children to other portions of the city and the suburban ring. The only age groups among the poverty area's Negro population that actually declined in numbers during the sixties were young children under 5 years of age and adults between the ages of 25 and 44.

While the number of young Negro children rose in those areas outside the poverty area, this rise did not equal the growth of the Negro population as a whole. The lowering of the median age in these areas has occurred because of the tremendous increase in the number of teenagers and young adults between the ages of 15 and 24. For example, in the non-poverty area portion of Cleveland city, the number of these persons born during the post-World War II "baby boom" years increased by twice the rate at which the total Negro population increased.

This same phenomenon also occurred in the central city poverty area. However, unlike those portions of the metropolitan area outside the poverty area, the only other age group among the poverty area's Negro population that increased significantly in numbers was the group 65 years and older. In 1970, these aged persons comprised about 8 percent of the poverty area's Negro residents as compared to only 4 percent outside the poverty area.

Families with a female head

One possible effect of the changing age distribution of the Negro population in the Cleveland metropolitan area is the growing proportion of families with a female as head. Historical data for the United States and for the city of Cleveland show that Negro families with heads under 25 years of age are more likely to be headed by a female than are families with older heads. The data also show that the proportion of these young families that are headed by a female is increasing over time more rapidly than for other age groups. Thus, the large increase in the number of Negroes 15 to 24 years old may be an important factor in the increase in the number of broken families.

Although the number of Negro families headed by a woman increased outside the poverty area as well as within it during the sixties, the change in the geographic distribution of these families did not keep pace with the changing distribution of all Negro families. In 1960, female-headed families were distributed among the central city poverty area, the balance of the city and the suburban ring in roughly the same proportion as the distribution of all Negro families. By 1970, however, six-tenths of all Negro families but seven-tenths of Negro families headed by a female resided in the poverty area. One-third of the Negro families in the central city poverty area were headed by a woman as compared to one-fifth in the balance of the city and suburban ring. Among the predominantly Negro neighborhoods within the poverty area, this proportion was as high as 39 percent in Hough and 46 percent in West Central.

Housing

The decade of the sixties witnessed a sharp increase in the number of housing units occupied by Negroes in the Cleveland metropolitan area. In fact, the number of units rose faster than the Negro population, suggesting that overcrowding in Negro housing units has been somewhat alleviated. Census data confirm this, showing that the proportion of Negro units with more than one person per room decreased from one-fifth in 1960 to one-tenth in 1970.

Nearly two-thirds of the increase in Negro occupied units occurred in owner-occupied units, those units occupied by owner or those who are purchasing their units. The number of owner-occupied units rose by 91 percent and increased as a proportion of all units from 30 percent in 1960 to 40 percent in 1970. This proportion increased in the city of Cleveland from 29 percent to 38 percent, although in the poverty area it only increased from 27 to 30

percent. In 1970, owner-occupied units constituted 54 percent of all units occupied by Negroes in the suburban ring. Although this proportion was nearly unchanged from 1960, it remains somewhat higher than that for the city.

By at least one measure of housing quality — the presence of complete plumbing facilities — the condition of Negro housing in the Cleveland area has improved considerably over the past ten years. In 1960, the occupants of 9 percent of Negro housing units in the SMSA lacked hot water, a flush toilet, or a bathtub, or did not have exclusive use of these facilities. By 1970, this proportion had decreased to only 3 percent. In 1960, the proportion of Negro housing units lacking complete plumbing facilities was higher in the suburban ring (13 percent) than in the city (9 percent). By 1970, this relationship had reversed and the city's proportion (3 percent) was higher than that in the suburban ring (1 percent).

Table 1.--POPULATION BY RACE FOR THE CLEVELAND, OHIO SMSA, BY POVERTY AREA STATUS: 1970 AND 1960
(Numbers in thousands)

Area	1970			1960			Change: 1960 to 1970			
	Total	Negro		Total	Negro		Total		Negro	
		Number	Percent of total		Number	Percent of total	Number	Percent	Number	Percent
SMSA, total	2,064	333	16.1	1,909	259	13.6	155	8.1	74	28.5
Cleveland	751	288	38.3	876	251	28.6	-125	-14.3	37	14.7
In poverty area	269	207	76.8	363	228	63.0	-93	-25.8	-22	9.5
Glenville	79	76	96.1	86	62	72.0	-7	-8.5	14	22.1
Hough	45	42	93.1	72	53	73.7	-26	-36.4	-10	-19.8
West Central	14	11	77.0	30	25	82.9	-16	-53.9	-14	-57.2
East Central	32	31	96.9	51	48	93.4	-19	-37.6	-17	-35.2
Kingsman	13	12	89.8	18	13	75.4	-4	-24.8	-1	-10.4
Goodrich	13	2	11.6	19	1	7.6	-6	-31.0	-	4.4
West Side	25	1	4.8	31	-	0.4	-6	-18.3	1	500.0+
Broadway-Industrial	14	-	3.5	19	-	1.8	-6	-29.5	-	36.8
Mt. Pleasant	34	32	95.2	36	26	70.8	-3	-7.7	6	24.2
Remainder of city	482	81	16.8	513	22	4.4	-32	-6.2	59	262.0
Suburban ring	1,313	45	3.4	1,033	8	0.8	280	27.1	37	457.7
Three cities 1/	95	32	34.2	85	1	1.4	10	11.5	31	500.0+
Remainder of suburban ring.	1,218	12	1.0	948	7	0.7	270	28.5	5	79.9

- Less than 500.
1/ East Cleveland, Shaker Heights, and Warrensville Heights.

Table 2.--PERCENT OF ALL NEGROES LIVING IN CENSUS TRACTS GROUPED
 ACCORDING TO PROPORTION NEGRO, FOR THE CLEVELAND, OHIO
 SMSA: 1970, 1965, AND 1960

Year	Census tracts				
	Total	Negro proportion of population			
		75 percent or more	50 to 74 percent	25 to 49 percent	Less than 25 percent
Cleveland city					
1970	100	82	12	4	2
1965	100	80	12	4	4
1960	100	72	16	8	4
Suburban ring 1/					
1970	100	40	-	37	23
1960	100	-	-	16	84

- Zero.

1/ As defined in 1960.

Table 3.--NEGRO POPULATION BY AGE FOR THE CLEVELAND, OHIO SMSA, BY POVERTY AREA STATUS: 1970 AND 1960

Age	1970					1960 1/				
	SMSA total	Cleveland			Suburban ring	SMSA total	Cleveland			Suburban ring
		Total	In poverty area	Remainder of city			Total	In poverty area	Remainder of city	
Number ... thousands ..	333	288	207	81	45	259	251	228	22	8
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Under 5 years	9.7	9.7	9.5	10.2	10.1	14.5	14.5	14.7	12.7	13.0
5 to 14 years	23.9	23.9	23.4	25.1	23.7	21.0	21.1	21.1	21.1	18.5
15 to 24 years	17.7	17.7	17.7	17.6	17.7	12.1	12.1	12.3	10.2	13.1
25 to 34 years	12.2	11.6	11.0	13.3	16.2	16.0	16.0	16.0	16.1	15.2
35 to 44 years	12.7	12.5	12.0	13.8	14.3	14.7	14.7	14.4	16.9	14.6
45 to 64 years	17.7	18.1	19.0	15.9	14.4	16.8	16.7	16.5	18.2	20.1
65 years and over	6.1	6.5	7.5	4.2	3.4	4.9	4.9	4.9	4.9	5.5

1/ Figures for SMSA and suburban ring include a small number of other nonwhites.

Table 4.—NEGRO POPULATION CHANGE BY AGE FOR THE CLEVELAND, OHIO SMSA BY
POVERTY AREA STATUS: 1960-1970

(Numbers in thousands)

Age	SMSA total	Cleveland			Suburban ring
		Total	In poverty area	Remainder of city	
<u>Number</u>					
Total	74	37	-22	59	37
Under 5 years	-5	-9	-14	5	3
5 to 14 years	25	16	-	16	9
15 to 24 years	27	20	9	12	7
25 to 34 years	-1	-7	-14	7	6
35 to 44 years	4	-1	-8	7	5
45 to 64 years	15	10	2	9	5
65 years and over ..	8	6	4	2	1
<u>Percent</u>					
Total	28.4	14.7	-9.5	262.0	453.4
Under 5 years	-13.9	-23.8	-41.9	190.2	332.3
5 to 14 years	45.7	29.8	0.4	330.5	500.0+
15 to 24 years	87.2	67.6	30.4	500.0+	500.0+
25 to 34 years	-1.6	-16.7	-38.0	199.8	490.1
35 to 44 years	11.4	-2.4	-25.0	195.1	441.5
45 to 64 years	35.2	25.0	4.2	217.3	298.5
65 years and over ..	59.3	52.6	37.5	206.3	244.7

- Less than 500

Table 5.—PERCENT OF FAMILIES WITH A FEMALE HEAD BY AGE AND RACE, FOR THE UNITED STATES AND CLEVELAND: 1970, 1965, AND 1960

Age and race of head	United States			Cleveland		
	1970 ^{1/}	1965 ^{1/}	1960	1970	1965	1960
ALL RACES						
Total	10.9	10.5	9.3	19.4	14.2	12.9
Under 25 years	12.4	7.8	6.9	(NA)	12.4	11.0
25 to 54 years	9.6	9.4	7.8	(NA)	13.8	11.8
55 to 64 years	11.0	10.9	10.4	(NA)	14.3	13.0
65 years and over	15.8	16.2	16.3	(NA)	16.6	18.5
NEGRO						
Total	28.3	23.4	21.7	29.8	22.5	19.8
Under 25 years	33.9	27.0	23.9	(NA)	35.2	30.6
25 to 54 years	28.4	24.1	21.0	(NA)	22.9	19.1
55 to 64 years	22.5	18.5	21.4	(NA)	17.6	17.9
65 years and over.....	30.6	25.5	25.4	(NA)	17.5	21.2

^{1/} Based on the March Current Population Survey.

NA Not available.

