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# A UNIVERSAL SOLUTION TO THE MINORITY HOUSING PROBLEM\*

CHESTER HARTMAN\*\*

Although health care, welfare reform, and the economy have captured the lion's share of attention at the outset of the Clinton era, housing ought to be an equally critical issue. But it is not. Relatively little was said about housing during the 1992 election campaign, and it is noteworthy that *Mandate for Change*, the intellectual-political "marching orders" produced by the Progressive Policy Institute, the think-tank of Democratic Leadership Council, did not include housing among its fourteen chapters.<sup>1</sup>

Undeniably, the nation's housing problems are severe and are deteriorating for all racial groups and for middle- and lower-income households; still, the most alarming problems afflict poor racial minorities. The housing crisis ranges from the inability of middle-income households to afford to buy homes or to keep their homes to the obscenity of outright homelessness for up to three million Americans.<sup>2</sup>

## I. THE NATURE OF THE HOUSING CRISIS

A November 1992 report from the Center on Budget and Policy Priorities, based on the Census Bureau's most recently published American Housing Survey,<sup>3</sup> documents the severity of housing problems faced by black<sup>4</sup> and Hispanic households, particularly poor households in these

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1. PROGRESSIVE POLICY INSTITUTE, *MANDATE FOR CHANGE* (Will Marshall & Martin Schram eds., 1993). The "blueprint" contains discrete chapters on many domestic issues: health care, family policy, citizen safety, welfare, environmental degradation, education, and "enterprise economics."

2. Estimates of the homeless are used, because hard data are impossible to generate. No one disputes, however, that the numbers are rising and that employed persons and households with children are found in increasing numbers among shelter residents.

3. PAUL A. LEONARD & EDWARD B. LAZERE, *CENTER ON BUDGET & POLICY PRIORITIES, LOW INCOME HOUSING CRISIS IN 44 MAJOR METROPOLITAN AREAS* xi (1992). The metropolitan area surveys are conducted on a rolling triennial basis; the most recent published data range from 1986 to 1989. *Id.* at 1. The report defines "poor households" as those whose total household income is below the poverty line for households of that size. See *JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY, THE STATE OF THE NATION'S HOUSING 17-22* (1992).

4. Editor's Note: The contributors to this symposium have used the terms "African

racial groups. "In the typical large metro area," the report notes, "22 percent of poor black households and 25 percent of poor Hispanic households lived in deficient housing, while eight percent of poor white households did."<sup>5</sup>

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American," "black," and "black American," often interchangeably, in their articles. The *North Carolina Law Review* has elected to defer to its contributors' choices in the absence of any universally accepted racial or ethnic designation.

5. LEONARD & LAZERE, *supra* note 3, at xvi. "Deficient housing" is a classification used by the U.S. Department of Housing and Urban Development in its American Housing Survey. *Id.* at 26. It consists of units with "severe" and "moderate" physical problems. *Id.* In the former category are units with one or more of the following deficiencies:

- The unit lacks hot or cold water or a flush toilet, or both a bathtub and a shower;
- The unit's heating equipment has broken down at least three times for periods of six hours or more during the previous winter, resulting in the unit being uncomfortably cold for 24 hours or more;
- The unit has no electricity, or the unit has exposed wiring *and* has a room with no working wall outlet *and* has three blown fuses or tripped circuit breakers during the previous 90 days;
- The unit has, in public areas such as hallways and staircases, no working light fixtures *and* loose or missing steps *and* loose or missing railings *and* no elevator;
- The unit has at least five basic maintenance problems such as water leaks, holes in the floors or ceilings, peeling paint or broken plaster, or evidence of rats during the previous 90 days.

*Id.*

In the latter category are units that have none of the above deficiencies, but have one or more of the following defects:

- On at least three occasions in the past three months, all flush toilets in the unit were broken for at least six hours;
- The unit has unvented gas, oil, or kerosene heaters as its primary heating equipment;
- The unit lacks a sink, refrigerator, or either burners or an oven;
- The unit has three of the four hallway or staircase problems listed above;
- The unit has at least three of the basic maintenance problems listed above.

*Id.*

The quality, reliability, and conceptual underpinnings of Census Bureau-HUD housing quality data long have been debated and criticized. A relatively unheeded critique of the data included in an important background report prepared for the National Commission on Urban Problems (the "Douglas Commission") contained this disturbing caveat:

[I]t is readily apparent that even the most conscientious user of Census data . . . would arrive at a total "substandard" ["deficient," using the more recent federal nomenclature] housing figure which grossly underestimated the number of dwelling units having serious housing code violations. To use a total thus arrived at as a figure for substandard housing is grossly inaccurate and misleading, because it flies in the face of extensive consideration given by health experts, building officials, model code drafting organizations, and the local, state and Federal court system to what have become [sic] over a period of many years, the socially, politically and legally accepted minimum standard for housing of human beings in the United States.

