

Urban Law Annual ; Journal of Urban and Contemporary Law

Volume 18

January 1980

Neighborhood Development and the Displacement of the Elderly

Marc Levin

Follow this and additional works at: https://openscholarship.wustl.edu/law_urbanlaw



Part of the [Law Commons](#)

Recommended Citation

Marc Levin, *Neighborhood Development and the Displacement of the Elderly*, 18 URB. L. ANN. 223 (1980)

Available at: https://openscholarship.wustl.edu/law_urbanlaw/vol18/iss1/7

This Note is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Urban Law Annual ; Journal of Urban and Contemporary Law by an authorized administrator of Washington University Open Scholarship. For more information, please contact digital@wumail.wustl.edu.

NEIGHBORHOOD DEVELOPMENT AND THE DISPLACEMENT OF THE ELDERLY

*Marc Levin**

I. INTRODUCTION

During the 1960's and early 1970's, many middle- and upper-income families fled central city neighborhoods.¹ In response, the federal government instituted programs to create an inner-city

* Instructor of Law, University of Toledo College of Law. B.S., Washington and Lee University, 1976; J.D., Washington University 1979.

1. Nationwide, 56 of 159 cities with populations greater than 100,000 lost population from 1960-70; during 1970-73, 87 of these cities lost population. *Neighborhood Diversity: Hearings Before the Senate Committee on Banking, Housing and Urban Affairs*, 95th Cong., 1st Sess. 28 (1977) (statement of Robert C. Embry) [hereinafter cited as *1977 Hearings on Neighborhood Diversity*]. Central city areas incurred a net population loss of 3.6 million persons from 1970-74. CENTER FOR URBAN AND REGIONAL STUDIES, CITY CENTERS IN TRANSITION 22 (R. Burby, III & S. Weiss eds. 1976) (Report of the Environmental Design Conference, UNC at Chapel Hill, June 6-8, 1976). Northern cities, affected more severely than the sunbelt states, averaged net yearly losses of 125,000 families in the East and 142,000 families per year in North central cities during the past several years. *1977 Hearings on Neighborhood Diversity, supra*, at 30. Facilitated by the Federal government through expanded use of FHA loans for suburban homes, increased highway construction and tax incentives, large numbers left to escape crime, poor schools, racial tensions, high taxes and a lack of central city home financing. Urban Consortium, *The Displacement Problem in Revitalized Urban Neighborhoods 3* (September 1977) (draft paper for use by the Urban Consortium's Community and Economic Development Task Force) [hereinafter cited as *Displacement Problem in Urban Neighborhoods*]. Population losses, even in central cities experiencing revitalization, continue to plague urban areas through the late 1970's. H. SUMKA & B. CICIN-SAIN, *DISPLACEMENT IN REVITALIZING NEIGHBORHOODS: A REVIEW AND RESEARCH STRATEGY 2* (April 1978) (paper prepared for Office of Policy Development and Research, U.S. Department of Housing and Urban Development).

environment attractive to middle-income persons.² Balancing the need "to attract the middle-class back to cities with the even greater need to provide decent housing for the poor" continues to be a major problem of urban redevelopment.³

While the cities need increased tax revenues,⁴ redevelopment can

2. Urban renewal programs originally intended to clear out the slums and thereby induce the return of the middle class. As stated in the objectives section of the Housing and Community Development Act of 1974, federal assistance would aid in "the elimination of slums and blight and the prevention of blighting influences. . ." § 101(c)(1), 42 U.S.C. § 5301(c)(1) (1976) (amended 1977). These programs displaced hundreds of thousands of black and poor families. Claytor, *Housing Problems of Minorities: Policy Considerations*, in *THE URBAN SCENE IN THE SEVENTIES* 182 (J. Blumstein & E. Martin eds. 1974). Because of increasing resistance to such clearance and displacement, emphasis shifted to neighborhood revitalization. H. S. PERLOFF, T. BERG, R. FOUNTAIN, D. VETTER & J. WELD, *MODERNIZING THE CENTRAL CITY: NEW TOWNS INTOWN . . . AND BEYOND* 134-35 (1975). The Housing and Community Development Act of 1977 reflects this shift in philosophy. "[T]he Federal assistance provided in this title is for the support of community development activities which are directed toward . . . (8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population out-migration or a stagnating or declining tax base." § 101(c)(8), 42 U.S.C.A. § 5301(c)(8) (1977). See *Housing and Community Development Amendments of 1978: Hearings Before the Senate Committee on Banking, Housing and Urban Affairs*, 95th Cong., 2d Sess. 19 (1978) (statement of Patricia Harris).

3. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 1-2 (statement of Sen. William Proxmire).

4. These population shifts to the suburbs resulted in diminished city tax bases. Because the income of those leaving central cities averaged \$1,305 more per family than the income of those moving into the city, the overall purchasing power of central city residents decreased by \$29.6 billion from 1970-74. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 30. This income loss resulted in decreases in municipal income taxes (for some cities) and decreases in funds from municipal excise levies on purchases along with the loss of income generated by such purchases. The loss of skilled labor and rise in unemployment, along with burdening city budgets, led to increased vandalism, street crime, drug use and deteriorated housing. *NEIGHBORHOOD CONSERVATION* 47 (S. Klimont & R. McNulty eds. 1976). In addition, as population drops and school enrollments decline, state and federal support drops.

This increasing concentration of low-income persons in cities, along with a rising demand for services resulted in higher city tax rates. These higher taxes, reduced services, expensive land and obsolete physical plants forced manufacturers and retailers out of cities. P. LIBASSI & V. HAUSER, *REVITALIZING CENTRAL CITY INVESTMENT* 1 (1977); Eden, Article in *NEIGHBORHOOD COMMERCIAL REVITALIZATION* 65 (Goldstein & Davis eds. 1977). For an informative series of articles on the plight of grocery stores located in urban areas, see the Washington Post, Feb. 19, 1968, § A, at 1, col. 3; Feb. 20, 1978, § A, col. 1; Feb. 21, 1978, § A, at 1, col. 3. Federal tax policies such as income tax depreciation and investment tax credits contributed to this outflow by discouraging renovation of existing manufacturing plants in favor of building new plants in outlying areas. Henry Reuss, Article in *NEIGHBORHOOD COMMERCIAL RE-*

cause the displacement of present neighborhood residents.⁵ The recent surge of private neighborhood revitalization⁶ raises concerns over the adequacy of present public policies dealing with the displacement of low-income persons.⁷

VITALIZATION 37 (Goldstein & Davis eds. 1977). Seventy-five to 80% of private investment, as of 1977, went outside city areas. *Id.* at 31 (article by Philip Hammer).

Since central business districts usually generate between 20% and 30% of central city tax revenues, some feel that the return of the middle class to the central cities to support business and residential development may "make or break the future of many cities." CITY CENTERS IN TRANSITION, *supra* note 1, at 23.

5. This Note presumes that unchecked involuntary displacement does not serve the best interests of society. Without some public intervention, revitalization and subsequent relocation can result in economic and racial resegregation of central cities as neighborhoods transform into blocks of higher income professionals with a similarity of occupations and life styles. At the federal level, at least, housing policies intend to promote diversity of neighborhoods, not a process of "gentrification" in urban areas. Housing and Community Development Act of 1977, § 101(c)(6), 42 U.S.C.A. § 5301(c)(6) (1977); 1977 *Hearings on Neighborhood Diversity*, *supra* note 1, at 202 (statement of Milton Kotler).

6. See note 14 and accompanying text *infra*. In addition to the *private market* nature of the renovation efforts, the use of the neighborhood structure as the appropriate geographic and political unit to begin the revival of urban areas merits attention. At the federal level, the Department of Housing and Urban Development (HUD) established the Office of Neighborhood Development (OND) "to increase the number and capability of neighborhood-based development organizations." Nachison, *Neighborhood Development—The Urban Future*, HUD CHALLENGE, March 1978, at 13. Federal programs involving neighborhoods directly include: 1) The Urban Neighborhood Revitalization Program of the Small Business Administration; 2) The Neighborhood Commercial Revitalization Program funded by the Office of Minority Business Enterprises of Commerce; 3) The Community Development Credit Union Neighborhood Economic Development and Stabilization Program funded by the Department of Commerce's Economic Administration; and 4) The Neighborhood Revitalization Strategies Program funded by HUD. Corletta, *Leveraging and the Multiplier Effect for Neighborhood Development*, HUD CHALLENGE, March 1978, at 15-16.

7. The following chart summarizes the wide range of issues created by the neighborhood revitalization movement:

Potential Effects of Neighborhood Revitalization

<u>Unit of Analysis</u>	<u>Potential Costs</u>	<u>Potential Benefits</u>	<u>Indeterminate Effects</u>
Individual Households			
A. Remaining Neighborhood Residents	<p>Increased housing costs— Owners—increased taxes Renters—increased rent</p> <p>Subject to pressures to move through harassment by real estate brokers or landlords</p> <p>Increased costs for locally sold goods and services</p> <p>Loss of ties with former residents and neighborhood social institutions</p>	<p>Equity appreciation for homeowners</p> <p>Improved municipal services</p> <p>Improved physical environment</p> <p>Increased availability of mortgage and home improvement credit</p> <p>Increased availability of hazard insurance</p>	<p>Change in characteristics of neighborhood population</p>
B. Former Neighborhood Residents	<p>Moving Costs</p> <p>Loss of old social and institutional ties</p> <p>Trauma of forced move, especially renters</p>	<p>Homeowner recapture of equity appreciation</p>	<p>Change in characteristics of housing (size, cost, quality)</p> <p>Change in physical characteristics of neighborhood</p> <p>Change in accessibility to public and private services and employment</p> <p>Change in social environment</p>
C. New Neighborhood Residents	<p>Physical danger due to conflict with remaining residents</p> <p>Risk of equity loss if neighborhood does not stabilize</p>	<p>Proximity to employment</p> <p>Proximity to cultural amenities of city</p> <p>Lower housing costs</p> <p>Homeowner equity accumulation</p> <p>Sense of accomplishment</p>	<p>Change in social and institutional ties</p>

<u>Unit of Analysis</u>	<u>Potential Costs</u>	<u>Potential Benefits</u>	<u>Indeterminate Effects</u>
D Residents of Recipient Neighborhoods	Increased cost for housing due to greater competition		Change in characteristics of neighborhood population
Central City	Cost of improved services demanded by new residents	Increased tax base (property, sales, income) Increased employment -Real estate and building sectors Other service sectors Decrease in costs of services required by low-income population	
Suburban Fringe	Increased service needs of low-income populations Reduction in tax base (property, sales, income) Loss of employment in real estate and building sector		
The Nation	Subsidy for residents wishing to remain in area Relocation assistance	Revitalization of central cities Conservation of existing housing stock and capital infrastructure Conservation of energy Conservation of land Restoration of local fiscal balance	

DISPLACEMENT IN REVITALIZING NEIGHBORHOODS, *supra* note 1, at 7.

Two potential effects should be added to this chart. First, new residents and the central city may benefit from increased neighborhood stability as owner-occupancy increases. On the other side, along with the trauma of relocation, dislocatees and potential dislocatees may react violently to their upheaval, harming the central city through increased tensions between old and new residents.