Table 6.--NEGRO FAMILIES WITH A FEMALE HEAD FOR THE CLEVELAND, OHIO SMSA, BY POVERTY AREA STATUS: 1970 AND 1960

(Numbers in thousands)

Area	Families with female head				Percent distribution of families			
	Number		Percent of all families		1970		1960 ^{1/}	
	1970	1960 ^{1/}	1970	1960 ^{1/}	Total	Female head	Total	Female head
SMSA, total 1/....	22	11	28.1	19.6	100.0	100.0	100.0	100.0
Cleveland	20	11	29.8	19.8	86.2	91.4	97.9	98.8
In poverty area	16	10	33.3	20.4	61.1	72.4	89.1	92.6
Hough	3	3	39.3	22.5	11.6	16.1	19.6	22.5
West Central	1	2	46.4	32.6	3.1	5.2	9.2	15.3
Remainder of poverty neighborhoods ..	11	6	30.9	17.8	46.5	51.1	60.3	54.7
Remainder of city ..	4	1	21.3	13.9	25.1	19.0	8.8	6.2
Suburban ring 1/.....	2	-	17.6	11.8	13.8	8.6	2.1	1.2

- Less than 500.

1/ Data for 1960 exclude fewer than 500 Negro families in Geauga and Medina Counties for which comparable data are not available.

Table 7.--NEGRO OCCUPIED HOUSING UNITS BY TENURE AND PRESENCE OF PLUMBING FACILITIES, FOR THE CLEVELAND, OHIO SMSA: 1970 AND 1960

(Numbers in thousands)

Area	All occupied units			Percent owner-occupied		Percent lacking some or all plumbing facilities	
	1970	1960	Percent change, 1960 to 1970	1970	1960	1970	1960
SMSA, total	99	69	42.9	39.7	29.7	2.5	9.4 ^{1/}
Cleveland city	86	67	28.2	37.6	29.1	2.8	9.3 ^{1/}
In poverty area	66	61 ^{1/}	7.8	29.7	26.8 ^{1/}	3.3	(NA)
Suburban ring	12	2	670.2	54.4	53.9	1.0	13.1 ^{1/}

^{1/} Restricted to census tracts with 400 or more households with a nonwhite head. NA Not available.
 Note: SMSA as defined in 1960. Data from 1960 Census are for nonwhites.

Exhibit No. 57



U.S. DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

October 28, 1971

Mr. David H. Hunter
Assistant General Counsel
United States Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Hunter:

When I appeared before the Commission on June 14, 1971 a question was asked about projections of the population of metropolitan and nonmetropolitan areas by race. At that time the Bureau had not prepared such projections and I promised to submit copies when these became available.

Enclosed are such projections for the year 2000. As is true of all projections, these are based on the stated assumptions and are not to be used as forecasts. However, these figures may serve as an indication of what might be expected, if the assumed trends should turn out to be the ones which we follow.

Sincerely,

A handwritten signature in dark ink, appearing to read "George H. Brown". The signature is fluid and cursive, with a large, sweeping flourish at the end.

GEORGE H. BROWN
Director
Bureau of the Census

Enclosures

Table P16. Population of Metropolitan and Nonmetropolitan Areas, by Race:
1970 and 2000

United States Regions	April 1970 population	Population projected to July 2000		
		Series B-1 ^a	Series E-1 ^b	Series E-IV ^c
United States.....	203,104	321,582	270,344	354,825
White.....	177,612	270,387	229,085	316,454
Other races.....	25,533	51,196	41,258	38,441
Metropolitan ^d	141,000	234,270	196,822	278,933
White.....	122,001	190,229	161,102	250,739
Other races.....	19,300	44,041	35,720	28,194
Nonmetropolitan ^d	62,165	87,313	73,521	75,932
White.....	55,821	80,158	67,983	65,685
Other races.....	6,644	7,155	5,538	10,247
Northeast.....	48,894	74,610	63,286	57,168
Metropolitan ^d	40,770	61,947	52,511	47,834
White.....	36,232	49,030	42,013	41,407
Other races.....	4,538	12,917	10,498	6,227
Nonmetropolitan.....	8,225	12,663	10,775	9,514
White.....	8,035	12,271	10,467	9,217
Other races.....	190	392	308	297
North Central.....	56,372	85,688	71,681	72,351
Metropolitan ^d	37,658	59,825	49,858	49,471
White.....	33,136	49,981	41,146	42,806
Other races.....	4,522	10,844	8,712	6,665
Nonmetropolitan.....	18,913	25,861	21,823	22,820
White.....	18,525	25,167	21,274	22,217
Other races.....	409	694	549	603
South.....	63,795	98,313	82,465	80,273
Metropolitan ^d	35,199	60,603	50,888	46,211
White.....	28,233	48,341	40,883	35,406
Other races.....	6,967	12,262	10,005	10,805
Nonmetropolitan.....	27,896	37,620	31,577	34,062
White.....	22,928	32,330	27,488	28,705
Other races.....	5,501	5,291	4,088	5,237
West.....	34,804	62,974	52,930	45,694
Metropolitan ^d	27,373	51,895	43,565	35,618
White.....	24,490	45,817	37,060	31,121
Other races.....	2,883	6,078	6,505	4,497
Nonmetropolitan.....	7,431	11,179	9,365	9,476
White.....	6,887	10,261	8,733	8,546
Other races.....	544	908	632	930

^aThe letters B and E refer to assumptions regarding fertility level. Use of Assumption B results in a level of fertility substantially higher than that observed at present, while use of E results in a lower level than at present. The Roman numeral defines the assumptions concerning internal migration and net civilian immigration from abroad. Use of migration Assumption I results in some moderation of present rates of net migration. Migration Assumption IV assumes no internal migration and no net civilian immigration from abroad. ^bThe definition of metropolitan territory is held constant throughout the projection period.

Table P17. Population Inside and Outside Central Cities by Race: 2000

United States
Regions

	Series III ¹		Series I-IV ¹		Series I-IV ¹	
	Assumption 1 ²	Assumption 2 ³	Assumption 1 ²	Assumption 2 ³	Assumption 1 ²	Assumption 2 ³
TOTAL						
United States.....	234,370	234,370	198,822	198,822	178,934	178,934
In central cities ⁴	85,083	73,214	71,364	61,525	64,915	55,750
Percent in central cities.....	36.3	31.3	36.3	31.3	36.3	31.3
Outside central cities.....	149,187	161,056	125,338	135,297	114,019	123,184
Northeast	81,947	61,947	52,311	52,311	47,424	47,424
In central cities ⁴	31,949	19,236	18,005	16,500	16,877	15,022
Percent in central cities.....	35.4	31.5	35.4	31.5	35.4	31.5
Outside central cities.....	39,998	42,411	33,906	35,951	30,757	32,612
North Central	59,825	59,825	49,858	49,858	49,471	49,471
In central cities ⁴	20,235	16,319	16,844	13,825	16,723	13,520
Percent in central cities.....	33.8	27.3	33.8	27.3	33.8	27.3
Outside central cities.....	39,590	43,478	33,994	36,233	32,738	35,961
South	60,693	60,693	50,588	50,588	46,211	46,211
In central cities ⁴	24,506	20,898	20,547	17,525	18,459	15,912
Percent in central cities.....	40.4	34.4	40.4	34.4	40.4	34.4
Outside central cities.....	36,187	39,795	30,341	33,366	27,752	30,299
West	81,905	81,905	43,565	43,565	35,618	35,618
In central cities ⁴	18,293	16,490	15,468	13,617	13,646	11,997
Percent in central cities.....	22.5	21.7	22.5	21.7	22.5	21.7
Outside central cities.....	33,412	36,375	28,097	29,748	22,972	24,321
WHITE						
United States.....	190,229	190,229	161,102	161,102	150,740	150,740
In central cities ⁴	52,254	42,230	44,845	36,112	43,836	35,233
Percent in central cities.....	27.5	22.2	27.5	22.2	29.1	23.4
Outside central cities.....	137,975	147,998	116,257	124,990	106,914	115,407
Northeast	49,090	49,090	42,013	42,013	41,407	41,407
In central cities ⁴	11,635	9,893	10,190	8,624	11,697	10,178
Percent in central cities.....	23.7	20.2	24.3	20.5	29.7	24.6
Outside central cities.....	37,455	39,198	31,823	33,389	29,610	31,229
North Central	49,981	49,981	41,166	41,166	42,908	42,908
In central cities ⁴	11,268	7,983	9,667	6,780	11,127	8,156
Percent in central cities.....	22.5	16.3	23.5	16.5	26.1	19.0
Outside central cities.....	37,613	40,998	31,499	34,388	31,628	34,672
South	48,241	48,241	40,823	40,823	35,008	34,406
In central cities ⁴	15,508	12,192	12,258	10,454	10,787	8,318
Percent in central cities.....	32.1	25.4	29.4	25.6	30.8	23.5
Outside central cities.....	32,333	36,049	27,625	30,429	24,619	27,087
West	43,817	43,817	37,080	37,080	31,191	31,191
In central cities ⁴	12,842	12,152	11,711	10,254	9,965	8,702
Percent in central cities.....	29.3	27.7	31.8	27.7	32.0	25.0
Outside central cities.....	29,975	31,665	25,349	26,806	21,156	22,419
MIXED AND OTHER RACES						
United States.....	44,041	44,041	35,720	35,720	29,194	28,194
In central cities ⁴	33,729	30,894	26,640	25,413	21,089	20,417
Percent in central cities.....	74.3	70.1	74.6	71.1	74.8	73.4
Outside central cities.....	11,312	13,147	9,080	10,307	7,106	7,777
Northeast	12,857	12,857	10,498	10,498	6,227	6,227
In central cities ⁴	10,212	9,844	8,416	7,936	4,980	4,645
Percent in central cities.....	80.2	75.0	80.3	75.8	80.0	77.8
Outside central cities.....	2,645	3,013	2,082	2,562	1,247	1,382
North Central	10,844	10,844	8,712	8,712	6,865	6,865
In central cities ⁴	8,067	6,266	7,177	6,945	5,555	5,283
Percent in central cities.....	81.8	77.1	82.4	78.8	83.3	80.8
Outside central cities.....	1,877	4,578	1,535	1,667	1,110	1,580
South	12,252	12,252	10,005	10,005	10,605	10,606
In central cities ⁴	8,998	6,606	7,289	7,068	7,872	7,892
Percent in central cities.....	72.8	53.7	72.9	70.6	72.9	70.3
Outside central cities.....	3,254	5,646	2,716	2,937	2,733	2,714
West	7,988	7,988	6,505	6,505	4,497	4,497
In central cities ⁴	4,551	4,278	3,757	3,563	2,681	2,595
Percent in central cities.....	57.0	53.6	57.8	54.8	59.6	57.7
Outside central cities.....	3,437	3,710	2,748	2,942	1,816	1,902

