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Large Scale Housing and Real Estate Firms Analysis of a New Business Enterprise

Richard W. Bartke

BOOK REVIEW

Large Scale Housing and Real Estate Firms—Analysis of a New Business Enterprise. LEO GREBLER. New York, Washington, London: Praeger Publishers. 1973. Pp. xx, 183. $15.00

I

The construction industry, by whatever standard one would measure it, is undoubtedly an important one in the United States.[1] It accounts for a very sizable percentage of the gross national product[2] and, at the same time, is an important employer of unskilled and semiskilled labor.[3] It is, therefore, not surprising that its health and performance are watched with great interest by professional economists within and outside of the executive and legislative branches of government. Inadequate housing, however one may measure it, creates, and reflects, social problems and impairs the quality of life for all. Thus, a housing policy and the attainment of acceptable housing goals is an appropriate, indeed, a mandatory concern of government.[4] While all of this is true, it is equally indisputable that housing in the past twenty years has adopted a mystique all its own. It is apparent from pronouncements by some of the leaders of Congress, and those testifying over and over again at hearings on the subject, that housing has become virtually an end in and of itself.[5]

The "goal of a decent home and a suitable living environment for every American family"[6] has been the rallying cry of the past quarter century. Indeed, in 1968, the goal had been quantified as

[1] The total value of new construction for calendar year 1973 was $135,456,000,000 of which $57,623,000,000 represented residential construction. The corresponding 1974 figures as of October 1974, seasonally adjusted to represent annual equivalents, were $132,658,000,000 and $43,258,000,000, respectively. 60 FED. RES. BULL. A53 (Dec. 1974).

[2] The gross national product for 1973 was $1,294.9 billion. *Id.* at A56. Thus, for that year, the value of all new construction was approximately 10.5% of the gross national product, and of residential construction, approximately 4.4%.

[3] During the years 1962-66, the home building industry on the average employed 9.8% semiskilled and 17% unskilled workmen. THE PRESIDENT'S COMMITTEE ON URBAN HOUSING, A DECENT HOME 168 (1968).

[4] Housing policies or goals as a component part of governmental activity are of fairly recent origin. Fisher, *Evaluation of National Housing Goals*, 1 AMERICAN REAL ESTATE AND URBAN ECONOMICS ASSOCIATION JOUR. 5 (Fall 1973) [hereinafter cited as AREUEA JOUR.].

[5] *See, e.g., The Credit Crunch and Reform of Financial Institutions, Hearings Before the H.R. Comm. on Banking and Currency*, 93d Cong., 1st Sess., pt. 1, at 41-54 (1973) [hereinafter cited as *1973 House Hearings*] (statement of George C. Martin, President, National Association of Home Builders).

[6] Housing Act of 1949, ch. 338, § 2, 63 Stat. 413, 42 U.S.C. § 1441 (1970).

26 million new or rehabilitated units within a decade.[7] The developing mystique has led, in turn, to the emergence of neo-populist attitudes in the area,[8] and to a breathless pursuit of the magic key which would unlock the gates of the kingdom. Since the atmosphere was and is highly emotional, it is conducive to myth-making.[9] One myth was that of size and mass production. There were those who, twenty or more years ago, envisaged the solution of construction and housing dilemmas by "a General Motors" of the building industry.[10] Quite aside from the policy considerations of the concentration of economic power, the recent experiences of the auto industry, and in particular in the past few years its unwillingness or inability to respond to changing situations, should be a warning about too much reliance on size as a solution. A different facet of the same myth was Operation Breakthrough, initiated by the Department of Housing and Urban Development (HUD), which was to test and develop new processes and systems.[11] A variant of this was the proposition that an aerospace systems approach would be a panacea for urban ills.[12]

A concomitant to the search for a magic key and the birth of myth is a recurrence of "crises." At the present time we are in the midst of such a housing "crisis."[13] We have experienced in the last few years several credit crises, particularly those of 1966, '69-'70, and then '73-'74. We, of course, respond to crises by the enactment of "emergency" legislation.[14] It does not matter that generally an

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[7] Housing and Urban Development Act of 1968, Pub. L. No. 90-448, § 1601, 82 Stat. 601, 42 U.S.C. § 1441(a) (1970). It has been recently suggested that this quantification may have greatly contributed to the increase in the cost of housing. Fisher, *supra* note 4, at 16.