The process of neighborhood revitalization can produce a variety of outcomes. On one hand, neighborhood revitalization may yield healthy socio-economically diverse communities. It could help disperse low-income and minority households to suburban areas, where housing and employment opportunities exist; it

Older Americans⁸ constitute one group significantly affected by the revitalization/displacement phenomenon.⁹ Besides the large numbers of elderly involved, various characteristics of this group make it especially susceptible to the harms of relocation. One recent study noted the following factors as contributing to the special problems and as requiring particular attention:

1. The unusual trauma an involuntary move represents for the elderly.
2. The elderly's lower mobility as compared with that of other groups.
3. The higher percentage of persons living alone, and the increasing proportion of women in this category.
4. The relationship of an elderly person's continued ability to live independently to stable and familiar neighborhood associations and institutions.
5. The high cost of the alternative of providing public housing.
6. The elderly's greater incidence of low fixed incomes.
7. Greater need for community services and aid if relocation is required.¹⁰

could shore up central city tax bases. Alternatively, neighborhood revitalization could merely shift to other parts of the city the intractable problems of poverty, unemployment and inadequate housing through the wholesale dislocation of the old, the poor, and minority residents from one neighborhood to another.

Id. at 5.

8. The age range of this population has been defined as anywhere from 60 years and older to 70 years and older. This author will attempt to indicate which group the various studies have examined, when they provide such information.

9. See notes 36-39 and accompanying text *supra*. Approximately 55% of the elderly live within major metropolitan areas. R. STRUYK, *THE HOUSING SITUATION OF ELDERLY AMERICANS* 7, Table 1 (1976) (population defined as 65 years of age or older) (metropolitan area does not include the suburban area in this study). Advantages such as public transportation, formerly lower prices of goods, services and housing, companionship and convenience to shopping areas makes the inner city attractive to this group. LOS ANGELES COMMUNITY DESIGN CENTER, *RECYCLING FOR HOUSING* 14-18 (1977). The elderly did not follow other groups into the suburbs and remain the only age group with a higher percentage in the cities than in the suburbs. P. MYERS, *NEIGHBORHOOD CONSERVATION AND THE ELDERLY* 10 (1978). Furthermore, according to one sampling of the upcoming generation of elderly currently in the inner city and between the ages of 45 and 64, this demand for inner-city housing will be significant for at least another thirty years. *RECYCLING FOR HOUSING*, *supra*, at 13. By the year 2000, 31 million people 65 years old and older may live in metropolitan areas. *CITY CENTERS IN TRANSITION*, *supra* note 1, at 23.

10. *NEIGHBORHOOD CONSERVATION AND THE ELDERLY*, *supra* note 9, at 14-15. The generally low incomes of urban older Americans underlies the accentuated problems of this group. While the median income of families with heads of household 65 years old or over increased by 59% from 1970-75, it remains 20% below that

This Note examines the dislocation problem of the elderly. It also presents public policies which mitigate against harmful relocation, and discusses alternatives which reduce displacement without severely affecting the increased tax base resulting from private investment.¹¹

of all families, even when adjusted for family size. U.S. BUREAU OF CENSUS, CURRENT POPULATION REPORTS, P-23, No. 59, May 1976, P-60, No. 105, June 1977. With three million elderly living at the poverty level in 1976, the percentage of elderly below the low-income level remains proportionally larger than for the total population. U.S. BUREAU OF CENSUS, CURRENT POPULATION REPORTS, P-60, No. 107, September 1977. Health problems, a lack of financial resources (except in their homes) and changes in household composition compound the income problems of older Americans. R. Struyk, *Housing for the Elderly: Research Needs for Informed Public Policies I* (June 1976) (Urban Institute Working Paper).

Psychologically, the elderly are least able to cope with relocation. The neighborhood provides a complete "life-support system" with friends, acquaintances and a known quantity and quality of resources. R. BUTLER, *WHY SURVIVE? BEING OLD IN AMERICA* 103 (1975). The longevity of their stay in the neighborhood increases these ties. In Los Angeles, over 50% of the inner city elderly have lived there for 10 years or more. *RECYCLING FOR HOUSING*, *supra* note 9, at 11. The psychological ties extend to blighted areas as well as improved neighborhoods.

The prevailing view of the elderly in cities has been that they were trapped in an increasingly hostile poor environment. Our research has shown the deep ties that older people have in their neighborhoods—even though these may be judged as blighted or inadequate by others. Urban conservation poses new opportunities for older people in cities, but only if they are part of the revitalization effort, and not its victims. They are probably the least able to cope with traumatic change, the ones for whom neighborhood disruption often means that society must attempt to provide not only a housing unit but also the structure of services and community that has enabled the older person to live independently.

1977 Hearings on Neighborhood Diversity, *supra* note 1, at 211 (statement of William K. Reilly).

The experiences of elderly relocatees under urban renewal programs indicates the possibility of extreme withdrawal or even premature death in response to involuntary displacement. P. NIEBANCK & M. YESSIAN, *RELOCATION IN URBAN PLANNING: FROM OBSTACLE TO OPPORTUNITY* 50 (1968).

11. This Note only deals with the effects of private reinvestment, as opposed to federal programs such as slum clearance, highway construction and repossession. *See generally* U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *Displacement Report* 33-43 (February 1979); Comment, *The Uniform Relocation Act: A Viable Solution to the Plight of the Displaced*, 25 CATH. UNIV. L. REV. 552 (1976).

Two basic approaches exist to deal with relocation. The first allows the displacement to occur and attempts to provide relocation benefits for those displaced. Federal relocation benefits accrue under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601-55 (1970) (URA). The URA applies to any "involuntary permanent" displacement caused by a federal program or project. Former Sen. Brooke (R. Mass.) and Rep. Drinan (D. Mass.) both sponsored bills to extend payments under URA to displacees from all *federally funded* projects,

II. REVITALIZATION PHENOMENON

A. *Who's Coming and Who's Going*

Most urban areas in the United States presently experience some degree of private neighborhood rehabilitation.¹² Originally confined to areas such as Washington, D.C.'s Georgetown, Philadelphia's Society Hill, and the New Orleans French Quarter, renovation efforts now extend to hundreds of neighborhoods without unique historical or architectural qualities.¹³ Although supported by urban policies at the federal level,¹⁴ private economic forces sustain the major portion of this reinvestment.¹⁵

S.2291 and H.R. 5475. See generally Special Research Study, *Relocation—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970—An Empirical Study*, 26 MERCER L. REV. 1329 (1975). This Note only deals with strategies to allow neighborhood residents to remain while, hopefully, also allowing for renovation.

12. Revitalization efforts have continued to rise in intensity since 1968 with nearly one-half of U.S. cities with populations over 50,000 experiencing some degree of private renewal. D. Goldfield, *Neighborhood Redevelopment and Displacement in Washington, D.C.* 2-3 (January 1978) (unpublished paper prepared for use by office of Policy Development and Research, U.S. Department of Housing and Urban Development). The National Urban Coalition Survey of 65 neighborhoods in 44 cities found some level of private market rehabilitation in 75% of the cities. National Urban Coalition, *Effects of Private-Market Housing Rehabilitation on Urban Neighborhoods: Patterns of Reinvestment and Dislocation 2* (1978) (unpublished summary of DISPLACEMENT: CITY NEIGHBORHOODS IN TRANSITION. See note 37 *supra*). A 1975 survey by the Urban Land Institute found some rehabilitation in 70% of U.S. cities with populations over 250,000, and in 60 neighborhoods in 20 major cities. *Displacement Problem in Urban Neighborhoods*, *supra* note 1, at 6.

13. *Displacement Problem in Urban Neighborhoods*, *supra* note 1, at 6, 8. Although not broken down into major rehabilitation efforts versus maintenance or remodeling, inner-city home repair and improvement expenditures now exceed comparable suburban expenditures. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 145-47 (statement of Robert C. Embry & Franklin J. James). Most of this rehabilitation involved single-family units undertaken by owner-occupants. J.T. BLACK, *PRIVATE-MARKET HOUSING RENOVATION IN OLDER URBAN AREAS I* (1977) (Urban Land Institute Research Report #26). As a result, surveys indicate a small but significant increase in home ownership in central cities and an increase of almost one million owner-occupants in the cities, 80% from newly built units and 20% through transfer of property, from 1970-75. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 29, 143-45 (statements of Robert C. Embry & Franklin J. James); *Displacement Problem in Urban Neighborhoods*, *supra* note 1, at 5-6.

14. Older urban areas receive assistance under the Housing and Community Development Act of 1977, 42 U.S.C.A. §§ 5301-5319 (1977).

15. HUD Displacement Report, *supra* note 11, at 20. In the Washington, D.C. area, all but a small portion of the rehabilitation can be attributed to commercial rehabilitation firms, individual entrepreneurs and younger "do-it-yourself" families.

Favorable costs and changing household preferences explain the increased popularity of central city housing. The low comparative cost of rehabilitating existing structures attracts buyers to the city. Because of escalating construction costs, capital shortages and growth controls, total new construction in 1974 and 1975, usually concentrated in the suburbs, barely equalled the 1972 level.¹⁶ On the demand side, the post-war baby boom has resulted in a large number of young households entering the housing market for the first time. According to one survey, more than one-half of the net national growth in households between 1975 and 1980 will consist of families headed by persons under the age of 35, seventy-five percent of those will be between 25 and 34 years of age.¹⁷ In 1975, only twenty-five percent of American families could afford a median-priced home, compared to fifty percent in 1970.¹⁸ The high costs of commuting, rising property tax rates (prior to the 1978 property tax revolt) and increasing fuel costs illustrate the cost advantage of center city restored homes over homes in the suburbs.

The changing character and preferences of households have also contributed to the increased demand for urban housing. In fact, this changing attitude may become the primary motivation for seeking city housing as traditional supply/demand factors reverse the recent trend in which suburban housing was cost competitive. At present, smaller families, more single-parent homes and adult-only households have led to increased interest in smaller urban homes instead of the typical suburban single-family home.¹⁹ Inner-city living also attracts the growing number of people who value diversity of neighbors, proximity to culture and entertainment, access to public transportation and older housing.²⁰

D. Gale. *The Back-to-the-City Movement . . . Or is it?: A Survey of Recent Homebuyers in the Mount Pleasant Neighborhood of Washington, D.C. 1* (1976) (unpublished paper obtainable from Professor Dennis Gale, George Washington University, Department of Urban and Regional Planning) [hereinafter cited as *Mount Pleasant Study*].

16. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 156 (statement of Franklin J. James); *Displacement Problem in Urban Neighborhoods*, *supra* note 1, at 9-10

17. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 175 (Franklin J. James).

18. *Neighborhood Redevelopment*, *supra* note 12, at 7.

19. *Neighborhood Redevelopment*, *supra* note 12, at 6-7; *Effects of Private Rehabilitation*, *supra* note 12.

20. *Neighborhood Redevelopment*, *supra* note 12; *Displacement Problem in Ur-*

Some analysts attribute the revitalization to suburbanites returning to the cities.²¹ The sparse data which exists on the origin of those coming in does not support this theory.²² Whatever their origin, educated, young, higher-income, white childless couples predominate among those renovating.²³ The redevelopment effort also includes a

ban Neighborhoods, *supra* note 1, at 11. One study, however, did not find these factors relevant to the present revitalization movement. F. James, *Back to the City: An Appraisal of Housing Reinvestment and Population Change in Urban America 7-18* (December 1977) (Urban Institute Working Paper).

21. Those who support the idea that renewed interest in these areas comes from enlightened suburbanites do so on the basis of anecdotal accounts since most people admit to the lack of hard data on this subject due to the deficiencies in Census Bureau statistics. *1977 Hearings on Neighborhood Diversity, supra* note 1, at 187 (statement of M. Carl Holman).