¹See footnote 1 to table P16. ²The central city assumptions which give a high and low value for each series, are based on changes in the proportion of total metropolitan population residing in central cities. In Assumption 1 the proportion of metropolitan population in central cities (which has been dropping for 20 years) will no longer decrease after the year 2000; in Assumption 2 there will be a continuation of the downward trend observed for the 1960-70 period up to the year 2050, after which there would be no further decrease. The racial composition of central cities was subsequently estimated by assuming that a certain proportion of the metropolitan growth of races other than white would go to the central cities; under the high assumption, the 1960-70 proportion would be continued to the end of the century; under the low assumption, the 1960-70 proportion would be decreased 10 percent. ³Central cities as defined in the 1970 census.

Table P18. Age Distribution by Race and Metropolitan and Nonmetropolitan Residence: 2000

(Numbers in thousands)

United States Regions Inside and Outside Central Cities	Total					White					Other races				
	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over
	SERIES D-1														
United States															
Metropolitan residence.....	234,270	69,604	101,810	42,370	20,280	103,328	54,129	82,091	36,031	17,257	44,041	15,353	10,819	6,324	2,333
Assumption 1: Inside central cities.....	85,083	20,808	37,300	14,802	7,112	52,334	14,241	22,680	10,127	5,273	32,729	11,517	14,720	4,733	1,737
Outside central cities.....	149,187	48,888	64,610	27,514	13,178	137,875	39,895	59,511	25,925	12,082	11,312	4,028	3,099	1,589	800
Assumption 2: Inside central cities.....	73,214	23,418	32,151	12,059	5,985	42,320	11,328	18,237	8,190	4,344	30,894	10,890	13,894	4,489	1,841
Outside central cities.....	161,058	47,276	69,759	29,717	14,305	147,559	43,601	63,831	27,862	13,613	13,147	4,675	5,225	1,853	682
Nonmetropolitan residence.....	87,313	25,624	37,132	16,062	8,438	80,158	25,093	34,010	15,035	7,390	7,153	2,598	3,023	1,027	438
Northeast															
Metropolitan residence.....	81,847	18,218	26,672	11,862	6,890	48,090	13,708	20,751	9,708	4,926	13,057	4,812	3,221	1,854	870
Assumption 1: Inside central cities.....	21,945	6,702	9,603	3,830	1,812	11,333	3,079	4,921	2,351	1,294	10,313	3,624	4,092	1,479	328
Outside central cities.....	30,899	11,515	16,069	7,732	3,784	37,453	10,627	15,830	7,357	3,632	3,514	888	1,139	375	142
Assumption 2: Inside central cities.....	10,838	3,007	4,501	3,382	1,680	9,802	2,818	4,183	1,959	1,092	6,644	3,380	4,278	1,343	191
Outside central cities.....	42,411	12,211	18,011	8,180	4,010	39,198	11,088	16,568	7,709	3,834	3,213	1,123	1,442	471	176
Nonmetropolitan residence.....	12,863	3,700	5,379	2,301	1,223	12,271	3,564	5,198	2,307	1,202	292	136	181	51	71
North Central															
Metropolitan residence.....	50,828	16,072	25,871	10,752	5,129	48,081	14,185	21,038	9,302	4,650	10,844	3,888	4,833	1,530	573
Assumption 1: Inside central cities.....	20,235	6,308	8,801	3,489	1,660	11,308	3,130	4,851	2,195	1,102	8,607	3,170	3,950	1,273	498
Outside central cities.....	30,593	11,767	17,070	7,284	3,469	37,113	11,055	16,187	7,007	3,548	1,977	711	883	277	105
Assumption 2: Inside central cities.....	16,249	5,194	7,133	2,743	1,279	7,082	2,199	3,400	1,812	827	8,306	2,600	3,727	1,201	412
Outside central cities.....	42,478	12,879	18,738	8,009	3,850	40,998	11,887	17,632	7,600	3,710	2,478	822	1,104	349	131
Nonmetropolitan residence.....	28,881	7,854	10,870	4,797	2,040	23,167	7,308	10,838	4,702	2,599	694	240	312	95	41
South															
Metropolitan residence.....	60,000	18,137	26,033	10,773	5,130	48,241	13,742	21,161	8,993	4,445	12,357	4,395	5,492	1,750	585
Assumption 1: Inside central cities.....	24,800	7,463	10,772	4,259	2,012	15,508	4,280	6,708	2,948	1,512	6,898	3,183	4,004	1,311	550
Outside central cities.....	26,187	10,674	15,881	6,814	3,118	32,833	9,472	14,303	6,045	2,933	3,254	1,212	1,488	469	185
Assumption 2: Inside central cities.....	20,898	6,438	8,194	3,001	1,677	12,292	3,372	5,385	2,337	1,108	8,508	3,044	3,829	1,264	479
Outside central cities.....	39,795	11,701	17,469	7,152	3,453	30,949	10,350	15,768	6,858	3,247	5,746	1,351	1,663	329	206
Nonmetropolitan residence.....	37,620	11,112	16,091	6,872	3,448	32,359	9,191	12,852	6,103	3,211	8,281	1,921	2,339	787	334
West															
Metropolitan residence.....	51,803	15,267	22,816	9,287	4,435	43,317	12,497	19,143	8,147	4,030	7,988	2,770	3,873	1,140	405
Assumption 1: Inside central cities.....	18,203	5,236	8,124	3,305	1,028	11,842	3,782	6,040	2,833	1,287	4,651	1,554	2,084	672	241
Outside central cities.....	32,418	9,931	14,692	5,982	2,807	29,876	8,715	13,103	5,314	2,843	3,437	1,216	1,889	468	164
Assumption 2: Inside central cities.....	16,430	4,751	7,203	2,843	1,442	12,152	3,320	5,303	2,312	1,217	4,878	1,481	1,860	631	226
Outside central cities.....	35,375	10,488	15,633	6,344	2,992	31,065	9,177	13,840	5,835	2,813	3,710	1,309	1,712	809	179
Nonmetropolitan residence.....	11,169	3,326	4,791	2,003	1,019	10,361	3,021	4,431	1,922	977	808	295	360	111	42

See footnotes at end of table.

Table P18. Age Distribution by Race and Metropolitan and Nonmetropolitan Residence: 2000—Continued

(Numbers in thousands)

United States Regions Inside and Outside Central Cities	Total					White					Other races				
	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	15 years	15 to 44 years	45 to 64 years	65 years and over
	SERIES R-1														
United States															
Metropolitan residence.....	106,822	49,101	89,034	42,893	20,294	161,102	39,411	71,708	36,035	17,948	35,720	9,690	17,326	6,358	2,346
Assumption 1: Inside central cities.....	71,423	19,001	57,761	14,964	7,159	44,845	8,308	19,851	10,191	5,408	26,040	7,205	12,910	4,772	1,781
Outside central cities.....	125,337	29,800	99,873	27,429	13,135	116,257	29,015	51,857	25,844	12,540	9,080	2,485	4,416	1,583	595
Assumption 2: Inside central cities.....	61,526	14,435	28,300	12,762	6,027	36,112	7,802	10,087	6,208	4,353	25,413	6,873	12,312	4,554	1,672
Outside central cities.....	123,297	30,066	90,734	28,031	14,267	124,090	27,819	55,721	27,627	13,020	10,207	2,617	6,013	1,804	674
Nonmetropolitan residence.....	70,521	10,681	22,372	16,044	8,424	67,983	19,136	29,787	15,057	6,003	8,638	1,645	2,865	988	421
Northeast															
Metropolitan residence.....	52,811	11,856	23,374	11,640	5,023	42,012	9,020	18,254	9,772	4,957	10,488	2,826	5,120	1,674	678
Assumption 1: Inside central cities.....	18,606	4,354	8,820	3,903	1,840	10,100	2,064	4,400	2,406	1,315	5,416	2,270	4,117	1,495	534
Outside central cities.....	33,905	7,522	14,854	7,743	3,783	31,523	6,956	13,854	7,366	3,642	5,072	556	1,003	370	144
Assumption 2: Inside central cities.....	10,360	2,887	7,009	3,448	1,610	6,624	1,747	3,726	2,038	1,173	7,908	2,140	3,683	1,410	503
Outside central cities.....	35,851	7,069	15,765	8,198	4,019	33,889	7,283	14,828	7,734	3,644	2,562	688	1,527	484	175
Nonmetropolitan residence.....	10,778	2,424	4,733	2,378	1,222	10,467	2,361	4,370	2,325	1,212	309	82	154	83	20
North Central															
Metropolitan residence.....	49,898	11,623	22,464	10,684	5,007	41,146	9,222	18,261	9,128	4,825	9,712	2,401	4,193	1,516	572
Assumption 1: Inside central cities.....	10,804	4,027	7,607	3,477	1,663	9,687	2,051	4,245	2,198	1,103	7,177	1,976	3,452	1,279	470
Outside central cities.....	32,994	7,488	14,787	7,207	3,434	31,430	7,171	14,016	6,930	3,722	2,535	485	741	267	103
Assumption 2: Inside central cities.....	12,620	3,324	6,862	2,768	1,284	6,780	1,426	2,871	1,358	685	6,815	1,883	3,281	1,220	449
Outside central cities.....	39,233	8,322	16,162	7,916	3,823	34,366	7,786	15,200	7,800	3,600	1,687	516	902	328	122
Nonmetropolitan residence.....	21,803	4,819	9,467	4,763	2,634	21,274	4,775	9,311	4,693	2,688	829	144	258	90	39
South															
Metropolitan residence.....	20,388	11,712	22,270	10,772	5,127	40,883	8,085	18,476	8,284	4,459	10,005	2,724	4,795	1,788	688
Assumption 1: Inside central cities.....	20,847	4,787	9,446	4,261	2,023	12,268	2,819	5,932	2,908	1,621	7,289	1,978	3,494	1,315	572
Outside central cities.....	30,341	6,922	13,824	6,401	3,104	27,626	6,196	12,523	6,018	2,818	2,710	766	1,291	473	186
Assumption 2: Inside central cities.....	17,022	4,161	6,081	3,014	1,080	10,454	2,223	4,603	2,339	1,109	7,008	1,918	3,288	1,378	487
Outside central cities.....	33,368	7,878	18,180	7,188	3,441	30,428	6,762	12,782	6,642	3,240	2,627	816	1,407	513	201
Nonmetropolitan residence.....	31,677	7,174	14,000	6,957	2,640	27,489	6,027	12,127	6,117	3,218	4,088	1,147	3,276	740	322
West															
Metropolitan residence.....	43,668	9,963	19,820	9,281	4,438	37,060	8,174	16,718	9,141	4,027	6,505	1,729	3,218	1,180	408
Assumption 1: Inside central cities.....	19,408	3,453	7,098	3,303	1,524	11,711	4,403	8,861	3,819	1,379	3,287	981	1,847	684	243
Outside central cities.....	29,097	6,480	12,828	5,978	2,811	25,349	5,712	11,407	5,322	2,648	2,748	748	1,371	496	165
Assumption 2: Inside central cities.....	12,817	3,086	6,348	2,842	1,441	10,284	2,196	4,807	2,293	1,208	3,883	930	1,741	649	223
Outside central cities.....	29,748	6,817	23,888	6,349	2,994	20,866	6,018	12,121	5,848	2,819	2,842	799	1,487	501	175
Nonmetropolitan residence.....	9,205	2,188	4,168	2,029	1,018	9,793	1,963	3,670	1,922	978	618	172	296	104	40

