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## FROM URBAN DECAY TO NEW CONSTRUCTION AND REHABILITATION: HOUSING IN THE DISTRICT OF COLUMBIA

With a severe housing crisis facing numerous major metropolitan areas since the late 1960's, attention is focused increasingly on the phenomena of structural deterioration and abandonment of residential housing in the cities<sup>1</sup> and on efforts to redevelop inner city areas. Estimates of the number of abandoned structures<sup>2</sup> in metropolitan centers demonstrate the severity of the housing problem in this country. As many as 50,000 structures are abandoned in New York City alone.<sup>3</sup> Philadelphia has an estimated 35,000 abandoned buildings,<sup>4</sup> and Detroit more than 15,000 similarly vacant.<sup>5</sup> Moreover, because an abandoned structure passes through various stages of deterioration before becoming officially aban-

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1. The term abandonment is used in this Comment in a colloquial sense to describe the progression of a building from an occupied state to a vacant one. Abandonment has been defined as the deterioration of a building "from [a] useful structure to a discarded one." Sternlieb, Burchell & Paulus, *RESIDENTIAL ABANDONMENT: THE ENVIRONMENT OF DECAY*, reprinted in Council of Planning Librarians, Exchange Bibliography No. 342, at 11 (1972). The leading authorities in the field of urban abandonment generally echo this definition, but any exact formulation is usually insufficiently narrow to portray the phenomenon. See, Comment, *Property Abandonment in Detroit*, 20 WAYNE L. REV. 845, 845 n.2 (1974).

2. An abandoned building has been defined as "one which has been removed from the housing stock for no apparent alternative profitable reason and for which no succeeding use occurs on the land." *RESIDENTIAL ABANDONMENT*, *supra* note 1, at 10 (emphasis in original). This definition is merely a description of the end product of the abandonment process, and it should not be confused with the statutory definitions of abandoned realty found in various local laws outlining procedures for selling tax-delinquent realty. *E.g.*, D.C. Code §§ 47-1001 to 1015 (1973 & Supp. IV 1977). Buildings sold in this manner have usually been abandoned for some time.

A noted urbanologist in the field of property abandonment, George Sternlieb, has pondered the difficulty in arriving at a precise legal definition of an "abandoned building." *Hearings on Housing and Urban Development Legislation of 1970 Before the Subcomm. on Housing & Urban Affairs of the Senate Comm. on Banking & Currency*, 91st Cong., 2d Sess. 854 (1970) (testimony of George Sternlieb). Sternlieb observed that an abandoned building will often be tax delinquent, boarded up, or lacking municipal services. *Id.*

3. Edson, *Housing Abandonment—The Problem and a Proposed Solution*, 7 REAL PROP., PROB., & TR. J. 382, 382 (1972).

4. Comment, *Philadelphia's Urban Homesteading Ordinance: A Poor Beginning Toward Reoccupying the Urban Ghost Town*, 23 BUFFALO L. REV. 735, 736 (1973).

5. Comment, *supra* note 1, at 845.

done, accurately fixing the number of abandoned buildings in any locale is a difficult task, with estimates often being no more than informal guesses. No accurate figures of structurally deteriorating buildings are available, but such buildings exist in sufficient numbers to aggravate the urban housing dilemma.<sup>6</sup>

These threatening social problems have surfaced in the District of Columbia. Although the housing problems in the District differ from those facing other metropolitan areas,<sup>7</sup> the effect is the same. Many neighborhoods in the city contain dilapidated structures which contribute to the overall lack of adequate housing in the District. Explanations for the problem are difficult to isolate, but the presence of as many as 1500 abandoned structures is evidence of its severity.<sup>8</sup> The situation is further aggravated by the presence of the federal government and the unique role it plays in formulating the overall housing and economic future of the District. The relatively new "home rule" status of the District of Columbia<sup>9</sup> and the realities of urban life have not been reconciled with the needs of the government. The confusion is manifested by a lack of coordination in housing policies, as evidenced by the vestiges of urban and housing decay bordering the District's many monuments. Despite this confusion, however, redevelopment by developers anxious to take advantage of Washington's booming housing market is steadily increasing.

The District of Columbia has maintained a steady but slowly declining population of approximately 725,000 persons<sup>10</sup> who are housed in rough-

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6. See *id.* at 845 n.1. Arriving at a definition of a structurally deficient building is difficult. Cf. 1970 Hearings, *supra* note 2 (testimony of George Sternlieb) (problems in defining an abandoned building).

7. See Hearings on HUD-Space-Science-Veterans Appropriations for 1973 Before the Subcomm. on HUD-Space-Science-Veterans of the Comm. on Appropriations of the House of Representatives, 92d Cong., 2d Sess., pt.3, 733 (1972) (testimony of Melvin Mister, former Director of the District of Columbia Redevelopment Land Agency). In describing the abandonment phenomenon in the District, Mister observed that the number of abandoned buildings in the city is small in comparison to that of other cities, and that boarded up vacant buildings are often returned to use in a short time. *Id.*

The geographical position of the District—bordering two separate states—has, more likely than not, been a factor in the different development of new housing problems.

8. Statement of Neil J. Hardy, Assistant Administrator of the New York Housing and Development Administration, 1970 Hearings, *supra* note 2, at 801-02. See also note 152 & accompanying text *infra*.

9. The District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 774 (1973). The Act enabled the residents of the District of Columbia to elect their own legislative body and chief executive. The purpose of the Act was to "grant to the inhabitants of the District of Columbia powers of local self-government; to modernize, reorganize, and otherwise improve the governmental structure of the District of Columbia. . . ." *Id.* § 102(a).

10. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, REPORT ON IMPEDIMENTS

ly 278,444 housing units.<sup>11</sup> Many of these units are either overcrowded, in a state of disrepair, or in need of immediate demolition.<sup>12</sup> The great majority of these units, 66.2%, are renter-occupied.<sup>13</sup> The level of new housing construction and rehabilitation of existing residential units in the District during the 1960's was sufficient only to replace demolished structures and did not increase the total housing stock.<sup>14</sup> As a result, many existing structures have continued to deteriorate despite reports warning of the oncoming housing problems.<sup>15</sup>

Overcrowding, structural deterioration, abandonment, and rehabilitation did not occur overnight but are the product of many factors which, even in an economically healthy city, accompany the inevitable movement of residents to better housing.<sup>16</sup> As structural deterioration occurs, new and better housing eventually supplants the old and decaying structures. Because new housing construction and structural rehabilitation signal new investment, abandonment and the other housing problems are, to a limited extent, economically desirable. The Washington, D.C. experience, like the experiences of other major cities,<sup>17</sup> indicates that

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TO THE ECONOMIC, FUNCTIONAL, AND AESTHETIC DEVELOPMENT OF THE DISTRICT OF COLUMBIA, THE NATION'S CAPITAL, 94TH CONG., 2D SESS. 84 (Comm. Print 1976) [hereinafter cited as STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA]. In 1960, the District's population was 763,956. By 1974, this figure had dropped to 722,300. *Id.* The District's proportion of the population in the entire Washington, D.C. metropolitan area has also experienced a similar but more drastic decrease. The District's 1960 population made up 36.2% of the total metropolitan area population while in 1974, this figure dropped to 23.6%. *Id.* at 84. The District's size and geographical limitations had much to do with this percentage decrease.

11. Gerwin, *A Study of the Evolution and Potential of Landlord Tenant Law and Judicial Dispute Settlement Mechanism in the District of Columbia*, 26 CATH. U.L. REV. 457, 466 (1977).

12. *Id.*

13. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 106. This figure is high in relation to the percentage of renter-occupied units in the nearby states — 40.9% in Maryland and 44.3% in Virginia. *Id.*

14. See Nachbaur, *Empty Houses: Abandoned Residential Buildings in the Inner City*, 17 HOW. L.J. 3, 3 (1971). This trend continued in the early 1970's. During a period when the average growth of cities' housing stock was 6%, the District experienced a 2% loss. Center for Urban Policy Research, Rutgers University, Rent Control in the District of Columbia 1 (April 1977) (prepared for the D.C. Dep't of Housing and Community Development) [hereinafter cited as Center for Urban Policy Research]. During this period, there was also a 4.5% decrease in the total number of housing units available, with the loss consisting primarily of rental units. *Id.*

15. Nachbaur, *supra* note 14, at 6. In 1969, the Housing and Urban Development Committee of the D.C. City Council warned that "an extreme shortage of accommodations for low income families in the District and spiralling rents . . . place even inadequate housing beyond the reach of many families . . ." Housing and Urban Development Committee, D.C. City Council, Housing Crisis in the District of Columbia 7-8 (1969).

16. See Comment, *supra* note 1, at 849.

17. *E.g.*, *id.* at 849-51. The commentator, discussing the abandonment phenomenon in Detroit, noted that the rate of structural loss is greater than the level of investment. *Id.*

investment is generally insufficient to replace the decrease in housing stock.<sup>18</sup> While this is changing,<sup>19</sup> the existing problems and difficulties created by current changes—particularly when augmented by crime, poverty, and other difficulties simultaneously experienced by other cities—portray a city in distress.