22. In fact, 70% of the households purchasing central city homes in 1973 and 1974 relocated within the same central city with 13% coming from other central cities. *1977 Hearings on Neighborhood Diversity, supra* note 1, at 17, 165 (statements of Robert D. Embry and Franklin J. James). Profiles of the revitalization movements in two Washington, D.C. neighborhoods indicate that 70% of those moving in came from the District with a high percentage of renters moving into homeownership. Neighborhood Redevelopment, *supra* note 12, at 13, Table 4. These figures, however, only represent the immediately preceding residence of the new buyers. Many of these individuals grew up in the suburbs indicating a back-to-the-city movement at an earlier time. *Id.* at 11. *See also* Displacement Problem in Urban Neighborhoods, *supra* note 1, at 7-8. *Contra*, St. Louis Post-Dispatch, May 13, 1979, 1A, col. 1-4, 12A, col. 1-2 (study of 15 St. Louis neighborhoods).

23.

<u>Household Characteristic</u>	<u>Mount Pleasant*</u>	<u>Capitol Hill**</u>
	N=57	N=62
Adults:		
Couples	60%	55%
Singles	23	29
Mixed	17	16
Children per Household:		
None	61	74
One or Two	39	21
Three or More	0	5
Race***		
White	77	94
Black	14	0
Mixed/No Response	9	6
Income:		
Less than \$15,000	11	—
\$15,000 to \$24,999	44	22

significant amount of speculative buying²⁴ and rehabilitation by existing residents.²⁵

Neighborhood reinvestment which attracts the middle class to return to or stay in central city areas can result in the displacement of existing low- and moderate-income households.²⁶ Little hard data, based on carefully constructed research projects, exists on the nation-

Household Characteristic	Mount Pleasant*	Capitol Hill**
\$25,000 to \$50,000-	39	75
No response	6	3
Education:		
College Degree	86	—
Graduate Degree	56	77
Age:		
24 or younger	0	0
25-29	20	11
30-34	44	48
35-44	20	21
45 or older	14	19
Unknown	2	1

* Mount Pleasant Study, *supra* note 15, at 3-9.

** D. Gale, *The Back-to-the-City Movement Revisited: A Survey of Recent Homebuyers in the Capitol Hill Neighborhood of Washington, D.C. 4-12 (1977)* [hereinafter cited as *Capitol Hill Study*].

*** According to the Washington Residential Development Coalition, however, many of the purchasers in the less active rehabilitation areas are black. *Neighborhood Redevelopment, supra* note 12, at 16.

24. Speculators attempt to purchase properties at extremely low prices and to sell to a third party almost immediately, in a process called "flipping." Between October 1972 and September 1974, for example, one out of every five sales of homes in Washington, D.C. involved two or more sales of the same property, 80% within ten months of each other. *Neighborhood Redevelopment, supra* note 12, at 14-15.

25. Black central city homeowners have increased their home repair activity in the last few years. *1977 Hearings on Neighborhood Diversity, supra* note 1, at 29 (statement of Robert C. Embry).

26. Displacement here refers to an involuntary relocation as a result of private neighborhood revitalization. This does not include all persons who leave a neighborhood during a certain time period since some change represents a normal population turnover, approximately 20% annually. P. AHLBRANDT & P. BROPHY, *NEIGHBORHOOD REVITALIZATION 23-24 (1975)*. This dislocation can be distinguished from normal turnover in that: 1) external changes, not in lifestyle or individual circumstance, cause the dislocation; 2) people replacing those leaving are usually of higher income; 3) neighborhood changes make it economically and socially infeasible or undesirable for original residents to remain; and 4) the relocatees did not desire to move at that time. C. Weiler, *Reinvestment Displacement: HUD's Role in a New Housing Issue 1-2 (1978)* (unpublished paper prepared for The Office of Community Planning and Development, U.S. Department of Housing and Urban Development).

wide scope and magnitude of the displacement problem.²⁷ Nevertheless, as one commentator cruelly notes, "It is a somewhat peculiar situation where the first hopeful sign of the end of a long period of urban decline brings with it the prospect of considerable hardship for the nation's poor, elderly, minority, and working class renters and homeowners."²⁸ Along with potential individual psychological harms of relocation,²⁹ disruption arises from the inability of the new neighborhoods to absorb dislocated persons.³⁰

The displacement occurs for varying reasons at various stages in the reinvestment process. In the first stage, developers buy abandoned property and rental dwellings. Displacement results from 1)

27. Originally confined to a few northeastern cities, community groups in cities throughout the U.S. now express concern over this phenomenon. Kollias, *Revitalization Without Displacement*, HUD CHALLENGE, March 1978, at 6. According to one authority, "In some neighborhoods, private urban renewal of this type has caused as much Black removal as the public variety of 10-20 years ago." *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 50 (statement of Robert Schur). On the other hand, one recent study concluded that the problem may be numerically overstated even in areas of widespread reinvestment activity, with fewer than 100-200 households affected per year in most large cities. G. Grier & E. Grier, *Urban Displacement: A Reconnaissance 18-19* (March 1978) (unpublished Memo Report prepared for the U.S. Department of Housing and Urban Development).

28. Displacement Problem in Urban Neighborhoods, *supra* note 1, at 2. Even studies indicating less than overwhelming displacement statistics find the issue to be of urgent public concern due to the accelerating nature of the figures and the "highly visible and potentially explosive" nature of the problem. Grier Memo Report, *supra* note 27, at 19-20.

29. Studies on relocation indicate the mixed reactions of those forced out of their neighborhoods. Some feel relief at leaving deteriorated neighborhoods for new places. Washington Urban League, *SOS 1976: Speakout for Survival 41* (June 1976); T. Pattison, *The Process of Neighborhood Upgrading and Gentrification: An Examination of Two Neighborhoods in the Boston Metropolitan Area 137* (1977) (unpublished Masters of City Planning Thesis). On the other hand, some feel frustration at being forced out at the time of revival. Displacement Problem in Urban Neighborhoods, *supra* note 1, at 9. The quality, structural and social, of the new housing situation and the proximity to the old neighborhood affect the amount of psychological disruption. Housing for the Elderly, *supra* note 10, at 64-65. It should be noted that these relocation studies did not isolate the urban elderly as a group.

30. Unfortunately, little data exists to establish the eventual location of these dislocatees. Most commentators have assumed that they relocate in other low-income central city neighborhoods or older suburbs nearby. NEIGHBORHOOD CONSERVATION, *supra* note 4, at 80-81. In both areas the housing stock and the provision of public services (parks, schools, health facilities, senior citizen centers, job opportunities, public transportation) will not meet the needs of those displaced. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 151 (statement of Franklin J. James); *Neighborhood Redevelopment*, *supra* note 12, at 17-18.

conversion of apartment buildings into condominiums; 2) purchase of apartment buildings for substantial rehabilitation and re-rental; 3) renovation of rentals for single-family dwellings; 4) conversion of renter-occupied single-family dwellings; and 5) conversion to commercial use.³¹ As part of many redevelopment plans, residents must relocate temporarily, or, for many, permanently. During this stage, commercial developers destroy single-room occupancy hotels housing elderly and other low-income residents of central cities.³²

After initial development, developers and individual speculators attempt to buy from current homeowners at prices well below market value. Often these sale offers will be made to residents with little or no knowledge of actual market value.³³

The next level of development is extensive neighborhood rehabilitation. Speculation and actual rehabilitation lead to dramatic rises in property values, with proportionate increases in property taxes. Many lower-income homeowners and renters no longer can afford to remain in the redeveloped area.³⁴ City governments contribute to the escalating costs through strict housing code enforcement and through historic districting. Both actions usually attract more investment to the area, accelerating the jump in property values. Building maintenance costs and rehabilitation costs also increase because owners must meet the code or design standards.³⁵

Displacement disproportionately hurts the elderly. A National Urban Coalition study found that, while the elderly do not move often,

31. J.T. BLACK, PROSPECTS FOR RENTAL HOUSING PRODUCTION UNDER RENT CONTROL: A CASE STUDY OF WASHINGTON, D.C. 11, 14 (1976); *Revitalization Without Displacement*, *supra* note 27.

32. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 21. In Los Angeles, for example, the housing stock diminished from 34,000 units in 1950 to 16,000 units in 1970 as commercial structures replaced apartments and hotels. *Id.* at 12.

33. CASE STUDY, *supra* note 31; Displacement Problem in Urban Neighborhoods, *supra* note 1, at 74.

34. 1977 *Hearings on Neighborhood Diversity*, *supra* note 1, at 200 (statement of Conrad Weiler); Displacement Problem in Urban Neighborhoods, *supra* note 1, at 14. For example, in Adams-Morgan, a Washington, D.C. neighborhood, one speculator purchased eight single-family homes in 1976 for \$20,000 each, evicting the tenants and boarding them up. In 1977, with no improvements made, a realty company purchased them for \$26,000 each and sold them for \$65,000 each a few weeks later. Neighborhood Redevelopment, *supra* note 12, at 15.

35. R. AHLBRANDT, JR., FLEXIBLE CODE ENFORCEMENT: A KEY INGREDIENT IN NEIGHBORHOOD PRESERVATION PROGRAMMING 5 (1976); NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 32-33.

significant displacement of the elderly occurred in eighty percent of the rehabilitated neighborhoods reporting.³⁶ This displacement results from an overall housing shortage, as various groups convert housing structures to "higher uses,"³⁷ and from the impact of rising rents and property taxes on low fixed-income persons.³⁸

B. *Present Programs*

1. Federal

Several federal programs exist to aid the elderly in urban neighborhoods. These programs provide either direct housing assistance or assistance in the development of the surrounding neighborhood.

a. Housing and Community Development Acts

Title I of the Housing and Community Development Act of 1977 (HCDA)³⁹ establishes the role of the Federal Government in development efforts, "the Federal assistance provided in this title is for the support of community development activities which are directed toward . . . (8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population out-migration or a stagnating or

36. NATIONAL URBAN COALITION, *DISPLACEMENT: CITY NEIGHBORHOODS IN TRANSITION 7-8* (1978).

37. *Id.* See note 31 *supra*. See also Development Economics Group, *Condominiums in the District of Columbia* (1976) (report to the Office of Housing and Community Development, D.C. Government) (impact of condominium conversion on the elderly).

38. RECYCLING FOR HOUSING, *supra* note 9, at 12; *Revitalization Without Displacement*, *supra* note 27. Elderly renters within Standard Metropolitan Statistical Area's (SMSA) already average 35% or more of their incomes on rental payments compared to a national average of 22%. BUREAU OF THE CENSUS, *CURRENT HOUSING REPORTS: ANNUAL HOUSING SURVEY* (1973).

Property tax increases can especially hurt the elderly. Sixty percent of all elderly households in center city areas live in their own homes, with a higher value/income ratio than all other households. *Id.* NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9. Property taxes account for 8.1% of an elderly homeowner's income, compared to 3.4% for a typical urban household. R. BUTLER, *supra* note 10, at 109-10.

Building code enforcement and historic districting also inflict hardship upon the elderly both monetarily and "physically." NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 27, 32.

39. Pub. L. No. 95-128, 42 U.S.C.A. §§ 5301-5319 (1977).

declining tax base."⁴⁰ It consolidates the earlier categorical programs (Public Facilities, Open Space, Water/Sewer, Code Enforcement, Urban Renewal, Model Cities, Neighborhood Development) into a single community development block grant (CDBG) program. To ensure greater allocation of funds to lower-income groups in more distressed areas, under the 1977 Act: 1) entitlement grantees receive the greater of amounts calculated under the old formula, [population (.25), poverty (.5) and overcrowded housing (.25)] or the alternative formula intended to provide additional assistance to older, more heavily distressed cities [population growth lag (.2), poverty (.3) and age of housing (.5)]; 2) block grant applications require Housing Assistance Plans (HAPS) for low- and moderate-income families which must include: 1) identification of deteriorated housing; 2) an annual goal for the number of low-income persons to be helped; 3) assurance that the preponderance of the subsidy funds for rehabilitation will benefit low- and moderate-income groups; and, 4) a provision for relocation of tenants displaced by rehabilitation activities. Appropriations for the basic block grant program presently cannot exceed the authorizations of \$3.5 billion for fiscal year 1978, \$3.65 billion for fiscal year 1979, and \$3.8 billion for fiscal year 1980.