See footnotes at end of table.

Table P18. Age Distribution by Race and Metropolitan and Nonmetropolitan Residence: 2000—Continued

United States Regions Inside and Outside Central Cities	[Numbers in thousands]														
	Total					White					Other races				
	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over	All ages	Under 15 years	15 to 44 years	45 to 64 years	65 years and over
SERIES E-1^d															
United States															
Metropolitan residence.....	176,034	40,420	80,355	38,813	16,220	130,740	32,787	66,699	33,948	17,307	28,194	7,633	13,684	4,964	1,913
Assumption 1 ^a Inside central cities.....	64,913	14,760	29,432	15,797	6,926	43,827	9,065	19,328	10,053	5,483	21,048	6,695	10,268	3,744	1,443
Outside central cities.....	114,019	25,660	50,950	25,115	12,294	106,013	23,722	47,472	23,895	11,824	7,106	1,938	3,478	1,220	470
Assumption 2 ^b Inside central cities.....	55,780	12,818	25,381	11,734	5,819	35,333	7,301	18,500	8,109	4,423	20,417	5,518	9,881	2,623	1,396
Outside central cities.....	123,184	27,604	55,001	27,178	13,401	115,407	25,486	51,198	25,839	12,884	7,777	2,118	3,803	1,339	617
Nonmetropolitan residence.....	75,932	17,320	33,389	16,453	8,771	65,685	14,467	26,609	14,844	7,965	10,247	2,853	4,780	1,808	806
Northeast															
Metropolitan residence.....	47,034	10,472	20,941	10,732	5,439	41,407	8,802	17,890	9,683	5,026	6,227	1,670	3,045	1,099	413
Assumption 1 ^a Inside central cities.....	10,877	3,721	7,544	3,704	1,907	11,807	2,352	6,106	3,828	1,981	4,980	1,340	2,428	878	326
Outside central cities.....	30,737	6,750	13,397	7,028	3,532	29,510	6,450	11,784	6,855	3,445	1,247	220	607	232	87
Assumption 2 ^b Inside central cities.....	15,023	3,342	6,741	3,271	1,609	10,176	2,038	4,369	3,419	1,332	4,845	1,304	2,372	852	317
Outside central cities.....	32,011	7,130	14,200	7,511	3,770	31,229	8,764	12,327	7,264	3,674	1,382	366	673	247	96
Nonmetropolitan residence.....	9,514	2,128	4,159	2,111	1,118	9,217	2,047	4,011	2,081	1,098	297	79	148	50	20
North Central															
Metropolitan residence.....	49,471	11,334	22,122	10,732	5,293	42,806	9,493	18,907	9,582	4,844	6,665	1,831	3,215	1,170	449
Assumption 1 ^a Inside central cities.....	16,723	3,867	7,640	3,532	1,794	11,178	2,341	4,867	2,352	1,418	5,555	1,526	2,672	980	376
Outside central cities.....	32,738	7,467	14,582	7,200	3,499	31,628	7,152	14,040	7,010	3,426	1,110	305	542	190	73
Assumption 2 ^b Inside central cities.....	15,519	3,185	6,132	2,807	1,306	8,134	1,703	3,542	1,827	1,032	5,385	1,480	2,881	950	364
Outside central cities.....	35,952	8,149	16,989	7,925	3,987	34,672	7,790	15,365	7,705	3,812	1,280	351	624	220	83
Nonmetropolitan residence.....	22,860	5,111	9,885	5,046	2,838	22,217	4,931	9,593	4,935	2,788	663	180	322	111	50
South															
Metropolitan residence.....	46,211 ^c	10,641	21,117	9,735	4,718	35,476	7,700	15,023	7,826	3,957	10,805	2,941	5,194	1,909	761
Assumption 1 ^a Inside central cities.....	16,659 ^c	4,400	8,589	3,835	1,833	10,767	2,269	4,813	2,430	1,275	7,872	2,131	3,776	1,405	560
Outside central cities.....	27,552 ^c	6,241	12,528	5,900	2,883	24,619	5,431	11,110	15,398	2,682	2,933	810	1,418	504	201
Assumption 2 ^b Inside central cities.....	15,911	3,805	7,334	3,229	1,523	8,319	1,750	3,712	1,874	983	7,592	2,055	3,642	1,355	540
Outside central cities.....	30,300	6,836	13,783	6,508	3,195	27,087	5,950	12,311	5,952	2,974	3,213	886	1,552	534	221
Nonmetropolitan residence.....	34,062	7,907	15,135	7,249	3,771	29,705	6,574	11,275	5,759	3,097	8,357	2,333	3,660	1,490	674
West															
Metropolitan residence.....	35,614	7,983	16,302	7,803	3,770	31,121	6,792	13,872	6,877	3,480	4,497	1,191	2,220	788	280
Assumption 1 ^a Inside central cities.....	12,616	2,771	5,759	2,726	1,300	9,065	2,073	4,410	2,243	1,269	2,681	698	1,319	483	181
Outside central cities.....	22,972	5,212	10,543	4,937	2,360	21,056	4,719	9,532	4,633	2,271	1,816	493	911	303	100
Assumption 2 ^b Inside central cities.....	11,597	2,488	5,153	2,427	1,231	8,702	1,810	3,877	1,959	1,056	2,565	676	1,278	498	175
Outside central cities.....	24,321	5,497	11,049	5,238	2,539	22,419	4,982	10,095	4,918	2,424	1,902	515	934	318	115
Nonmetropolitan residence.....	8,476	2,176	4,210	2,046	1,044	8,848	1,815	3,760	1,889	982	930	881	450	137	62

^aSee footnote 1 to table P16.^bSee footnote 2 to table P17.

*Exhibit No. 58****

Staff Comments on the Feasibility of Policies Proposed in the Correspondence Between President Nixon and James Gibson, Former Vice Chairman, National Capital Planning Commission

*Exhibit No. 59****

OMB's Position on Exhibit No. 58

*Exhibit No. 60**

An Opinion on Definition of Social Service By Peter Gross, Assistant General Counsel, U.S. Commission on Civil Rights

*Exhibit No. 61**

Staff Memorandum on Confidentiality of Affirmative Action Plans

*Exhibit No. 62****

Department of Defense Response to Preceding Staff
Memorandum

*Exhibit No. 63****

A Study of the Real Estate Examinations for all 50 States to Investigate to What Extent Knowledge of Civil Rights Laws Is Tested

Exhibit No. 64

Letter from H. Jackson Pontius, Executive Vice President, National Association of Real Estate Boards to Lawrence B. Glick, Deputy General Counsel, U.S. Commission on Civil Rights with 1950 Code of Ethics of the Association, excerpt from 1928 Code of Ethics, and commentaries on 1950 Code.



NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

Executive Offices: 155 East Superior Street, Chicago, Illinois 60611

H. JACKSON POWERS
Executive Vice President

AREA CODE 312
664-9700

September 15, 1971

Mr. Lawrence B. Glick
Deputy General Counsel
United States Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Glick:

You have requested for the record the number of local real estate boards affiliated with the National Association of Real Estate Boards which have organized equal opportunity committees as of June, 1971. There are approximately 200 real estate boards that I am personally aware of which have formed committees and I am enclosing the list of the boards for your information.

As expressed to the Commission, we are making a nationwide survey to determine the activities of our member boards and have moved forward with a nationwide committee for the purpose of encouraging all 50 states to establish a program similar to that adopted on a state-wide basis in California.