The housing programs adopted by the District of Columbia, designed to cope with each individual problem have, to a significant degree, isolated the District from the surrounding jurisdictions. While the multi-dimensional approach recognizes that each separate housing problem requires a different cure, there has been little effort to solve these problems on a regional basis.<sup>20</sup> For many lower and middle-income families, the acquisition of decent housing in the city at affordable prices is, at best, a difficult dilemma. The resulting outflow of District residents has stripped the city of a large segment of its population and has created "mini-ghettos" in various areas in the neighboring counties. This article will analyze the District's existing housing problems and the programs and policies underlying the various housing solutions adopted to meet them. To the extent that there is a lack of regional planning, an absence of housing program coordination, and isolation of individual jurisdictions, the District's housing problems, as well as those of bordering Maryland and Virginia counties, are compounded. Before attempting to determine the effectiveness of District housing programs and policies, however, it is essential to analyze the causes of urban housing decay.

18. Nachbaur, *supra* note 14, at 6-7. See also findings of the D.C. City Council, *supra* note 15.

19. See Center for Urban Policy Research, *supra* note 14, at 95-96. Constant new housing development is slowly increasing the total housing stock. See *id.* at 71-74. The following table indicates a trend toward an increasing total number of houses and units:

	Building Permit Authorization By Structure Type for New Construction						
	District of Columbia						
	1970	1971	1972	1973	1974	1975	1976 (Jan.-Oct.)
Total Single Family Housing	149	176	181	198	1226	306	524
Total Multi- Family Housing	1784	658	410	1486	—	130	1014

Source: *Id.* at 73 (reprinted in part).

20. The Metropolitan Washington Council of Governments (COG) was established in 1957 to function primarily as a regional planning body, with federal review, for the District's housing and community development plans. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 47. Composed of elected officials from the metropolitan area, COG attempts to coordinate the housing plans of the different jurisdictions by conducting studies and publishing reports. *E.g.*, Metropolitan Washington Council of Governments, Metropolitan Growth Policy Statement (Oct. 12, 1977).

## I. DETERIORATION OF THE INNER CITY

Urban abandonment,<sup>21</sup> vacancy, and structural deterioration as elements of metropolitan life have been caused primarily by the collapse of the central city.<sup>22</sup> For many older metropolitan areas, this breakdown begins with the outflow of the white middle class population from the city to the suburbs<sup>23</sup> and the natural inclination of families to seek newer and better housing.<sup>24</sup> While social mobility is a desirable objective, the consequences for a municipality historically have been alarming, for it is this movement that triggers the initial deterioration of the city.

A. *The Changing Neighborhood: The Cycle Begins*

Migration out of the cities has been accompanied by a corresponding decrease in the level of foreign immigration.<sup>25</sup> Immigrants have traditionally settled in those sections of a city closest to industrial and commercial sites where unskilled labor was in constant demand.<sup>26</sup> These core areas of the city, which contained primarily substandard housing, served as the starting point in this country for most immigrants.<sup>27</sup> As upward progression in the social strata took place, the immigrants would vacate their substandard dwellings to move into more desirable housing, but the vacancies would be immediately occupied by new arrivals.<sup>28</sup> This cycle, repeated in many cities, was jolted after World War II when restrictions on immigration emerged in the form of quotas.<sup>29</sup> The interaction of quotas and the simultaneous construction boom in the suburbs gradually led to a shift in the racial composition of many cities.<sup>30</sup> The departure of

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21. For a brief summation of various studies that have been conducted in the area of housing abandonment, see Project, *Abandonment of Residential Property in an Urban Context*, 23 DEPAUL L. REV. 1186, 1886-88 (1974).

22. See National Urban League, National Survey of Housing Abandonment 14-16 (April 1971) [hereinafter cited as National Urban League].

23. [S]uburban expansion . . . has been the impetus for the massive urban exodus of the past two decades. This exodus saw a large portion of the stable middle class leave the city for a more desirable suburban living environment. Industry and tax base soon followed. This has hastened and accelerated the decline of the oldest, least desirable core areas of the central city.

U.S. DEP'T OF HOUSING & URBAN DEVELOPMENT, ABANDONED HOUSING RESEARCH: A COMPENDIUM 5 (1973) [hereinafter cited as ABANDONED HOUSING RESEARCH].

24. See Comment, *supra* note 1, at 849.

25. *Id.* at 852.

26. Comment, *supra* note 4, at 747.

27. *Id.*

28. Statement of Neal J. Hardy, 1970 Hearings, *supra* note 2, at 811; See Comment, *supra* note 4, at 747.

29. Comment, *supra* note 4, at 747.

30. One urbanologist observed that the flight of the white middle class from the city "is occurring at the same time that the flights of the in-migrants to the older core areas has

the upwardly mobile residents, in combination with the decrease in immigration stripped the cities of a significant segment of population and resulted in an excess of housing units.<sup>31</sup> The vacuum created was partially filled by migrating southern and Caribbean blacks,<sup>32</sup> who were forced, because of racial discrimination, to accept the housing left vacant by the more affluent residents.<sup>33</sup> This departure, accompanied by relocation of business and industry, helped to create an atmosphere of isolation for the developing black ghetto.<sup>34</sup>

Although immigration has not played as significant a role in the evolution of the District's present housing problems as it has in other cities, an examination of the migration element of the District's population history reveals close parallels to the experience of other metropolitan areas despite the absence of an industrial base in the city. The District of Columbia's immigrant population has traditionally been small, but it does have sizable groups of minorities other than blacks which are rapidly growing in number.<sup>35</sup> This nondiverse racial makeup is similarly present in neighboring Maryland and Virginia counties.<sup>36</sup> The black component of the District's population resulted largely from the flight of white

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slowed down very substantially [resulting in] a partial vacuum in the hard core slum areas." Sternlieb, *Abandoned Housing: What Is to be Done?*, 31 URB. LAND 4, quoted in Comment, *supra* note 1, at 853 n.35.

31. Comment, *supra* note 1, at 852-53.

32. Comment, *supra* note 4, at 747.

33. Comment, *supra* note 1, at 853.

34. Comment, *supra* note 4, at 747-48. The same causes that prompt flight by the residents of a city also contribute to the departure of business and industry. The constant threat posed by the criminal elements of a deteriorating neighborhood combines with the population movement to precipitate the departure of business and industry. See Nachbaur, *supra* note 14, at 13.

The limited availability of land in the District of Columbia has contributed to the movement of government agencies into neighboring areas such as Crystal City, Virginia. This unavailability adds to the problems faced by the District by depriving the city of potential sources of revenue.

35. Minorities, such as Latinos, are becoming active forces in District politics. Recognition of the Latino community was manifested by the City Council's adoption in 1976 of the District of Columbia Latino Community Development Act. D.C. Code §§ 6-1901 to 1941 (Supp. IV 1977). The purpose of the Act was to "ensure that a full range of health, education, employment, and social services shall be available to the Latino community in the District of Columbia." *Id.* § 1901. An Office of Latino Affairs was established to accomplish this purpose. *Id.* § 1911.

36. In 1960, the combined black and white populations of the Washington metropolitan area made up approximately 99.4% of the region's 2,109,182 inhabitants. "Other races" made up only 0.6% of the area's population. By 1974, this latter figure had risen to 1.8% in the metropolitan area, and 1.1% in the District. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 92.

It should be noted that a large part of the "other races" category is probably composed of foreign embassies' staffs rather than of persons with a traditional immigrant background.

middle and upper classes into the suburbs, accompanied by a similar movement of the upwardly mobile black population.<sup>37</sup> This has left the District with a substantial number of low income families.<sup>38</sup>

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37. See Nachbaur, *supra* note 14, at 12-13. An interesting development resulting directly from unparalleled suburban expansion is the implementation of growth controls in the suburbs. The states' power to impose development controls such as zoning is derived from their police power. The United States Supreme Court's traditional deference to state imposed zoning ordinances indicates the existence of a strong presumption in favor of their validity. See, e.g., Zahn v. Board of Pub. Works, 274 U.S. 325 (1927); Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). Although the Court has previously invalidated racially discriminatory zoning ordinances, its recent decisions have suggested a reluctance to sustain constitutional attacks upon seemingly exclusionary zoning ordinances having a disproportionate racial impact. Compare Buchanan v. Warley, 245 U.S. 60 (1917) with Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252 (1977) and Washington v. Davis, 426 U.S. 229 (1976). In *Arlington Heights*, the Court extended to zoning cases the *Davis* standard requiring a showing of a racially discriminatory purpose as well as effect in constitutional challenges to official action. 429 U.S. at 264-68. However, the Court implied that a showing of discriminatory effect is sufficient to attack a housing practice under the Fair Housing Act, 42 U.S.C. §§ 3601-31 (1970 & Supp. V 1975) when it refused to review the lower court's resolution of this issue on remand. 558 F.2d 1283 (7th Cir.), *cert. denied*, 98 S. Ct. 752 (1978). This gloss on constitutional challenges to zoning regulations will limit challenges to other exclusionary zoning practices such as prescribing minimum lot sizes or minimum floor areas for residential construction. In the Washington area, the imposition of these zoning restrictions has prevented a significant segment of the District's residents—particularly those black and poor—from leaving the city. In addition to causing a general escalation of local home prices, the practices indirectly contribute to further overcrowding in both the city and existing "suburban ghettos" by confining many residents to certain areas and forcing displacees of residential construction into those areas. Compare Ellickson, *Suburban Growth Controls: An Economic and Legal Analysis*, 86 YALE L.J. 385, 434 (1977) with note 150 *infra*. Further, inconsistent imposition of growth controls has aggravated the obstacles facing metropolitan area governments when they attempt to develop long-range housing plans. "[O]ne should not be startled to discover that the land-use policies of large elite suburbs like Fairfax County, Virginia, and Montgomery County, Maryland, seem to cycle regularly between prodevelopment and antidevelopment phases." Ellickson, *supra*, at 409. This characterization applies equally to Prince George's County, Maryland, where a sewer moratorium was in force for several years. The ban, which effectively halted residential development in the county for seven years, was recently lifted. Wash. Post, Oct. 18, 1977, § C, at 1, col.2.