Oscar Sutermeister, *Inadequacies and Inconsistencies in the Definition of Substandard Housing*, in HOUSING CODE STANDARDS: THREE CRITICAL STUDIES 78, 83 (1969). The report later states that "even if public and private efforts eliminate all housing which is substandard under

Overcrowding, defined as more than one person per room, is also rampant, as poor families try to cope with the burden of staggering rental rates by leasing less space. The problem, which is a hazard to health and a creator of family tensions, and of poor study environments for schoolchildren, is particularly severe among Hispanics. "In the typical large metro area," according to the Center on Budget and Policy Priorities report, "25 percent of poor Hispanic households lived in overcrowded conditions[,] . . . nearly triple the typical proportion of poor black households living in overcrowded housing and more than six times the typical proportion of poor white households in such conditions."<sup>6</sup> The degree of overcrowding is notorious: In some metropolitan areas more than forty percent of poor Hispanic households suffer from overcrowding.

Although poor physical conditions and overcrowding are prevalent components of the current housing crisis, the leading defect of the U.S. housing system for low-income households is that an overwhelming portion of family income must be spent just to have a roof over one's head—no matter how small or defective that roof may be. Approximately three-fifths of poor households in the typical large metropolitan area, including both renters and homeowners, devote at least half of their income to housing costs.<sup>7</sup> During the four years following the 1989 American Housing Survey, the nation's housing affordability problems undoubtedly have worsened: poverty levels have increased, family incomes have declined, and housing costs have either risen or remained at a constant level.<sup>8</sup>

There is no consensus as to what percentage of income families *should* spend on housing.<sup>9</sup> The extant standard under federal housing programs—the percentage above which subsidies kick in for households fortunate enough to be served under one of the federal housing subsidy programs—is thirty percent.<sup>10</sup> Until 1981 that standard was twenty-five percent, but it was raised after President Reagan was elected in order to

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most current federal definitions, there will still be millions of dwelling units below code standard." *Id.* at 102.

6. LEONARD & LAZERE, *supra* note 3, at xvi.

7. *Id.* at xii-xiii. This figure includes whites as well as blacks and Hispanics. *Id.* But because significantly higher rates of physical deficiencies exist in the housing of black and Hispanic families, see *supra* text accompanying note 5, in addition to the largely undocumented but obvious neighborhood deficiencies in minority areas, the minority's housing dollar buys far less than the white's housing dollar.

8. Sheldon Danziger & Peter Gottschalk, *A 20-Year Glitch in America*, WASH. POST, Jan. 5, 1993, at A15.

9. For a general discussion of the affordability issue and shifting standards, see Chester Hartman, *Affordability of Housing*, in HANDBOOK OF HOUSING AND THE BUILT ENVIRONMENT IN THE UNITED STATES 111-29 (Elizabeth Huttman & Willem van Vliet eds., 1988).

10. Various adjustments of the base income to account for expenses, such as excessive

reduce the amount of federal subsidy required.<sup>11</sup> A more stringent and realistic approach, known as the "shelter poverty" or "market basket" approach, suggests that such fixed standards should not be used at all. Instead, the percentage of income devoted to housing should be a function of household income and size, with lower income and larger families being required to pay lower, and in some cases far lower, percentages for housing. This lower percentage would be based on their needs for other basics, such as food, clothing, transportation, and medical care, which cost proportionately more for large households and very poor households.

Michael Stone, in his seminal research on shelter poverty,<sup>12</sup> employs the U.S. Bureau of Labor Statistics' detailed model budgets<sup>13</sup> to derive what households of various sizes need for non-shelter basics. He then computes what is left over for housing if all such basics, as estimated by the federal government, are to be met. Not surprisingly, Stone's calculations reveal that vast numbers of households in the United States cannot "afford" thirty percent, twenty-five percent, or even ten percent of their income for housing. *In fact, some fourteen million U.S. households cannot afford a single penny for housing if they are to meet these non-shelter basic costs.* Nor is it surprising that racial disparities in shelter poverty are severe: Approximately one-quarter of all white households are shelter poor—that is, they cannot afford non-shelter basics because of high housing costs—compared with one-half of all Hispanic and one-half of all black households.

The implications of the shelter poverty concept and the figures generated by this approach are enormous, and undoubtedly they account for the neglect of the housing crisis noted at the outset of this Essay. Stone calculates that in order to cover the gap between housing costs and incomes—a fundamental structural gap inherent in the current United States economy and housing system—some \$92 billion would be required annually.<sup>14</sup>

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childcare, medical costs, or dependent children, can yield a slightly lower true percentage of total income.

11. For a discussion of this history, see Chester Hartman, *Housing Policies Under the Reagan Administration*, in *CRITICAL PERSPECTIVES ON HOUSING* 362, 362-76 (Rachel G. Bratt et al. eds., 1986).