Title II of the Act, and several previous housing acts, provide several programs of direct housing assistance for elderly persons. Two programs under HUD, Section 231 of the National Housing Act of 1934⁴¹ and Section 202 of the HCDA of 1977,⁴² provide housing solely for the elderly. Other federal programs contribute substantially to federally subsidized elderly housing although not designed exclusively for this group.⁴³

Under Section 202, HUD makes forty-year loans to private, non-profit sponsors to finance rental or cooperative housing facilities for elderly or handicapped persons.⁴⁴ As amended by the Housing Au-

40 *Id.* § 108(c)(B), 42 U.S.C.A. § 5301(c)(B) (1977).

41 National Housing Act of 1934, § 231, 12 U.S.C. § 1725 (1976).

42 Housing and Community Development Act of 1977, § 202, 42 U.S.C.A. § 5301 (1977).

43 *Id.*, Title II, § 8, 42 U.S.C.A. §§ 5301-5310 (1977) (public housing and § 8 rental program); National Housing Act of 1934, § 221(d)(3)(4), 236 (§ 236 rental and cooperative housing assistance, § 221(d)(3), (4) multifamily rental housing).

44. This section revises § 210 of the Housing and Community Development Act of 1974, Pub. L. No. 93-383, which renewed the § 202 housing program, § 202, Housing Act of 1959, Pub. L. No. 86-372 phased out in 1969. From 1959-69 it provided direct loans for construction financing and 50-year permanent loans at three percent

thorization Act of 1976,⁴⁵ loans are made at a rate based on the average interest rate of all interest-bearing obligations of the United States, plus an amount to cover administrative costs. Under the revised program, all projects receiving the long-term loans must meet the requirements of, and will receive the benefits of, leased housing assistance payments under the Section 8 program. To guarantee their availability upon approval of the financing, reservations for Section 8 funds must be set aside at the time of a Section 202 reservation.⁴⁶ To correct previous inequities in geographic distribution of units,⁴⁷ Section 202 funds must now be allocated on a geographic basis among the ten HUD regions taking into account: 1) the number of elderly households within each region; 2) those households lacking some or all plumbing facilities; and, 3) those with income below regionally adjusted poverty levels.⁴⁸ From its resumption in 1974 through fiscal year 1978, HUD approved loans for 72,400 units.⁴⁹ From inception through fiscal year 1977, however, actual occupied housing units under this program reached only 44,242.⁵⁰

Under the public housing program of the HCDA of 1977,⁵¹ local public housing agencies develop and operate low-rent public housing projects, financing them through the sale of bonds and notes. HUD furnishes technical and professional assistance in planning, developing and managing the projects. HUD also provides two kinds of financial assistance: preliminary loans for planning; and annual contributions to pay off the bonds and notes, assure low rents, and maintain adequate services and reserve funds. Rents may not exceed more than twenty-five percent of the family's adjusted income. At least twenty percent of the dwelling units in any project must be occupied

interest to nonprofit and limited dividend sponsors of low- and moderate-income housing for elderly and handicapped persons.

45. Pub. L. No. 94-375.

46. The Housing and Community Development Act of 1977 sets the limit for § 202 loans at \$750 million with a specific set-aside of at least \$120 million in § 8 assistance for the elderly.

47. *See generally* M. LAWTON, PLANNING AND HOUSING FOR THE ELDERLY 37 (1975).

48. 24 C.F.R. § 885.200 (1977).

49. HUD Fact Sheet, HUD-PA-292-9 (1977).

50. Department of Housing and Urban Development, Management Information Systems Division, Assisted Housing Branch (1978) (unpublished data) [hereinafter cited as MISD].

51. Title II, § 201, 42 U.S.C.A. 5301-10 (1977).

by extremely low-income families, defined as those whose incomes do not exceed fifty percent of the median area income. By the end of fiscal year 1977, approximately 1,174,000 units were in operation, of which 290,465 were occupied by the elderly.⁵²

Under Section 8 of the HCDA of 1977,⁵³ HUD provides rent subsidies through assistance contracts with owners of existing housing or developers of new or substantially rehabilitated housing for a specified number of units to be leased by eligible households. Thirty percent of the units leased under the program must be rented initially by households of quite low income, defined as those earning no more than fifty percent of area median income, adjusted for household size.⁵⁴ Housing assistance payments make up the difference between the established rent paid to owners, approximately fair market value, and the occupant's required contribution, not less than fifteen percent and not more than twenty-five percent of their income.⁵⁵ Over forty-seven percent of the Section 8 units through 1978 went to the elderly with almost half of the reservations thus far for older Americans.⁵⁶

After the administration phased out the 202 program in 1969, Section 236⁵⁷ became the primary means, next to public housing, of providing elderly housing. Under this program, HUD makes interest reduction payments to mortgagees to reduce the effective rate of interest paid by the mortgagor to as low as one per cent with benefits passed on to tenants in the form of lowered rents. Assisted families must pay at least twenty-five per cent of their gross income for rent, but not in excess of the fair market rent. Although President Nixon suspended the program in 1973, contract commitments made prior to January 1973 are being met.⁵⁸ From its inception through fiscal year 1977, about 543,000 housing units were constructed under Section

52. MISD, *supra* note 50.

53. § 201, 42 U.S.C.A. § 1437(f) (1977).

54. 24 C.F.R. §§ 880.117, 881.117, 882.113 (1979).

55. 24 C.F.R. §§ 880.108-.118, 881.108, -.118, 882.105, -.106, -.114, 888.101, -.102 (1979).

56. MISD, *supra* note 50.

57. National Housing Act of 1934, § 236, 12 U.S.C. § 1715z-1 (1976).

58. In suspending the program in 1973, the administration charged that the assistance was not great enough to serve very low-income people, the program was too expensive, and default rates were unacceptably high. HUD, HOUSING IN THE SEVENTIES 83 (1974). Originally, the subsidy applied only to mortgage payments and not to rising operating costs. Beginning in 1974, HUD paid additional subsidies to cover operating costs. HUD, HUD Programs 36 (March 1977).

236, of which about 141,000 were for elderly occupancy.⁵⁹

Congress instituted the Section 221(d)(3) mortgage insurance program in 1954.⁶⁰ In addition to market rate units, as of 1961 this program was expanded to include a below-market interest subsidy that pays the difference between three percent and the market rate on the mortgages.⁶¹ It provides insurance for nonprofit, cooperative and limited dividend sponsors to encourage development of multi-family rental housing, new construction or substantially rehabilitated structures. About forty percent of the market rate units and ten percent of the below-market rate units serve elderly households, totaling about 90,000 units.⁶²

The Section 231 program insures mortgages to build or substantially rehabilitate multi-family projects with a fifty percent occupancy rate by elderly or handicapped persons. It provided about 54,600 units for the elderly from 1959-1977.⁶³ The program suffered from a high rate of failure, with close to twenty-three percent of the units in default or foreclosure by 1965.⁶⁴ Although still statutorily active, these failures and a tendency to benefit relatively higher income groups led to reduced use of the program.⁶⁵

Several programs exist to provide loans to assist in the rehabilitation of properties. Section 312⁶⁶ directs federal loans to assist individual property owners to finance the rehabilitation of single-family, multi-family, mixed, non-residential and HUD-acquired home properties up to local code standards. Loans may not exceed \$27,000 per dwelling unit with interest rates of three percent for up to twenty years. The property must be in designated community development areas. Authorization at \$60 million ends in fiscal year 1978.

Under the urban homesteading program, local governments receive vacant HUD-held one-to-four unit properties for eventual sale for \$1 to "homesteaders."⁶⁷ The homesteader must make repairs up

59. MISD, *supra* note 50.

60. Housing Act of 1954, § 221(d), 12 U.S.C. § 1707 (1976).

61. *Id.* § 221(d)(3), 12 U.S.C. § 1707.

62. MISD, *supra* note 50.

63. *Id.*

64. HUD STATISTICAL YEARBOOK 162 (1974).

65. M. LAWTON, *supra* note 47, at 40-41.

66. Housing and Community Development Act of 1977, § 111, 42 U.S.C.A. § 1452(b) (1977).

67. *Id.*, § 203, 12 U.S.C.A. § 1706(e).

to health and safety code standards and then occupy the property as a principal residence for at least three years. As of November 1977, thirty-nine cities participate with allocations of approximately \$20 million in HUD-owned properties.⁶⁸ Congress appropriated \$35 million so far to defray the costs of transferring homes from HUD to city ownership.

b. Program Deficiencies

1. Community Development

For several reasons, these programs do not provide sufficient housing for the elderly in neighborhoods subject to decay or revitalization. The block grants intentionally provide aid for economic development in areas without significant deterioration of the housing stock.⁶⁹ In the first year of the program more funds went to moderate- and middle-income areas than to low- and moderate-income areas. This trend intensified in the second year.⁷⁰ This emphasis on physical improvement to attract middle- and upper-income persons to the city, while permissible under the Act, dislocates lower-income persons.⁷¹

2. Rehabilitation

Even those efforts at rehabilitating present housing stock fail to meet the combined needs of improving the neighborhood while retaining the current residents. Rehabilitation funds come from the CDBG program, section 312, homesteading, and Section 8 funds. All of these programs suffer from a lack of funds, an insufficient rehabilitation industry and restrictive building codes.

The Section 312 rehabilitation loan program suffers from some of the same problems as the CDBG program. A number of studies indicate that localities have not concentrated these funds in low- and moderate-income neighborhoods.⁷² Since ninety-four percent of 312

68. HUD Fact Sheet, HUD-PA-292-21 (1977).

69. H. Berndt, Community Development Block Grant's Effect on Housing in St. Louis, 1975-77, 6 (February 1977) (working paper). For example, out of a total grant of approximately \$48 million, St. Louis spent 15.9% for street improvements, 20.6% for redevelopment areas with only 6.9% for "housing related activities."

70. Ginsburg, *Second Year CDBG Experience: A Summary of Findings of the NAHRO CD Monitoring Project*, 34 J. HOUSING 80-81 (1977).

71. H. Berndt, *supra* note 69, at 11.

72. *Department of Housing and Urban Development—Independent Agencies Appro-*

funds went to single-family homes while the majority of substandard units in city neighborhoods are older multi-family units there is further support for allegations of fund misallocation.⁷³ Even if properly allocated, rehabilitation projects involving rental units suffer from vandalism, poor repairs and rent delinquencies.⁷⁴ Low participation rates of those with the greatest need reflects fears of increased tax assessments resulting from the improvements.⁷⁵ For rental units, such improvements may escalate rental rates beyond the means of the existing tenants.⁷⁶

Older Americans do not readily participate in rehabilitation programs. Reasons for such reluctance range from a lack of "psychic energy" for changes in their homes to a general lack of funds. As one commentator notes concerning the experience in Detroit, "threatened elderly owners were not receptive to modernization even when a city program provided loan funds. Their reaction was a mixture of fear and pride about revealing income, signing a paper about a loan, and not wanting to change their houses."⁷⁷

Urban neighborhoods can benefit in many ways from homesteading programs, especially those involving "sweat-equity" of the buyer. Homesteading can reduce the drain on municipal resources from abandoned city-owned buildings, increase the incentive to reinvestment and unsubsidized homesteading efforts, increase the housing stock and provide employment and training by unemployed union tradesmen for those under CETA programs. In New York City the program has provided economically viable housing for low-income persons because of the elimination of most labor expenses (CETA); use of below market rate financing (Section 312); low site acquisition costs due to a concentration on units in neighborhoods with severe abandonment, high vacancy rates, high employment and a lack of private investment; elimination of contractor's overhead; and, tax

priations for 1978, Hearings Before the House Comm. on Appropriations, Subcomm. on HUD—Independent Agencies, 95th Cong., 1st Sess., part 8, at 55 (1977) (article by Michael Agelasto).