[8] *See, e.g., 1973 House Hearings*, pt. 1, at 305-09 (statement of Congressman Patman).

[9] One commentator estimated that the average birth rate for myths is one per month. Grigsby, *Real Estate and Urban Land Economics: Illusions of Progress?*, I AREUEA JOUR. 4 (June 1973).

[10] *See, e.g.*, p. xiii.

[11] Operation Breakthrough was mandated by the Housing and Urban Development Act of 1968, Pub. L. No. 90-448, § 108, 82 Stat. 495, 12 U.S.C. § 170lz (1970).

[12] *See, e.g.*, Stegman, *The New Mythology of Housing*, 7 TRANS-ACTION 55, 58-59 (Jan. 1970).

[13] The statistics for housing for the first half of 1974 indicate that the private housing permits issued during that period, as compared to figures for the first six months of 1973, decreased by 38%, the decrease for one-to-four-family units being 30%, and for apartments being 49% U.S. HOUSING TRENDS 4 (Advance Mortgage Corp.) (on file at the *Cornell Law Review*).

For a graphic description of the problems faced by prospective home buyers, see Wall St. J., Oct. 11, 1974, at I, col. 6.

For an industry point of view, see Gibbons, *Cost-Push Variety of Inflation Threatens Feasibility of Real Estate Development*, 42 APPRAISAL J. 485 (1974).

[14] *See, e.g.*, Emergency Home Finance Act of 1970, Pub. L. No. 91-351, 84 Stat. 450

"emergency" statute is enacted and becomes operative after the "crisis" which prompted it has already passed, and that everybody concerned must or should have known that it could not possibly be implemented in time to remedy the situation which ostensibly gave impetus to its enactment.

There is a certain air of unreality about all this activity both outside and within the academic community.[15] However interesting the modern myths might be to some future historian who will retell the story of our generation, they do very little, if anything, toward solution or even identification of our problems and, therefore, the formulation of workable programs.

II

However, a welcome breath of fresh air penetrated into the discussion of housing with the publication late in 1973 of Professor Leo Grebler's latest book, *Large Scale Housing and Real Estate Firms*,[16] which deals with the real estate construction and development industry from 1963 through 1972. The author gave a kind of studio preview of his findings in an article published earlier in 1973,[17] which, incidentally, touches also on matters not covered in the book. This article is worth reading in its own right and those who feel that they cannot afford the time to peruse the book should look at the summary of the findings. However, such a self-imposed limitation would be a pity; there is so much in the book besides the conclusions that anybody seriously interested in the problems of housing would enjoy the full treatment.

Before going any further, it is interesting to note the changes in the order of magnitude, since the book deals with large real estate enterprises. Dr. John P. Herzog, in a book published in 1963, defined a large construction firm as one producing 100 or more housing units annually;[18] Professor Grebler, only ten years

(codified in scattered sections of 12, 42 U.S.C.); Emergency Home Purchase Assistance Act of 1974, Pub. L. No. 93-449, 88 Stat. 1364 (uncodified at date of publication).

[15] As stated by Professor Grigsby, "much of the paper explosion [in the field of housing and urban matters] represents a knowledge implosion—that is, the circulation of incorrect and misleading information which contracts rather than expands the frontier of knowledge." Grigsby, *supra* note 9, at 4.

[16] Professor Grebler's earlier writings include: L. GREBLER, D. BLANK & L. WINNICK, CAPITAL FORMATION IN RESIDENTIAL REAL ESTATE, TRENDS AND PROSPECTS (1956); L. GREBLER, HOUSING ISSUES IN ECONOMIC STABILIZATION POLICY (1960); and the pioneering study, O. JONES & L. GREBLER, THE SECONDARY MORTGAGE MARKET: ITS PURPOSE, PERFORMANCE AND POTENTIAL (1961).

[17] Grebler, *Growing Scale of Real Estate Firms and Projects*, 1 AREUEA JOUR. 107 (June 1973).

[18] J. HERZOG, THE DYNAMICS OF LARGE-SCALE HOUSEBUILDING 2 (1963).

later, uses as his benchmark 1,000 units.[19] The figures speak for themselves.