12. See MICHAEL E. STONE, *SHELTER POVERTY: NEW IDEAS ON HOUSING AFFORDABILITY* (1993); MICHAEL E. STONE, *ECONOMIC POLICY INST., ONE THIRD OF A NATION: A NEW LOOK AT HOUSING AFFORDABILITY IN AMERICA* (1990) [hereinafter *A NEW LOOK*].

13. *A NEW LOOK*, *supra* note 12, at 51. The government stopped publishing these figures in 1981 with the onset of the Reagan Administration, but Stone has updated them using published BLS data on annual consumer price changes.

14. *Id.* at 15. The \$92 billion figure was calculated in 1987 dollars. A related study esti-

When comparing the nation's health crisis with the nation's housing crisis, it is important to recognize that for lower-income families, the staggering and out-of-control health costs are borne largely by the government under the Medicaid and Medicare programs. The housing costs of lower-income Americans, however, are borne primarily by the households themselves. Nearly two-thirds of poor renters do not receive a rent subsidy under any federal, state, or local program, nor do they live in public housing; virtually no poor homeowners receive any direct government housing subsidies. The vast majority of the nation's poor pay their housing costs solely out of the family's budget.<sup>15</sup>

In other words, solving the nation's housing problem—attaining the National Housing Goal of “a decent [affordable]<sup>16</sup> home and suitable living environment for every American family”<sup>17</sup>—would require more government subsidies than anyone in government is willing to acknowledge or consider.

## II. THE IMPLICATIONS OF A REAL SOLUTION

Costs aside, a serious effort to attain the National Housing Goal by some future date (say, the year 2000) would have to address profound social and political issues. A disproportionate number of people needing housing aid are minorities. Whatever programs are devised consequently

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mates that the cost to provide all U.S. households with an entitlement Section 8 housing voucher to cover actual housing expenses above 30% of family income would be \$17-18 billion annually. This lower figure does not factor in inflation in market rents that would occur if universal subsidies were introduced absent accompanying strict market controls. See BARRY ZIGAS, *A PROGRAM TO END THE LOW INCOME HOUSING CRISIS* (1992). The figure cited was based on 1987 HUD testimony before the Senate Subcommittee on Housing. Six years later the figure would be considerably higher, not only because of inflation, but also due to the likely increase in housing affordability problems.

15. The average consumer unit in the lowest 20% income percentile spent \$3330 in 1988 on shelter (including fuel and utilities, but not household operations and furnishings or house-keeping supplies) and \$831 for health care. See ECONOMICS & STATISTICS ADMIN., U.S. DEPT OF COMMERCE, *STATISTICAL ABSTRACT OF THE UNITED STATES* 446-47 (1991).

16. Congress did not cite affordability as a goal, largely because in 1949 the prevailing issues were slum clearance (the 1949 Act introduced the urban renewal program) and increasing the stock of decent low-cost housing (the same legislation authorized 810,000 units of public housing over six years). Out-of-reach rents in the private sector were not a concern at that time. Obviously, however, a National Housing Goal is not terribly meaningful if the cost of obtaining housing leaves a family unable either to afford life's other basics or to achieve a minimum decent standard of living. The issue of a “suitable living environment” has never been defined or even considered. Were we to attempt to achieve truly decent, safe neighborhoods and communities, the figures that refer solely to housing costs would have to be increased greatly.

17. The goal was promulgated by Congress in its preamble to the 1949 Housing Act ch. 338, 63 Stat. 413 (1949), and then reiterated in the 1968 Housing and Urban Development Act, P.L. 90-448, 82 Stat. 476 (1968).

would provide disproportionate benefits to such groups.<sup>18</sup> And since housing is a special social good that involves location and the various implications of location, profound social policy issues would have to be met head-on.

A major schism within the civil rights community exists between proponents of dispersion remedies and proponents of "in place" remedies.<sup>19</sup> Advocates of dispersion remedies favor using housing vouchers or certificates to allow minority inner-city residents to move in order to improve their housing conditions, achieve affordable rents (defined by the thirty percent of income standard), and attain the community-wide benefits of noninner-city locations. These benefits include improved schools, better access to jobs, less neighborhood crime, less concentration of families with a range of social problems, and greater racial and class heterogeneity. An impressive body of evidence exists from the "Gautreaux experiment"<sup>20</sup> that indicates that use of housing vouchers or certificates in this fashion can have positive results, particularly with respect to increasing employment rates, parent satisfaction, and social integration. Many questions arise, however, even among supporters of the program: How much "creaming" exists in selection of beneficiaries? In other words, are only those most likely to "succeed" selected, making the program of only limited applicability to central-city minority households? How much available and appropriate housing (considering size, cost, and location) exists for use by certificate or voucher holders? What is the possible inflationary impact of this added demand on the local housing market? Will access to jobs raise people out of poverty if wages are so low as to produce below-poverty incomes? Can the necessary counselling and support services available under the Gautreaux program be repli-

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18. A useful summary of the targeting versus universal strategies debate can be found in Theda Skocpol, *Targeting within Universalism: Politically Viable Policies to Combat Poverty in the United States*, in *THE URBAN UNDERCLASS* 411, 412-14 (Christopher Jencks & Paul E. Peterson eds., 1991), and Robert Greenstein, *Universal and Targeted Approaches to Relieving Poverty: An Alternative View*, in *THE URBAN UNDERCLASS*, *supra*, at 437, 437-58.