73. N. ROGG, URBAN HOUSING REHABILITATION IN THE UNITED STATES 10 (1977).

74. N.Y. Times, February 6, 1978, at B1.

75. N. ROGG, *supra* note 73, at 11-12.

76. Urban Homesteading Assistance Board, Sweat Equity Homesteading of Multifamily Housing in New York City 5 (1977).

77. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 37.

abatement for resulting increased assessments.⁷⁸

Most community homesteading programs, however, do not produce similar results. Because of the program's smallness, due to subsidization and the use of city-owned properties, many have concentrated efforts in less deteriorated neighborhoods.⁷⁹ The scattered number of units rehabilitated in decaying neighborhoods cannot reverse the decline of the area. Low-income families do not have the initial capital, nor the credit rating or income to obtain a mortgage loan. Cities cannot therefore afford these programs in severely distressed areas even with the limited use of Section 312 funds. Without the attachment of Section 8 assistance to this program, low-income families cannot participate given rising utility and maintenance costs.⁸⁰ Although the reasons remain elusive, older Americans do not participate in these programs; only 3.2% of the applicants and 2.4% of the participants, nationally, are over the age of 62.⁸¹

Whether through block grants, Section 8 rehabilitation programs, homesteading or Section 312, the lack of an adequate rehabilitation construction industry severely limits such efforts. The rehabilitation industry lacks skilled labor, capital and management expertise.⁸² The new construction industry people dislike this kind of work in inner cities because of: 1) a lack of site security; 2) increased costs since it requires more custom work and building codes; 3) a lack of economies of scale with overhead costs over twice that for suburban builders; and 4) a reluctance to deal with the social problems of cities.⁸³ Federal, state and local tax structures provide disincentives for rehabilitation thereby discouraging development of this aspect of the industry.

Neighborhood preservation, the objective of concentrated, extensive rehabilitation efforts, requires that buildings be restored to levels of habitability. In older neighborhoods, however, the enforcement of building codes designed for new construction hinders rehabilitation efforts and attempts at adaptive reuse. Application of modern codes

78. Sweat Equity Homesteading, *supra* note 76, at 4, 6, 18-24.

79. NEIGHBORHOOD CONSERVATION, *supra* note 4, at 78.

80. *Housing and Community Development Amendments of 1978: Hearings Before the Senate Comm. on Banking, Housing and Urban Affairs*, 95th Cong., 2d Sess. 317 (1978) (statement of Richard C. Farrer).

81. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 48-52.

82. N. ROGG, *supra* note 73, at 7-8.

83. *Id.* at 13, 15.

to older structures increases project costs and sometimes results in the destruction of the structure itself.⁸⁴ Code compliance requires the replacement of older materials merely because the standards only refer to modern materials, not necessarily because of performance comparisons.⁸⁵ The modern codes also include performance attributes not conceived of at the time of older construction, such as energy conservation.⁸⁶ While inspectors can grant variances to the code requirements, the information does not exist upon which to base decisions of safety, health and cost for older buildings and, if it did, the cost of obtaining the variance may be prohibitive.⁸⁷

3. Housing Supply

Federal housing programs could provide the most direct means to enable older Americans to remain in their neighborhoods while improving the quality of the homes and thereby the neighborhood. The Older Americans Act of 1965 provides that the elderly should have suitable housing, designed and located with reference to their special needs, at affordable costs.⁸⁸ In pursuit of this goal, the 1971 White House Conference on Aging called for a minimum of 120,000 new federally assisted units annually for the elderly.⁸⁹ Yet, the total number of such units does not approach this figure overall and does not meet the specific needs in the inner city neighborhoods.⁹⁰ For the most part, present programs assist renters, yet a much greater proportion of the elderly own their homes.⁹¹ The rental programs fail to meet the needs of many elderly since they do not provide assistance

84. NEIGHBORHOOD CONSERVATION, *supra* note 4, at 73; N. ROGG, *supra* note 73, at 8, 13, 16.

85. Smith, *Information Structure of Building Codes and Standards for the Needs of Existing Buildings*, in RESEARCH AND INNOVATION IN THE BUILDING REGULATORY PROCESS 454, 465-70 (1977) [hereinafter cited as REGULATORY PROCESS].

86. Kapsch, *Building Codes: Preservation and Rehabilitation*, in REGULATORY PROCESS, *supra* note 85, at 442-43.

87. *Id.* at 450. See also RECYCLING FOR HOUSING, *supra* note 9, at 67.

88. STAFF OF HOUSE SELECT COMM. ON AGING, SUBCOMM. ON HOUSING AND CONSUMER INTERESTS, 94TH CONG., 2D SESS., ELDERLY HOUSING OVERVIEW: HUD'S INACTION 1 (Comm. Print 1976).

89. 1971 White House Conference on Aging, Senate Document No. 92-53, at 12 (1971).

90. MISD, *supra* note 50.

91. See note 38 *supra*.

for services necessary to remain semi-independent.⁹²

c. Neighborhood Housing Services (NHS)

The Urban Reinvestment Task Force (URTF), composed of representatives from HUD, the Federal Home Loan Bank Board, the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, provides information and technical assistance for a nationwide program of neighborhood upgrading. The NHS program invests little money into communities. It acts as a resource base with individual plans based on successful neighborhood models, coordinating private sector investment with local government action.⁹³

The program brings together five basic components:

1) residents who want to preserve their neighborhoods, improve their homes, and who are willing to provide the leadership and make the effort to establish and participate in a NHS program;

2) local government which seeks to improve the neighborhood by making the necessary improvements in public amenities and by conducting an appropriate housing code inspection and compliance program coordinated with NHS activities;

3) a group of financial institutions which agree to reinvest in the neighborhood by making market rate loans for qualified borrowers and tax deductible contributions to the NHS to support its operating cost;

4) a high-risk revolving loan fund to make loans at flexible rates and terms to residents not meeting commercial credit standards; the funds being provided by private foundations, industry or government; and

5) an NHS organization which is a state-chartered, private, nonprofit corporation having a board of directors of which a numerical majority are community residents, along with significant representation from financial institutions, and a three-member staff.⁹⁴

⁹² A survey of 2,000 public housing residents indicated a need for aid in house-keeping, medical services, aid in personal care and aid in meal preparation. *Adequacy of Federal Response to Housing Needs of Older Americans, Part 14: Hearings Before the Senate Special Comm. on Aging*, 94th Cong., 1st Sess. 1009-1010 (1975).

⁹³ The NHS program received \$5.2 million in 1977 for programs in 53 neighborhoods in 46 cities. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 10, at 39.

⁹⁴ P. CLAY, NEIGHBORHOOD REVITALIZATION: ISSUES, TRENDS AND STRATEGIES 98-99 (1978).

The NHS program limits its efforts to deteriorating neighborhoods with sound housing structures (average repair costs of \$5,000), median-income residents (eighty percent of the citywide median), and fifty percent owner-occupied buildings.⁹⁵ According to one 1975 survey, many of these neighborhoods house a higher than normal percentage of elderly residents.⁹⁶ Many older city neighborhoods, however, do not have 1) a high percentage of owner-occupied units (NHS services do not aid the large number of renters), 2) strong neighborhood organizations to carry out the program, and 3) in many cases, residents with incomes that meet the eligibility criteria.⁹⁷ The inapplicability of the NHS program seems especially true in neighborhoods threatened with displacement from private development.⁹⁸

2. State Programs

As indicated above, property tax increases resulting from revitalization have contributed to the displacement of older persons. Since most elderly home owners have paid off their mortgages, property taxes constitute the principal item in their housing budget.⁹⁹ By 1974, all fifty states had taken action on property tax relief programs resulting in the enactment of eighty-three programs in forty-eight states, distributing more than one billion dollars in benefits to at least 9.5 million claimants.¹⁰⁰

95. Stupnick, *NHS: An Approach to Urban Renewal*, FED. RES. BANK OF CLEVELAND ECON. COMMENTARY, May 2, 1977, at 2.

96. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 40.

97. NEIGHBORHOOD REVITALIZATION, *supra* note 94, at 101.

98. Neighborhood Redevelopment, *supra* note 12, at 23.

99. ABT ASSOCIATES, PROPERTY TAX RELIEF PROGRAMS FOR THE ELDERLY 45 (1975) (Final Report) [hereinafter cited as ABT FINAL REPORT].

100. *Id.* at 3; Advisory Commission on Intergovernmental Relations, Property Tax Circuit Breakers: Current Status and Policy Issues 1 (1975) (Information Bulletin M87). This resulted in the enactment of relief programs in 48 states. ABT ASSOCIATES, PROPERTY TAX RELIEF PROGRAMS FOR THE ELDERLY 11 (1975) (Compendium Report) [hereinafter cited as ABT COMPENDIUM REPORT]. The New Hampshire Supreme Court declared its first elderly relief plan unconstitutional, *Felder v. City of Portsmouth*, 114 N.H. 573, 324 A.2d 708 (1974). The legislature enacted a new plan, so far untested: N.H. REV. STAT. ANN. §§ 72:38a-64 (1975). South Dakota repealed its homestead exemption for the elderly for a sales tax credit. S.D. COMPILED LAWS ANN. § 10-4-24 (1976). For a list of characteristics such as eligibility, tenure type, state residency, relief formula, average benefit, and financing, see ABT COMPENDIUM REPORT, *supra*, at 112-48.

Approximately 3,253,000 households received property tax relief through state-mandated¹⁰¹ circuit breaker programs in 1974.¹⁰² Under these programs, the property tax bill can only reach a certain amount (percentage of income or set limit for certain income groups) beyond which the person need not pay or can receive a rebate. Some of the programs offer relief to renters in the form of a deferral or rebate of the percentage of rent attributable to property taxes.¹⁰³ In 1974, twenty-five programs in twenty-four states disbursed nearly \$500 million in benefits with an average payment of \$143, ranging from \$19 to \$224.¹⁰⁴

Homestead exemption programs exempt from taxation a portion (or all) of the assessed value (or the actual tax bill) of the principal residence of the family or individual. Forty such programs distrib-

101. There are local option programs which authorize but do not mandate local taxing jurisdictions to provide property tax relief for the elderly. R.I. GEN. LAWS §§ 44-3-13, 16 (1976); UTAH CODE ANN. §§ 59-7-2.5 (1977); VA. CODE § 58-760.1 (1974).

102. This includes 761,000 claimants in programs exclusively for the elderly, 1,021,000 in programs primarily for the elderly and 113,000 elderly claimants among those receiving benefits under programs for all ages. ABT COMPENDIUM REPORT, *supra* note 100, at 18.

103. ARIZ. REV. STAT. ANN. § 43.128.01(a) (West 1977); COLO. REV. STAT. § 39-3-101(II)(A) (1976); CONN. GEN. STAT. ANN. §§ 12-170(a) to (h) (West 1977); ILL. ANN. STAT. ch. 120, § 500.23-1 (Supp. Smith-Hurd 1978); IND. CODE ANN. § 6-1.1-12-9 (Burns 1976); IOWA CODE ANN. § 425.1 (West 1977); ME. REV. STAT. ANN. tit. 36, §§ 6101-6119 (Supp. West 1978); MICH. COMP. LAWS ANN. §§ 206.514 to .532 (1977); MINN. STAT. ANN. §§ 290.06 to .066 (West 1976); MO. ANN. STAT. § 10-6a (Vernon 1976); NEV. REV. STAT. §§ 361.800 to .877 (1973); N.D. CENT. CODE § 57-02-08.1 (1972); OR. REV. STAT. § 310.640 (1975); W. VA. CODE § 11-25-1 to -11 (1976); WIS. STAT. ANN. § 71.09(7) (West 1977).