Many commentators have suggested an attack on such land-use policies under a right to travel theory. See U.S. CONST. amend XIV, § 1. Blatant state exclusionary policies have been condemned as violating that right. See *Edwards v. California*, 314 U.S. 160 (1941) (Douglas & Jackson, JJ., concurring). See also Comment, *The Right to Travel and Its Application to Restrictive Housing Laws*, 66 NW. U.L. REV. 635 (1971); Sager, *Tight Little Islands: Exclusionary Zoning, Equal Protection, and the Indigent*, 21 STAN. L. REV. 767 (1969); Comment, *The Right to Travel: Another Constitutional Standard for Local Land Use Regulation?*, 39 U. CHI. L. REV. 612 (1972); Note, *Freedom of Travel and Exclusionary Land Use Regulations*, 84 YALE L.J. 1564 (1975). For a stimulating analysis of the economic and legal implications of restricting suburban growth, See Ellickson, *supra*.

38. In 1974, 16.9% of District families had incomes of less than \$5,000. In Maryland,



The resulting economic isolation of the ghettos in the District hastened the abandonment process which typically begins with structural deterioration of the building itself. During this time, two sets of causes outline the environment of the deteriorating building. The first group concerns the relationship between the structure and its owner.<sup>39</sup> The building's outdated fixtures and construction make it particularly vulnerable to obsolescence and disrepair. Rising costs of labor, services, and materials inhibit an owner from making necessary repairs and improvements.<sup>40</sup> If the owner of a multi-family structure is also residing in it, however, commentators believe deterioration and abandonment will be forestalled.<sup>41</sup> A resident owner has a financial investment in his property to the extent that he is dependent upon it for income, and his presence in the structure itself, where defects can more readily be detected, has a positive effect upon the structure's condition.<sup>42</sup> Thus, the major conditions associated with structural deterioration and abandonment—delinquent property tax payments, absentee ownership, high percentages of nonwhites in buildings owned by white investors,<sup>43</sup> and the costs associated with judicial and legislative intervention into the landlord-tenant relationship, such as rent controls and more stringent obligations upon landlords<sup>44</sup>—are avoided or at least slowed by resident ownership. Unfortunately, the resident owner is often in serious financial straits and is thus unable to maintain the appearance of the structure.<sup>45</sup>

The second group of causes behind structural decay concerns the deterioration of the neighborhood as a viable community.<sup>46</sup> The decay of one structure in a neighborhood has been found to have detrimental effect on buildings in the immediate area.<sup>47</sup> Even structurally adequate housing is abandoned when structures nearby are vacated.<sup>48</sup> This result was noted in the District of Columbia when a study disclosed that the

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only 3.6% had incomes below \$5,000, while in Virginia, 3.7% of the families were so situated. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 97.

39. Comment, *supra* note 1, at 854.

40. See Edson, *supra* note 3, at 382.

41. *E.g.*, *id.* at 383.

42. *Id.* This conclusion necessarily assumes that the resident owner possesses skills and managerial expertise essential to the maintenance of his structure: "Good management can forestall abandonment." Nachbaur, *supra* note 14, at 21.

43. Sternlieb, Burchell & Paulus, *supra* note 1, at 20-22.

44. For a study of the development of landlord-tenant law in the District of Columbia, see Gerwin, *supra* note 11.

45. See Edson, *supra* note 3, at 383.

46. See Comment, *supra* note 1, at 854.

47. Nachbaur, *supra* note 14, at 10-14. See also Edson, *supra* note 3, at 383.

48. Edson, *supra* note 3, at 383; Nachbaur, *supra* note 14, at 10-14.

large majority of abandoned structures were located within a few tracts.<sup>49</sup>

As deterioration increases and spreads to surrounding areas, property exploitation by landlords, financial institutions, and speculators begins to occur.<sup>50</sup> The causes of abandonment—structural deterioration,<sup>51</sup> high crime rates,<sup>52</sup> and an increasing number of poorly educated, non-upwardly mobile residents<sup>53</sup>—give rise to the use of tactics such as blockbusting, redlining, and minimum maintenance.<sup>54</sup>

Blockbusting begins with the movement of lower income families, often blacks and other minorities, into a neighborhood.<sup>55</sup> After convincing white property owners that selling at a deflated price will be beneficial because the influx of minorities will cause a drop in the property values, the speculator sells the houses to other minorities at a markup.<sup>56</sup> Although only the more affluent minority families first move into a changing neighborhood, as the technique builds momentum, lower income families come into the area.<sup>57</sup> Because conventional mortgages are no longer available, speculators and real estate brokers themselves become sources of financing.<sup>58</sup> This pattern of speculative financing occurred in the District and contributed to the blighted condition of many areas.<sup>59</sup> Although blockbusting has been curtailed by federal and state

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49. "Of the 63 census tracts making up the overall area studied, 25 contained more than thirty abandoned structures. Together the abandoned structures in these tracts amounted to nearly 78% of the total number in the survey area." Linton, Miels & Coston, Inc., Final Report on Housing Abandonment in the District of Columbia 4-5 (June 1972) [hereinafter cited as Final Report].

50. Project, *supra* note 21, at 1190.

51. Comment, *supra* note 1, at 854.

52. See Nachbaur, *supra* note 14, at 11.

53. Comment, *supra* note 1, at 854.

54. Project, *supra* note 21, at 1190.

55. National Urban League, *supra* note 22, at 16.

56. *Id.* See also Comment, *Blockbusting: Judicial and Legislative Response to Real Estate Dealers' Excesses*, 22 DEPAUL L. REV. 818, 820 (1973).

57. National Urban League, *supra* note 22, at 16-17. A somewhat similar pattern of movement occurs as black families flee the District of Columbia to seek suburban housing. The higher income blacks make the initial move with lower income families following. The result has been the development of mini-ghettos in some suburban communities as the latter group moves in. Compare Nachbaur, *supra* note 14, at 12-13, with STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 97.

58. Major financial institutions are normally reluctant to invest in an unstable neighborhood because the changing conditions make the profitability of loans uncertain. Project, *supra* note 21, at 1191.

59. See Nachbaur, *supra* note 14, at 23-25. Some practices of real estate brokers and speculators, such as the retention of title until a structure is fully paid for at inflated prices, are large scale versions of the ghetto practices used in selling consumer goods in contracts of adhesion. Cf. Williams v. Walker-Thomas Furniture Co., 350 F.2d 445, 448-49 (D.C. Cir. 1965) (discussion of unconscionability).

action,<sup>60</sup> other forms of speculative financing still possess a potential for mischief.<sup>61</sup>

The second method of property exploitation, redlining, "involves the withholding of mortgages, insurance policies, and other financial support in 'high risk' neighborhoods"<sup>62</sup> considered unacceptable by credit institutions. The withdrawal of the necessary capital from these geographic areas increases the likelihood of speculative practices and hastens the community's deterioration by discouraging new residents from moving in.<sup>63</sup> Although redlining is prohibited in the District,<sup>64</sup> recent data shows a trend toward the concentration of lending capital in the wealthier sections of the city.<sup>65</sup> Because a city, upon eventual abandonment, is forced to assume the burdens associated with the vacated property, states have attempted to provide a mechanism whereby the risks associated with lending in an unstable area will be shared by the borrower, the lender, and the local government.<sup>66</sup> By supplementing existing anti-redlining legislation, which has a positive effect on the lending practices of financial establishments,<sup>67</sup> the distribution of risks should prove beneficial.

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60. For a discussion of the responses of various levels of government see Comment, *supra* note 56. The federal statute outlawing blockbusting, 42 U.S.C. § 3604(e) (1970), current version at 42 U.S.C. § 3604(e) (Supp. V 1975), has formed the basis for several successful challenges in federal courts. *E.g.*, *United States v. Bob Lawrence Realty, Inc.*, 474 F.2d 115 (5th Cir.), *cert. denied*, 414 U.S. 826 (1973). In *Bob Lawrence*, the court, after upholding the constitutionality of the provision, held that the district court did not err in granting an injunction against defendant for blockbusting in a racially transitional area. 474 F.2d at 126.

61. *See* Nachbaur, *supra* note 14, at 24. Some communities have recognized this potential by implementing insurance programs designed to compensate owners of houses in the community, should they sell their homes at a loss within a specified time period. Although this type of insurance plan does not compensate a homeowner for the full extent of a loss, it introduces an element of stability into a neighborhood. *See* Tybor, *Illinois Village Combats House 'Panic Peddling'*, Wash. Post, Nov. 5, 1977, § E, at 12, col.3.

62. Project, *supra* note 21, at 1192.

63. Note, *Redlining—The Fight Against Discrimination in Mortgage Lending*, 6 LOY. CHI. L.J. 71, 74 (1975).

64. Commission on Residential Mortgage Investment, Gov't of the District of Columbia, *Residential Financing Practices in the District of Columbia* 11 (May 6, 1976) (preliminary report).

65. *See id.* at 22-25. Although the total dollar amount in loans has been increasing, this increase has been attributed largely to lending west of Rock Creek Park where the more affluent District residents live. *Id.* at 22.