19. For a statement of in-place position, see John Calmore, *To Make Wrong Right: The Necessary and Proper Aspirations of Fair Housing*, in *THE STATE OF BLACK AMERICA*, at 77 (Janet Dewart ed., 1989); a good statement of the dispersionist position may be found in Donald L. DeMarco & George C. Galster, *Pro-Integrative Policy: Theory and Practice*, *J. URBAN AFFAIRS* (forthcoming 1993).

20. This refers to a complex and lengthy lawsuit, originating in 1966, that alleged racial discrimination in tenant selection and assignment of Chicago's public housing and led to a pilot program making a large number of Section 8 housing subsidies available to the city's public housing residents and those on public housing waiting lists. Detailed follow-up studies have been undertaken by researchers at Northwestern University. See JAMES ROSENBAUM & SUSAN POPKIN, *ECONOMIC AND SOCIAL IMPACTS OF HOUSING INTEGRATION* (1990); Guy Gugliotta, *Lottery Offers Chicago's Black Welfare Families a Ticket Out of Town*, *WASH. POST*, Feb. 24, 1993, at A3.

cated on a broad scale? Will an influx of central city minority households trigger "white flight" or even flight of higher-income minority households?

Those who advocate "in place" remedies, or, as it often has been labeled, "gilding the ghetto," express resentment that dispersion programs send the message that only by breaking up inner-city neighborhoods can minority households improve their lot. Why not, they ask, provide a real choice by creating improved education, community facilities, housing conditions, and neighborhood environments where people currently live? A single mother living in Chicago's Robert Taylor Homes, offered the opportunity to escape with a "Gautreaux ticket," would be crazy not to take it. But she should have the option, say the "in placers," of an improved neighborhood without having to give up existing friendships and family and community ties, via substantial investment and creative programs tied to her own neighborhood.<sup>21</sup> At this time, existing studies largely support the dispersionists' approach, due to the well-designed and publicized research in Chicago and Cincinnati.<sup>22</sup> In order to provide a profitable comparison, it would be important to assemble similar data concerning employment, schooling, safety, and satisfaction regarding local attempts to improve housing and neighborhood conditions in the inner city.

In reality, both strategies are necessary to solve the nation's housing and neighborhood problems. The real question is how the two strategies should be combined, an issue involving resource allocation decisions, national and community politics, expressed preferences, and housing market and neighborhood realities.

### III. THE MAJOR LOW-INCOME HOUSING PROGRAMS

The principal low-income housing programs have been public housing and the Section 8 vouchers or certificates. The public housing program has taken a considerable public relations beating in recent years, to an extent because of valid criticisms, but also due to exaggerations, distortions, and unwarranted implications put forth by those ideologically opposed to substitution of government programs for the free market. It would be foolish to deny that a substantial part of the public housing stock is in deep trouble, in no small part due to faulty program design, defective local administration, and intentional subversion by hostile fed-

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21. See Calmore, *supra* note 19, at 77.

22. PAUL FISHER, IS HOUSING MOBILITY AN EFFECTIVE ANTI-POVERTY STRATEGY? AN EXAMINATION OF THE CINCINNATI EXPERIENCE (A Report to the Steven H. Wilder Foundation) (1991).



eral administrations. But it would be equally foolish to ignore the considerable success of this approach. Public housing options are frequently superior to private market alternatives in cost, physical conditions, and management practices, as evidenced by the sound shape of most of the nation's 1.3 million public housing units, residents' satisfaction with their conditions, and the long waiting lists at even the most troubled housing authorities.<sup>23</sup>

The notion of extensive government subsidies to create, via construction, rehabilitation, or purchase of existing buildings, housing specifically for families the market does not serve is sound.<sup>24</sup> As will be seen below, government subsidies can and must form the core of a serious approach to attain the National Housing Goal within a decade, so long as we also learn well the lessons of why some parts of the public housing program have failed. The architectural, siting, locational, and social mistakes embodied in much big-city public housing must not be replicated. Operating subsidies must be sufficient. Adequate maintenance and modernization funds must be provided. More responsive and competent management, including, where possible and appropriate, tenant self-management, must exist. More emphasis must be placed on mixed-use and mixed-income developments. The full range of needed supportive services must be as much a part of housing programs as the bricks and mortar.