104. ABT COMPENDIUM REPORT, *supra* note 100, at 19; ABT FINAL REPORT, *supra* note 99, at 3. The following states have circuit breaker programs: ARIZ. REV. STAT. ANN. § 43.128.01(a) (West 1977); ARK. STAT. ANN. §§ 84-2021.4 to .17 (1977); CAL. REV. & TAX CODE §§ 20501-20646 (Deering 1979); COLO. REV. STAT. §§ 39-3-101(II)(A), 39-22-120 (1976); CONN. GEN. STAT. § 12-170(a) to (h) (1979); IDAHO CODE §§ 63-117 to -120 (1976); ILL. ANN. STAT. ch. 120, § 500.23-1, ch. 67-1/2, §§ 401-422 (Supp. 1978); IND. CODE § 6-1.1 to 12-9 (1976); IOWA CODE ANN. § 425.1 (West 1977); KAN. STAT. ANN. §§ 79-4502 to -4519 (1975); ME. REV. STAT. ANN. tit. 36, §§ 6101-6119 (West 1978); MD. GEN. PROV. CODE ANN. § 81-12F-2 (1977); MICH. COMP. LAWS ANN. §§ 206.514-.532 (1977); MINN. STAT. ANN. §§ 273.012, 290.06-.066 (West 1976); MO. ANN. STAT. § 10-6a (Vernon 1976); NEV. REV. STAT. §§ 361.800-.877 (1973); N.M. STAT. ANN. §§ 24-6-1 to 2 (1975); N.D. CENT. CODE § 57-02-08.1 (1972); OKLA. STAT. ANN. tit. 68, §§ 5001-5009 (West 1977); OR. REV. STAT. § 310.640 (1975); W. VA. CODE §§ 11-25-1 to -11 (1976); WIS. STAT. ANN. § 71.09(7) (West 1977).

uted more than \$1 billion to at least 6.3 million claimants in 1973.¹⁰⁵ Benefits averaged \$173 per claimant ranging from \$42 to \$466.¹⁰⁶ Unlike the popular circuit breakers, these programs are severely criticized for being too costly in relation to perceived benefit, inefficient in not adjusting for owner income levels, and negligent in not covering renters.¹⁰⁷

Five states have property tax deferral programs (liens): Massachusetts, Oregon, Texas, Utah and Virginia.¹⁰⁸ Under these plans, the relief applies as a lien on the property itself, payable a year or two after the party's death (or upon sale of the property). Based on this limited data, tax deferral schemes do not seem to benefit the elderly because of their extremely low participation levels.¹⁰⁹ Low participation rates in these voluntary programs have been attributed to a desire on the part of the elderly to leave their property unencumbered.

Under tax freeze schemes, the claimant's property tax liability cannot exceed in any one year that amount paid for the same property in the "base year," usually defined as the year the claimant reached sixty-five years old.¹¹⁰ Tax freezes can, therefore, be especially bene-

105. ABT FINAL REPORT, *supra* note 99, at 3. The following states have homestead exemption programs (several states have multiple programs); ALA. CODE tit. 40, §§ 40-9-19, -21 (1975); ALASKA STAT. § 09.35.090 (1977); CAL. REV. & TAX CODE §§ 20501-20646 (Deering 1977); FLA. STAT. ANN. §§ 196.011-.091 (Supp. West 1978); GA. CONST. art. 7, § 7, par. 4; HAW. REV. STAT. § 246-26(d) (1976); ILL. ANN. STAT. ch. 120, § 500.23-1 (Supp. Smith-Hurd 1977); IND. CODE § 6-1.1-12-9 (1976); IOWA CODE ANN. § 81-12F-2 (1977); MASS. ANN. LAWS ch. 59, § 5(17), (41), (41A) (Michie/Law Co-op 1978); MINN. STAT. ANN. §§ 290.06-.066 (West 1976); NEB. REV. STAT. § 77-202.13 (1976); N.J. STAT. ANN. §§ 54:4-8.40 to .54 (Supp. West 1978); N.M. STAT. ANN. §§ 24-6-1 to -2 (1975); N.C. GEN. STAT. § 105-277.1 (Supp. 1977); N.D. CENT. CODE § 57-02-08.1 (1972); OKLA. STAT. ANN. tit. 68 §§ 5001-5009 (West 1977); S.C. CODE § 12-37-250 (1976); TENN. CODE ANN. § 67-645 (1976); TEX. CONST. art. 8, § 1-b; WASH. REV. CODE ANN. §§ 84.36.370-.385 (Supp. 1978); W. VA. CODE §§ 11-25-1 to -11 (1976); WYO. STAT. ANN. § 39-1-204 (Supp. 1979).

106. This represents data from 17 of the 40 programs identified. ABT COMPENDIUM REPORT, *supra* note 100, at 27.

107. COUNCIL OF STATE GOVERNMENTS, STATE TAX RELIEF FOR THE ELDERLY (1976) [hereinafter cited as COUNCIL OF STATE GOVERNMENTS].

108. MASS. ANN. LAWS ch. 59, § 5(17), (41), (41A) (Michie/Law. Co-op 1978); OR. REV. STAT. § 310.640 (1975); TEX. CONST. art. 8, § 1-b; UTAH CODE ANN. § 59-7-2.5 (1974); VA. CODE § 58-760.1 (1974).

109. ABT FINAL REPORT, *supra* note 99, at 62; COUNCIL OF STATE GOVERNMENTS, *supra* note 107, at 2-3.

110. Only Connecticut, CONN. GEN. STAT. § 12-170(a)-(h) (1979), and Minnesota, MINN. STAT. ANN. §§ 290.06-.066 (West 1976), use tax freezes. While all homeowners with increasing home values and property taxes would receive aid, those eld-

ficial in revitalizing areas. Very few states use other types of relief programs.¹¹¹

In 1976, combined state and local government revenues totaled \$156.8 billion with \$57 billion from property taxes, forty-eight percent of this from owner-occupied homes or residential rental units.¹¹² Consequently, any extensive relief under the present system relies on state and local budget surpluses or alternative sources of funding.¹¹³ Various alternatives explored to offset reductions in property tax revenues, but rejected as insufficient by themselves, include: hotel/motel tax; liquor by the drink tax; local option sales tax.¹¹⁴ Except for the local option sales tax, such alternatives significantly injured the industry being taxed at levels sufficient to provide enough revenue. The property tax revolt disciples of 1978 may have found their own solution.

These costs, the low participation levels and the lack of evidence to support the assumption that those who most need aid receive it, call into question the ability of these relief plans to accomplish the intended goals of home retention and neighborhood conservation.¹¹⁵ The modest levels of relief and the failure to earmark such funds for housing repairs leaves doubt as to the ability of property tax relief mechanisms to specifically help the elderly to remain in their neighborhoods.¹¹⁶

erly homeowners with relatively high household incomes and relatively valuable homes would receive higher amounts of relief, perhaps unnecessarily. ABT FINAL REPORT, *supra* note 99, at 57-58.

111. Only New Mexico currently operates a comprehensive tax credit: N.W. STAT. ANN. §§ 24-6-1 to -2 (1975). Renter's credit plans: ARIZ. REV. STAT. ANN. § 43.128.01(a) (West 1977); CAL. REV. & TAX CODE §§ 20501-20646 (Deering 1979); IND. CODE § 6-1.1-12-9 (1976); MINN. STAT. ANN. §§ 290.06-290.066 (West 1976).

112. U.S. DEP'T. OF COMMERCE, BUREAU OF THE CENSUS, STATISTICAL ABSTRACT 288 (1978); COUNCIL OF STATE GOVERNMENTS, THE BOOK OF THE STATES, 1978-79 287 (1978).

113. Michigan Governor's Advisory Task Force on Property Tax Revision, The Governor's Advisory Task Force on Property Tax Revision 7 (December 1976).

114. C. Merz & D. Groebner, Study of Alternatives to the Property Tax for the City of Boise 1, 21-52 (December 1976).

115. ABT FINAL REPORT, *supra* note 99, at 3-4, 45; *Tax Hearing Held at Los Angeles, California on November 13, 1975*: Calif. Senate Comm. on Revenue & Taxation 117-20 (statement of Chester Knutilla).

116. ABT FINAL REPORT, *supra* note 100, at 49-50; S. Rep. No. 88, 95th Cong., 1st Sess. 56 (1976).

III. ALTERNATIVES

Arguably, many of the proposed solutions to the reinvestment/displacement dilemma should be implemented at the local level.¹¹⁷ Remedies such as speculation taxes, rent control, counseling, options and restrictive covenants must be analyzed according to the unique investment climate of each neighborhood and locality. The federal government, however, must take some action to change federal programs that enhance the problems and allow self-serving local government officials to deal with only part of the problem—namely, how to promote reinvestment. This can include the monitoring and amending of existing programs or acting as a catalyst for new efforts. The following general ideas merit further exploration as programs that minimize displacement while improving the neighborhood condition so as to attract business and some new residents.

A. *Community Development Block Grants*

1. Reorientation Towards More Distressed Areas

To ensure the allocation of CD monies to low- and moderate-income areas, instead of the present moderate-to middle-income orientation, a more stringent formula could be developed to force expenditures in more distressed areas. One recommendation out of HUD would ensure that seventy-five percent of these resources go to low- and moderate-income housing and rehabilitation.¹¹⁸ These decaying areas have the more severe financial problems and do not receive a proportionate share of the funds under the present formulas. By lowering the housing prices, through subsidization of property acquisition and rehabilitation, residents will have more funds available for consumption to retain and draw in business. The general improvement in the neighborhood will attract, presumably, higher income persons to further aid the financial problems of the neighborhood and the city. Given the expanding NHS program, CD funds can be taken from the slightly deteriorating neighborhoods for use in the severely distressed areas.

On the other hand, some observers contend that the most severely depressed areas cannot be saved without a total reconstruction. The problems have become so inherent to the area and the residents that

117. K. Kollias, Displacement Issue Paper, Part V (1978) (rough draft) (HUD).

118. K. Kollias, Recommendations for Preventing Displacement (Sept. 30, 1977) (internal HUD memorandum).

only a complete population turnover can succeed to improve this type of neighborhood. They argue therefore that CD monies should go to less severe areas where housing programs can be of some help. In these other neighborhoods, they recommend the use of UDAG grants for economic development. They also assert that the use of CD funds in these greatly deteriorated areas can only result in the displacement of the residents without the economic development necessary for city rebuilding.

2. Neighborhood Impact Statement

One immediate action that could aid policy-making on these issues involves the use of neighborhood impact statements. Like the environmental impact statement, a statement about the short- and long-range impacts on a neighborhood from the proposed use of the CD funds would increase the knowledge used by policymakers. It also would force localities and neighborhood leaders to develop solutions and an awareness of the problems beyond those created by the innovative grants program.¹¹⁹

Such a proposal, however, could create several problems. First, it will involve additional paperwork and study by the localities or neighborhood organizations which increase costs and causes delays. Second, the expertise may not be available in all areas subject to displacement to develop such impact statements. Third, it may exacerbate conflicts between localities as applicants filling out the statement, and individual neighborhoods critical of the representations being made.