Also enclosed is Xerox copy of the Code of Ethics of the National Association of Real Estate Boards as of June 22, 1928 as you have requested. Article 3⁴ (present Article 5) is the question raised by the United States Commission on Civil Rights. Also enclosed is a copy of the Code as revised after 1950. Since I was not able to express at the time of that reading the explanation of the National Association in regard to this Article, I feel it is appropriate and respectfully request that the explanation be made a part of the testimony as follows:

"The Code of Ethics relates to the business practices of the Realtor as conducted in his dealings with the public and in concert with local, state and federal laws. Until the late '40's, the FHA required racial covenants on properties it was willing to insure across the nation. This, in essence, established a matter of law. When racial covenants were declared to be no longer processed through the courts and eliminated as a requirement of the FHA procedures, the National Association of Real Estate Boards immediately eliminated any reference to racial parties within neighborhoods in the interest of supporting the conduct of free movement of all individuals throughout the nation.

"It is our understanding that the United States Commission on Civil Rights has as its objective the establishment of program and will, in the interest of all Americans, provide housing with full mobility of all people regardless of race, color, creed, religion or national origin. It would seem inappropriate that we look to the deeds in reference to what may have previously been law, but that we look forward

*Realtor*² - a professional in real estate who subscribes to a strict Code of Ethics as a member of local and state boards and of the National Association of Real Estate Boards

Mr. Lawrence B. Glick

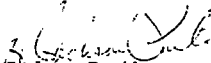
- 2 -

September 15, 1971

.. to progress we can all accomplish together and which NAREB has been supporting as evidenced by publications relating to Article 5 of our Code of Ethics, enclosed."

Should it be of interest to the United States Commission on Civil Rights, we will have further data available on the number of boards participating in programs sponsored by the National Association of Real Estate Boards and in cooperation with the Equal Opportunity Section of HUD.

Sincerely,



H. Jackson Pontius
Executive Vice President

HJP:mob

cc: Mr. Samuel J. Simmons

Real Estate Boards which have Equal Opportunity Committees

CALIFORNIA

1. Crescent City Board of Realtors
2. Fresno-Humboldt County Board of Realtors
3. Siskiyou County Board of Realtors
4. Shasta County Board of Realtors
5. Tehama County Board of Realtors
6. Glenn County Board of Realtors
7. Chico Board of Realtors
8. Paradise Board of Realtors
9. Oroville Board of Realtors
10. Nevada County Board of Realtors
11. Sutter-Yuba Board of Realtors
12. San Benito County Board of Realtors
13. Yalo County Board of Realtors
14. Sacramento Board of Realtors
15. Mader County Board of Realtors
16. El Dorado County Board of Realtors
17. Tahoe-Sierra Board of Realtors
18. South Lake Tahoe Board of Realtors
19. Lake County Board of Realtors
20. Mendocino County Board of Realtors
21. Sonoma County Board of Realtors
22. Russian River Board of Realtors
23. Marin County Real Estate Board
24. Napa County Board of Realtors
25. Solano Board of Realtors
26. Northern Solano Board of Realtors
27. Contra Costa Board of Realtors
28. Calaveras County Board of Realtors
29. Contra Costa Board of Realtors
30. West Contra Costa Board of Realtors
31. Berkeley Board of Realtors
32. Oakland Real Estate Board
33. Alameda Board of Realtors
34. Southern Alameda County Board of Realtors
35. Tracy Board of Realtors
36. Iodi Board of Realtors
37. Stockton Board of Realtors
38. Board of Realtors of Tuolumne County
39. Modesto Board of Realtors
40. Turlock Board of Realtors
41. Merced County Board of Realtors
42. San Francisco Real Estate Board
43. Palo Alto Real Estate Board
44. Los Altos Board of Realtors
45. Mountain View Board of Realtors
46. Sunnyvale Board of Realtors
47. San Jose Real Estate Board
48. Los Gatos-Saratoga Board of Realtors
49. Santa Cruz Board of Realtors
50. Watsonville Board of Realtors
51. Monterey Peninsula Board of Realtors
52. Carmel Board of Realtors
53. Salinas Board of Realtors
54. Pasa Robles Board of Realtors
55. Atascadero Board of Realtors
56. Scenic Coast Board of Realtors
57. San Luis Obispo Board of Realtors
58. Santa Maria Board of Realtors
59. Lompoc Valley Board of Realtors
60. Santa Barbara Board of Realtors
61. Ventura Board of Realtors
62. Oxnard Harbor Board of Realtors
63. Santa Paula-Fillmore Board of Realtors
64. Modera County Board of Realtors
65. Fresno Board of Realtors
66. Kings County Board of Realtors
67. Visalia Realty Board
68. Tulare Board of Realtors
69. Orange Belt Board of Realtors
70. Bakersfield Board of Realtors
71. San Fernando Valley Board of Realtors
72. Crescenta-Canada Board of Realtors
73. La Canada Board of Realtors
74. Burbank Board of Realtors
75. Glendale Board of Realtors
76. Carona-Norco Board of Realtors
77. Riverside Board of Realtors
78. Beaumont Board of Realtors
79. Banning Board of Realtors
80. Hemet-San Jacinto Board of Realtors
81. Lake Elsinore Valley Board of Realtors
82. Big Bear Valley Board of Realtors
83. Kim O' The World Board of Realtors
84. Fontana Board of Realtors
85. Rialto Board of Realtors
86. San Bernardino Board of Realtors
87. Colton Board of Realtors
88. Redlands Board of Realtors
89. Yucaipa Valley Board of Realtors
90. Pasadena Board of Realtors
91. South Pasadena Board of Realtors
92. San Marino Board of Realtors
93. Alhambra District Board of Realtors
94. Arcadia Board of Realtors
95. Manrovia Board of Realtors
96. Los Angeles Realty Board
97. Malibu Board of Realtors
98. Santa Monica Bay District Board of Realtors
99. Venice Board of Realtors
100. West Hollywood Realty Board
101. Beverly Hills Realty Board
102. Culver City Board of Realtors
103. Inglewood Board of Realtors
104. Hawthorne-Lawndale Board of Realtors
105. Gardena Board of Realtors
106. South Bay Board of Realtors
107. Torrance-Lomita Board of Realtors
108. San Pedro Board of Realtors
109. Rolling Hills Board of Realtors
110. South San Joaquin County Board of Realtors
111. Southeast Board of Realtors
112. Montebello District Board of Realtors
113. Fico Rivera Board of Realtors
114. Whittier District Board of Realtors
115. Downey Board of Realtors
116. Norwalk-La Mirada Board of Realtors
117. Compton-Lynwood Board of Realtors
118. Rancho Los Cerritos Board of Realtors
119. Long Beach District Board of Realtors
120. La Habra Area Board of Realtors
121. Fullerton-Srea-Placentia-Yorba Linda Board of Realtors
122. Anaheim Board of Realtors
123. West Orange County Board of Realtors
124. Santa Ana-Orange-Tustin Board of Realtors
125. Newport Harbor-Costa Mesa Board of Realtors
126. Laguna Beach Board of Realtors
127. San Clemente-Capistrano Valley Board of Realtors
128. San Diego Board of Realtors
129. North San Mateo County Board of Realtors
130. San Mateo-Burlingame Board of Realtors
131. Redwood City-San Carlos-Belmont Board of Realtors
132. Menlo Park-Atherton Board of Realtors
133. Pacific-Coastside Board of Realtors
134. San Gabriel Valley Board of Realtors
135. Azusa-Glendale Board of Realtors
136. Covina Valley Board of Realtors
137. Pomona Valley Board of Realtors
138. Ontario-Upland-China Board of Realtors
139. Newhall-Saugus Area Board of Realtors
140. Antelope Valley Board of Realtors
141. Palmdale Board of Realtors
142. Antelope Valley Foothill Board of Realtors
143. Desert Empire Board of Realtors
144. Victor Valley Board of Realtors
145. Victor Valley Board of Realtors
146. Twentynine Palms Board of Realtors
147. Yucca Valley Board of Realtors
148. Desert Hot Springs Board of Realtors
149. Palm Springs Board of Realtors
150. Perris Valley Board of Realtors
151. Palm Desert Board of Realtors
152. Coachella Valley Board of Realtors
153. Fallbrook Board of Realtors
154. Oceanside Board of Realtors
155. Carlsbad Board of Realtors
156. Vista Board of Realtors
157. San Dieguito Board of Realtors
158. Escondido Board of Realtors
159. Camarillo Board of Realtors
160. Coronado Board of Realtors
161. South San Diego Bay Cities Board of Realtors
162. La Mesa Board of Realtors
163. El Cajon Valley Board of Realtors
164. Imperial Valley Board of Realtors
165. Conejo Valley Board of Realtors
166. Huntington Beach-Fountain Valley Board of Realtors
167. Palms Verdes Estates Board of Realtors
168. Buena Park District Board of Realtors
169. Ojai Valley Board of Realtors
170. Joshua Tree Board of Realtors
171. Clear Lake Board of Realtors
172. Lassen-Plumas Counties Board of Realtors
173. Simi Valley Board of Realtors
174. Amador County Board of Realtors

Denver, Colorado

Baltimore, Maryland

Ohio State Association

Des Moines, Iowa



CODE OF ETHICS

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

Preamble

UNDER all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. The Realtor is the instrumentality through which the land resource of the nation reaches its highest use and through which land ownership attains its widest distribution. He is a creator of homes, a builder of cities, a developer of industries and productive farms.

Such functions impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which the Realtor should dedicate himself, and for which he should be diligent in preparing himself. The Realtor, therefore, is zealous to maintain and improve the standards of his calling and shares with his fellow-Realtors a common responsibility for its integrity and honor.

In the interpretation of his obligations, he can take no safer guide than that which has been handed down through twenty centuries, embodied in the Golden Rule:

"Whatsoever ye would that men should do to you, do ye even so to them."

Accepting this standard as his own, every Realtor pledges himself to observe its spirit in all his activities and to conduct his business in accordance with the following Code of Ethics:

Part I Relations to the Public

ARTICLE 1.

The Realtor should keep himself informed as to movements affecting real estate in his community, state, and the nation, so that he may be able to contribute to public thinking on matters of taxation, legislation, land use, city planning, and other questions affecting property interests.

ARTICLE 2.

It is the duty of the Realtor to be well informed on current market conditions in order to be in a position to advise his clients as to the fair market price.