66. *Id.* at 30. This recommendation was made by a study conducted in the District. The mortgage guarantee mechanism essentially allocates the risks of a loan by having the local government play a role akin to that of an insurer. This approach recognizes that if the lender assumed all the risk without government assurance of profitability, the lender would be unwilling, as a matter of sheer business acumen, to make the loan for a house in an unstable neighborhood. *See* note 58 *supra*.

67. State officials tout recently enacted legislation in California as the strictest in the

As the costs of maintaining a structurally sound building rise due to such uncontrollable factors as inflation, increased taxes and utility bills, building owners attempt to cope by adopting a minimum maintenance approach.<sup>68</sup> At this stage of the abandonment cycle, owners of multiple-family dwellings adopt apartment-splitting tactics and raise rents to deal with the deteriorating conditions.<sup>69</sup> The difficulty of obtaining funds for maintenance and repairs from institutions unwilling to invest in a changing neighborhood<sup>70</sup> or the reluctance to reinvest<sup>71</sup> further contributes to the likelihood of abandonment. As the buildings progress toward a state of uninhabitable disrepair, only the most economically deprived persons will reside in them.<sup>72</sup> Since the income of these occupants is static because of dependence on welfare or retirement pensions, there is no gain in raising the rent. At this point, many owners resort to a complete cessation of maintenance services.<sup>73</sup>

This series of events is made possible by irregular housing code enforcement by city officials in the District of Columbia.<sup>74</sup> The lack of personnel to police the District's housing stock,<sup>75</sup> the growing but incon-

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nation. If redlining or other discriminatory measures are found to have been used, state officials are empowered to order the violating institution to make the mortgage loan. Knight, *Toughest Law in the Nation*, Wash. Post, Oct. 15, 1977, § E, at 25, col.3.

These state efforts, however, are inherently limited because anti-redlining legislation applies only to state chartered institutions. *Id.* Thus, because voluntary cooperation by lending establishments often produces insufficient and fragmented results, studies generally recommend depository and tax incentives. *E.g.*, Commission on Residential Mortgage Investment, *supra* note 64, at 32. The District government may, for example, deposit its funds in institutions in proportion to the amount of loans made in each year. *Id.*

68. See Project, *supra* note 21, at 1192. Minimum maintenance involves the practice of reducing or deferring expenditures for the operation, structural upkeep, and repair of a building. See Edson, *supra* note 3, at 382-83. The minimum maintenance approach is one of the few avenues by which owners faced with rising costs can preserve profits.

69. National Urban League, *supra* note 22, at 17. The difficulties are intensified by absentee owners who are prone to exploit tenants to the fullest extent possible. See Project, *supra* note 21, at 1192. Although "slum landlords" exist, there are landlords who comply with the applicable regulations, and this latter group must be distinguished from the former. See Gerwin, *supra* note 11, at 469-70 nn.51-57. It is interesting to note that the same landlord named by Gerwin as a notorious D.C. slum landlord, Dr. Shao Ti Hsu, was recently arrested by Prince George's County, Maryland, officials for county housing code violations. See Wash. Post, Nov. 10, 1977, § C, at 1, col. 6.

70. National Urban League, *supra* note 22, at 17.

71. *Id.*; Project, *supra* note 21, at 1192.

72. See Comment, *supra* note 1, at 855-56. These tenants are likely to be poor and/or elderly. In 1974, there were 33,600 District renter households earning below 50% of the median annual renter household income (\$9,000). Approximately 23,200 of this number were elderly renter households. Center for Urban Policy Research, *supra* note 14, at 154.

73. Comment, *supra* note 1, at 856.

74. See Gerwin, *supra* note 11, at 497-99.

75. See *id.* at 466.

sistent militancy of tenants demanding that landlords fulfill their responsibilities,<sup>76</sup> delays associated with code enforcement through the judiciary,<sup>77</sup> and absentee ownership, all contribute to the further deterioration of the District's housing.<sup>78</sup> Although the prevalence of responsible owners in the District staves off some of the degeneration of housing,<sup>79</sup> the unsystematic code enforcement is still a disincentive to maintain adequate housing.

The slow deterioration of a structure has an effect upon the neighborhood. One study of abandoned neighborhoods in four cities—St. Louis, New Orleans, Northlawn, Illinois, and Oakland, California—intimated the posture of a degenerating neighborhood:

The key indicators of these neighborhood conditions are a high concentration of very low-income, non-upward mobile people; a depreciated, high density housing stock; the prevalence of anti-social behavior; minimal public services; and housing market conditions in the city and surrounding metropolitan area that allow some choice of housing locations for low-income and/or minority persons.<sup>80</sup>

A neighborhood is more apt to experience these difficulties after abandonment of a large multifamily dwelling.<sup>81</sup> Although such buildings are generally the first to be vacated,<sup>82</sup> property abandonment in the District has been most frequent in single family structures.<sup>83</sup> Because single family, owner-occupied houses are more resistant to deterioration, this phenomenon is unusual.<sup>84</sup> Although these vacant structures can be precursors of further abandonment in neighboring areas, they do not

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76. Unless collectively organized, many tenants are prone to take little action. Typically, only the most egregious housing conditions provoke protests. This reluctance is increased by tenants who do not wish to give up low-cost space.

77. See Gerwin, *supra* note 11, at 466.

78. A study covering the 1960-70 period in the Washington metropolitan area showed that 2600 units which were structurally sound in 1960 had become dilapidated by 1970. Of this number, approximately 75% (1950 units) were located in the District. Metropolitan Washington Council of Governments, *Housing Policies and Programs for Metropolitan Washington—1974*, at 3 (March 1974).

79. See Final Report, *supra* note 49, at 6.

80. Linton, Miels, & Coston, Inc., Summary and Critique: A Study of the Problems of Abandoned Housing and Recommendations for Action by the Federal Government and Localities, reprinted in *Hearings on HUD-Space-Science-Veterans Appropriations for 1973 Before a Subcomm. of the Comm. on Appropriations of the House of Representatives*, 92d Cong., 2d Sess., pt. 3, 38-39 (1972).

81. See Comment, *supra* note 1, at 856.

82. *Id.*

83. Final Report, *supra* note 49 at 5.

84. See generally Comment, *supra* note 1, at 856.

have as strong an impact on an area as a multifamily dwelling.<sup>85</sup> Any abandoned structure, however, poses psychological as well as physical threats to the vitality of a neighborhood. "A vacant building is a daily reminder, a symbol to neighborhood residents of degradation and decay."<sup>86</sup> Besides being a fire hazard,<sup>87</sup> an empty building attracts negative elements. Once left by the owner to lie either partially or totally vacant, the building becomes a haven for alcoholics, drug addicts, and local hoods, while its fixtures lure vandals.<sup>88</sup> This criminal activity aggravates the problem by hastening the departure of remaining residents from good structures in the neighborhood and increasing the difficulty of structural rehabilitation.<sup>89</sup> At this point, the problem acquires a new dimension: disinvestment.

### *B. Disinvestment: The Cycle Closes*

A changing neighborhood can be described as one from which capital is being withdrawn. "It is at this stage in the abandonment process that the cycle becomes irreversible; the structures have deteriorated to such a degree that further capital reinvestment would be financially unwise."<sup>90</sup> As change progresses, the property exploitation first manifested by minimum maintenance creates an atmosphere discouraging investment at three levels: building owners and residents, financial institutions, and government and public agencies.<sup>91</sup> Although the final factor in determining vacancy and abandonment is a conscious decision by the owner to desert the property,<sup>92</sup> this decision is preceded by past events denying that owner an opportunity to rehabilitate the building structurally.

When a property owner does not replace an outdated fixture or fails to modernize his building periodically, his investment in that structure is depreciated. By choosing to utilize his funds elsewhere, he is, to that extent, disinvesting in the building.<sup>93</sup> The decision to disinvest profoundly affects the overall deterioration of the community. Of the two correlates of abandonment—the relationship between an owner and his build-

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85. Final Report, *supra* note 49, at 5.

86. Nachbaur, *supra* note 14, at 10; Comment, *supra* note 1, at 857.

87. Nachbaur, *supra* note 14, at 10-11.

88. *Id.* at 11-12; Project, *supra* note 21, at 1195.

89. Nachbaur, *supra* note 14, at 12; Comment, *supra* note 1, at 865-67.

90. Project, *supra* note 21, at 1193; See National Urban League, *supra* note 22, at 17-18.

91. Transitional change in urban consistency, exploitation by speculators, and absence of prolonged ownership combine to discourage capital investment. See Project, *supra* note 21, at 1193.

92. See Final Report, *supra* note 49, at 6.

93. National Urban League, *supra* note 22, at 17.

ing and the impact of deterioration in the neighborhood—the former is believed to be controlling.<sup>94</sup> Thus, “a well-run building, even one in the middle of environmental decay, might be saved, but a poorly run building . . . will be lost.”<sup>95</sup>

The problem is increased by the inability of many homeowners in the District to obtain home improvement loans.<sup>96</sup> When the process has raised the mortgage payment to a level equal to the debt payments, the likelihood of additional capital investment or a sale is virtually extinguished.<sup>97</sup>

Disinvestment also occurs when financial institutions refuse owners' requests for loans, or lend either on very restrictive terms or for short time periods.<sup>98</sup> Deteriorating buildings make poor collateral. For example, lenders are reluctant to refinance multifamily dwellings located in depressed neighborhoods, unless they already hold the mortgage.<sup>99</sup> The suburban demand for similar loans is often more lucrative, and since major refinancing projects must compete with other commercial loan requests, such as business or office construction loans, financial institutions are reluctant to make large commitments to multifamily structures.<sup>100</sup>

The disinvestment effect also spreads into the local and federal government sectors.<sup>101</sup> The Federal Housing Authority (FHA) has tradition-

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94. See Sternlieb, Burchell & Paulus, *supra* note 1, at 23; Comment, *supra* note 1, at 855.