The second major, and newer, government approach to providing housing subsidies for low-income households is Section 8 rent subsidies, which allow families to live in privately owned units. The advantages of this approach, in the certificate or voucher form, are flexibility, economy (in other words, ability to take advantage of slack in the existing housing stock), maximization of individual choice, and portability. But this program has its limitations as well, and these were clearly revealed in the Experimental Housing Allowance Program (EHAP), one of the largest social science experiments ever undertaken in this country. EHAP in-

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23. For an overall evaluation of the accomplishments and defects of the public housing program, see Rachel G. Bratt, *Public Housing: The Controversy and the Contribution*, in CRITICAL PERSPECTIVES ON HOUSING, *supra* note 11, at 335. A National Association of Housing and Redevelopment Officials survey reported a nationwide aggregate of 1.1 million households on local housing authorities' waiting lists (in addition to 1.2 million households on waiting lists for subsidized privately owned housing). See LEONARD & LAZERE, *supra* note 3, at xviii-xix. A more general evaluation of the full range of federal housing programs may be found in Chester Hartman & Barry Zigas, *What Is Wrong With Our Housing Programs*, in HOMELESS CHILDREN AND YOUTH: A NEW AMERICAN DILEMMA 197 (Julee H. Kryder-Coe et al. eds., 1991).

24. This housing would be owned and managed on a nonprofit basis, under arrangements that guarantee permanent affordability—the essential elements of what we label “public housing.”

volved giving housing allowances to 30,000 households over a period of years and under a variety of conditions in order to test demand effects, supply effects, and administrative variations. The experiment results showed that when certificates were available to all who met eligibility criteria, less than half of all eligible households used them; that participation rates were lowest for minority, poor, and large households and those living in poor-quality dwellings; that participation rates rose sharply when (as in some of the sub-experiments) no housing quality standard had to be met—that is, when recipients could rent substandard quarters, which actually occurred in about two-thirds of the cases; and that participation triggered little geographic mobility by recipients and resulted in few housing repairs by landlords.<sup>25</sup>

Although housing allowances are not a panacea, under certain conditions—when there is market slack and when the program is accompanied by effective quality and rent controls—they can be an important component of the government's overall housing program.

#### IV. NEEDED: A COMPREHENSIVE PROGRAM

The disproportionately severe housing problems of minorities must and should be solved as an integral part of a general solution to the nation's housing problems. And a serious program to attain the National Housing Goal within a decade necessarily will involve a mixture of both dominant past approaches: (1) creating permanently affordable housing and (2) providing subsidies for families to move to or continue living in decent existing units.

What might the first approach—a revised “public housing” program—look like?<sup>26</sup> There are three key elements of such an approach:

(1) Structural changes in the financing of housing in order to minimize the amount of government subsidies needed and to provide the basis for the assurance of permanent affordability.

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25. See DO HOUSING ALLOWANCES WORK? (Katharine L. Bradbury & Anthony Downs eds., 1981) (presenting the findings and implications of the EHAP at a conference held by HUD at the Brookings Institution in November 1979); HOUSING VOUCHERS FOR THE POOR: LESSONS FROM A NATIONAL EXPERIMENT (Raymond J. Struyk & Marc Bendick, Jr. eds., 1981) (analyzing the design, operation, findings, and policy implications of the EHAP); Chester Hartman, *Housing Allowances: A Critical Look*, 5 J. URB. AFF. 41, 41-55 (1983) (concluding that EHAP is an ineffective housing program); Chester Hartman, *Rejoinder to “Another Look at Housing Allowances,”* 5 J. URB. AFF. 159 (1983) (responding to author Philip Abrams's defense of housing allowance due programs in Abrams's article, *Another Look at Housing Allowances: A Response to Chester Hartman*, 5 J. URB. AFF. 151 (1983)).

26. Elements of the program description that follows are based on INSTITUTE FOR POLICY STUDIES WORKING GROUP ON HOUSING: THE RIGHT TO HOUSING: A BLUEPRINT FOR HOUSING THE NATION 24-60 (1989) [hereinafter INSTITUTE FOR POLICY STUDIES].

(2) Assuring an ownership and subsidy structure that guarantees permanent affordability for those who cannot afford the going market costs of housing.

(3) A commitment to provide sufficient government subsidies to close the gap between income and housing costs, as long as there are people with incomes insufficient to meet existing market costs of housing.

Let us examine these elements in detail.