ARTICLE 3.

It is the duty of the Realtor to protect the public against fraud, misrepresentation or unethical practices in the real estate field.

He should endeavor to eliminate in his community any practices which could be damaging to the public or to the dignity and integrity of the real estate profession. The Realtor should assist the board or commission charged with regulating the practices of brokers and salesmen in his state.

ARTICLE 4.

The Realtor should ascertain all pertinent facts concerning every property for which he accepts the agency, so that he may fulfill his obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts.

ARTICLE 5.

The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.

ARTICLE 6.

The Realtor should not be a party to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

ARTICLE 7.

The Realtor should not engage in activities that constitute the practice of law and should recommend that title be examined and legal counsel be obtained when the interest of either party requires it.

ARTICLE 8.

The Realtor should keep in a special bank account, separated from his own funds, monies coming into his possession in trust for other persons, such as escrows, trust funds, client's monies and other like items.

ARTICLE 9.

The Realtor in his advertising should be especially careful to present a true picture and should neither advertise without disclosing his name, nor permit his salesmen to use individual names or telephone numbers, unless the salesman's connection with the Realtor is obvious in the advertisement.

ARTICLE 10.

The Realtor, for the protection of all parties with whom he deals, should see that financial obligations and commitments regarding real estate transactions are in writing, expressing the exact agreement of the parties; and that copies of such agreements, at the time they are executed, are placed in the hands of all parties involved.

Part II Relations to the Client

ARTICLE 11.

In accepting employment as an agent, the Realtor pledges himself to protect and promote the interests of the client. This obligation of absolute fidelity to the client's interest is primary, but it does not relieve the Realtor from the obligation of dealing fairly with all parties to the transaction.

ARTICLE 12.

In justice to those who place their interests in his care, the Realtor should endeavor always to be in-

formed regarding laws, proposed legislation, governmental orders, and other essential information and public policies which affect those interests.

ARTICLE 13.

Since the Realtor is representing one or another party to a transaction, he should not accept compensation from more than one party without the full knowledge of all parties to the transaction.

ARTICLE 14.

The Realtor should not acquire an interest in or buy for himself, any member of his immediate family, his firm or any member thereof, or any entity in which he has a substantial ownership interest, property listed with him, or his firm, without making the true position known to the listing owner, and in selling property owned by him, or in which he has such interest, the facts should be revealed to the purchaser.

ARTICLE 15.

The exclusive listing of property should be urged and practiced by the Realtor as a means of preventing dissension and misunderstanding and of assuring better service to the owner.

ARTICLE 16.

When acting as agent in the management of property, the Realtor should not accept any commission, rebate or profit on expenditures made for an owner, without the owner's knowledge and consent.

ARTICLE 17.

The Realtor should not undertake to make an appraisal that is outside the field of his experience unless he obtains the assistance of an authority on such types of property, or unless the facts are fully disclosed to the client. In such circumstances the authority so engaged should be so identified and his contribution to the assignment should be clearly set forth.

ARTICLE 18.

When asked to make a formal appraisal of real property, the Realtor should not render an opinion without careful and thorough analysis and interpretation of all factors affecting the value of the property. His counsel constitutes a professional service.

The Realtor should not undertake to make an appraisal or render an opinion of value on any property where he has a present or contemplated interest unless such interest is specifically disclosed in the appraisal report. Under no circumstances should he undertake to make a formal appraisal when his employment or fee is contingent upon the amount of his appraisal.

ARTICLE 19.

The Realtor should not submit or advertise property without authority, and in any offering, the price quoted should not be other than that agreed upon with the owners as the offering price.

ARTICLE 20.

In the event that more than one formal written offer on a specific property is made before the owner has accepted an offer, any other formal written offer presented to the Realtor, whether by a prospective purchaser or another broker, should be transmitted to the owner for his decision.

Part III Relations to His Fellow-Realtor

ARTICLE 21.

The Realtor should seek no unfair advantage over his fellow-Realtors and should willingly share with them the lessons of his experience and study.

ARTICLE 22.

The Realtor should so conduct his business as to avoid controversies with his fellow-Realtors. In the event of a controversy between Realtors who are members of the same local board, such controversy should be arbitrated in accordance with regulations of their board rather than litigated.

ARTICLE 23.

Controversies between Realtors who are not members of the same local board should be submitted to an arbitration board consisting of one arbitrator chosen by each Realtor from the real estate board to which he belongs or chosen in accordance with the regulations of the respective boards. One other member, or a sufficient number of members to make an odd number, should be selected by the arbitrators thus chosen.

ARTICLE 24.

When the Realtor is charged with unethical practice, he should place all pertinent facts before the proper tribunal of the member board of which he is a member, for investigation and judgment.

ARTICLE 25.

The Realtor should not voluntarily disparage the business practice of a competitor, nor volunteer an opinion of a competitor's transaction. If his opinion is sought it should be rendered with strict professional integrity and courtesy.

ARTICLE 26.

The agency of a Realtor who holds an exclusive listing should be respected. A Realtor cooperating with a listing broker should not invite the cooperation of a third broker without the consent of the listing broker.

ARTICLE 27.

The Realtor should cooperate with other brokers on property listed by him exclusively whenever it is in the interest of the client, sharing commissions on a previously agreed basis. Negotiations concerning property listed exclusively with one broker should be carried on with the listing broker, not with the owner, except with the consent of the listing broker.

ARTICLE 28.

The Realtor should not solicit the services of an employee or salesman in the organization of a fellow-Realtor without the knowledge of the employer.

ARTICLE 29.

Signs giving notice of property for sale, rent, lease or exchange should not be placed on any property by more than one Realtor, and then only if authorized by the owner, except as the property is listed with and authorization given to more than one Realtor.

ARTICLE 30.

In the best interest of society, of his associates and of his own business, the Realtor should be loyal to the real estate board of his community and active in its work.

CONCLUSION

The term Realtor has come to connote competence, fair dealing and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instructions from clients ever can justify departure from this ideal, or from the injunctions of this Code.

The Code of Ethics was adopted in 1913. Amended at the Annual Convention in 1924, 1928, 1950, 1951, 1952, 1955, 1956, 1961, and 1962.

[Excerpt from 1928 Code of Ethics]

ARTICLE 34—A Realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individuals whose presence will clearly be detrimental to property values in that neighborhood.

Protecting Neighborhoods

THE interpretation of Article 5 is widely misunderstood and frequently becomes the subject of some controversy. The Article provides as follows:

Article 5. The Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood.

The Article must be interpreted cautiously. A neighborhood, for example, is not easily and clearly defined, yet every Realtor knows that neighborhoods do exist and if a local board chooses to do so, it can indicate on maps the boundaries of neighborhoods. The reference to "neighborhood" may relate, on the other hand, to the area surrounding a given property, or it could be defined to refer to a certain street or an area of several blocks.

This Article lends itself to specific interpretation by local boards, such interpretations to be supplemental to the general phraseology which of necessity is used in the Article. Thus the mandatory nature of the Article must be subject to the detailed interpretations which a local board may develop—for example, its definition or description of neighborhoods.

The Realtor should not be "*instrumental . . .*" In other words, he should not be the medium through which there is *introduced*—that is, brought into, inserted, or injected into a neighborhood. Ordinarily the word "introducing" is interpreted as *bringing in for the first time*. However, there are circumstances under which a board might interpret an "introduction" into neighborhood as involving also a second or third "bringing in." This, again, would depend upon the size and complexity of the neighborhood involved.

Now, what is it that the Realtor is responsible for *not* "bringing in"? It is "a character of property or use . . ." The "character" of property refers to all of the qualities or features possessed by a property, the kind of property, or any special thing or quality that makes the one property different from others. Thus, if a neighborhood were entirely confined to bungalows, the bringing in of a two or three-story house might be objectionable to the neighborhood and be held to be in violation of this provision.

Reference to the "character" of property and the "use" of property go hand in hand—but are different. "Character" generally will refer to a structure which, by violating the general aspect of the neighborhood, could be found to be detrimental to property values. The "use" of property relates to the employment or utilization to which property is put. It could include buildings or could refer to the use of vacant land. Converting a lot in a residential neighborhood into an automobile wrecking yard would be an example of violent misuse which probably would be held to be clearly detrimental to values. The use of

property generally is governed by zoning ordinances. Efforts to force a "spot" zoning clearly detrimental to a neighborhood might be held in violation of this provision.

"Character" or "use" does not include "occupancy." The word was stricken from this Article several years ago to conform to public policy as set forth by opinions of the U.S. Supreme Court. While "use" refers to the employment of property, i.e., residential, commercial, industrial use, etc., and illegal or otherwise objectionable use, "occupancy" refers to the inhabitation of the property. Thus, while the qualities of the property and its utilization are subject to the provisions of this Article, any question as to its habitation is subject only to local determination in accordance with local practice.

*Exhibit No. 65****

Number of Realtists Who are Also Realtors in the Baltimore Area

*Exhibit No. 66**

Title VI Compliance Form T-128

(EPA Application Form)

*Exhibit No. 67****

**List of all Communities Funded for Sewage Treatment Facilities
by EPA**

*Exhibit No. 68****

**Opinion From the Solicitor of the Department of Labor Stating the
Legal Basis for the Refusal by the Department to Release Af-
firmative Action Plans**

*Exhibit No. 69***

Letter From Hon. George Romney, Secretary of Housing and Urban Development to John H. Powell, Jr., General Counsel, U.S. Commission on Civil Rights Enclosing Racial Data on Housing Based on Material Presented at Hearing

Breakdown on Subsidized Housing Started Inside and Outside City Boundaries through December 31, 1970



THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

SEP 27 1971

Mr. John H. Powell, Jr.
General Counsel
United States Commission on
Civil Rights
Washington, D. C. 20425

Dear Mr. Powell:

This is in further response to your letter of August 3, 1971, requesting that we supplement certain materials presented during our June 3, appearance before the Civil Rights Commission.