Chapter 6, which is the final one of the work, consists of a summary of the findings, and of a long list of topics which urgently require empirical study. Throughout his findings the author urges caution because of a lack of adequate data. However, some of the trends seem to be clearly indicated. For one thing, Professor Grebler believes, and I tend to agree with him, that the large firm is here to stay. At the same time, his findings indicate that the savings due to economies of scale, although they do exist, are more modest than once believed—between four and five percent. These savings are achieved partly through the ability, particularly in times of tight money, to obtain loans at more advantageous rates, and partly through wholesale purchases of materials. On the other hand, some of these savings tend to be offset by increased overhead costs. Here again Professor Grebler cautions us that direct comparisons may be misleading since many of the costs that in the case of the smaller producers are externalized and, therefore, become direct expenses, are internalized within the large firms and become part of the overhead.[20] In any event, we cannot expect in the foreseeable future any dramatic savings due to size. On the other hand, even a difference of four or five percent is significant enough to give the large firm a distinct competitive advantage over smaller ones. Whether this advantage will translate into higher profits for the large firm or lower prices to the consumer will depend, of course, on a number of factors, including competition.

Another of the major benefits of size is the ability to operate simultaneously in a number of different areas. Depressed local economic conditions due to overbuilding or other causes will not have the same devastating effect on a firm which is geographically dispersed.[21] This finding, by the way, explodes another myth, which has been repeated so many times, that building is essentially a local activity.[22] The construction of a particular house is, of course, localized and the market for the house is in the particular locality. However, it does not follow that the mobilization and organization of the resources necessary to produce the house is local. To use a comparison, the sale of a toothbrush by a corner

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[19] P. 21.

[20] P. 65.

[21] Pp. 44-47.

[22] *See, e.g.,* THE PRESIDENT'S COMMITTEE ON URBAN HOUSING, A DECENT HOME 117 (1968).

drugstore is a local activity, the production and marketing of the same toothbrush is not. This seems to belabor the obvious but it is brought out simply because of similar myths with respect to real estate financing. At recent hearings before a congressional committee, executives of savings and loan associations made statements indicating their belief that mortgage lending is a local activity.[23] To use the same comparison, if by mortgage lending one means the processing of a particular application and evaluation of the risk involved, both as to the borrower and the property, including all the relevant factors such as location, quality, economic outlook and others, the statement is probably correct. However, if this means that the mobilization of the financial resources necessary to make the loan, whether direct or indirect through a sale of the paper, is equally localized, this, of course, is not true. Home financing operates in a national money market and competes with other forms of investment for the available monetary resources. This kind of provincialism is at least partly responsible for some of the difficulties traditional home lenders experience.[24]

In this same chapter, the author also indicates that some, but by no means all, of the large scale builders and developers have come to depend heavily on subsidized housing projects.[25] This being the case, they are among the leaders in the lobbying effort for a continuation of such endeavors, irrespective of whether these projects produce the desired results or not.[26] In the past, the subsidies have gone primarily to the producer. The ultimate expression of this approach was section 235 of the National Housing Act,[27] the purpose of which was to make home ownership for low-income families a reality. Whether the amount of the subsidy was sufficient or insufficient, the approach was to qualify and issue authorizations to builders or sellers, not to consumers. Thus, section 235 homes could be bought only from HUD-approved

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[23] *See, e.g., 1973 House Hearings*, pt. 2, at 670-71 (statement of Edward L. Johnson); *id.* at 1079 (letter of Robert L. Davis); *id.* at 1080 (letter of Robert S. Gaiswinkler); *id.* at 1081-82 (letter of W. H. Gelbach, Jr.).

[24] *Id.*, pt. 1, at 71-90 (statement of Dr. Kenneth J. Thygerson). At the same hearings the proposition was advanced in all seriousness that the activities of the Federal National Mortgage Association which tend to eliminate interest differentials in different parts of the country are responsible for high mortgage interest rates. *Id.*, pt. 2, at 641-42 (testimony of Randall E. Presley).

[25] Pp. 151-52.

[26] The proposition that housing subsidies increase the number of housing starts has recently been questioned. *See* Swan, *Housing Subsidies and Housing Starts*, 1 AREUEA JOUR. 119 (Fall 1973).