95. Comment, *supra* note 1, at 855.

96. See note 100 & accompanying text *infra*.

97. National Urban League, *supra* note 22, at 17.

98. *Id.*

99. Center for Urban Policy Research, *supra* note 14, at 78.

100. The Federal Home Loan Bank Board imposed a general ceiling of 20% of savings and loan association assets available for most commercial loans or residential loans. 12 C.F.R. § 545.6-7 (1977). This ceiling directly affects the District housing market because savings and loan associations, which lend on a city-wide basis, are less restrictive in their lending practices than banks. Although this is partly the result of higher interest charges (an average of 8.05% for banks compared to 8.10% for savings and loan associations) the ceiling places a significant limitation on mortgage financing. See Commission on Residential Mortgage Investment, *supra* note 64, at 21-24.

Very recently there has been a relaxation of the loan guidelines promulgated by the Federal Home Loan Bank Board. Pursuant to the Housing and Community Development Act of 1977, Pub. L. No. 95-128, 91 Stat. 1111 (1977), the Board changed the rules governing the operation of savings and loan associations and permitted them to make increased loan amounts to single and multifamily dwellings. 42 Fed. Reg. 56,595-96 (1977) (to be codified in 12 C.F.R. § 545). The change also increased previous monetary limits in home improvement loans. *Id.*

101. The discussion in the text is not to be considered exhaustive. There are many examples of government disinvestment in the inner city. Welfare agencies disinvest in inner city housing by withholding payments to the owner of a dilapidated building.

ally provided a low-risk system of mortgage insurance.<sup>102</sup> But in its early history,<sup>103</sup> the effectiveness of this program was limited by standards mandating a mortgage's economic soundness, including the requirement that mortgage amounts be based on property value.<sup>104</sup> Subsequent liberalization of loaning standards<sup>105</sup> failed to stop the agency<sup>106</sup> from practicing a form of redlining.<sup>107</sup> While the shift in the 1960's toward assisting lower and middle income families had the effect of providing useful tools for housing acquisition,<sup>108</sup> it resulted in speculation and widespread defaults.<sup>109</sup> By improperly supervising housing rehabilitation, and thereby increasing abandonment,<sup>110</sup> the federal government was, in a sense, disinvesting in the cities. In the early 1970's, the situation proved so serious that government subsidy programs were reduced significantly.<sup>111</sup> The stage was thus set for vacancy and the associated

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Landlords' reluctance to undertake repairs is greatly increased by the nonpayment since the meager financial incentive to repair has been removed. Project, *supra* note 21, at 1201; Nachbaur, *supra* note 14, at 49.

Further disinvestment occurs when a municipality reduces its services to a given area. The lack of housing code enforcement, increased property taxes resulting from building improvements which increase the market value of the property, and overzoning all contribute to abandonment or structural deterioration. To the extent the city acts or declines to act in these areas, it disinvests. Nachbaur, *supra* note 14, at 30-50.

102. *Hearings on Real Estate Settlement Costs, FHA Mortgage Foreclosures, Housing Abandonment, and Site Selection Policies Before the Subcomm. on Housing & Urban Development of the Comm. on Banking & Currency of the House of Representatives*, 92d Cong., 2d Sess. 54 (1972) (statement of former HUD Secretary George Romney).

103. National Housing Act § 203, 12 U.S.C. § 1709, as amended (1976).

104. See Comment, *supra* note 1, at 859.

105. Loans would be made to a mortgagee if there were an acceptable risk and if mortgage amounts were calculated on replacement values. *Id.*

106. See Comment, *supra* note 1, at 859.

107. See notes 62-63 & accompanying text *supra*.

108. *E.g.*, Housing and Urban Development Act of 1968, Pub. L. No. 90-448, 82 Stat. 476 (codified in scattered sections of 12 U.S.C. 1976). Congress reaffirmed the goal embodied in previous acts of "a decent home and a suitable living environment for every American family." *Id.* § 2. The Act was designed to provide housing for lower income families. *Id.*

109. See Project, *supra* note 21, at 1206-12; Comment, *supra* note 1, at 861-65.

110. The inadequacy of federal housing programs for meeting the growing housing needs of low and moderate income people prompted many states to adopt programs designed to help these families obtain housing. See Goldberg, *State Agencies: Housing Assistance at the Grass Roots*, 1 REAL EST. REV. 14 (1972).

In the early 1970's, Maryland established the Maryland Housing Fund to administer a state mortgage insurance program. MD. ANN. CODE art 41, § 257K (Cum. Supp. 1977). The program was designed to encourage the private sector to make loans to marginal neighborhoods. See Goldberg & Elenowitz, *Maryland's Housing Insurance Program—A Forerunner for Future State Activity?*, 5 URB. LAW. 524, 527 (1973). Maryland also has a housing rehabilitation program. See MD. ANN. CODE art 41, § 257L (Cum. Supp. 1977).

111. See generally Project, *supra* note 21, at 1206-12; Comment, *supra* note 1, at 861-65. It should be noted that at this time, the national economy was experiencing a



hazards.<sup>112</sup>

## II. HOUSING REDEVELOPMENT IN THE DISTRICT: ALTERNATIVES TO A MULTILATERAL DILEMMA

If the abandonment process is a reflection of the collective injustices in American society, one can conclude that only a multifaceted approach to the remedial aspect of the cycle, aimed at achieving a comprehensive plan of redevelopment, can hope to provide the most ideal urban environment for the people who choose to remain District residents. Yet, to the extent the District of Columbia functions as a federal city,<sup>113</sup> with special demands placed upon it as the nation's center of government, some form of coordination with suburban jurisdictions is necessary. For despite the city's semi-autonomous status, it still desperately looks to the federal government for funds necessary to carry out its many projects.<sup>114</sup> While this dependence can be frustrating, it should not act as a barrier to the city's obligation to ensure socially viable communities with habitable housing for every member of its citizenry.<sup>115</sup>

### A. *New Construction: Increasing the Housing Stock*

The modern impetus for housing redevelopment in the District of Columbia began with the congressional enactment of the District of Columbia Redevelopment Act of 1945.<sup>116</sup> Declaring that the purpose of the Act was the elimination of deteriorating areas of the city,<sup>117</sup> Congress established the District of Columbia Redevelopment Land Agency<sup>118</sup> and

recession. As economic conditions worsened in the Washington, D.C. area in 1973, residential construction dropped. See Housing Policies, *supra* note 78, at 29.

112. See notes 86-89 & accompanying text *supra*.

113. See STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 25.

114. For a discussion of federal limitations on the local government, see *id.* at 27-43. The city's difficulties in attempting to secure funds for constructing a convention center in the downtown area are illustrative of the problems facing District attempts to seize investment opportunities. See Wash. Post, Oct. 21, 1977, § C, at 4, col.2.

115. See Comment, *supra* note 1, at 871-72.

116. Pub. L. No. 79-592, 60 Stat. 790 (1946) (codified at D.C. Code §§ 5-701 to 719 (1973 & Supp. IV 1977)).

117. D.C. Code § 5-701 (1973). Specifically, in § 2 of the Act Congress determined that: owing to technological and sociological changes, obsolete lay-out, and other factors, conditions existing in the District of Columbia with respect to substandard housing and blighted areas, including the use of buildings in alleys as dwellings for human habitation, are injurious to the public health, safety, morals, and welfare; and it is hereby declared to be the policy of the United States to protect and promote the welfare of the inhabitants of the seat of Government by eliminating all such injurious conditions by employing all means necessary and appropriate for the purpose. . . .

118. *Id.* § 5-703.

empowered it to acquire real property through condemnation proceedings.<sup>119</sup> The Act further provided that, following adoption of a plan for a project area by the National Capital Planning Commission,<sup>120</sup> approval by the District government,<sup>121</sup> and certification by the Planning Commission,<sup>122</sup> the Agency would be authorized to acquire and assemble real property in the area.<sup>123</sup> This power was frequently exercised<sup>124</sup> and became particularly important following the 1968 city turmoil which caused well over \$13 million in damages, notably in the Seventh Street corridor.<sup>125</sup>

As a result of the change in the District's government to home rule status,<sup>126</sup> the Agency became an instrumentality of the District government and has functioned under the guidance of the D.C. Department of Housing and Community Development.<sup>127</sup> Although there have been changes in the procedure preceding designation of a housing project, the Agency retains its overall role of coordinating housing development in the District and acting as the District's agent in projects requiring federal assistance.<sup>128</sup> One such project is Fort Lincoln.

The Fort Lincoln "town-in-town" in the northeast region of the District illustrates the direction in which housing redevelopment must proceed if the total housing stock in the District is to increase: new construction centered around the neighborhood concept. The construction of new and viable communities, although not on as large a scale as Fort Lincoln, can attract positive elements back to the city and thus contribute to the

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119. *Id.* § 5-704(a)-(b). The constitutionality of this provision of the Act was upheld in *Berman v. Parker*, 348 U.S. 26 (1954).

120. D.C. Code § 5-705(b)(2) (1973).

121. *Id.*

122. *Id.* § 5-705(d).