*A. Structural changes in the financing of housing in order to minimize the amount of government subsidies needed and to provide the basis for the assurance of permanent affordability*

The key factor of housing costs in our economy is the cost of the capital needed to construct or purchase the dwelling—a capital good with a value usually several times the annual income of the occupants. Almost invariably, credit is used, and the cumulative cost of repaying the principal, with interest, typically is several times the actual amount of the capital borrowed. For the consumer with a mortgage debt, the cost of servicing that loan in most cases overwhelms the sum of all other housing costs. For example, data from the 1990 Housing Census shows that the median monthly housing cost for owner-occupied units bearing a mortgage was \$737, while the comparable figure for owner-occupied units without mortgage indebtedness was only \$209.<sup>27</sup> For a tenant, the proportion of rent payments similarly routed, albeit indirectly, to the lender will vary with the landlord's actual financing situation. Use of second, and even third, mortgages by building owners to extract cash from properties rapidly and frequently can raise the percentage for renters higher than for the average homeowner.

An essential element of a strategy to reduce housing costs and keep government subsidies to a minimum will therefore logically aim at the element of housing costs that dwarfs all others. Were housing to be treated as social infrastructure, we might socialize the provision of capital and require users to pay only the ongoing costs of occupancy: utilities, property taxes, insurance, maintenance, and repairs. A fundamental restructuring of the housing finance system would reduce housing costs for the average consumer by more than two-thirds in some cases, thereby making housing more affordable for a vast portion of the present population experiencing housing problems.

This government-provided capital could be raised either through the

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27. 1990 Census of Population and Housing, Summary Social, Economic, and Housing Characteristics, 375 at Table 8 (Nov. 1992) (available from U.S. Gov't Printing Office). Non-mortgage costs include real estate taxes, fire, hazard and flood insurance, utilities, and fuels.

tax system or by government borrowing, but in either case there would be a one-time payment of the capital costs (up front in the former case, over the life of the bonds in the latter case), rather than the present system of reborrowing and refinancing each time a house is sold, incurring new and usually higher debt, so that monthly debt-service costs in effect become a permanent occupancy cost.

*B. Assuring an ownership and subsidy structure that guarantees permanent affordability for those who cannot afford the going market costs of housing*

A massive structural change in the housing finance system would necessitate changes in the traditional concept and workings of "home ownership": specifically, housing financed under this reformed system would not be bought and sold under existing market arrangements. No individual would own housing in the traditional sense of being able to sell it for profit. "Ownership" of housing would be a multi-layered concept. Essentially, it boils down to three somewhat distinct attributes: The right to sell for whatever the market will bear, security of tenure, and the right to alter living space to suit one's needs and preferences. These last two attributes arguably are more important to resident satisfaction and community stability than the economic rights inherent in traditional forms of housing ownership.<sup>28</sup> Under a system of social provision of capital, both security of tenure and the right to modify one's living space would survive and, in fact, be enhanced. With substantially lower monthly costs, the huge number of households evicted for nonpayment

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28. Extensive studies of Boston's West End, bulldozed away in the late 1950s under the urban renewal program, showed dramatically how residents, under tenancy conditions characterized by low rents and ostensible total security of tenure, behaved like homeowners. Duration of residence in the neighborhood was extraordinarily long, and, until the onset of the urban renewal program, the prevailing attitude was that people could remain as long as they wished in their small tenement buildings, which in many cases were owned by neighbors, relatives, or former neighbors, the vast majority of whom were first- and second-generation Italian Americans. One consequence of these conditions was a very high degree of the same kind of investment of family funds and self-help labor in apartment improvements that one normally associates only with homeowners. See HERBERT J. GANS, *THE URBAN VILLAGERS* (1982) (reporting study and observation of the West End neighborhood from October 1957 to May 1958); Marc Fried, *Grieving for a Lost Home*, in *THE URBAN CONDITION* 151, 169 (Leonard J. Duhl ed., 1963) (concluding that spatial and group identity were the "critical foci of the sense of community" for those relocated from the West End and arguing that lessons from the West End can be used to "create a housing system that retains and strengthens the noneconomic value of traditional home ownership while eliminating the economic dimension"); Chester Hartman, *Homeownership: Who's Got to Have It*, *CITY LIMITS*, May 1990, at 19-20; Chester Hartman, *Social Values and Housing Orientations*, 19 *J. SOC. ISSUES* 113 (1963) (studying effects on mental health of forced relocation from the West End and suggesting alternative considerations for conceptions of slums).

of rent or mortgage foreclosure would be reduced considerably.<sup>29</sup> The ability to live in decent housing for one-half to one-third of present costs, plus the greater security of tenure, would, for most lower-income people, substantially outweigh the speculative value of being able to reap a capital gain from the possibly increased value of one's house when selling it—one of the traditional attractions of conventional homeownership.<sup>30</sup>