[27] 12 U.S.C. § 1715z (1970). *See* 12 U.S.C. § 1715*l*(d)(2) (1970).

sellers or through HUD-approved brokers and financed with mortgages from HUD-approved lenders. This, more than anything else,[28] led to widespread scandals and very unhappy experiences with the program, such as over 10,000 vacant homes in the city of Detroit.[29] As Professor Grebler points out correctly, voices are again heard to say that subsidization should be direct, rather than indirect; that the subsidy should be made to the consumer rather than to the producer.[30] The presence of large and powerful economic entities, with their concomitant political power, vitally interested in the continuation of the status quo, has implications for the resolution of some of these basic policy questions.

III

Although Chapter 6, touched upon above, can be read alone or first, I would consider it a great mistake to do so. The preceding five chapters, which build logically to the conclusions presented in that chapter, are so rich in content and range over such a wide area, that anyone seriously interested in the subject should not miss them. Unlike the authors of many recent publications, which have rather flamboyant titles, but much more modest contents, Professor Grebler manages to introduce many topics which would appear not to be covered by the title. In Chapter 1, he gives a brief description of the development of the large scale housing industry during the years from 1963 through 1972. The sudden emergence of the giants took place in one of three ways. First, certain firms went public and equity securities of real estate corporations became

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[28] One of the most devastating analyses of this approach taken under § 235 is contained in a report prepared by Professor Jack M. Guttentag as a United Nations consultant for the government of Iran. *See* J. Guttentag, The Housing Finance System of Iran 69-75 (Aug. 1972). *See also* Aaron, *Federal Housing Subsidies*, in JOINT ECONOMIC COMM., 92D CONG., 2D SESS., THE ECONOMICS OF FEDERAL SUBSIDY PROGRAMS, pt. 5, at 589-91 (Comm. Print 1972). The Court of Appeals for the District of Columbia Circuit recently added its voice to the chorus of criticism in Pennsylvania v. Lynn, 501 F.2d 848, 863-67 (D.C. Cir. 1974).

[29] According to latest newspaper reports, 60 persons and firms have so far been convicted in the United States District Court for the Eastern District of Michigan in connection with scandals involving primarily construction projects initiated under § 221 (d)(2) (12 U.S.C. § 1715*l*(d)(2) (1970)), as well as §§ 235 & 236 of the National Housing Act (12 U.S.C. §§ 1715z, z-1 (1970)) in the Detroit Metropolitan area. The estimates of losses in connection with these scandals start at $250 million. The Detroit News, March 7, 1974, at 17-A, col. 1. For an overview of the national scene, see Wall St. J., March 19, 1974, at 1, col. 6, and The Detroit News, March 19, 1974, at 1-A, col. 4. For a more complete discussion of the Detroit experience, see Comment, *Property Abandonment in Detroit*, 20 WAYNE L. REV. 845, 858-65 (1974).

[30] P. 151.

acceptable to the investing public.[31] It remains to be seen whether this acceptance will survive the present uncertainties in the market. The second method was that of mergers, particularly of the conglomerate kind. As is indicated later,[32] some of the conglomerations have resulted in "deglomerations"—divestiture by a conglomerate of unrelated subsidiaries. Finally, some of the giants came into being by internal expansion.[33]

Chapter 2 presents a profile of the large firms.[34] For purposes of the study, Professor Grebler divides the industry into four distinct groups based upon the type of activity involved; he notes, of course, that while some firms remain primarily in one group, others, either through the same corporation or through different subsidiaries, participate in more than one or even in all four types of activity. The four groups are on-site builders (those include builders of single family residences and of multifamily structures), manufacturers (prefabricated housing, mobile homes and modular construction), land developers (recreational land development with minimal, if any, building activity), and finally, builder-investors (those who build primarily to hold for long-term investment).[35] It should also be noted that in many cases, as a result of expansion, whether internal or conglomerate, all kinds of ancillary services are included within the parent group, such as mortgage banking, title insurance, escrow services, and similar activities.[36] The chapter describes the first two groups, that is, on-site builders and manufacturers, and gives their characteristics and their particular problems. It also ranges far afield discussing such phenomena as Operation Breakthrough, new towns, and Housing Partnerships.[37]

Chapter 3 is concerned with economies of scale.[38] It details the various advantages of size, such as distribution of risk, the ease of

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[31] For an interesting recent discussion of trends, see Wendt, *New Techniques of Financing Real Estate,* 1 AREUEA Jour. 140 (June 1973).