123. *Id.*

124. *See, e.g.*, *Berman v. Parker*, 348 U.S. 26 (1954); *Donnelly v. District of Columbia Redev. Land Agency*, 269 F.2d 546 (D.C. Cir. 1959), *cert. denied*, 361 U.S. 949 (1960) (upholding the condemnation of property bordering on blighted areas, allegedly in good condition, for redevelopment purposes).

125. National Capital Planning Commission, *Civil Disturbances in Washington, D.C.*, 9-10 (May 1968). This damage estimate does not include consequential damages such as the loss of business, for example. *Id.* at 16.

126. *See note 9 supra.*

127. The District of Columbia Reorganization Plan No. 3 of 1975 created the Department of Housing and Community Development. The task of the agency was to "formulate, develop and recommend housing and community development policy, plans and programs and to accomplish the promotion, coordination and execution of policy, plans and programs, and the administration of laws, pertaining to housing and community development." 1975 D.C. Legis. & Admin. Serv. at 361.

128. *See* Interview with Arnold Mays, Acting Chief, Special Projects Division, D.C. Department of Housing and Community Development, in Washington, D.C. (Nov. 10, 1977); D.C. Redevelopment Land Agency, *THIS IS RLA 9* (1975).

District's overall development.<sup>129</sup> Initially conceived by the late President Lyndon B. Johnson as a multiple effort by private enterprise, the federal and local governments, and District residents, the development was designed to "offer a full range of educational, recreational, and other public services to citizens of every station."<sup>130</sup> The urban renewal plan stated that "[t]he paramount development objective is the creation of an attractive and racially, socially, economically and functionally inclusive community of approximately 16,000 persons."<sup>131</sup> After several years of dormancy partially attributable to the D.C. Redevelopment Land Agency's failure to pursue the development diligently,<sup>132</sup> Fort Lincoln received fresh impetus from former President Richard M. Nixon who strongly supported the development.<sup>133</sup> The Fort Lincoln Development Corporation, with the financial assistance of the Department of Housing and Urban Development (HUD)—which, in addition to being charged with the transfer of land ownership to the developer in controlled stages<sup>134</sup>—pumped \$27.9 million into the project<sup>135</sup> and has begun constructing a project which will house residential, commercial, and governmental units.<sup>136</sup> Progress to date has been slow, but a recent tally showed that approximately 470 units were either completed or under construction.<sup>137</sup>

The primary hurdles facing any new construction project in the District are increasing costs, lack of affordable land, and financing—both short term loans and permanent financing.<sup>138</sup> Developer reluctance to

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129. One unfortunate consequence of new housing development is the displacement of former residents of certain areas. *See generally* notes 145-48, 150 & accompanying text *infra*.

130. LYNDON B. JOHNSON, PUB. PAPERS 812 (1967). In describing the project, the President stated: "This new venture will be first and foremost a partnership—a partnership between local and Federal governments, between public officials, private developers, and the people of the city. The creative involvement of private enterprise will be a most important single element in the project." *Id.* *See also* STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 126.

131. National Capital Planning Commission, Urban Renewal Plan for the Fort Lincoln Urban Renewal Area at 3-1 (1972) (approved by the D.C. City Council on July 26, 1972).

132. The failure may be partially explained as the result of the Agency's concentration on rehabilitating the parts of the city damaged by the 1968 civil disorder.

133. *See* RICHARD NIXON, PUB. PAPERS 149-50 (1972).

134. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 45; Interview, *supra* note 128.

135. *Id.*

136. STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 126-27. Commercial backers of the Fort Lincoln project envision occupancy by retail and personal service businesses and culturally oriented establishments. Preliminary plans call for the leasing of office space to a federal government agency. *Id.*

137. Interview, *supra* note 128.

138. *See* Center for Urban Policy Research, *supra* note 14, at 77.

undertake new multifamily residential construction, and lender and investor unwillingness to venture into a discouraging climate created by rent controls,<sup>139</sup> combine to make large-scale multifamily dwellings a rarity.<sup>140</sup> While increasing scarcity of large tracts of land makes another Fort Lincoln unlikely, new housing developments can and are currently taking place on a smaller scale in various areas of the city. The South Capitol Street/Buzzard Point site and the downtown area near historic Pennsylvania Avenue are now being developed.<sup>141</sup> The major barrier to new construction is, however, skyrocketing costs. Depending on available subsidies,<sup>142</sup> costs for new housing in the District range from \$45 per square foot for a single family detached dwelling to \$30.45 for a garden apartment.<sup>143</sup> Studies show that sharply rising costs are placing housing beyond the reach of many lower and middle income families.<sup>144</sup>

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139. Rent controls create a negative atmosphere by making loans more risky. Lending institutions in the District have either discontinued loans to new multifamily construction projects, or turned to other investment forms and other locales without rent controls. *Id.* Singling out rent for control in an economy otherwise uncontrolled inevitably decreases capital investment. *See id.* at 144. For an analysis of rent control in the District, see *id.* at 113-54.

140. This downward trend in new multifamily construction began in the early 1970's when speculators reduced their activities in the D.C. housing market. *Compare id.* at 77 with Final Report, *supra* note 49, at 6.

141. The D.C. Department of Housing and Community Development recently selected a planner for another "town-in-town" project in the South Capitol Street area of the city. The city's goal is to develop initially a 40 acre tract along the lines of Fort Lincoln (a total of 170 acres lies in the South Capitol Street/Buzzard Point area). *See* Wash. Post, Oct. 20, 1977, § C, at 1, col.1.

The Pennsylvania Avenue Development Corporation, long inactive, recently bought a downtown site for redevelopment purposes, including plans for major residential construction. *See* Wash. Post, Jan. 13, 1978, § B, at 1, col. 6. The corporation is charged with redeveloping the 21 block area along Pennsylvania Avenue. *See* STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 46-47.

Delay between conception of a development proposal and the actual start appears to be an inherent problem in any large-scale development. *See* notes 132-34 & accompanying text *supra*. Studies by groups interested in the South Capitol Street/Buzzard Point area date back to the early 1970's, but the area has only recently received government attention. *See, e.g.*, Interagency Task Force on South Capitol Street/Buzzard Point, A Plan for the South Capitol Street/Buzzard Point Area of the District of Columbia: Alternative Strategies (Mar. 6, 1975) (draft).

Another development, for apartments and townhouses, was recently started. *See* District of Columbia Government, News Release (Nov. 9, 1977).

142. In addition to private mortgage money, the three primary forms of subsidies used in new multifamily construction are FHA Section 221(d)(4) loans, FHA Section 236 mortgage interest reductions, and reduced land costs. *See* Center for Urban Policy Research, *supra* note 14, at 81.

143. *Id.* at 85 (prototype housing costs).

144. Housing costs increased at an annual rate of one to two percent between 1960 and 1969. From 1970 until the present, costs increased by seven to twelve percent. Assuming costs continue to climb at this higher pace, a unit costing \$30,000 in 1977 will cost an

An unfortunate consequence of most new construction projects is the dislocation of families from targeted areas. This result is due, in large part, to highway construction, and to federal government action in urban renewal programs, including the repossession of both private homes and federally funded housing projects.<sup>145</sup> In an effort to remedy the inequities of existing programs,<sup>146</sup> Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,<sup>147</sup> to provide a method of conducting a fair and uniform system for treatment of displacees.<sup>148</sup> Because the federal government plays a significant role in District government decisions,<sup>149</sup> the Act provides some assistance for the District and other metropolitan jurisdictions in developing a coordinated displacement program.<sup>150</sup>

### B. Rehabilitation: A Viable Solution?

While new construction provides one alternative to housing redevelopment, rehabilitative programs designed to arrest the spread of structural deterioration and abandonment also can be effective in the development of an overall housing program for the District. Following an abandonment study in 1972, the executive director of the D.C. Redevelopment Land Agency commented in his report to the board of directors:

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estimated \$38,400 in 1980 and \$49,500 in 1985. *Id.* at 92. An illustrative chart may be found *id.* at 93.

145. Comment, *The Uniform Relocation Act: A Viable Solution to the Plight of the Displaced*, 25 CATH. U.L. REV. 552, 552 (1976).

146. Compare Highway Relocation Assistance Act, Pub. L. No. 91-605, § 117, 84 Stat. 1724 (1970) with 42 U.S.C. § 1455(h) (1970).

147. 42 U.S.C. §§ 4601-4655 (1970). For a general discussion of the Act, its background and potential, see ABA UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES: PROCEEDINGS (1972).

148. See Comment, *supra* note 145, at 555-62.

149. The federal role in housing programs within the District is greater than federal participation in state housing redevelopment programs. Even with the present home rule status, District housing programs are not independent of review by various federal government agencies. See STAFF OF HOUSE COMM. ON THE DISTRICT OF COLUMBIA, *supra* note 10, at 45. An example of this lack of independence can be seen in HUD's role in the Fort Lincoln project. HUD's participation in the enterprise began at the project's inception and continued throughout. *Id.* at 45, 126; Interview, *supra* note 128.

150. The problem of urban relocation is compounded by the geographical setting of the District. A plethora of regulations governing residential displacement exist in the metropolitan area. Compare Metropolitan Washington Council of Governments, Relocation: Residential Displacement in the Washington Metropolitan Area 18 (Mar., 1974) with Housing Policies and Programs for Metropolitan Washington—1974, *supra* note 78, at 47.