3. Expansion of Housing Stock

Significant expansion of the housing stock offers one way to ease the tensions between current and potential future residents of urban neighborhoods. The following represent some ideas for increasing housing which the federal government can promote under the block grant program. Abandoned structures represent a significantly under-used city resource. This includes not only abandoned housing, used in homesteading programs, but also empty office buildings, supermarkets and factories.¹²⁰ Some studies indicate that up to seventy-five percent of these structures can be rehabilitated at about one-

119. The National Association of Neighborhoods (NAN) began developing a model statement at their conference on displacement in April 1978.

120. N.Y. Post, October 4, 1976, at 19.

half the cost of new construction.¹²¹ Cost comparisons of this adaptive reuse with new construction also prove quite favorable, especially when compared to the blight of abandonment or the alternative of displacement.¹²²

Rising property values in revitalizing neighborhoods could discourage the acquisition and rehabilitation of properties for low- to moderate-income housing. Land banking, the idea of a city forming a nonprofit corporation to purchase housing at low values in areas of future revitalization, and reselling after appreciation with tenants protected by appropriate controls, could help in these neighborhoods.¹²³ It would, however, require a much more extensive data base and monitoring system.

B. *Rehabilitation Programs*

1. Section 312

To aid the elderly in decaying neighborhoods, either directly or indirectly through overall neighborhood improvement, Section 312 funds must be increased and concentrated in distressed areas.¹²⁴ A shifting emphasis to rehabilitation can cut costs in comparison to new

121. *Id.* For example, contractors in Lewiston, Maine are converting an old warehouse into low- and moderate-income housing for the elderly. HUD CHALLENGE, April 1978, at 16. In Los Angeles, they have one project underway (The Pacific Telephone Building) and another under study (The Arcade Building) to recycle old office buildings into high-rise apartments for the elderly. Letter to the author from James Bonar, Executive Director of the Los Angeles Community Design Center (March 13, 1978). They use Title I funds for acquisition, Section 8 for rent subsidies and sometimes direct loans under Section 202. As long as the apartments provide a high degree of privacy, high rises do not seem to offend older Americans. Lawton, Nahemow & Teaff, *Housing Characteristics and the Well-Being of Elderly Tenants in Federally Assisted Housing*, 30 J. GERONTOLOGY 601 (1975).

122. RECYCLING FOR HOUSING, *supra* note 9, at 70; Wall Street J., August 12, 1977, at 26.

123. 1977 *Hearings on Neighborhood Diversity*, *supra* note 1, at 7 (statement of Nicholas Carbone). One group in Philadelphia, Community Housing for the Elderly, Inc., purchased semi-detached two-story homes from private owners for conversion into three independent living facilities for the elderly. R. Krakow, *Converting Central City Housing to Use by the Elderly*, HUD CHALLENGE, May 1975, at 14. While it used federal rent supplements and Section 236 funds, in potential displacement neighborhoods such structures could be converted under a combined land-banking, adaptive reuse program. This could be supported with CD funds.

124. The current administration and leading members of the Senate Banking Committee support increased funding of this program. 124 CONG. REC. S. 4640 (daily ed. April 3, 1978).

construction, reduce the amount of materials needed and increase the taxpaying housing stock in a shorter period of time.

As in all programs that improve the housing stock, however, a choice must be made between saving the city for current residents or improving it to attract newcomers. Boston, Chicago and Cleveland target much of their rehabilitation toward existing owner-occupants.¹²⁵ A program in Detroit, specifically for the elderly, uses CDBG and Title III¹²⁶ funding to support a pilot program emphasizing the restoring of homes by retired union people to liveable, as opposed to code enforcement, standards.¹²⁷ Nationwide, rehabilitation loans would have to be made available in reinvestment areas, not just designated CD areas, and for multi-family units, to prevent massive displacement.¹²⁸

2. Urban Homesteading

The urban homesteading program also would require additional funding for rehabilitation, an expansion to multi-family structures and a general increase in the number of units to substantially assist in the need for low-income housing.¹²⁹ It could be expanded by including VA-owned properties and using more CDBG and Section 312 funds.¹³⁰ This would greatly increase the number of units available.

Developers of these two programs also intended that they attract middle- and upper-income persons back to the city. Therefore, emphasis on multi-family low-income units in potential "displacement" areas with restrictions to protect existing residents will meet with some opposition from local leaders and investors. Better coordination of the rehabilitation program with urban homesteading may help to appease these apparently opposite positions.

This could be accomplished by limiting homesteading to vacant single-family units and *not* providing extensive rehabilitation funding, thereby limiting participation to persons who would be financially able to participate. In poorer neighborhoods, even with increased use of limited Section 312 funds, "sweat-equity" would

125. N. ROGG, *supra* note 73, at 12.

126. Older Americans Act of 1965, 42 U.S.C. §§ 3001-3025 (1976).

127. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 38.

128. Displacement Issue Paper, *supra* note 117.

129. *Id.*

130. See S. 2931, 95th Cong., 2d Sess. (1978) (sponsored by Senators Lugar, Griffin, Heinz, Garn and former Senator Brooke).

have been necessary for low-income individuals to benefit. This effectively excluded the elderly along with many unskilled individuals not now reached by the CETA training program. By restricting participation in the homesteading program, fewer low-income multi-family units would be reduced to single-family. In addition, it will not deplete rehabilitation funds needed for lower-income persons as indicated above.

Home-ownership incentives for low- to moderate-income persons must be retained in a neighborhood preservation program. Tenant cooperatives, to be examined further below, from existing multi-family units provide this ownership possibility. In addition, a suggested HUD down-payment program¹³¹ would enable moderate-income families to purchase into the extensive single-family home stock in blighted neighborhoods¹³² if they can afford to pay the operating costs. This combination of programs could create a healthy mix of heterogeneous groups within neighborhoods.

Federal investment, through rehabilitation loans, will not by itself sufficiently stimulate the construction industry to redirect its efforts nor encourage private funding of rehabilitation projects. While some city building trade unions have agreed to wage cuts on HUD projects,¹³³ the industry in general, with private market support, emphasizes new construction. Congress can provide further incentive with alterations in federal tax laws and financial regulations. Tax devices to spur rehabilitation activity include tax credits, deductions and repeal of the Tax Reform Act of 1977, Section 2124, which provides incentives for developers under the guise of historic preservation. To help residents, a program of rapid depreciation for rehabilitation of older units should be granted for rental properties and for non-business single-family homeowners.¹³⁴ In addition, fed-

131. F. SMITH, *RIP-OFF AND REINVESTMENT, A REPORT ON SPECULATION AND EVICTIONS IN WASHINGTON*, D.C. 21 (1977).

132. NEIGHBORHOOD CONSERVATION AND THE ELDERLY, *supra* note 9, at 48; HOUSING RENOVATION, *supra* note 13, at 3. New York City operates a small Home Improvement Program (SHIP) with city- or HUD-owned units and FHA mortgages. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 53 (statement of Robert Schur).

133. Harrington, *Contractor Understanding Relative to Rehabilitation Costs*, in *REGULATORY PROCESS*, *supra* note 85, at 492.

134. N. ROGG, *supra* note 73, at 26; Recommendations for Preventing Displacement, *supra* note 118; *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 58 (statement of Coalition for Human Preservation).

eral regulations should be reviewed to remove language, such as the informal "rule of 60,"¹³⁵ which inhibits lending for rehabilitation or for rehabilitated properties.¹³⁶

Present building code regulations inhibit rehabilitation attempts. The benefits of uniformity weigh against the significant hindrance stringent enforcement places upon the improvement of older structures. The federal government can provide funding to develop model codes designed for rehabilitation as distinct from the standards for new structures.¹³⁷ The National Institute of Building Sciences (NIBS)¹³⁸ could help to develop this code and sell it to the states. Adoption of such a standard could save millions of dollars under federal rehabilitation programs currently forced to meet costly new construction standards.

Effective rehabilitation programs necessarily increase property assessments and taxes causing secondary displacement. Suggested local remedies, with possible federal financial support, include a tax moratorium on rehabilitation related assessment increases or an agreement with assessors to consider rehabilitation as deferred maintenance rather than property improvement.¹³⁹ At the federal level, the government could either directly subsidize current state property tax relief laws or provide for credits against federal income tax.¹⁴⁰ To assist elderly persons to remain in their neighborhoods, or, at least not to fear the results of home improvement, these bills must provide relief to both homeowners and renters. An effective property tax relief program should also provide some means of informing older Americans of the available relief to prevent the low participation rates of present state programs. The ABT Associates Study, because of the high costs and general ineffectiveness of state programs,

135 Lenders avoid approving loans when mortgage term plus property's age exceeds 60.

136 N. ROGG, *supra* note 73, at 22.

137 S. 2637, Amend. No. 1819, 95th Cong., 2d Sess. (1978) (Sen. William Proxmire). See *Draft Rehabilitation Guidelines*, 44 Fed. Reg. 63760 (Nov. 5, 1979) (guidelines for localities to follow in developing building codes for rehabilitation).

138. NIBS is a nonprofit, nongovernmental organization authorized by Congress in the HCDA of 1974, 12 U.S.C. § 1701j-2 (1976), to collect, evaluate and disseminate information on building science and technology related to national standards.

139. 1977 *Hearings on Neighborhood Diversity*, *supra* note 1, at 59 (statement of William A. Whiteside).

140. H.R. 12523 (Mr. Maguire); H.R. 10973 (Mr. Walker & Mr. Cunningham); H.R. 10832 (Mr. Findley). Other such bills have been referred to the House Ways and Means Committee during the 95th Congress.

recommended against a federal program.¹⁴¹ One alternative would be a uniform federal act providing a minimum standard for states, like the proposed federal no-fault automobile insurance legislation.¹⁴²

3. Reverse Annuity Schemes (RAMS)

A reverse annuity allows a household to convert the equity in its home into a stream of income, or lump-sum payment, while the owner retains the right to live in the house until death without any repayment obligation during his/her life. There are two general types of reverse annuities: split equities and non-repayable loans. Under split equity contracts, the owner retains the right of lifetime occupancy, selling the residual equity, such as the right to dispose of the property.¹⁴³ Non-repayable loans involve a pattern of rising indebtedness not repayable during the borrowers life unless the property is sold.¹⁴⁴ These schemes can allow elderly homeowners to remain in their neighborhoods while contributing to the revitalization movement.¹⁴⁵

Elderly homeowners have a considerable amount of debt-free equity.¹⁴⁶ Currently, these homeowners who wish to remain must and do forego maintenance expenditures.¹⁴⁷ Under an annuity scheme, funds are made available to cover these expenditures in declining ar-

141. ABT FINAL REPORT, *supra* note 99, at 147.

142. Instead of using the federal act as a minimum standard, usually met with opposition, it could be treated as a model code for voluntary adoption by each state.

143. Guttentag, *Reverse Annuity Mortgages, How S & L's Can Write Them*, 10 FED. HOME LOAN BANK BOARD J. 18, 19 (1977).

144. *Id.*

145. The director of an equity conversion scheme in Chicago outlined the objectives as: 1) to lower the housing costs of participating seniors to equal one-fourth of their income; 2) to generate additional monthly income to supplement their social security and pension; 3) to improve and conserve their homes; and 4) to contribute toward neighborhood revitalization. G. Wang, *Elderly Housing and Equity Conversion Program 1* (Nov. 10, 1977) (draft prospectus).

146. In Chicago alone the sale of one-half of the homes owned by the elderly at a minimum of \$5,000 would result in a fund of \$320 million. *The Impact of Rising Energy Costs on Older Americans: Hearings Before the Senate Special Comm. on Aging*, 95th Cong., 1st Sess. 253 (1977) (statement of G. H. Wang). Conservative estimates of net equity of homeowners aged 65 years and over have been made at \$90 billion. Guttentag, *supra* note 143, at 19.