[32] Pp. 130-31. As the text indicates, approximately 20% of the acquisitions resulted in "deglomeration" by late 1972.

[33] Among the industrial giants branching into real estate are Chrysler, Ford, Goodyear, Humble Oil, Libby-Owens-Ford, and Union Carbide. P. 11. It is also interesting to note that an industrial corporation, Kaiser, and a financial one, Aetna Life, formed a partnership for real estate development. *Id.* Finally, at least two corporations in other fields, namely McCulloch Oil Corporation and Walt Disney Productions, have expanded to such an extent into real estate that it is becoming their major activity. P. 12. Some of the corporations mentioned above, however, limited their activities to certain designated areas.

[34] Pp. 21-39.

[35] P. 74.

[36] Pp. 81-82.

[37] Pp. 33-38.

[38] Pp. 40-73.

financing (since funds can be obtained by direct access to the money markets, rather than through intermediaries), and certain economies in other costs. At the same time a caveat is added that a price has to be paid: once a certain minimum size is reached, the informality and freewheeling procedures traditionally employed by builders are no longer acceptable or practicable. This poses a dilemma to top management. On the one hand, there is always a danger that opportunities can be missed when decisions are made through proper channels and by committees. On the other hand, the dangers of loss of control are very real ones, as shown by the meteoric rise and quick demise of the real estate activities of the Boise Cascade Corporation.[39]

Chapter 4 analyzes the character of each one of the four component parts of the "industry." Comparative charts indicate their performance and their financial characteristics. Again the author cautions that the data are by no means complete; in many cases they are also not comparable. This lack of comparability has been bothering the accounting profession for some time and a move is afoot to revise the standards employed. This, if implemented, may indeed increase comparability but, at least in the short run, it may cause problems for some of the firms since their restated financial statements may show that they are in fact much less profitable than certain investors were led to believe.[40] In this connection, it is also interesting to note that joint ventures among large corporations, which in the past were generally associated with large, single construction projects, such as dam building, have now been extended to housing and other urban projects on a longer range basis.[41]

Finally, Chapter 5 deals with the conglomerate phenomenon.[42] Some of the mergers have performed more or less as expected. In other cases, however, the expectations have not been fulfilled. This is true not only of Boise Cascade, but of others as well.[43] At the

[39] The particular experiences of Boise Cascade are outlined in pp. 135-40. The book quotes the president of Boise Cascade relating his experiences: "It is fair to say that the housing business can, in time, turn any level-headed executive into a neurotic—or worse. When times are good, they are very, very good, and when they are bad, they are horrid." P. 143.

[40] Pp. 74-75, 106-07.

[41] Besides the Kaiser-Aetna partnership (*see* note 33 *supra*) the book mentions continuous joint ventures involving J. H. Snyder Co., Loews, and the Richards Group. P. 11.

[42] Pp. 126-45.

[43] The book mentions specifically the following acquiring corporations which have since divested themselves of their real estate subsidiaries: Penn Central Transportation Co., American Standard, Whittaker Corporation, GAC Corp., International Paper, and Cerro Corp. Pp. 131-35.

time of the compilation of the book, ITT had consented to divest itself of its Levitt subsidiary as part of the settlement of its antitrust litigation. As Professor Grebler points out, it is by no means certain that this was motivated solely by pressures exerted by the Justice Department, but might very well have been a convenient excuse for getting rid of an unwanted acquisition.[44] The announcement that the subsidiary has been resold to the original owners (there was no other market for it) for an undisclosed amount, may very well bear out this remark.[45] As the author shows, acquiring conglomerate parent companies have discovered that in many cases they lacked the skills necessary to run such subsidiaries. The transferability of top management with financial or manufacturing backgrounds to the real estate industry is very limited indeed.[46]

IV

The study seems to be exhaustive within its own perimeters, as far as available data would permit. Professor Grebler has suggested a long list of topics for future research, including financing.[47] In the past decade, important changes have taken place in the ways in which real estate is being financed. That is why the Hunt Commission Report[48] and the Treasury Recommendations[49] based upon it, which are now pending before Congress,[50] and which were the subject of hearings before the House Committee on Banking and Currency,[51] leave one with the uneasy feeling that they are ad-

[44] P. 130.