The problem is particularly acute in the District when private development is involved. The District government, lacking a relocation program for displacees of the numerous private developments in the city, must depend on the developers themselves to assist relocation. See Interview, *supra* note 128. Although some developers have offered reloca-

The basic conclusion of the report was that although there were a number of buildings which were vacant at the time of the survey, and were not actively being marketed for residential use, the problem of "abandonment" of large blocks of multi-family housing which has been experienced in other cities such as Newark and New York is not a great problem in the District at the present time; nevertheless, there are a number of areas susceptible to further deterioration and the spread of physical and economic blight.<sup>151</sup>

A more recent comprehensive field survey identified 1553 vacant, privately owned buildings containing 3108 dwelling units suitable for rehabilitation and use as housing.<sup>152</sup> Due to the constant problem of abandonment<sup>153</sup> and the aging nature of the District's housing stock,<sup>154</sup> rehabilitation must be pursued if structural deterioration is to be arrested. In addition to being a less expensive alternative than new construction, structural rehabilitation offers the advantage of putting housing units back on the market in a relatively short period of time.<sup>155</sup>

Rehabilitation can start with District enforcement of the existing statutes regulating the condition of a building.<sup>156</sup> When the District govern-

tion programs, they have usually been insufficient. The result is further overcrowding, as displaces move in with friends and relatives, and the formation of mini-ghettos in the suburbs. See Newscenter 4, Urban Journal (Oct. 1977) (TV Report). For a study of the impact of urban renewal on the displacement of families in the Washington area, see D. THURSZ, *WHERE ARE THEY NOW?* (4th printing 1975).

151. Memorandum from Melvin A. Mister, former Executive Director, Redevelopment Land Agency (Dec. 1, 1972), *reprinted in* Final Report, *supra* note 49, at 1.

152. D.C. Dep't of Housing and Community Development, Vacant Residential Structures and Their Owners by Census Tract and Address, at introduction (July 26, 1977). It should be noted, however, that at least one group of researchers has found it "very difficult to make generalizations about rehabilitation costs owing to the range of practical definitions of rehabilitation—from 'gut' rehab, with only the exterior walls retained, to building 'modernization' which may only be a cosmetic cover-up." Center for Urban Policy Research, *supra* note 14, at 86.

153. The Center for Urban Policy Research survey, *id.*, shows a decrease from the 1972 figures obtained in the study of housing abandonment in the District. However, the figures are fairly close and do not change the nature of the problem. *Compare id. with* Final Report, *supra* note 49, at 4.

154. One indication is the fact that 67.6% of the District's housing units were constructed before 1950. Center for Urban Policy Research, *supra* note 14, at 2.

155. *Id.* at 89.

156. A 1971 study found District code enforcement minimal and inconsistent. See Nachbaur, *supra* note 14, at 39-43. One theory is that relaxation of building code requirements for rehabilitated housing might encourage housing rehabilitation. Proponents of this view argue that building codes were designed for new homes and that, because imposition of these strict requirements increases costs to homeowners, improvements are a near impossibility for low-income families. See Wash. Post, Nov. 12, 1977, § E, at 6, col. 2 (comments of Nathaniel H. Rogg, former Executive Vice President of the National Association of Homebuilders).

ment determines a building is unsafe for human occupancy, it must notify the owner. If the building has not been repaired or torn down within six months,<sup>157</sup> the District can order that use of the building be discontinued.<sup>158</sup> In emergencies, defects must be corrected within thirty days.<sup>159</sup> Moreover, if there is a failure to correct the hazard, the District may undertake repairs and charge the realty through a fine or taxes.<sup>160</sup>

The decision of the United States District Court for the District of Columbia in *Masszonía v. Washington*<sup>161</sup> created an incentive for the District government to undertake code compliance measures. Indicating that the municipality shared in the nuisance created by a marginal building in which tenants were faced with a loss of water, gas, and electric utilities, the court stated "[m]aintenance of proper conditions of safety and sanitation is an essential responsibility of good government. Enforcement of the housing laws and regulations would have prevented the present situation from arising."<sup>162</sup> By shifting some responsibility to the District, at least when the owner of a dangerous or abandoned building cannot be found,<sup>163</sup> *Masszonía* imposed a burden on the District to undertake stringent enforcement of housing laws. This imposition is beneficial since, in most instances, it is futile to attempt to encourage owners of deteriorating and abandoned structures to repair and rehabilitate their buildings in light of the factors which caused the initial degeneration.<sup>164</sup> In short, owners cannot hope to recoup investments through

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157. D.C. Code § 5-618 (1973).

158. D.C. Code § 5-508 (1973).

159. Housing Regulations of the District of Columbia art. 330, § 3301.

160. Compare D.C. Code §§ 5-622, 631 (1973) with D.C. Code § 5-315 (1973). *But see* note 163 *infra*.

161. 315 F. Supp. 529 (D.D.C. 1970) (tenants granted preliminary injunction directing that utility services be continued in complex after owner refused to pay for them).

162. *Id.* at 532.

163. After a suit was filed against him, the owner stopped collecting rents and ceased payment of the utility bills for gas, water, and electricity. *Id.* at 530.

164. See generally Comment, *supra* note 1, at 851-58; Project, *supra* note 21, at 1187-1201. It should be noted that attempts to expand the rights of tenants in multifamily dwellings may have the unintended effect of hastening the demise of the building. For example, the constructive eviction doctrine offers a tenant the defense of withholding rent if a lessor substantially interferes with the tenant's enjoyment of his property. See, e.g., *Ackerhalt v. Smith*, 141 A.2d 187 (D.C. 1958). The fact that the doctrine obliges the tenant to leave the premises within a reasonable time has the result of creating vacancies and, ultimately, final abandonment. *Id.* at 189. See Project, *supra* note 21, at 1202. See generally Quinn & Phillips, *The Law of Landlord Tenant: A Critical Evaluation of the Past with Guidelines for the Future*, 38 *FORDHAM L. REV.* 225, 231-39 (1969) (discussion of the historical development of the constructive eviction doctrine in landlord-tenant relationship). Thus, in addition to the temporary rental abatement, the landlord has been deprived of the constant rental income, and abandonment will occur.

A second doctrine, the implied warranty of habitability, also has the potential to create

income from increased rents because the bulk of their buildings' residents cannot afford the increases.<sup>165</sup> Additionally, allowing higher income families to replace former tenants would defeat the purpose of the revitalization.

The recent Fairmont Street renovation shows that rehabilitation is a viable alternative in the present housing market. The project was started in 1975 to provide low income families with housing in an area which had been damaged extensively during the 1968 civil disorders.<sup>166</sup> The FHA not only provided housing by revitalizing 218 apartments but also insured the development.<sup>167</sup> The completion of the program showed that rehabilitation could economically compete with new housing developments.<sup>168</sup>

One avenue for structural rehabilitation is urban homesteading, a procedure through which abandoned inner city housing is deeded to individuals for rehabilitation.<sup>169</sup> By adopting an urban homesteading plan

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an atmosphere for abandonment. In the District of Columbia, this contractually derived doctrine was reflected in *Javins v. First Nat'l. Realty Corp.*, 428 F.2d 1071 (D.C. Cir.), *cert. denied*, 400 U.S. 925 (1970), in which requirements of the District's housing code became the criteria for determining habitability. A breach of the warranty of habitability was held to give rise to the usual remedies for breach of contract. 428 F.2d at 1072-73. Because the tenant cannot usually afford a "repair and sue" approach in which he may undertake minor repairs on the premises and charge the landlord, or sue the owner for major defects, he will withhold rental payments. *Id.* at 1078-79. See *Oppenheimer v. Szulerecki*, 297 Ill. 81, 130 N.E. 325 (1921). Faced with the dilemma of going to court and facing charges based on the doctrine of implied warranty, the landlord may choose to forego the long and expensive legal route and abandon the premises. See *Nachbaur*, *supra* note 14, at 39-40.

165. See Comment, *supra* note 1, at 856; Center for Urban Policy Research, *supra* note 14.

166. 3 HOUS. & DEV. REP. (BNA) 613 (1975).

167. *Id.* Insurance was provided pursuant to the HUD-FHA section 221(d)(3) program, 12 U.S.C. § 1715z(i) (1976).

168. See Center for Urban Policy Research, *supra* note 14, at 86-89. In terms of square footage costs, Fairmont's construction per square foot was \$19.93 and \$19.87 (two buildings); new construction costs ranged from \$20.44 to \$21.91 in selected projects in the city. *Id.* at 89. Costs will vary depending on the location of the land, closing costs, and other variables. *Id.*

The Housing and Community Development Act of 1977, Pub. L. No. 95-128, 91 Stat. 1111 (1977), recognizes the important role private enterprise must play in the rehabilitation of the inner city and attempts to increase that role. See, e.g., H.R. REP. NO. 95-236, 95th Cong., 1st Sess. 8-9, *reprinted in* [1977] U.S. CODE CONG. & AD. NEWS 4428, 4435-36. Additionally, the increase of the savings and loan association maximum units for property improvement loans from \$10,000 to \$15,000 should encourage rehabilitation. See 42 Fed. Reg. 56,595 (1977) (implementing § 404 of the 1977 Act).

For a summary of the District's needs in community development, see D.C. Dep't of Housing and Community Development, Application for Federal Assistance for Community Development Block Grant Program 1977, at 11-16 (Oct. 1, 1977).