Enclosed is a table containing a breakdown of the number and types of housing units started inside and outside the boundaries of the six cities which were represented by the charts presented at the June hearing. The dates contained in the table cover the three time periods discussed in my testimony.

This data was assembled and submitted by HUD offices in each of these six cities. We also requested, to the extent available, information on the racial composition of the various types of units. This information was submitted in so many forms that it was not possible to prepare a summarization in tabular form. However, I am enclosing a copy of the replies of each field office which should be useful in observing racial composition trends in these units.

I trust this responds to your request. Should you desire additional information please do not hesitate to contact us.

Sincerely,

George Romney

Enclosures

Breakdown of Subsidized Housing Started Inside and Outside City Boundaries
Through December 31, 1970

SHSA and type of housing	Prior to Jan. 1, 1970			Jan. 1, 1970 - June 30, 1970			July 1, 1970 - Dec. 31, 1970			Total All Periods
	Total	Inside City	Outside City	Total	Inside City	Outside City	Total	Inside City	Outside City	
BALTIMORE										
Public Housing	10,616	10,616	---	---	---	---	---	---	---	10,616
Multi-family 1/ Section 235	3,369	3,144	225	2,759	616	2,143	1,742	247	1,495	7,870
	---	---	---	512	---	512	149	---	149	661
Total	13,985	13,760	225	3,271	616	2,655	1,891	247	1,644	19,147
WASHINGTON, D.C.										
Public Housing	11,372	9,792	1,580	170	---	170	109	---	109	11,651
Multi-family 1/ Section 235	6,231	3,926	2,305	1,151	498	653	2,420	830	1,590	9,802
	---	---	---	---	---	---	---	---	---	---
Total	17,603	13,718	3,885	1,321	498	823	2,529	830	1,699	21,453
SAN DIEGO										
Public Housing	---	---	---	379	379	---	---	---	---	379
Multi-family 1/ Section 235	3,770	3,182	588	1,984	1,166	818	1,154	476	678	6,908
	70	---	70	809	316	493	692	207	485	1,571
Total	3,840	3,182	658	3,172	1,861	1,311	1,846	683	1,163	8,858
SAN ANTONIO										
Public Housing	5,678	5,678	---	100	100	---	435	435	---	6,213
Multi-family 1/ Section 235	2,847	2,847	---	670	670	---	802	802	---	4,319
	823	715	108	947	760	187	828	612	216	2,596
Total	9,348	9,240	108	1,717	1,530	187	2,065	1,849	216	13,130
PITTSBURGH										
Public Housing	14,541	8,770	5,771	524	249	275	280	---	280	15,345
Multi-family 1/ Section 235	1,071	981	90	1,159	781	378	1,087	410	677	3,317
	33	---	33	423	38	385	489	74	415	945
Total	15,645	9,751	5,894	2,106	1,068	1,038	1,856	484	1,372	19,607
JACKSONVILLE 2/										
Public Housing	396	253	143	78	78	0	254	162	92	728
Multi-family 1/ Section 235	2,532	1,272	1,260	303	182	121	1,546	711	835	4,381
	248	174	74	433	260	173	393	196	197	1,074
Total	3,176	1,699	1,477	814	520	294	2,193	1,069	1,124	6,183

1/ Includes 221(d)(3)BMR, 236, 202, and Rent Supplement.

2/ Jacksonville is now coextensive with Duval County, however breakdown is done according to old city limits.

*Exhibit No. 70**

**Commission's Office of General Counsel Memorandum on Whether
or Not Legislators Can Yield Land to Make a New State out of
New York City, Parts of New Jersey, and Connecticut**

*Exhibit No. 71****

Random Sample by Veterans' Administration on Racial Break-
down of Persons Refused Loans

*Exhibit No. 72****

Official Job Descriptions of Veterans Administration's Equal Opportunity In Housing Personnel

Exhibit No. 73

**Racial Breakdown of General Services Employees: GS-8 and
Above**

GENERAL SERVICES ADMINISTRATION

Minority Employment Statistics
GS-8 and Above

Listed below are the employment figures of minorities GS-8 and above for November 30, 1969 and June 14, 1971. For each grade level in which minorities were employed in November 1969, both the number and percentage had increased by June 1971.

November 30, 1969

<u>GS-</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>Total</u>
Minority	38	178	13	128	73	37	12	3	0	1	0	483
Total	157	1,213	56	1,553	1,429	1,057	566	313	39	25	5	6,413
Percent Minority	24.2	14.7	23.2	8.2	5.1	3.5	2.1	1.0	0	4.0	0	8.7

June 14, 1971

Minority	54	207	23	174	93	55	21	5	0	2	0	634
Total	186	1,268	60	1,788	1,665	1,171	594	325	39	27	4	7,217
Percent Minority	29.6	16.3	38.3	9.7	5.5	4.6	3.5	1.5	0	7.4	0	8.8

Exhibit No. 74

**Department of Transportation List of 11 Cities In Which Problems
Have Been Encountered Completing the Interstate Highway
System**



U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION
 WASHINGTON, D.C. 20591

JUN 30 1971

OFFICE OF THE ADMINISTRATOR

Refer to:
 CC-30

Reverend Theodore M. Hesburgh, C.S.C.
 Chairman, U.S. Commission on Civil Rights
 Washington, D.C. 20425

Dear Father Hesburgh:

It was a pleasure for me to appear before your Commission during the recent hearings in Washington, D.C. I appreciate the opportunity to present the position of the Federal Highway Administration in connection with your efforts to further the national policy of assuring fair housing without regard to race, color, or national origin. You may be assured of our continued support and cooperation.

During the hearings, an inquiry was made as to the identity of those specific metropolitan areas where Interstate highway route locations are controversial. These areas are identified as follows:

Baltimore	Detroit	Milwaukee
Boston	Hartford	New York
Chicago	Los Angeles	Shreveport
Cleveland	Memphis	Washington, D.C.

If we can provide additional information, do not hesitate to contact me. Wishing you continued success in furthering the vitally important work of the Commission, I remain

Sincerely yours,

F. C. Turner
 Federal Highway Administrator

*Exhibit No. 75**

**Racial Statistics on Union Which Installed Second Set of Micro-
phones at Hearing**

*Exhibit No. 76**

**Number of Instances in Which Department of Justice Has Acted
Within the 30-Day Suspension Period Under Title VIII
Without Waiting for Action by State Fair Housing Agency**

Exhibit No. 77

NATIONAL ASSOCIATION OF HOME BUILDERS
National Housing Center

1625 L STREET, N.W., WASHINGTON, D. C. 20036

JOHN A. STASTNY
 PRESIDENT

September 28, 1971

Mr. John H. Powell, Jr.
 General Counsel
 United States Commission on
 Civil Rights
 Washington, D. C. 20425

Dear Mr. Powell:

This is in response to your Commission's request for information concerning the racial breakdown of employment and membership in the home building industry.

We have been unable to obtain the information your Commission is seeking. Our membership records contain only a very limited amount of data concerning our members and no information about their employees. The only specific items we have concerning our members is name, address, local association affiliation and class of membership (i. e., builder or associate).

Perhaps a little further description of NAHB would serve to explain why we do not have this information. As I stated in my testimony on June 17, 1971, NAHB consists of some 490 autonomous, but affiliated, state and local associations all over the United States and in Puerto Rico. The key point is that these associations are "autonomous." NAHB does not regulate the building industry or exercise a high degree of control over its affiliated associations. Its basic purpose is to provide services to its 54,000 members and their associations. It does so in such fields as mortgage finance, legislation, building codes and technology, planning and zoning, business management and other related subjects. It operates in response to a need of the nation's builders of homes and apartments for expertise located at a central source in certain areas and it provides the framework for furthering the objectives of the housing industry--providing shelter for American families.

We have from time to time conducted surveys of our membership. Again, the purpose of these surveys relate to developing from a business standpoint a profile of those who are engaged in the building of homes and apartments. What has been sought in these surveys is an indication of the characteristics of our members' business, of their problems and of their techniques for the purposes of better understanding the business of home building and of improving NAHB's services to its membership. The question of who from a racial standpoint is involved in home building has not been surveyed.

Mr. John H. Powell, Jr.
Page 2
September 28, 1971

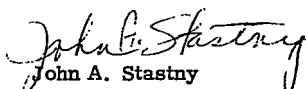
In order to provide a very rough indication of the increasing employment opportunities for minorities, your Commission might be interested to know that NAHB's Manpower Training Division, in its Washington office, estimates that 45% of the persons being trained to enter the building trades are minority or disadvantaged persons. Over the last four years in this one program (managed from our National office), we have trained over 5,000 for jobs in the building industry. We have no figures on how many might have received on-the-job training from individual employers but, since this is a usual pattern in home building, we can assume that the figures are sizable.

Although we have no specific data, we know that many of our affiliated associations are participating in the JOBS, MDTA, CAMP and other similar programs which place heavy emphasis on minority involvement.

Although, as I explained, we have no specific figures on minority involvement in the home building industry, it has become increasingly apparent to NAHB in recent years that members of minority groups engaged in home building can benefit by the services of a local home builder association and of this Association. Accordingly, we have made specific efforts, working through organizations of minority groups, to extend invitations to attend and participate in programs, seminars, committee meetings, etc. of this Association. Although no count of actual attendance by minority persons has been made, we have been encouraged by their indications of interest in becoming a part of home builder organizations. We plan to continue to extend similar invitations to future NAHB functions in the belief that increased active participation by minorities will be beneficial to all concerned.

I hope that this further explanation of the structure and purposes of NAHB will serve to clarify the reasons for our inability to provide the information that your Commission is seeking.

Sincerely,


John A. Stastny
President

*Exhibit No. 73****

**Request to National Association of Home Builders for List of Units
It Feels are Less Segregated Today than 19 Years Ago Due to
Its Efforts**

*Exhibit No. 79**

Memorandum discussing: (a) the civil rights responsibilities of an employer under the National Labor Relations Act and related acts with respect to ensuring minority representation in his workforce; (b) the civil rights responsibilities of those aided by Federal funds to ensure that the end product of these funds is available on a non-discriminatory basis; (c) the effect on employment statistics of a Federal fund cutoff if the above stated responsibilities are not met.