[45] Wall St. J., Feb. 15, 1974, at 6, col. 1. This announcement seems to have been premature. ITT later indicated that it could not meet the deadline imposed by the court (*id.*, Sept. 24, 1974, at 6, col. 2) and further negotiations with the Antitrust Division of the Department of Justice are continuing. *Id.*, Oct. 25, 1974, at 14, col. 3.

The book also mentions the inflated prices paid by some of the acquiring corporations, *e.g.*, CNA Financial Corp., in its acquisition of the Larwin Group. Pp. 127-28. This operation also seems to be experiencing financial difficulties. Wall St. J., March 12, 1974, at 14, col. 1. For a description of the problems of the Larwin Group in the New York market, caused in part by its use of California building techniques and styles in a different climate, see Wall St. J., Oct. 24, 1974, at 1, col. 6.

[46] Pp. 143-45.

[47] Pp. 161-65.

[48] PRESIDENT'S COMMISSION ON FINANCIAL STRUCTURE AND REGULATION, REPORT (1973). For a somewhat different emphasis and detailed discussion of the proposals, see Verkuil, *Perspectives on Reform of Financial Institutions*, 83 YALE L.J. 1349 (1974.)

[49] U.S. DEP'T OF THE TREASURY, RECOMMENDATIONS FOR CHANGE IN THE U.S. FINANCIAL SYSTEM (Aug. 3, 1973).

[50] H.R. 10990, 93d Cong., 1st Sess. (1973); S. 2591, 93d Cong., 1st Sess. (1973). (Since the writing of this Book Review, the ninety-third Congress has ended without congressional action on either measure.)

[51] *1973 House Hearings*. Hearings also were held on Nov. 6, 7, and 8, 1973, before the

dressed more to past history than future needs or trends. The large institutional investors, particularly life insurance companies, are no longer satisfied merely to be lenders; they want "a piece of the action."[52] This is motivated in part by the threat of continuing inflation.[53] The "one-two-three transaction" has become a battle cry of the life insurance industry.[54] The instruments and devices to secure loans become more and more complicated, although those active in the field prefer the term sophisticated. Those complex arrangements pose very serious problems, particularly since a combination of tax provisions and a desire for continued growth favor the highest possible leverage.[55] The choking noose of the wrap-around mortgage may yet prove to be the undoing of many real estate projects.[56] Although many developers might have "mortgaged-out" there will be others who will have to try to pick up the pieces.

Real estate syndicates, generally limited partnerships,[57]

Senate Committee: *Financial Structure and Regulation, Hearings Before the Subcomm. on Financial Inst. of the Senate Comm. on Banking, Housing and Urban Affairs*, 93d Cong., 1st Sess. (1973).

[52] *See, e.g.*, recent articles by counsel for regulated institutional lenders: Gunning & Roegge, *Contemporary Real Estate Financing Techniques: A Dialogue on Vanishing Simplicity*, 3 REAL PROPERTY, PROB. & TRUST J. 325 (1968); Roegge, Talbot & Zinman, *Real Estate Equity Investments and the Institutional Lender: Nothing Ventured, Nothing Gained*, 39 FORDHAM L. REV. 579 (1971).

[53] Gunning & Roegge, *supra* note 52, at 327; Roegge, Talbot & Zinman, *supra* note 52, at 583-84.

[54] In the "one-two-three transaction," the developer sells the land to the institutional lender, or has the lender buy it directly, thereby obtaining 100% financing. The lender leases back the land on a long-term net-net ground lease, and enters into a commitment to make the permanent leasehold mortgage on the structure to be constructed, on the basis of which the developer then obtains construction financing. Finally, the institutional lender obtains a participation in the overriding equity, anything up to 50%. For further discussion of the technique, see Roegge, Talbot & Zinman, *supra* note 52, at 588-89.

[55] Leverage is the relationship between actual equity investment of the developer and the value of the project. As the equity investment decreases, leverage increases. For further discussions of the principle, see McKee, *The Real Estate Tax Shelter: A Computerized Exposé*, 57 VA. L. REV. 521 (1971); authorities cited in Bartke, *Fannie Mae and the Secondary Mortgage Market*, 66 NW. U.L. REV. 1, 3-4 nn.9-11 (1971).