169. See National Urban Coalition, *Urban Homesteading: Process and Potential* 9-11 (Jan. 1974) [hereinafter cited as NUC]. Urban homesteading is a relatively new concept



in 1973, Wilmington, Delaware<sup>170</sup> became the first of several cities to implement such a plan.<sup>171</sup> The homesteading concept<sup>172</sup> is, by itself, unable to solve existing housing problems. However, when used in conjunction with urban renewal projects, it can prove to be a most effective rehabilitative device.<sup>173</sup>

Homesteading can renew blighted areas and stabilize neighborhoods experiencing the initial symptoms of structural deterioration and abandonment.<sup>174</sup> Homesteading will, in addition to encouraging reinvestment in the city, enable middle income families to own homes in Washington where there is a critical housing shortage.<sup>175</sup> Further benefits include elimination of areas harboring criminal activity, promotion of racial and economic integration,<sup>176</sup> assistance to small minority enterprises which will often be aiding the homesteader in the rehabilitation process,<sup>177</sup> providing lower income homesteaders with an opportunity to develop marketable skills,<sup>178</sup> and conversion of non-income-producing city property into assets.<sup>179</sup>

Despite its potential and immense popularity,<sup>180</sup> homesteading pre-

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founded upon the homesteading principle embodied in 19th century federal acts concerning the occupation of vacant lands in the United States. *E.g.*, Homestead Act of 1862, 12 Stat. 392, *as amended*, 43 U.S.C. § 161 (1970), *repealed*, Pub. L. 94-579, Title VII, § 702, 90 Stat. 2787 (1976).

170. WILMINGTON, DEL., ORDINANCE 73-047, WILMINGTON, DEL., REV. CITY CODE ch. 33A § 4 (1973); Project, *supra* note 21, at 1214.

171. Philadelphia, Baltimore, Boston, and Newark are among other cities embracing the urban homesteading concept. Carroll Harvey Associates, Urban Homesteading for Neighborhood Stabilization in the Nation's Capital I-2 (Feb. 1974) (prepared for Hospitality House, Inc., Washington, D.C.). For a discussion of the various legislative proposals dealing with the legislative movement in homesteading, see NUC, *supra* note 169, at 51-56.

172. The Housing and Community Development Act of 1974, § 810, 12 U.S.C. § 1706e (Supp. V. 1975), reflects congressional recognition of the importance of homesteading to the rehabilitation of cities. Section 111 of the Housing and Community Development Act of 1977 continues the § 312 rehabilitation loan program of the Housing Act of 1964, 42 U.S.C. § 1452b (1970 & Supp. V 1975), which has proved crucial to urban homesteading under the 1974 Act. *See* H.R. REP. NO. 95-236, 95th Cong., 1st Sess. 12, *reprinted in* [1977] U.S. CODE CONG. & AD. NEWS 4428, 4439.

173. *See* Carroll Harvey Associates, *supra* note 171, at I-2, I-3.

174. *Id.* at I-3 to I-4.

175. *Id.* at I-3. The housing shortage for moderately-priced homes in the District is similar to that of other cities. Homesteading is one tool used by other metropolitan areas experiencing the same phenomenon. *See* Project, *supra* note 21, at 1214; Comment, *supra* note 4, at 735 n.2; Comment, *supra* note 1, at 881-86.

176. Carroll Harvey Associates, *supra* note 171, at I-4.

177. NUC, *supra* note 169, at 10.

178. *See* Comment, *supra* note 1, at 884; Project, *supra* note 21, at 1218.

179. *See* Project, *supra* note 21, at 1215; NUC, *supra* note 169, at 10.

180. Comment, *supra* note 1, at 886; Project, *supra* note 21, at 1215-16.

sents inherent difficulties in implementation. The development of middle and upper income housing in pockets does little to meet the housing needs of lower income residents. Moreover, absent large scale federal or municipal financial assistance, homesteading isolates individual units amidst a deteriorating neighborhood.<sup>181</sup> Because the city must own the property it makes available to homesteaders, the time element involved between tax delinquency and final passing of title poses a substantial obstacle.<sup>182</sup> Selecting an area for rehabilitation is often a difficult task. Even if this is accomplished, individuals with the knowledge and skills to invest and provide financing must then be attracted.<sup>183</sup> Finally, the city must demonstrate a positive attitude toward the project and provide the necessary municipal services. Otherwise, the program is doomed.<sup>184</sup>

Homesteading in the District of Columbia is not a new idea, but it has not received the support experienced in other cities. Legislation relating to a city-wide program was first introduced in 1974<sup>185</sup> and other legislation is pending before the D.C. City Council.<sup>186</sup> Currently, city agencies possess the authority to provide land for urban homesteading implemented pursuant to an approved plan.<sup>187</sup> The major obstacle facing implementation of an effective homesteading plan in the District is the unavailability of property.<sup>188</sup> Ultimately, however, any homestead plan will be successful only if the proper sites and committed homesteaders are

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181. Project, *supra* note 21, at 1216; Comment, *supra* note 4, at 753.

182. See authorities cited note 175 *supra*.

183. Project, *supra* note 21, at 1217; Comment, *supra* note 1, at 884-86.

184. Comment, *supra* note 1 at 884-86; Comment, *supra* note 4, at 753-54.

185. H.R. 12022, 93d Cong., 1st Sess., 119 CONG. REC. 42,654 (1973). The bill, designed to create a homesteading program in the District that would encompass both abandoned housing units and vacant land, is reprinted in NUC, *supra* note 169 at 34-37.

186. District of Columbia Urban Homestead Act of 1977, D.C. Bill 2-120, reprinted in 23 D.C. Reg. 8229-47 (1977). The bill would create a D.C. Homestead Authority to administer a homestead program. *Id.* §§ 201, 301. Additionally, the bill outlines guidelines for selecting homesteaders and a provision for loans to them. *Id.* §§ 401, 402.

187. See *Berman v. Parker*, 348 U.S. 26 (1954); *District of Columbia Redev. Land Agency v. Forty Parcels of Land*, 171 F. Supp. 138 (D.D.C. 1959).

188. The District currently has an informal homestead program inspired by the Carroll Harvey Associates study, *supra* note 171. But, although it is very new, the program often lacks property for would-be homesteaders. In the District's most recent distribution, only 27 of the 270 eligible families received a homestead. *Wash. Post*, Jan. 25, 1978, § C, at 1, col.1.

Sources of land that can be used for homesteading include tracts owned by HUD or District agencies, Veterans' Administration default houses, and private property donated to the city. Carroll Harvey Associates, *supra* note 171, at III-1 to III-18.

A recent study has criticized the District government's efforts in identifying vacant housing and returning it to use. U.S. General Accounting Office, *The District of Columbia Needs a Program to Identify Vacant Houses and Get Them Back on the Market* 21-22 (Feb. 22, 1978).

selected, for the multiplicity of factors contributing to abandonment problems requires a determined and persistent response.<sup>189</sup>

### III. CONCLUSION

If it is the goal of the District of Columbia to provide the best possible environment for its residents, structural deterioration, vacancy, and abandonment must be stopped. These evils are, however, the product of a long and infectious trend first manifested by a deterioration of the inner city. The evils are easily recognized, but the factors which contributed to their growth are exceedingly complex. The solutions will not be easy, for just as abandonment and structural deterioration did not spring up overnight, neither will their remedies.

Since the District continues to experience a population loss, partially as a result of an insufficient supply of housing, increasing the total housing stock through new construction is one course the city could pursue if it wishes to attract a population capable of providing a stable economic base.<sup>190</sup> While other projects similar to Fort Lincoln will become increasingly rare in the future, the idea embodied in its design—a partnership between the city, the private sector and the citizenry to provide affordable homes in an economically and socially integrated community—is a sensible one.<sup>191</sup> The unfortunate situation in the present housing market, raging uncontrolled housing costs, displacement of those unable to afford to stay in a developed area, and speculation, places the price of homes beyond the financial reach of a significant portion of the population. It is here that rehabilitation can play its biggest role.

The relationship of a deteriorating structure to its immediate environment dictates one clear course of conduct: if structural deterioration, vacancy, overcrowding, and abandonment are to be eliminated, only a neighborhood rehabilitative or development approach can hope to dissipate the blight on the community. The continually aging housing stock in the District<sup>192</sup> and the predominance of vacant single-family dwellings offers the opportunity to provide lower and middle income residents with the American dream, a home. Through adoption of a homestead program or a rehabilitative plan, buildings will be transferred from inept owners to those willing to invest the time, money, and effort to correct existing

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189. See Project, *supra* note 21, at 1218.

190. One of the goals of the Fort Lincoln project was to attract increased numbers of suburban residents back into the city. See Interview, *supra* note 128.

191. See notes 130-37 & accompanying text *supra*.

192. See note 154 *supra*.

deficiencies and restore vitality to the building and, ultimately, to the neighborhood.

Moreover, because the District's housing problem is in a sense a metropolitan one, proper coordination between existing federal, state, and local governmental agencies is essential if the goals outlined above are to be achieved. The overlapping jurisdiction of the federal government in District affairs presents one obstacle, but certainly not an insurmountable one. Ultimately, any housing program undertaken by the District must be tempered by its role in the Washington metropolitan area and its special status as the nation's capital.<sup>193</sup> Within those bounds, there is no doubt that it can flourish.

*Joseph P. Duenas*

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193. The Metropolitan Washington Council of Governments recently released a regional development policy statement. The statement recognized that coordination between the local jurisdictions is vitally important if the D.C. metropolitan area is to develop properly. See Metropolitan Washington Council of Governments, Metropolitan Growth Policy Statement 1 (adopted by the Board of Directors, Oct. 12, 1977).