Housing financed in this manner therefore would be owned by non-profit social entities, within or independent from government. The "public housing" built under this drastically reformed subsidy system would be developed and owned by a range of nonprofit organizations: government agencies, neighborhood groups, tenant cooperatives, community development corporations, community land trusts, and religious and labor organizations. A more appropriate label would be "social housing," a term and concept widely used in Europe. The motivation for such groups to involve themselves in housing development and management would be to provide the best housing, with supportive community facilities and social services, at the lowest cost to the consumer; the motivation would not be, as under the dominant present system, profit maximization by all the key actors: lenders, land speculators, developers, realtors, landlords, and property managers. Such a system also represents the most efficient use of government tax dollars. The dominant current federal low-income housing program, Section 8, provides virtually no controls over the cost elements of private financing, ownership, and management, and it merely throws into this uncontrolled market as many dollars per unit as are needed to close the gap between what a recipient can afford and what the market is charging for that unit.<sup>31</sup> The defects so often associated with bureaucracies like local housing authori-

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29. Nearly five percent of all home mortgages in the United States are past due, that is, 30 or 60 days behind in payment. Mortgage Bankers Ass'n of Am., National Delinquency Survey, 3rd quarter 1992 (Washington, D.C.). No national data are available on tenant evictions, which are carried out by state and local courts. Moreover, definitional problems are involved: Is a tenant evicted only when a court order is enforced? Or is it more meaningful to describe eviction as a "voluntary" moveout in response to a court order and before the sheriff or marshal arrives to enforce the order? Or is an eviction a moveout in response to the landlord's notice to vacate, absent any court proceedings or official communication? Depending on what definition is used, most experts estimate the annual number of evictions to be in at least the six-figure range and possibly well into the millions.

30. For a comparison of the implications for household economics of the present mortgage system with the system described here (resident-savers), see Chester Hartman & Michael E. Stone, *A Socialist Housing Alternative for the United States*, in *CRITICAL PERSPECTIVES ON HOUSING*, *supra* note 11, at 494.

31. HUD does establish Fair Market Rents ("FMRs") for each local housing market and will not provide Section 8 subsidies above that level. But these FMRs are established, and periodically updated, based on the realities of the local housing market and thus are designed to avoid paying more than prevailing market prices. They do nothing to lower or control

ties largely would be avoided, because these community-based entities would be directly responsible and accountable to the residents and communities in which they operate.

Even with the extraordinarily expensive subsidy that the government "gift" of capital costs requires, there nevertheless will be families with incomes too low to afford ongoing operating costs and to have sufficient income for non-shelter basics. Further subsidies, therefore, will be needed for such persons, in the form of operating funds to be paid to the owner or manager, or rent vouchers or certificates to be used by the resident.<sup>32</sup> These supplementary funds must be available for however long they are needed.

In addition to programs creating additional units of affordable housing, programs are needed to remedy unacceptable conditions prevalent in many public housing units, such as overcrowding, physical deterioration, or unaffordability. Three additional elements, therefore, would be needed:

(a) *Conversion of privately owned subsidized units to permanently affordable nonprofit status.* Some 350,000 low- to moderate-income rental units, built under various federal mortgage subsidy programs, are owned privately (by for-profit as well as non-profit entities), and after twenty years the owners can opt out of the subsidy arrangements and disengage from any restrictions on rent levels or occupancy.<sup>33</sup> Many owners are in the process of or are planning to do just that, and a subsidy program is needed to retain these units in the affordable housing stock and avert massive displacement.

(b) *Giving low- and moderate-income homeowners the option of converting their residences to social ownership (through a social housing*

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market costs; in fact, if a large amount of Section 8 subsidy funding is introduced into a housing market, this will cause inflation and, consequently, an increase in the FMR.

32. In the current public housing program, capital costs similarly are excluded from the local housing authority's operating budget, and there is no need for tenant rents to cover repayment of these costs. Most commonly, local housing authorities issue long-term tax-exempt bonds and then enter into an annual contributions contract with the federal government which calls for annual federal payments equal to the costs of servicing those bonds; more recently, for the trickle of new public housing still being built, the federal government has been using the cheaper method of supplying a capital grant up front. Yet the poverty of public housing tenants and the increasing cost of maintaining public housing have created a severe gap between what it costs to operate public housing and the income generated by tenants' rents, which are set, as noted above, at 30% of income. A variety of supplementary federal subsidies have been introduced to cover this shortfall, and tenant rents in many large cities cover only about half of the actual operating costs. This shortfall illustrates the inadequacy of capital cost subsidies alone to make housing affordable, absent additional subsidies.

33. See EMILY ACHTENBERG, PRESERVING EXPIRING USE RESTRICTION PROJECTS (1992).

entity) and simultaneously being relieved of debt obligations. Homeowners virtually are shut out from existing government subsidy programs (save those who can take advantage of the homeowner deduction of mortgage interest and property tax payments from their taxable income). A great many, however, are living in substandard conditions and/or paying unaffordable homeownership costs. Many of these homeowners are losing their homes due to mortgage foreclosure. Under a variation of the basic social provision of capital described above, such owners would be given the ability to remain in their home. Federal funds would be used to retire the debt (over time or all at once), and the home would forever remain debt-free, for permanent use by other income-eligible households whenever the existing residents departed. Such an arrangement should be expanded to allow any low- or moderate-income homeowner, regardless of her mortgage delinquency or foreclosure status, to engineer such a conversion, in effect trading the possibility of profiting from eventual resale of the home for security of tenure and drastically reduced monthly housing costs.