[56] The "wrap-around mortgage" is a fancy name for a second mortgage tailored to increase the effective rate of return to the second mortgagee. Frequently, as payments on the wrap-around mortgage are received, the de facto investment of the wrap-around mortgagee increases, at least for a time, rather than decreases. For further discussion, see Gunning, *The Wrap-Around Mortgage . . . Friend or U.F.O.*, ICSC (INTERNATIONAL COUNCIL OF SHOPPING CENTERS) SHOPPING CENTER REPORT NO. 22 (1969).

[57] For a short general discussion, see Roegge, Talbot & Zinman, *supra* note 52, at 600-07. This vehicle is generally used because of tax considerations. For a more extended discussion, see Zarrow, *Tax Shelters and the Public—New Uses for Limited Partnerships and Joint Ventures*, 1970 S. CAL. TAX INST. 277. In this connection, consider the implications of Rev. Proc. 72-13, 1972-1 CUM. BULL. 735, discussed in Comment, *Tax Classification of the Limited*

and real estate investments trusts (REITTs),[58] also are not explored, although there is a plea for more study. As Professor Grebler says:

> The literature on real estate investment trusts and on syndicates is either wholly descriptive or analyzes various technical aspects. . . . Many journal articles on these and similar subjects are written by insiders or lawyers and accountants whose professional interest precludes analysis from a broad economic point of view.[59]

Judging by certain articles published in the not-so-distant past, lawyers should be left with a somewhat uncomfortable feeling.[60]

V

As indicated in the book, the large firms weathered the construction declines of 1966 and 1969-70 much better than the industry as a whole. However, it is also pointed out that these declines were of relatively short duration. Whether the large firms can perform equally well in more severe and prolonged situations is another matter.[61] The book indicates that the very high construction rates which prevailed in 1972 could not last much longer. This seems prophetic in view of the downward trend starting in early 1973, which has precipitated the present "housing crisis."[62]

Partnership with a Sole Corporate General Partner Under the Regulations and Revenue Procedure 72-13, 20 WAYNE L. REV. 135 (1973).

[58] These are the entities qualifying under the provisions of Part II of Subchapter M, INT. REV. CODE OF 1954, §§ 856-858.

[59] P. 161. For a recent example of such an article written by a REIT executive, see Smith, *Real Estate Investment Trusts—"The New Billionaires,"* 42 APPRAISAL J. 129 (1974). Despite the title, some REITs are experiencing financial difficulties and one has started a proceeding under chapter 11 of the Bankruptcy Act. Wall St. J., March 18, 1974, at 5, col. 1. Some REITs are shedding their special status, either because they find the restrictions of the Code too confining, or as a means out of financial embarrassment. *Id.*, Oct. 25, 1974, at 2, col. 3.

[60] *See, e.g.*, Jensen, *The Real Estate Investment Trust: Receptacle for Foreclosed Property and Nonconforming Loans,* 42 S. CAL. L. REV. 70 (1969). The article advocates that savings and loan associations form REITs to which they could, from time to time, transfer nonconforming investments, particularly foreclosed properties and loans to facilitate—that is, loans in excess of the limits permitted by regulatory laws to facilitate the sale of foreclosed properties. Although the article purports to indicate benefits flowing to both savings and loan associations and the investors in the REIT, the advocacy of the establishment by a regulated lender, in a fiduciary capacity, of a REIT with securities to be sold to the public for the express purpose of dumping into it the lender's own mistakes raises serious questions.

[61] P. 151. Recently GAC Corp., a conglomerate which entered the land development field through acquisitions (Pp. 133-34), entered into a consent decree with the Federal Trade Commission which provides, *inter alia*, for more than $17 million in restitution to purchasers, in connection with the sale of lots in Arizona and Florida. GAC Corp. has also withdrawn from the business of selling lots. 42 U.S.L.W. 2508 (1974).

[62] The downturn seems to have started in February or March of 1973. *See* 60 FED. RES.