147. The lack of assets other than their homes and the reluctance of banks to give loans to the elderly both contribute to the scarcity of funds with which to preserve their homes and the neighborhood. Guttentag, *supra* note 143, at 19.

eas or to offset rising property tax payments in revitalized neighborhoods.¹⁴⁸ Such schemes will require the voluntary interest of elderly homeowners.¹⁴⁹ In addition, government action may be necessary to ensure high levels of participation.¹⁵⁰

C. *Tenant Cooperatives*

Elderly renters constitute a large segment of those affected by revitalization.¹⁵¹ Cooperative or community ownership of housing can provide a viable alternative to renting.¹⁵² Although not intended as a solution for all older persons subject to displacement pressures, it can aid renters who wish to own their dwellings. Cooperatives can minimize displacement of the elderly without further eroding the city tax base.¹⁵³

148. G. H. Wang, Comparison Between Chicago Elderly Housing and Equity Conversion Program and Savings and Loan Association Reverse Mortgage Program 1 (Dec. 21, 1977) (memo from Neighborhood Redevelopment Assistance, Inc., Chicago, Illinois).

149. Some contend that the concern for a bestowal of wealth through estates to heirs is declining. Guttentag, *supra* note 143, at 18-19. On the other hand, the elderly do not participate in property tax deferral schemes, *see* notes 108, 109 and accompanying text *supra*, because they wish to transmit lien-free homes to their heirs. R. STRUYK, *supra* note 9, at 83.

150. The private sector cannot, at present, write reverse annuity contracts under existing federal regulations. Guttentag, *supra* note 143, at 23. Even if it could, the banks would not extend contracts in declining neighborhoods without a significant reduction in the monthly income. *Id.* Given the deteriorated nature of revitalization areas prior to renewal, rehabilitation, not provided by private schemes, will be required prior to the sale of the home and will require federal aid. G. H. Wang, *supra* note 148, at 2.

151. *See* note 38 *supra*.

152. In the former, the residents of the units own the house while a community-based non-profit corporation retains ownership in the latter.

153. Cooperatives can "provide a way to stabilize neighborhoods, to improve the housing stock, and at the same time, to provide housing at a reasonable price for people of different income levels." Eden, *Cooperative Housing—A Visible Alternative to the Rental Market*, HUD CHALLENGE, March, 1978 at 26. In addition, it represents a particularly appealing alternative for the elderly desirous of communal living outside of public congregate housing. E. Kirshner & J. Rubenzahl, Pilgrim Terrace Feasibility Study 15 (Feb. 5, 1977); E. Kirshner & J. Rubenzahl, Cooperative Housing Feasibility Study: Davis, California II-16 (March 15, 1977); 1977 Hearings on Neighborhood Diversity, *supra* note 1, at 74 (statement of William Whiteside).

Local governments can encourage cooperatives through lending or technical assistance. They can directly loan to cooperatives from public savings or provide low-interest loans through use of their own borrowing powers. K. KOLLIAS, NATIONAL CONFERENCE ON NEIGHBORHOOD COMMERCIAL REVITALIZATION 192 (1975).

The cooperative allows elderly renters, or previous homeowners, to remain in their present neighborhood. Groups obtain original ownership in one of two ways. Tenants, acting collectively, can purchase multi-family dwellings from private owners.¹⁵⁴ Another scheme, operating in New York City, provides for the sale of city-owned buildings acquired through foreclosure to the cooperative organization.¹⁵⁵ Unlike renters, cooperative members do not suffer from rising rents or turnovers in ownership due to landlord speculation. The initial monthly charge is fixed subject only to increases in local taxes, utilities or other operating costs.¹⁵⁶ Finally, ownership reduces costs by allowing access to property tax rebates, income tax deductions and general cost savings from ownership.¹⁵⁷

By improving the housing stock, cooperatives can improve neighborhoods, thereby increasing the tax base without displacement. Without home ownership, neighborhood improvements result in speculation and other "quick turnover" schemes which significantly raise rents.¹⁵⁸ Unlike absentee owners, cooperative owners will maintain the buildings out of their own self-interest in keeping down the monthly charges.¹⁵⁹ Ownership interest results in lower payment delinquency rates, decreased turnover rates and decreased vandalism.¹⁶⁰ This stabilizes neighborhoods, attracting business back into the area.¹⁶¹

154. This can be done at a relatively nominal price if done immediately prior to the reinvestment surge in price. Otherwise, some subsidy may be necessary. For example, § 321-a of the New York State Welfare Law allows welfare recipient tenants up to \$750 to purchase a cooperative interest. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 51 n.3 (statement of Robert Schur).

155. *1977 Hearings on Neighborhood Diversity*, *supra* note 1, at 51 (statement of Robert Schur).

156. The principal and the interest payments remain fixed for the life of the mortgage with initial entry costs as low as the equivalent of one- or two-months' rent. Eden, *supra* note 153.

157. Lower vacancy rates, elimination of refinancing and other real estate transfer costs, increased long-term residency and economics of scale in management and maintenance all add to the cost savings. K. KOLLIAS, NATIONAL CONFERENCE ON NEIGHBORHOOD COMMERCIAL REVITALIZATION 192 (1975).

158. *Id.*, at 191.

159. Eden, *supra* note 153, at 26-27.

160. In Armistead Garden, Baltimore, as public housing, there was a 30% rent delinquency rate, 250 of 1,523 vacant units, high turnover rates and extensive vandalism. After conversion to a cooperative the vandalism stopped, vacancies were reduced to zero in six months and rent delinquency dropped to one percent. *Id.* at 27.

161. The lower turnover rate makes the market more stable. In addition, the low

IV. CONCLUSION

Two distinct neighborhood situations which affect older Americans have evolved in the past decade. Some urban neighborhoods have declined substantially due to population losses of relatively high-income individuals. Economic decline with its concomitant increase in unemployment, vandalism, drug use and deteriorated housing structures typifies these areas. Because of the high proportion of elderly in major metropolitan areas, they feel the effects of this decline to a greater extent than other age groups. In addition, the generally low incomes, reduced mobility and health problems of the elderly make them more susceptible to street crime and feelings of helplessness in these areas.

In other urban neighborhoods with large numbers of elderly residents, private revitalization efforts have created displacement. At the initial stages, relocation occurs as the result of substantial losses through conversion of low-income units. Later, the massive amounts of rehabilitation cause rising property value assessments and increased property taxes. Despite state relief programs, these increases force out fixed-income groups, including older Americans. In fact, the elderly represent perhaps the group most often displaced from these neighborhoods.

Congress should reexamine the role of the federal government in the reinvestment and displacement phenomenon. While it can retain the concept of local initiative, it can also monitor redevelopment and provide federal programs within which localities can minimize displacement and still improve neighborhoods to attract a limited number of higher-income persons.

Various modifications of the block grant program merit further study. One proposed change offers a strict formula for allocating the limited funds to low- and moderate-income housing and rehabilitation in more severely depressed areas. Federal monies would assist in the worst areas while the private sector, under NHS program, seeks to improve the more stable areas. Those proposing this change argue that it will attract business and people back into these decaying neighborhoods while the less dilapidated neighborhoods can assist themselves. Their opponents contend that these severely distressed areas cannot be saved without a total population turnover and fed-

cost allows residents a greater percentage of their income to support the local businesses. *Id.*

eral aid should be concentrated in areas where funds can actually improve living conditions.

Under either concentration of funds formula, the danger exists that improvements with federal funds will lead to the displacement of existing residents. To study this problem, the National Association of Neighborhoods recommends the inclusion of a "neighborhood impact statement" in Community Development (CD) applications. This statement about the short-run and long-range impacts on a neighborhood from the use of the CD monies would force localities to learn more about displacement and possible solutions. Before this could be included in the application, however, Congress must study the possible deterrent effect of such a statement on CD applicants because of the cost, time and expertise needed to develop it.

Congress can use the incentive of the possible receipt of CD funds to stimulate localities to creatively expand their low-income housing stocks. Abandoned structures, including old housing, office buildings and factories, represent a significantly under-used resource in urban areas. Cities can stimulate the rehabilitation and adaptive reuse of such structures with Title I funds. For revitalizing areas, where property values may preclude the purchase of property for low- to moderate-income housing, localities can engage in land banking prior to the rise in values thereby increasing the potential housing stock.

The two major rehabilitation programs, Section 312 and urban homesteading, currently do not reach sufficient numbers of units, or enough multi-family units, to improve the overall neighborhoods. The lack of concentrated improvement in distressed areas prevents any significant visual change in a neighborhood which could lead to increased owner-occupancy and a desire on the part of existing residents to contribute to the overall neighborhood improvement. In addition, the problem of whether to rehabilitate for existing residents or to offer rehabilitation incentives for returning higher-income groups remains.

Better coordination of these two programs could help to appease both groups. By limiting homesteading efforts to single-family units and not providing extensive rehabilitation loans for these homes only higher-income groups would be able to participate. While removing this incentive for homeownership from lower-income persons, it will attract financially capable persons to the program while not removing lower-income multi-family units from the market. For lower-income groups, rehabilitation loans and expansion of tenant cooperatives,

provide the possibility of ownership and financial aid to increase the low-income housing stock.

Three problems remain even after improvement of these two programs with expanded rehabilitation efforts; lack of a rehabilitation construction industry; inflexible building codes; property tax increases. Various federal tax laws and regulations do not stimulate investment in rehabilitation which hinders the development of the industry. Congress should examine and revise these before investing further in massive rehabilitation efforts. Second, the federal government should assist in the development of building codes designed specifically for rehabilitated structures, as opposed to new buildings, to preserve buildings and lower the costs of rehabilitation. Third, Congress must consider some action on property relief schemes, either federal relief, a model statute, or a minimum uniform act, to allay fears of property tax increases of those potentially interested in the federal rehabilitation programs.

Reverse annuity schemes (RAMS) represent a unique financing program to aid elderly homeowners, including tenant cooperative members, to meet rising maintenance, energy and property tax costs in decaying and revitalizing neighborhoods. A reverse annuity provides a steady income for the elderly person who sells the equity in his/her home while retaining the right to live in the home. Elderly homeowners who wish to remain must and do forego needed maintenance expenditures. Federal support of this scheme allows for its use in declining neighborhoods, where savings and loan associations would not participate, to fully use the vast amount of home equity accumulated by older Americans, even in urban areas.

Tenant cooperatives allow for ownership to renters, an important aspect of neighborhood conservation. As these projects evolve, Congress will need to know more about cooperatives, their financing, advantages and disadvantages. Localities can finance these projects with loans from public savings or use of local borrowing powers. Federal financing, however, would allow for a faster growth of the concept and expansion at its initial experimental stages. Along with the several federal programs which provide assistance for the construction of cooperatives, Section 8 rental subsidies, available to cooperatives, allow cooperatives to reach lower-income groups. Congress at least must establish the availability of technical assistance to promote cooperatives and help ensure their success.

Cooperatives benefit tenants and neighborhoods alike. Finan-

cially, cooperative members reap the rewards of ownership (tax breaks) low monthly costs due to economics of scale and insulation from speculators and rising property values. As one study of a cooperative solely for the elderly in California indicated, cooperatives economically allow for a mixture of moderate- and lower-income elderly persons. Even in severely deteriorated neighborhoods, cooperatives enjoy less crime, lower turnover and fewer delinquent payments. This leads to neighborhood stability which, combined with increases in spending power due to the lower housing costs, attracts business and helps to revitalize neighborhoods.

COMMENTS