(c) *Transferring ownership of buildings to nonprofit entities and providing the operators with sufficient subsidies to repair and continuously maintain the units, while permitting the residents to pay no more than an affordable portion of their income.* The largest single group of families with housing problems, including substandard housing, overcrowding, and unaffordable housing costs, are lower-income renters. In 1989, fifty-six percent of all poor renters paid at least half of their income for rent.<sup>34</sup> The combination of long-term undermaintenance, profit-maximizing behavior by landlords, rising costs of operation (property taxes, utilities, insurance, and repairs), and low tenant incomes offers little hope for improvement absent radical measures. Thus, a major element of a comprehensive program to attain the National Housing Goal involves giving nonprofit entities control over low-income housing units.

C. *A commitment to provide sufficient government subsidies to close the gap between income and housing costs, as long as there are people with incomes insufficient to meet existing market costs of housing*

Such reforms are ambitious and problematic, which emphasizes why the housing problem largely has been avoided in most discussions of anti-poverty strategies. The costs of such a program will depend in part on how rapidly it is implemented and which parts are implemented first, as some are inherently more expensive than others. The first-year cost esti-

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34. LEONARD & LAZERE, *supra* note 3, at 6.

mates of this comprehensive program, as put forward by the Institute for Policy Studies' Working Group on Housing, ranged from \$29.5 billion a year to \$87.8 billion a year; the medium cost figure was \$54.9 billion.<sup>35</sup> That figure is several times what the federal government now spends on low-income housing subsidies. But the largest federal housing subsidy of all—the homeowner tax deduction—is now some \$55 billion a year; that indirect subsidy goes primarily to middle- and upper-income taxpayers.<sup>36</sup> Politically, however, the homeowner deduction is virtually untouchable, and, as the only federal entitlement program in the housing area, it often is regarded as a matter of right and not a subsidy at all. The political difference between providing benefits to individuals by allowing them to pay lower taxes and keep more of their income for personal consumption, and providing direct consumption assistance via money raised through the tax system, seems weighty.

The medium-level cost figure noted above would provide a massive influx of housing benefits compared with recent and current levels. Six and a half million households alone would be aided by a system of operating subsidies for housing in the social sector; another one and a half million households would receive benefits from other elements of the program such as construction of new social housing units, conversion of homeownership units to social ownership in exchange for debt relief, conversion to social ownership and modernization of existing privately owned subsidized units, and conversion to social ownership and rehabilitation of existing privately owned non-subsidized units.

## V. CONCLUSION

Will the nation adopt this or a similar program? Will we spend the tens of billions of dollars needed to meet the National Housing Goal? It would be foolish to offer a positive, or even mildly optimistic, answer given current political and fiscal realities. The federal deficit dominates all discussions of domestic spending programs. During the Reagan-Bush years, the figure quadrupled, from \$735 billion in January 1981 to the current \$3 trillion-plus figure.<sup>37</sup> The \$199 billion annual interest cost on this debt “now exceeds the total of all Federal spending for education,

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35. INSTITUTE FOR POLICY STUDIES, *supra* note 26, at 63. These figures are in 1989 dollars, the year the IPS report was published. The report estimated costs at three levels, depending on the mix of different program elements and the rapidity of progress in meeting the National Housing Goal.

36. CUSHING DOLBEARE, *AT A SNAIL'S PACE: FY 1993 (1992)*. Some 70% of total homeowner deduction benefits go to people with incomes in the top 20th percentile.

37. Robert Pear, *Growing U.S. Debt Is Limiting Options Open for Clinton*, N.Y. TIMES, Jan. 3, 1993, at 1.



science, law enforcement, transportation, housing, food stamps, and welfare.”<sup>38</sup>

Given the conservative nature of President Clinton’s appointments in the economics area and the general public sentiment favoring deficit-cutting, resisting tax hikes, and emphasizing help for the middle class—with corresponding relative silence on the needs of the poor and minorities—it is highly unlikely that there will be any substantial housing program or increased expenditures in the next few years. And it is even less likely that the major structural reforms in the U.S. housing system needed to ensure attainment of the National Housing Goal will be carried out. Nevertheless, it is important and useful to report the unvarnished truth about the magnitude and dimensions of the nation’s housing needs, the impossibility of meeting those needs without vastly increased government subsidies, and the limitations of even major increases in commitment without a corresponding restructuring of the way in which housing is financed, developed, owned, and managed in the United States.

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38. *Id.*