Although there are those who would blame the decline entirely on the decision of the Federal Reserve Board and the Federal Home Loan Bank Board to raise the limits on interest payable on passbook savings accounts and on certain investment certificates,[63] this would seem to be a gross oversimplification of a complex phenomenon. Nevertheless, the months and even years ahead are likely to be troubled ones. The "energy crisis," which many attribute to the Arab embargo, as if its roots were not many years in the past, will pose challenges and problems for the construction industry. Professor Grebler foresees a major test toward the end of the 1970's when the household formation rate is bound to decline because the wartime baby boom will by then pass marriageable age. In view of more recent events, the test may come sooner than that.[64]

The question has been asked repeatedly whether the mistakes of the past are being repeated; more specifically, whether the real estate developments of the 1920's, which burst like punctured balloons and went under in the Great Depression, are again on the horizon.[65] On the whole, Professor Grebler does not believe that to be true, although he admits that recreational developments bear a close resemblance to some of the subdivisions in metropolitan areas started in the 1920's.[66] Again, answers to some of these questions may come sooner than could have been foreseen at the time the study was being prepared.

VI

On the whole the book is very well written and is remarkably free from intrusive jargon. The tables are easy to understand and

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BULL. A63 (Jan. 1974); address by HUD Secretary Lynn, National Association of Home Builders Convention, Jan. 21, 1974 (reprinted in TITLE NEWS, March 1974, at 4). It should also be noted, however, that housing starts increased substantially in February. Wall St. J., March 19, 1974, at 5, col. 2. The February upturn was followed by further declines throughout the year. The total housing starts for 1974 were 1,340,000, as compared to 2,050,000 in 1973. The seasonally adjusted annual rate for December 1974 was 868,000 units, the lowest rate for any month since October 1966. Wall St. J., Jan. 20, 1975, at 2, col. 2.

[63] *See, e.g., 1973 House Hearings* 42-44 (testimony of George C. Martin, President, National Association of Home Builders). *But see id.* at 313-15 (statement of Dr. Arthur Burns, Chairman, Board of Governors of the Federal Reserve System).

[64] National Homes Corporation, a highly diversified, publicly held company discussed in Professor Grebler's book, announced substantial losses for 1973. Wall St. J., March 5, 1974, at 6, col. 4. The only profitable operations were prefabricated housing (which, however, had lower revenues than in the prior year), mortgage banking, insurance, and recreational homesite sales.

[65] Pp. 151-52.

[66] P. 103.

illustrate the points made. The book is easily understood by an informed reader with no particular economic training. It is designed to inform and stimulate rather than obscure or overawe.[67]

At the end of the book the publishers have included a short biographical sketch of the author.[68] From this we learn that Professor Grebler has retired from the faculty of the University of California at Los Angeles. The publication of this book would indicate that his retirement does not mean a termination of active research. For those of us who have come to depend upon his scholarship, that is very good news indeed.

The book does not approach the housing problem directly, but indirectly shows that some of our programs are defective. Market mechanisms have operated successfully in the past to provide housing for the great majority of American people, although improvements, particularly in the area of financing, are definitely called for.[69] On the other hand, the people at the two extremes of the economic spectrum, for opposite reasons, are essentially outside of the area affected by market forces, as far as shelter is concerned. The very rich command such resources that their decisions about housing are dictated solely by personal preferences. The very poor do not have enough resources to compete in the market. Their plight is not a lack of housing but a lack of money. It seems to follow from this that attempts to alleviate the situation by tampering with the market mechanism are expensive, cannot be successful, and distort the market itself, primarily by introducing anti-competitive elements.[70] The findings of Professor Grebler's study, which point out the inexorable economics of house building, clearly indicate this. Our national policies should now be shaped to reflect this basic problem.[71]

*Richard W. Bartke**

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[67] *See, e.g.*, Professor Grigsby's criticism of the model makers. Grigsby, *supra* note 9, at 6.

[68] P. 183.

[69] Of course, witb the advent of double-digit inflation, a large segment of the population is rapidly being priced out of the home-buying market. *See, e.g.*, Wall St. J., Sept. 3, 1974, at 1, col. 6.

[70] *See, e.g.*, Bartke, *Home Financing at the Crossroads—A Study of the Federal Home Loan Mortgage Corporation*, 48 IND. L.J. 1, 41-42 (1972); Fisher, *supra* note 4, at 15-19; Swan, *supra* note 26.

[71] *Cf.* a new approach formed in the Housing and Community Development Act of 1974, Pub. L. No. 93-383, § 201(a), 88 Stat. 633 (uncodified at date of publication), adding a new § 8 to the United States Housing Act of 1937, providing for support rental payments.

* Professor of Law, Wayne State University. A.B. 1954, J.D. 1956, University of Washington; LL.M. 1967, Yale University.