*Exhibit No. 80****

Comments of National Association of Home Builders on
Memorandum

*Exhibit No. 81****

**Request to Gallup and Roper Polls for any Survey Done in Last 5
Years on Question of Prejudice-Nonprejudice Tolerance Level by
Income and Education**

Exhibit No. 82

City of Cleveland
CARL B. STOKES, Mayor

COMMUNITY RELATIONS BOARD
 EXECUTIVE DIRECTOR

August 31, 1971

Mr. John H. Powell, Jr.
 General Counsel
 United States Commission
 on Civil Rights
 Washington, D.C. 20425

Dear Mr. Powell:

Mayor Stokes has instructed me, as Contract Compliance Officer for the City of Cleveland, to respond to your letter of August 6, 1971, requesting various information regarding Equal Employment Opportunity within the construction trades in Cleveland.

Your first request - for percentages of minorities within the construction trades before and during the present Cleveland administration - cannot be answered at the present time. Since the City of Cleveland does not enter into contractual relationships with unions, access to information as to their memberships is generally precluded. In view of the continued recalcitrance of the construction trade unions regarding the extension of equal opportunity to all, their reluctance to divulge potentially embarrassing data is not surprising. Their disinclination to cooperate is aided and abetted by the contractors also. This is because the contractors are usually afraid of confronting the unions with which they are involved in exclusive hiring-hall agreements. Obviously, fear of reprisals by the unions is a motivating factor in the hesitancy of contractors to pressure their unions to conform to equal opportunity legislation and directives.

Though we have not been able to gather the data you would like, I find that such information is available, at least for the Cleveland Metropolitan Statistical Area. Summary data from union EEO-2 and EEO-3 forms can be secured from the United States Equal Employment Opportunity Commission in Washington, D.C. A general idea of the situation in Cleveland, per se, can be gained from this source. In any event, we are able to illustrate in the following paragraphs our own involvement with the construction industry regarding EEO in Cleveland. These comments bear directly on the other queries in your August 6th letter.

The major problem confronting minorities seeking to enter the construction trades derives from a discriminatory and archaic seniority system of hiring. Most people are aware of the difficulty that minorities experience in seeking to obtain union membership in the crafts. It is understandable

that, given the strictures placed on union membership, few minorities have had success in entering these fields. However, many have passed qualifying examinations and yet have never been placed in apprenticeship programs. This is because there is often a long span of time between the start of eligibility and when an apprenticeship starts. For many prospective craftsmen, the pressure of economic survival forces them to pass up a chance for an apprenticeship in order to make a day-to-day livelihood. By infrequently running apprenticeship programs, the crafts unions successfully thwart the efforts of many minorities to gain entry into the industry.

But, the minority group member's problems are not all solved when he acquires a union card. At this point, he will have to confront the seniority system in the hiring halls. Most contractors enter into agreements with unions under which they will exclusively recruit workers from the union hiring hall. A member's position on the union hiring eligibility list is mostly determined by his length of membership. Those with the greatest seniority head the list of referrals to available jobs. So, the minorities - still victims of the "Last in, first out" philosophy - spend their time sitting at the far end of the hiring hall bench, waiting for enough business to accommodate all the caucasian journeymen who have had longer tenure in the union. The usual pattern is that a minority will enter the union because of pressure from a contractor trying to meet his EEO commitments on a particular project. Once this project is completed, the new minority union member faces a slim chance to go into another job - he goes to the back of the bench.

Obviously, what is needed to ameliorate the lot of minorities in the crafts is the modification or abandonment of the seniority system as it now exists. There must be developed a way for newer minority group members of trades unions to be compensated (in terms of seniority) for their previous systematic exclusion from these areas of endeavor. Without such changes, the de facto discrimination against minority workers will continue under the guise of conformity to established hiring practices.

A problem similar to the one just discussed arises in relation to minority contractors who seek to have their own labor force affiliated with the various craft unions. Frequently, what occurs is a situation in which, once the contractor gets his work force unionized, he is unable to expand his use of minority workers. This is because he then has to rely on the union hiring halls for men, once he has entered into a relationship with them. Since the halls are mostly filled with non-minorities, the minority contractor is stymied in his efforts to have his opportunities for expansion reflected in increased minority hires.

One general factor makes the problem of immediate minority entry into the construction trades of prime importance. This is the fact that construction work tends to be cyclical. In Cleveland, for example, we are presently in the middle of a substantial amount of urban reconstruction and expansion. Since the buildings being erected have a long life-expectancy (up to 100 years), it can be foreseen that between periods of heavy construction must come long stretches of relative inactivity in the industry. If we are not successful in

August 31, 1971

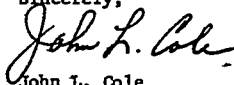
generating a significant number of jobs for minority group members during the present concentration of building, the chances of this to occur are greatly reduced. When the present wave of construction is completed, jobs, even for majority journeymen, will be harder to find. So, the pressure is upon us to open avenues for minorities while construction is on the up-swing. (I feel these comments hold true, despite the fact that the United States is presently experiencing severe economic problems. These problems only accentuate the pattern just mentioned.)

There is another area of concern in regard to the relationship of minority groups to the construction industry. This is the concept of co-ventures between large caucasian firms and smaller minority-owned enterprises. Ideally, such co-ventures would promote the achieving of competitive status by minority companies through the help of the larger caucasian firms. Technical expertise, help in financing and bonding, and so on, could be provided to the minority company in order for it to be able to expand its capacity. The benefit to the majority contractor would be an opportunity for a favorable EEO evaluation for its helpfulness.

Unfortunately, the ideal is rarely achieved. Too often the minority company may earn a small profit, but not improve its overall capabilities. So, the venture really is futile. And in some cases, majority firms have manipulated the co-venture in ways to ultimately bankrupt the potentially competitive minority enterprise. The results of co-ventures have been sufficiently poor for me to fear that this avenue is not deserving of much future effort.

If your Commission requires any further information, please feel free to contact the Contract Compliance Office in Cleveland.

Sincerely,



John L. Cole

Contract Compliance Officer

JLC/gr

cc: Mayor Carl B. Stokes
Encls.-

Exhibit No. 88

STATEMENT OF GEORGE ROMNEY, SECRETARY OF HOUSING AND URBAN
DEVELOPMENT ON COMMISSION REPORT ON SECTION 235 PROGRAM.
JUNE 10, 1971

We are pleased that the Commission on Civil Rights' study of the 235 Program acknowledges the impressive volume of housing produced under the program and the fact that "the program has been of substantial help to minority group families by enabling them to obtain decent housing and to enjoy the benefits, both material and psychological, of home ownership."

The report also points out that the 235 program has not so far made a significant impact on dominant patterns of racial separation which prevails in the Nation's metropolitan housing markets.

The reason is that the program operates within the framework of the private real estate market: FHA has traditionally been structured legally and administratively to respond to the private market. FHA does not by itself control such things as housing site location, housing consumer preferences choice of brokers, or the willingness of brokers to deal or not deal in FHA insured properties.

It is unfortunate that some of the Commission's more sensational assertions, although largely unfounded or out of date may detract public attention from its more constructive proposals. HUD has in fact been engaged in a range of actions over the last several months to make all of our programs more responsive to equal opportunity objectives as well as to the consumer generally.

Unfortunately, the report is out of date in failing to

reflect such action. Additional actions are imminent and we shall be detailing these in hearings before the Commission next week.

Exhibit No. 84

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
DLN:FES:FHK:ama
DJ 175-012

OCT 26 1971

Mr. John A. Buggs
Acting Staff Director
United States Commission
on Civil Rights
1405 I Street, N.W.
Washington, D. C. 20425

Dear Mr. Buggs:

This is in reply to your letter of August 30, 1971, concerning the number of times the Department of Justice has acted on housing discrimination complaints under Title VIII of the Civil Rights Act of 1968 within 30 days and without waiting for action by state agencies.

Under the terms of Section 813 of Title VIII, this Department is authorized to move immediately upon receipt to investigate housing discrimination complaints to determine if there is a "pattern or practice" of discrimination or a denial of rights raising an issue of general public importance. There is no requirement that the Attorney General defer to state or local remedies, or any others. This differentiates Section 813 from the remedies available to individual complainants. Under Section 810, an aggrieved person may complain in writing to the Secretary of the Department of Housing and Urban Development and thereafter may file his own lawsuit.

- 2 -

Under Section 812, an aggrieved person may go directly to court. In the event the aggrieved person chooses to make a complaint to the Secretary, that officer is required by subsection (c) of Section 810 to defer to a state or local fair housing agency which provides substantially similar rights and remedies, for a period of 30 days. At the end of that period, if the matter has not been locally resolved the Secretary may continue to process the complaint. This 30-day period does not apply to the Attorney General, and his authority to deal with patterns or practices of discrimination is not affected thereby. Accordingly, any possible delay occasioned by the provision for deferral, which was the subject of Commissioner Freeman's question, does not arise in cases handled by the Attorney General.

Although we have no precise figures readily available, investigations are commenced in the great majority of instances in which housing discrimination complaints are received within 30 days of receipt. This includes both complaints made directly to the offices of the Federal Bureau of Investigation and those received by the Department in Washington or by United States Attorney's offices. As the Attorney General pointed out during the course of his testimony, however, it is a rare case in which suit can be brought, or injunctive relief secured, within that thirty day period, for a comprehensive investigation is needed to determine whether the requirements of Section 813 as to pattern or practice or important denial of rights have been met. Such an investigation, and the time required to prepare and review the necessary papers, usually exceed thirty days. We have attempted, however, to move with dispatch on all such cases.

- 3 -

While it would be possible, with the expenditure of considerable time and effort, to extract from our records the exact number of instances in which an investigation was commenced or other action taken on a complaint within 30 days of receipt, we wonder in the light of the foregoing information, whether such information would be useful to the Commission.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

By: *Frank E. Schwelb*
FRANK E. SCHWELB
Chief, Housing Section

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